

GENERAL INTERPRETATION AND COMPLETENESS: This Agreement is deemed made in the State of New Jersey and shall in all respects be interpreted enforced and governed by and under the Uniform Commercial Code and other laws of New Jersey applicable to instruments, persons, and transactions which have legal contacts and relationships solely within the State of New Jersey and the laws of the United States of America. Buyer and Seller agree that any legal or equitable action for claims, debts or obligations arising out of, or to enforce the terms of hereof shall be brought exclusively in the United States District Court for the District of New Jersey, or in the Superior Court of the State of New Jersey, and that either court shall have personal jurisdiction over the Buyer and Seller, and that venue for such action shall be appropriate in each court. The entire agreement and final understanding pertaining to the sale to Buyer of the Products described herein by High Power Devices, Inc. dba Intense (“Seller”) is set forth on the face and reverse side hereof and supersedes and terminates any and all prior and/or contemporaneous negotiations discussions, offers, understandings, agreements and/or representations, oral or written express or implied relating in any way to the subject matter hereof. This agreement is intended by the parties to be a complete and wholly integrated expression of their understanding and agreement, and it may not be altered, amended, modified or otherwise changed in any way except by a written instrument, which specifically identifies the intended alteration, amendment, modification or other change and clearly expresses the intention to so change this Agreement. Seller hereby rejects any different or additional terms previously or hereafter proposed by Buyer, none of which shall be effective. Acceptance by Buyer is limited to the terms and conditions of this Agreement. Neither Seller’s performance nor delivery shall be deemed or constituted as acceptance of Buyer’s additional or alternant terms and conditions. Buyer acknowledges that it has not entered into this Agreement in reliance upon any warranty or representation by any person or entity except for the warranties and representations specifically set forth herein.

PRICE: The Products and other items or services covered by this contract shall be sold and invoiced at Seller’s prices and charges in effect at the time of each shipment of Products under this Agreement unless otherwise specified by Seller in writing. Seller reserves the right to change without notice Seller’s published list prices. Prices do not include transportation and insurance costs and all sales, excise, use or other taxes now in effect or hereafter levied by reason of this transaction. Buyer shall pay all such taxes, other than taxes based on Seller’s net income, unless Buyer has provided Seller with an exemption resale certificate. Buyer agrees to indemnify and hold harmless Seller for any liability for such tax, as well as the collection or withholding thereof, including penalties and interest thereon when applicable, such transportation and insurance costs and taxes shall appear as separate items on Seller’s invoice. Shipment costs will be paid initially by Seller, but billed separately to Buyer on the invoice unless buyer provides shipping account number. Buyer is responsible for all bank fees associated with wire transfers.

PAYMENT TERMS: Payments shall be due (30) thirty days from date of invoice. Seller reserves the right to require alternative payment terms, including, without limitation, Sight Draft, Letter of Credit or Payment in Advance. If Buyer delays shipments, payment shall be made based on the contract price and percent of completion. Buyer shall be liable for the price of all products substantially conforming to the contract, notwithstanding that Buyer may not have accepted, or may have revoked acceptance of same.

If payment is not received by the due date, a service charge will be added at the rate of 1.5% per month (18% per year) or the legal rate permitted by law, whichever is less, to unpaid invoices from the due date thereof. If Buyer fails to pay money due and owing Seller, Buyer will pay any reasonable costs and expenses incurred by Seller to collect such sums owed by Buyer, including attorney’s fees and costs of suit, in addition to all such moneys due.

Remittances will be received by a bank simply as clearing agency. The receiving bank has no authority to determine whether or not the amount remitted constitutes payment in full. Remittances marked to indicate payment in full will be deposited by the bank notwithstanding such markings and such deposit shall not indicate Seller’s acceptance or the remittance as payment in full unless the remittance actually constitutes payment of all sums owed.

CREDIT: Seller may, at any time and in its sole discretion, establish, change, limit or cancel the credit and payment terms extended Buyer as to payment time period and amount when, in Seller’s sole opinion, Buyer’s financial condition or previous payment record warrants such action. As a consequence, Seller may demand payment in cash before delivery of any unfilled portion of this Agreement, and may demand assurance of Buyer’s due performance (including, without limitation financial statements). Upon making such demand, or on delinquent accounts, Seller may suspend production, shipment and/or deliveries, if within the period stated in such demand, but in no event longer than thirty (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 (i) by notice to Buyer, treat such failure or refusal as a repudiation by Buyer of the portion of the Agreement not then fully performed whereupon Seller may cancel all further deliveries and any amounts unpaid hereunder shall immediately become due and payable or (ii) make shipments under reservation of a security interest and demand payment against lender of documents of title. Buyer hereby warrants to Seller that Buyer is and upon the date on which it places each order hereunder solvent and agrees that each acceptance of delivery of the Products sold hereunder shall constitute reaffirmation of this warranty at such time.

SECURITY INTEREST: Seller retains a security interest in the Products delivered to Buyer, and in their accessories, replacements, accessions, proceeds and products, including accounts receivable (collectively, the “Collateral”) to secure payment of all amounts due under this Agreement. If Buyer fails to pay any amount when due, Seller shall have the right to repossess and remove all or any part of the Collateral from Buyer, but not from Buyer’s customers. Any possession or removal shall be without prejudice to any other remedy of Seller hereunder at law or in equity. Buyer agrees that Seller may authenticate on behalf of Buyer and file from time to time, any document reasonably required by Seller to transfer, perfect, preserve, protect and enforce this security interest.

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. Any delivery not in dispute shall be paid for on the due date, as provided in this Agreement, without offset defense or counterclaim and regardless of controversies relating to other delivery or undelivered Products.

TITLE, RISK OF LOSS, INSURANCE: All shipments will be made F.O.B. Seller’s facility. Title to each shipment of the 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 and of reclamation. 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 shipment date, or if payment is not 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 Products had been shipped and accepted by Buyer and Seller shall be under no duty to carry insurance thereafter.

ACCEPTANCE: Buyer or Buyer’s agent may inspect the Products at the place of manufacture. Buyer shall accept any tender of the Products by Seller which substantially conform to the description of the Products set forth herein Buyer shall be deemed to have accepted any Product and Buyer’s right to cancel, reject or claim any damages for breach of Seller’s obligation under this Agreement shall cease within thirty (30) days of shipping thereof advance notice of defect is received as described in (i) or (ii), below and defective Products are returned to Seller within sixty (60) days of shipping. Buyer must give Seller notice of defect in writing as follows: (i) in the case of defects discoverable through inspection, 14 days after arrival of the shipment or (ii) in the case of defects not discoverable through inspection thirty (30) days after shipping date. In the case of non-conforming Products, Buyer shall immediately notify Seller whether or not Buyer will continue to accept similarly non-conforming Products and acceptance of any non-conforming Products shall constitute a waiver by Buyer of specification requirements for said Products. In the event of discovery of a defective Product, at Seller’s option, Seller will either (a) exchange such Product for a new one of the same type or (b) terminate the order (and repay the purchase price if Buyer has already paid). The remedies described in (a) and (b) above shall be Buyer’s sole and exclusive remedies for cancellation, rejection or claim of breach for defective Product. In any event, when the Product shall have been altered from its original state, Buyer shall be deemed to have accepted the Product, Buyer’s acceptance of Products tendered under this Agreement shall be final and irrevocable.

ORDERS: All orders placed with Seller must be in a signed writing or upon verbal order confirmed in such as writing. The order must include, quantities and complete descriptions of the Products being purchased. Orders will be binding upon Buyer when received and accepted in writing by Seller.

DELIVERY: The carrier will be selected by Seller in the absence of specific instructions by Buyer or if Seller determines the Buyer's instructions are unsuitable however, Seller will not assume any liability in connection with the selection of the carrier. Delivery will be via 2-day domestic or International Priority unless otherwise requested, no insurance will be added on shipments unless requested by the Buyer. The carrier will not be deemed to be an agent of Seller. Seller will use every reasonable effort 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. Further, Seller will not be liable for any failure or delay in performance or delivery made under this

Agreement where such delay, failure or inability in whole or in part, directly or indirectly arises or results from any cause beyond Seller's control or beyond the control of Seller's suppliers or contractors, including, but not limited to fire, explosion, earthquake, storm, flood, or other weather, unavailability or necessary utilities of raw materials, strike, lockout, unavailability of components, activities of a combination of workmen or other labor difficulties, war, insurrection, riot, act of God or the public enemy, law act, order, export control regulation, proclamation decree, regulation, ordinance, or instructions of Government or other public authorities, or judgment or decree of a court competent jurisdiction. In the event of the happening of such a cause, Seller will give prompt, written notice to Buyer, stating the period of time the same is expected to continue. In the event of any such delay or failure in performance, Seller shall have such additional time within which to perform its obligations hereunder 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 allocate among its various customers in such manner as Seller may consider equitable, in Seller's sole discretion, the Products then available for delivery. If, as a result if any such contingency, Seller is unable to perform this Agreement in whole or in part, then to the extent that it is unable to perform, such obligations shall be deemed terminated without liability to either party, but shall remain in effect as to the unaffected portion of the Agreement, if any.

SELLER'S LIABILITY: If Buyer timely notifies Seller under the terms hereof (which notice shall be in writing sent by certified or registered mail, return receipt) of a claimed defect, Buyer shall concurrently in writing offer Seller opportunity to investigate the claim and to inspect allegedly defective Products. If Seller determines that Buyer's claim is valid, Seller may repair the defective Products or replace the defective Products with conforming Products at the F.O.B. point specified in this Agreement. Failure to offer Seller such opportunity shall constitute acceptance by Buyer and waiver of all claims for defects. Replacement of defective Products or repayment of the purchase price for any such Product will be made only upon return of the defective Product. Seller shall not be liable for damages related to any instrument, equipment, or apparatus with which the Product sold under this Agreement is used. No action by Buyer may be brought at any time that is more than twelve (12) months after the facts occurred upon which the cause of action arose.

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 Products sold under this Agreement, or is otherwise in default under or repudiates this Agreement or any other contract with Seller or fails to pay when due any invoice under this Agreement, then in addition to any and all remedies allowed by law, Seller without notice (i) may bill and declare due and payable all undelivered Products under this or any other contract between Seller and Buyer and/or (ii) may defer shipment under this or any other contract between Buyer and Seller until such default, breach or repudiation is removed and/or (iii) may cancel any undelivered portion of this and/or any other contract in whole or in part (Buyer remaining liable for damages).

CONSEQUENTIAL DAMAGES: IN NO EVENT, INCLUDING BUT NOT LIMITED TO DELAY IN PERFORMANCE, BREACH OF WARRANTY OR OTHER BREACH OF SELLER' OBLIGATIONS UNDER THIS AGREEMENT, WILL SELLER BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF ANTICIPATED PROFITS OR BENEFITS, EVEN IF SELLER HAS BEEN INFORMED OF THE POSSIBILITY THEREOF IN ADVANCE. IN NO CASE WILL SELLER'S, AGGREGATE LIABILITY TO BUYER BE GREATER THAN THE PURCHASE PRICE PAID BY BUYER TO SELLER FOR THE PRODUCTS WHICH ARE THE SUBJECT OF BUYER'S CLAIM.

HAZARDOUS USES: The Products are not authorized by Seller for Buyer's use in any device or application where the failure, malfunction or inaccuracy of the Product carries a risk of death or serious bodily injury, such as but not limited to medical equipment, nuclear facilities, aircraft operation, air traffic control, life support or other application representing a similar degree of hazard. Any such use is prohibited without prior written agreement of Seller under terms intended to allocate the risks of selling the Product for such uses. Buyer will indemnify, defend and hold seller harmless from all claims, losses, damages and expenses, including attorney's fees arising from any prohibited use or application of the Products.

WARRANTY: Sealed components are warranted to be free from defects in workmanship and materials ("Non-conformity") for a period of ninety (90) days from date of shipment. : Systems are warranted to be free from defects in workmanship and materials ("Non-conformity") for a period of 1 year from date of shipment. Open packages are not warranted. This warranty does not apply to Products which Seller determines upon inspection, have failed, become defective or unworkable due to abuse, mishandling, misuse, alteration, negligence, improper installation, use which is not in accordance with the information and precaution described in the applicable operation manual, or other causes beyond Seller's control. Seller does not warranty products with the laser chip exposed. This warranty does not apply to (i) any Products or components not manufactured by Seller or (ii) any aspect of the Products based on Buyer's specification, unless Seller has reviewed and approved such specification in writing. EXCEPT FOR THE FOREGOING WARRANTY, SELLER SPECIFICALLY DISCLAIMS AND EXCLUDES ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF NONINFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

With a written statement describing the Nonconformity Buyer shall notify Seller or any Nonconformity during the warranty period, obtain a return authorization for the nonconforming Products, and return the nonconforming Products, freight prepaid, to Seller's designated facility along. Seller's sole and exclusive obligation under this warranty is to use reasonable commercial efforts, at Seller's option, to repair, replace or refund the purchase price for any Products which are returned to Seller as set forth above and which are, after examination by Seller, determined in Seller's reasonable discretion to be nonconforming, in-warranty repaired or replacement Products are warranted only for the remaining unexpired portion of the original warranty period applicable to the repaired or replaced Products or components, however the warranty period does not include the time period between when Seller receives the nonconforming Products and when Seller returns the repaired or replacement Products to Buyer. Buyer agrees that the foregoing provisions constitute the sole and exclusive remedies available to Buyer for breach of warranty by Seller respect to the Products.

SELLER ALSO MAKES NO WARRANTY THAT THE PRODUCT SOLD UNDER THIS AGREEMENT ARE DELIVERED FREE OF THE RIGHTFUL CLAIM OF ANY THIRD PARTY BY WAY OF PATENT INFRINGEMENT OF THE LIKE. If Buyer furnishes specifications to Seller, Buyer agrees to hold Seller harmless against any claim that arises out of compliance with the specifications. Any description of the Products contained in this Agreement is for the sole purpose of identifying them, and any such description is not part of the basis of the bargain and does not constitute a warranty that the Products shall conform to that description. Any sample or model used in connection with this Agreement is for illustrative purposes only, is not part of the basis for the bargain and is not to be construed as a warranty that the goods will conform to the sample or model. No affirmation or fact or promise made by Seller, whether or not in this Agreement, shall constitute a warranty that the Products will conform to the affirmation or promise.

ASSIGNMENT: This Agreement and Buyer's rights thereunder may not be assigned by Buyer except with the prior written approval of Seller. This Agreement will bind and inure to the benefit of Buyer's and Buyer's respective successors and permitted assigns.

WAIVER: No term or provision hereof will be considered waived by Seller, and no breach of such term or provision excused by Seller, unless such waiver or consent is in writing signed on behalf of Seller. No consent by Seller to, or waiver of, a breach by Buyer of any term or provision, whether express or implied will constitute a consent to, waiver of, or excuse of any other, different, or subsequent breach by Buyer of any term or provision and such term or provision, as well as all other terms and provisions of this Agreement, shall remain in full force and effect.

EXPORT: Buyer acknowledges that the laws and regulations of the United States may restrict the export and re-export of certain commodities and technical data of United States origin, including Seller's Products. Buyer agrees to comply with the applicable export laws and regulations of the United States or foreign governments.

LASER SAFETY: Buyer is solely responsible to ensure that the product is used in manner consistent with Laser Safety Requirements.

MEDICAL USE: No products offered by Intense have been qualified for medical use. Any such use is solely the responsibility of the Buyer.