

To: All Lexar Media, Inc. Suppliers

In an effort to assist Lexar Media in controlling our cost, effective Feb. 1, 2005 we will be requiring delivery appointments for all shipments destined for Lexar Media locations worldwide. We require 72 hours advance notification for this delivery appointment request. If a shipment is made without the prior approval of Lexar Media, we reserve the right to refuse the shipment for noncompliance with this initiative. All Suppliers must call the below telephone number and employee 72 hours prior to shipment to acquire a delivery appointment authorization.

Primary
Jorge Chavez
510-413-1298

Secondary
Renee Kaldani
510-580-7355

We will respond to you with the required delivery authorization within 24 hours. Suppliers will be given a five digit delivery authorization. This authorization must be marked on the carrier's bill of lading and communicated to our receiving location.

If you have questions regarding this initiative, please feel free to contact me at 510-743-4543. Thank you in advance for your cooperation in this important program to assist Lexar Media in controlling our cost.

Sincerely,
Kai Hypko
Director of Planning
Lexar Media, Inc.
510-743-4543

LEXAR MEDIA, INC.
TERMS AND CONDITIONS OF PURCHASE

1. **TERMS AND CONDITIONS:** These terms and conditions control the purchase of the goods and services by Lexar Media, Inc. ("Buyer") set forth in this Purchase Order (the "Order"), except in the case that a separate written agreement has been negotiated between Buyer and you ("Seller").
2. **ACKNOWLEDGMENT AND ACCEPTANCE:** The issuance of this Order to Seller constitutes an offer expressly limited to the terms contained herein. **SELLER'S ACCEPTANCE OF THIS ORDER IS EXPRESSLY LIMITED TO THE TERMS AND CONDITIONS CONTAINED HEREIN.** Any addition or change to or deletion of these terms by Seller in any prior proposal, in Seller's acknowledgment form or otherwise communicated to Buyer shall be deemed a material alteration and is expressly objected to and rejected by Buyer. Buyer may revoke this offer at any time prior to Seller's acceptance. Unless Seller accepts this offer within twenty (20) days of the date hereof, this offer shall expire at Buyer's option without

liability.

3. TECHNICAL INFORMATION: All technical specifications, drawings, notes, instructions or other information referred to on the face of this Order or contained in attachments or exhibits hereto are deemed to be incorporated herein by reference, and Seller expressly acknowledges that it has received and read such referenced information and will treat it as Confidential Information in accordance with Section 14 hereof.

4. PRICE AND DELIVERY: Seller shall furnish the goods or services in strict accordance with the price and delivery schedule stated herein. TIME IS OF THE ESSENCE with respect to all of Seller's performance hereunder. Unless otherwise stated, prices include all charges for inspection and packaging, all federal, state and municipal sales, use and excise taxes, and any customs duties not otherwise paid or provided for by Buyer. Prices shall remain fixed until completion of the deliveries contemplated hereunder. Buyer may return or store at Seller's expense any goods delivered more than five (5) days in advance of the delivery date. Seller represents, warrants, and agrees that the prices charged for goods or services: (a) will not, unless otherwise agreed in writing by Buyer, be higher than last charged or quoted to Buyer; (b) will be as low as the lowest prices charged by Seller to customers purchasing goods or services of like kind and quality under similar terms and conditions; (c) will reflect any price declines occurring prior to the actual shipping date; and (d) will reflect any price decreases occurring after the actual shipping date but before the originally specified shipping date if Buyer permits shipments to be made before the originally specified shipping date. Seller shall immediately notify Buyer in writing when Seller first has knowledge of any impending material shortage, governmental regulation, labor dispute or other event or impediment that could result in any delay in the delivery of the goods or performance of the services hereunder. If delivery or performance is not effected within the time stated in this Order, Buyer may, in addition to Buyer's other rights and remedies, purchase the goods elsewhere or retain substitute performance of the services, charge Seller for any resulting expense, loss or damage and/or cancel this Order.

5. PACKAGING AND SHIPPING: Seller shall package, mark and ship the goods: (a) in accordance with the terms of this Order and good commercial practices; (b) in a manner acceptable to common carriers that will protect against the hazards of shipment and storage; (c) at the lowest practicable rate; and (d) in accordance with all applicable laws. Each package shall legibly be marked with proper handling instructions, shipping information, Order number, part or item number, if any, and the names of Buyer and Seller. An itemized packing list shall accompany each shipment. When the goods are ready for shipment, Seller shall inform Buyer in writing of such pending shipment and thereafter ship the goods to Buyer's designated destination. If Buyer does not provide shipping instructions to Seller, Seller shall ship the goods by normal carriage to Buyer. Buyer may reject any shipment not meeting these requirements. If, due to Seller's failure to timely to ship the goods, the specified method of transportation would not permit Seller to meet the delivery date specified in this Order, Seller shall, at Seller's sole cost and expense, ship such goods by air transportation or other expedited means acceptable to Buyer.

6. F.O.B. AND RISK OF LOSS: Unless otherwise stated in the Order, all deliveries of goods from United States locations shall be made F.O.B. Buyer's location (as shown in this Order), and all deliveries from locations outside of the United States shall be made D.D.P. (as defined by Incoterms, 2000) Buyer's location (as shown in this Order). Notwithstanding any prior inspection and F.O.B. point, Seller shall bear all risk of loss until final inspection and acceptance of the goods by Buyer. Seller shall also bear all risk of loss and any costs of return and redelivery associated with any goods rejected by Buyer.

7. PAYMENT: Seller shall issue invoices only after delivery of the goods and/or completion of the services ordered by Buyer hereunder. Original invoices shall be submitted and shall include Order number, line item number, part number, complete bill to address, description of items, quantities, unit price and extended totals. Buyer may reject any invoice for noncompliance with any of the provisions of this Order. The time periods for any cash discount or payment shall commence on the later of the date the goods are received or the date Buyer receives a proper invoice. Buyer shall issue payment within sixty (60) days after its receipt of a correct and conforming Seller invoice and supporting documentation, or sixty (60) days after acceptance of the goods by Buyer, whichever is later. Buyer's payment is contingent upon Seller's delivery of conforming goods and/or satisfactory completion of services. Payment made for rejected goods or services shall be refunded by Seller within ten (10) days after Buyer's request therefore or, at Buyer's option, shall be deducted from any other or subsequent payments due or to become due to Seller.

8. SET-OFF; RECOUPMENT: Buyer shall have the right at any time to set off or recoup any amount owing from Seller to Buyer or any of Buyer's subsidiaries or affiliates against any amount due and owing from Buyer or any of its subsidiaries or affiliates to Seller.

9. INSPECTION; ACCEPTANCE: Seller, at its cost, shall inspect all goods prior to shipment to Buyer. If requested by Buyer, Seller shall immediately provide Buyer with a copy of the inspection results. Buyer reserves the right to conduct its own pre-shipment inspection and testing wherever such goods are located. If Buyer conducts pre-shipment inspection or testing on Seller's premises, Seller shall provide, without additional charge, all reasonable facilities and assistance for such inspection and tests. Final inspection and acceptance by Buyer shall be at destination unless otherwise specified in this Order. Payment before or after inspection shall not constitute acceptance of non-conforming goods or services, and neither inspection, testing nor acceptance of the goods or services shall relieve Seller from its responsibility for latent or patent defects in the goods or other failures to meet the requirements of this Order, fraud or Seller's warranty obligations. If, at any time, Buyer learns that the goods or services are defective or otherwise not in conformity with the requirements of this Order, including the warranties of Section 10, Buyer may, in addition to Buyer's other rights and remedies, upon written notice to Seller: (a) rescind this Order as to such goods or services; (b) accept such goods or services or part thereof at an equitable reduction in price determined by Buyer; or (c) reject such goods or services and require, at Buyer's option, replacement, repair, refurbishment, reperformance, or credit or rebate of the purchase price paid by Buyer. All replacements and reperformance shall be delivered or undertaken immediately, and if not, Buyer may either replace or correct such goods and effect substitute performance for services and charge Seller for the costs incurred thereby, or terminate this Order for cause.

10. WARRANTY: SELLER WARRANTS THAT: (A) ALL GOODS DELIVERED HEREUNDER ARE FREE FROM DEFECTS IN DESIGN, MATERIAL AND WORKMANSHIP AND ARE OF A QUALITY OF WORKMANSHIP THAT IS REQUIRED BY THE BEST PROFESSIONAL PRACTICES AND PROCEDURES IN SIMILAR MANUFACTURING INDUSTRIES; (B) ALL SERVICES ARE PERFORMED IN A GOOD AND WORKMANLIKE MANNER; (C) SELLER HAS GOOD AND MARKETABLE TITLE TO THE GOODS AND HAS CONVEYED SUCH TITLE TO BUYER FREE FROM ANY ENCUMBRANCES, LIENS, SECURITY INTERESTS OR OTHER DEFECTS IN TITLE; (D) THE GOODS OR SERVICES PURCHASED HEREUNDER CONFORM TO APPLICABLE SPECIFICATIONS, DRAWINGS, SAMPLES AND OTHER DESCRIPTIONS, IF ANY, REFERENCED HEREIN; AND (E) THE GOODS PURCHASED HEREUNDER ARE

MERCHANTABLE AND SUITABLE FOR THE PURPOSES INTENDED. All warranties set forth in this Order shall survive any inspection, delivery, acceptance, payment, expiration or earlier termination of this Order, and such warranties shall run to Buyer, its successors, assigns, customers and users of its products. Any goods repaired or replaced and services reformed shall be further warranted as set forth above.

11. INDEMNITY: To the fullest extent provided by law, Seller shall indemnify, defend and hold harmless Buyer, its successors and assigns and the customers of any of them, from and against all demands, claims (including claims for contribution or indemnity), losses, liens and liabilities of whatever kind or nature (whether meritorious or not), including attorneys' fees and costs (collectively a "claim"), (a) incurred by or asserted against Buyer arising from or related in any way to the acts or omissions of Seller, Seller's agents, employees, representatives, subcontractors or assigns, including but not limited to claims asserted against Buyer as a result of a breach or alleged breach of the representations and warranties set forth in Sections 4, 10 and 17 hereof, the presence of Seller's employees on Buyer's premises or the use of any goods proven defective, or (b) arising from claims that the goods, services or use of any goods purchased hereunder, or any component, part or process thereof, infringes any patent, trademark, trade secret, copyright, mask work or application therefore, or other intellectual property right of a third party. If any such claim is asserted against Buyer, its successors or assigns or the customers of any of them, Seller shall, with counsel acceptable to Buyer, defend such action at its expense and shall pay any related costs and damages, including attorneys' fees of both Buyer and Seller. If any injunction shall be obtained against use of the Buyer's (or its successor's, assigns' or customers') goods or services or any component thereof by reason of infringement, Seller shall, at its expense, either immediately procure for Buyer, its successors and assigns and the customers of any of them, the right to continue using the goods or services or immediately replace or modify the same to become non-infringing but equivalent in form, fit and function. Seller will not settle or compromise the any claim without Buyer's consent.

12. ASSIGNMENTS: Seller shall not assign, delegate or subcontract this Order or any obligations hereunder without Buyer's prior written consent. Any such attempted assignment or delegation without Buyer's prior written consent shall be void and of no force or effect and, at Buyer's option, shall be cause for Buyer's termination of this Order. Buyer shall be entitled at any time to assign, delegate or subcontract this Order or any obligations hereunder to any third party without Seller's prior written consent.

13. CANCELLATION: At any time Buyer may cancel, suspend, delay or interrupt this Order or any part thereof, with or without cause (including Force Majeure), by written notice to Seller specifying the effective date and the extent of such cancellation, suspension, delay or interruption. Upon receipt of such notice, Seller shall immediately terminate any affected work under the Order and any contracts thereunder and take all actions to reduce its costs in connection with any affected goods or services. If Buyer cancels this Order without cause, Buyer shall reimburse Seller for Seller's reasonable out-of-pocket expenses properly and directly allocable to and resulting from such cancellation, as determined by Buyer according to generally accepted accounting principles. The amount of such reimbursement shall in no event exceed an amount equal to the portion of the price that is allocable to the canceled portion of the Order. Such reimbursement shall be Seller's sole and exclusive remedy for any such cancellation. In addition to Buyer's other rights and remedies, Buyer may cancel or suspend this Order, in whole or in part, by written notice to Seller, for cause if: (a) the goods or services or any part thereof fail any inspection or test hereunder or are defective or non-conforming; (b) the goods or services are not delivered to Buyer as scheduled; (c) Seller makes a

general assignment for the benefit of creditors, a receiver and/or manager for Seller is appointed, or a petition for bankruptcy, winding up, judicial management or corporate reorganization under any bankruptcy or similar laws is filed by or against Seller; or (d) Seller fails to comply with any of the terms or conditions of this Order. Seller shall reimburse Buyer for Buyer's reasonable expenses that are properly and directly allocable to and result from such cancellation for cause, as determined by Buyer according to generally accepted accounting principles. Any suspension or cancellation for cause by Buyer that is determined by any court or other authority to be wrongful for any reason shall be deemed for all purposes to be a suspension or cancellation without cause as set forth above.

14. CONFIDENTIAL INFORMATION: "Confidential Information" shall include any information, whether oral, written or observed, regarding the terms or existence of this Order and Buyer's specifications, requirements, plans, programs, processes, products, costs, equipment, operations, finances or customers that may come within the knowledge of Seller and its employees, representatives and agents. All Confidential Information shall remain the exclusive property of Buyer and shall immediately be returned, together with all copies thereof, to Buyer upon request. Seller shall hold Confidential Information in trust and confidence for Buyer and shall not disclose such Confidential Information or use it for any purpose other than to perform this Order. Seller may disclose Confidential Information only to employees and third parties who have signed a confidentiality agreement and who have a need to know such Confidential Information in order for Seller to perform this Order.

15. TECHNOLOGY RIGHTS: All products, information and technology produced, conceived or otherwise developed under this Order for Buyer, or as a result of technology furnished by Buyer, shall be deemed works made for hire and shall vest exclusively in Buyer. Seller agrees to use such products, information and technology only in connection with this Order and otherwise to retain them as confidential in accordance with Section 14 above. Seller, at its cost, hereby assigns to Buyer all right, title and interest in all inventions, trade secrets, patents, mask works, copyrights, trademarks and other intellectual property developed under this Order and shall fully cooperate with and assist Buyer in perfecting such rights.

16. BUYER'S EQUIPMENT: All tools, equipment, parts, materials, drawings, and specifications furnished by Buyer shall remain Buyer's property, shall be used only for work performed for Buyer, and shall be returned to Buyer immediately upon demand, termination, or completion of this Order, whichever is earlier.

17. COMPLIANCE WITH LAWS: Seller warrants that in the performance of this Order it has complied and will comply with all applicable federal, state and local laws, ordinances, regulations, directives and guidelines, including but not limited to the Occupational Safety and Health Act and the Fair Labor Standards Act, all as amended, and that it has obtained all licenses, permits and approvals required by any government. Seller shall secure and maintain adequate Workers' Compensation coverage. Upon Buyer's request, Seller shall immediately certify compliance with all such laws and regulations.

18. RELATIONSHIP BETWEEN PARTIES: The relationship between the parties hereto is that of independent contractors. Nothing in this Order shall be construed as creating any partnership, joint venture, or agency between the parties.

19. NOTICES: All notices shall be in writing and deemed effective upon delivery: (a) in person; (b) by verified facsimile transmission; or (c) by registered or certified mail, postage prepaid, return receipt requested, to the addresses set forth herein, as the same may be changed pursuant to this Section 20. Seller shall also send a copy of any notice to Buyer's general counsel at such address.

20. GOVERNING LAW; JURISDICTION AND VENUE: The validity, interpretation, construction and

performance of these terms shall be governed by the laws of the State of California, exclusive of the body of laws known as conflict or choice of law. The U.N. Convention on Contracts for the International Sale of Goods shall not apply. The California state courts of Santa Clara County, California (or, if there is exclusive federal jurisdiction, the United States District Court of the Northern District of California) shall have exclusive jurisdiction and venue over any dispute arising out of, or in any way related to, these terms and Seller hereby explicitly consents to the jurisdiction of such courts.

21. REMEDIES/NON-WAIVER: Buyer's remedies provided herein are cumulative and in addition to any other or further remedies provided by law or in equity. Any waiver of any kind by a party of a breach of this Order must be in writing, shall be effective only to the extent set forth in such writing and shall not operate or be construed as a waiver of any subsequent breach. Any delay or omission in exercising any right, power or remedy pursuant to a breach or default by a party shall not impair any right, power or remedy that either party may have with respect to that or any other future breach or default.

22. ATTORNEYS' FEES: The prevailing party to any legal action arising out of this Order shall be entitled to recover attorneys' fees and costs it incurred in bringing such action.

23. SAFETY COMPLIANCE AND NON-INTERFERENCE: If Seller performs any services on Buyer's premises, Seller shall: (a) comply with all of Buyer's safety and security regulations and all other pertinent safety regulations imposed by law; and (b) provide Buyer with evidence of insurance in accordance with the minimum limits required by Buyer. Seller and its employees, subcontractors and agents agree to comply with all directives of Buyer's supervisory personnel and further agree not to interfere with any of Buyer's operations. Non-compliance with the foregoing may, at Buyer's option, result in cancellation of this Order for cause.

24. FORCE MAJEURE: Buyer shall not be responsible, in any manner, for any failure or delay in the performance of any of its obligations hereunder caused by a strike, lockout or other industrial disturbance, act of public enemies, any government action, any civil or military action, insurrection, riot, landslide, hurricane, drought, fire, earthquake, explosion, flood, storm, act of God, or any other cause or event not reasonably within Buyer's control.

25. SEVERABILITY; HEADINGS: If it is determined by a court of competent jurisdiction as part of a final nonappealable ruling, government action or binding arbitration that any provision of this Order (or part thereof) is invalid, illegal, or otherwise unenforceable, such provision shall be enforced as nearly as possible in accordance with the stated intention of the parties, while the remainder of this Order shall remain in full force and effect and bind the parties according to its terms. To the extent any provision (or part thereof) cannot be enforced in accordance with the stated intentions of the parties, such provision (or part thereof) shall be deemed not to be a part of this Order; provided that in such event the parties shall use their best efforts to negotiate, in good faith, a substitute, valid and enforceable provision that most nearly effects the parties' intent in entering into this Order. Headings are inserted solely for convenience of reference, shall not constitute a part of this Order and shall not otherwise affect the interpretation hereof.

26. Survival: Any provisions herein that by their nature extend beyond the expiration, termination or fulfillment of this order shall survive such expiration, termination or fulfillment, including, without limitation, sections 10, 11, 14, 15, 18, 19, 20, 21, 22 and 25.

Lexar Media, Inc.

