



## STANDARD TERMS OF SALE

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### 1. ORDER ACCEPTANCE AND GOVERNING TERMS

Buyer agrees to be bound by and to comply with all the standard terms set forth herein from Hamar Laser Instruments, Inc. (Hamar), and those terms and conditions specified in the written Order Confirmation from Hamar (collectively the "Terms") issued at the time Buyer's purchase order is accepted by Hamar's Danbury, Connecticut office. The Terms shall exclusively govern the purchase of any and all Good(s) (with or without licensed software) and/or Service(s) purchased by Buyer from Hamar (the "Order") and shall be considered in effect at the time Hamar's written Order Confirmation is delivered to Buyer. Any terms and conditions on Buyer's purchase order which in any way vary from, conflict with or add to the Terms are rejected and shall not be binding on Hamar unless expressly agreed to in writing by Hamar. No implied conditions or specifications shall be binding upon Hamar. These Terms constitute the entire agreement between the parties hereto and shall supersede all previous commitments, conversations, correspondence, representations and agreements (oral or written) between the parties with respect to the Order. In the event of a conflict between these standard terms and any terms on the face of the Order Confirmation, the terms on the face of the Order Confirmation will govern.

### 2. PRICES, PAYMENT TERMS AND SHIPPING TERMS FOR GOODS

Quoted prices are subject to change without notice, prior to acceptance of the Buyer's order by written Order Confirmation from Hamar.

Payment terms for USA Buyers are 2% 10, Net 30 days from invoice date. International Buyers must prepay prior to shipment. Delays in acceptance of the equipment by the Buyer, for any cause, shall not be considered sufficient cause for delay in payment beyond the due date. Interest at the rate of 1.5% per month will be charged on past due invoices.

Delivery of Goods shall be EXW, Danbury, Connecticut (Incoterms 2010), and do not include shipping charges and insurance charges, or taxes, which are the responsibility of the Buyer. The prices quoted are subject to the addition thereto and payment by the Buyer of any taxes or additional cost due to federal, state or municipal legislation.

### 3. TITLE AND DELIVERY DATE OF GOODS

Delivery of Goods by Hamar to a carrier in Danbury shall constitute passage of title to Buyer. The carrier shall be deemed as acting for the Buyer and all risks thereafter shall be the Buyer's. Delivery dates are approximate based on previous commitments and conditions at time of quotation and are subject to revision: (a) before receipt of Hamar's written Order Confirmation accepting an order; and (b) at any time due to causes beyond Hamar's control, including but not limited to, government regulations, strikes, accidents, fires, and delays by Hamar's suppliers. Buyer will hold Hamar free of any liabilities for late delivery.

### 4. CANCELLATIONS AND RETURNS FOR GOODS

A request of the Buyer in writing to cancel all or part of the Order will be subject to the following provisions:

- (a) Any work scheduled on non-standard Goods (as defined by Hamar) for completion within fourteen (14) working days will be completed, shipment accepted by the Buyer, and payment made in full;
- (b) For work on non-standard Goods scheduled for completion beyond fourteen (14) working days, all work will be stopped and the resulting cancellation charges will be computed on the basis of actual costs of all engineering work, all work in process, all raw materials, all supplies, and all commitments including overhead expenses made by Hamar in connection with the order, plus 15% less such allowances that can be made for any standard components which will be credited to Buyer's account.
- (c) Hamar reserves the right to cancel the production of an order or request partial or full advance payment of in Hamar's judgment the financial condition of the Buyer so justifies, or the Buyer fails to comply with any of these terms and conditions. If order is so canceled, Buyer agrees to pay for work completed as described in paragraphs (a) and (b) above.
- (d) Standard Goods (as defined by Hamar) may be returned only with the written permission of Hamar. The Buyer agrees to pay Hamar 15% restocking charge, plus any additional costs incurred by Hamar to place such Goods in resalable condition. Goods must be returned freight prepaid.

### 5. WARRANTIES

- (a) **Goods Warranty.** Hamar warrants to Buyer that the Goods (excluding any software supplied with the Goods, which Software License and Buyer's rights thereto is set forth below in Section 6) sold hereunder will be free from defects in material and manufacture at the time of title transfer under normal use and service, provided that Hamar's liability and Buyer's remedy under this warranty are limited to the repair or replacement, at Hamar's election, of Goods which are shown to Hamar's reasonable satisfaction to have been thus defective and returned to Hamar within one (1) year after date of shipment of Goods to Buyer, except that any defective Stealth™-branded Goods may be returned to Hamar within two (2) years from the date of shipment of such Goods to Buyer. A written notice of a warranty claim must be given promptly by Buyer to Hamar and, in no event later than sixty (60) days after Buyer's discovery of a defect within the warranty period. Transportation charges for the return of such defective Goods to Hamar and risk of loss thereof shall be borne by Buyer. Reshipment of the newly manufactured or repaired Goods to Buyer and risk of loss thereof shall be borne by Hamar, and are warranted for the remainder of the applicable warranty period or for ninety (90) days after shipment of the newly manufactured or repaired Good, whatever period is longer.

This warranty shall not apply to any Goods or Goods parts which in Hamar's sole judgment (1) have been repaired or altered outside Hamar's facilities in any way so as to affect the safety, function or reliability of the Goods or Goods parts, or (2) has been subject to misuse, negligence, accident or other abuse. Under no circumstances shall the warranty set forth in this Section apply to any Goods which has been used with unapproved components or to any Goods, which have been customized or modified, damaged, or misused.

- (b) **PDAs, Tablet PCs, Laptops, Smartphones Warranty.** Notwithstanding the warranty in Section 5(a) above, and in lieu of such warranty, the manufacturer's warranty of any supplied PDA, Tablet PC, Laptop, or Smartphone (a copy or copies of which has been furnished to Buyer and which is incorporated herein by reference), is the exclusive warranty applicable to such component sold in connection with the Hamar Goods purchased hereunder.
- (c) **Title Warranty.** Hamar warrants to Buyer that it will convey good title to the Goods sold hereunder. Hamar's liability and Buyer's remedy under this warranty are limited to the removal of any title defect or at the election of Hamar to the replacement of the Goods or Goods parts thereof which are defective in title; provided,



however, that the right and remedies of the parties with respect to patent infringement shall be limited to the provisions of Section 5(d) below.

- (d) **Patent Infringement Warranty.** Hamar shall conduct, at its own expense, the entire defense of any claim, suit or action alleging that, without further combination, the use or resale by Buyer or a subsequent purchaser or user as described below of the Goods delivered hereunder directly infringes any United States patent, but only on the conditions that (i) Hamar receives prompt written notice of such claim, suit, or action and full opportunity and authority to assume the sole defense thereof, including settlement and appeals, and all information available to Buyer and defendant for such defense; (ii) said Goods are made according to a specification or design furnished by Hamar, or, if a process patent is involved, the process performed by the Goods is recommended in writing by Hamar; and (iii) the claim, suit, or action is brought against Buyer or a subsequent purchaser or user expressly indemnified by Buyer and meeting the foregoing conditions. Provided all of the foregoing conditions have been met, Hamar shall, at its own expense, either settle said claim, suit, or action or shall pay all damages excluding consequential damages and costs awarded by the court therein, and, if the use or resale of such Goods is finally enjoined, Hamar shall, at Hamar's option: (a) procure for defendant the right to use or resell the Goods, (b) replace them with equivalent noninfringing Goods, (c) modify them so they become noninfringing but equivalent, or (d) remove them and refund the purchase price (less a reasonable allowance for use, damage, and obsolescence).

If a claim, suit, or action is based on a design or specification furnished by Buyer, or on the performance of a process not recommended in writing by Hamar, or on the use or sale of the Goods delivered hereunder in combination with other Goods not delivered to Buyer by Hamar, Buyer shall indemnify and save Hamar harmless therefrom.

- (e) **Service Warranty For Services to Repair Goods Not Within the Warranty Period.** Repair services provided by Hamar under an Order to repair a Good which is not within the warranty period are warranted for ninety (90) days after Hamar ships the serviced Good back to the Buyer ("Service Warranty"), provided that such Service Warranty only extends to the service Hamar provided in such repair (including parts or components of the Good repaired or replaced in the serviced Good), and the Service Warranty shall not apply to any other part or component of the Good not submitted for service and described in the Order Confirmation to be repaired.
- (f) **Exclusive Warranties and Remedies.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE FOREGOING WARRANTIES IN THIS SECTION 5 ARE EXCLUSIVE AND ARE GIVEN AND ACCEPTED BY BUYER IN LIEU OF (i) ANY AND ALL OTHER WARRANTIES, ORAL, WRITTEN, STATUTORY, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE; AND (ii) ANY OBLIGATION, LIABILITY, RIGHT, CLAIM, OR REMEDY IN CONTRACT OR TORT, WHETHER OR NOT ARISING FROM HAMAR'S OR ANY OF ITS AFFILIATES' NEGLIGENCE, ACTUAL OR IMPUTED, STRICT TORT LIABILITY OR BREACH OF WARRANTY. THE REMEDIES OF THE BUYER SHALL BE LIMITED TO THOSE PROVIDED HEREIN TO THE EXCLUSION OF ANY OTHER REMEDIES INCLUDING, WITHOUT LIMITATION, INCIDENTAL OR CONSEQUENTIAL DAMAGES. NO AGREEMENT VARYING OR EXTENDING THE FOREGOING WARRANTIES, REMEDIES, OR THIS LIMITATION WILL BE BINDING UPON HAMAR OR ANY OF ITS AFFILIATES UNLESS IN WRITING, SIGNED BY A DULY AUTHORIZED OFFICER OF HAMAR OR OF SUCH AFFILIATES.

## 6. SOFTWARE LICENSE

- (a) **General.** The Hamar software and any third party software, documentation, interfaces, content, fonts and any data accompanying this License whether on disk, SD card, downloaded from a Hamar-controlled website, in read-only memory, on any other media or in any other form (collectively the "HLI Software") are licensed, not sold to Buyer, by Hamar for use only under the terms of this License. Hamar and/or Hamar's licensors retain ownership of the HLI Software itself and reserve all rights not expressly granted to Buyer. Hamar, at its discretion, may make available future updates to the HLI Software purchased. The HLI Software updates, if any, may not necessarily include all existing software features or new features that Hamar releases for newer, other or different models of Hamar Goods. The terms of this Agreement will govern any software updates provided by Hamar that replace and/or supplement the original HLI Software for the Good(s) purchased by Buyer, unless such update is accompanied by a separate license in which case the terms of that license will govern such update. Title and intellectual property rights in and to any content displayed by or accessed through the HLI Software belongs to the respective content owner. Portions of the HLI Software may utilize, include, require for installation or recommend downloading of third-party software and other copyrighted material. Acknowledgments, licensing terms and disclaimers for such material are found at such third-party software company websites, and Buyer's use of such material is governed by their respective terms. Such software is distributed or recommended by Hamar in the hope it may be useful, but **WITHOUT ANY WARRANTY BY SUPPLIER, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE.**
- (b) **License.** Subject to the terms and conditions of this License, Buyer is granted a limited non-exclusive license to install the HLI Software purchased by Buyer on three (3) machines (tablets or laptops) owned or controlled by Buyer, excepting HLI Software known as "Couple5," which Couple5 will be received by Buyer pre-installed on a PDA and to which Buyer is granted one (1) limited non-exclusive license to use Couple5 on such PDA. Buyer may not and agrees not to, or to enable others to, copy, decompile, reverse engineer, disassemble, attempt to derive the source code of, decrypt, modify, or create derivative works of the HLI Software or any services provided by the HLI Software, or any part thereof. Buyer may not rent, lease, lend, sell, redistribute or sublicense the HLI Software. Buyer may, however, make a one-time permanent transfer of all Buyer's License rights to the HLI Software to another party, provided that: (i) the transfer must include all the HLI Software, including all its component parts, original media (if any), printed materials and this License; (ii) Buyer does not retain copies of the HLI Software, full or partial, including copies stored on a computer or other storage device; and (iii) the party receiving the HLI Software reads and agrees to accept the terms and conditions of this License. Any copy of the HLI Software that may be provided by Hamar for promotional, evaluation, diagnostic or restorative purposes may only be used for such purposes and may not be resold or transferred. This License is effective until terminated. Buyer's rights under this License will terminate automatically or otherwise cease to be effective without notice from Hamar if Buyer fails to comply with the term(s) of this License. Upon the termination of this License, Buyer shall cease all use of the HLI Software and destroy all copies, full or partial, of the HLI Software.
- (c) **Disclaimer of Warranties and Buyer Acknowledgments**
- i. **TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE HLI SOFTWARE AND THE FUNCTIONS CONTAINED IN AND/OR SERVICES PERFORMED OR PROVIDED BY SUCH HLI SOFTWARE (COLLECTIVELY REFERRED TO AS "HLI SOFTWARE AND SERVICES"), ARE PROVIDED "AS IS" AND "AS AVAILABLE", WITH ALL FAULT AND WITHOUT WARRANTY OF ANY KIND, AND HAMAR AND HAMAR'S LICENSORS (COLLECTIVELY REFERRED TO AS "HLI") HEREBY DISCLAIM ALL WARRANTIES AND CONDITIONS WITH RESPECT TO HLI SOFTWARE AND SERVICES, EITHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND/OR CONDITIONS OF MERCHANTABILITY, OR SATISFACTORY QUALITY, OF FITNESS FOR A PARTICULAR PURPOSE, OR ACCURACY, OF QUIET ENJOYMENT, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS.**



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- iii. **TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, IN NO EVENT SHALL HAMAR BE LIABLE FOR PERSONAL INJURY, OR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, WHATSOEVER, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, CORRUPTION OR LOSS OF DATA OR INFORMATION, FAILURE TO RECEIVE OR TRANSMIT OR RECEIVE ANY DATA, BUSINESS INTERRUPTION OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES, ARISING OUT OF, RELATING TO BUYER'S USE OR INABILITY TO USE THE HLI SOFTWARE AND SERVICES AND/OR ANY THIRD PARTY SOFTWARE OR APPLICATIONS IN CONJUNCTION WITH THE HLI SOFTWARE AND SERVICES, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT OR OTHERWISE) AND EVEN IF HAMAR LASER INSTRUMENTS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL HAMAR'S TOTAL LIABILITY TO BUYER FOR ALL SUCH PROVED DAMAGES RELATING TO BUYER'S USE OF HLI SOFTWARE AND SERVICES (OTHER THAN AS MAY BE REQUIRED BY APPLICABLE LAW IN CASES INVOLVING PERSONAL INJURY) EXCEED THE AMOUNT BUYER PAID SUPPLIER FOR THE HLI SOFTWARE AND SERVICES. THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.**
- iv. **BUYER ACKNOWLEDGES AND AGREES THAT USE OF THE HLI SOFTWARE AND SERVICES IS AT BUYER'S SOLE RISK AND ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE AND ACCURACY IS WITH BUYER. BUYER ACKNOWLEDGES THAT HLI SOFTWARE AND SERVICES ARE NOT INTENDED OR SUITABLE FOR USE IN SITUATIONS OR ENVIRONMENTS WHERE THE FAILURE OR TIME DELAYS OF, OR ERRORS OR INACCURACIES IN THE CONTENT, DATA OR INFORMATION PROVIDED BY, THE HLI SOFTWARE AND SERVICES COULD LEAD TO DEATH, PERSONAL INJURY OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE, INCLUDING WITHOUT LIMITATION, THE OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION OR COMMUNICATION SYSTEMS, AIR TRAFFIC CONTROL, LIFE SUPPORT OR WEAPONS SYSTEMS. BUYER AGREES IT MAY NOT USE OR OTHERWISE EXPORT THE HLI SOFTWARE EXCEPT AS AUTHORIZED BY U.S. LAW AND LAWS OF THE JURISDICTION IN WHICH THE HLI SOFTWARE WAS OBTAINED. IN PARTICULAR, BUT WITHOUT LIMITATION, THE HLI SOFTWARE MAY NOT BE EXPORTED OR REEXPORTED (A) INTO ANY U.S. EMBARGOED COUNTRIES; OR (B) TO ANYONE ON THE U.S. TREASURY DEPARTMENT'S LIST OF SPECIALLY DESIGNATED NATIONALS OR THE U.S. DEPARTMENT OF COMMERCE DENIED PERSON'S LIST OR ENTITY LIST. BUYER AGREES IT WILL NOT USE THE HLI SOFTWARE FOR ANY PURPOSES PROHIBITED BY U.S. LAW, INCLUDING WITHOUT LIMITATION, THE DEVELOPMENT, DESIGN, MANUFACTURE OR PRODUCTION OF MISSILES, NUCLEAR, CHEMICAL OR BIOLOGICAL WEAPONS.**

#### **7. LIMITATION OF LIABILITY**

**TO THE MAXIMUM EXTENT PERMITTED BY LAW, WITH RESPECT TO ANY HAMAR GOODS, PARTS OR SERVICES PURCHASED UNDER THIS AGREEMENT, OR, HLI SOFTWARE AND SERVICES LICENSED UNDER THIS AGREEMENT, AND ALLEGED TO BE THE DIRECT OR INDIRECT CAUSE OF ANY DIRECT OR INDIRECT LOSS OR DAMAGE TO THE BUYER OR ITS CUSTOMERS, THE SUM EQUAL TO THE INVOICED PRICE OF SUCH GOODS, PARTS OR SERVICES OR LICENSE SHALL BE THE CEILING LIMIT ON HAMAR'S OR ANY OF ITS AFFILIATES' LIABILITY WHETHER FOUNDED IN CONTRACT OR TORT (INCLUDING NEGLIGENCE, STRICT TORT LIABILITY OR BREACH OF WARRANTY), ARISING OUT OF OR RESULTING FROM (A) THIS AGREEMENT OR THE PERFORMANCE OR BREACH THEREOF, OR (B) THE DESIGN, MANUFACTURE, DELIVERY, SALE, LICENSE, REPAIR, REPLACEMENT, OR ANY USE OF SUCH GOODS OR HLI SOFTWARE OR (C) THE FURNISHING OF ANY SUCH SERVICES. IN NO EVENT SHALL HAMAR OR ANY OF ITS AFFILIATES HAVE ANY LIABILITY FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES.**

#### **8. CONFIDENTIALITY**

(a) Buyer acknowledges that, under this Agreement, it will receive information not generally known to the public about the way in which Hamar develops, designs, produces or sells its products, including the Goods, or about the way which Hamar conducts its business including, but not limited to, information related to Hamar's products, product needs and specifications, and Hamar's markets, customers and sales ("Hamar Confidential Information"). Buyer also acknowledges this Agreement's terms are Hamar Confidential Information. Buyer will keep secret all Hamar Confidential Information and use such care as Buyer uses in maintaining the confidentiality of its own secret information, but no less than a reasonable degree of care. Buyer will use Hamar Confidential Information only to the extent necessary to perform its obligations under this Agreement. Buyer agrees not to analyze the composition or structure of the Goods or any other materials delivered by Hamar to Buyer, except with Hamar prior written consent.

(b) Buyer's confidentiality obligation under Section 8(a) above will not apply to the extent that any such information is: (i) known to Buyer prior to receipt of the same from Hamar, as shown by its written records; or (ii) disclosed in published form now or in the future in any publication; or (iii) becomes available to Buyer from any other source without breach of agreement or violation of law; or (iv) released by Hamar in writing from such confidentiality obligation.

#### **9. EXPORT ACKNOWLEDGMENT AND WARRANTY**

Buyer acknowledges that the Goods sold under this Agreement and technical information transmitted in connection therewith may be subject to export restrictions under applicable law, including the U.S. Department of Commerce Export Administration Regulations ("EAR")(15 C.F.R. Parts 730 to 774) , and Buyer agrees to comply fully with same. Buyer warrants to Seller that it will not transmit, sell, transfer or convey any such Goods, technical information or software, or Goods produced through the use of same, to any country, or citizen or resident of a country, other than the United States without first securing written consent, if required, of the U.S. Department of Commerce.

#### **10. GOVERNING LAW**

All Orders will be considered Connecticut contracts and shall be interpreted for all purposes under the laws of the State of Connecticut, without regard to: (i) Connecticut's principles of conflicts of law; (ii) the 1980 United Nations Convention on Contracts of the International Sale of Goods; and (iii) other international laws. The parties agree to submit to the jurisdiction of both the state and federal courts of Connecticut.