

## PATENT ASSIGNMENT COVER SHEET

Electronic Version v1.1  
 Stylesheet Version v1.2

EPAS ID: PAT3362613

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT
<b>NATURE OF CONVEYANCE:</b>	SETTLEMENT AGREEMENT
<b>CONVEYING PARTY DATA</b>	
<b>Name</b>	<b>Execution Date</b>
KINESTRAL TECHNOLOGIES, INC.	05/20/2015
ROFIN-SINAR TECHNOLOGIES, INC.	05/20/2015
FILASER, INC.	05/20/2015
FILASER USA, LLC	05/20/2015
<b>RECEIVING PARTY DATA</b>	
<b>Name:</b>	KINESTRAL TECHNOLOGIES, INC.
<b>Street Address:</b>	400 EAST JAMIE COURT
<b>Internal Address:</b>	SUITE 201
<b>City:</b>	SOUTH SAN FRANCISCO
<b>State/Country:</b>	CALIFORNIA
<b>Postal Code:</b>	94080
<b>PROPERTY NUMBERS Total: 4</b>	
<b>Property Type</b>	<b>Number</b>
Application Number:	13640140
Application Number:	14520824
Application Number:	13958346
Application Number:	14336819
<b>CORRESPONDENCE DATA</b>	
<b>Fax Number:</b>	(408)703-5399
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>	
<b>Phone:</b>	4083413011
<b>Email:</b>	sbernardo@wcsr.com
<b>Correspondent Name:</b>	MICHAEL L. GENCARELLA
<b>Address Line 1:</b>	PURE STORAGE, INC.
<b>Address Line 2:</b>	228 HAMILTON AVE. SUITE 300
<b>Address Line 4:</b>	PALO ALTO, CALIFORNIA 94301
<b>ATTORNEY DOCKET NUMBER:</b>	K85900
<b>NAME OF SUBMITTER:</b>	MICHAEL L. GENCARELLA
<b>SIGNATURE:</b>	/Michael L. Gencarella/

PATENT

DATE SIGNED:	05/20/2015
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**Total Attachments: 16**

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## **TECHNOLOGY LICENSE AND SETTLEMENT AGREEMENT AND RELEASE**

This Technology License and Settlement Agreement and Release (the “Agreement”) is by and among Kinestral Technologies, Inc., a Delaware corporation (“Kinestral” or “KTI”), Filaser, Inc., a Canadian corporation (“Filaser”), Filaser USA, LLC, a Delaware limited liability company (“FUSA”), and RofinSinar Technologies, Inc., a Delaware corporation (“Rofin” or “RSTI”)(collectively the “Parties”, and individually a “Party”, each having a respective place of business as identified in the signature blocks below )

### **RECITALS**

**Whereas**, Filaser and Kinestral have entered into that certain Master Services Agreement (“MSA”) effective as of November 15, 2012 (“MSA Effective Date”) pursuant to which Filaser carried out certain services on behalf of Kinestral relating to development of laser singulation technology for cutting glass substrates;

**Whereas**, pursuant to the MSA, Filaser agreed to provide Kinestral with certain non-exclusive license rights to certain Filaser background technology;

**Whereas**, Rofin purchased certain assets of Filaser USA, LLC pursuant to that certain Asset Purchase Agreement by and between Rofin and Filaser effective as of April 10, 2014 (“Asset Agreement”), and Rofin represents that it now owns the Licensed Technology and the assets constituting the Filaser background technology as contemplated in the MSA.

**NOW THEREFORE**, in order to settle the license rights provided to Kinestral in and to the Licensed Technology as defined below, to settle any and all disputes or misunderstandings between and among Parties relative to the MSA and the Licensed Technology, and in consideration of the premises and the mutual covenants, terms, conditions and agreements contained herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

### **ARTICLE 1**

#### **DEFINITIONS**

**“Affiliate”** means any entity that controls, is controlled by, or is under common control with a Party, and **“control”** means (a) an ownership interest, directly or indirectly, of more than 50% in such entity or Party, or the maximum percentage permitted under local laws or regulations in those countries where 50% or more ownership by a foreign entity is not permitted, or (b) the ability to direct the management or policies of such entity or Party, whether through ownership, contract, or otherwise.

**“Effective Date”** of this Agreement shall mean the date upon which this Agreement is signed by all Parties;

**“License Term”** shall commence on the Effective Date and continue in force and effect, unless terminated earlier pursuant to this License Agreement, through the date that all Licensed Technology has expired or become invalid and unenforceable;

**“Licensed Intellectual Property”** means the inventions included in the Licensed Technology and which are described in the patent applications listed on Appendix A.

**“Licensed Technology”** shall mean Intellectual Property that was owned or controlled by FUSA as of the consummation of the asset acquisition by Rofin pursuant to the Asset Agreement, and includes the Licensed Intellectual Property described in Appendix A. For clarification, Rofin shall not be required to affirmatively provide a technology transfer of any know-how, show-how, or other ancillary knowledge, information, or materials in any way related to the Licensed Intellectual Property (although such know how, show-how or other ancillary knowledge, information or materials is within the scope of Licensed Technology for purposes of the licenses granted in this Agreement).

**“Licensed Products”** shall mean glass and windows equipped with active and dynamic layers of material, and components thereof, used in residential windows, commercial windows and windows for transportation purposes (but excluding photovoltaic applications, electrochromic mirrors for automotive use, electrochromic windows for aerospace use, touch screens, TFT and displays), subject to the licensing limitations set forth in this Agreement;

**“Nonexclusive Field”** shall mean glass and window equipped with active and dynamic layers of material, and components thereof, used in residential windows, commercial windows and windows for transportation purposes, excluding the Excluded Fields;

**“Excluded Fields”** shall mean (i) photovoltaic applications, (ii) electrochromic mirrors for automotive use, (iii) electrochromic windows for aerospace use, and (iv) touch screens, TFT and displays;

**“Intellectual Property”** shall mean any and all inventions (whether or not patentable), discoveries, materials, tools, software (both source and object code), works of authorship, know-how, technical information, trade secrets, work product, methods, processes, designs, schematics, apparatuses, and any other form of technology that is subject to the protections of Intellectual Property Rights;

**“Intellectual Property Rights”** shall mean all rights of the following types, which may exist or be created under the laws of any jurisdiction in the world: (a) rights associated with works of authorship, including exclusive exploitation rights, copyrights, moral rights, and mask work rights; (b) trade secret rights; (c) patent and industrial property rights; (d) trademark and trade name rights and similar rights; (e) other proprietary rights in Intellectual Property of every kind and nature; and (f) rights in or relating to registrations, renewals, extensions, combinations, divisions, and reissues of, and applications for, any of the rights referred to in clauses (a) through (e) of this sentence; and

**“Licensee”** shall mean Kinestral.

## **ARTICLE 2**

### **LICENSE**

#### **2.1 Non-Exclusive License**

Subject to the terms of this Agreement, RSTI, on behalf of itself and its Affiliates (“Licensor”) hereby grants to Licensee, a worldwide, nonexclusive, fully paid-up, royalty free, license, with a right to sublicense (subject to Section 2.2 below), under the Licensed Technology, for the License Term, to make, have made, use, sell, have sold, offer for sale, import, export, distribute, have distributed (as provided below), and otherwise exploit Licensed Products in the Non-Exclusive Field, subject to the provisions below (“Non-Exclusive License”), and further limited, during the time period referenced in Section 4.1, to practicing the Licensed Technology with (1) Rofin-supplied (i) lasers, (ii) optics, and/or (iii) processing heads (“Systems”), or (2) Competitive Equipment as permitted in Section 4.1.

#### **2.2 Sub-License Rights**

During the time period referenced in Section 4.1, the rights to sublicense the Non-Exclusive License will be limited to granting such sublicenses solely to those third parties who use Rofin-supplied Systems in conjunction with exercising the sublicense rights, provided those Systems are made available to those third parties in accordance with the criteria set forth in Section 4.1. To clarify even further, such right to sublicense is limited only to manufacturers for manufacturing KTI licensed products. In the event that the Section 4.1 criteria are not satisfied in any given case, a sublicensee (or KTI, for use by such sublicensee) shall be free to purchase Competitive Equipment, as defined in Section 4.1, and the licenses set forth in this Section 2.2 shall apply to such Competitive Equipment. During the first 10 years after the Effective Date, KTI will pay, or will cause each and every sublicensee to pay, Rofin a fee of [REDACTED] per any laser that such sublicensee (or KTI, for use by such sublicensee) purchases from a vendor other than Rofin to practice Licensed Technology.

#### **2.3 No Other Rights**

Licensee’s right to use the Licensed Technology is solely as stated in Section 2.1 and Section 2.2 of this Agreement. Any material other use by Licensee of the Licensed Technology is strictly prohibited and if done shall constitute a material breach under this Agreement and may be grounds for termination pursuant to the provisions of Section 6.2.

#### **2.4 Purchasers and End Users**

For so long as this Agreement is in effect, RSTI will not, directly or through an Affiliate, assert any claim against any purchaser or end user of a Licensed Product or other party in the chain of distribution of a Licensed Product based on the fact that the Licensed Product was manufactured using the Licensed Technology.

## **ARTICLE 3**

### **WARRANTIES; LIMIT OF LIABILITY; COSTS; FEES; INDEMNIFICATION**

**3.1** Licensors represent and warrant that (a) Appendix A is a complete and accurate listing of all patented or patent pending Licensed Intellectual Property or Licensed Technology owned or controlled by Licensors, (b) it owns all right, title, and interest in and to all Intellectual Property Rights in the Licensed Technology, (c) it has all right and authority to grant the licenses set forth herein, (d) to the best of Licensors' knowledge without independent investigation, Licensee's exercise of its rights hereunder will not infringe the Intellectual Property Rights of any third party, (e) to the best of its knowledge, the patents and patent applications included in the Licensed Technology are valid and enforceable. Nothing in this Agreement shall be construed as:

3.1.1 an unconditional warranty or representation by Licensors as to the validity or scope of the Licensed Intellectual Property;

3.1.2 a warranty or representation that anything made, used, sold, or otherwise disposed of under any license granted in this Agreement is or will be free from the rightful claim of any third party by way of infringement or otherwise;

3.1.3 a requirement that Licensors shall file or prosecute any patent application, secure any patent, maintain any patent in force, or notify Licensee of any action or inaction with respect to any patent application or patent;

3.1.4 an obligation to bring or prosecute actions or suits against third parties for infringement or similar claims, or defend any action or suit brought by a third party that challenges or concerns the validity or scope of any of the Licensed Intellectual Property; or

3.1.5 granting by implication, estoppel, or otherwise any license or rights under patents, trade secrets, know-how, copyrights, or other intangible rights of Licensors other than the Licensed Intellectual Property.

**3.2** Filaser and FUSA represent and warrant that (a) Appendix A is a complete and accurate listing of all patented or patent pending Licensed Intellectual Property or Licensed Technology owned or controlled by Filaser, FUSA or any Affiliate thereof, as of the asset acquisition by Rofin pursuant to the Asset Agreement, that is relevant to the Filaser background technology as contemplated in the MSA, (b) as of the asset acquisition by Rofin pursuant to the Asset Agreement, neither Filaser, FUSA nor any Affiliate thereof retains any rights to any assets constituting Filaser background technology as contemplated in the MSA, (c) to the best of their knowledge without independent investigation, Licensee's exercise of its rights hereunder will not infringe the Intellectual Property Rights of any third party, and (d) to the best of their knowledge, the patents and patent applications included in the Licensed Technology are valid and enforceable.

**3.3** EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, NO PARTY MAKES ANY WARRANTIES OF ANY KIND AND EXPLICITLY DISCLAIMS ALL IMPLIED OR STATUTORY WARRANTIES, INCLUDING ANY WARRANTY OF NONINFRINGEMENT, MERCHANTABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE.

**3.4** EXCEPT IN CONNECTION WITH A BREACH OF THIS AGREEMENT OR AS MAY BE EXPRESSLY SET FORTH IN A SEPARATE WRITTEN AGREEMENT BETWEEN LICENSOR AND LICENSEE, LICENSOR SHALL HAVE NO LIABILITY TO LICENSEE FOR OR ON ACCOUNT OF ANY INJURY, LOSS, OR DAMAGE, OF ANY KIND OR NATURE, SUSTAINED BY, OR ANY DAMAGE ASSESSED OR ASSERTED AGAINST, OR ANY OTHER LIABILITY INCURRED BY OR IMPOSED UPON LICENSEE, ARISING OUT OF OR IN CONNECTION WITH OR RESULTING FROM (a) THE USE OR POSSESSION BY LICENSEE OR PERMITTED TRANSFEREES OF ANY LICENSED INTELLECTUAL PROPERTY OR OTHER INFORMATION, TECHNIQUES, OR PRACTICES DISCLOSED BY LICENSOR, (b) THE PRACTICE OF ANY LICENSED INTELLECTUAL PROPERTY BY LICENSEE OR PERMITTED TRANSFEREES, (c) THE MANUFACTURE, USE, POSSESSION, IMPORT, OFFER TO SELL, SALE, OR OTHER DISPOSITION BY LICENSEE OR PERMITTED TRANSFEREES OF ANY PRODUCT MADE BY USE OF THE LICENSED INTELLECTUAL PROPERTY OR ANY OTHER INFORMATION, TECHNIQUES, OR PRACTICES DISCLOSED BY LICENSOR, OR (d) ANY ADVERTISING OR OTHER PROMOTIONAL ACTIVITIES WITH RESPECT TO ANY OF THE FOREGOING.

**3.5** NOTWITHSTANDING ANYTHING CONTAINED IN THIS AGREEMENT TO THE CONTRARY, EXCEPT IN THE CASE OF INTENTIONAL ACTS OR WILLFUL MISCONDUCT, IN NO EVENT SHALL ANY PARTY BE LIABLE OR OBLIGATED IN ANY MANNER TO ANY OTHER PARTY OR TO ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES (INCLUDING LOST OR ANTICIPATED REVENUES OR PROFITS) ARISING OUT OF OR RELATED TO THIS AGREEMENT OR LICENSEE'S USE OF ANY OF THE LICENSED INTELLECTUAL PROPERTY OR OTHER INFORMATION PROVIDED BY LICENSOR ON ANY THEORY OF LIABILITY, EVEN IF SUCH PARTY IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES

**3.6** Except as may be set forth in a separate agreement between Licensee and Licensor, Licensee accepts full responsibility for (a) determining the suitability and application of any of the Licensed Intellectual Property and any other information provided by Licensor for use in Licensee's processes and products, and (b) identifying and performing to Licensee's own satisfaction all quality control tests, analyses, forecasts, and other tests and examinations necessary to ensure that any finished parts will be safe and suitable for use under end use conditions. Licensee is not relying on Licensor's expertise or instruction for the success of Licensee's products. Licensee acknowledges making its own inquiry and investigation into, and accordingly forming an independent judgment concerning, the quality and possible uses of the Licensed Intellectual Property and any other information provided by Licensor.

**3.7** Licensee shall defend upon demand by Licensor, indemnify, and hold harmless Licensor and its Affiliates and their respective directors, officers, employees, and agents against and from all claims, liabilities, damages, costs, and expenses, including attorneys' fees, arising out of or in connection with or resulting from third party claims in any manner arising from or related to the use, possession, import, offer to sell, sale, or other disposition by Licensee or permitted transferees of any product made by use of the Licensed Technology or any other information, techniques, or practices disclosed by Licensor, , in all cases including any loss of or damage to property and any injury to or death of any person. In no event shall the defense, indemnification and hold harmless provisions set forth in this Section 3.7(a) apply to claims or allegations that the Licensed Technology infringes or violates the intellectual property rights of a third party. Licensor's Affiliates, and the directors, officers, employees and agents of Licensor and its Affiliates, shall be deemed to be express third party beneficiaries of this Section 3.7.

**3.8** Upon execution of this Agreement, Filaser shall pay to Kinestral the amount of [REDACTED] to compensate Kinestral for costs and expenses, including attorney fees, in connection with matters arising under the MSA and this Agreement. Other than as set forth in the prior sentence, and as between Licensor and FUSA other than as set forth in the Asset Agreement, each party shall be responsible for their own fees and costs associated with the resolution of matters under the MSA and this Agreement, including attorney fees.

## **ARTICLE 4**

### **EQUIPMENT PURCHASE**

#### **4.1 Purchase by Kinestral**

If, during the first [REDACTED] years after the Effective Date, Kinestral purchases any laser-filamentation glass-cutting equipment to practice the Licensed Technology, Kinestral will purchase the same from RoFin if: (a) the RoFin equipment meets Kinestral's technical specifications and meets or exceeds the technical specifications of competitor equipment ("Competitive Equipment"); (b) the RoFin equipment pricing is not more than [REDACTED] than any independent third-party quotes for Competitive Equipment and the RoFin payment terms are at least as good as the payment terms for the Competitive Equipment, and (c) RoFin provides Kinestral pricing on commercial terms no less favorable than those terms offered to comparable customers purchasing comparable volumes for the equipment purchase. In the event that each of (a)-(c) are not satisfied in any given case, Kinestral shall be free to purchase Competitive Equipment, and the licenses set forth in Article 2 shall apply to such Competitive Equipment. During the first [REDACTED] years after the Effective Date, Kinestral will pay RoFin a fee of [REDACTED] per any laser that Kinestral purchases from a vendor other than RoFin to practice Licensed Technology.



## **ARTICLE 5**

### **SETTLEMENT AND RELEASE OF CLAIMS; TERMINATION OF MSA**

#### **5.1 By Kinestral**

With the exception of (a) obligations accruing under this Agreement, and (b) liabilities arising from or related to facts or circumstances arising or occurring after the Effective Date, upon execution of this Agreement, and payment of the amount set forth in Section 3.6, Kinestral, on behalf of itself, its Affiliates and assigns, and each and all of their respective principals, owners, employees, officers, directors, partners, attorneys, insurers, agents, servants ("KTI Releasers"), hereby releases and forever discharges Filaser, FUSA, RSTI, and each of their respective Affiliates and assigns, and each of their respective past, present and future officers, owners, directors, principals, partners, employees, members, shareholders, attorneys, insurers, agents, and servants ("KTI Releasees"), from any and all claims, demands, obligations, losses, causes of action, costs, expenses, attorneys' fees and liabilities of any nature whatsoever which it may have now or in the future, whether known or unknown, whether based on contract, tort, statutory or other legal or equitable theory of recovery, which in any manner arise from or are related in any way to, directly or indirectly, the MSA or the Licensed Technology or both (hereinafter the "KTI Released Claims").

#### **5.2 By Filaser and FUSA**

With the exception of obligations accruing under this Agreement, upon execution of this Agreement, Filaser and FUSA, on behalf of themselves, their Affiliates and assigns, and each and all of their respective principals, owners, employees, officers, directors, partners, attorneys, insurers, agents, servants ("Filaser Releasers"), hereby releases and forever discharges Kinestral, RSTI, and each of their respective Affiliates and assigns, and each of their respective past, present and future officers, owners, directors, principals, partners, employees, members, shareholders, attorneys, insurers, agents, and servants ("Filaser Releasees"), from any and all claims, demands, obligations, losses, causes of action, costs, expenses, attorneys' fees and liabilities of any nature whatsoever which it may have now or in the future, whether known or unknown, whether based on contract, tort, statutory or other legal or equitable theory of recovery, which in any manner arise from or are related in any way to, directly or indirectly, the MSA or the Licensed Technology or both (hereinafter the "Filaser Released Claims").

#### **5.3 By RSTI**

With the exception of (a) obligations accruing under this Agreement, and (b) liabilities arising from or related to facts or circumstances arising or occurring after the Effective Date, upon execution of this Agreement, RSTI, on behalf of itself, its Affiliates and assigns, and each and all of their respective principals, owners, employees, officers, directors, partners, attorneys, insurers, agents, servants ("RSTI Releasers"), hereby releases and forever discharges Kinestral, its Affiliates and assigns, and each of their respective past, present and future officers, owners, directors, principals, partners, employees, members, shareholders, attorneys, insurers, agents, and servants ("RSTI Releasees"), from any and all claims, demands, obligations, losses, causes of

action, costs, expenses, attorneys' fees and liabilities of any nature whatsoever which it may have now or in the future, whether known or unknown, whether based on contract, tort, statutory or other legal or equitable theory of recovery, which in any manner arise from or are related in any way to, directly or indirectly, the MSA or the Licensed Technology or both (hereinafter the "RSTI Released Claims").

#### **5.4 MSA**

On the Effective Date the MSA is deemed fully and finally terminated, with no party having any further rights or obligations, accrued or prospective, under the MSA. Notwithstanding the preceding, the nondisclosure and nonuse obligations set forth in the Mutual Nondisclosure Agreement between Filaser and Kinestral made and entered into as of November 15, 2012 ("NDA"), remain in full force and effect as set forth in the NDA, and as incorporated by reference in the MSA, and such obligations are not Released Claims as set forth in this Agreement.

#### **5.5 Covenant not to Sue**

Each Party hereby covenants, on behalf of itself and that Party's Releasors, never to bring suit against the other or any of the other Parties' Releasees, or otherwise take any action with respect to any of the Released Claims. If a Party or any of its Releasors breaks this covenant and initiates a legal proceeding relating to a Released Claim, that Party will pay for all costs and expenses incurred by the affected Releasees, including without limitation reasonable attorneys' fees, in defending any such legal proceeding.

### **ARTICLE 6**

#### **TERM AND TERMINATION**

6.1 All of the license rights granted under this Agreement shall automatically terminate in the event that (a) a voluntary or involuntary proceeding by or against KTI is instituted in bankruptcy under any insolvency law, or a receiver or custodian is appointed for KTI, or proceedings are instituted by or against KTI for corporate reorganization, dissolution, liquidation or winding-up of KTI, which proceedings, if involuntary, shall not have been dismissed within sixty (60) days after the date of filing, or if KTI makes an assignment for the benefit of creditors, or substantially all of the assets of KTI are seized or attached and not released within sixty (60) days thereafter, or (b) Licensee attempts to assign its rights under this Agreement in violation of Section 8.1.

6.2 Licensors may terminate all of the license rights granted under this Agreement for Licensee's material breach of Article 2 of this Agreement pursuant to the terms of this Section 6.2. In order to effect a termination under this Section 6.2, Licensors must provide Licensee with written notice describing the evidence supporting the claimed material breach. Licensee shall have thirty (30) days following receipt of the notice to either (i) remedy the breach, or (ii) deliver to Licensors a written denial of the claimed material breach, specifying the evidence that disputes the claimed material breach. If Licensee provides a written denial, Licensors may either accept Licensee's position and withdraw the notice of termination, or submit the matter to arbitration

under Section 8.6, in which event the arbitrators shall determine whether there has been a material breach. The provisions of this Section 6.2 shall be in addition to and not in substitution for any other remedies that may be available to the Licensor. Termination pursuant to this Section 6.2 shall not relieve the Licensee from liability and damages to the Licensor for breach of this Agreement.

6.3 Upon expiration or termination of the license rights granted under this Agreement, Licensee shall discontinue use of the Licensed Technology. Upon expiration or termination of this Agreement, and in accordance with any written instructions from Licensor, Licensee shall promptly return to Licensor all documents, prototypes, computer-based data, and other tangible material containing or constituting Licensed Intellectual Property in Licensee's possession, and Licensee shall permanently erase or destroy all Licensed Intellectual Property in electronic or other intangible forms in Licensee's possession

## **ARTICLE 7**

### **NOTICES**

All notices or reports permitted or required under this Agreement (a) shall be in writing, (b) shall reference this Agreement and the Section pursuant to which it is given, (c) shall be delivered by personal delivery, internationally or U.S. nationally recognized overnight courier (with postage and other fees paid), facsimile transmission, electronic mail transmission, or certified or registered mail (return receipt requested), (d) shall be deemed given upon delivery, and (e) shall be sent to the applicable Party at the following address or such other address as such Party may specify in writing:

#### **Kinestral Technologies, Inc.**

Howard S. Bergh  
Kinestral Officer  
400 East Jamie Court  
Suite 201  
South San Francisco, CA 94080, USA  
Fax: 510-783-4855  
Email: sbergh@kinestral.com

#### **Rofin-Sinar Technologies, Inc.**

Cindy Denis  
Controller  
40984 Concept Drive  
Plymouth, MI, 48170 USA  
Fax: 734-454-0836  
Email: c.denis@rofin-inc.com

## **FiLaser, Inc.**

S. Abbas Hosseini  
Chief Executive Officer  
556 Edward Avenue, #85  
Richmond Hill, ON, Canada  
L4C-9Y5  
Fax: None available  
Email: abbas@filaser.com

## **Filaser USA, LLC**

S. Abbas Hosseini  
Chief Executive Officer/Manager  
121 SW Salmon St., Suite 1100  
Portland, OR 97204  
Fax: None available  
Email : abbas@filaser.com

## **ARTICLE 8**

### **MISCELLANEOUS TERMS**

#### **8.1 Assignment**

KTI may assign its rights under this Agreement in whole in conjunction with a sale of substantially all of its assets or of a controlling equity interest in KTI, whether by merger, reorganization, acquisition, sale, or otherwise, and further provided that the assignee (a) does not compete in the manufacture of lasers, or laser containing equipment for laser cutting or laser drilling, with RSTI or any RSTI Affiliate, and (b) agrees to all obligations in this Agreement. All other assignments by KTI are subject to the written consent of Licensor. RSTI may freely assign this Agreement, provided the assignee agrees to assume the obligations in this Agreement.

#### **8.2 Integration**

Subject to this Section, this Agreement is the final, complete and exclusive agreement of the Parties with respect to the subject matters hereof and supersedes and merges all prior discussions between the Parties with respect to such subject matters. For good and valuable consideration as embodied in this Agreement and exchanged by the Parties to this Agreement, the Parties agree that the intent of the Parties in the formulation of this Agreement are expressed solely within the terms of this Agreement and that no other documents or other information not set forth within the body of this Agreement are to be and/or can be utilized in any context, including but not limited to any judicial or arbitral proceeding, to determine the intent of the Parties in formulating this Agreement.

### **8.3 Waiver**

For good and valuable consideration as embodied in this Agreement and exchanged by the Parties to this Agreement, no term or provision hereof will be considered waived by any Party, and no breach excused by any Party, unless such waiver or consent is in writing and signed by an authorized representative on behalf of the Party against whom the waiver is asserted. No consent by a Party to, or waiver of, a breach by either Party, whether express or implied, will constitute a consent to, waiver of, or excuse of any other different or subsequent breach by a Party.

### **8.4 Amendments**

This Agreement may be amended, modified and/or supplemented only by means of a written amendment, signed by the authorized representatives of the Parties, which specifically refers to this Agreement. No email and/or other electronic communications seeking to amend any portion of this Agreement are allowed under the terms of this Agreement.

### **8.5 Choice of Law**

This Agreement is made and shall be construed in accordance with, and any arbitration will be governed by, the laws of the State of New York, without giving effect to any principles that may provide for the application of the laws of another jurisdiction. This Agreement shall be subject to the exclusive jurisdiction of any Federal or State court sitting within the geographic boundaries of New York, and each Party submits to the personal jurisdiction of any such court and waives any objection it may have to the laying of venue therein.

### **8.6 Arbitration**

If the Parties are unable to reach a resolution of any dispute under this Agreement, the dispute will be resolved exclusively by binding arbitration, unless the Parties jointly agree, in writing with the intent to modify the terms of this Agreement, that the jurisdiction for any dispute between the Parties will be with a United States District Court and/or other Judicial forum acceptable and agreed to by the Parties. Arbitration proceedings will be administered by the American Arbitration Association (“AAA”) in accordance with the AAA Commercial Arbitration Rules. All Disputes submitted to arbitration will be resolved in accordance with the Federal Arbitration Act (Title 9 of the United States Code). The arbitration will be conducted at a location in New York, New York selected by the AAA. All discovery activities will be expressly limited to matters directly relevant to the dispute being arbitrated. Judgment upon any award rendered in arbitration may be entered in any court having jurisdiction.

Arbitrators must be active members of the Bar of a U.S. state or retired judges of the state or federal courts, with expertise in the substantive laws, including patent law and licensing law, applicable to the subject matter of the dispute. Any dispute will be decided by majority vote of a panel of three arbitrators; provided however, that all three arbitrators must actively participate in all hearings. Notwithstanding anything herein to the contrary, the arbitrators will be required to make specific, written findings of fact and conclusions of law.

To the maximum extent practicable, the AAA, the arbitrators and the Parties will take all action required to conclude any arbitration proceeding within one hundred and eighty (180) days of the filing of the dispute with the AAA. No arbitrator or other party to an arbitration proceeding may disclose the existence, content or results thereof, except for disclosures of information by a Party required in the ordinary course of its business or by applicable law or regulation.

Notwithstanding the foregoing, any issue of patent validity or infringement must be heard by a court of competent jurisdiction located in the state of New York. If any Party claims that it is not subject to the jurisdiction of any such court, then all issues between the Parties will be resolved by arbitration as described in this Section

### **8.7 Confidentiality**

No Party shall disclose any of the terms, conditions or other provisions of this Agreement without the prior written consent of the other Parties except (a) to enforce its rights; (b) as may be required by law, regulation or legal process; (c) in confidence to its legal counsel, accountants, banks, and financing sources and their advisors solely in connection with complying with or administering its obligations with respect to this Agreement or in confidence (subject to a written confidentiality agreement prior to such disclosure at least as protective as the terms of this paragraph) in connection with the sale of assets, merger, acquisition or re-organization of a Party.

### **8.8 Affiliates**

Each Party shall be responsible for compliance with the terms and conditions of this Agreement by its Affiliates.

**-SIGNATURE PAGE FOLLOWS-**

**APPENDIX A  
PATENT APPLICATIONS AND INVENTIONS**

METHOD OF MATERIAL PROCESSING BY LASER FILAMENTATION (PCT FILED IN US, CA, EP, JP, CN, KR, TW, SG, MY, HK)

METHOD AND APPARATUS FOR HYBRID PHOTO COMPRESSION MACHINING IN TRANSPARENT MATERIALS USING LASER FILAMENTATION BY BURST OF ULTRAFAST LASER PULSES (FILED IN US, CA, EP, JP, CN, KR, TW)

METHOD AND APPARATUS FOR NON-ABLATIVE PHOTOACOUSTIC COMPRESSION MACHINING IN TRANSPARENT MATERIALS USING LASER FILAMENTATION BY BURST OF ULTRAFAST LASER PULSES (FILED IN US, CA, EP, JP, CN, KR, TW)

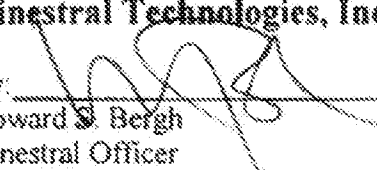
METHOD AND APPARATUS FOR PERFORMING LASER FILAMENTATION WITHIN TRANSPARENT MATERIALS (FILED IN US, CA, EP, JP, CN, KR, TW, IN, MY, SG, HK)

SYSTEM FOR PERFORMING LASER FILAMENTATION WITHIN TRANSPARENT MATERIALS (FILED IN US, CA, EP, JP, CN, KR, TW)

METHOD OF CUTTING CLOSED FORMS FROM TRANSPARENT SUBSTRATES USING BURSTS OF ULTRAFAST LASER PULSES (FILED IN US, CA, EP, JP, CN, KR, TW)

US6552301 and related cases, BURST ULTRA-FAST MACHINING METHODS

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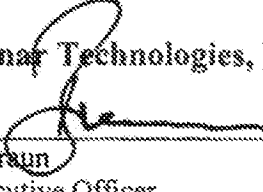
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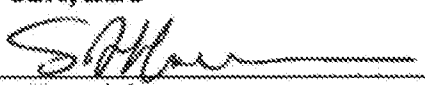
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