ADDENDUM
By and Between
SPI Lasers UK Limited
&
Texas A&M University

This addendum ("Addendum") amends and supplements the Standard Terms and Conditions ("Agreement") between SPI Lasers UK Limited ("SPI"), and Texas A&M University, a member of The Texas A&M University System, an agency of the State of Texas ("TAMU"). All terms used herein and not otherwise defined shall have the meaning as in the Agreement. In the event of any conflict in the terms of the Agreement and the terms of this Addendum, the terms of this Addendum shall in all aspects govern and control. Both parties agree that the Agreement is hereby amended and supplemented as follows:

1. For clarification, Texas A&M University is entering into this Agreement as a member of The Texas A&M University System, an agency of the State of Texas.

2. In section (k), TAMU agrees to second sentence the extent permitted by the Constitution and laws of the State of Texas.
   Section (u) is deleted and replaced with the following: "The validity of this Agreement and all matters pertaining to this Agreement including but not limited to, matters of performance, non-performance, breach, remedies, procedures, rights, duties, and interpretation or construction, shall be governed and determined by the Constitution and the laws of the State of Texas. Pursuant to Section 85.18, Texas Education Code, venue for any suit filed against TAMU shall be in Brazos County, Texas."

3. The following language is incorporated into the Agreement:

   State Contracting Requirements:

   Delinquent Child Support Obligations. Under Section 231.006, Texas Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.

   Payment of Debt or Delinquency to the State. Pursuant to Section 2252.903, Texas Government Code, SPI agrees that any payments owing to SPI under this Agreement may be applied directly toward certain debts or delinquencies that SPI owes the State of Texas or any agency of the State of Texas regardless of when they arise, until such debts or delinquencies are paid in full.

   Franchise Tax Certification. If SPI is a taxable entity subject to the Texas Franchise Tax (Chapter 171, Texas Tax Code), then SPI certifies that it is not currently delinquent in the payment of any franchise (margin) taxes or that SPI is exempt from the payment of franchise (margin) taxes.

   Prohibited Bids and Agreements. Under Section 2155.004, Texas Government Code, SPI certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this Agreement may be terminated and payment withheld if this certification is inaccurate.

   Public Information.
   (a) SPI acknowledges that TAMU is obligated to strictly comply with the Public Information Act, Chapter 552, Texas Government Code, in responding to any request for public information pertaining to this Agreement, as well as any other disclosure of information required by applicable Texas law.
   
   (b) Upon TAMU’s written request, SPI will provide specified public information exchanged or created under this Agreement that is not otherwise excepted from disclosure under Chapter 552, Texas Government Code, to TAMU in a non-proprietary format acceptable to TAMU. As used in this provision, “public information” has the meaning assigned Section 552.002, Texas Government Code, but only includes information to which TAMU has a right of access.
(c) SPI acknowledges that TAMU may be required to post a copy of this fully executed Agreement on its Internet website in compliance with Section 2261.253(a)(1), Texas Government Code.

Loss of Funding. Performance by TAMU under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature"). If the Legislature fails to appropriate or allot the necessary funds, TAMU will issue written notice to SPI and TAMU may terminate this Agreement without further duty or obligation hereunder. SPI acknowledges that appropriation of funds is beyond the control of TAMU.

State Auditor's Office. SPI understands that acceptance of funds under this Agreement constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, "Auditor"), to conduct an audit or investigation in connection with those funds pursuant to Section 51.9335(c), Texas Education Code. SPI agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation, providing all records requested. SPI will include this provision in all contracts with permitted subcontractors.

Force Majeure. Neither party is required to perform any term, condition, or covenant of this Agreement, if performance is prevented or delayed by a natural occurrence, a fire, an act of God, an act of terrorism, or other similar occurrence, the cause of which is not reasonably within the control of such party and which by due diligence it is unable to prevent or overcome.

Dispute Resolution. SPI must use the dispute resolution process provided in Chapter 2260 of the Texas Government Code to attempt to resolve a dispute arising under this Agreement and is a required prerequisite to suit in accordance with Chapter 107, Texas Civil Practices and Remedies Code. SPI must submit written notice of a claim of breach of contract to the University Contracts Officer, TAMU.

Conflict of Interest. By executing and/or accepting this Agreement, SPI and each person signing on behalf of SPI certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief, no member of The Texas A&M University System (TAMUS) or TAMUS Board of Regents, nor any employee, or person, whose salary is payable in whole or in part TAMU or TAMUS, has direct or indirect financial interest in the award of this Agreement, or in the services to which this Agreement relates, or in any of the profits, real or potential, thereof.

Non-Waiver. SPI expressly acknowledges that TAMU is an agency of the State of Texas and nothing in this Agreement will be construed as a waiver or relinquishment by TAMU of its right to claim such exemptions, privileges, and immunities as may be provided by law.

ACCEPTED & AGREED:

SPI Lasers UK Limited

Signature

Vice President Intellectual Property
Name & Title

17 August 2017
Date

Texas A&M University

Signature

Robert C. Bounds
Director, Procurement Services
Name & Title

6.12.2017
Date
DEFINITIONS

DEMONSTRATOR product – Product usually supplied specifically against customer specifications.

ALPHA product – Product built under engineering supervision and processes. The specification is subject to change without notice.

BETA product – Product built under Manufacturing supervision and processes, but yet to complete a product Qualification programme. The specification is subject to change without notice.

RELEASED product – Fully Qualified product.

TERMS AND CONDITIONS

(a) All quotations made and orders received are subject to these terms and conditions which shall take precedence over any terms and conditions whenever submitted by the customer and no alterations shall apply unless confirmed by an authorised representative of SPI Lasers UK Ltd. ("SPI").

(b) Prices quoted are FCA SPI (Rugby or Southampton), UK inclusive of VAT and any sales or import taxes. Prices quoted are in US $ and are valid for 30 days from the date of the quotation.

(c) Risk of loss or damage to the Product shall pass to the customer at the time that SPI notifies the customer that the Product is ready for collection, and SPI shall be entitled to invoice the customer.

(d) Title to Products (excluding any Non-Recurring Engineering work) transfers from SPI to customer upon payment pursuant to clause (f) below. The customer shall hold the products in a fiduciary capacity as bailee until payment has been received by SPI. Time of delivery shall not be of the essence however SPI will make every effort to expedite delivery in accordance with the timetables quoted. SPI shall have no liability for any loss whatsoever suffered by the customer as a result of late delivery.

(e) Freight, duty, and any taxes or charges incurred by SPI will be charged to the customer as a separate item(s) on the invoice.

(f) Full payment in US $, without deduction of bank charges, due NET 30 days after the time that SPI notifies the customer that the Product is ready for collection or for the services, the time the service is completed, via bank transfer to SPI Lasers UK Ltd., UK bank account as specified on the Invoice, which shall be either (i) HSBC Scrt Code 40-05-15, account no. 39794130 IBAN = GB38 MIDL 1539 7941 30 BIC = MIDLGB22 or (ii) Santander Sort Code 09-07-15, account no. 00045170 IBAN = GB04 ABBY 090715 00045170 BIC = ABBYGB2L or mail to SPI Lasers UK Ltd, UK address specified in the order acknowledgement.

(g) Where payment is not received by the due date, without prejudice to SPI's other rights and remedies:
   i. SPI reserves the right to suspend all deliveries of products to the customer; and
   ii. The customer shall pay interest on the amount of any late payment at 2% per month, or if lower, the highest rate permitted by law, of the unpaid amount such interest calculated on a daily basis until payment is received in cleared funds by SPI.

(h) The customer shall not be entitled to exercise any right of set-off or counter claim against SPI's invoices.

(i) Purchase orders resulting from the above quote shall not be cancelled, terminated, or suspended without prior written mutual agreement between SPI and customer.

(j) SPI warrants that the products at the time of delivery shall comply with all relevant statutory requirements and regulations and nothing in these terms and conditions shall affect or limit any conditions or terms implied by statute, or affect SPI's liability for death or personal injury.

(k) Other than products identified in the Quotation as DEMONSTRATOR products or as part of a 'Joint Development Program', SPI will repair, replace, or issue a credit note at SPI's option, within the Warranty Period, any material that contains a manufacturing defect. SPI SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL DAMAGES, LOSS OF PROFIT, USE, PRODUCTION, RAW MATERIALS, OR END PRODUCT OR FOR ANY OTHER CLAIM FOR DAMAGES ARISING OUT OF THE PURCHASE, DELIVERY, INSTALLATION, REMOVAL, OR USE OF THE PRODUCT(S), WHETHER CLAIMED IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE.

(l) Products identified as DEMONSTRATOR products, Joint Development Program products, or used in field trials are not warranted.

(m) SPI will only accept defective products returned under SPI's return material authorization process, a copy of which will be made available upon request by the customer.

(n) For software and product(s) containing software developed or licensed by SPI, SPI retains ownership and grants the customer a royalty-free perpetual, non-exclusive license to use the software for the sole purpose restricted to the product. SPI does not warrant the software will operate uninterrupted or error free. Attempts to market, commercialise, sublicense or otherwise reverse assemble the software shall breach the licence which shall terminate, and customer shall return or destroy the software.

(o) EXCEPT FOR THE WARRANTIES STATED ABOVE, NO WARRANTY, CONDITION OR REPRESENTATION EXPRESSED, IMPLIED, ORAL OR STATUTORY IS PROVIDED TO THE CUSTOMER OR ANY THIRD PARTY. IN NO EVENT SHALL THE CUMULATIVE LIABILITY OF SPI EXCEED THE AMOUNT PAID TO SPI FOR THE PRODUCTS AND/OR SERVICES DELIVERED AS A RESULT OF THIS QUOTE IN THE SIX MONTHS PRECEDING THE CLAIM.

(p) All rights and title to patents, trademarks or any other proprietary or intellectual property that have been issued or pending that relate to the items contained in this quotation remain the title of SPI.

(q) Neither party will be liable for failure to perform any of its obligations pursuant to these terms and conditions (other than payment) if such failure results from actions beyond that party's reasonable control including if an export licence is refused or withdrawn, or if shipments are blocked by sanctions or government export control or financial regulations of the exporting country.

(r) SPI reserves the right to make partial shipment against an order.

(s) Where applicable, any and all responsibility for end-of-life treatment of Product under European Directive 2002/96/EC on Waste Electrical and Electronic Equipment (WEEE) transfers from SPI to the customer with title to the Product.

(t) Customer shall not export any products or technical data received from SPI pursuant to these terms and conditions except in accordance with applicable laws and regulations including the re-export laws and regulations of the United States of America.

(u) The validity and interpretation of this Quotation and these terms and conditions shall be governed by the laws of England, and the Parties submit to the exclusive jurisdiction of the English courts. The Vienna Convention on Contracts for the International Sale of Goods is excluded from and shall not apply to these Terms and Conditions.