

DILAS Diode Laser, Inc.
9070 S. Rita Road, Suite 1500
Tucson, AZ 85747
PH: 520-232-3480
Fax: 520-232-3499

STANDARD TERMS AND CONDITIONS OF SALE

The following standard terms and conditions (these "Terms and Conditions") shall govern the sale by DILAS Diode Laser, Inc. ("Seller") of lasers, laser-based systems, accessories, spares and other related products ("Laser Products") to the buyer ("Buyer") identified in the document to which these Terms and Conditions are attached (such document, together with these Terms and Conditions, are collectively referred to as this "Contract"). To the extent any terms in the document to which these Terms and Conditions are attached are inconsistent with these Terms and Conditions, the terms set forth in such document shall govern and control this Contract.

BUYER'S ACCEPTANCE OF THIS CONTRACT IS LIMITED TO ACCEPTANCE OF THE EXPRESS TERMS OF THIS CONTRACT. ANY PROPOSAL FOR

ADDITIONAL OR DIFFERENT TERMS OR ANY ATTEMPT BY BUYER TO VARY IN ANY DEGREE ANY OF THE TERMS OF THIS CONTRACT IN BUYER'S ACCEPTANCE IS HEREBY OBJECTED TO AND REJECTED BY SELLER. THIS CONTRACT CONSTITUTES THE FINAL, ENTIRE AGREEMENT PERTAINING TO THE SALE TO BUYER OF THE LASER PRODUCTS DESCRIBED IN THIS CONTRACT AND ANY AND ALL PRIOR UNDERSTANDINGS, AGREEMENTS AND REPRESENTATIONS, ORAL OR WRITTEN, SHALL BE DEEMED SUPERSEDED BY AND MERGED INTO THIS CONTRACT. AGENTS AND SALESMEN OF SELLER HAVE NO AUTHORITY TO MAKE ANY REPRESENTATIONS, WARRANTIES OR AGREEMENTS NOT INCLUDED IN THIS CONTRACT.

I. PRICES AND QUOTATIONS

The price for all Laser Products sold by Seller to Buyer, if not expressly set forth in this Contract, is subject to agreement between Seller and Buyer. Price quotations by Seller are net of delivery charges and taxes, if any, and are valid for ninety days unless a shorter period of time is set forth in such price quotation.

II. ORDER PROCEDURE

All orders are subject to written acceptance by Seller unless the order is submitted in response to a firm written offer from Seller. A Sales Order Acknowledgment executed by a duly authorized officer of Seller shall be deemed to be a firm written offer from Seller.

III. STANDARD CONDITIONS OF SALE APPLYING TO LASER PRODUCTS

1. GOVERNING LAW: This Contract is deemed made in the State of Michigan and shall be interpreted under the Uniform Commercial Code and other laws of the State of Michigan in force at the date of such document, without regard to the conflicts of laws principles of such State.

2. PRICE; TAXES: The Laser Products covered by this Contract shall be sold and invoiced at Seller's prices and charges as agreed to in this Contract or otherwise agreed to in writing by Seller and Buyer. Prices do not include sales, excise, use or other similar taxes now in effect or hereafter levied by reason of this Contract or the transactions contemplated thereby, all of which shall be paid by Buyer. Such taxes shall be assessed by Seller against Buyer at the time of invoice unless Seller has received an exemption certificate or other similar evidence in form satisfactory to Seller. Seller reserves the right to invoice such taxes at a later time if such exemption was or is asserted to be inapplicable or invalid.

3. PAYMENT TERMS; NO SETOFF:

A. Payment terms are net 30 days from date of invoice, unless a different period is stated elsewhere in this Contract. Buyer shall be liable for the price of all

Laser Products substantially conforming to this Contract, notwithstanding that Buyer may not have accepted, or may have revoked acceptance of same. Buyer shall not be entitled to deduct, counterclaim or set off against the price of such Laser Products or any other amount owing under this Contract any claim or alleged claim arising out of this Contract or any other transaction with Seller.

B. If payment is not received by the due date, a service charge will be added at the rate of 1 1/2% per month (18% per year) or the maximum legal rate of interest, whichever is less, to unpaid invoices and other unpaid amounts from the due date thereof.

C. Any remittances received by a bank or other depository of Seller in connection with this Contract will be received by such bank or other depository solely as a clearing agency. Such receiving bank or depository has no authority to determine whether or not the amount remitted constitutes payment in full. Remittances marked to indicate "payment in full" or other similar expressions may be deposited by such bank or depository notwithstanding such markings and such deposit shall not indicate Seller's acceptance of the remittance as payment in full and shall not otherwise be treated as an election by, or an impairment of any of the rights of, Seller unless expressly agreed in writing by Seller.

4. CREDIT: Seller may, at any time and in its sole discretion, limit or cancel the credit of Buyer as to time and amounts, and as a consequence, may demand payment in cash before delivery of any unfilled portion of this Contract, and may demand assurance of Buyer's due performance including without limitation demanding that one or more deposits, letters of credit or other assurance be provided by Buyer. Upon making such demand, Seller may suspend production, shipment and/or deliveries until Buyer has provided such assurance. If, within the period stated in such demand, but in no event longer than 30 days, Buyer fails to agree and comply with such different terms of payment, and/or fails to give adequate assurance of due performance, Seller may, in its sole discretion and without any requirement to do so, (1) by notice to Buyer, treat such failure or refusal as a repudiation by Buyer of the portion of this Contract not then fully performed, whereupon Seller may cancel all further deliveries and any amounts unpaid hereunder shall immediately become due and payable, or (2) make shipment under reservation of a security interest and demand payment against tender of documents of title. If Seller retains a collection agency and/or attorney to collect overdue amounts, all collection costs, including attorneys' fees, shall be payable by Buyer upon demand by Seller. Buyer hereby represents to Seller that Buyer is now solvent, that it has all requisite power and authority to enter into this Contract, that the execution, delivery and performance of this Contract does and will not conflict with or result in a breach of any contract to which it is a party or by which its assets may be bound, and that no other person other than Seller has or will have a security interest in the Laser Products covered by this Contract until performance in full by Buyer of its obligations under this Contract. Buyer further agrees that each acceptance of delivery of the Laser Products sold under this Contract shall constitute the remaking of each of these representations at such time.

5. DELAY; CHANGE: Any change in delivery schedule and/or quantity which is made at Buyer's request shall be cause for price redetermination. Seller shall be under no obligation to honor such requested change. Delivery reschedules are also subject to an

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additional charge of 1 1/2% of the selling price per month if rescheduled within the 60 days immediately preceding the current schedule date. The applicable reschedule charge will be invoiced at the time such rescheduling is agreed to by Seller.

6. CANCELLATION: Buyer may cancel an order at any time prior to shipment by Seller by delivering written notice to Seller; provided, however, that Buyer will be responsible for a cancellation charge of 15% of the price of the canceled Laser Products, plus the amount of all direct and indirect costs incurred by Seller with respect to the canceled order, including without limitation those incurred after receipt of any written cancellation notice.

7. SEVERAL SHIPMENTS: Seller may make delivery in installments and may render a separate invoice for each installment, which invoice shall be paid when due, without regard to subsequent deliveries. Each installment shall be deemed a separate sale. Delay in delivery of any installment shall not relieve Buyer of its obligation to accept delivery of remaining installments. Each delivery shall be paid for on the due date, as provided in this Contract, without offset, defense or counterclaim and regardless of controversies relating to any delivered or undelivered Laser Products.

8. TITLE; RISK OF LOSS; INSURANCE: Title to each shipment of the Laser Products sold hereunder and risk of loss thereon shall pass to Buyer when Seller or its agent delivers such shipment to a common carrier or licensed trucker consigned to Buyer or his agent, but such shipment shall remain subject to Seller's rights of stoppage in transit, rights of reclamation and other legal rights of Seller. If a strike, embargo, governmental action or any other cause beyond Seller's control prevents shipment or delivery to Buyer or his agent, or if shipping instructions for any shipment are not received before any shipment date, or if payment is to be made on or before delivery, title and risk of loss shall pass to Buyer as soon as the shipment has been set aside by Seller and invoiced to Buyer (subject to Seller's rights as an unpaid Seller) and payment shall be made in accordance with invoice as though the Laser Products had been shipped and accepted by Buyer and Seller shall be under no duty to carry insurance thereafter.

9. CONSIGNED GOODS: If any Laser Products provided by Seller hereunder are supplied on a consignment basis, then such consignment shall also be subject to a separate Consignment Agreement among Seller, Buyer and its consignee, in form and substance satisfactory to Seller.

10. ACCEPTANCE: Buyer or Buyer's agent may, at its expense, inspect the Laser Products at the place of manufacture. Buyer shall accept any tender of Laser Products which substantially conform to the description of the Laser Products delivered by Seller to Buyer. Buyer shall be deemed to have accepted the Laser Products tendered by Seller unless Buyer gives Seller notice in writing specifying the particular deficiencies in the Laser Products: (a) in the case of defects discoverable through inspection, 14 days after arrival of the shipment or (b) in the case of defects not discoverable through inspection, 30 days after arrival of the shipment. In the case of Buyer acceptance of non-conforming Laser Products, Buyer shall immediately notify Seller whether or not Buyer will continue to accept similarly non-conforming Laser Products and failure to do so shall constitute a waiver by Buyer of specification requirements for said Laser Products. In any event, when any Laser Products shall have been altered from its original state, Buyer shall be deemed to have accepted such Laser Products. Buyer's acceptance of Laser Products tendered under this Contract shall be final and irrevocable.

11. DELIVERY: Unless otherwise agreed by Seller and Buyer, the Laser Products are sold F.O.B. Tucson, Arizona and shipped collect by certified carrier. Except in the case of specially designed shipping containers supplied by Seller or otherwise agreed in writing by Seller, Seller shall ship all laser oscillators in "air ride" vans to avoid damage due to excessive shock. FAILURE TO COMPLY WITH THIS PARAGRAPH 11 SHALL VOID THE WARRANTY REFERRED TO IN PARAGRAPH 13. In the event that any Laser Products are received by Buyer in a damaged condition, Buyer should cease unpacking such Laser Products, request an immediate inspection by the common carrier responsible for delivery, and furnish the carrier's written report to Buyer's insurer and to Seller. Where a delivery date is specified by Seller, that date reflects Seller's best estimate for the probable time required for completion of Buyer's order. Seller will use reasonable and diligent efforts to effect shipment on or before the date indicated. Seller shall not be liable, directly or indirectly, for any delay or failure in performance or delivery or inability to perform or deliver, including without limitation where such delay, failure or inability arise or results form any cause beyond Seller's control or beyond the control of Seller's suppliers or contractor, including, but not limited to, strike, boycott or other labor disputes, embargo, governmental regulation, inability or delay in obtaining materials. IN NO EVENT SHALL SELLER, IN THE EVENT OF DELAYS OR IN ANY OTHER CIRCUMSTANCES, BE LIABLE TO BUYER OR ANY THIRD PARTIES FOR ANY CONSEQUENTIAL, SPECIAL, PUNITIVE OR CONTINGENT DAMAGES, EVEN IF SELLER SHALL BE ADVISED BY BUYER OF THE POSSIBILITY THEREOF. In the event of any such delay or failure in performance, Seller shall have such additional time within which to perform its obligations under this Contract as may reasonably be necessary under the circumstances; and Seller shall also have the right, to the extent necessary in Seller's reasonable judgment, to apportion fairly among its various customers in such manner as Seller may consider equitable Laser Products then available for delivery. If, as a result of any such contingency, Seller is unable to perform under this Contract in whole or in part, then, to the extent that it is unable to perform, this Contract shall be deemed terminated without liability to either party, but shall remain in effect as to the unaffected portion of this Contract, if any.

12. START UP: If the sale price includes assistance by Seller in starting up the system at Buyer's facility or training Buyer's personnel, Buyer is responsible for adequate and timely site preparation (including the maintenance of appropriate insurance) and the availability of its personnel. Installation or training time incurred by Seller in excess of the amounts expressly included in the sales price will be charged to Buyer at then prevailing rates.

13. WARRANTY: Seller's warranty with respect to Laser Products is set forth in its QUOTE, a copy of which is attached hereto and, by this reference, incorporated herein. Such warranty may not be modified or expanded by any other person in any manner that modifies or expands the liability of Seller. EXCEPT AS SET FORTH IN THE QUOTE, SELLER MAKES NO STATUTORY, EXPRESS OR IMPLIED WARRANTY WITH RESPECT TO SUCH LASER PRODUCTS, INCLUDING MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE.

14. PATENTS; OTHER INTELLECTUAL PROPERTY RIGHTS: Buyer will promptly notify Seller in writing of any claim asserted and suit or action brought against Buyer alleging that the Laser Products purchased under this Contract infringe one or more United States or foreign patents or other intellectual property or similar rights. Seller will indemnify Seller against and defend all suits and pay all damages and costs awarded against Buyer for infringement by said Laser Products of United States patents or other intellectual property or similar rights; provided that the indemnity of Seller under this Contract shall not extend to claims, suits or actions for infringement based upon the use of any Laser Products in combination with apparatuses, circuits or devices not furnished by Seller or upon the use of any such combination, or based upon the application or use to which such Laser Products are put, including any application or process performed or facilitated by such Laser Products ("Excluded Claims"). Buyer shall not be entitled to indemnification or contribution from Seller with respect to any Excluded Claims, and Buyer will indemnify Seller against and defend all suits and pay all damages and costs asserted against Seller arising out of any

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such Excluded Claims. In addition, Buyer will indemnify Seller against and defend all suits and pay all damages and costs awarded against Buyer with respect to claims of infringement for Laser Products manufactured wholly or partially to Buyer's design or specifications. Notwithstanding the foregoing, Seller shall have the right, in its sole discretion and at its expense, either (a) to procure for Buyer the right to continue using such Laser Products, (b) to replace such Laser Products with non-infringing products and services of at least equal function and quality, (c) to modify such Laser Products so that they become non-infringing, or (d) request the return of such Laser Products and refund the purchase price thereof. THE FOREGOING EXPRESSES THE ENTIRE OBLIGATION AND LIABILITY OF SELLER WITH RESPECT TO INFRINGEMENT OF PATENTS BY SAID PRODUCTS. SELLER MAKES NO WARRANTY THAT THE GOODS SOLD UNDER THIS AGREEMENT ARE DELIVERED FREE OF THE RIGHTFUL CLAIMS OF ANY THIRD PARTY BY WAY OF PATENT INFRINGEMENT OR THE LIKE. BUYER'S RECOURSE AGAINST SELLER IN SUCH CIRCUMSTANCES SHALL BE LIMITED TO THE PROVISIONS OF THIS PARAGRAPH 14.

15. CONFIDENTIALITY: Any drawings, data, designs, software programs, technical information, trade secrets or other proprietary information supplied by Seller to Buyer in connection with the sale of any Laser Products shall remain Seller's property and be held in confidence by Purchaser. Such information shall not be reproduced or disclosed to others without Seller's prior written consent. Notwithstanding the provisions of Paragraph 19 hereof, Buyer acknowledges that Seller would be irreparably harmed by the disclosure of such information in violation of this Contract and Seller shall be entitled to specific performance in the event of any breach or threatened breach of this Paragraph 15 by Buyer.

16. LIMITATION OF SELLER'S LIABILITY: NOTWITHSTANDING ANYTHING SET FORTH IN THIS CONTRACT (INCLUDING ITS ATTACHMENTS) TO THE CONTRARY, IN NO EVENT SHALL SELLER BE RESPONSIBLE OR LIABLE TO BUYER FOR ANY LOSS OF USE, REVENUE OR ANTICIPATED PROFITS, OR FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL, CONTINGENT OR PUNITIVE DAMAGES IN CONNECTION WITH ANY BREACH OF WARRANTY OR OTHER BREACH OF SELLER'S OBLIGATIONS UNDER THIS CONTRACT (INCLUDING ANY ATTACHMENTS HERETO).

17. SELLER'S REMEDIES: If Buyer fails, with or without cause, to furnish Seller with specifications and/or instructions for, or refuses to accept deliveries of, any of the Laser Products sold under this Contract, or is otherwise in default under or repudiates all or any part of this Contract or any other contract with Seller or fails to pay when due any invoice under this Contract or any other contract with Seller, then, in addition to any and all remedies allowed by law, Seller, without notice: (1) may bill and declare due and payable all undelivered products under this Contract and/or any other contract between Seller and Buyer and/or (2) may defer shipment under this Contract and/or any other contract between Buyer and Seller until such default, breach or repudiation is removed and/or (3) may cancel any undelivered portion of this Contract and/or any other contract in whole or in part. Buyer shall remain liable for all damages suffered or incurred by Seller in any such circumstances.

18. COMPLIANCE WITH LAWS: Buyer assumes responsibility for compliance with all U.S. federal, state and local laws relating to the sale and use of the Laser Products covered by this Contract, including without limitation all U.S. federal, state and local laws governing exports from the United States and/or any subsequent re-export of products.

19. DISPUTE RESOLUTION: In the event of any dispute arising out of or relating to this Contract, representatives of the parties shall meet promptly in a good faith effort to resolve the dispute without resort to arbitration or court proceedings. If the dispute is not resolved by the parties within thirty (30) days after the representatives' first meeting, then either party, by written notice to the other, may request mediation. Mediation shall be conducted in Pima County, Arizona in accordance with the Commercial Mediation Rules of the American Arbitration Association. If mediation is not timely requested or does not end in resolution of the dispute, then the parties agree to finally and exclusively resolve the dispute through binding arbitration, to be conducted in Pima County, Arizona in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The arbitrator may only award or grant to the parties such remedies as a court of competent jurisdiction could award or grant within the locality where the arbitration takes place and may not award consequential or punitive damages. Judgment upon the award rendered by the arbitrator may be entered in any court having proper jurisdiction. Notwithstanding the foregoing, Seller shall not be required to pursue mediation or arbitration under this Paragraph 19 in connection with claims brought by Seller against Buyer arising out of Buyer's failure to pay for any Laser Products in whole or in part.

20. JURISDICTION; VENUE: Seller and Buyer hereby consent to the exclusive jurisdiction of the state or federal courts sitting in Pima County, Arizona in connection with the enforcement of this Contract or any breach of the terms hereof. Neither party shall assert any objection to such jurisdiction or that venue in any such court is inconvenient or otherwise improper. Buyer and Seller consent to service of process by personal delivery or by postage prepaid, certified U.S. mail, mailed to the address of such party set forth in this Contract.

21. ASSIGNMENT: This Contract and Buyer's rights and obligations hereunder may not be assigned, pledged, hypothecated or otherwise transferred by Buyer except with the prior written approval of Seller, which shall not be unreasonably withheld or delayed. Buyer may assign this Contract and its rights and obligations hereunder to a third party, without the approval of Buyer being required.

22. WAIVER: Waiver by Seller of any provision of this Contract or of a breach by Buyer of any provision of this Contract shall not be deemed a waiver of future compliance with this Contract and such provision, as well as all other provisions of this Contract, shall remain in full force and effect.

23. CLERICAL ERRORS: Obvious stenographic and clerical errors contained in this Contract are subject to correction by Seller.

24. AMENDMENT OR MODIFICATION: This Contract may only be amended, modified, supplemented or canceled in a written document signed by Seller and Buyer. The signature of one party hereto shall be insufficient to modify the terms of this Contract.

25. HEADING AND DEFINITIONS: The heading and definitions in this Contract are inserted for convenience only and shall not constitute a part hereof.

26. SEVERABILITY: If any provision of this Contract shall be held to be unenforceable or invalid, such provision shall be ineffective to the extent of such prohibition or invalidity, and the balance of this Contract shall be interpreted as if such provision were so excluded.

27. INTERPRETATION: Any interpretation of this Contract shall be construed consistently by and against both parties, and shall not be construed against the draftsman hereof.