

DIODE LASER CONCEPTS, INC. – ADDITIONAL TERMS & CONDITIONS

Standard Conditions of Sale

All equipment and parts (hereafter "Products") sold by Diode Laser Concepts, Inc., hereafter referred to as the "Company", are subject to these terms and conditions of sale, in addition to the terms and conditions located on the face of this document.

Taxes

Prices quoted do not include any federal, state or local property, license, privilege, sales use, excise, gross receipts, or other like taxes which may now or hereafter be applicable to, measured by, or imposed upon or with respect to the transaction, the Products, its sale, its value or its use, or any services performed in connection therewith. Purchaser agrees to pay or reimburse any such taxes which the Company or the Company's subcontractors or suppliers are required to pay.

Errors

All stenographic and clerical errors are subject to correction.

Force Majeure, Loss, Damage or Delay

Company will not be liable for failure to perform or for delay in performance due to fire, flood, strike, or any other labor difficulty, act of any governmental authority or of the Purchaser, riot, embargo, car shortage, wrecks or delay in transportation, inability to obtain necessary labor, materials or manufacturing facilities from usual sources or due to any other cause beyond its reasonable control.

Delivery

Company will make delivery of the Products to Purchaser F.O.B. the Company's plant in Medford, Oregon. Shipping costs from such plant to Purchaser shall be paid by Purchaser.

Security Interest

Purchaser hereby grants Company a security interest in the Products and all proceeds of their sale or other disposition until the payment of the purchase price in full, and Purchaser agrees to execute all instruments and perform all acts which may be necessary for the perfection of Company's security interest. Purchaser authorizes Company to file financing statements evidencing Company's security interest without the signature of Purchaser. If Purchaser shall (i) default in any term of this Agreement, or (ii) become insolvent, be declared bankrupt, make an assignment for the benefit of creditors, or be liquidated and dissolved, Company may exercise its rights under the Uniform Commercial Code in force in the State of Oregon on the date of this Agreement, including the right to purchase the Products at any public sale and, in addition, Company shall be entitled to take possession of the Products.

Title Risk of Loss

The Products sold shall remain the property of Company and shall remain personal property until fully paid for in cash, and Purchaser shall perform all acts which may be necessary to perfect and assure retention of title to such Product by Company. Risk of loss of the Product, or any part of the same, shall pass to Purchaser upon delivery of

such Product to Purchaser F.O.B. Company's plant in Medford, Oregon.

Limited Two (2) Year Warranty

All Standard Products ("Standard Products") sold by Company are subject to this Limited Warranty.

All Standard Products will be as described in the Product Specifications. Company warrants that its Standard Products, if properly stored, transported, installed, used and maintained, will be free from defects in materials and workmanship for a period of two (2) years from the date of purchase.

If the Company's Standard Product which is the subject of this Limited Warranty is deemed to be defective by Company during the warranty period and is covered by this Limited Warranty, the Company, at its option, will:

- 1) REPAIR THE STANDARD PRODUCT, OR
- 2) REPLACE THE STANDARD PRODUCT WITH A STANDARD PRODUCT THAT IS FUNCTIONALLY AT LEAST EQUAL TO THAT OF THE STANDARD PRODUCT BEING REPLACED.

Warranty Limitations and Exclusions

THIS TWO YEAR LIMITED WARRANTY REPLACES ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. COMPANY MAKES NO EXPRESS WARRANTIES BEYOND THOSE STATED HERE. COMPANY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

Warranty Service

To obtain warranty service, purchaser must return any Standard Products alleged to be defective, along with a written service request, freight prepaid, to Company's plant in Medford, Oregon. The written service request must include: (1) proof of purchase; and (2) an explanation of the problem.

If Company determines the Standard Product is defective, and is covered by this Limited Warranty, it will repair or replace the Standard Product as set forth above.

All returned Standard Products must be accompanied by a Company return material authorization number, which can be obtained by calling Company at: 1-541-773-5321. Purchaser shall be responsible for the shipping return charges on all repaired or replaced Standard Products.

Extent of Limited Warranty

This Limited Warranty does not cover damages due to external causes including, but not limited to, accidents, misuse, neglect, alteration, repair, or improper installation or maintenance.

Instructions for the care and usage of the Standard Product are included with the Standard Product. Any usage or care not in accordance with these instructions voids this warranty, and any damage caused by such improper usage or care is not covered under this warranty.

This Limited Warranty applies exclusively to Standard Products, and does not apply to custom products ("Custom Products").

Exclusion of Warranties; No Warranties on Custom Products

1) The Purchaser represents that Purchaser is purchasing the Custom Products which are the subject of this agreement "AS-IS: and "WITH ALL FAULTS."

2) The Seller makes no warranty with regard to any Custom Products. The implied warranties of MERCHANTABILITY and FITNESS FOR A PARTICULAR PURPOSE and all other warranties, express or implied, are EXCLUDED from this transaction and shall not apply to the Product sold.

Limitations of Liability

COMPANY'S RESPONSIBILITY UNDER THIS, OR ANY OTHER WARRANTY, IMPLIED OR EXPRESSED, IS LIMITED TO REPAIR OR REPLACEMENT, AS SET FORTH ABOVE. THESE REMEDIES ARE THE SOLE AND EXCLUSIVE REMEDIES FOR ANY BREACH OF WARRANTY. COMPANY IS NOT RESPONSIBLE FOR INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES RESULTING FROM ANY BREACH OF WARRANTY OR UNDER ANY OTHER LEGAL THEORY, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, DOWN TIME, AND ANY DAMAGE TO OR REPLACEMENT OF EQUIPMENT AND PROPERTY.

Merger

THIS AGREEMENT CONSTITUTES A FINAL WRITTEN EXPRESSION OF ALL THE TERMS OF THIS AGREEMENT AND IS A COMPLETE AND EXCLUSIVE STATEMENT OF THOSE TERMS. ANY AND ALL REPRESENTATIONS, PROMISES, WARRANTIES OR STATEMENTS BY COMPANY'S AGENT THAT DIFFER IN ANY WAY FROM THE TERMS OF THIS WRITTEN AGREEMENT SHALL BE GIVEN NO FORCE OR EFFECT.

Governing Law; Forum

These terms and conditions shall be governed by and interpreted in accordance with the laws of the State of Oregon. Any legal action or proceeding arising from or in connection with these terms and conditions shall be brought exclusively in the Jackson County Circuit Court in the State of Oregon, or in the U.S. District Court, District of Oregon. Purchaser hereby irrevocably consents to service of process out of said State of Oregon or U.S. Courts in any such action or proceeding by mailing copies thereof by U.S. mail to purchaser or any other method of service permitted by such courts.