

AMENDMENT NO. 1

TO

OPTION AGREEMENT

DATED FEBRUARY 26, 1976

BETWEEN

SYSTEMS CONCEPTS, INC. AND STANFORD

This amendment, made and entered into December 21, 1977, by and between THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY (STANFORD) and SYSTEMS CONCEPTS, INC. (SYSTEMS) witnesseth;

WHEREAS, the parties entered into an Option Agreement ("Agreement") dated February 26, 1976, and

WHEREAS, the parties wish to amend the Agreement;

Now, Therefore, the parties hereby amend the Agreement as follows:

1. Paragraph 2.2 is hereby revised to read as follows:

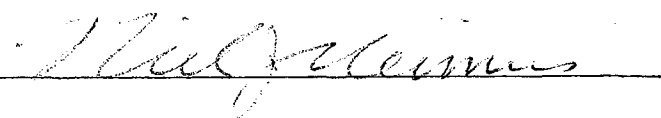
"2.2--The term of this Option Agreement is from the effective date of this agreement through December 31, 1979 (Option Period), subject to earlier termination as hereinafter provided."

2. No other modifications are made hereby, and except as modified herein, the Agreement remains in full force and effect in accordance with its terms.

It witness whereof, the parties have executed this amendment the date set forth above.

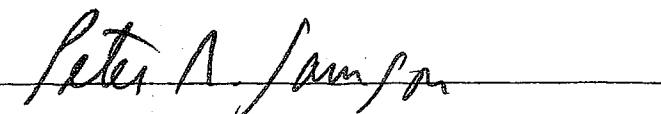
THE BOARD OF TRUSTEES OF THE
LELAND STANFORD JUNIOR UNIVERSITY

By



SYSTEMS CONCEPTS, INC.

By



OPTION AGREEMENT

Effective February 26, 1976, 1976, THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY, a body having corporate powers under the laws of the State of California and having offices at Stanford, California 94305 (Stanford), and SYSTEMS CONCEPTS, INC., a Massachusetts corporation having offices at 524 Second Street, San Francisco, California 94107 (Systems) agree as follows:

1. DEFINITION

1.1 -- The term "Invention" shall mean those items developed by Professor John M. Chowning as identified in Stanford University Invention Disclosure No. S75-49.

2. OPTION

2.1 -- Stanford hereby grants to Systems an exclusive option to a license for the distribution of the Invention according to the terms contained herein.

2.2 -- The term of this Option Agreement is from the effective date of this agreement through October 31, 1977 (Option Period), subject to earlier termination as hereinafter provided..

2.3 -- Systems may exercise the option by written notice to Stanford at any time during the Option Period, declaring its intent to enter into a license agreement with Stanford ("License Agreement"). The parties shall then negotiate in good faith toward

execution of the License Agreement within sixty (60) days after the receipt by Stanford of the written notification from Systems.

2.4 -- Systems agrees to notify Stanford promptly at any time during the Option Period when Systems has determined not to exercise the option to the License Agreement. This Option Agreement will terminate upon the giving of such notice by Systems.

3. CONSIDERATION

3.1 -- The consideration for the option shall be the execution by the parties of Purchase Order No. C601535 for the purchase by Stanford of a prototype Digital Synthesizer.

4. PROSPECTIVE TERMS OF THE LICENSE AGREEMENT

4.1 -- An exclusive license to distribute the Invention for a period of ten (10) years from the effective date of the License Agreement; however, should it be determined that the Invention is subject to the Institutional Patent Agreement between Stanford and the National Science Foundation, the grant of an exclusivity period shall be made subject to the terms and conditions of said Institutional Patent Agreement (Exhibit A).

4.2 -- After expiration of the exclusivity period of the License Agreement, the License Agreement shall become non-exclusive. The License Agreement shall contain a "most favored nation" provision with respect to other non-exclusive licenses which may be granted.

4.3 -- Earned royalty rate of fifteen percent (15%) of net revenues for each Invention sold, leased, or otherwise transferred, subject to the provisions of 4.4 below. In any event, each sale, lease, or transfer of the Invention shall be

deemed to occur at the actual sales price, or at the assumed transfer price as defined below, whichever is greater. If the actual sales price of the Invention is not separately stated in a given transaction, it shall be determined as follows: each independent element of the transaction which contains the Invention and for which a sales price is stated shall be identified; the fraction of each such element which the Invention comprises shall be determined; each such fraction shall be applied to the sales price of the corresponding element, and the resulting amounts shall be totalled to form the actual sales price of the Invention. The assumed transfer price for a transfer of the entire Invention is that price which would yield a royalty to Stanford, before applying the provisions of 4.4 below, of one thousand dollars (\$1,000.00). For a transfer of a part of the Invention, the fraction of the Invention being transferred shall be ascertained and that fraction applied to the assumed transfer price for the entire Invention to determine the assumed transfer price for the part.

4.4 -- Royalty payments shall be due and payable on a quarterly basis. Systems shall have the right to deduct and withhold up to fifty percent (50%) of each royalty payment until such time as a total of five thousand dollars (\$5,000) has been withheld by Systems. All royalties in addition to this \$5,000 deduction shall be due and payable in full.

4.5 -- Other terms and provisions as mutually agreed upon by the parties: Should the parties not reach agreement as to any term or condition of such license agreement within said period of sixty (60) days after the receipt by Stanford University

of written notification of its exercise hereof from Systems, then this option, and all obligations of the parties hereto, shall immediately terminate without further liability of either party. Both parties agree to negotiate in good faith and that the terms and provisions of such license shall be reasonable in accordance with industry practice. In any event, the terms set forth in paragraphs 4.1, 4.2, 4.3 and 4.4. shall form the basis for the license agreement unless otherwise agreed in writing by the parties.

5. NATIONAL SCIENCE FOUNDATION REQUIREMENTS

5.1 -- The terms and conditions of this Option Agreement and the License Agreement shall be subject to any and all requirements imposed by the National Science Foundation (NSF) on Stanford, and it is expressly understood that Stanford shall have no obligation to license or to negotiate to license the Invention or any element or component thereof in derogation of any agreements or requirements as may from time to time exist between Stanford University and the National Science Foundation.

6. COMMUNICATIONS

6.1 -- Communications to Stanford concerning this agreement shall be addressed as follows:

Stanford University
Encina 6-930
Stanford, California 94305
Attention: Manager, Technology Licensing

6.2 -- Communications to Systems Concepts concerning this agreement shall be addressed as follows:


Systems Concepts
524 Second Street
San Francisco, California 94107
Attention: Peter Samson

7. WARRANTIES

No warranties, express or implied, as to title, ownership, right to license, fitness, merchantability or otherwise are made hereby with respect to the Invention.

By signature below of duplicate copies, Stanford and Systems hereby agree to this Option Agreement.

THE BOARD OF TRUSTEES OF THE
LELAND STANFORD JUNIOR UNIVERSITY

By: *Neil McInnis* 

Title: Manager, Technology Licensing

Date: 10 February 1976

SYSTEMS CONCEPTS

By: *Peter A. Samson*

Title: Director of Marketing

Date: Feb. 26, 1976