

DOMESTIC  
SALES TERMS AND CONDITIONS

**LEXEL**

**IMAGING SYSTEMS, INC**

A VIDEO DISPLAY COMPANY



1. COMPLETE STATEMENT OF TERMS AND CONDITIONS

This document, including attachments, contains all of the terms and conditions of sale of LEXEL IMAGING SYSTEMS, INC'S (hereinafter referred to as LEXEL) products and supersedes the terms and conditions of any purchase order and all prior or contemporaneous understandings, representations, or warranties (including those contained in sales, promotional, and/or marketing materials).

2. DELIVERY

LEXEL shall use its best efforts to meet the Contract delivery schedule. However, LEXEL shall not be held in default or any consequential damages, penalties, etc., as a result of performance for any delay in delivery of goods when such delay is directly or indirectly caused by or in any manner arises or results from fire; flood; accident; riot; war; Government interference; rationing; allocations of embargoes; strikes or shortage of labor; delays in delivery or inability to deliver by LEXEL'S suppliers; or other causes (whether or not similar in nature to any of those specified) beyond the control of LEXEL. After such causes have been remedied, LEXEL shall make and Buyer shall accept deliveries under the Contract. The delivery dates set out in the Contract shall be extended by a period equal to the time of delay.

LEXEL will notify Buyer if a scheduled delivery is expected to be delayed more than 30 days. If Buyer requests, LEXEL will arrange for shipment by premium transportation and, if the delay is not excused, will pay the additional shipping cost. Shipment by premium transportation is LEXEL'S only obligation and liability for delay in delivery.

LEXEL may make partial and advance deliveries.

If Buyer causes a delay in delivery, Buyer will be invoiced for additional cost incurred, including costs of storage and insurance.

Delivery of LEXEL'S Products shall be FOB LEXEL'S factory, (Lexington, KY)

3. CHANGES/MODIFICATIONS

The Buyer may, in writing, direct changes to drawings and specifications of the product or to otherwise change the scope of the work covered by this order, including, but not limited to, such matters as inspection, testing, quality control, or delivery dates. If such changes result in an increase or decrease in cost to LEXEL for performance resulting from such changes, LEXEL shall notify Buyer and the Parties shall immediately negotiate an equitable adjustment to the Contract or Purchase Order, a contract modification or modification or formal change order is to be issued. LEXEL shall proceed diligently with the performance of this Purchase Order as so changed. The Parties agree that the authority to make changes hereunder with respect to the provisions of this Contract or Purchase Order, shall only be binding upon the Parties if directed in writing by the Buyer's authorized purchasing representative and accepted by LEXEL'S authorized contracts representative.

Any modification or departure from these terms and conditions, including an agreement to accept Buyer's terms and conditions or purchase, shall be valid only if in writing and signed by an authorized representative of LEXEL.

4. PACKAGING AND SHIPPING

LEXEL will package and arrange for shipping the Products according to customary standards for domestic shipments of such items.

Buyer will be invoiced for the costs of shipping and special packaging.

5. SECURITY INTEREST

LEXEL shall retain a purchase money security interest in the Products and in any sums due or paid to Buyer therefore by any third party, until Buyer has paid the purchase price to LEXEL in full. Buyer shall do what in the reasonable judgement of LEXEL is necessary to maintain the security interest.

If LEXEL requests, Buyer shall insure the Products in the full amount of the security interest against all loss, damage, or destruction from the time the Products are delivered to the FOB point until the security interest is removed.

If Buyer is in default of any obligation hereunder, or if a proceeding in bankruptcy, dissolution, liquidation, insolvency, receivership, or reorganization is instituted by or against Buyer, Buyer's property or business, LEXEL shall have the right to declare the unpaid balance owing under any orders to be immediately due and payable, and to take immediate possession of the Products or any portion thereof without demand, further notice, or legal process.

6. PRICES

Unless guaranteed in a written quotation, all prices are subject to change without notice, and all sales will be invoiced at prices in effect on the date LEXEL accepts Buyer's order.

7. INVOICING AND PAYMENTS

LEXEL shall issue an invoice for any initial payment on the date an order is accepted and an invoice for the balance of the order price on the date it makes delivery. If Buyer causes a delay in delivery, LEXEL may issue its invoice at any time on or after the scheduled delivery date.

Payment is due in full within 30 days following the invoice date and shall be made by deposit of the payment to LEXEL'S account. Invoiced amounts are not subject to reduction by set-off or otherwise, without the express, prior written consent of LEXEL.

If LEXEL believes Buyer's financial condition does not justify delivery on the terms of payment above, LEXEL may require full or partial payment in advance, stop delivery of Products in transit, reclaim Products upon demand, or terminate any order or any portion thereof.

8. TAXES AND OTHER ASSESSMENTS ON SALES

Product prices do not include taxes, excises, and other assessments on sales, which shall be invoiced to Buyer.

If Buyer provides a copy of a resale or other tax exemption certificate, LEXEL shall not invoice Buyer for taxes covered by such certificate.

Buyer shall indemnify and defend LEXEL at Buyer's expense against all liability for any taxes or assessments, plus any interest, fines and penalties, assessed by any governmental entity, which are not paid in reliance upon an exemption certificate or a representation by Buyer that they are not applicable to the sale.

9. LIMITATION OF LIABILITY

To the maximum extent allowed by law, LEXEL shall not be liable for indirect, incidental, special, or consequential damages hereunder. LEXEL'S maximum aggregate liability for all other damages for which liability is not or cannot be disclaimed or limited shall not exceed the price Buyer has paid for the Product, which is the subject of the damage claim.

10. FORCE MAJEURE

LEXEL shall not be liable for failure to perform any of its obligations due to causes beyond its reasonable control. Such causes shall include, but shall not be limited to, such things as fire, flood, earthquake, or other natural disaster, war, embargo, riot, the intervention of any governmental authority, strikes (regardless of the characterization thereof), labor slowdowns or walkouts, shortages of labor, material or transport, and failures of suppliers to deliver in accordance with the terms of their contracts.

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11. DEFAULT

If Buyer defaults in the performance of any obligations or if Buyer prevents LEXEL from performing any obligation for a period of 90 days or longer, in addition to any other remedies available under applicable law, LEXEL may terminate the affected orders or any part thereof.

12. WAIVERS

LEXEL'S election not to enforce any provision hereof or of any order issued hereunder shall not be construed to be a continuing waiver, and LEXEL reserves the right subsequently to enforce such provision unless it agrees otherwise in writing.

13. NEW/OTHER THAN NEW MATERIALS

LEXEL may use other than new, reconditioned, or remanufactured material in the production of the purchased product. "Other than new" material includes, but is not limited to, recycled, recovered, remanufactured, used, and reconditioned material. "Reconditioned" means restored to an earlier normal operating condition by readjustments and replacement of parts. "Remanufactured" means factory rebuilt to new equipment performance specification and unused subsequent to rebuilding. "New" mean previously unused or composed of previously unused materials that may include unused residual inventory or Government surplus property. If only new material is acceptable, THE SOLICITATION MUST CLEARLY IDENTIFY THE SPECIFIC MATERIAL THAT MUST BE NEW.

14. HAZARDOUS MATERIAL

The Products sold under this Order may contain hazardous substances, which require proper handling and disposal. Buyer agrees to comply with all applicable local, state and federal laws and regulations in such handling/disposition.

15. PROPRIETARY INFORMATION

Buyer shall keep in confidence and shall take reasonable and appropriate measures to safeguard any data, such as LEXEL'S specifications, drawings, software, and information (including, without limitations, designs, reports, software documentation, manuals, models, process information, and the like), revealed by LEXEL and containing proprietary information marked or identified as proprietary. Such data shall not be duplicated, disclosed to others, or used other than with respect to a purchase from LEXEL without LEXEL'S written permission. These obligations shall not apply to any information which becomes generally available to the public other than as a result of a disclosure by Buyer or was available to Buyer on a non-confidential basis prior to its disclosure to Buyer by LEXEL or becomes available to LEXEL, provided that such source is not prohibited from disclosing such information to Buyer by a contractual, legal, or fiduciary obligation to LEXEL.

16. ASSIGNMENT

LEXEL reserves the right, without consent of the Buyer, to assign this agreement to a successor by way of merger, consolidation or acquisition of substantially all of the businesses and/or assets of LEXEL.

17. TERMINATION

If an order or part thereof is terminated, LEXEL shall stop work as soon as reasonably practicable. Costs incurred in performing the terminated portion of the order and in processing the termination, including a reasonable profit, shall be invoiced to and paid by Buyer within thirty days (30) thereafter. In addition, the price for the non-terminated portion of Buyer's order may be increased to reflect the additional costs, if any, borne by such portion by such portion because of the partial termination, plus a reasonable profit.

18. DISPUTE RESOLUTION

In lieu of litigation, all disputes shall be resolved as follows:

Cooperation

The Parties will attempt to settle all disputes arising under this Agreement without resort to mediation or arbitration.

Mediation

If a dispute is not resolved within 45 days following the date either Party gives written notification to the other of the dispute, within 12 months from such date either Party may submit the dispute to mediation in the country and state in which LEXEL resides.

Arbitration

All disputes which are not resolved through cooperation and mediation may be submitted to binding arbitration in the county and state in which LEXEL resides, using the rules of the American Arbitration Association/

No arbitration proceedings may be commenced until mediation is completed. Such proceedings shall be commenced within 12 months after completion of mediation.

19. APPLICABLE LAW

The validity and interpretation of these terms and conditions and performance hereunder shall be governed by the laws of the State of Kentucky, excluding its conflict of laws.

20. WARRANTY

LEXEL'S warranty is attached hereto. Buyer's sole and exclusive remedy with respect to the Warranty given by LEXEL shall be strictly limited, at LEXEL'S sole election, to the remedy or remedies provided for in the product Warranty. THERE ARE NO WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY (INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE) THAT EXTEND BEYOND THE TERMS SET FORTH IN THE LEXEL'S WARRANTY.

21. ENTIRE AGREEMENT

This order, together with the attachments, exhibits, or supplements specifically referenced in this order, constitutes the entire agreement between LEXEL and Buyer with respect to the matter contained herein and supersedes all prior oral or written representations and agreements.

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