

## STANDARD TERMS OF SALE

### 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"), which Order Confirmation is 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 (see Section 6 below) 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. The 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 20% down, balance 1% 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 for shipping to Buyer 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 exclusive remedy under this warranty is 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 five (5) years from the date of shipment of such Goods to Buyer. 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) **Third-Party-Goods (PDAs, Tablet PCs, Laptops, Smartphones) Warranty.** Notwithstanding Hamar's warranty in Section 5(a) above, and in lieu of such Hamar warranty, the warranty offered by the manufacturer of a third-party-manufactured good sold or supplied by Hamar (such as a PDA, Tablet PC, Laptop, or Smartphone) is the exclusive warranty applicable to such component sold in connection with the Hamar Goods purchased hereunder. A copy or copies of such third-party manufacturer's warranty will be furnished to Buyer upon request and/or is readily available from such third-party manufacturer and is incorporated herein by reference and is Buyer's warranty of such third-party-manufactured good.



(c) **Title Warranty.** Hamar warrants to Buyer that it will convey good title to the Goods sold hereunder. Hamar's liability and Buyer's exclusive 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, PUNITIVE AND 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.

(i) 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.

(ii) For each computer interface purchased from Hamar, a copy of HLI Software must be purchased at the same time.

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### (c) Disclaimer of Warranties and Buyer Acknowledgments

1. **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**

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- ii. HLI DOES NOT WARRANT AGAINST INTERFERENCE WITH BUYER'S ENJOYMENT OF THE HLI SOFTWARE AND SERVICES, THAT THE HLI SOFTWARE AND SERVICES WILL MEET BUYER'S REQUIREMENTS, THAT THE OPERATION OF THE HLI SOFTWARE AND SERVICES WILL BE UNINTERRUPTED OR ERROR FREE, THAT ANY HLI SOFTWARE SERVICES WILL CONTINUE TO BE MADE AVAILABLE, THAT THE HLI SOFTWARE AND SERVICES WILL BE COMPATIBLE OR WORK WITH ANY THIRD PARTY SOFTWARE, APPLICATIONS OR THIRD PARTY SERVICES, OR THAT DEFECTS IN THE HLI SOFTWARE AND SERVICES WILL BE CORRECTED. INSTALLATION OF HLI SOFTWARE MAY AFFECT THE USABILITY OF THIRD PARTY SOFTWARE APPLICATIONS OR THIRD PARTY SERVICES.
- iii. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, IN NO EVENT SHALL HAMAR BE LIABLE FOR PERSONAL INJURY, PROPERTY DAMAGE, OR ANY INCIDENTAL, SPECIAL, INDIRECT, CONSEQUENTIAL OR SIMILAR DAMAGES WHATSOEVER, WITHOUT LIMITATION, INCLUDING 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. TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL HAMAR OR ANY OF ITS AFFILIATES HAVE ANY LIABILITY TO ANY PERSON FOR INCIDENTAL, SPECIAL, CONSEQUENTIAL INDIRECT, PUNITIVE DAMAGES OR SIMILAR DAMAGES, INCLUDING LOST PROFITS, EVEN IF HAMAR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

## 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 Goods, Goods needs and specifications, and Hamar's markets, customers and sales ("Hamar Confidential Information"). Buyer also acknowledges that the terms of specific Orders under this Agreement 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 including HLI Software 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



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#### **11. GOVERNING LAW**

All Orders for purchase of Goods and/or Services from Hamar 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 exclusively to the jurisdiction of both the state and federal courts of Connecticut.