



STEALTH SERIES™ STANDARD TERMS OF SALE

“Buyer” means a purchaser of “Goods” and/or “Services” sold by seller Hamar Laser Instruments, Inc. (“Hamar”). “Good(s)” are equipment or licenses for software sold by Hamar including one or more of the following: Stealth-Series™ equipment or accessories manufactured by Hamar (“Hamar-Manufactured Good(s)”; equipment manufactured by third parties (“Third-Party Manufactured Good(s)”; and/or license(s) for Hamar’s proprietary software and/or third-party software distributed by Hamar (collectively “HLI Software”). “Services” are training services provided by Hamar to Buyer. A “USA Buyer” is a buyer who requests delivery of the Goods and/or Services in the USA or its territories. An “International Buyer” is a Buyer who requests delivery of the Goods and/or Services outside of the USA or its territories. References to a “day” or “days” refer to calendar days.

1. ORDER ACCEPTANCE AND GOVERNING TERMS

The agreement (“Agreement”) for the purchase of Goods and/or Services by Buyer from Hamar (the “Order”) shall be exclusively governed by the “Terms.” “Terms” are the terms and conditions contained in: these Stealth Series™ Standard Terms of Sale; the written document confirming Buyer’s order of Goods and/or Services from Hamar, as more fully described below (“Order Confirmation”); and written bill from Hamar to Buyer containing the Order details and the amount Buyer owes Hamar for the Goods and/or Services ordered or delivered to Buyer (“Invoice”). The Order Confirmation is issued at the time Buyer’s Order for Goods and/or Services is accepted by Hamar at its Danbury, Connecticut, USA office. The Terms shall be considered in effect at the time Hamar’s written Order Confirmation is emailed or mailed to Buyer. Any terms and conditions on Buyer’s purchase order, statement of work or other Buyer document which in any way vary from, conflict with or add to the Terms are rejected and shall not apply to the Order. No modification or amendment of the Terms shall be effective unless expressly agreed to in writing by Hamar. Buyer’s acceptance of any Goods and/or Services referred to in the Order shall constitute Buyer’s complete and unqualified acceptance of the Terms. The Terms constitute the entire Agreement between Buyer and Seller with respect to the Order, and shall supersede all previous communications between the parties regarding the Order, whether oral or written, including but not limited to terms and conditions, quotes, purchase orders, statements of work, commitments, conversations, correspondence, emails, representations and agreements. In the event of a conflict between these Stealth Series™ Standard Terms of Sale and any terms or conditions on the face of the Order Confirmation or Invoice, the terms or conditions on the face of the Order Confirmation or Invoice will govern.

2. PRICES; ORDER CONFIRMATION; INVOICES; PAYMENT TERMS

- (a) *Prices and Order Confirmation.* The prices of the Goods and/or Services set forth in Hamar’s written quotation are subject to change without notice until Hamar accepts Buyer’s Order by issuing a written Order Confirmation. The Order Confirmation contains the Order price for the Goods and/or Services purchased excluding any taxes or additional costs due to any federal, state or municipal taxes, import/export fees, duties, customs, value-added taxes (VAT) or similar taxes or costs applicable to the Order (collectively “Fees and/or Taxes”). For all Orders, if Hamar has the legal obligation to collect any Fees and/or Taxes, such Fees and/or Taxes will be added to the Order price, and will be invoiced to and paid by Buyer unless Buyer provides Hamar with a proper tax exemption certificate. Neither Hamar nor Buyer is responsible for any tax liability accruing to the other party arising from income derived from the Order.
- (b) *Invoices.* For USA Buyers, Hamar shall deliver an Invoice to Buyer for all Goods and Services promptly after Order Confirmation and upon shipment of the Order. For USA Buyers purchasing Services only, Hamar shall deliver an Invoice Buyer promptly after delivery of Services. For all International Buyers, Hamar shall deliver an Invoice to Buyer promptly after Order Confirmation to allow for prepayment as set forth below.
- (c) *Payment Terms.* Unless otherwise provided in the Order Confirmation or invoice, Buyer shall make all invoice payments to Hamar in U.S. Dollars by payment method authorized by Hamar in writing (check, credit card, wire payment or irrevocable letter of credit (“LC”)) as follows:
 - i. *USA Buyers of Goods and US Buyers of Goods and Services: 20% down, 2%10, Net 30 Days from Invoice Date.* USA Buyers agree to pay Hamar 20% of the Order price as set forth in the Order invoice as a down payment. Upon shipment of the Order, Hamar shall invoice the Buyer for the balance of the Order price and Buyer agrees to pay the balance of the invoice payment within 30 days from the invoice date. If Buyer pays the invoice within 10 days of the invoice date, Buyer shall be entitled to a 2% discount on the balance due. Interest at the rate of 1.5% per month will be charged on past due invoices.
 - ii. *USA Buyers of Services only: Net 30 Days from Invoice Date.* Promptly after delivery of the Services, Hamar shall invoice the Buyer and Buyer agrees to pay the invoice within 30 days from the invoice date. Interest at the rate of 1.5% per month will be charged on past due invoices.
 - iii. *International Buyers of Goods and/or Services: Prepay or provide acceptable LC for entire invoice prior to shipment of Goods or delivery of Services.* International Buyers agree to prepay the Order invoice or arrange for payment of the entire Order by irrevocable LC. However, LC payment is *subject to:* approval in writing by Hamar; payment to Hamar of an

additional LC transactional fee (“LC Fee”) of \$500 per Order; and Buyer’s payments of all fees Buyer’s bank may charge to arrange for such LC payment.

- (d) *Goods Inspection Period.* Buyer has five days from delivery of the Goods to inspect and test the Goods and to make a written report to Hamar of any alleged defects in the Goods (“Inspection Period”) by emailing Hamar at support@stealthalignment.com. In the event of such report, Buyer shall be issued a Return Goods Authorization (RGA)/case number along with shipping instructions. After the Good is returned to Hamar and the defect is confirmed, Hamar shall promptly deliver new Goods to Buyer if available in stock, or if not, promptly when such Goods become available. If no such report is made to Hamar within the Inspection Period, any future claim within the “Warranty Period” (defined below) related to alleged defects of the Goods will be treated as a warranty claim and subject to the terms and conditions of Hamar’s *No-Worries 5-Year Limited Manufacturer Warranty* (set forth in Section 5). Delays in inspection of the Goods by the Buyer, for any cause, shall not be considered sufficient cause for delay in payment of the Invoice beyond the due date.

3. SHIPPING; TITLE; DELIVERY

The Goods shall be delivered to the address requested by Buyer and be EXW, Danbury, Connecticut USA (Inco terms 2010), and do not include shipping charges, insurance charges, and Fees and/or Taxes, all of which are the responsibility of the Buyer. Title and risk of loss shall pass at Hamar’s delivery to and acceptance of Goods by carrier. The carrier shall be deemed as acting for the Buyer and all risks shall be with Buyer. Hamar shall not be responsible for any damage to the Goods incurred during shipping due to the fault of the carrier.

Date for delivery for Goods shall be set forth in the Order Confirmation and is approximate based on previous commitments and conditions at time of quotation and are subject to revision: (a) before Buyer’s receipt of the Order Confirmation; (b) after Buyer’s receipt of the Order Confirmation upon mutual agreement; or (c) at any time due to acts or occurrences beyond Hamar’s control, including but not limited to, fire, explosion, power failure, lightning, severe weather, acts of God, war, revolution, civil commotion, any law, order, regulation, ordinance or requirement of any government or legal body, supplier delays or issues, and labor unrest (including without limitation strikes, slowdowns, or boycotts). Buyer will hold Hamar free of any liabilities for late delivery.

4. CANCELLATIONS AND RETURNS FOR GOODS

Buyer agrees that a written 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 for standard or non-standard Goods, or request additional partial or full advance payment, if, in Hamar’s sole discretion, the financial condition of the Buyer so justifies, or the Buyer fails to comply with any of the Terms. If an Order is so canceled, Buyer agrees to pay for work completed as described in paragraphs 4(a) and 4(b) above; or
- (d) Standard Goods (as defined by Hamar) which are new, unused and complete in their original shipping case (with packaging) may be returned only if Buyer: provides a written return request to Hamar within 15 days of Buyer’s receipt of the Goods; receives RGA/case number from Hamar, which return authorization shall not be unreasonably withheld; and Buyer agrees to pay Hamar a 15% restocking charge. If Hamar authorizes Buyer to return the Goods, Buyer shall replace the Goods in their original shipping case (with packaging) and ship to Hamar, insured and prepaid, within 3 days of such authorization. After such return of Goods, Hamar shall promptly inspect the Goods and if confirmed to be: (i) new and unused, Buyer agrees to pay and Hamar shall invoice the Buyer the 15% restocking fee which invoice is due 30 days from Buyer’s receipt of such invoice; or (ii) not new and used but in repairable condition for resale, Buyer agrees to pay and Hamar shall invoice the amount Hamar in its sole discretion determines is required to place such Goods in resalable condition and such invoice is due 30 days from Buyer’s receipt of such invoice; or, if not new and used and not able to be repaired for resale, Hamar shall send such Good back to Buyer, and Buyer agrees to pay Hamar the invoice for the entire original Order price for such Goods, plus shipping charges to return such Goods back to Buyer.

5. WARRANTIES

- (a) *No Worries 5-Year Limited Manufacturer’s Warranty.* Hamar warrants to the Buyer that the Hamar-Manufactured Goods as packaged and shipped from Hamar will be free from defects in material and manufacture at the time of title transfer under normal use and service according to Hamar’s instructions for 5 years from the date of shipment to Buyer (“Warranty Period”), *excluding* any software included with the Goods, which Software License and Buyer’s rights thereto are set forth below in Section 6. This

limited warranty extends only the original Buyer/end-user of the Goods and is not transferable in any manner. Hamar shall have no obligation under this limited warranty until the invoice for the Goods is paid in full. Hamar's liability and Buyer's exclusive remedy under this warranty is limited, at Hamar's election, to the repair (with new or equivalent to new parts) or replacement (with the same or functionally equivalent or next generation models) of the Goods which are confirmed by Hamar to be defective and have been returned to Hamar within the Warranty Period. Hamar reserves the right to make changes to, at any time without notice, Goods' designs, color, material and specifications without any obligation to incorporate new features or modifications in previously sold Goods. Hamar reserves the right to discontinue a Good without notice to Buyer. The Goods Warranty shall not apply to any Goods or Goods components which in Hamar's sole judgment have failed due to or been damaged by (1) normal wear, accident, misuse, abuse, improper application, negligence, force majeure occurrence(s), transportation or handling, failure to operate products in accordance with manufacturers' instructions, or failure to maintain the recommended operating, charging or storing environments in accordance with manufacturers' instruction; or (2) unauthorized repair, maintenance, or service by a Buyer or third-party; or use of non-Hamar supplied equipment to repair, maintain or service such Goods; or (3) have been used with unapproved components; or (4) which have been customized, altered or modified. The foregoing 5-Year limited warranty shall be Hamar's sole liability and Buyer's exclusive remedy for defective Hamar-Manufactured Goods purchased under the Order.

- i. *Hamar-Manufactured Goods Warranty Claim.* Buyer shall give written notice of a possible warranty claim promptly to Hamar no later than 60 days after Buyer's discovery of a defect within the Warranty Period by emailing support@stealthalignment.com. If the Hamar support department cannot resolve the issue by phone, Buyer shall be issued a RGA/case number along with shipping instructions. Buyer shall return ship the Goods to Hamar with the RGA and written description of the basis for the warranty claim for final determination of Warranty eligibility by Hamar. Once in receipt of such Good and Warranty eligibility is confirmed, Hamar will conduct such Warranty repair or replacement, and shall ship the repaired or newly manufactured Good back to Buyer. Such repaired or newly manufactured Good is warranted for the remainder of the applicable Warranty Period or for 90 days after shipment of such Good, whatever period is longer. In the event such Warranty repair is needed, Buyer agrees pay all costs for insured shipping of the defective Good with risk of loss on Buyer both to Hamar and back to Buyer.
- ii. *Loaners.* While Buyer's Goods are undergoing a warranty repair, Buyer is eligible to request a "Loaner." A Loaner is a Good of the same model as Buyer's Good undergoing a warranty repair. A Loaner may be provided to Buyer for Buyer's use during the warranty repair period under the following terms and conditions:
 - a. *Request for Loaner.* Buyer shall request a Loaner in writing when Buyer returns its Good to Hamar for warranty repairs. If a suitable Loaner is available, Hamar shall ship Buyer the Loaner within 3 days from Hamar's receipt of Buyer's Good confirmed to be defective and eligible for warranty repair. Buyer is responsible for insured shipping of the Loaner with risk of loss on Buyer from Hamar to Buyer.
 - b. *Ownership of Loaner.* Hamar retains the title to the Loaner at all times while in Buyer's possession. Buyer shall immediately advise Hamar in writing regarding any notice of any claim, levy, lien or legal process issued against the Loaner. Buyer shall not assign or sublet any interest in the Loaner.
 - c. *Use of Loaner.* Buyer shall immediately inspect and test the Loaner upon delivery and shall retain the original packing case and all its contents. In the absence of notice to Hamar within 24 hours of its delivery, Buyer acknowledges the Loaner is in good operating condition. Buyer may use the Loaner free of charge until the Buyer's warranty repair is complete. Buyer shall use the Loaner in a careful and proper manner pursuant to the manufacturer instructions. Buyer shall not permit the Loaner to be used by anyone other than Buyer and Buyer's trained employees. The location, use and storage of the Loaner shall be such as to provide, at all times, reasonable safeguards against damage, loss or theft. Buyer is responsible for any damage to, or loss of, or theft of, the Loaner up to the full costs of replacing the Loaner. Buyer shall promptly notify Hamar of any malfunction of the Loaner. Buyer shall bear the cost of servicing and repairs made necessary by Buyer's fault or negligence. Liability for injury, disability or death of workers or other persons caused by operating, handling or transporting the Loaner during the period Buyer has the Loaner is the obligation of the Buyer and Buyer shall indemnify and hold Hamar harmless from and against all such liability. Hamar shall not be held responsible for errors or omissions due to the Buyer's fault, negligence, or lack of operational or technical capability causing damage to any entity, person or property arising out of Buyer's use of the Loaner.
 - d. *Return of Loaner.* Buyer shall repackage the Loaner in its original shipping case and packaging, and shall timely ship the Loaner, prepaid and insured with risk of loss on Buyer, back to Hamar within 48 hours of notice from Hamar the warranty repair of Buyer's Good is complete. In the event Buyer fails to return the Loaner within that time, unless prior arrangements are made in writing with Hamar, Buyer will be billed at the rental rates for the Goods at current published rates on Hamar's Stealth Series™ price list in 24 hour, one week and one month increments past that time and will be responsible for loss or damages as provided in these Terms. Within 24 hours from receipt of the Loaner back from Buyer, Hamar shall ship to Buyer

the newly manufactured or repaired Goods, as set forth above Section 5(a)(i). Any data stored on Loaners shall be erased by Buyer prior to return to Hamar and if any data is left on a returned Loaner, Hamar is not responsible to Buyer or any third party for data erased or any damages related thereto following return of the Loaner. Buyer shall return the Loaner in the same condition as upon delivery, minus normal wear and tear. Buyer assumes full responsibility for loss, damage or injuries resulting from use of the Loaner to Buyer or any third party, and shall be liable to Hamar for loss of or any damage to the Loaner up to full replacement value thereof.

- e. *Loaners Not Guaranteed.* Buyer understands and acknowledges that Loaners are available to eligible Buyers on a first come, first served basis, and are available in limited quantities and models. *Use of a Loaner during a Warranty repair is not guaranteed to any Buyer.* Loaners will be new or used Goods in good operating condition upon Hamar's delivery to the carrier for shipment to eligible Buyer. **HAMAR MAKES NO WARRANTIES OR REPRESENTATIONS REGARDING LOANERS OTHER THAN AS EXPRESSLY STATED IN THE TERMS. HAMAR DOES NOT WARRANT THE MERCHANTABILITY OF THE LOANER OR FITNESS FOR ANY PARTICULAR PURPOSE OR USE, WHETHER OR NOT SUCH USE IS DISCLOSED BY BUYER.**
- (b) *Third-Party-Goods (PDAs, Tablet PCs, Laptops, etc.) Warranty.* Notwithstanding the Goods Warranty in Section 5(a) above, and in lieu of such Goods Warranty, Buyer acknowledges and accepts the warranty offered by the manufacturer of a Third-Party Manufactured Good sold and distributed by Hamar (such as a PDA, Tablet PC, Laptop) as the exclusive warranty applicable to such Good or Good's component sold in connection with the Hamar-Manufactured Goods purchased hereunder. A copy or copies of such third-party manufacturer's warranty will be furnished to Buyer upon written request and/or is readily available from such third-party manufacturer and is incorporated herein by reference and is Buyer's exclusive 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 (except software, which is only licensed, as set forth in Section 6 below). Hamar's liability, and Buyer's exclusive remedy, under this title warranty is limited to the removal of any title defect or, at the election of Hamar, to the replacement of the Goods or Goods components thereof which are defective in title. 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 Hamar-Manufactured 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 in writing; (ii) said allegedly-infringing 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 non-infringing Goods, (c) modify them so they become non-infringing but equivalent, or (d) remove them and refund the purchase price (less a reasonable allowance for use, damage, and obsolescence).

Notwithstanding the foregoing paragraph, if a claim, suit, or action for intellectual property infringement 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 from all damages incurred in defending against such a claim, suit or action, including reasonable attorneys' fees.

- (e) *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 (1) 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 (2) 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. HLI SOFTWARE LICENSE

- (a) *General.* The Hamar-proprietary software, and all third-party developed software and associated documentation, interfaces, content, fonts and any data accompanying this HLI Software 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, as further described in Section 6(b). Hamar and/or Hamar’s licensors retain ownership of the HLI Software itself and reserve all rights not expressly granted to Buyer. For each computer interface (tablet or personal computer (PC) laptop) purchased from Hamar, a copy of HLI Software must be purchased at the same time. 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 Goods 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 third-party software is distributed or recommended by Hamar in the hope it may be useful, but WITHOUT ANY WARRANTY BY HAMAR, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE.
- (b) *License.* Buyer’s Order includes the purchase of a license for the following HLI Software program: “Couple6™.” Subject to the terms and conditions of this License, Buyer is granted a limited non-exclusive license to install Couple6™ on: one tablet *and* one PC/laptop. Buyer shall 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 one or more terms of this License or of the Terms. 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.
 - 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, GOODS' COMPONENTS OR SERVICES PURCHASED UNDER THIS AGREEMENT, OR, HLI SOFTWARE AND SERVICES LICENSED UNDER THIS AGREEMENT, ALLEGED TO BE THE DIRECT OR INDIRECT CAUSE OF ANY DIRECT OR INDIRECT LOSS OR DAMAGE TO THE BUYER, ITS CUSTOMERS, OR THIRD PARTIES, THE SUM EQUAL TO THE INVOICED PRICE OF SUCH GOODS, GOODS' COMPONENTS OR SERVICES OR LICENSE(S) SHALL BE THE CEILING LIMIT ON HAMAR'S 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 HLI SOFTWARE AND SERVICES, OR (C) THE FURNISHING OF ANY SERVICES. TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL HAMAR 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: known to Buyer prior to receipt of the same from Hamar, as shown by its written records; or disclosed in published form now or in the future in any publication; or becomes available to Buyer from any other source without breach of Agreement or violation of law; or released by Hamar in writing from such confidentiality obligation. The burden of proving the existence of facts that would qualify information under this Section 8(b) shall rest with Buyer.

9. EXPORT ACKNOWLEDGMENT AND WARRANTY

Buyer acknowledges that the Goods and Services, including the license to the HLI Software and Services, 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/or International Traffic in Arms Regulations ("ITAR") to the Arms Export Control Act of 1976 (23 US Code Chap. 39) 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 HLI 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. Buyer shall indemnify and hold Hamar harmless for all claims, demands, damages, costs, fines, penalties, attorney's fees, and all other expenses arising from failure of Buyer to comply with this Section 9 or the EAR or ITAR.

10. FORCE MAJEURE

Neither party shall be responsible for delays or failures in performance of this Agreement resulting from acts or occurrences beyond the reasonable control of such party, including but not limited to, fire, explosion, power failure, lightning, severe weather, acts of God, war, revolution, civil commotion, any law, order, regulation, ordinance or requirement of any government or legal body, supplier delays or issues, and labor unrest (including without limitation strikes, slowdowns, or boycotts). The affected party shall immediately notify the other party as to the nature and the extent of the force majeure. In the event that any such force majeure shall continue for more than 60 days, then the parties shall enter into good faith negotiations directed toward mutually acceptable resolution of outstanding obligations hereunder.

11. INTELLECTUAL PROPERTY RIGHTS

Hamar retains all its existing intellectual property rights (including but not limited to patents, trade secrets, know-how, trade name, trademark and copyrights) in the Hamar Confidential Information, Goods, Services, HLI Software (and any HLI Software updates) and HLI Software and Services (collectively, "Hamar IP Rights"). Nothing in this Agreement, nor any action taken by either party, shall be construed to convey to Buyer any right, title or interest in the Hamar IP Rights, or to grant, expressly or impliedly, any license to use, sell, exploit, copy or further develop in any way the Hamar IP Rights, except as expressly stated in these Terms.

12. SEVERABILITY

If any portion of the Terms shall be held to be invalid, illegal, void or unenforceable for any reason, the remaining provisions shall continue to be construed so as to remain in full force and effect.

13. HEADINGS

The section headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

14. WAIVER

The failure of either party to enforce partially or fully any provision of the Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

15. GOVERNING LAW AND DISPUTE RESOLUTION

- (a) This Agreement shall be construed under and according to laws of the United States and the State of Connecticut which laws shall apply to any disputes arising between the Parties relating to the making or performance of this Agreement, including breach and termination thereof, without regard to Connecticut's principles of conflicts of law and without regard to the 1980 United Nations Convention on Contracts of the International Sale of Goods.
- (b) Any and all disputes arising between the parties relating to the making or performance of this Agreement, including breach and termination thereof, shall be resolved in the following order of procedures: (i) by good faith negotiation between representatives of Hamar and Buyer who have authority to fully and finally resolve the dispute; (ii) if necessary, by non-binding mediation using a neutral mediator having experience with such transactions (with the costs shared equally); or (iii) as a last resort only, by arbitration of disputes as provided in Section 15(c). All negotiations, mediation, and arbitration occurring under this Agreement shall be treated as compromise and settlement negotiations for purposes of Rule 408 of the Federal Rules of Evidence and comparable Connecticut state rules of evidence. The provisions of this Section 15 shall survive any termination or expiration of this Agreement. The venue for any mediation and any arbitration shall be in Danbury, Connecticut, USA.
- (c) If the parties are unable to resolve any dispute arising out of or relating to this Agreement, of the breach and termination thereof, by negotiation or mediation under Section 15(a) within 30 days from submission to the mediator, such dispute shall be finally resolved by arbitration administered by the American Arbitration Association (AAA): (1) under its Commercial Arbitration Rules for USA Buyers; and (2) under its International Dispute Resolution Procedures for International Buyers. The parties agree to submit such dispute to binding arbitration before a panel of one neutral AAA arbitrator selected according to AAA rules. Arbitration shall proceed in English. The arbitrator shall resolve a dispute by written report in English accordance with the laws of the United States and the State of Connecticut as set forth in Section 15(a). The resolution of the arbitrator shall be final and binding on the parties, without right of appeal or other court action. The arbitrator shall not limit, expand, or modify the terms of this Agreement nor award damages in excess of compensatory damages nor award damages contrary to express provisions of this Agreement, and each party waives any claim to any such excess damages. A request by Hamar to a court for interim protection, as set forth in Section 15(e), shall not affect either party's obligation hereunder to negotiate, mediate, and arbitrate. The parties shall equally share the fees and expenses charged by the arbitrator and the arbitration authority but otherwise each will bear its own attorneys fees' and any other costs of arbitration. The parties acknowledge that each has waived the right to a jury trial.
- (d) All negotiations, mediation, and arbitration under this Article shall be treated as Confidential Information in accordance with the provisions of Section 8. Any mediator and arbitrator shall be bound by an Agreement containing confidentiality provisions at least as restrictive as those contained in Section 8.
- (e) Nothing herein shall preclude Hamar from taking whatever actions are necessary to prevent immediate, irreparable harm to its intellectual property rights. For example, Buyer acknowledges that Hamar will sustain irreparable financial and business loss by any breach of this Agreement occurring under Sections 6 and/or 11, or any such similar section, for which money damages alone may not afford Hamar an adequate remedy. Therefore, in the event of a breach of this Agreement by Buyer of such or similar sections relating to Hamar's intellectual property rights, without prejudice or limitation to seek all attendant remedies granted under law or equity, Hamar shall be entitled to seek and obtain all injunctive or other court-ordered relief that may be available against any such threatened or continuing breach, and Buyer acknowledges it is not entitled to such injunctive or other court-ordered relief for any dispute arising out of or relating to, or the breach of, this Agreement. Otherwise, the procedures of this Section 15 are exclusive for resolving disputes hereunder.

16. MERGER

This Agreement constitutes the final, exclusive Agreement between the Buyer and Hamar on the matters contained in this Agreement. All earlier and contemporaneous negotiations, conversations, discussions and agreements, oral or written, between the Buyer and Hamar on the matters contained in this Agreement are expressly merged into and superseded by this Agreement.