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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

**FORM 8-K**

**CURRENT REPORT**

**Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

Date of Report (Date of earliest event reported): January 2, 2020

**EMCORE CORPORATION**

(Exact name of registrant as specified in its charter)

**New Jersey**  
(State or Other Jurisdiction of  
Incorporation)

**001-36632**  
(Commission File Number)

**22-2746503**  
(I.R.S. Employer  
Identification No.)

**2015 W. Chestnut Street**  
**Alhambra, California**  
(Address of principal executive offices)

**91803**  
(Zip Code)

**(626) 293-3400**  
(Registrant's telephone number,  
including area code)

**N/A**  
(Former name or former address, if changed since last report.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligations of the registrant under any of the following provisions (see General Instruction A.2. below):

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240-13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

<u>Title of each class</u>	<u>Trading symbol(s)</u>	<u>Name of each exchange on which registered</u>
Common Stock, no par value	EMKR	The Nasdaq Stock Market LLC (Nasdaq Global Market)

Indicate by check mark whether the registrant is an emerging growth company as defined in as defined in Rule 405 of the Securities Act of 1933 (§ 230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

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**Item 1.01 Entry into a Material Definitive Agreement.**

On January 2, 2020, Systron Donner Inertial, Inc. (“SDI”), a wholly owned subsidiary of EMCORE Corporation (“EMCORE”), entered into a Standard Offer, Agreement and Escrow Instructions for Purchase of Real Estate (Non-Residential) (the “Purchase Agreement”) dated as of December 31, 2019 with Parkview Management Group, Inc. (“Buyer”), pursuant to which the parties agreed to consummate a sale and leaseback transaction (the “Sale and Leaseback Transaction”). Under the terms of the Purchase Agreement, SDI agreed to sell its property located at 2700 Systron Drive, Concord, California (the “Real Property”) to Buyer, for a total purchase price of \$13.4 million. The net proceeds to be received by SDI will be reduced by transaction commissions and expenses incurred in connection with the sale.

At the consummation of the Sale and Leaseback Transaction, SDI will enter into a Single-Tenant Triple Net Lease (the “Lease Agreement”) with Buyer pursuant to which SDI will lease back from Buyer the Real Property for a term commencing on the consummation of the Sale and Leaseback Transaction and ending fifteen (15) years after the consummation of the Sale and Leaseback Transaction, unless earlier terminated or extended in accordance with the terms of the Lease Agreement. Under the Lease Agreement, SDI’s financial obligations will include base monthly rent of \$0.75 per square foot, or approximately \$77,500 per month, which rent will increase on an annual basis at three percent (3%) over the life of the lease. SDI will also be responsible for all monthly expenses related to the leased facilities, including insurance premiums, taxes and other expenses, such as utilities. In connection with the execution of the Lease Agreement, EMCORE will execute a Lease Guaranty (the “Guaranty”) with Buyer under which EMCORE will guarantee the payment when due of the monthly rent, and all other additional rent, interest and charges to be paid by SDI under the Lease Agreement, and the performance by SDI of all of the material terms, conditions, covenants and agreements of the Lease Agreement.

EMCORE anticipates that the close of the Sale and Leaseback Transaction will occur in the first calendar quarter of 2020, subject to satisfaction of certain customary closing conditions for transactions of this type.

The foregoing summaries of the Purchase Agreement, the Lease Agreement and the Guaranty are qualified in their entirety by reference to the full text of the Purchase Agreement, the form of Lease Agreement and the form of Guaranty, which are attached to this Current Report on Form 8-K as Exhibits 10.1, 10.2 and 10.3, respectively, and which are incorporated by reference into this Item 1.01.

**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits

<b>Exhibit No.</b>	<b>Description</b>
<a href="#"><u>10.1</u></a>	<a href="#"><u>Standard Offer, Agreement and Escrow Instructions for Purchase of Real Estate (Non-Residential) dated as of December 31, 2019 by and between Parkview Management Group, Inc. and Systron Donner Inertial, Inc.</u></a>
<a href="#"><u>10.2</u></a>	<a href="#"><u>Form of Single-Tenant Triple Net Lease.</u></a>
<a href="#"><u>10.3</u></a>	<a href="#"><u>Form of Lease Guaranty.</u></a>

## SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

EMCORE CORPORATION

Dated: January 6, 2020

By: /s/ Tom Minichiello

Name: Tom Minichiello

Title: Chief Financial Officer



**STANDARD OFFER, AGREEMENT AND ESCROW INSTRUCTIONS  
FOR PURCHASE OF REAL ESTATE**  
(Non-Residential)

Dated: December 31, 2019

**1. Buyer.**

1.1. Parkview Management Group, Inc. and/or an affiliated entity ("**Buyer**"), hereby offers to purchase the real property, hereinafter described, from the owner thereof ("**Seller**") (collectively, the "**Parties**" or individually, a "**Party**"), through an escrow ("**Escrow**") to close by February 14, 2020, ("**Expected Closing Date**") to be held by Fidelity National Title Escrow Dept. ("**Escrow Holder**") whose address is 555 S. Flower Street, Suite 4420, Los Angeles, CA, Phone No. 213-452-7150 (Attn: Ms. J.B. Jennings) upon the terms and conditions set forth in this agreement ("**Agreement**"). Buyer shall have the right to assign Buyer's rights hereunder, but any such assignment shall not relieve Buyer of Buyer's obligations herein unless Seller expressly releases Buyer.

1.2. The term "**Date of Agreement**" as used herein shall be the date when by execution and delivery (as defined in paragraph 20.2) of this document or a subsequent counteroffer thereto, Buyer and Seller have reached agreement in writing whereby Seller agrees to sell, and Buyer agrees to purchase, the Property upon terms accepted by both Parties.

**2. Property.**

2.1. The real property ("**Property**") that is the subject of this offer consists of (insert a brief physical description) is located in the County of Contra Costa, is commonly known as 2700 Syston Drive, Concord, CA and is legally described as: See Addendum (APN: See Addendum).

2.2. If the legal description of the Property is not complete or is inaccurate, this Agreement shall not be invalid and the legal description shall be completed or corrected to meet the requirements of Fidelity National Title ("**Title Company**"), which shall issue the title policy hereinafter described.

2.3. The Property includes, at no additional cost to Buyer, the permanent improvements thereon, including those items which pursuant to applicable law are a part of the property, as well as the following items, if any, owned by Seller and at present located on the Property: electrical distribution systems (power panel, bus ducting, conduits, disconnects, lighting fixtures); telephone distribution systems (lines, jacks and connections only); space heaters; heating, ventilating, air conditioning equipment ("**HVAC**"); air lines; fire sprinkler systems; security and fire detection systems; carpets; window coverings; wall coverings; and \_\_\_\_\_ (collectively, the "**Improvements**").

2.4. The fire sprinkler monitor: ☒ is owned by Seller and included in the Purchase Price, ☐ is leased by Seller, and Buyer will need to negotiate a new lease with the fire monitoring company, ☐ ownership will be determined during Escrow, or ☐ there is no fire sprinkler monitor.

2.5. Except as provided in Paragraph 2.3, the Purchase Price does not include Seller's personal property, furniture and furnishings, and \_\_\_\_\_ all of which shall be removed by Seller prior to Closing.

**3. Purchase Price.**

3.1. The purchase price ("**Purchase Price**") to be paid by Buyer to Seller for the Property shall be \$13,400,000.00, payable as follows:  
(Strike any not applicable)

Cash down payment, including the Deposit as defined in paragraph 4.3 (or if an all cash transaction, the Purchase Price): \$13,400,000.00

Total Purchase Price: \$13,400,000.00

3.2. If Buyer is taking title to the Property subject to, or assuming, an Existing Deed of Trust and such deed of trust permits the beneficiary to demand payment of fees including, but not limited to, points, processing fees, and appraisal fees as a condition to the transfer of the Property, Buyer agrees to pay such fees up to a maximum of 1.5% of the unpaid principal balance of the applicable Existing Note.

**4. Deposits.**

4.1. ☒ Within one (1) business day after both Parties have executed this Agreement and the executed Agreement has been delivered to Escrow Holder Buyer shall deliver to Escrow Holder a check in the sum of \$550,000.00. If said check is not received by Escrow Holder within said time period then Seller may elect to unilaterally terminate this transaction by giving written notice of such election to Escrow Holder whereupon neither Party shall have any further liability to the other under this Agreement. Should Buyer and Seller not enter into an agreement for purchase and sale, Buyer's check or funds shall, upon request by Buyer, be promptly returned to Buyer.

/s/ FA

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/s/ JSR

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4.2. Escrow Holder shall deposit the funds deposited with it by Buyer pursuant to paragraph 4.1 (the "**Deposit**"), in a State or Federally chartered bank in an interest bearing account whose term is appropriate and consistent with the timing requirements of this transaction. The interest therefrom shall accrue to the benefit of Buyer, who hereby acknowledges that there may be penalties or interest forfeitures if the applicable instrument is redeemed prior to its specified maturity. Buyer's Federal Tax Identification Number is \_\_\_\_\_. NOTE: Such interest bearing account cannot be opened until Buyer's Federal Tax Identification Number is provided.

4.3. Notwithstanding the foregoing, within 5 days after Escrow Holder receives the monies described in paragraph 4.1 above, Escrow Holder shall release \$100 of said monies to Seller as and for independent consideration for Seller's' execution of this Agreement and the granting of the contingency period to Buyer as herein provided. Such independent consideration is non-refundable to Buyer but shall be credited to the Purchase Price in the event that the purchase of the Property is completed.

4.4. Upon waiver of all of Buyer's contingencies the Deposit shall become non-refundable but applicable to the Purchase Price except in the event of a Seller breach, or in the event that the Escrow is terminated pursuant to the provisions of Paragraph 9.1(n) (Destruction, Damage or Loss) or 9.1(o) (Material Change).

5. **Reserved.**

6. **Reserved.**

7. **Real Estate Brokers.**

7.1. Each Party acknowledges receiving a Disclosure Regarding Real Estate Agency Relationship, confirms and consents to the following agency relationships in this transaction with the following real estate broker(s) ("**Brokers**") and/or their agents ("**Agent(s)**"):

Seller's Brokerage Firm CBRE License No. \_\_\_\_\_ is the broker of (check one): ☒ the Seller; or ☐ both the Buyer and Seller (dual agent).

Seller's Agent \_\_\_\_\_ License No. \_\_\_\_\_ is (check one): ☐ the Seller's Agent (salesperson or broker associate); or ☐ both the Seller's Agent (dual agent).

Buyer's Brokerage Firm \_\_\_\_\_ License No. \_\_\_\_\_ is the broker of (check one): ☐ the Buyer; or ☐ both the Buyer and Seller (dual agent).

Buyer's Agent \_\_\_\_\_ License No. \_\_\_\_\_ is (check one): ☐ the Buyer's Agent (salesperson or broker associate); or ☐ both the Buyer's Agent and the Seller's Agent (dual agent).

The Parties acknowledge that other than the Brokers and Agents listed above, there are no other brokers or agents representing the Parties or due any fees and/or commissions under this Agreement. See paragraph 24 regarding the nature of a real estate agency relationship. Buyer shall use the services of Buyer's Broker exclusively in connection with any and all negotiations and offers with respect to the Property for a period of 1 year from the date inserted for reference purposes at the top of page 1.

7.2. Buyer and Seller each represent and warrant to the other that he/she/it has had no dealings with any person, firm, broker, agent or finder in connection with the negotiation of this Agreement and/or the consummation of the purchase and sale contemplated herein, other than the Brokers and Agents named in paragraph 7.1, and no broker, agent or other person, firm or entity, other than said Brokers and Agents is/are entitled to any commission or finder's fee in connection with this transaction as the result of any dealings or acts of such Party. Buyer and Seller do each hereby agree to indemnify, defend, protect and hold the other harmless from and against any costs, expenses or liability for compensation, commission or charges which may be claimed by any broker, agent, finder or other similar party, other than said named Brokers and Agents by reason of any dealings or act of the indemnifying Party.

8. **Escrow and Closing.**

8.1. Upon acceptance hereof by Seller, this Agreement, including any counteroffers incorporated herein by the Parties, shall constitute not only the agreement of purchase and sale between Buyer and Seller, but also instructions to Escrow Holder for the consummation of the Agreement through the Escrow. Escrow Holder shall not prepare any further escrow instructions restating or amending the Agreement unless specifically so instructed by the Parties or a Broker herein. Subject to the reasonable approval of the Parties, Escrow Holder may, however, include its standard general escrow provisions. In the event that there is any conflict between the provisions of the Agreement and the provisions of any additional escrow instructions the provisions of the Agreement shall prevail as to the Parties and the Escrow Holder.

8.2. As soon as practical after the receipt of this Agreement and any relevant counteroffers, Escrow Holder shall ascertain the Date of Agreement as defined in paragraphs 1.2 and 20.2 and advise the Parties and Brokers, in writing, of the date ascertained.

8.3. Escrow Holder is hereby authorized and instructed to conduct the Escrow in accordance with this Agreement, applicable law and custom and practice of the community in which Escrow Holder is located, including any reporting requirements of the Internal Revenue Code. In the event of a conflict between the law of the state where the Property is located and the law of the state where the Escrow Holder is located, the law of the state where the Property is located shall prevail.

8.4. Subject to satisfaction of the contingencies herein described, Escrow Holder shall close this escrow (the "Closing") by recording a general warranty deed (a grant deed in California) and the other documents required to be recorded, and by disbursing the funds and documents in accordance with this Agreement.

/s/ FA  
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/s/ JSR  
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8.5. Buyer and Seller shall each pay one-half of the Escrow Holder's charges and Seller shall pay the usual recording fees and any required documentary transfer taxes. Seller shall pay the premium for a standard coverage owner's or joint protection policy of title insurance. (See also paragraph 11.)

8.6. Escrow Holder shall verify that all of Buyer's contingencies have been satisfied or waived prior to Closing. The matters contained in paragraphs 9.1 subparagraphs (b), (c), (d), (e), (g), (i), (n), and (o), 9.4, 12, 13, 14, 16, 18, 20, 21, 22, and 24 are, however, matters of agreement between the Parties only and are not instructions to Escrow Holder.

8.7. If this transaction is terminated for non-satisfaction and non-waiver of a Buyer's Contingency, as defined in Paragraph 9.2 or disapproval of any other matter subject to Buyer's approval, then neither of the Parties shall thereafter have any liability to the other under this Agreement, except to the extent of a breach of any affirmative covenant or warranty in this Agreement. In the event of such termination, Buyer shall, subject to the provisions of paragraph 8.10, be promptly refunded all funds deposited by Buyer with Escrow Holder, less only the \$100 provided for in paragraph 4.4 and the Title Company and Escrow Holder cancellation fees and costs, all of which shall be Buyer's obligation. If this transaction is terminated as a result of Seller's breach of this Agreement then Seller shall pay the Title Company and Escrow Holder cancellation fees and costs.

8.8. The Closing shall occur on the Expected Closing Date, or as soon thereafter as the Escrow is in condition for Closing; provided, however, that if the Closing does not occur by the Expected Closing Date and said Date is not extended by mutual instructions of the Parties, a Party not then in default under this Agreement may notify the other Party, Escrow Holder, and Brokers, in writing that, unless the Closing occurs within 5 business days following said notice, the Escrow shall be deemed terminated without further notice or instructions.

8.9. Except as otherwise provided herein, the termination of Escrow shall not relieve or release either Party from any obligation to pay Escrow Holder's fees and costs or constitute a waiver, release or discharge of any breach or default that has occurred in the performance of the obligations, agreements, covenants or warranties contained therein.

8.10. If this sale of the Property is not consummated for any reason other than Seller's breach or default, then at Seller's request, and as a condition to any obligation to return Buyer's deposit (see paragraph 21), Buyer shall within 5 days after written request deliver to Seller, at no charge, copies of all surveys, engineering studies, soil reports, maps, master plans, feasibility studies and other similar items prepared by or for Buyer that pertain to the Property. Provided, however, that Buyer shall not be required to deliver any such report if the written contract which Buyer entered into with the consultant who prepared such report specifically forbids the dissemination of the report to others.

## 9. Contingencies to Closing.

9.1. The Closing of this transaction is contingent upon the satisfaction or waiver of the following contingencies. **IF BUYER FAILS TO NOTIFY ESCROW HOLDER, IN WRITING, OF THE DISAPPROVAL OF ANY OF SAID CONTINGENCIES WITHIN THE TIME SPECIFIED THEREIN, IT SHALL BE CONCLUSIVELY PRESUMED THAT BUYER HAS APPROVED SUCH ITEM, MATTER OR DOCUMENT.** Buyer's conditional approval shall constitute disapproval, unless provision is made by the Seller within the time specified therefore by the Buyer in such conditional approval or by this Agreement, whichever is later, for the satisfaction of the condition imposed by the Buyer. Escrow Holder shall promptly provide all Parties with copies of any written disapproval or conditional approval which it receives. With regard to subparagraphs (a) through (m) the pre-printed time periods shall control unless a different number of days is inserted in the spaces provided.

(a) *Disclosure.* Seller shall make to Buyer, through Escrow, all of the applicable disclosures required by law (See AIR CRE ("**AIR**") standard form entitled "Seller's Mandatory Disclosure Statement") and provide Buyer with a completed Property Information Sheet ("**Property Information Sheet**") concerning the Property, duly executed by or on behalf of Seller in the current form or equivalent to that published by the AIR within 10 or \_\_\_\_\_ days following the Date of Agreement. Buyer has 10 days from the receipt of said disclosures to approve or disapprove the matters disclosed.

(b) *Physical Inspection.* Buyer has 10 or \_\_\_\_\_ days following the receipt of the Property Information Sheet or the Date of Agreement, whichever is later, to satisfy itself with regard to the physical aspects and size of the Property.

(c) *Conditions of Title.* Escrow Holder shall cause a current commitment for title insurance ("**Title Commitment**") concerning the Property issued by the Title Company, as well as legible copies of all documents referred to in the Title Commitment ("**Underlying Documents**"), and a scaled and dimensioned plot showing the location of any easements to be delivered to Buyer within 10 or \_\_\_\_\_ days following the Date of Agreement. Buyer has 10 days from the receipt of the Title Commitment, the Underlying Documents and the plot plan to satisfy itself with regard to the condition of title. The disapproval by Buyer of any monetary encumbrance, which by the terms of this Agreement is not to remain against the Property after the Closing, shall not be considered a failure of this contingency, as Seller shall have the obligation, at Seller's expense, to satisfy and remove such disapproved monetary encumbrance at or before the Closing.

(d) *Survey.* Buyer has 30 or \_\_\_\_\_ days following the receipt of the Title Commitment and Underlying Documents to satisfy itself with regard to any ALTA title supplement based upon a survey prepared to American Land Title Association ("**ALTA**") standards for an owner's policy by a licensed surveyor, showing the legal description and boundary lines of the Property, any easements of record, and any improvements, poles, structures and things located within 10 feet of either side of the Property boundary lines. Any such survey shall be prepared at Buyer's direction and expense. If Buyer has obtained a survey and approved the ALTA title supplement, Buyer may elect within the period allowed for Buyer's approval of a survey to have an ALTA extended coverage owner's form of title policy, in which event Buyer shall pay any additional premium attributable thereto.

(e) *Other Agreements.* Seller shall within 10 or \_\_\_\_\_ days following the Date of Agreement provide Buyer with legible copies of all other agreements ("**Other Agreements**") known to Seller that will affect the Property after Closing. Buyer has 10 days from the receipt of said Other Agreements to satisfy itself with regard to such Agreements.

/s/ FA  
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/s/ JSR  
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(f) *Destruction, Damage or Loss.* Subsequent to the Date of Agreement and prior to Closing there shall not have occurred a destruction of, or damage or loss to, the Property or any portion thereof, from any cause whatsoever, which would cost more than \$10,000.00 to repair or cure. If the cost of repair or cure is \$10,000.00 or less, Seller shall repair or cure the loss prior to the Closing. Buyer shall have the option, within 10 days after receipt of written notice of a loss costing more than \$10,000.00 to repair or cure, to either terminate this Agreement or to purchase the Property notwithstanding such loss, but without deduction or offset against the Purchase Price. If the cost to repair or cure is more than \$10,000.00, and Buyer does not elect to terminate this Agreement, Buyer shall be entitled to any insurance proceeds applicable to such loss. Unless otherwise notified in writing, Escrow Holder shall assume no such destruction, damage or loss has occurred prior to Closing.

(g) *Material Change.* Buyer shall have 10 days following receipt of written notice of a Material Change within which to satisfy itself with regard to such change. "**Material Change**" shall mean a substantial adverse change in the use, occupancy, tenants, title, or condition of the Property that occurs after the date of this offer and prior to the Closing. Unless otherwise notified in writing, Escrow Holder shall assume that no Material Change has occurred prior to the Closing.

(h) *Seller Performance.* The delivery of all documents and the due performance by Seller of each and every undertaking and agreement to be performed by Seller under this Agreement.

(i) *Brokerage Fee.* Payment at the Closing of such brokerage fee as is specified in this Agreement or later written instructions to Escrow Holder executed by Seller and Brokers ("**Brokerage Fee**").

9.2. All of the contingencies specified in subparagraphs (a) through (m) of paragraph 9.1 are for the benefit of, and may be waived by, Buyer, and may be elsewhere herein referred to as "**Buyer's Contingencies**."

9.3. The Parties acknowledge that extensive local, state and Federal legislation establish broad liability upon owners and/or users of real property for the investigation and remediation of Hazardous Substances. The determination of the existence of a Hazardous Substance Condition and the evaluation of the impact of such a condition are highly technical and beyond the expertise of Brokers. The Parties acknowledge that they have been advised by Brokers to consult their own technical and legal experts with respect to the possible presence of Hazardous Substances on the Property or adjoining properties, and Buyer and Seller are not relying upon any investigation by or statement of Brokers with respect thereto. The Parties hereby assume all responsibility for the impact of such Hazardous Substances upon their respective interests herein.

## **10. Documents and Other Items Required at or Before Closing.**

10.1. Five days prior to the Closing date Escrow Holder shall obtain an updated Title Commitment concerning the Property from the Title Company and provide copies thereof to each of the Parties.

10.2. Seller shall deliver to Escrow Holder in time for delivery to Buyer at the Closing:

(a) Grant or general warranty deed, duly executed and in recordable form, conveying fee title to the Property to Buyer.

(b) If applicable, the Beneficiary Statements concerning Existing Note(s).

(c) If applicable, the Existing Leases and Other Agreements together with duly executed assignments thereof by Seller and Buyer. The assignment of Existing Leases shall be on the most recent Assignment and Assumption of Lessor's Interest in Lease form published by the AIR or its equivalent.

(d) If applicable, Estoppel Certificates executed by Seller and/or the tenant(s) of the Property.

(e) An affidavit executed by Seller to the effect that Seller is not a "foreign person" within the meaning of Internal Revenue Code Section 1445 or successor statutes. If Seller does not provide such affidavit in form reasonably satisfactory to Buyer at least 3 business days prior to the Closing, Escrow Holder shall at the Closing deduct from Seller's proceeds and remit to the Internal Revenue Service such sum as is required by applicable Federal law with respect to purchases from foreign sellers.

(f) If the Property is located in California, an affidavit executed by Seller to the effect that Seller is not a "nonresident" within the meaning of California Revenue and Tax Code Section 18662 or successor statutes. If Seller does not provide such affidavit in form reasonably satisfactory to Buyer at least 3 business days prior to the Closing, Escrow Holder shall at the Closing deduct from Seller's proceeds and remit to the Franchise Tax Board such sum as is required by such statute.

(g) If applicable, a bill of sale, duly executed, conveying title to any included personal property to Buyer.

(h) If the Seller is a corporation, a duly executed corporate resolution authorizing the execution of this Agreement and the sale of the Property.

10.3. Buyer shall deliver to Seller through Escrow:

(a) The cash portion of the Purchase Price and such additional sums as are required of Buyer under this Agreement shall be deposited by Buyer with Escrow Holder, by federal funds wire transfer, or any other method acceptable to Escrow Holder in immediately collectable funds, no later than 2:00 P.M. on the business day prior to the Expected Closing Date provided, however, that Buyer shall not be required to deposit such monies into Escrow if at the time set for the deposit of such monies Seller is in default or has indicated that it will not perform any of its obligations hereunder. Instead, in such circumstances in order to reserve its rights to proceed Buyer need only provide Escrow with evidence establishing that the required monies were available.

(b) The Assignment and Assumption of Lessor's Interest in Lease form specified in paragraph 10.2(c) above, duly executed by Buyer.



(c) Assumptions duly executed by Buyer of the obligations of Seller that accrue after Closing under any Other Agreements.

(d) If applicable, a written assumption duly executed by Buyer of the loan documents with respect to Existing Notes.

(e) If the Buyer is a corporation, a duly executed corporate resolution authorizing the execution of this Agreement and the purchase

of the Property.

/s/ FA

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/s/ JSR

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10.4. At Closing, Escrow Holder shall cause to be issued to Buyer a standard coverage (or ALTA extended, if elected pursuant to 9.1(g)) owner's form policy of title insurance effective as of the Closing, issued by the Title Company in the full amount of the Purchase Price, insuring title to the Property vested in Buyer, subject only to the exceptions approved by Buyer. In the event there is a Purchase Money Deed of Trust in this transaction, the policy of title insurance shall be a joint protection policy insuring both Buyer and Seller.

**IMPORTANT: IN A PURCHASE OR EXCHANGE OF REAL PROPERTY, IT MAY BE ADVISABLE TO OBTAIN TITLE INSURANCE IN CONNECTION WITH THE CLOSE OF ESCROW SINCE THERE MAY BE PRIOR RECORDED LIENS AND ENCUMBRANCES WHICH AFFECT YOUR INTEREST IN THE PROPERTY BEING ACQUIRED. A NEW POLICY OF TITLE INSURANCE SHOULD BE OBTAINED IN ORDER TO ENSURE YOUR INTEREST IN THE PROPERTY THAT YOU ARE ACQUIRING.**

## **11. Prorations and Adjustments.**

11.1. *Taxes.* Applicable real property taxes and special assessment bonds shall be prorated through Escrow as of the date of the Closing, based upon the latest tax bill available. The Parties agree to prorate as of the Closing any taxes assessed against the Property by supplemental bill levied by reason of events occurring prior to the Closing. Payment of the prorated amount shall be made promptly in cash upon receipt of a copy of any supplemental bill.

11.2. *Insurance.* **WARNING:** Any insurance which Seller may have maintained will terminate on the Closing. Buyer is advised to obtain appropriate insurance to cover the Property.

11.3. *Rentals, Interest and Expenses.* Scheduled rentals, interest on Existing Notes, utilities, and operating expenses shall be prorated as of the date of Closing. The Parties agree to promptly adjust between themselves outside of Escrow any rents received after the Closing.

11.4. *Security Deposit.* Security Deposits held by Seller shall be given to Buyer as a credit to the cash required of Buyer at the Closing.

11.5. *Post Closing Matters.* Any item to be prorated that is not determined or determinable at the Closing shall be promptly adjusted by the Parties by appropriate cash payment outside of the Escrow when the amount due is determined.

11.6. *Variations in Existing Note Balances.* In the event that Buyer is purchasing the Property subject to an Existing Deed of Trust(s), and in the event that a Beneficiary Statement as to the applicable Existing Note(s) discloses that the unpaid principal balance of such Existing Note(s) at the closing will be more or less than the amount set forth in paragraph 3.1(c) hereof ("**Existing Note Variation**"), then the Purchase Money Note(s) shall be reduced or increased by an amount equal to such Existing Note Variation. If there is to be no Purchase Money Note, the cash required at the Closing per paragraph 3.1(a) shall be reduced or increased by the amount of such Existing Note Variation.

11.7. *Variations in New Loan Balance.* In the event Buyer is obtaining a New Loan and the amount ultimately obtained exceeds the amount set forth in paragraph 5.1, then the amount of the Purchase Money Note, if any, shall be reduced by the amount of such excess.

11.8. *Owner's Association Fees.* Escrow Holder shall: (i) bring Seller's account with the association current and pay any delinquencies or transfer fees from Seller's proceeds, and (ii) pay any up front fees required by the association from Buyer's funds.

## **12. Representations and Warranties of Seller and Disclaimers.**

12.1. Seller's warranties and representations shall survive the Closing and recordation of the deed for a period of six (6) months, and any lawsuit or action based upon them must be commenced within such time period. Seller's warranties and representations are true, material and relied upon by Buyer and Brokers in all respects. Seller hereby makes the following warranties and representations to Buyer and Brokers:

(a) *Authority of Seller.* Seller is the owner of the Property and/or has the full right, power and authority to sell, convey and transfer the Property to Buyer as provided herein, and to perform Seller's obligations hereunder.

(b) *Maintenance During Escrow and Equipment Condition At Closing.* Except as otherwise provided in paragraph 9.1(n) hereof, Seller shall maintain the Property until the Closing in its present condition, ordinary wear and tear excepted.

(c) *Hazardous Substances/Storage Tanks.* Seller has no knowledge, except as otherwise disclosed to Buyer in writing, of the existence or prior existence on the Property of any Hazardous Substance, nor of the existence or prior existence of any above or below ground storage tank.

(d) *Compliance.* Seller has no knowledge of any aspect or condition of the Property which violates applicable laws, rules, regulations, codes or covenants, conditions or restrictions, or of improvements or alterations made to the Property without a permit where one was required, or of any unfulfilled order or directive of any applicable governmental agency or casualty insurance company requiring any investigation, remediation, repair, maintenance or improvement be performed on the Property.

(e) *Changes in Agreements.* Prior to the Closing, Seller will not violate or modify any Existing Lease or Other Agreement, or create any new leases or other agreements affecting the Property, without Buyer's written approval, which approval will not be unreasonably withheld.

(f) *Possessory Rights.* Seller has no knowledge that anyone will, at the Closing, have any right to possession of the Property, except as disclosed by this Agreement or otherwise in writing to Buyer.

(g) *Mechanics' Liens.* There are no unsatisfied mechanics' or materialmen's lien rights concerning the Property.

(h) *Actions, Suits or Proceedings.* Seller has no knowledge of any actions, suits or proceedings pending or threatened before any commission, board, bureau, agency, arbitrator, court or tribunal that would affect the Property or the right to occupy or utilize same.

(i) *Notice of Changes.* Seller will promptly notify Buyer and Brokers in writing of any Material Change (see paragraph 9.1(o)) affecting the Property that becomes known to Seller prior to the Closing.

(j) *No Tenant Bankruptcy Proceedings.* Seller has no notice or knowledge that any tenant of the Property is the subject of a bankruptcy or insolvency proceeding.

(k) *No Seller Bankruptcy Proceedings.* Seller is not the subject of a bankruptcy, insolvency or probate proceeding.

/s/ FA

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/s/ JSR

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(l) *Personal Property.* Seller has no knowledge that anyone will, at the Closing, have any right to possession of any personal property included in the Purchase Price nor knowledge of any liens or encumbrances affecting such personal property, except as disclosed by this Agreement or otherwise in writing to Buyer.

12.2. Buyer hereby acknowledges that, except as otherwise stated in this Agreement, Buyer is purchasing the Property in its existing condition and will, by the time called for herein, make or have waived all inspections of the Property Buyer believes are necessary to protect its own interest in, and its contemplated use of, the Property. The Parties acknowledge that, except as otherwise stated in this Agreement, no representations, inducements, promises, agreements, assurances, oral or written, concerning the Property, or any aspect of the occupational safety and health laws, Hazardous Substance laws, or any other act, ordinance or law, have been made by either Party or Brokers, or relied upon by either Party hereto.

12.3. In the event that Buyer learns that a Seller representation or warranty might be untrue prior to the Closing, and Buyer elects to purchase the Property anyway then, and in that event, Buyer waives any right that it may have to bring an action or proceeding against Seller or Brokers regarding said representation or warranty.

12.4. Any environmental reports, soils reports, surveys, and other similar documents which were prepared by third party consultants and provided to Buyer by Seller or Seller's representatives, have been delivered as an accommodation to Buyer and without any representation or warranty as to the sufficiency, accuracy, completeness, and/or validity of said documents, all of which Buyer relies on at its own risk. Seller believes said documents to be accurate, but Buyer is advised to retain appropriate consultants to review said documents and investigate the Property.

### **13. Possession.**

Possession of the Property shall be given to Buyer at the Closing subject to the rights of tenants under Existing Leases.

### **14. Buyer's Entry.**

At any time during the Escrow period, Buyer, and its agents and representatives, shall have the right at reasonable times and subject to rights of tenants, to enter upon the Property for the purpose of making inspections and tests specified in this Agreement. No destructive testing shall be conducted, however, without Seller's prior approval in its sole discretion. Following any such entry or work, unless otherwise directed in writing by Seller, Buyer shall return the Property to the condition it was in prior to such entry or work, including the re-compaction or removal of any disrupted soil or material as Seller may reasonably direct. All such inspections and tests and any other work conducted or materials furnished with respect to the Property by or for Buyer shall be paid for by Buyer as and when due and Buyer shall indemnify, defend, protect and hold harmless Seller and the Property of and from any and all claims, liabilities, losses, expenses (including reasonable attorneys' fees), damages, including those for injury to person or property, arising out of or relating to any such work or materials or the acts or omissions of Buyer, its agents or employees in connection therewith.

### **15. Further Documents and Assurances.**

The Parties shall each, diligently and in good faith, undertake all actions and procedures reasonably required to place the Escrow in condition for Closing as and when required by this Agreement. The Parties agree to provide all further information, and to execute and deliver all further documents, reasonably required by Escrow Holder or the Title Company.

### **16. Attorneys' Fees.**

If any Party or Broker brings an action or proceeding (including arbitration) involving the Property whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees and costs. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term "**Prevailing Party**" shall include, without limitation, a Party or Broker who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party or Broker of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred.

### **17. Prior Agreements/Amendments.**

17.1. This Agreement supersedes any and all prior agreements between Seller and Buyer regarding the Property.

17.2. Amendments to this Agreement are effective only if made in writing and executed by Buyer and Seller.

### **18. Reserved.**

### **19. Notices.**

19.1. Whenever any Party, Escrow Holder or Brokers herein shall desire to give or serve any notice, demand, request, approval, disapproval or other communication, each such communication shall be in writing and shall be delivered personally, by messenger, or by mail, postage prepaid, to the address set forth in this agreement or by facsimile transmission, electronic signature, digital signature, or email.

/s/ FA

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/s/ JSR

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19.2. Service of any such communication shall be deemed made on the date of actual receipt if personally delivered, or transmitted by facsimile transmission, electronic signature, digital signature, or email. Any such communication sent by regular mail shall be deemed given 48 hours after the same is mailed. Communications sent by United States Express Mail or overnight courier that guarantee next day delivery shall be deemed delivered 24 hours after delivery of the same to the Postal Service or courier. If such communication is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

19.3. Any Party or Broker hereto may from time to time, by notice in writing, designate a different address to which, or a different person or additional persons to whom, all communications are thereafter to be made.

## 20. Duration of Offer.

20.1. If this offer is not accepted by Seller on or before 5:00 P.M. California time on the date of December 31, 2019, it shall be deemed automatically revoked.

20.2. The acceptance of this offer, or of any subsequent counteroffer hereto, that creates an agreement between the Parties as described in paragraph 1.2, shall be deemed made upon delivery to the other Party or either Broker herein of a duly executed writing unconditionally accepting the last outstanding offer or counteroffer.

## 21. LIQUIDATED DAMAGES. (This Liquidated Damages paragraph is applicable only if initialed by both Parties).

THE PARTIES AGREE THAT IT WOULD BE IMPRACTICABLE OR EXTREMELY DIFFICULT TO FIX, PRIOR TO SIGNING THIS AGREEMENT, THE ACTUAL DAMAGES WHICH WOULD BE SUFFERED BY SELLER IF BUYER FAILS TO PERFORM ITS OBLIGATIONS UNDER THIS AGREEMENT. THEREFORE, IF, AFTER THE SATISFACTION OR WAIVER OF ALL CONTINGENCIES PROVIDED FOR THE BUYER'S BENEFIT, BUYER BREACHES THIS AGREEMENT, SELLER SHALL BE ENTITLED TO LIQUIDATED DAMAGES IN THE AMOUNT OF THE FULL DEPOSIT OF \$550,000.00, PLUS INTEREST. UPON PAYMENT OF SAID SUM TO SELLER, BUYER SHALL BE RELEASED FROM ANY FURTHER LIABILITY TO SELLER, EXCEPT FOR ANY INDEMNITY OR OTHER OBLIGATIONS THAT SURVIVE TERMINATION OF THIS AGREEMENT, AND ANY ESCROW CANCELLATION FEES AND TITLE COMPANY CHARGES SHALL BE PAID BY SELLER.

/s/ FA  
Buyer's Initials

/s/ JSR  
Seller's Initials

## 22. RESERVED.

## 23. Miscellaneous.

23.1. **Binding Effect.** This Agreement shall be binding on the Parties without regard to whether or not paragraphs 21 and 22 are initialed by both of the Parties. Paragraphs 21 and 22 are each incorporated into this Agreement only if initialed by both Parties at the time that the Agreement is executed. Signatures to this Agreement accomplished by means of electronic signature or similar technology shall be legal and binding.

23.2. **Applicable Law.** This Agreement shall be governed by, and paragraph 22.3 is amended to refer to, the laws of the state in which the Property is located. Any litigation or arbitration between the Parties hereto concerning this Agreement shall be initiated in the county in which the Property is located.

23.3. **Time of Essence.** Time is of the essence of this Agreement.

23.4. **Counterparts.** This Agreement may be executed by Buyer and Seller in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Escrow Holder, after verifying that the counterparts are identical except for the signatures, is authorized and instructed to combine the signed signature pages on one of the counterparts, which shall then constitute the Agreement.

23.5. **Waiver of Jury Trial.** **THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING INVOLVING THE PROPERTY OR ARISING OUT OF THIS AGREEMENT.**

23.6. **Conflict.** Any conflict between the printed provisions of this Agreement and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions.

23.7. **1031 Exchange.** Both Seller and Buyer agree to cooperate with each other in the event that either or both wish to participate in a 1031 exchange, including, without limitation, Buyer's exchange accommodator, EZ1031 Exchange, Inc. ("**EZ 1031**"). Upon Escrow Holder's receipt of the additional funds for the Deposit from EZ 1031, Escrow Holder shall return the original Deposit to Buyer without any additional approval from Seller. Any party initiating an exchange shall bear all costs of such exchange. The cooperating Party shall not have any liability (special or otherwise) for damages to the exchanging Party in the event that the sale is delayed and/or that the sale otherwise fails to qualify as a 1031 exchange.

23.8. **Days.** Unless otherwise specifically indicated to the contrary, the word "days" as used in this Agreement shall mean and refer to calendar days.

24. **Construction of Agreement.** In construing this Agreement, all headings and titles are for the convenience of the Parties only and shall not be considered a part of this Agreement. Whenever required by the context, the singular shall include the plural and vice versa. This Agreement shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

/s/ FA  
INITIALS

/s/ JSR  
INITIALS



25. Additional Provisions.

Additional provisions of this offer, if any, are as follows or are attached hereto by an addendum attached hereto.

NOTE:

1. THIS FORM IS NOT FOR USE IN CONNECTION WITH THE SALE OF RESIDENTIAL PROPERTY.
2. IF EITHER PARTY IS A CORPORATION, IT IS RECOMMENDED THAT THIS AGREEMENT BE SIGNED BY TWO CORPORATE OFFICERS.

The undersigned Buyer offers and agrees to buy the Property on the terms and conditions stated and acknowledges receipt of a copy hereof.

Date: December 31, 2019.

**BROKER**

\_\_\_\_\_

Attn: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Federal ID No.: \_\_\_\_\_

Broker DRE License #: \_\_\_\_\_

Agent DRE License #: \_\_\_\_\_

**BUYER**

PARKVIEW MANAGEMENT GROUP, INC.

By: /s/ Fred Afari

Name Printed: Fred Afari 1/2/2020

Title: President

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

By: \_\_\_\_\_

Name Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Address: \_\_\_\_\_

Federal ID No.: \_\_\_\_\_

/s/ FA

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**26. Acceptance.**

26.1. Seller accepts the foregoing offer to purchase the Property and hereby agrees to sell the Property to Buyer on the terms and conditions therein specified.

26.2. In consideration of real estate brokerage service rendered by Brokers, Seller agrees to pay Brokers a real estate Brokerage Fee pursuant to separate agreement.

26.3. Seller acknowledges receipt of a copy hereof and authorizes Brokers to deliver a signed copy to Buyer.

**NOTE: A PROPERTY INFORMATION SHEET IS REQUIRED TO BE DELIVERED TO BUYER BY SELLER UNDER THIS AGREEMENT.**

Date: December 31, 2019.

**BROKER**

\_\_\_\_\_

Attn: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Federal ID No.: \_\_\_\_\_

Broker DRE License #: \_\_\_\_\_

Agent DRE License #: \_\_\_\_\_

**SELLER**

SYSTRON DONNER INERTIAL, INC.

By: /s/ Jeffrey S. Rittichier

Name Printed: Jeffrey S. Rittichier

Title: President and CEO

Phone: 626-293-3729

Fax: \_\_\_\_\_

Email: jrittichier@emcore.com

By: \_\_\_\_\_

Name Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Address: \_\_\_\_\_

Federal ID No.: \_\_\_\_\_

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**FIRST ADDENDUM TO STANDARD OFFER, AGREEMENT AND  
ESCROW INSTRUCTIONS FOR PURCHASE OF REAL ESTATE  
(NON-RESIDENTIAL)**

This FIRST ADDENDUM TO STANDARD OFFER, AGREEMENT AND ESCROW INSTRUCTIONS FOR PURCHASE OF REAL ESTATE (NON-RESIDENTIAL) (this “**Addendum**”) is entered into as of December 31, 2019 by and between SYSTRON DONNER INERTIAL, INC., a Delaware corporation (“**Seller**”), and PARKVIEW MANAGEMENT GROUP, INC. and/or an affiliated entity (“**Buyer**”), and is appended to, and shall form a part of, the Standard Offer, Agreement and Escrow Instructions for Purchase of Real Estate (Non-Residential) dated as of December 31, 2019 by and between Seller and Buyer, and the Addendum to Standard Offer, Agreement and Escrow Instructions for Purchase of Real Estate (Non-Residential) attached thereto (collectively, the “**Base Agreement**”), with respect to certain real property located at 2700 Systron Drive, Concord, California.

To the extent that the provisions of this Addendum are inconsistent with the terms and conditions of the Base Agreement, the provisions of this Addendum shall control. The term “Agreement” (as used herein and in the Base Agreement) shall include both the Base Agreement and the provisions of this Addendum. Initially capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Base Agreement.

A. Amendment of Provisions. The following provisions are hereby added, deleted and/or modified, as applicable:

1.1. Buyer. The Expected Closing Date is Tuesday, February 14, 2020.

2.1. Property. A legal description of the Property is attached hereto as Exhibit “A”.

4.1. Deposit. The parties hereby confirm that the first sentence of paragraph 4.1 of the Base Agreement shall be read to require one (1) business day following the full execution and delivery as the timeframe for delivery of the deposit in the sum of Five Hundred Fifty-Thousand and 00/100 Dollars (\$550,000.00).

4.2. Additional Deposits. Paragraph 4.2 is hereby deleted in its entirety.

7.1. Real Estate Brokers. CBRE is “Seller’s Broker,” and Buyer is not represented by any broker.

8.2. Escrow and Closing. All language before “Escrow Holder” is hereby deleted and replaced with the following language: “Within one (1) business day following the Date of Agreement”.

9. Contingencies to Closing. Notwithstanding any provision in the Base Agreement to the contrary (including Paragraph 9), (a) Buyer shall have until 5:00 p.m. California time on Friday, January 10, 2020 to notify Escrow Holder and Seller of its election to terminate the Agreement and the Escrow or its approval of the Property (including Buyer’s approval of title and survey), (b) Buyer’s sole option shall be either to (i) terminate the Agreement and the Escrow if it disapproves the Property or any contingencies by written notice to Seller and Escrow Holder, or (ii) approve the Property by written notice to Seller and Escrow Holder and proceed with the Escrow, and any conditional approval or any disapproval notice shall constitute Buyer’s deemed election to terminate the Escrow and the Agreement, and (c) Buyer’s failure to timely deliver a termination notice to Escrow Holder and Seller shall constitute Buyer’s deemed approval of the Property. If Buyer fails to deliver a termination notice by 5:00 p.m. California time on January 10, 2020, the Deposit shall be non-refundable.

Notwithstanding anything to the contrary contained in the Agreement, Seller shall have no obligation to deliver to Buyer: (i) Seller's financial analyses and calculations relating to the Seller itself and not solely to the operation of the Property; (ii) those documents that are protected by the attorney-client and/or attorney work product privileges; (iii) Seller's formation documentation or that of its members or investors, other than such organizational documents as are required by Escrow Holder; (iv) Seller's inter-member communications; and (v) Seller's tax returns or records. Seller does not represent, warrant or guaranty the accuracy or completeness of any due diligence documents delivered to Buyer.

Notwithstanding anything to the contrary contained in this Agreement, the Closing of the transaction is contingent upon (i) the Parties entering into that certain Single-Tenant Triple Net Lease attached hereto as "Exhibit B" and (ii) EMCORE Corporation, a Delaware corporation entering into that certain Lease Guaranty attached hereto as "Exhibit C".

9.1(f). Conditions of Title. The Parties acknowledge and agree that Seller delivered to Buyer the Title Commitment, the Underlying Exceptions and any plot plan on December 17, 2019.

9.1(g). Survey. Paragraph 9.1(g) is hereby amended and restated as follows: "Buyer shall have until the date that is ten (10) days after receipt of the Title Commitment (or the next business day, if such date falls on a non-business day) to cause a current ALTA survey (the "**Survey**") of the Property to be performed and prepared by a third party surveyor, at Buyer's cost and expense, and for Buyer to review and approve of the Survey. Seller shall reasonably cooperate with Buyer and Buyer's surveyor and shall permit Buyer's surveyor access to the Property in connection with the Survey during reasonable business hours."

9.1(n). Destruction, Damage or Loss. Paragraph 9.1(n) is hereby amended to replace \$10,000.00 with \$100,000.00.

9.1(q). Brokerage Fee. Paragraph 9.1(q) is hereby deleted in its entirety.

9.3. Contingencies. Paragraph 9.3 is hereby deleted in its entirety.

10.2. Closing Documents. Each of Seller and Buyer shall execute and deliver into the Escrow a leaseback agreement between Buyer, as "Landlord" or "Lessor," and Seller, as "Tenant" or "Lessee," in form and substance acceptable to the Parties.

12. Representations and Warranties. Paragraph 12.1 is hereby amended to replace 3 years with 6 months.

14. Buyer's Entry. Notwithstanding anything to the contrary in the Agreement, no destructive or invasive testing shall be conducted without Seller's prior written consent, in Seller's sole and absolute discretion.

18. Brokers. Paragraph 18 is hereby deleted in its entirety.

19.1 Notices. Any notice delivered to Seller shall be sent to c/o EMCORE Corporation, Attn: General Counsel, 2015 Chestnut St., Alhambra, CA 91803. and any notices delivered to Buyer shall be sent to 15260 Ventura Blvd., Suite 620, Sherman Oaks, CA 91403.

21. Liquidated Damages. The following language is hereby added to Paragraph 21:

RETENTION OF THE DEPOSIT SHALL BE SELLER'S SOLE REMEDY AGAINST BUYER FOR BUYER'S FAILURE TO PERFORM ITS OBLIGATIONS UNDER THE AGREEMENT. THE PAYMENT AND RETENTION OF SUCH AMOUNT AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO SELLER PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671, 1676 AND 1677.

BUYER /s/ FA

SELLER /s/ JSR

22. Arbitration of Disputes. Paragraph 22 is hereby deleted in its entirety.

24. Disclosures Regarding Brokers. Paragraph 24 is hereby deleted in its entirety. Brokers are neither parties to, nor third party beneficiaries of, the Agreement. Except for Paragraph 7 (as amended hereby), all references to "Brokers" are hereby deleted from the Agreement. Brokers shall have no authority to give or receive notices pursuant to paragraph 9 of the Agreement.

27. Acceptance. Paragraphs 27.2 and 27.3 are hereby deleted in their entirety.

B. Additional Provisions. The following provisions are hereby added to the Agreement:

1. Release. Except as expressly stated in the Agreement, Seller makes no representation or warranty as to the truth, accuracy or completeness of any materials, data or information delivered by Seller to Buyer in connection with the transaction contemplated hereby. Buyer acknowledges and agrees that all materials, data and information delivered by Seller to Buyer in connection with the transaction contemplated hereby are provided to Buyer as a convenience only and that any reliance on or use of such materials, data or information by Buyer shall be at the sole risk of Buyer, except as otherwise expressly stated herein. Without limiting the generality of the foregoing provisions, Buyer acknowledges and agrees that (i) any environmental or other report with respect to the Property which is delivered by Seller to Buyer shall be for general informational purposes only, (ii) Buyer shall not have any right to rely on any such report delivered by Seller to Buyer, but rather will rely on its own inspections and investigations of the Property and any reports commissioned by Buyer with respect thereto, (iii) neither Seller, nor any affiliate of Seller nor the person or entity which prepared any such report delivered by Seller to Buyer shall have any liability to Buyer for any inaccuracy in or omission from any such report and (iv) the failure to deliver any report as to the environmental or other condition of the Property, including any proposal for work at the Property which was not performed by Seller, shall not be actionable by Buyer under this Agreement or otherwise.

EXCEPT AS EXPRESSLY SET FORTH IN SECTION 12.1, BUYER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT SELLER IS SELLING AND BUYER IS PURCHASING THE PROPERTY ON AN “AS IS WITH ALL FAULTS” BASIS AND THAT BUYER IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM SELLER, ANY SELLER RELATED PARTIES, OR THEIR AGENTS OR BROKERS, OR ANY OTHER PERSON ACTING OR PURPORTING TO ACT ON BEHALF OF SELLER AS TO ANY MATTERS CONCERNING THE PROPERTY, INCLUDING WITHOUT LIMITATION: (i) the quality, nature, adequacy and physical condition and aspects of the Property, including, but not limited to, the structural elements, seismic aspects of the Property, foundation, roof, appurtenances, access, landscaping, parking facilities and the electrical, mechanical, HVAC, plumbing, sewage, and utility systems, facilities and appliances, the square footage within the improvements on the Property and within each tenant space therein, (ii) the quality, nature, adequacy, and physical condition of soils, geology and any groundwater, (iii) the existence, quality, nature, adequacy and physical condition of utilities serving the Property, (iv) the development potential of the Property, and the Property’s use, habitability, merchantability, or fitness, suitability, value or adequacy of the Property for any particular purpose, (v) the zoning or other legal status of the Property or any other public or private restrictions on use of the Property, (vi) the compliance of the Property or its operation with any applicable codes, laws, regulations, statutes, ordinances, covenants, conditions and restrictions of any governmental or quasi-governmental entity or of any other person or entity, (vii) the presence of Hazardous Substances on, SET FORTH IN SECTION 12.1, BUYER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT SELLER IS SELLING AND BUYER IS PURCHASING THE PROPERTY ON AN “AS IS WITH ALL FAULTS” BASIS AND THAT BUYER IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM SELLER, ANY SELLER RELATED PARTIES, OR THEIR AGENTS OR BROKERS, OR ANY OTHER PERSON ACTING OR PURPORTING TO ACT ON BEHALF OF SELLER AS TO ANY MATTERS CONCERNING THE PROPERTY, INCLUDING WITHOUT LIMITATION: (i) the quality, nature, adequacy and physical condition and aspects of the Property, including, but not limited to, the structural elements, seismic aspects of the Property, foundation, roof, appurtenances, access, landscaping, parking facilities and the electrical, mechanical, HVAC, plumbing, sewage, and utility systems, facilities and appliances, the square footage within the improvements on the Property and within each tenant space therein, (ii) the quality, nature, adequacy, and physical condition of soils, geology and any groundwater, (iii) the existence, quality, nature, adequacy and physical condition of utilities serving the Property, (iv) the development potential of the Property, and the Property’s use, habitability, merchantability, or fitness, suitability, value or adequacy of the Property for any particular purpose, (v) the zoning or other legal status of the Property or any other public or private restrictions on use of the Property, (vi) the compliance of the Property or its operation with any applicable codes, laws, regulations, statutes, ordinances, covenants, conditions and restrictions of any governmental or quasi-governmental entity or of any other person or entity, (vii) the presence of Hazardous Substances on, under or about the Property or the adjoining or neighboring property, (viii) the quality of any labor and materials used in any improvements on the Property, (ix) the condition of title to the Property, (x) other documents or agreements affecting the Property, or any information contained in any rent roll furnished to Buyer for the Property, (xi) the value, economics of the operation or income potential of the Property, or (x) any other fact or condition which may affect the Property, including without limitation, the physical condition, value, economics of operation or income potential of the Property.

Without limiting the above, and subject to the representations and warranties of Seller contained in Section 12.1 hereof, Buyer on behalf of itself and its successors and assigns waives its right to recover from, and forever releases and discharges, Seller, Seller's affiliates, Seller's investment advisors, the partners, trustees, beneficiaries, shareholders, members, managers, directors, officers, employees and agents and representatives of each of them, and their respective heirs, successors, personal representatives and assigns (collectively, the "**Seller Related Parties**"), effective as of the Closing (but applicable to any and all liabilities whether arising or accruing before, on or after the Closing and whether attributable to events or circumstances which arise or occur before, on or after the Closing), from any and all demands, claims, legal or administrative proceedings, losses, liabilities, damages, penalties, fines, liens, judgments, costs or expenses whatsoever (including, without limitation, court costs and attorneys' fees and disbursements), whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way be connected with or related to the Property, this Agreement and/or the transactions contemplated hereunder, including, without limitation (i) the physical condition of the Property including, without limitation, all structural and seismic elements, all mechanical, electrical, plumbing, sewage, heating, ventilating, air conditioning and other systems, the environmental condition of the Property and the presence of Hazardous Substances on, under or about the Property, (ii) any law or regulation applicable to the Property, including, without limitation, any environmental law and any other federal, state or local law, (iii) the due diligence materials, or (iv) any other matter.

Effective as of the Closing (but applicable to any and all liabilities whether arising or accruing before, on or after the Closing and whether attributable to events or circumstances which arise or occur before, on or after the Closing), Buyer expressly waives the benefits of Section 1542 of the California Civil Code, which provides as follows: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY." BUYER ACKNOWLEDGES AND AGREES THAT IT HAS BEEN REPRESENTED BY LEGAL COUNSEL OF ITS CHOICE IN CONNECTION WITH THIS AGREEMENT, AND THAT SUCH COUNSEL HAS EXPLAINED TO BUYER THE PROVISIONS OF THIS PARAGRAPH. BY INITIALING BELOW, BUYER CONFIRMS IT HAS AGREED TO THE PROVISIONS OF THIS PARAGRAPH.

In this connection, Buyer hereby agrees, represents and warrants that Buyer realizes and acknowledges that factual matters now unknown to it may have given or may hereafter give rise to causes of action, claims, demands, debts, controversies, damages, costs, losses and expenses and other claims and liabilities which are presently unknown, unanticipated and unsuspected, and Buyer further agrees, represents and warrants that the waivers and releases have been negotiated and agreed upon in light of that realization and that Buyer nevertheless hereby intends to release, discharge and acquit Seller from any such unknown causes of action, claims, demands, debts, controversies, damages, costs, losses and expenses and other claims and liabilities.

SELLER

BUYER

/s/ JSR

/s/ FA

2. Environmental Indemnity. For purposes hereof, the following definitions shall apply:

“Contamination” shall mean recognized environmental conditions, historical recognized environmental conditions and controlled recognized environmental conditions, as those conditions have been identified in the Phase I Environmental Assessment conducted by EMG and reported on October 24, 2019 and delivered to Buyer as part of the due diligence materials.

“Hazardous Materials” shall mean any product, substance, chemical, material or waste whose presence, nature, quantity and/or intensity of existence, use, manufacture, disposal, transportation, spill, release or effect, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment, or the Premises; (ii) regulated or monitored by any governmental authority; or (iii) a basis for potential liability of Landlord to any governmental agency or third party under any applicable statute or common law theory. Hazardous Materials shall include, but not be limited to, hydrocarbons, petroleum, gasoline, crude oil or any products or by-products thereof.

Seller agrees to indemnify, hold harmless and defend (with counsel selected by Seller) Buyer from and against any and all claims, obligations, actions and causes of action, liabilities, injunctive relief, administrative and judicial directives, investigations, requests or orders, damages, liens, costs (including investigation and remedial costs), fines, judgments, penalties, losses or expenses (including reasonable fees and expenses of attorneys and consultants) suffered or incurred by or threatened against Purchaser or the Property arising in whole or in part, directly or indirectly, from the presence of the Contamination on or under the Property or Contamination that migrates from the Property (the “**Environmental Liabilities**”), except to the extent that such claims arise from Hazardous Materials released after the Date of Agreement by any person other than Seller, its affiliated companies or persons under contract with them, including their agents, servants and subcontractors. In no event shall this provision provide for or allow damages, claims, or losses resulting from lost sales of the Property, reductions in sales prices for the Property, or lost opportunities for rental income. Indemnification under this provision shall be available only upon timely notice to the Seller of the Environmental Liabilities in the manner provided for in the Environmental Indemnity. Buyer will not, so long as Seller continues to perform in compliance with the Environmental Indemnity, voluntarily undertake to conduct an investigation or remediation of the Contamination which is within the scope of the foregoing indemnity absent a demand or request for such by a governmental agency or court order.

Nothing in this Environmental Indemnity, however, shall preclude Buyer or any person from conducting, at its own expense, a due diligence environmental investigation in connection with a sale or financing of the Property or an investigation or remediation in connection with construction, repair or maintenance of a physical improvement at the Property. The Buyer shall promptly send to Seller the test data in its or its contractor’s possession or control concerning Contamination at the Property that is discovered during such investigation or remediation referred to in the previous sentence.

Seller will undertake and shall have the sole obligation and responsibility for any future monitoring, investigation, permits, governmental authorizations, clean-up, containment, remediation, removal, response action or restoration work which may be required by any federal, state, or local governmental agency or by any court or in connection with repair or maintenance of a physical improvement of the Property, as a result, either in whole or in part, directly or indirectly, of the Contamination at the Property (the “**Remedial Work**”), except to the extent such obligation and responsibilities arise from Hazardous Materials contamination released after the execution date by a person other than Seller, its affiliated companies or persons under contract with them, including their agents, servants and subcontractors. Seller shall comply with all applicable federal, state and local laws and regulations.

In the event Seller is required under the terms of this Environmental Indemnity to indemnify Buyer regarding any Environmental Liabilities which would require Seller to have access to any property then owned by Buyer, or any of its past or present subsidiaries, Seller shall have access to all such property for the purpose of (i) conducting preliminary investigations, remedial investigations, and feasibility studies, (ii) remediation, closure, and post-closure monitoring of such property, (iii) other similar activities, which are reasonable and necessary to effectuate Seller’s obligations hereunder, as the case may be.

Seller’s indemnity obligations pursuant to this Environmental Indemnity shall continue for a period of five (5) years after the execution date; provided however, with regard to any matters for which Buyer has given Seller notice pursuant to this provision within five (5) years after the execution date, Seller’s indemnity obligations pursuant to this provision shall continue with respect to such matter until such matter is completely concluded.

Notwithstanding anything in this provision to the contrary, the obligations of Seller under this Environmental Indemnity shall only inure to the benefit of, and exist in favor of, Buyer. If the Parties are unable to resolve any dispute under the Environmental Indemnity, either Seller or Buyer may serve on the other a demand for arbitration. All such disputes shall be submitted to binding arbitration under the Commercial Arbitration Rules of the AAA as amended and supplemented by the terms of this Environmental Indemnity. The demand shall set forth the nature of the dispute, the amount involved, the remedy sought, and the locale requested for the arbitration hearing. Any demand on a counterclaim shall be served within fourteen (14) days after service of the demand for arbitration and shall contain the same information as required by Environmental Indemnity.

3. Time of Essence. Time is of the essence in the performance of each of the parties’ respective obligations contained herein. If the time period by which any right, option or election provided under this Agreement must be exercised, or by which any act required hereunder must be performed, or by which the Closing must be held, expires on a Saturday, Sunday or legal or bank holiday in California, then such time period shall be automatically extended through the close of business on the next regularly scheduled business day.

4. Miscellaneous. This Addendum shall be governed by California law and may only be amended by a writing executed by both parties hereto. A signature on this Agreement electronically transmitted by facsimile or PDF shall be deemed the equivalent of an original “wet” ink signature for all purposes. This Addendum may be executed in multiple counterparts, each of which shall be deemed in original, but all of which, together, shall constitute one and the same instrument.

**[SIGNATURE PAGE FOLLOWS]**



NOW, THEREFORE, the parties have executed this Addendum as of the date first referenced above.

**SELLER:**

SYSTRON DONNER INERTIAL, INC.,  
a Delaware corporation

By: /s/ Jeffrey S. Rittichier  
Name: Jeffrey S. Rittichier  
Title: President and CEO

**BUYER:**

PARKVIEW MANAGEMENT GROUP, INC.

By: /s/ Fred Afari  
Name: Fred Afari  
Title: President

EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

Real property in the City of Concord, County of Contra Costa, State of California, described as follows:

PARCEL ONE:

LOT 2 AS SHOWN ON CERTIFICATE OF COMPLIANCE FOR LOT LINE ADJUSTMENT NO. MM040015, AS EVIDENCED BY DOCUMENT RECORDED AUGUST 25, 2005 AS INSTRUMENT NO. 2005-321369 OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PORTION OF PARCEL TWO AS SHOWN ON THE CORPORATION GRANT DEED TO BEI SENSORS & MOTION SYSTEMS COMPANY, INC. RECORDED MARCH 31, 1994, IN DEED SERIES NO. 94-091123, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID PARCEL TWO; THENCE FROM SAID POINT OF BEGINNING ALONG THE EXTERIOR PROPERTY LINE OF SAID PARCEL TWO NORTH 64° 24' 36" EAST 605.05 FEET; THENCE LEAVING SAID EXTERIOR LINE SOUTH 24° 48' 49" EAST 147.77 FEET; THENCE NORTH 76° 53' 54" EAST 151.26 FEET; THENCE NORTH 71° 36' 45" EAST 123.92 FEET; THENCE NORTH 74° 02' 30" EAST 56.38 FEET TO SAID EXTERIOR LINE OF SAID PARCEL TWO; THENCE ALONG SAID EXTERIOR LINE SOUTH 19° 17' 00" WEST 153.44 FEET; THENCE SOUTH 48° 21' 00" WEST 985.11 FEET; THENCE NORTH 13° 30' 00" WEST 600.01 FEET TO THE POINT OF BEGINNING.

PARCEL TWO:

A NON-EXCLUSIVE EASEMENT FOR PEDESTRIAN AND VEHICULAR ACCESS, INGRESS AND EGRESS, AS AN APPURTENANCE TO PARCEL ONE ABOVE, AS CREATED IN THAT RECIPROCAL EASEMENT AGREEMENT RECORDED MARCH 31, 1994 AS INSTRUMENT NO. 94-91124, FURTHER DESCRIBED AS FOLLOWS:

THE NORTH ONE-HALF OF THE FOLLOWING DESCRIBED PARCEL BEING A PORTION OF RANCHO MONTE DEL DIABLO AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST SOUTHERLY CORNER OF THAT PARCEL OF LAND DESCRIBED IN THE DEED TO THE SYSTRON DONNER CORPORATION RECORDED JULY 31, 1961, IN THE OFFICE OF THE RECORDER, CONTRA COSTA COUNTY, CALIFORNIA IN VOLUME 3920 OF OFFICIAL RECORDS AT PAGE 178, SAID CORNER ALSO LYING ON THE EASTERLY RIGHT OF WAY LINE OF GALINDO STREET; THENCE

NORTHERLY ALONG SAID EASTERLY LINE 559.58 FEET TO THE TRUE POINT OF BEGINNING; THENCE EASTERLY ALONG THE ARC OF A CURVE TO THE RIGHT, THE RADIUS OF WHICH BEARS SOUTH 76° 30' WEST, 20.00 FEET, AN ARC DISTANCE OF 27.20 FEET TO A POINT 30.00 FEET BY THE RIGHT ANGLE MEASUREMENT FROM THE CENTERLINE OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE NORTH 64° 24' 38" EAST, 609.58 FEET; THENCE NORTH 25° 35' 24" WEST, 60.00 FEET; THENCE SOUTH 64° 24' 38" WEST 588.18 FEET TO A POINT OF CURVATURE; THENCE NORTHERLY ALONG THE ARC OF A CURVE TO THE RIGHT, THE RADIUS OF WHICH BEARS NORTH 25° 35' 24" WEST, 20.00 FEET, AN ARC DISTANCE OF 35.64 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF GALINDO STREET; THENCE SOUTH 13° 30' EAST 102.26 FEET TO THE TRUE POINT OF BEGINNING.

For conveyancing purposes only:

APN: 126-192-017-5

SUMMARY OF BASIC LEASE INFORMATION AND DEFINITIONS

This SUMMARY OF BASIC LEASE INFORMATION AND DEFINITIONS ("**Summary**") is hereby incorporated into and made a part of the attached Single-Tenant Triple Net Lease dated as of January [\_\_], 2020, which pertains to the Premises described in Section 1.3 below. All references in the Lease to the "**Lease**" shall include this Summary. All references in the Lease to any term defined in this Summary shall have the meaning set forth in this Summary for such term. Any initially capitalized terms used in this Summary and any initially capitalized terms in the Lease which are not otherwise defined in this Summary shall have the meaning given to such terms in the Lease.

1.1      **Landlord's Address:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*With a copy to:*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

1.2      **Tenant's Address:**      Systron Donner Inertial, Inc.  
                                         c/o EMCORE Corporation  
                                         Attn: General Counsel  
                                         2015 Chestnut St.  
                                         Alhambra, CA 91803

*With a copy to:*

Pillsbury Winthrop Shaw Pittman LLP  
Attn: James J. Masetti  
2550 Hanover Street  
Palo Alto, CA 94304-1115

1.3      **Premises:** The real property located at 2700 Systron Drive, Concord, California, as more particularly described in Exhibit "A" attached hereto (the "**Property**"), together with all buildings, improvements and facilities, now or subsequently located on the Property from time to time, including, without limitation, the building containing approximately 103,026 rentable square feet (the "**Building**").

1.4      **Commencement Date:** [January \_\_], 2020

1.5      **Lease Expiration Date:** The date that is fifteen (15) years after the Commencement Date; provided, however, if such date is not the last day of the calendar month, then the Lease Expiration Date shall be the last day of such calendar month following the expiration of such fifteen (15)-year period.

\_\_\_\_\_

1.6 **Rent**

<u>Months of Initial Lease Term</u>	<u>Monthly Rent</u>	<u>Annual Rent</u>
*1-12	\$0.75 per rsf monthly	\$927,234.00
13-24	\$0.7725 per rsf monthly	\$955,051.02
25-36	\$0.7957 per rsf monthly	\$983,733.46
37-48	\$0.8195 per rsf monthly	\$1,013,157.68
49-60	\$0.8441 per rsf monthly	\$1,043,570.96
61-72	\$0.8694 per rsf monthly	\$1,074,849.65
73-84	\$0.8956 per rsf monthly	\$1,107,241.03
85-96	\$0.9224 per rsf monthly	\$1,140,374.19
97-108	\$0.9501 per rsf monthly	\$1,174,620.03
109-120	\$0.9786 per rsf monthly	\$1,209,854.92
121-132	\$1.0079 per rsf monthly	\$1,236,312.00
133-144	\$1.0381 per rsf monthly	\$1,283,415.49
145-156	\$1.0693 per rsf monthly	\$1,321,988.42
157-168	\$1.1014 per rsf monthly	\$1,361,674.04
169-180	\$1.1344 per rsf monthly	\$1,402,472.33

\*This period shall include any partial month at the beginning of the Term, in which case the period would be equal to the partial month, plus calendar months 1-12.

1.7 **Security Deposit:** \$155,000.00.

1.8 **Permitted Use:** The Premises may be used for all legally permitted uses.

1.9 **Brokers:** CBRE (Tenant only)

1.10 **Interest Rate:** The lesser of: (a) an interest rate equal to the Prime Rate (as stated under the column “Money Rates” in the Wall Street Journal), plus two percent (2%) per annum; or (b) the maximum rate permitted by law.

## SINGLE-TENANT TRIPLE NET LEASE

This SINGLE-TENANT TRIPLE NET LEASE ("**Lease**"), which includes the preceding Summary of Basic Lease Information and Definitions ("**Summary**") attached hereto and incorporated herein by this reference, is made as of January [\_\_\_], 2020, by and between \_\_\_\_\_ ("**Landlord**"), and SYSTRON DONNER INERTIAL, INC., a Delaware corporation ("**Tenant**").

1. **Lease of Premises.** Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the Premises upon and subject to the terms, covenants and conditions contained in this Lease to be performed by each party. The parties hereby stipulate that the Premises contain the rentable square feet set forth in Section 1.3 of the Summary.

2. **Term; Options to Extend.**

2.1 **Term.** This Lease shall be effective upon the date of full execution and delivery (the "**Effective Date**"). The term of this Lease (the "**Term**") shall commence upon the Commencement Date and shall, subject to Section 2.2 below, expire on the Lease Expiration Date, unless sooner terminated or extended as permitted herein, and if extended, the "**Term**" will include any Option Term.

2.2 **Options to Extend.** Subject to the terms hereof, Landlord hereby grants to Tenant two (2) options (each, an "**Extension Option**") to extend the Term of this Lease with respect to the entire Premises for five (5) years each (each, an "**Option Term**"), on the same terms, covenants and conditions as provided for in this Lease during the initial Lease Term (or prior Option Term, as the case may be), except that the Monthly Rent shall be equal to greater of (i) the Fair Market Rental Rate (as defined below), or (ii) the Monthly Rent in effect at the expiration of the Term, plus 3%. Each Extension Option must be exercised, if at all, by written notice ("**Extension Notice**") delivered by Tenant to Landlord no later than the date which is six (6) months prior to the expiration of the then current Term. Failure of Tenant to timely exercise any such Extension Option shall render such Extension Option (and any succeeding Extension Option, if any) null and void and of no further force or effect whatsoever.

2.3 **Fair Market Rental Rate.** For purposes of the Lease, the term "**Fair Market Rental Rate**" shall mean the annual amount per rentable square foot that comparable landlords have accepted in current transactions between non-affiliated parties from new, non-expansion, non-renewal and non-equity tenants of comparable credit-worthiness, for comparable space, for a comparable use, for a comparable period of time in a comparable properties and buildings ("**Comparable Transactions**"). In any determination of Comparable Transactions, appropriate consideration shall be given to the annual rental rates per rentable square foot, the standard of measurement by which the rentable square footage is measured, the ratio of rentable square feet to usable square feet, the type of escalation clause (e.g., whether increases in additional rent are determined on a net or gross basis, and if gross, whether such increases are determined according to a base year or a base dollar amount expense stop), the extent of Tenant's liability under the Lease, abatement provisions reflecting free rent and/or no rent during the period of construction or subsequent to the commencement date as to the space in question, brokerage commissions, if any, which would be payable by Landlord in similar transactions, length of the lease term, size and location of premises being leased, building standard work letter and/or tenant improvement allowances, if any, and other generally applicable conditions of tenancy for such Comparable Transactions. The intent is that Tenant will obtain the same rent and other economic benefits that Landlord would otherwise give in Comparable Transactions and that Landlord will make and receive the same economic payments and concessions that Landlord would otherwise make and receive in Comparable Transactions. Tenant shall receive a rent credit in the amount of the brokerage commission that Landlord would have otherwise been required to pay and such other generally applicable economic terms.

2.3.1 Landlord shall determine the Fair Market Rental Rate by using its good faith judgment. Landlord shall provide written notice of such amount within fifteen (15) days (but in no event later than twenty (20) days) after Tenant provides the notice to Landlord exercising Tenant's option rights which require a calculation of the Fair Market Rental Rate. Tenant shall have thirty (30) days ("**Tenant's Review Period**") after receipt of Landlord's notice of the new rental within which to accept such rental or to reasonably object thereto in writing. In the event Tenant objects, Landlord and Tenant shall attempt to agree upon such Fair Market Rental Rate using their best good faith efforts. If Landlord and Tenant fail to reach agreement within fifteen (15) days following Tenant's Review Period ("**Outside Agreement Date**"), then each party shall place in a separate sealed envelope their final proposal as to Fair Market Rental Rate and such determination shall be submitted to arbitration in accordance with Subsections (a) through (e) below. Failure of Tenant to so elect in writing within Tenant's Review Period shall conclusively be deemed its disapproval of the Fair Market Rental Rate determined by Landlord.

2.3.2 In the event that Landlord fails to timely generate the initial written notice of Landlord's opinion of the Fair Market Rental Rate which triggers the negotiation period of this Article, then Tenant may commence such negotiations by providing the initial notice, in which event Landlord shall have fifteen (15) days ("**Landlord's Review Period**") after receipt of Tenant's notice of the new rental within which to accept such rental. In the event Landlord fails to accept in writing such rental proposed by Tenant, then such proposal shall be deemed rejected, and Landlord and Tenant shall attempt in good faith to agree upon such Fair Market Rental Rate using their best good faith efforts. If Landlord and Tenant fail to reach agreement within fifteen (15) days following Landlord's Review Period (which shall be, in such event, the "**Outside Agreement Date**" in lieu of the above definition of such date), then each party shall place in a separate sealed envelope their final proposal as to the Fair Market Rental Rate and such determination shall be submitted to arbitration in accordance with Subsections (a) through (e) below.

2.3.3 Landlord and Tenant shall meet with each other within five (5) business days of the Outside Agreement Date and exchange the sealed envelopes and then open such envelopes in each other's presence. If Landlord and Tenant do not mutually agree upon the Fair Market Rental Rate within five (5) business days of the exchange and opening of envelopes, then, within ten (10) business days of the exchange and opening of envelopes, Landlord and Tenant shall agree upon and jointly appoint a single arbitrator who shall by profession be a real estate lawyer or broker who shall have been active over the five (5) year period ending on the date of such appointment in the leasing of commercial high-rise properties in the vicinity of the Building. Neither Landlord nor Tenant shall consult with such broker or lawyer as to his or her opinion as to Fair Market Rental Rate prior to the appointment. The determination of the arbitrator shall be limited solely to the issue of whether Landlord's or Tenant's submitted Fair Market Rental Rate for the Property is the closest to the actual Fair Market Rental Rate for the Property as determined by the arbitrator, taking into account the requirements of this Article. Such arbitrator may hold such hearings and require such briefs as the arbitrator, in his or her sole discretion, determines is necessary. In addition, Landlord or Tenant may submit to the arbitrator, with a copy to the other party, within five (5) business days after the appointment of the arbitrator any market data and additional information that such party deems relevant to the determination of the Fair Market Rental Rate ("**FMRR Data**") and the other party may submit a reply in writing within five (5) business days after receipt of such FMRR Data.

2.3.4 The arbitrator shall, within thirty (30) days of his or her appointment, reach a decision as to whether the parties shall use Landlord's or Tenant's submitted Fair Market Rental Rate, and shall notify Landlord and Tenant of such determination.

2.3.5 The decision of the arbitrator shall be binding upon Landlord and Tenant, except as provided below.

2.3.6 If Landlord and Tenant fail to agree upon and appoint an arbitrator, then the appointment of the arbitrator shall be made by the Presiding Judge of the Superior Court in the County in which the Property is located, or, if he or she refuses to act, by any judge having jurisdiction over the parties.

2.3.7 The cost of arbitration shall be paid by Landlord and Tenant equally.

2.3.8 In the event that Tenant objects to the Fair Market Rental Rate as determined by the arbitration provision specified above, Tenant may elect to terminate the Lease upon twelve (12) months' written notice sent to Landlord at any time within ninety (90) days following the establishment of the Fair Market Rental Rate as determined by such arbitration. In the event Tenant elects to terminate the Lease, Tenant shall reimburse Landlord for its reasonable attorneys' fees and reasonable costs associated with such arbitration. In the event that the above-referenced twelve (12)-month period overlaps beyond the expiration of the Lease Term or any extension thereof, Tenant shall pay rental to Landlord during the period of such overlap at the Fair Market Rental Rate determined pursuant to such arbitration.

### **3. Rent.**

3.1 **Monthly Rent.** Tenant agrees to pay Landlord, as rent for the Premises, the Monthly Rent designated in Section 1.6 of the Summary. The Monthly Rent shall be paid by Tenant in advance on the first day of each and every calendar month commencing upon the Commencement Date. Monthly Rent for any partial month shall be prorated in the proportion that the number of days this Lease is in effect during such month bears to the actual number of days in such month.

3.2 **Additional Rent.** All amounts and charges payable by Tenant under this Lease in addition to the Monthly Rent described in Section 3.1 above shall be considered additional rent for the purposes of this Lease, and the word "**Rent**" in this Lease shall include such additional rent unless the context specifically or clearly implies that only the Monthly Rent is referenced. Rent shall be paid to Landlord as provided in Section 7, without any prior demand therefor and without any deduction or offset except as specified elsewhere in the Lease, in lawful money of the United States of America.

4. **Triple-Net Lease.** Except as otherwise provided herein, all Rent shall be absolutely net to Landlord so that this Lease shall yield net to Landlord, the Rent to be paid each month during the Term of this Lease. Accordingly, and except as otherwise provided herein, all actual costs, expenses and obligations of every kind or nature whatsoever relating to the Premises which may arise and accrue during the Term of this Lease shall be paid by Tenant. Nothing herein contained shall be deemed to require Tenant to pay or discharge any liens or deeds of trust of any character whatsoever which may exist or hereafter be placed upon the Premises by an affirmative act or omission of Landlord.

5. **Security Deposit.** Concurrently with Tenant's execution of this Lease, Tenant shall deposit with Landlord the Security Deposit (if any) designated in Section 1.7 of the Summary. The Security Deposit shall be held by Landlord as security for the full and faithful performance by Tenant of all of the terms, covenants and conditions of this Lease to be performed by Tenant during the Term. If Tenant defaults with respect to any of its obligations under this Lease, Landlord may (but shall not be required to) use, apply or retain all or any part of the Security Deposit for the payment of any rent or any other sum in default, or for the payment of any other amount, loss or damage which Landlord may spend, incur or suffer by reason of Tenant's default. If any portion of the Security Deposit is so used or applied, Tenant shall, within ten (10) days after written demand therefor, deposit cash with Landlord in an amount sufficient to restore the Security Deposit to its original amount. Landlord shall not be required to keep the Security Deposit separate from its general funds, and Tenant shall not be entitled to interest on the Security Deposit.

### **6. Use.**

6.1 **General.** Tenant shall use the Premises for the Permitted Use specified in Section 1.8 of the Summary. Tenant shall, at its sole cost and expense, observe and comply with all requirements of all recorded covenants, conditions and restrictions now or hereafter affecting the Premises and all laws, statutes, codes, rules and regulations now or hereafter in force relating to or affecting the condition, use, occupancy, alteration or improvement (whether structural (except as otherwise provided herein) or non-structural, including unforeseen and/or extraordinary alterations or improvements, and regardless of the period of time remaining in the Term) of the Premises, including, without limitation, the provisions of the Americans with Disabilities Act ("**ADA**") as it pertains to the condition, use, occupancy, improvement and alteration (whether structural (except as otherwise provided herein) or non-structural, including unforeseen and/or extraordinary alterations or improvements, and regardless of the period of time remaining in the Term) of the Premises

6.2 **Signs and Auctions.** Subject to the approval of all applicable governmental and quasi-governmental entities, and subject to all applicable governmental and quasi-governmental laws, rules, regulations and codes, Landlord hereby grants Tenant the right, at Tenant's sole cost and expense, to install an exterior identification sign on the face of the Building and a monument sign at the entrance to the Property. Upon the expiration or earlier termination of this Lease, Tenant shall be responsible, at its sole cost and expense, for the removal of such signage and the repair of all damage to the Building and the Property caused by such removal. If Tenant fails to so remove such signs, then Landlord shall have the right to do at Tenant's sole cost and expense. Except for such signage, Tenant may not install any signs on the exterior of the Building or at the Property. Tenant shall have no right to conduct any auction in, on or about the Premises.

7. **Payments and Notices.** All Rent and other sums payable by Tenant to Landlord hereunder shall be paid to Landlord at the address designated in Section 1.1 of the Summary, or to such other persons and/or at such other places as Landlord may hereafter designate in writing. Any notice required or permitted to be given hereunder must be in writing and given by personal delivery (including delivery by nationally recognized overnight courier or express mailing service), facsimile transmission sent by a machine capable of confirming transmission receipt, with a hard copy of such notice delivered no later than one (1) business day after facsimile transmission by another method specified in this Section 7, or by registered or certified mail, postage prepaid, return receipt requested, addressed to Tenant at the address(es) designated in Section 1.2 of the Summary, or to Landlord at the address(es) designated in Section 1.1 of the Summary. Either party may, by written notice to the other, specify a different address for notice purposes. Notice given in the foregoing manner shall be deemed given (i) upon confirmed transmission if sent by facsimile transmission, provided such transmission is prior to 5:00 p.m. California time on a business day (if such transmission is after 5:00 p.m. California time on a business day or is on a non-business day, such notice will be deemed given on the following business day), (ii) when actually received or refused by the party to whom sent if delivered by a carrier or personally served or (iii) if mailed, on the day of actual delivery or refusal as shown by the certified mail return receipt or the expiration of three (3) business days after the day of mailing, whichever first occurs. For purposes of this Section 7, a "business day" is Monday through Friday, excluding holidays observed by the United States Postal Service.

8. **Surrender.** Upon the expiration or sooner termination of this Lease, Tenant shall surrender all keys for the Premises to Landlord, and Tenant shall deliver exclusive possession of the Premises to Landlord broom clean and in substantially the same condition and repair as when delivered by Landlord, reasonable wear and tear excepted (and casualty damage excepted), with all of Tenant's personal property and trade fixtures (and those items, if any, of Tenant Improvements and Tenant Changes identified by Landlord pursuant to Section 11.2 below) removed therefrom and all damage caused by such removal repaired, as required pursuant to Section 11.2 below.

9. **Taxes.**

9.1 **Real Property Taxes.** Tenant agrees to pay to the applicable taxing authority, prior to delinquency, all general and special real property taxes, assessments (including, without limitation, change in ownership taxes or assessments, but excluding all taxes imposed by the county or other governmental authority on the sales proceeds received by Landlord in connection with any sale of the Property), liens, bond obligations, license fees or taxes, commercial rent taxes and any similar impositions in-lieu of other impositions now or previously within the definition of real property taxes or assessments and any and all assessments under any covenants, conditions and restrictions affecting the Premises (collectively "**Real Property Taxes**") which may be now or hereafter levied or assessed against the Premises applicable to the period from the Commencement Date, until the expiration or sooner termination of this Lease; provided, however, Real Property Taxes shall not include Landlord's income, franchise, estate or inheritance taxes. All Real Property Taxes for the tax year in which this Lease terminates shall be apportioned and adjusted so that Tenant shall not be responsible for any Real Property Taxes for a period of time occurring subsequent to the expiration of the Lease term.



9.2 Personal Property Taxes. Tenant shall be liable for, and shall pay before delinquency, all taxes and assessments (real and personal) levied against (a) any personal property or trade fixtures placed by Tenant in or about the Premises (including any increase in the assessed value of the Premises based upon the value of any such personal property or trade fixtures); and (b) any Tenant Improvements or alterations in the Premises (whether installed and/or paid for by Landlord or Tenant).

## 10. Repairs.

10.1 Tenant's Repair Obligations. Tenant shall at all times and at Tenant's sole cost and expense, keep, maintain, clean, repair, replace and preserve the Premises and all parts thereof, structural and non-structural, including, without limitation, utility meters, plumbing, pipes and conduits, all heating, ventilating and air conditioning systems located within the Premises, all fixtures, furniture and equipment, Tenant's signs, if any, locks, closing devices, security devices, windows, window sashes, casements and frames, floors and floor coverings, shelving, restrooms, ceilings, interior walls, roof, skylights, interior and demising walls, doors, electrical and lighting equipment, sprinkler systems, parking areas, driveways, walkways, parking lots, loading dock areas and doors, rail spur areas, fences, signs, lawns and landscaping, if any, all Tenant Improvements, Tenant Changes or other alterations, additions and other property and/or fixtures located within the Premises in good condition and repair, reasonable wear and tear excepted.

10.2 Landlord's Repair Rights. Landlord has no obligation whatsoever to alter, remodel, improve, repair, renovate, retrofit, replace, redecorate or paint all or any part of the Premises, nor shall Landlord have any right to do so, except as expressly provided in this Section 10.2 and in Sections 17 and 18 below. If Tenant fails to perform Tenant's obligations under Section 10.1 hereof, or under any other provision of this Lease, then Landlord shall have the option (but not the obligation) to enter upon the Premises after fifteen (15) days' prior written notice to Tenant, or in the case of an emergency immediately without prior notice, to perform such obligations on Tenant's behalf necessary to return the Premises to good order, condition and repair, at Tenant's cost.

10.3 Condition of Premises. Tenant further acknowledges and agrees that Tenant occupied the Premises prior to the Commencement Date and, except to the extent specifically set forth in this Lease, the leasing of the Premises as provided for herein is made on an "AS-IS" condition and basis with all faults. Pursuant to Section 1938 of the California Civil Code, Landlord hereby advises Tenant that as of the Effective Date, neither the Premises, the Building nor the Real Property have undergone inspection by a Certified Access Specialist. Further, pursuant to Section 1938 of the California Civil Code, Landlord notifies Tenant of the following: "A Certified Access Specialist (CASP) can inspect the Premises and determine whether the Premises comply with all of the applicable construction-related accessibility standards under state law. Although California state law does not require a CASp inspection of the Premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the Premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of any such CASp inspection, the payment of the fees for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the Premises." Landlord and Tenant agree that (a) Tenant may, at Tenant's cost, cause a CASp to inspect the Premises and determine whether the Premises complies with all of the applicable construction-related accessibility standards under California law, (b) the parties shall mutually coordinate and reasonably approve of the timing of any such CASp inspection, and (c) Tenant shall be responsible for the cost of any repairs necessary to correct violations of construction-related accessibility standards within the Premises identified by any such CASp inspection.

## 11. Alterations.

### 11.1 Tenant Changes; Conditions.

(a) Tenant shall not make any alterations, additions, or improvements to the Premises that affect the Building structure (collectively, "**Tenant Changes**," and individually, a "**Tenant Change**") unless Tenant first obtains Landlord's prior written approval thereof, which approval Landlord shall not unreasonably withhold, condition or delay.

(b) Prior to performing any Tenant Changes, Tenant shall submit to Landlord plans and specifications for such Tenant Changes for Landlord's approval. After Landlord has approved the Tenant Changes and the plans, specifications and working drawings therefor, Tenant shall: (i) enter into an agreement for the performance of such Tenant Changes with licensed and bondable contractors and subcontractors selected by Tenant and approved by Landlord; and (ii) before proceeding with any Tenant Change, provide Landlord with at least fifteen (15) days' prior written notice thereof. In addition, before proceeding with any Tenant Change, Tenant's contractors shall obtain, on behalf of Tenant and at Tenant's sole cost and expense, all necessary governmental permits and approvals for the commencement and completion of such Tenant Change.

(c) All alterations by Tenant, including Tenant Changes, shall be performed: (i) in accordance with the plans, specifications and working drawings pre-approved by Landlord; (ii) lien-free and in a good and workmanlike manner; (iii) in compliance with all laws, rules and regulations of all governmental agencies and authorities including, without limitation, applicable building permit requirements and the provisions of Title III of the ADA and all applicable laws; and (iv) by licensed contractors and subcontractors. In no event shall any Landlord-approved Tenant Changes to the roof of the Building cause a violation of any roof warranty maintained by Landlord.

11.2 Removal of Tenant Changes and Tenant Improvements. All Tenant Changes and tenant improvements in the Premises installed by Tenant (the "**Tenant Improvements**"), shall become the property of Landlord and shall remain upon and be surrendered with the Premises at the end of the Term of this Lease. If Landlord requires Tenant to remove any such items, Tenant shall, at its sole cost, remove the identified items on or before the expiration or sooner termination of this Lease and repair any damage to the Premises caused by such removal (or, in the event Tenant fails to remove such items, Tenant shall pay to Landlord all of Landlord's commercially reasonable costs of such removal and repair).

12. Liens. Tenant shall not permit any mechanic's, materialmen's or other liens to be filed against all or any part of the Premises. Tenant shall, at Landlord's request, provide Landlord with enforceable, conditional and final lien releases (and other reasonable evidence reasonably requested by Landlord to demonstrate protection from liens) from all persons furnishing labor and/or materials with respect to the Premises. Landlord shall have the right at all reasonable times to post on the Premises and record any notices of non-responsibility which it deems necessary for protection from such liens. If any such liens are filed, Tenant shall, at its sole cost, promptly cause such lien to be released of record or bonded so that it no longer affects title to the Premises, provided that Tenant shall have the right to contest any lien claims in good faith.

13. Assignment and Subletting.

13.1 Restriction on Transfer. Tenant will not assign this Lease in whole (a "**Transfer**"), without the prior written consent of Landlord, which consent Landlord will not unreasonably withhold, condition or delay except as provided in this Section 13. The consent by Landlord to any assignment shall not constitute a waiver of the necessity for such consent to any subsequent assignment.

13.2 Transfer Notice. If Tenant desires to effect Transfer, then at least twenty (20) days prior to the date when Tenant desires the Transfer to be effective (the "**Transfer Date**"), Tenant agrees to give Landlord a notice (the "**Transfer Notice**"), stating the name, address and business of the proposed assignee or other transferee (sometimes referred to hereinafter as "**Transferee**"), reasonable information (including references) concerning the character, ownership, and financial condition of the proposed Transferee, the Transfer Date, any ownership or commercial relationship between Tenant and the proposed Transferee, and the consideration and all other material terms and conditions of the proposed Transfer, all in such detail as Landlord may reasonably require.

13.3 **Permitted Transfers and Subletting.** Notwithstanding the provisions of this Section 13 to the contrary, Tenant may (a) assign this Lease the Premises or any portion thereof without Landlord's consent, to any entity that controls, is controlled by or is under common control with Tenant, or to any entity resulting from a merger or consolidation with Tenant, or to any person or entity that acquires all of the assets of Tenant's business as a going concern or (b) sublet all or any part of the Premises without Landlord's consent.

14. **Entry by Landlord.** Landlord and its employees and agents shall at all reasonable times have the right to enter the Premises to inspect the same, to exhibit the Premises to prospective lenders or purchasers, to post notices of non-responsibility, to alter, improve or repair the Premises as contemplated by this Lease and/or to otherwise exercise its rights and remedies under this Lease.

15. **Utilities and Services.**

15.1 **Tenant's Payment; Interruption in Service.** Tenant shall be solely responsible for obtaining and shall promptly pay all charges for heat, air conditioning, water, gas, electricity or any other utility used, consumed or provided in, furnished to or attributable to the Premises directly to the supplying utility companies following the Commencement Date, together with all deposits and hook-up and connection charges for such utilities. Tenant shall reimburse Landlord within thirty (30) days of billing for any hook-up, connection, fixture or other charges and/or tariffs that are charged to Landlord by utility companies. Landlord will notify Tenant of this charge as soon as it becomes known and such charge will be due as additional rent. In the event that Tenant is prevented from using, and does not use, the Premises, Building or Property or any portion thereof, for three (3) consecutive business days or ten (10) business days in any twelve (12) month period (the "**Eligibility Period**") as a result of (a) any damage or destruction to the Premises, Property, the parking facility and/or the Building, (b) any repair, maintenance or alteration performed by Landlord after the Commencement Date and required or permitted by the Lease, which substantially interferes with Tenant's use of the Premises, Property, the parking facility and/or the Building, (c) any failure by Landlord to provide Tenant with services or access to the Premises, Property, the parking facility and/or the Building, (d) because of an eminent domain proceeding, or (e) because of the presence of hazardous substances in, on or around the Premises, the Building or the Property which could pose a health risk to occupants of the Property, then Tenant's rent shall be abated or reduced, as the case may be, after expiration of the Eligibility Period for such time that Tenant continues to be so prevented from using, and does not use, the Property or a portion thereof, in the proportion that the rentable area of the portion of the Premises that Tenant is prevented from using, and does not use, bears to the total rentable area of the Premises. However, in the event that Tenant is prevented from conducting, and does not conduct, its business in any portion of the Premises for a period of time in excess of the Eligibility Period, and the remaining portion of the Premises is not sufficient to allow Tenant to effectively conduct its business therein, and if Tenant does not conduct its business from such remaining portion, then for such time after expiration of the Eligibility Period during which Tenant is so prevented from effectively conducting its business therein, the rent for the entire Premises shall be abated; provided, however, if Tenant reoccupies and conducts its business from any portion of the Premises during such period, the rent allocable to such reoccupied portion, based on the proportion that the rentable area of such reoccupied portion of the Property bears to the total rentable area of the Premises, shall be payable by Tenant from the date such business operations commence. If Tenant's right to abatement occurs because of an eminent domain taking and/or because of damage or destruction to the Property, the parking facility, the Building, or Tenant's property, Tenant's abatement period shall continue until Tenant has been given sufficient time and sufficient access to the Property, the parking facility and/or the Building, to rebuild such portion it is required to rebuild, to install its property, furniture, fixtures, and equipment to the extent the same shall have been removed and/or damaged as a result of such damage or destruction and/or eminent domain taking and to move in over one (1) weekend. To the extent Tenant is entitled to abatement without regard to the Eligibility Period, because of an event covered by Sections 17 or 18, then the Eligibility Period shall not be applicable.

15.2 **Energy Usage Disclosure.** Within five (5) business days of Landlord's request at any time during the Term and within twelve (12) months following the expiration or earlier termination of this Lease, Tenant shall provide written consent to disclosure of Tenant's energy usage records at the Premises to all applicable utility companies, and any other information or documentation as such utility companies may require or as may be required under applicable law, in order to enable Landlord to comply with the reporting requirements under California Public Resources Code Section 25402.10 and applicable regulations issued in connection therewith. The terms and provisions of this Section shall survive the expiration or earlier termination of this Lease.

**16. Indemnification and Exculpation.**

16.1 Tenant's Assumption of Risk and Waiver. Except to the extent such matter is not covered by the insurance required to be maintained by Tenant under this Lease and such matter is attributable to the gross negligence or willful misconduct of Landlord or Landlord's agent(s), Landlord shall not be liable to Tenant, Tenant's employees, agents or invitees for: (i) any damage to property of Tenant, or of others, located in, on or about the Premises, (ii) the loss of or damage to any property of Tenant or of others by theft or otherwise, (iii) any injury or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water, rain or leaks from any part of the Premises or from the pipes, appliance of plumbing works or from the roof, street or subsurface or from any other places or by dampness or by any other cause of whatsoever nature, or (iv) any such damage caused by other persons in the Premises, occupants of adjacent property, or the public, or caused by operations in construction of any private, public or quasi-public work. Landlord shall in no event be liable for any consequential damages or loss of business or profits and Tenant hereby waives any and all claims for any such damages. All property of Tenant kept or stored on the Premises shall be so kept or stored at the sole risk of Tenant and Tenant shall hold Landlord harmless from any claims arising out of damage to the same, including subrogation claims by Tenant's insurance carriers, unless such damage shall be caused by the gross negligence or willful misconduct of Landlord or Landlord's agent(s). Landlord or its agents shall not be liable for interference with the light or other intangible rights.

16.2 Indemnification. Tenant shall be liable for, and shall indemnify, defend, protect and hold Landlord and Landlord's officers, directors, employees, agents, successors and assigns (collectively, "**Landlord Indemnified Parties**") harmless from and against, any and all claims, damages, judgments, suits, causes of action, losses, liabilities and expenses, including attorneys' fees and court costs (collectively, "**Indemnified Claims**"), arising or resulting from (a) any occurrence at the Premises following Tenant's occupancy of the Premises, unless caused by the gross negligence or willful misconduct of Landlord or its agents, employees or contractors, (b) any act or omission of Tenant or any of Tenant's Parties; (c) the use of the Premises and conduct of Tenant's business by Tenant or any of Tenant's Parties, or any other activity, work or thing done or permitted by Tenant or any of Tenant's Parties, in or about the Premises; and/or (d) any default by Tenant of any obligations on Tenant's part to be performed under the terms of this Lease. In case any action or proceeding is brought against Landlord or any Landlord Indemnified Parties by reason of any such Indemnified Claims, Tenant, upon notice from Landlord, shall defend the same at Tenant's expense by counsel approved in writing by Landlord, which approval shall not be unreasonably withheld.

16.3 Environmental Indemnification. Tenant agrees to indemnify, protect, defend and hold harmless Landlord's Indemnified Parties from and against any and all claims, damages, judgments, suits, causes of action, losses, liabilities, penalties, fines, expenses and costs (including, without limitation, clean-up, removal, remediation and restoration costs, sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees and court costs) which arise or result from the presence of Hazardous Materials on, in, under or about the Premises, the Building or any other portion of the Property and which are caused or permitted by Tenant during the Term of this Lease. The provisions of this Section 16.3 shall survive the termination of this Lease for a period of three (3) years following termination. The term "**Hazardous Materials**" as used in this Lease shall mean any product, substance, chemical, material or waste whose presence, nature, quantity and/or intensity of existence, use, manufacture, disposal, transportation, spill, release or effect, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment, or the Premises; (ii) regulated or monitored by any governmental authority; or (iii) a basis for potential liability of Landlord to any governmental agency or third party under any applicable statute or common law theory. Hazardous Materials shall include, but not be limited to, hydrocarbons, petroleum, gasoline, crude oil or any products or by-products thereof.

16.4 Survival; No Release of Insurers. The indemnification obligations under Section 16.2 shall survive the expiration or earlier termination of this Lease. The covenants, agreements and indemnification in Sections 16.1 and 16.2 above, are not intended to and shall not relieve any insurance carrier of its obligations under policies required to be carried pursuant to the provisions of this Lease.

**17. Damage or Destruction.**

17.1 Landlord's Rights and Obligations. In the event the Building is damaged by fire or other casualty to an extent not exceeding twenty-five percent (25%) of the full replacement cost thereof, and Landlord's contractor estimates in a writing delivered to the parties that the damage thereto is such that the Building and/or Premises may be repaired, reconstructed or restored to substantially its condition immediately prior to such damage within one hundred eighty (180) days from the date of such casualty, and Landlord will receive insurance proceeds sufficient to cover the costs of such repairs, reconstruction and restoration (including proceeds from Tenant and/or Tenant's insurance which Tenant is required to deliver to Landlord pursuant to Section 19.2 below), then Landlord shall commence and proceed diligently with the work of repair, reconstruction and restoration and this Lease shall continue in full force and effect. If, however, the Premises or any other part of the Building is damaged to an extent exceeding twenty-five percent (25%) of the full replacement cost thereof, or Landlord's contractor estimates that such work of repair, reconstruction and restoration will require longer than one hundred eighty (180) days to complete, or Landlord will not receive insurance proceeds (and/or proceeds from Tenant, as applicable) sufficient to cover the costs of such repairs, reconstruction and restoration, then Landlord may elect to either:

(a) repair, reconstruct and restore the portion of the Building and Premises damaged by such casualty (including, to the extent of insurance proceeds received from Tenant, any Tenant Changes), in which case this Lease shall continue in full force and effect; or

(b) terminate this Lease effective as of the date which is thirty (30) days after Tenant's receipt of Landlord's election to so terminate.

Under any of the conditions of this Section 17.1, Landlord shall give written notice to Tenant of its intention to repair or terminate within sixty (60) days after the occurrence of such casualty and shall include the estimated completion date of such repairs in such notice. In the event that Landlord's contractor estimates that such repairs will require longer than one hundred eighty (180) days following the date of the damage to complete, then Tenant may elect to terminate the Lease by written notice to Landlord, to be given not later than twenty (20) days following Tenant's receipt of Landlord's notice.

17.2 Tenant's Costs and Insurance Proceeds. In the event of any damage or destruction of all or any part of the Building, Tenant shall immediately: (a) notify Landlord thereof; and (b) deliver to Landlord all insurance proceeds received by Tenant with respect to the Tenant Changes in the Premises (excluding proceeds for Tenant's furniture, trade fixtures and other personal property), whether or not this Lease is terminated as permitted in this Section 17, and Tenant hereby assigns to Landlord all rights to receive such insurance proceeds. If Tenant fails to obtain insurance for the full replacement cost of the Tenant Changes which Tenant is required to insure pursuant to Section 19.1(a) hereof, Tenant shall be deemed to have self-insured the replacement cost of such Tenant Changes, and upon any damage or destruction thereto, Tenant shall immediately pay to Landlord the full replacement cost of such items, less any insurance proceeds actually received by Landlord from Landlord's or Tenant's insurance with respect to such items.

17.3 Abatement of Rent. In the event that as a result of any such damage, repair, reconstruction and/or restoration of the Building, Tenant is prevented from using, and does not use, the Building or any portion thereof, then the Monthly Rent shall be abated or reduced, as the case may be, during the period that Tenant continues to be so prevented from using and does not use the Building or portion thereof, in the proportion that the rentable square feet of the portion of the Building that Tenant is prevented from using, and does not use, bears to the total rentable square feet of the Building. Except for abatement of Monthly Rent as provided hereinabove, Tenant shall not be entitled to any compensation or damages for loss of, or interference with, Tenant's business or use or access of all or any part of the Premises resulting from any such damage, repair, reconstruction or restoration.

17.4 Inability to Complete. Notwithstanding anything to the contrary contained in this Section 18, in the event Landlord is obligated or elects to repair, reconstruct and/or restore the damaged portion of the Building pursuant to Section 17.1 above, but is delayed from completing such repair, reconstruction and/or restoration beyond the date which is thirty (30) days after the date estimated by Landlord's contractor for completion thereof pursuant to Section 17.1, then either party may elect to terminate this Lease upon thirty (30) days' prior written notice to the other; provided, however, Landlord shall only have such right of termination for delay by reason of any causes beyond the reasonable control of Landlord (including, without limitation, delays due to Force Majeure Delays as defined in Section 30.16, and delays caused by Tenant or any Tenant Parties).

17.5 Damage Near End of Term. Landlord and Tenant shall each have the right to terminate this Lease if any damage to the Building or Premises occurs during the last twelve (12) months of the Term of this Lease, Tenant has not exercised its Extension Option, and Landlord's contractor estimates in a writing delivered to the parties that the repair, reconstruction or restoration of such damage cannot be completed within the earlier of (a) the scheduled expiration date of the Lease Term, or (b) sixty (60) days after the date of such casualty.

17.6 Waiver of Termination Right. This Lease sets forth the terms and conditions upon which this Lease may terminate in the event of any damage or destruction. Accordingly, the parties hereby waive the provisions of California Civil Code Section 1932, Subsection 2, and Section 1933, Subsection 4 (and any successor statutes thereof permitting the parties to terminate this Lease as a result of any damage or destruction).

## **18. Eminent Domain.**

18.1 Total or Partial Taking. In case all of the Premises, or such part thereof as shall materially and substantially interfere with Tenant's ability to conduct its business upon the Premises, shall be taken for any public or quasi-public purpose by any lawful power or authority by exercise of the right of appropriation, condemnation or eminent domain, or sold to prevent such taking, Tenant shall have the right to terminate this Lease effective as of the date possession is required to be surrendered to said authority. Tenant shall not assert any claim against Landlord or the taking authority for any compensation because of such taking, and Landlord shall be entitled to receive the entire amount of any award without deduction for any estate or interest of Tenant; provided, however, in the event of such a taking, Tenant shall be entitled to such portion of the award as shall be attributable to goodwill and for damage to, or the cost of removal of, Tenant's personal property. In the event this Lease is not terminated following a taking, Landlord shall be entitled to the entire amount of the award without deduction for any estate or interest of Tenant, Landlord shall restore the Premises to substantially their same condition prior to such partial taking to the extent of any award proceeds received by Landlord, and a fair and equitable abatement shall be made to Tenant for the Monthly Rent corresponding to the time during which, and to the part of the Premises of which, Tenant shall be so deprived on account of such taking and restoration. If the award proceeds from the taking are insufficient to restore the Premises as required by the preceding sentence and Landlord does not provide its own funds to so restore the Premises, and if as a result thereof Tenant's ability to use the Premises as contemplated by this Lease is materially and substantially impaired, then Tenant may elect to terminate this Lease by giving Landlord written notice thereof; provided, however, Landlord may rescind such termination by giving Tenant written notice within ten (10) business days following Landlord's receipt of such termination notice from Tenant that Landlord will provide the necessary funds to so restore the Premises.

18.2 Temporary Taking. In the event of taking of the Premises or any part thereof for temporary use, (i) this Lease shall be and remain unaffected thereby and Rent shall not abate, and (ii) Tenant shall be entitled to receive for itself such portion or portions of any award made for such use with respect to the period of the taking which is within the Lease Term. For purposes of this Section 18.2, a temporary taking shall be defined as a taking for a period of one (1) year or less.

18.3 Waiver of Termination. Tenant and Landlord waive any right to terminate this Lease under Section 1265.130 of the California Code of Civil Procedure, or any similar statute or law now or hereafter in force.

**19. Insurance.**

19.1.1 Tenant's Insurance. On or before the Commencement Date, and continuing thereafter until the expiration of the Term, Tenant shall obtain and keep in full force and effect respecting the Premises, the following insurance:

(a) Special Form insurance, including fire and extended coverage, sprinkler leakage (including earthquake sprinkler leakage), vandalism, malicious mischief, earthquake and flood coverage upon the building and property of every description and kind located on the Premises, including, without limitation, furniture, equipment and any other personal property and any Tenant Changes in an amount not less than \$15 million.

(b) Commercial general liability insurance coverage, on an occurrence basis, including personal injury, bodily injury (including wrongful death), broad form property damage, operations hazard, owner's protective coverage, contractual liability, liquor liability, products and completed operations liability, and owned/non-owned auto liability, with a general aggregate of not less than Two Million Dollars (\$2,000,000) per occurrence with "umbrella" or excess liability coverage of not less than Five Million Dollars (\$5,000,000).

(c) Worker's compensation and employer's liability insurance, in statutory amounts and limits, covering all persons employed in connection with any work done in, on or about the Premises for which claims for death or bodily injury could be asserted against Landlord, Tenant or the Premises.

(d) Pollution legal liability insurance and/or environmental impairment insurance, covering claims for damage or injury caused by Hazardous Materials, including, without limitation, bodily injury, wrongful death, property damage, including loss of use, removal, cleanup and restoration of work and materials necessary to return the Premises and any other property of whatever nature located on the Premises to their condition existing prior to the Commencement Date of this Lease.

19.1.2 Form of Policies. The minimum limits of policies of insurance required of Tenant under this Lease shall in no event limit the liability of Tenant under this Lease. The policies shall be in effect for the entire Term and shall be renewed annually during the term. Such insurance shall (i) name Landlord as an additional insured; (ii) be issued by an insurance company having a rating of not less than A-VIII in Best's Insurance Guide or which is otherwise acceptable to Landlord and licensed to do business in the State of California; (iv) be primary insurance as to all claims thereunder and provide that any insurance carried by Landlord is excess and is non-contributing with any insurance requirement of Tenant; (v) provide that the insurer shall endeavor to provide that said insurance shall not be canceled or coverage changed unless ten (10) days' prior written notice shall have been given to Landlord and any mortgagee. Tenant shall deliver said policy or policies or certificates thereof to Landlord on or before the Commencement Date and at least ten (10) days before the expiration dates thereof. In the event Tenant shall fail to procure such insurance, or to deliver such policies or certificate, Landlord may, at its option, procure such policies for the account of Tenant, and the cost thereof shall be paid to Landlord as additional rent within ten (10) days after delivery to Tenant of bills therefor.

**20. Waiver of Subrogation.**

20.1 Waiver. Each of Landlord and Tenant hereby waives its rights against the other with respect to any claims or damages or losses which are caused by or result from occurrences which would have been covered under any property insurance required to be obtained and maintained by such party under Section 16 of this Lease had such insurance been obtained and maintained as required therein. The foregoing waiver shall be in addition to, and not a limitation of, any other waivers or releases contained in this Lease.

20.2 Waiver of Insurers. Each of Landlord and Tenant shall cause each insurance policy required to be obtained by it pursuant to Section 19 to provide that the insurer waives all rights of recovery by way of subrogation against the other party in connection with any claims, losses and damages covered by such policy. If either party fails to maintain the insurance required hereunder, such risks shall be deemed to be self-insured with a deemed full waiver of subrogation as set forth in the immediately preceding sentence.

**21. Tenant's Default and Landlord's Remedies.**

21.1 Tenant's Default. The occurrence of any one or more of the following events shall constitute a default under this Lease by Tenant:

(a) the failure by Tenant to make any payment of Rent or any other payment required to be made by Tenant hereunder, within five (5) business days of written notice from Landlord that such payment was not received;

(b) the failure by Tenant to observe or perform any of the express or implied covenants or provisions of this Lease to be observed or performed by Tenant, other than as specified in Sections 18.1(a) or 18.1(b) above, where such failure shall continue for a period of thirty (30) days after written notice thereof from Landlord to Tenant; provided, however, that if the nature of Tenant's default is such that it may be cured but more than thirty (30) days are reasonably required for its cure, then Tenant shall not be deemed to be in default if Tenant shall commence such cure within said thirty (30) day period and thereafter diligently prosecute such cure to completion;

(c) (i) the making by Tenant of any general assignment for the benefit of creditors, (ii) the filing by or against Tenant of a petition to have Tenant adjudged a bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Tenant, the same is dismissed within sixty (60) days), (iii) the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within sixty (60) days, or (iv) the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease where such seizure is not discharged within sixty (60) days;

(d) Tenant shall be liquidated or dissolved or shall begin proceedings towards its liquidation or dissolution.

Any notice given under this Section 21.1 shall be in lieu of, and not in addition to, any notice required under California Code of Civil Procedure, Section 1161.

21.2 Landlord's Remedies; Termination. In the event of any such default by Tenant, in addition to any other remedies available to Landlord under this Lease, at law or in equity, Landlord shall have the immediate option to terminate this Lease and all rights of Tenant hereunder. In the event that Landlord shall elect to so terminate this Lease, then Landlord may recover from Tenant:

(a) the worth at the time of award of any unpaid Rent which had been earned at the time of such termination; plus

(b) the worth at the time of the award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; plus



(c) the worth at the time of award of the amount by which the unpaid Rent for the balance of the term after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided; plus

(d) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which, in the ordinary course of things, would be likely to result therefrom including, but not limited to: unamortized Tenant Improvement costs; attorneys' fees; unamortized brokers' commissions; the costs of refurbishment, alterations, renovation and repair of the Premises; and removal (including the repair of any damage caused by such removal) and storage (or disposal) of Tenant's personal property, equipment, fixtures, Tenant Changes, Tenant Improvements and any other items which Tenant is required under this Lease to remove but does not remove.

As used in Sections 21.2(a) and (b) above, the "worth at the time of award" is computed by allowing interest at the Interest Rate set forth in Section 1.10 of the Summary. As used in Section 21.2(c) above, the "worth at the time of award" is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%).

21.3 **Landlord's Remedies; Continuation of Lease.** In the event of any such default by Tenant, in addition to any other remedies available to Landlord under this Lease, at law or in equity, Landlord shall have the right to continue this Lease in full force and effect, whether or not Tenant shall have abandoned the Premises. The foregoing remedy shall also be available to Landlord pursuant to California Civil Code Section 1951.4 and any successor statute thereof in the event Tenant has abandoned the Premises.

21.4 **Rights and Remedies Cumulative.** All rights, options and remedies of Landlord contained in this Section 18 and elsewhere in this Lease shall be construed and held to be cumulative, and no one of them shall be exclusive of the other, and Landlord shall have the right to pursue any one or all of such remedies or any other remedy or relief which may be provided by law or in equity, whether or not stated in this Lease.

22. **Subordination.** At the request of Landlord or any mortgagee of a mortgage or a beneficiary of a deed of trust now or hereafter encumbering all or any portion of the Premises, or any lessor of any ground or master lease now or hereafter affecting all or any portion of the Premises, this Lease shall be subject and subordinate at all times to such ground or master leases (and such extensions and modifications thereof), and to the lien of such mortgages and deeds of trust (as well as to any advances made thereunder and to all renewals, replacements, modifications and extensions thereof).

23. **Estoppel Certificate.** Within ten (10) business days following Landlord's written request, Tenant shall execute and deliver to Landlord an estoppel certificate, certifying: (a) the Commencement Date of this Lease; (b) that this Lease is unmodified and in full force and effect (or, if modified, that this Lease is in full force and effect as modified, and stating the date and nature of such modifications); (c) the date to which the Rent and other sums payable under this Lease have been paid; (d) that there are not, to the best of Tenant's knowledge, any defaults under this Lease by either Landlord or Tenant, except as specified in such certificate; and (e) such other matters as are reasonably requested by Landlord. Any such estoppel certificate delivered pursuant to this Section 23 may be relied upon by any mortgagee, beneficiary, purchaser or prospective purchaser of any portion of the Premises, as well as their assignees.

24. **Quiet Enjoyment.** Landlord covenants and agrees with Tenant that, so long as Tenant is not in default under this Lease (beyond applicable notice and cure periods), Tenant shall and may peaceably and quietly have, hold and enjoy the Premises, in accordance with and subject to the terms and conditions of this Lease, as against all persons claiming by, through or under Landlord.

25. **Brokers.** Each party represents and warrants to the other, that except for Landlord's broker disclosed in Section 1.9, no broker, agent or finder (a) negotiated or was instrumental in negotiating or consummating this Lease on its behalf, or (b) is or might be entitled to a commission or compensation in connection with this Lease. Each party shall indemnify, protect, defend and hold harmless the other party from and against any and all claims, judgments, suits, causes of action, damages, losses, liabilities and expenses (including attorneys' fees and court costs) resulting from any breach by such party of the foregoing representation.

26. **Holding Over.** If Tenant holds over after the expiration or earlier termination of the Term, then, without waiver of any right on the part of Landlord as a result of Tenant's failure to timely surrender possession of the Premises to Landlord, Tenant shall become a tenant at sufferance only, upon the terms and conditions set forth in this Lease so far as applicable (including Tenant's obligation to pay all costs, expenses and any other additional rent under this Lease), but at a Monthly Rent equal to one hundred twenty-five percent (125%) of the Monthly Rent applicable to the Premises immediately prior to the date of such expiration or earlier termination. Acceptance by Landlord of rent after such expiration or earlier termination shall not constitute a consent to a hold over hereunder or result in an extension of this Lease.

27. **Miscellaneous.** This Lease shall be governed by, and construed pursuant to, the laws of the state in which the Premises are located. All of the covenants, conditions and provisions of this Lease shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective heirs, personal representatives and permitted successors and assigns. The invalidity or unenforceability of any provision of this Lease shall in no way affect, impair or invalidate any other provision hereof, and such other provisions shall remain valid and in full force and effect to the fullest extent permitted by law. This Lease may be executed in one or more counterparts, each of which shall constitute an original and all of which shall be one and the same agreement.

[Signatures appear on following page]

IN WITNESS WHEREOF, the parties have executed this Lease as of the day and year first above written.

LANDLORD:

[\_\_\_\_\_]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

TENANT:

SYSTRON DONNER INERTIAL, INC.,  
a Delaware corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT "A"**

**LEGAL DESCRIPTION OF PROPERTY**

[To be attached]

LEASE GUARANTY

This **LEASE GUARANTY** (this “**Guaranty**”) is made as of \_\_\_\_\_, 2020, by EMCORE CORPORATION, a New Jersey corporation (“**Guarantor**”), to and for the benefit of \_\_\_\_\_ (“**Landlord**”).

**RECITALS**

**A.** Systron Donner Inertial, Inc., a Delaware corporation (“**Tenant**”), and Landlord are parties to that certain Single-Tenant Triple Net Lease of even date herewith, with respect to certain premises located at 2700 Systron Drive, Concord, California, as more particularly described in the Lease. Initially capitalized terms that are used but not otherwise defined herein shall have the meanings given to them in the Lease.

**B.** Tenant is a wholly-owned subsidiary of Guarantor, and Guarantor shall derive financial benefits from the success of Tenant and the Lease.

**C.** In order to induce Landlord to enter into the Lease with Tenant, Guarantor has agreed to execute and deliver this Guaranty to Landlord.

**NOW, THEREFORE**, in consideration of the foregoing recitals, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor hereby agrees as follows:

**1. Guaranty of Obligations.** Guarantor hereby guarantees the payment when due of Monthly Rent, and all other additional rent, interest and charges to be paid by Tenant under the Lease, and the performance by Tenant of all of the material terms, conditions, covenants and agreements of the Lease, including, without limitation, the environmental indemnification set forth in Section 16.3 of the Lease. All payments required to be made by Guarantor hereunder shall be paid to Landlord in legal United States currency or tender at Landlord’s address set forth below, or at such other address as Landlord may specify from time to time. Notwithstanding any other provision in this guaranty, (a) Guarantor may assert as a defense to any payment by the Guarantor hereunder, any defense that Tenant could assert against Landlord pursuant to the Lease (provided that Guarantor may not assert the bankruptcy, insolvency, lack of authority or power, dissolution, liquidation or any other similar debtor defense of Tenant or its successors or permitted assigns as such a defense); and (b) the obligations of Guarantor hereunder shall not be greater than the obligations of Tenant under the Lease, plus any obligation of Guarantor to pay the reasonable expenses incurred by Landlord in any successful enforcement of its rights under the Lease or this Guaranty.

**2. No Release or Discharge.** This Guaranty is irrevocable, absolute, present, continuing and unconditional, and the obligations of Guarantor shall not be released, impaired, modified, limited or affected in any way by (a) any extensions of time, indulgences or modification which Landlord may extend to Tenant in the performance of its obligations under the Lease; (b) any failure of Landlord to enforce any of the conditions of the Lease; (c) any assignment or other transfer of the Lease or this Guaranty by Landlord; (d) any assignment or other transfer of the Lease by Tenant or the sublease of all or part of the Property by Tenant; (e) any amendments to or modifications of the Lease; (f) the release or discharge of Tenant in bankruptcy or other creditors’ proceedings; or (g) any rejection or disclaimer of Tenant. In addition, the obligations hereunder of Guarantor shall extend and apply with respect to the full and faithful performance and observance of all of the covenants, terms and conditions of Tenant to be performed (i) if the Lease shall be renewed, or its term extended, for any period beyond the date specified in the Lease for the expiration of said term, either pursuant to any option granted under the Lease or otherwise; and (ii) if Tenant holds over beyond the term of the Lease.

3. **Waiver.** Guarantor waives (a) all presentments, demands for performance, notices of nonperformance, protests, notices of protest, notices of dishonor, and notices of acceptance of this Guaranty; (b) notice of any extensions of time for performance which Landlord may grant to Tenant and to any modifications or amendments to the Lease to which Landlord and Tenant, or their successors and assigns may agree; (c) any right to require that any action be brought against Tenant; and (d) until this Guaranty is terminated pursuant to Section 5 below, any rights Guarantor may have against Tenant by reason of one or more payments or acts in compliance with Guarantor's obligations hereunder. Guarantor does not require any notice of Tenant's non-payment, non-performance or nonobservance of the covenants, terms, and conditions of the Lease, Guarantor hereby expressly waiving the right to receive such notice.

4. **Primary Obligation.** This Guaranty is a primary obligation of Guarantor. Provided that all applicable notice, cure and grace periods have expired under the Lease with respect to any Tenant default, Landlord may proceed against Guarantor hereunder without first proceeding against or exhausting its rights and remedies against Tenant or any other guarantor.

5. **Termination.** This Guaranty shall terminate and be of no further force or effect at such time as (i) Tenant has satisfied all of Tenant's obligations under the Lease; or (ii) Landlord has released Tenant from Tenant's obligations under the Lease.

6. **Intentionally Omitted.**

7. **Notices.** Any notice, demand or other communication which either party may desire or may be required to give to the other party shall be in writing, and shall be deemed given if delivered via hand delivery or by nationally recognized overnight courier (in either case with evidence of receipt of refusal thereof) addressed to the intended recipient at its address set forth below, or to such other address as such intended recipient may have designated by notice furnished in accordance herewith:

If to Landlord:

If to Guarantor:

EMCORE Corporation  
Attn: General Counsel  
2015 Chestnut St.  
Alhambra, CA 91803

Except as otherwise specifically required herein, notice of the exercise of any right, option or power granted to Landlord by this Guaranty is not required to be given.

8. **Governing Law.** For any matter relating to procedural or substantive law, this Guaranty shall be construed and enforced according to the internal laws of the State of California without reference to conflict of laws.

9. **Interpretation.** If any provision of this Guaranty, or any paragraph, sentence, clause, phase, or word, or the application thereof, is held invalid in any circumstance, the validity of the remainder of this Guaranty shall be construed as if such invalid part were never included herein. The headings of sections and paragraphs in this Guaranty are for convenience only and shall not be construed in any way to limit or define the content, scope, or intent of the provisions hereof. As used in this Guaranty, the singular includes the plural, and masculine, feminine and neuter pronouns are fully interchangeable, where the context so requires.

10. **Successors and Assigns.** This Guaranty shall be binding upon, and the term "Guarantor" shall include, the successors, assigns, legal representatives and other transferees of Guarantor. This Guaranty shall also inure to the benefit of Landlord's successors, assigns, and legal representatives.

11. **Due Authorization.** Guarantor represents and warrants that this Guaranty has been duly authorized by all necessary corporate action on Guarantor's part, has been duly executed and delivered by a duly authorized officer, and constitutes Guarantor's valid and legally binding agreement in accordance with its terms.

12. **Complete Agreement.** This Guaranty represents the entire understanding of the parties with respect to the subject matter hereof. This Guaranty shall not be modified except by a written agreement signed by the parties hereto.

[Signature pages to follow.]

**IN WITNESS WHEREOF**, Guarantor executes this Guaranty as in instrument under seal as of the day and year first written above.

**EMCORE CORPORATION,**  
a New Jersey corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_