



**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 or 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 costs. Shipment by premium transportation is LEXEL' 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 costs incurred, including costs of storage and insurance.

Delivery of the LEXEL Products shall be FCA LEXEL'S factory in Lexington, KY (INCOTERMS 1990)

**3. CHANGES**

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 the 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, price, schedule, and/or other terms and conditions. Upon negotiation of any changes in 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 Product according to the customary standards for international shipments of such items.

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

**5. AUTHORITY TO EXPORT AND IMPORT**

LEXEL shall apply to the U.S. Government for authority to export the Products. Buyer shall be responsible for obtaining from any other government any required permission to import the Products. Buyer shall use its best efforts

to assist LEXEL in obtaining U.S. Government export licenses if LEXEL requests such assistance. Buyer assumes the risk that such export licenses and permission shall be obtained and shall remain in effect. If any required export licenses or permission is not obtained or is withdrawn or not extended, LEXEL may terminate the order or portion thereof affected thereby.

**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**

Immediately upon Buyer's being notified of LEXEL's acceptance of Buyer's order, Buyer shall establish a confirmed and irrevocable letter of credit and wire transfers in favor of Vine Street Trust Company, 360 E. Vine Street, Lexington, Kentucky 40507-1514, U.S.A. in the amount of the total order price less any initial payments previously made. The letter of credit shall be valid until all payments under the order are made to LEXEL. The letter of credit shall specifically instruct the bank to make payment to LEXEL in U.S. dollars against the letter of credit in accordance with the terms hereof. Such payments are to be made upon demand, without delay and without the necessity of any judicial or administrative action. If the validity of the letter of credit expires prior to completion of all payments under the subject order, at LEXEL's request Buyer shall arrange for the validity of the letter of credit to be extended for an appropriate period. All bank charges related to letters of credit established hereunder shall be paid by Buyer.

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 delay in delivery, LEXEL may issue its invoice at any time on or after the scheduled delivery date.

All payments shall be made in U.S. currency. Buyer is responsible for obtaining any necessary government approvals and shall make any arrangements necessary to make such payments.

Payment is due in full within 30 days following the invoice date and shall be made by making 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**

Prices for Product do not include duties, fees, social, or welfare contributions or taxes levied by any government or other governmental authority outside of the United States of America and which LEXEL may be obligated to pay whether directly or through withholding or otherwise. In the event LEXEL is required to pay any of the foregoing, or under its normal policy is required to reimburse any employee for the same, the price of the affected Products will be increased by such amount.

**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.

**11. DEFAULT**

If Buyer defaults in the performance of any obligation 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 recondition material. "Recondition" 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" means 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 limitation, 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 other, 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 Buyer on a non-confidential basis from a source other than 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 business 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 Buyer. 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 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.

Arbitration

All disputes which are not resolved through cooperation and mediation may be submitted to binding arbitration.

No arbitration proceedings may be commenced until mediation is completed.

**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, United States of America, excluding the United Nations Convention on Contracts for the International Sales of Goods and without resort to Kentucky's conflict of laws rules.

**20. WARRANTY**

LEXEL's warranty is set forth in the Warranty applicable to the product sold. Said Warranty is attached hereto or made available to Buyer upon request. 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 ON THE FACE OF 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.