

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

Form S-8
Registration Statement
Under
The Securities Act of 1933

EMCORE Corporation

(Exact name of the registrant as specified in its charter)

New Jersey
(State or other jurisdiction of
incorporation or organization)

**EMCORE Corporation 2022 New Employee
Inducement Plan**
(Full titles of plans)

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

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

**Thomas P. Minichiello
Chief Financial Officer
EMCORE Corporation
2015 W. Chestnut Street
Alhambra, California 91803**
(Name and address agent for service)

91803
(Zip Code)

(626) 293-3400
(Telephone number, including area code, of agent for service)

Copies to:

James J. Masetti
Pillsbury Winthrop Shaw Pittman LLP
2550 Hanover Street
Palo Alto, CA 94304
(650) 233-4500

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of “large accelerated filer,” “accelerated filer,” “smaller reporting company,” and “emerging growth company” in Rule 12b-2 of the Exchange Act.

Large accelerated filer ☐
Non-accelerated filer ☐

Accelerated filer ☒
Smaller reporting company ☒
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 7(a)(2)(B) of the Securities Act. ☐

The Registration Statement shall become effective upon filing in accordance with Rule 462 under the Securities Act.

PART I

INFORMATION REQUIRED IN THE PROSPECTUS

The information specified in Item 1 and Item 2 of Part I of Form S-8 is omitted from this registration statement on Form S-8 (this “Registration Statement”) in accordance with the provisions of Rule 428 under the Securities Act of 1933 (the “Securities Act”) and the introductory note to Part I of Form S-8.

The document(s) containing the information specified in Part I will be sent or given to employees as specified by Rule 428(b)(1) of the Securities Act. Such documents are not required to be, and are not, filed with the Securities and Exchange Commission (the “Commission”) either as part of this Registration Statement or as prospectuses or prospectus supplements pursuant to Rule 424 of the Securities Act.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents filed by the Registrant with the Commission are hereby incorporated by reference in this Registration Statement:

- (a) The Registrant’s Annual Report on [Form 10-K](#) for the fiscal year ended September 30, 2021;
- (b) The Registrant’s Quarterly Reports on Form 10-Q for the quarters ended [December 31, 2021](#), [March 31, 2022](#), and [June 30, 2022](#);
- (c) The Registrant’s Current Reports on Form 8-K filed on [November 2, 2021](#), [February 15, 2022](#), [March 17, 2022](#), [May 2, 2022](#), [June 15, 2022](#), and [August 9, 2022](#); and
- (d) The description of the Registrant’s common stock set forth in [Exhibit 4.2](#) of the Registrant’s Annual Report on Form 10-K for the fiscal year ended September 30, 2021, together with any amendment or report filed with the Commission for the purpose of updating such description.

In addition, all documents filed by the Registrant pursuant to Section 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934 (the “Exchange Act”) (excluding any portions thereof furnished by the Registrant, including information furnished under Item 2.02 and Item 7.01 and any exhibits relating to Item 2.02 or Item 7.01 furnished under Item 9.01 of Form 8-K and any certification required by 18 U.S.C. § 1350), subsequent to the filing of this Registration Statement and prior to the filing of a post-effective amendment which indicates that all securities offered hereby have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference into this Registration Statement and to be a part hereof from the date of filing such documents. Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained in any subsequently filed document which also is deemed to be incorporated by reference herein modifies or supersedes such statement.

Item 4. Description of Securities

Not applicable.

Item 5. Interests of Named Experts and Counsel

Not applicable.

Item 6. Indemnification of Directors and Officers

The Registrant's by-laws limit directors' and officers' liability to the fullest extent permitted under applicable law and provide that the Registrant will, in certain situations, indemnify its directors and officers and may indemnify other employees and other agents, to the fullest extent permitted by applicable law. Any indemnified person is also entitled, subject to certain limitations, to advancement, direct payment, or reimbursement of reasonable expenses (including attorneys' fees and disbursements) in advance of the final disposition of the proceeding.

The Registrant has entered, and intends to continue to enter, into separate indemnification agreements with each of its directors and officers, pursuant to which the Registrant agrees to indemnify them for certain potential expenses and liabilities arising from their status as a director or executive officer of the Registrant.

The Registrant maintains a directors' and officers' insurance policy, which covers certain liabilities relating to the Registrant's obligation to indemnify its directors and executive officers in certain circumstances. It is not possible to determine the aggregate maximum potential loss under these indemnification agreements due to the limited history of prior indemnification claims and the unique facts and circumstances involved in each particular claim.

Item 7. Exemption from Registration Claimed

Not applicable.

Item 8. Exhibits.

Exhibit No.	Description
5.1	Opinion of Connell Foley LLP.
23.1	Consent of KPMG LLP.
23.2	Consent of Connell Foley LLP (included in Exhibit 5.1 filed herewith).
24.1	Power of Attorney (contained on the signature page hereto).
99.1	EMCORE Corporation 2022 New Employee Inducement Plan.
99.2	Form of Restricted Stock Unit Award Agreement under the EMCORE Corporation 2022 New Employee Inducement Plan.
107	Filing Fee Table.

Item 9. Undertakings.

(a) The undersigned Registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act;

(ii) To reflect in the prospectus any facts or events arising after the effective date of this Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in this Registration Statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the Registration Statement or any material change to such information in the Registration Statement;

provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) of this Section shall not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the Registrant pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference in the Registration Statement.

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in this Registration Statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized in the City of Alhambra, State of California, on August 9, 2022.

EMCORE CORPORATION

By: /s/ Jeffrey Rittichier
Jeffrey Rittichier
Chief Executive Officer and President

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints Jeffrey Rittichier and Thomas P. Minichiello, and each of them, his or her true and lawful attorneys-in-fact and agents, each with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments, including post-effective amendments, to this Registration Statement on Form S-8, and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done, as fully for all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that each of said attorneys-in-fact and agents, or his or her substitute or substitutes may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
<u>/s/ Jeffrey Rittichier</u> Jeffrey Rittichier	Chief Executive Officer, President and Director (Principal Executive Officer)	August 9, 2022
<u>/s/ Thomas P. Minichiello</u> Thomas P. Minichiello	Chief Financial Officer (Principal Financial and Accounting Officer)	August 9, 2022
<u>/s/ Stephen L. Domenik</u> Stephen L. Domenik	Chair of the Board	August 9, 2022
<u>/s/ Bruce E. Grooms</u> Bruce E. Grooms	Director	August 9, 2022
<u>/s/ Noel Heiks</u> Noel Heiks	Director	August 9, 2022
<u>/s/ Rex S. Jackson</u> Rex S. Jackson	Director	August 9, 2022



Connell Foley LLP
 56 Livingston Avenue
 Roseland, NJ 07068
 P 973.535.0500 F 973.535.9217

August 9, 2022

EMCORE Corporation
 2015 W. Chestnut Street
 Alhambra, California 91803

Re: Registration of Securities of EMCORE Corporation

Ladies and Gentlemen:

In connection with the registration of up to 380,000 shares of Common Stock of EMCORE Corporation, a New Jersey corporation (the “Company”), no par value per share (the “Shares”), under the Securities Act of 1933, as amended, pursuant to a Registration Statement on Form S-8 (the “Registration Statement”), filed with the Securities and Exchange Commission on or about the date hereof, such Shares to be issued or delivered pursuant to the EMCORE Corporation 2022 New Employee Inducement Plan (as amended, the “Plan”), you have requested our opinion set forth below.

The opinions expressed herein are limited to the New Jersey Business Corporation Act, as currently in effect (the “Act”), applicable provisions of the Constitution of the State of New Jersey, as currently in effect (the “New Jersey Constitution”), and judicial decisions reported as of the date hereof that interpret the Act and such applicable provisions of the New Jersey Constitution (collectively, “New Jersey Law”).

In our capacity as special New Jersey corporate counsel for the Company, we have examined originals or copies of those corporate and other records of the Company we considered appropriate.

In making the foregoing examinations, we have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as certified or photostatic copies thereof and the authenticity of the originals of such latter documents. As to all questions of fact material to these opinions, where such facts have not been independently established, and as to the content and form of certain minutes, records, resolutions or other documents or writings of the Company, we have relied, to the extent we have deemed reasonably appropriate, upon representations or certificates of officers of the Company or governmental officials. Finally, we have assumed that all formalities required by the Company’s Certificate of Incorporation, including any amendments thereto, the Company’s By-laws, including any amendments thereto, and New Jersey Law will be complied with when the Shares are issued.

Roseland

Jersey City

Newark

New York

Cherry Hill

Philadelphia

www.connellfoley.com

On the basis of such examination and our consideration of those questions of law we considered relevant, and subject to the limitations and qualifications in this opinion, we are of the opinion that: (1) the Shares have been duly authorized by all necessary corporate action on the part of the Company; and (2) when issued in accordance with such authorization, the provisions of the Plan and relevant agreements duly authorized by and in accordance with the terms of the Plan, and upon payment for and delivery of the Shares as contemplated in accordance with the Plan, and either (a) the countersigning of the certificate or certificates representing the Shares by a duly authorized signatory of the registrar for the Company's Common Stock; or (b) the book-entry of the Shares by the transfer agent for the Company's Common Stock in the name of The Depository Trust Company or its nominee, the Shares will be validly issued, fully paid and non-assessable.

We consent to your filing this opinion as an exhibit to the Form S-8. In giving such consent, we do not thereby concede that our firm is within the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Securities and Exchange Commission promulgated thereunder. This opinion is given as of the date hereof, and we assume no obligation to update or supplement such opinion to reflect any facts or circumstances that may hereafter come to our attention or any changes that may hereafter occur.

Respectfully Submitted,

/s/ Connell Foley LLP

Connell Foley LLP

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors
EMCORE Corporation:

We consent to the use of our report dated December 3, 2021, with respect to the consolidated financial statements of EMCORE Corporation and the effectiveness of internal control over financial reporting, incorporated herein by reference.

/s/ KPMG LLP
Irvine, California
August 9, 2022

EMCORE CORPORATION
2022 NEW EMPLOYEE INDUCEMENT PLAN

1. PURPOSE OF PLAN

The purposes of this EMCORE Corporation 2022 New Employee Inducement Plan (this “**Plan**”) of EMCORE Corporation, a New Jersey corporation (the “**Corporation**”), are to (a) to attract and retain the services of persons not previously an employee of the Corporation or any of its Subsidiaries, or following a bona fide period of non-employment, as an inducement material to the individual’s entering into employment with the Corporation or any Subsidiary within the meaning of Rule 5635(c)(4) of the Nasdaq Listing Rules, and (b) to provide incentives to such persons to exert maximum efforts for the success of the Corporation’s business. The Plan seeks to achieve this purpose by providing for Awards in the form of options, stock appreciation rights, stock bonuses, restricted stock, performance stock, stock units, restricted stock units, deferred shares, phantom stock or similar rights to purchase or acquire shares, to the extent such awards qualify as an employment inducement award under Rule 5635(c)(4) of the Nasdaq Listing Rules.

2. ELIGIBILITY

The Administrator (as such term is defined in Section 3.1) may grant awards under this Plan only to those persons that the Administrator determines to be Eligible Employees. An “**Eligible Employee**” is a newly hired employee of the Corporation or a Subsidiary who was not previously an employee of the Corporation or a Subsidiary or who is entering into employment following a bona fide period of non-employment with the Corporation or a Subsidiary, and who is selected to participate in this Plan by the Administrator; provided, however, that a person who is otherwise an Eligible Employee under clause (b) above may participate in this Plan only if such participation would not adversely affect either the Corporation’s eligibility to use Form S-8 to register under the Securities Act of 1933, as amended (the “**Securities Act**”), the offering and sale of shares issuable under this Plan by the Corporation or the Corporation’s compliance with any other applicable laws. An Eligible Employee who has been granted an award is referred to as a “**participant**.” As used herein, “**Subsidiary**” means any corporation or other entity a majority of whose outstanding voting stock or voting power is beneficially owned directly or indirectly by the Corporation; and “**Board**” means the Board of Directors of the Corporation.

3. PLAN ADMINISTRATION

- 3.1 The Administrator.** This Plan shall be administered by and all awards under this Plan shall be authorized by the Administrator. The “**Administrator**” means the Board or a committee appointed by the Board to administer all or certain aspects of this Plan. Any such committee shall be comprised of two or more directors of the Corporation each of whom shall qualify as an “Independent Director” as defined in Rule 5605(a)(2) of the Nasdaq Listing Rules. At any time and on any one or more occasions, the Independent Board may exercise any of the powers or responsibilities assigned to the Administrator, and when so acting, shall have the benefit of all of the provisions of the Plan pertaining to the Administrator’s exercise of its authorities hereunder. “**Independent Board**” shall mean a majority of the Corporation’s “Independent Directors” (as defined in Rule 5605(a)(2) of the Nasdaq Listing Rules). Unless otherwise provided in the Bylaws of the Corporation or the applicable charter of any Administrator: (a) a majority of the members of the acting Administrator shall constitute a quorum, and (b) the vote of a majority of the members present assuming the presence of a quorum or the unanimous written consent of the members of the Administrator shall constitute action by the acting Administrator.
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3.2 Powers of the Administrator. Subject to the express provisions of this Plan, the Administrator is authorized and empowered to do all things necessary or desirable in connection with the authorization of awards and the administration of this Plan (in the case of a committee or delegation to one or more officers, within any express limits on the authority delegated to that committee or person(s)), including, without limitation, the authority to:

- (a) determine eligibility and, from among those persons determined to be eligible, determine the particular Eligible Employees who will receive an award under this Plan;
 - (b) grant awards to Eligible Employees, determine the price (if any) at which securities will be offered or awarded and the number of securities to be offered or awarded to any of such persons (in the case of securities-based awards), determine the other specific terms and conditions of awards consistent with the express limits of this Plan, establish the installment(s) (if any) in which such awards shall become exercisable or shall vest (which may include, without limitation, performance and/or time-based schedules), or determine that no delayed exercisability or vesting is required, establish any applicable performance-based exercisability or vesting requirements, determine the circumstances in which any performance-based goals (or the applicable measure of performance) will be adjusted and the nature and impact of any such adjustment, determine the extent (if any) to which any applicable exercise and vesting requirements have been satisfied, establish the events (if any) on which exercisability or vesting may accelerate (which may include, without limitation, retirement and other specified terminations of employment or services, or other circumstances), and establish the events (if any) of termination, expiration or reversion of such awards;
 - (c) approve the forms of any award agreements (which need not be identical either as to type of award or among participants);
 - (d) construe and interpret this Plan and any agreements defining the rights and obligations of the Corporation, its Subsidiaries, and participants under this Plan, make any and all determinations under this Plan and any such agreements, further define the terms used in this Plan, and prescribe, amend and rescind rules and regulations relating to the administration of this Plan or the awards granted under this Plan;
 - (e) cancel, modify, or waive the Corporation's rights with respect to, or modify, discontinue, suspend, or terminate any or all outstanding awards, subject to any required consent under Section 8.6.5 and subject to compliance with the stockholder approval requirements of the Nasdaq Listing Rules, to the extent applicable);
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- (f) accelerate, waive or extend the vesting or exercisability, or modify or extend the term of, any or all such outstanding awards (in the case of options or stock appreciation rights, within the maximum term of such awards) in such circumstances as the Administrator may deem appropriate (including, without limitation, in connection with a retirement or other termination of employment or services, or other circumstances) subject to any required consent under Section 8.6.5;
- (g) adjust the number of shares of Common Stock subject to any award, adjust the price of any or all outstanding awards or otherwise waive or change previously imposed terms and conditions, in such circumstances as the Administrator may deem appropriate, in each case subject to Sections 4 and 8.6 (and subject to the no repricing provision below);
- (h) determine the date of grant of an award, which may be a designated date after but not before the date of the Administrator's action to approve the award (unless otherwise designated by the Administrator, the date of grant of an award shall be the date upon which the Administrator took the action approving the award);
- (i) determine whether, and the extent to which, adjustments are required pursuant to Section 7.1 hereof and take any other actions contemplated by Section 7 in connection with the occurrence of an event of the type described in Section 7;
- (j) acquire or settle (subject to Sections 7 and 8.6) rights under awards in cash, stock of equivalent value, or other consideration (subject to the no repricing provision below);
- (k) determine the fair market value of the Common Stock or awards under this Plan from time to time and/or the manner in which such value will be determined; and
- (l) to submit any amendment to this Plan for stockholder approval, including, but not limited to, amendments to the Plan intended to satisfy the requirements of Rule 16b-3 promulgated under the Securities Exchange Act of 1934, as amended.

Except to the extent prohibited by applicable law, the Administrator may delegate to one or more individuals the day-to-day administration of this Plan and any of the functions assigned to it in this Plan, provided that, notwithstanding anything in this Plan to the contrary, all awards under this Plan must be granted by the Administrator or the Independent Board and must qualify as an employment inducement award under Rule 5635(c)(4) of the Nasdaq Listing Rules. Such delegation may be revoked at any time.

- 3.3 **Prohibition on Repricing.** Notwithstanding anything to the contrary in Section 3.2 and except for an adjustment pursuant to Section 7.1 or a repricing approved by stockholders, in no case may the Administrator (1) amend an outstanding stock option or SAR to reduce the exercise price or base price of the award, (2) cancel, exchange, or surrender an outstanding stock option or SAR in exchange for cash or other awards for the purpose of repricing the award, or (3) cancel, exchange, or surrender an outstanding stock option or SAR in exchange for an option or SAR with an exercise or base price that is less than the exercise or base price of the original award.
- 3.4 **Binding Determinations.** Any determination or other action taken by, or inaction of, the Corporation, any Subsidiary, or the Administrator relating or pursuant to this Plan (or any award made under this Plan) and within its authority hereunder or under applicable law shall be within the absolute discretion of that entity or body and shall be conclusive and binding upon all persons. Neither the Board nor any other Administrator, nor any member thereof or person acting at the direction thereof, shall be liable for any act, omission, interpretation, construction or determination made in good faith in connection with this Plan (or any award made under this Plan), and all such persons shall be entitled to indemnification and reimbursement by the Corporation in respect of any claim, loss, damage or expense (including, without limitation, attorneys' fees) arising or resulting therefrom to the fullest extent permitted by law and/or under any directors and officers liability insurance coverage that may be in effect from time to time. Neither the Board nor any other Administrator, nor any member thereof or person acting at the direction thereof, nor the Corporation or any of its Subsidiaries, shall be liable for any damages of a participant should any award grant or other action with respect thereto not satisfy Rule 16b-3 promulgated under the Securities Exchange Act of 1934, as amended, or otherwise for any tax or other liability imposed on a participant with respect to an award.
- 3.5 **Reliance on Experts.** In making any determination or in taking or not taking any action under this Plan, the Administrator may obtain and may rely upon the advice of experts, including employees and professional advisors to the Corporation. No director, officer or agent of the Corporation or any of its Subsidiaries shall be liable for any such action or determination taken or made or omitted in good faith.
- 3.6 **Delegation.** The Administrator may delegate ministerial, non-discretionary functions to individuals who are officers or employees of the Corporation or any of its Subsidiaries or to third parties.
- 3.7 **Minimum Vesting Requirement.** Notwithstanding anything to the contrary in Section 3.2 and except as provided in the next sentence, all awards granted under this Plan shall be subject to a minimum vesting requirement for one year, and no portion of any such award may vest earlier than the first anniversary of the grant date of the award (the "**Minimum Vesting Requirement**"). The Minimum Vesting Requirement shall not apply to 5% of the total number of shares available under this Plan.

4. SHARES OF COMMON STOCK SUBJECT TO THE PLAN; SHARE LIMITS

- 4.1 **Shares Available.** Subject to the provisions of Section 7.1, the capital stock that may be delivered under this Plan shall be shares of the Corporation's authorized but unissued Common Stock and any shares of its Common Stock held as treasury shares. For purposes of this Plan, "**Common Stock**" shall mean the common stock of the Corporation and such other securities or property as may become the subject of awards under this Plan, or may become subject to such awards, pursuant to an adjustment made under Section 7.1.
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4.2 Share Limit. The maximum number of shares of Common Stock that may be delivered pursuant to awards granted to Eligible Employees under this Plan (the “**Share Limit**”) is 380,000 shares of Common Stock.

4.3 Reserved.

4.4 Share-Limit Counting Rules. The Share Limit shall be subject to the following provisions of this Section 4.4:

- (a) Shares that are subject to or underlie awards granted under this Plan which expire or for any reason are cancelled or terminated, are forfeited, fail to vest, or for any other reason are not paid or delivered under this Plan shall not be counted against the Share Limit and shall be available for subsequent awards under this Plan.
 - (b) To the extent that shares of Common Stock are delivered pursuant to the exercise of a stock appreciation right granted under this Plan, the total number of underlying shares subject to such stock appreciation right shall be counted against the Share Limit. (For purposes of clarity, if a stock appreciation right relates to 100,000 shares and is exercised in full at a time when the payment due to the participant is 15,000 shares, 100,000 shares shall be counted against the Share Limit with respect to such exercise.)
 - (c) Shares that are exchanged by a participant or withheld by the Corporation as full or partial payment in connection with any stock option or stock appreciation right granted under this Plan, as well as any shares exchanged by a participant or withheld by the Corporation or one of its Subsidiaries to satisfy the tax withholding obligations related to any stock option or stock appreciation right granted under this Plan, shall be counted against the Share Limit and shall not be available for subsequent awards under this Plan. Shares that are exchanged by a participant or withheld by the Corporation as full or partial payment in connection with any “full-value award” granted under this Plan, as well as any shares exchanged by a participant or withheld by the Corporation or one of its Subsidiaries to satisfy the tax withholding obligations related to any full-value award granted under this Plan, shall be counted against the Share Limit and shall not be available for subsequent awards under this Plan.
 - (d) In addition, shares that are exchanged by a participant or withheld by the Corporation after the Stockholder Approval Date as full or partial payment in connection with any award granted under the Prior Plans, as well as any shares exchanged by a participant or withheld by the Corporation or one of its Subsidiaries after the Stockholder Approval Date to satisfy the tax withholding obligations related to any award granted under the Prior Plans, shall not be available for new awards under this Plan.
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- (e) To the extent that an award granted under this Plan is settled in cash or a form other than shares of Common Stock, the shares that would have been delivered had there been no such cash or other settlement shall not be counted against the Share Limit and shall be available for subsequent awards under this Plan.
- (f) In the event that shares of Common Stock are delivered in respect of a dividend equivalent right granted under this Plan, the number of shares delivered with respect to the award shall be counted against the Share Limit. (For purposes of clarity, if 1,000 dividend equivalent rights are granted and outstanding when the Corporation pays a dividend, and 50 shares are delivered in payment of those rights with respect to that dividend, 50 shares shall be counted against the Share Limit). Except as otherwise provided by the Administrator, shares delivered in respect of dividend equivalent rights shall not count against any individual award limit under this Plan other than the Share Limit.
- (g) The Corporation may not increase the Share Limit by repurchasing shares of Common Stock on the market (by using cash received through the exercise of stock options or otherwise).

Refer to Section 8.10 for application of the share limits of this Plan, including the limits in Sections 4.2 and 4.3, with respect to assumed awards. Each of the numerical limits and references in Sections 4.2 and 4.3, and in this Section 4.4, is subject to adjustment as contemplated by Section 4.3, Section 7 and Section 8.10.

- 4.5 No Fractional Shares; Minimum Issue.** Unless otherwise expressly provided by the Administrator, no fractional shares shall be delivered under this Plan. The Administrator may pay cash in lieu of any fractional shares in settlements of awards under this Plan. The Administrator may from time to time impose a limit (of not greater than 100 shares) on the minimum number of shares that may be purchased or exercised as to awards (or any particular award) granted under this Plan unless (as to any particular award) the total number purchased or exercised is the total number at the time available for purchase or exercise under the award.

5. AWARDS

- 5.1 Type and Form of Awards.** The Administrator shall determine the type or types of award(s) to be made to each selected Eligible Employee. Awards may be granted singly, in combination or in tandem. Awards also may be made in combination or in tandem with, in replacement of, as alternatives to, or as the payment form for grants or rights under any other employee or compensation plan of the Corporation or one of its Subsidiaries. The types of awards that may be granted under this Plan are:

- 5.1.1 Stock Options.** A stock option is the grant of a right to purchase a specified number of shares of Common Stock during a specified period as determined by the Administrator. Options granted under this Plan shall be non-statutory stock options. A “non-statutory stock option” means a stock option that does not qualify as an incentive stock option within the meaning of Section 422 of the Internal Revenue Code of 1986, as amended (the “Code”). The maximum term of each option shall be ten (10) years. The per share exercise price for each option shall be not less than 100% of the fair market value of a share of Common Stock on the date of grant of the option. When an option is exercised, the exercise price for the shares to be purchased shall be paid in full in cash or such other method permitted by the Administrator consistent with Section 5.4.
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5.1.2 *Reserved.*

5.1.3 Stock Appreciation Rights. A stock appreciation right or “SAR” is a right to receive a payment, in cash and/or Common Stock, equal to the excess of the fair market value of a specified number of shares of Common Stock on the date the SAR is exercised over the “**base price**” of the award, which base price shall be set forth in the applicable award agreement and shall be not less than 100% of the fair market value of a share of Common Stock on the date of grant of the SAR. The maximum term of a SAR shall be ten (10) years.

5.1.4 Other Awards; Dividend Equivalent Rights. The other types of awards that may be granted under this Plan include: (a) stock bonuses, restricted stock, performance stock, stock units, restricted stock units, deferred shares, phantom stock or similar rights to purchase or acquire shares, whether at a fixed or variable price (or no price) or fixed or variable ratio related to the Common Stock, and, subject to the Minimum Vesting Requirement, any of which may (but need not) be fully vested at grant or vest upon the passage of time, the occurrence of one or more events, the satisfaction of performance criteria or other conditions, or any combination thereof; or (b) cash awards. The types of cash awards that may be granted under this Plan include the opportunity to receive a payment for the achievement of one or more goals established by the Administrator, on such terms as the Administrator may provide, as well as discretionary cash awards. Dividend equivalent rights may be granted as a separate award or in connection with another award under this Plan; provided, however, that dividend equivalent rights may not be granted as to a stock option or SAR granted under this Plan. In addition, any dividends and/or dividend equivalents as to the portion of an award that is subject to unsatisfied vesting requirements will be subject to termination and forfeiture to the same extent as the corresponding portion of the award to which they relate in the event the applicable vesting requirements are not satisfied.

5.1.5 Performance Goals. The grant, vesting, exercisability or payment of an award may (but need not) depend on the degree of achievement of one or more performance goals relative to a pre-established targeted level or levels using business criteria as selected by the Administrator in its sole discretion.

5.2 Award Agreements. Each award shall be evidenced by a written or electronic award agreement or notice in a form approved by the Administrator (an “**award agreement**”), and, in each case and if required by the Administrator, executed or otherwise electronically accepted by the recipient of the award in such form and manner as the Administrator may require.

5.3 *Deferrals and Settlements.* Payment of awards may be in the form of cash, Common Stock, other awards or combinations thereof as the Administrator shall determine, and with such restrictions (if any) as it may impose. The Administrator may also require or permit participants to elect to defer the issuance of shares or the settlement of awards in cash under such rules and procedures as it may establish under this Plan. The Administrator may also provide that deferred settlements include the payment or crediting of interest or other earnings on the deferral amounts, or the payment or crediting of dividend equivalents where the deferred amounts are denominated in shares.

5.4 *Consideration for Common Stock or Awards.* The purchase price (if any) for any award granted under this Plan or the Common Stock to be delivered pursuant to an award, as applicable, may be paid by means of any lawful consideration as determined by the Administrator, including, without limitation, one or a combination of the following methods:

- (a) services rendered by the recipient of such award;
- (b) cash, check payable to the order of the Corporation, or electronic funds transfer;
- (c) notice and third party payment in such manner as may be authorized by the Administrator;
- (d) the delivery of previously owned shares of Common Stock;
- (e) by a reduction in the number of shares otherwise deliverable pursuant to the award; or
- (f) subject to such procedures as the Administrator may adopt, pursuant to a “cashless exercise” with a third party who provides financing for the purposes of (or who otherwise facilitates) the purchase or exercise of awards.

In no event shall any shares newly-issued by the Corporation be issued for less than the minimum lawful consideration for such shares or for consideration other than consideration permitted by applicable state law. Shares of Common Stock used to satisfy the exercise price of an option shall be valued at their fair market value. The Corporation will not be obligated to deliver any shares unless and until it receives full payment of the exercise or purchase price therefor and any related withholding obligations under Section 8.5 and any other conditions to exercise or purchase have been satisfied. Unless otherwise expressly provided in the applicable award agreement, the Administrator may at any time eliminate or limit a participant’s ability to pay any purchase or exercise price of any award or shares by any method other than cash payment to the Corporation.

5.5 Definition of Fair Market Value. For purposes of this Plan, “**fair market value**” shall mean, unless otherwise determined or provided by the Administrator in the circumstances, the closing price (in regular trading) for a share of Common Stock on the Nasdaq Stock Market (the “**Market**”) for the date in question or, if no sales of Common Stock were reported on the Market on that date, the closing price (in regular trading) for a share of Common Stock on the Market for the next preceding day on which sales of Common Stock were reported on the Market. The Administrator may, however, provide with respect to one or more awards that the fair market value shall equal the closing price (in regular trading) for a share of Common Stock on the Market on the last trading day preceding the date in question or the average of the high and low trading prices of a share of Common Stock on the Market for the date in question or the most recent trading day. If the Common Stock is no longer listed or is no longer actively traded on the Market as of the applicable date, the fair market value of the Common Stock shall be the value as reasonably determined by the Administrator for purposes of the award in the circumstances. The Administrator also may adopt a different methodology for determining fair market value with respect to one or more awards if a different methodology is necessary or advisable to secure any intended favorable tax, legal or other treatment for the particular award(s) (for example, and without limitation, the Administrator may provide that fair market value for purposes of one or more awards will be based on an average of closing prices (or the average of high and low daily trading prices) for a specified period preceding the relevant date).

5.6 Transfer Restrictions.

5.6.1 Limitations on Exercise and Transfer. Unless otherwise expressly provided in (or pursuant to) this Section 5.6 or required by applicable law: (a) all awards are non-transferable and shall not be subject in any manner to sale, transfer, anticipation, alienation, assignment, pledge, encumbrance or charge; (b) awards shall be exercised only by the participant; and (c) amounts payable or shares issuable pursuant to any award shall be delivered only to (or for the account of) the participant.

5.6.2 Exceptions. The Administrator may permit awards to be exercised by and paid to, or otherwise transferred to, other persons or entities pursuant to such conditions and procedures, including limitations on subsequent transfers, as the Administrator may, in its sole discretion, establish in writing. Any permitted transfer shall be subject to compliance with applicable federal and state securities laws and shall not be for value (other than nominal consideration, settlement of marital property rights, or for interests in an entity in which more than 50% of the voting interests are held by the Eligible Employee or by the Eligible Employee’s family members).

5.6.3 Further Exceptions to Limits on Transfer. The exercise and transfer restrictions in Section 5.6.1 shall not apply to:

- (a) transfers to the Corporation (for example, in connection with the expiration or termination of the award);
- (b) the designation of a beneficiary to receive benefits in the event of the participant's death or, if the participant has died, transfers to or exercise by the participant's beneficiary, or, in the absence of a validly designated beneficiary, transfers by will or the laws of descent and distribution;
- (c) transfers to a family member (or former family member) pursuant to a domestic relations order if received by the Administrator;
- (d) if the participant has suffered a disability, permitted transfers or exercises on behalf of the participant by his or her legal representative; or
- (e) the authorization by the Administrator of "cashless exercise" procedures with third parties who provide financing for the purpose of (or who otherwise facilitate) the exercise of awards consistent with applicable laws and any limitations imposed by the Administrator.

5.7 International Awards. One or more awards may be granted to Eligible Employees who provide services to the Corporation or one of its Subsidiaries outside of the United States. Any awards granted to such persons may be granted pursuant to the terms and conditions of any applicable sub-plans, if any, appended to this Plan and approved by the Administrator from time to time. The awards so granted need not comply with other specific terms of this Plan, provided that stockholder approval of any deviation from the specific terms of this Plan is not required by applicable law or any applicable listing agency.

6. EFFECT OF TERMINATION OF EMPLOYMENT OR SERVICE ON AWARDS

6.1 General. The Administrator shall establish the effect (if any) of a termination of employment or service on the rights and benefits under each award under this Plan and in so doing may make distinctions based upon, inter alia, the cause of termination and type of award.

6.2 Events Not Deemed Terminations of Employment. Unless the express policy of the Corporation or one of its Subsidiaries, or the Administrator, otherwise provides, or except as otherwise required by applicable law, the employment relationship shall not be considered terminated in the case of: (a) sick leave, (b) military leave, or (c) any other leave of absence authorized by the Corporation or one of its Subsidiaries, or the Administrator; provided that, unless reemployment upon the expiration of such leave is guaranteed by contract or law or the Administrator otherwise provides, such leave is for a period of not more than three months. In the case of any employee of the Corporation or one of its Subsidiaries on an approved leave of absence, continued vesting of the award while on leave from the employ of the Corporation or one of its Subsidiaries may be suspended until the employee returns to service, unless the Administrator otherwise provides or applicable law otherwise requires. In no event shall an award be exercised after the expiration of any applicable maximum term of the award.

6.3 Effect of Change of Subsidiary Status. For purposes of this Plan and any award, if an entity ceases to be a Subsidiary of the Corporation a termination of employment or service shall be deemed to have occurred with respect to each Eligible Employee in respect of such Subsidiary who does not continue as an Eligible Employee in respect of the Corporation or another Subsidiary that continues as such after giving effect to the transaction or other event giving rise to the change in status unless the Subsidiary that is sold, spun-off or otherwise divested (or its successor or a direct or indirect parent of such Subsidiary or successor) assumes the Eligible Employee's award(s) in connection with such transaction.

7. ADJUSTMENTS; ACCELERATION

7.1 *Adjustments.*

- (a) Subject to Section 7.2, upon (or, as may be necessary to effect the adjustment, immediately prior to): any reclassification, recapitalization, stock split (including a stock split in the form of a stock dividend) or reverse stock split; any merger, combination, consolidation, conversion or other reorganization; any spin-off, split-up, or similar extraordinary dividend distribution in respect of the Common Stock; or any exchange of Common Stock or other securities of the Corporation, or any similar, unusual or extraordinary corporate transaction in respect of the Common Stock; then the Administrator shall equitably and proportionately adjust: (1) the number and type of shares of Common Stock (or other securities) that thereafter may be made the subject of awards (including the specific share limits, maximums and numbers of shares set forth elsewhere in this Plan); (2) the number, amount and type of shares of Common Stock (or other securities or property) subject to any outstanding awards; (3) the grant, purchase, or exercise price (which term includes the base price of any SAR or similar right) of any outstanding awards; and/or (4) the securities, cash or other property deliverable upon exercise or payment of any outstanding awards, in each case to the extent necessary to preserve (but not increase) the level of incentives intended by this Plan and the then-outstanding awards.
- (b) Without limiting the generality of Section 3.4, any good faith determination by the Administrator as to whether an adjustment is required in the circumstances pursuant to this Section 7.1, and the extent and nature of any such adjustment, shall be conclusive and binding on all persons.

7.2 *Corporate Transactions - Assumption and Termination of Awards.*

- (a) Upon any event in which the Corporation does not survive, or does not survive as a public company in respect of its Common Stock (including, without limitation, a dissolution, merger, combination, consolidation, conversion, exchange of securities, or other reorganization, or a sale of all or substantially all of the business, stock or assets of the Corporation, in any case in connection with which the Corporation does not survive or does not survive as a public company in respect of its Common Stock), then the Administrator may make provision for a cash payment in settlement of, or for the termination, assumption, substitution or exchange of any or all outstanding awards or the cash, securities or property deliverable to the holder of any or all outstanding awards, based upon, to the extent relevant under the circumstances, the distribution or consideration payable to holders of the Common Stock upon or in respect of such event. Upon the occurrence of any event described in the preceding sentence in connection with which the Administrator has made provision for the award to be terminated (and the Administrator has not made a provision for the substitution, assumption, exchange or other continuation or settlement of the award): (1) unless otherwise provided in the applicable award agreement, each then-outstanding option and SAR shall become fully vested, all shares of restricted stock then outstanding shall fully vest free of restrictions, and each other award granted under this Plan that is then outstanding shall become payable to the holder of such award (with any performance goals applicable to the award in each case being deemed met, unless otherwise provided in the award agreement, at the “target” performance level); and (2) each award (including any award or portion thereof that, by its terms, does not accelerate and vest in the circumstances) shall terminate upon the related event; provided that the holder of an option or SAR shall be given reasonable advance notice of the impending termination and a reasonable opportunity to exercise his or her outstanding vested options and SARs (after giving effect to any accelerated vesting required in the circumstances) in accordance with their terms before the termination of such awards (except that in no case shall more than ten days’ notice of the impending termination be required and any acceleration of vesting and any exercise of any portion of an award that is so accelerated may be made contingent upon the actual occurrence of the event).
 - (b) Without limiting the preceding paragraph, in connection with any event referred to in the preceding paragraph or any change in control event defined in any applicable award agreement, the Administrator may, in its discretion, provide for the accelerated vesting of any award or awards as and to the extent determined by the Administrator in the circumstances.
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- (c) For purposes of this Section 7.2, an award shall be deemed to have been “assumed” if (without limiting other circumstances in which an award is assumed) the award continues after an event referred to above in this Section 7.2, and/or is assumed and continued by the surviving entity following such event (including, without limitation, an entity that, as a result of such event, owns the Corporation or all or substantially all of the Corporation’s assets directly or through one or more subsidiaries (a “**Parent**”)), and confers the right to purchase or receive, as applicable and subject to vesting and the other terms and conditions of the award, for each share of Common Stock subject to the award immediately prior to the event, the consideration (whether cash, shares, or other securities or property) received in the event by the stockholders of the Corporation for each share of Common Stock sold or exchanged in such event (or the consideration received by a majority of the stockholders participating in such event if the stockholders were offered a choice of consideration); provided, however, that if the consideration offered for a share of Common Stock in the event is not solely the ordinary common stock of a successor corporation or a Parent, the Administrator may provide for the consideration to be received upon exercise or payment of the award, for each share subject to the award, to be solely ordinary common stock of the successor corporation or a Parent equal in fair market value to the per share consideration received by the stockholders participating in the event.
- (d) The Administrator may adopt such valuation methodologies for outstanding awards as it deems reasonable in the event of a cash or property settlement and, in the case of options, SARs or similar rights, but without limitation on other methodologies, may base such settlement solely upon the excess if any of the per share amount payable upon or in respect of such event over the exercise or base price of the award. In the case of an option, SAR or similar right as to which the per share amount payable upon or in respect of such event is less than or equal to the exercise or base price of the award, the Administrator may terminate such award in connection with an event referred to in this Section 7.2 without any payment in respect of such award.
- (e) In any of the events referred to in this Section 7.2, the Administrator may take such action contemplated by this Section 7.2 prior to such event (as opposed to on the occurrence of such event) to the extent that the Administrator deems the action necessary to permit the participant to realize the benefits intended to be conveyed with respect to the underlying shares. Without limiting the generality of the foregoing, the Administrator may deem an acceleration and/or termination to occur immediately prior to the applicable event and, in such circumstances, will reinstate the original terms of the award if an event giving rise to an acceleration and/or termination does not occur.
- (f) Without limiting the generality of Section 3.4, any good faith determination by the Administrator pursuant to its authority under this Section 7.2 shall be conclusive and binding on all persons.
- (g) The Administrator may override the provisions of this Section 7.2 by express provision in the award agreement and may accord any Eligible Employee a right to refuse any acceleration, whether pursuant to the award agreement or otherwise, in such circumstances as the Administrator may approve.

8. OTHER PROVISIONS

- 8.1 Compliance with Laws.** This Plan, the granting and vesting of awards under this Plan, the offer, issuance and delivery of shares of Common Stock, and/or the payment of money under this Plan or under awards are subject to compliance with all applicable federal, state, local and foreign laws, rules and regulations (including, but not limited to, state and federal securities law and federal margin requirements) and to such approvals by any listing, regulatory or governmental authority as may, in the opinion of counsel for the Corporation, be necessary or advisable in connection therewith. The person acquiring any securities under this Plan will, if requested by the Corporation or one of its Subsidiaries, provide such assurances and representations to the Corporation or one of its Subsidiaries as the Administrator may deem necessary or desirable to assure compliance with all applicable legal and accounting requirements.
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- 8.2 No Rights to Award.** No person shall have any claim or rights to be granted an award (or additional awards, as the case may be) under this Plan, subject to any express contractual rights (set forth in a document other than this Plan) to the contrary.
- 8.3 No Employment/Service Contract.** Nothing contained in this Plan (or in any other documents under this Plan or in any award) shall confer upon any Eligible Employee or other participant any right to continue in the employ or other service of the Corporation or one of its Subsidiaries, constitute any contract or agreement of employment or other service or affect an employee's status as an employee at will, nor shall interfere in any way with the right of the Corporation or one of its Subsidiaries to change a person's compensation or other benefits, or to terminate his or her employment or other service, with or without cause. Nothing in this Section 8.3, however, is intended to adversely affect any express independent right of such person under a separate employment or service contract other than an award agreement.
- 8.4 Plan Not Funded.** Awards payable under this Plan shall be payable in shares or from the general assets of the Corporation, and no special or separate reserve, fund or deposit shall be made to assure payment of such awards. No participant, beneficiary or other person shall have any right, title or interest in any fund or in any specific asset (including shares of Common Stock, except as expressly otherwise provided) of the Corporation or one of its Subsidiaries by reason of any award hereunder. Neither the provisions of this Plan (or of any related documents), nor the creation or adoption of this Plan, nor any action taken pursuant to the provisions of this Plan shall create, or be construed to create, a trust of any kind or a fiduciary relationship between the Corporation or one of its Subsidiaries and any participant, beneficiary or other person. To the extent that a participant, beneficiary or other person acquires a right to receive payment pursuant to any award hereunder, such right shall be no greater than the right of any unsecured general creditor of the Corporation.
- 8.5 Tax Withholding.** Upon any exercise, vesting, or payment of any award, or upon any other tax withholding event with respect to any award, arrangements satisfactory to the Corporation shall be made to provide for any taxes the Corporation or any of its Subsidiaries may be required or permitted to withhold with respect to such award event or payment. Such arrangements may include (but are not limited to) any one of (or a combination of) the following:
- (a) The Corporation or one of its Subsidiaries shall have the right to require the participant (or the participant's personal representative or beneficiary, as the case may be) to pay or provide for payment of the amount of any taxes which the Corporation or one of its Subsidiaries may be required or permitted to withhold with respect to such award event or payment.
 - (b) The Corporation or one of its Subsidiaries shall have the right to deduct from any amount otherwise payable in cash (whether related to the award or otherwise) to the participant (or the participant's personal representative or beneficiary, as the case may be) the amount of any taxes which the Corporation or one of its Subsidiaries may be required or permitted to withhold with respect to such award event or payment.
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- (c) In any case where a tax is required to be withheld in connection with the delivery of shares of Common Stock under this Plan, the Administrator may in its sole discretion (subject to Section 8.1) require or grant (either at the time of the award or thereafter) to the participant the right to elect, pursuant to such rules and subject to such conditions as the Administrator may establish, that the Corporation reduce the number of shares to be delivered by (or otherwise reacquire) the appropriate number of shares, valued in a consistent manner at their fair market value or at the sales price in accordance with authorized procedures for cashless exercises, necessary to satisfy any applicable withholding obligation on exercise, vesting or payment.

8.6 *Effective Date, Termination and Suspension, Amendments.*

- 8.6.1 *Effective Date.*** This Plan was adopted by the Board effective as of August 8, 2022 (the “**Effective Date**”). Unless earlier terminated by the Board, this Plan shall terminate at the close of business on the day before the tenth anniversary of the Effective Date. After the termination of this Plan either upon such stated termination date or its earlier termination by the Board, no additional awards may be granted under this Plan, but previously granted awards (and the authority of the Administrator with respect thereto, including the authority to amend such awards) shall remain outstanding in accordance with their applicable terms and conditions and the terms and conditions of this Plan.
- 8.6.2 *Board Authorization.*** The Board may, at any time, terminate or, from time to time, amend, modify or suspend this Plan, in whole or in part. No awards may be granted during any period that the Board suspends this Plan.
- 8.6.3 *Stockholder Approval.*** To the extent then required by applicable law or deemed necessary or advisable by the Board, any amendment to this Plan shall be subject to stockholder approval.
- 8.6.4 *Amendments to Awards.*** Without limiting any other express authority of the Administrator under (but subject to) the express limits of this Plan, the Administrator by agreement or resolution may waive conditions of or limitations on awards to participants that the Administrator in the prior exercise of its discretion has imposed, without the consent of a participant, and (subject to the requirements of Sections 3.2 and 8.6.5) may make other changes to the terms and conditions of awards. Any amendment or other action that would constitute a repricing of an award is subject to the no-repricing provision of Section 3.3.
- 8.6.5 *Limitations on Amendments to Plan and Awards.*** No amendment, suspension or termination of this Plan or amendment of any outstanding award agreement shall, without written consent of the participant, affect in any manner materially adverse to the participant any rights or benefits of the participant or obligations of the Corporation under any award granted under this Plan prior to the effective date of such change. Changes, settlements and other actions contemplated by Section 7 shall not be deemed to constitute changes or amendments for purposes of this Section 8.6.
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8.7 Privileges of Stock Ownership. Except as otherwise expressly authorized by the Administrator, a participant shall not be entitled to any privilege of stock ownership as to any shares of Common Stock not actually delivered to and held of record by the participant. Except as expressly required by Section 7.1 or otherwise expressly provided by the Administrator, no adjustment will be made for dividends or other rights as a stockholder for which a record date is prior to such date of delivery.

8.8 Governing Law; Severability.

8.8.1 Choice of Law. This Plan, the awards, all documents evidencing awards and all other related documents shall be governed by, and construed in accordance with the laws of the State of New Jersey, notwithstanding any New Jersey or other conflict of law provision to the contrary.

8.8.2 Severability. If a court of competent jurisdiction holds any provision invalid and unenforceable, the remaining provisions of this Plan shall continue in effect.

8.9 Captions. Captions and headings are given to the sections and subsections of this Plan solely as a convenience to facilitate reference. Such headings shall not be deemed in any way material or relevant to the construction or interpretation of this Plan or any provision thereof.

8.10 Stock-Based Awards in Substitution for Stock Options or Awards Granted by Other Corporation. Awards may be granted to Eligible Employees in substitution for or in connection with an assumption of employee stock options, SARs, restricted stock or other stock-based awards granted by other entities to persons who are or who will become Eligible Employees in respect of the Corporation or one of its Subsidiaries, in connection with a distribution, merger or other reorganization by or with the granting entity or an affiliated entity, or the acquisition by the Corporation or one of its Subsidiaries, directly or indirectly, of all or a substantial part of the stock or assets of the employing entity. The awards so granted need not comply with other specific terms of this Plan, provided the awards reflect adjustments giving effect to the assumption or substitution consistent with any conversion applicable to the common stock (or the securities otherwise subject to the award) in the transaction and any change in the issuer of the security. Any shares that are delivered and any awards that are granted by, or become obligations of, the Corporation, as a result of the assumption by the Corporation of, or in substitution for, outstanding awards previously granted or assumed by an acquired company (or previously granted or assumed by a predecessor employer (or direct or indirect parent thereof) in the case of persons that become employed by the Corporation or one of its Subsidiaries in connection with a business or asset acquisition or similar transaction) shall not be counted against the Share Limit or other limits on the number of shares available for issuance under this Plan.

- 8.11 Non-Exclusivity of Plan.** Nothing in this Plan shall limit or be deemed to limit the authority of the Board or the Administrator to grant awards or authorize any other compensation, with or without reference to the Common Stock, under any other plan or authority.
- 8.12 No Corporate Action Restriction.** The existence of this Plan, the award agreements and the awards granted hereunder shall not limit, affect, or restrict in any way the right or power of the Corporation or any Subsidiary (or any of their respective shareholders, boards of directors or committees thereof (or any subcommittees), as the case may be) to make or authorize: (a) any adjustment, recapitalization, reorganization or other change in the capital structure or business of the Corporation or any Subsidiary, (b) any merger, amalgamation, consolidation or change in the ownership of the Corporation or any Subsidiary, (c) any issue of bonds, debentures, capital, preferred or prior preference stock ahead of or affecting the capital stock (or the rights thereof) of the Corporation or any Subsidiary, (d) any dissolution or liquidation of the Corporation or any Subsidiary, (e) any sale or transfer of all or any part of the assets or business of the Corporation or any Subsidiary, (f) any other award, grant, or payment of incentives or other compensation under any other plan or authority (or any other action with respect to any benefit, incentive or compensation), or (g) any other corporate act or proceeding by the Corporation or any Subsidiary. No participant, beneficiary or any other person shall have any claim under any award or award agreement against any member of the Board or the Administrator, or the Corporation or any employees, officers or agents of the Corporation or any Subsidiary, as a result of any such action. Awards need not be structured so as to be deductible for tax purposes.
- 8.13 Other Company Benefit and Compensation Programs.** Payments and other benefits received by a participant under an award made pursuant to this Plan shall not be deemed a part of a participant's compensation for purposes of the determination of benefits under any other employee welfare or benefit plans or arrangements, if any, provided by the Corporation or any Subsidiary, except where the Administrator expressly otherwise provides or authorizes in writing. Awards under this Plan may be made in addition to, in combination with, as alternatives to or in payment of grants, awards or commitments under any other plans, arrangements or authority of the Corporation or its Subsidiaries.
- 8.14 Clawback Policy.** The awards granted under this Plan are subject to the terms of the Corporation's recoupment, clawback or similar policy as it may be in effect from time to time, as well as any similar provisions of applicable law, any of which could in certain circumstances require repayment or forfeiture of awards or any shares of Common Stock or other cash or property received with respect to the awards (including any value received from a disposition of the shares acquired upon payment of the awards).
- 8.15 Administrative Discretion.** Notwithstanding Section 3.7, the Minimum Vesting Requirement shall not limit or restrict the Administrator's discretion to accelerate the vesting of any awards granted under this Plan in circumstances it determines to be appropriate (whether in connection with a transaction, termination of employment or for any other reason).
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**EMCORE Corporation 2022 New Employee Inducement Plan
Restricted Stock Unit Award Agreement**

To: [_____]

EMCORE Corporation, a New Jersey corporation (the “**Corporation**”), has granted you an award (the “**Award**”) of [_____] restricted stock units (the “**Restricted Stock Units**”) under the EMCORE Corporation 2022 New Employee Inducement Plan, as adopted effective August 8, 2022, and as further amended from time to time (the “**Plan**”), conditioned upon your agreement to the terms and conditions described below. Each Restricted Stock Unit represents, on the books of the Corporation, a unit which is equivalent to one share of the Corporation’s common stock, no par value per share (the “**Common Stock**”). The effective “**Grant Date**” will be [_____] , subject to your promptly signing and returning a copy of this Agreement (as defined below) to the Corporation.

This Restricted Stock Unit Award Agreement (the “**Agreement**”) evidences the Award of the Restricted Stock Units. This Agreement and the Award of the Restricted Stock Units are made as an inducement material to your becoming an employee of the Corporation or an affiliate of the Corporation (as applicable, your “**Employer**”). The Award is subject in all respects to and incorporates by reference the terms and conditions of the Plan and any terms and conditions relating to Restricted Stock Units and specifies other applicable terms and conditions of your Restricted Stock Units.

A copy of the Plan and the Prospectus for the Plan, as amended from time to time (the “**Prospectus**”), is being provided or made available to you in connection with the Award. By executing this Agreement, you acknowledge that you have received a copy of the Plan and the Prospectus. You may request additional copies of the Plan or Prospectus by contacting EMCORE Corporation, Attn: Chief Financial Officer, 2015 West Chestnut Street, Alhambra, CA 91803. You also may request from the Secretary of the Corporation copies of the other documents that make up a part of the Prospectus (described more fully at the end of the Prospectus), as well as all reports, proxy statements and other communications distributed to the Corporation’s security holders generally.

1. Terminology; Conflicts. The Glossary at the end of this Agreement includes definitions of certain capitalized words used in this Agreement. All terms not defined in this Agreement (including the Glossary) have the meanings given in the Plan. Unless otherwise specifically provided in this Agreement, in the event of any conflict, ambiguity or inconsistency between or among any defined term in this Agreement or the Plan, the provisions of, first, the Plan and second, this Agreement, will control in that order of priority, except in the case of Section 14 of this Agreement, which will control in all cases.

2. Terms and Conditions of Award. The following terms and conditions will apply:

(a) Vesting Condition. All of the Restricted Stock Units are nonvested and forfeitable as of the Grant Date. So long as you continue to be an Eligible Person through the applicable date upon which vesting is scheduled to occur, one-fourth of the Restricted Stock Units will vest and become nonforfeitable on each anniversary of the Grant Date, such that 100% of the Restricted Stock Units will be vested and nonforfeitable on the 4th anniversary of the Grant Date.

(b) *Continued Service Vesting Condition.* In order for any of your Restricted Stock Units to become vested and nonforfeitable, you must continue to be an Eligible Person through the applicable vesting date. Unless this Agreement provides to the contrary, none of the Restricted Stock Units will become vested and nonforfeitable after you cease to be an Eligible Person, and any Restricted Stock Units that are nonvested and forfeitable as of the date you cease to be an Eligible Person shall terminate for no consideration.

(c) *Corporate Transactions.* If a corporate transaction specified in Section 7.2 of the Plan occurs while any of your Restricted Stock Units are outstanding, the following provisions shall apply:

(i) Your Restricted Stock Units shall be subject to the provisions of the Plan, including, without limitation, Section 7.2 of the Plan.

(ii) If you are a party to an employment agreement with the Corporation (an “**Employment Agreement**”) that entitles you to vest in any Restricted Stock Units solely as a result of a Change in Control (as defined in the Employment Agreement), you will be entitled to vest in the number of Restricted Stock Units becoming vested and nonforfeitable pursuant to the terms of your Employment Agreement. Similarly, if you are party to an Employment Agreement that entitles you to vest in any Restricted Stock Units as a result of a qualifying termination of employment following a Change in Control and you experience a qualifying termination of employment while any Restricted Stock Units are outstanding, the applicable number of Restricted Stock Units becoming vested pursuant to the terms of your Employment Agreement will become vested and nonforfeitable as of the date of your qualifying termination of employment. Any Restricted Stock Units becoming vested and nonforfeitable pursuant to the terms of your Employment Agreement will be paid as provided for in Section 2(e) below.

(iii) If your Restricted Stock Units are assumed and continue after an event specified in Section 7.2 of the Plan and you suffer an involuntary termination without Cause within two years following the event specified in Section 7.2 of the Plan, any then unvested assumed Restricted Stock Units shall immediately vest and become nonforfeitable on the date of your involuntary termination without Cause.

(d) *Termination of Service.* If you cease to be an Eligible Person for any reason, all Restricted Stock Units that are not then vested and nonforfeitable will, after giving effect to any accelerated vesting as a result of your ceasing to be an Eligible Person, be immediately forfeited for no consideration.

(e) *Settlement.* Any Restricted Stock Units subject to this Award that become vested and nonforfeitable shall be paid in an equivalent number of whole shares of Common Stock (with any fractional Restricted Stock Units rounded down to the nearest whole number of shares of Common Stock) as soon as practicable following the applicable vesting date, but in any event no later than the 15th day of the third calendar month following the end of the calendar year in which the vesting date occurs; provided that any Restricted Stock Units that become vested and nonforfeitable in connection with or following a corporate transaction specified in Section 7.2 of the Plan will be paid no later than the 30th day following the applicable vesting date. Upon issuance, such shares of Common Stock may be sold, transferred, pledged, assigned or otherwise alienated or hypothecated in compliance with applicable law, this Agreement and any other agreement to which such shares are subject. Your settlement rights pursuant to this Agreement shall be no greater than the right of any unsecured general creditor of the Corporation. The Company will not be required to issue fractional shares of Common Stock upon settlement of the Restricted Stock Units.

3. Restrictions on Transfer. You may not sell, assign, transfer, pledge, hedge, hypothecate, encumber or dispose of in any way (whether by operation of law or otherwise) any Restricted Stock Units, and Restricted Stock Units may not be subject to execution, attachment or similar process. Any sale or transfer, or purported sale or transfer, shall be null and void. The Company will not be required to recognize on its books any action taken in contravention of these restrictions.

4. Issuance of Shares.

(a) Notwithstanding any other provision of this Agreement, you may not sell the shares of Common Stock acquired upon vesting of the Restricted Stock Units unless such shares are registered under the Securities Act, or, if such shares are not then so registered, such sale would be exempt from the registration requirements of the Securities Act. The sale of such shares must also comply with other applicable law and any applicable insider trading policy of the Corporation governing the Common Stock and you may not sell the shares of Common Stock if the Corporation determines that such sale would not be in material compliance with such applicable law or insider trading policy.

(b) The shares of Common Stock issued in settlement of the Restricted Stock Units shall be registered in your name. The Company will deliver a share certificate to you, or deliver shares electronically or in certificate form to your designated broker on your behalf. If you are deceased (or in case of your Disability and if necessary) at the time that a delivery of share certificates is to be made, the certificates will be delivered to your executor, administrator, legally authorized guardian or personal representative. The Company may at any time place legends referencing any applicable law restrictions on all certificates representing shares of Common Stock issued pursuant to this Agreement, and the certificate shall bear such restrictive legends or restrictions as the Corporation, in its sole discretion, shall require. You will, at the request of the Corporation, promptly present to the Corporation any and all certificates representing shares acquired pursuant to this Agreement in your possession in order to carry out the provisions of this Section 4(b).

(c) The grant of the Restricted Stock Units and the shares of Common Stock issued in settlement of the Restricted Stock Units will be subject to and in compliance with all applicable requirements of applicable law with respect to such securities. No shares of Common Stock may be issued hereunder if the issuance of such shares would constitute a violation of any applicable law. The inability of the Corporation to obtain from any regulatory body having jurisdiction the authority, if any, deemed by the Corporation's legal counsel to be necessary to the lawful issuance of any shares subject to the Restricted Stock Units shall relieve the Corporation of any liability in respect of the failure to issue such shares as to which such requisite authority shall not have been obtained. As a condition to the settlement of the Restricted Stock Units, the Corporation may require you to satisfy any qualifications that may be necessary or appropriate, to evidence compliance with any applicable law and to make any representation or warranty with respect thereto as may be requested by the Corporation.

5. Tax Withholding. The Company or the Employer shall be entitled to require a cash payment by or on your behalf (including, without limitation, subject to such procedures as the Administrator may adopt, pursuant to a broker-assisted "cashless" arrangement with a third party who facilitates the sale of shares of Common Stock deliverable upon any payment of Restricted Stock Units) and/or to deduct from other compensation payable to you any sums required by federal, state or local tax law to be withheld with respect to the grant, vesting or payment of the Restricted Stock Units in whole or in part. The Company may, in its discretion, agree that it will, upon any payment of shares of Common Stock in respect of the Restricted Stock Units, automatically reduce the number of shares to be delivered by (or otherwise reacquire) the appropriate number of whole shares, valued at their then fair market value, to satisfy any withholding obligations of the Corporation and the Employer with respect to such distribution of shares at the applicable withholding rates.

6. Adjustments for Corporate Transactions and Other Events.

(a) *Adjustment Events.* Upon an event specified in Section 7.1 of the Plan, the number, amount and type of shares of Common Stock (or other securities or property) subject to your Restricted Stock Units will, without further action of the Administrator, be adjusted to reflect such event pursuant to the provisions of Section 7.1 of the Plan. The Administrator may make adjustments, in its discretion, to address the treatment of fractional shares with respect to the Restricted Stock Units as a result of the adjustment event. Adjustments under this Section 6 will be made by the Administrator, whose determination as to what adjustments, if any, will be made and the extent thereof will be final, binding and conclusive. No fractional Restricted Stock Units will result from any such adjustments.

(b) *Binding Nature of Agreement.* The terms and conditions of this Agreement will apply with equal force to any additional and/or substitute securities received by you in exchange for, or by virtue of your granting of, the Restricted Stock Units, whether as a result of any adjustment event or other similar event, except as otherwise determined by the Administrator. If the Restricted Stock Units are converted into or exchanged for, or stockholders of the Corporation receive by reason of any distribution in total or partial liquidation or pursuant to any merger of the Corporation or acquisition of its assets, securities of another entity, or other property (including cash), then the rights of the Corporation under this Agreement will inure to the benefit of the Corporation's successor, and this Agreement will apply to the securities or other property received upon such conversion, exchange or distribution in the same manner and to the same extent as the Restricted Stock Units.

7. Dividend Equivalent Rights. As of each date that the Corporation pays an ordinary cash dividend on its outstanding Common Stock for which the related record date occurs after the Grant Date and prior to the date all Restricted Stock Units subject to the Award have either been paid or have terminated, the Corporation shall credit you with an additional number of Restricted Stock Units equal to (a) the amount of the ordinary cash dividend paid by the Corporation on a single share of Common Stock on that date, multiplied by (b) the number of Restricted Stock Units subject to the Award outstanding and unpaid as of such record date (including any Restricted Stock Units previously credited under this Section 7 and with such total number subject to adjustment pursuant to Section 7.1 of the Plan and this Agreement), divided by (c) the closing price of a share of Common Stock on that date. Any Restricted Stock Units credited pursuant to the foregoing provisions of this Section 7 will be subject to the same vesting, payment, termination and other terms, conditions and restrictions as the original Restricted Stock Units to which they relate. No crediting of Restricted Stock Units will be made pursuant to this Section 7 with respect to any Restricted Stock Units which, as of the related record date, have either been paid or have terminated.

8. No Right to Continued Employment or Service. The Award shall not confer upon you any right to be retained as an employee or service provider, nor restrict in any way the right of your Employer, which right is hereby expressly reserved, to terminate your employment or service relationship at any time with or without Cause (regardless of whether such termination results in (a) the failure of any Award to vest; (b) the forfeiture of any unvested or vested portion of any Award; and/or (c) any other adverse effect on your interests under the Plan). Nothing in the Plan or this Agreement shall confer on you the right to receive any future Awards under the Plan.

9. No Rights as Stockholder. You shall not have any rights as a stockholder of the Corporation with respect to any shares of Common Stock corresponding to the Restricted Stock Units granted hereby unless and until shares of Common Stock are issued to you in respect thereof. No adjustment shall be made for dividends, distributions or other rights for which the record date is prior to the date such certificate or certificates are issued, except as provided in Section 6 and Section 7 of this Agreement.

10. The Company's Rights. The existence of the Restricted Stock Units does not affect in any way the right or power of the Corporation or its stockholders to make or authorize any or all adjustments, recapitalizations, reorganizations or other changes in the Corporation's capital structure or its business, including that of its affiliates, or any merger or consolidation of the Corporation or any affiliate, or any issue of bonds, debentures, preferred or other stocks with preference ahead of or convertible into, or otherwise affecting the Common Stock or the rights thereof, or the dissolution or liquidation of the Corporation or any affiliate, or any sale or transfer of all or any part of the Corporation's or any affiliate's assets or business, or any other corporate act or proceeding, whether of a similar character or otherwise.

11. Entire Agreement. This Agreement, inclusive of the Plan incorporated into this Agreement, contains the entire agreement between you, your Employer and the Corporation with respect to the Restricted Stock Units. Any and all existing oral or written agreements, representations, warranties, written inducements, or other communications made prior to the execution of this Agreement by any person with respect to the Award or the Restricted Stock Units are superseded by this Agreement and are void and ineffective for all purposes.
12. Conformity with Plan. This Agreement is intended to conform in all respects with, and is subject to all applicable provisions of, the Plan. In the event of any ambiguity in this Agreement or any matters as to which this Agreement is silent, the Plan will govern.
13. Amendment. This Agreement may be amended from time to time by the Administrator in its discretion; provided, however, that this Agreement may not be modified in a manner that would have a materially adverse effect on the Restricted Stock Units as determined in the discretion of the Administrator, except as provided in the Plan or in any other written document signed by you and the Corporation. This Agreement may not be amended, modified or supplemented orally.
14. Governing Law. The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the State of New Jersey applicable to contracts executed and to be performed entirely within such state, without regard to the conflict of law provisions thereof.
15. Severability. If a court of competent jurisdiction determines that any portion of this Agreement is in violation of any statute or public policy, then only the portions of this Agreement which violate such statute or public policy shall be stricken, and all portions of this Agreement which do not violate any statute or public policy shall continue in full force and effect. Further, it is the parties' intent that any court order striking any portion of this Agreement should modify the terms as narrowly as possible to give as much effect as possible to the intentions of the parties' under this Agreement.
16. Further Assurances. You agree to use your reasonable and diligent best efforts to proceed promptly with the transactions contemplated herein, to fulfill the conditions precedent for your benefit or to cause the same to be fulfilled and to execute such further documents and other papers and perform such further acts as may be reasonably required or desirable to carry out the provisions hereof and the transactions contemplated herein. The Company may require you to furnish or execute such other documents as the Corporation shall reasonably deem necessary to comply with or satisfy the requirements of applicable law.
17. Investment Representation. If at the time of settlement of all or part of the Restricted Stock Units, the Common Stock is not registered under the Securities Act and/or there is no current prospectus in effect under the Securities Act with respect to the Common Stock, you shall execute, prior to the issuance of any shares of Common Stock in settlement of the Restricted Stock Units to you by the Corporation, an agreement (in such form as the Administrator may specify) in which you, among other things, represent, warrant and agree that you are acquiring the shares acquired under this Agreement for your own account, for investment only and not with a view to the resale or distribution thereof, that you have knowledge and experience in financial and business matters, that you are capable of evaluating the merits and risks of owning any shares of Common Stock acquired under this Agreement, that you are a person who is able to bear the economic risk of such ownership and that any subsequent offer for sale or distribution of any of such shares shall be made only pursuant to (a) a registration statement on an appropriate form under the Securities Act, which registration statement has become effective and is current with regard to the shares being offered or sold, or (b) a specific exemption from the registration requirements of the Securities Act, it being understood that to the extent any such exemption is claimed, you shall, prior to any offer for sale or sale of such shares, obtain a prior favorable written opinion, in form and substance satisfactory to the Administrator, from counsel for or approved by the Administrator, as to the applicability of such exemption thereto.

18. Headings. Section headings are used in this Agreement for convenience of reference only and shall not affect the meaning of any provision of this Agreement.

19. Binding Effect; Benefits. This Agreement shall be binding upon and inure to the benefit of the parties to this Agreement and their respective successors and assigns. Nothing in this Agreement, express or implied, is intended or shall be construed to give any person other than the parties to this Agreement or their respective successors or assigns any legal or equitable right, remedy or claim under or in respect of any agreement or any provision contained herein.

20. Section 409A. It is intended that the terms of the Award will not result in the imposition of any tax liability pursuant to Section 409A of the Code. This Agreement shall be construed and interpreted consistent with that intent.

21. Interpretation. The Administrator shall have full power and discretion to construe and interpret the Plan (and any rules and regulations issued thereunder) and this Award. Any determination or interpretation by the Administrator under or pursuant to the Plan or this Award shall be final and binding and conclusive on all persons affected hereby.

22. Authorization to Share Personal Data. You authorize any affiliate of the Corporation that employs or retains you or that otherwise has or lawfully obtains personal data relating to you to divulge or transfer such personal data to the Corporation or to a third party, in each case in any jurisdiction, if and to the extent appropriate in connection with this Agreement or the administration of the Plan.

23. Notices. All notices and other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given if delivered personally or sent by certified or express mail, return receipt requested, postage prepaid, or by any recognized international equivalent of such delivery, to the Corporation or you, as the case may be, at the following addresses or to such other address as the Corporation or you, as the case may be, shall specify by notice to the other:

(i) if to the Corporation, to it at:

EMCORE Corporation
2015 West Chestnut Street
Alhambra, CA 91803
Attention: Chief Financial Officer
Fax: (626) 293-3424

(ii) if to you, to your most recent address as shown on the books and records of the Corporation or affiliate employing or retaining you.

All such notices and communications shall be deemed to have been received on the date of delivery if delivered personally or on the third business day after the mailing thereof.

24. Limitation on Rights; No Right to Future Grants; Extraordinary Item of Compensation. By entering into this Agreement and accepting the Awards evidenced hereby, you acknowledge: (a) that the Plan is discretionary in nature and may be suspended or terminated by the Corporation at any time; (b) that the Award does not create any contractual or other right to receive future grants of Awards; (c) that participation in the Plan is voluntary; (d) that the value of the Awards is not part of normal or expected compensation for purposes of calculating any severance, resignation, redundancy, end of service payments, bonuses, long-service awards, pension or retirement benefits or similar payments; and (e) that the future value of the Common Stock is unknown and cannot be predicted with certainty.

25. Consent to Electronic Delivery. By entering into this Agreement and accepting the Award evidenced hereby, you hereby consent to the delivery of information (including, without limitation, information required to be delivered to you pursuant to applicable law) regarding the Corporation and its affiliates, the Plan, this Agreement and the Award via Company web site or other electronic delivery.

26. Clawback Policy. The Restricted Stock Units are subject to the terms of the Corporation's recoupment, clawback or similar policy as it may be in effect from time to time, as well as any similar provisions of applicable law, any of which could in certain circumstances require repayment or forfeiture of the Restricted Stock Units or any shares of Common Stock or other cash or property received with respect to the Restricted Stock Units (including any value received from a disposition of the shares acquired upon payment of the Restricted Stock Units).

27. Counterparts. This Agreement may be executed in counterparts (including electronic signatures or facsimile copies), each of which will be deemed an original, but all of which together will constitute the same instrument.

{The Glossary follows on the next page.}

GLOSSARY

(a) **“Cause”** means (as determined by the Administrator) (i) your willful and continued failure to perform substantially your material duties with your Employer (other than any such failure resulting from your incapacity as a result of physical or mental illness) after a written demand for substantial performance specifying the manner in which you have not performed such duties is delivered to you by the person or entity that supervises or manages you, (ii) engaging in willful and serious misconduct that is injurious to the Corporation or any of its Subsidiaries, (iii) one or more acts of fraud or personal dishonesty resulting in or intended to result in personal enrichment at the expense of the Corporation or any of its Subsidiaries, (iv) substantial abusive use of alcohol, drugs or similar substances that, in the sole judgment of the Corporation, impairs your job performance, (v) material violation of any Company policy that results in harm to the Corporation or any of its Subsidiaries or (vi) indictment for or conviction of (or plea of guilty or nolo contendere) to a felony or of any crime (whether or not a felony) involving moral turpitude. A “termination for Cause” shall include a determination by the Administrator following your termination of employment for any other reason that, prior to such termination of employment, circumstances constituting Cause existed. Notwithstanding the foregoing, if you are a party to an Employment Agreement, “Cause” shall have the meaning, if any, specified in your Employment Agreement.

(b) **“Eligible Person”** means any person who is either: (i) an officer (whether or not a director) or employee of the Corporation or one of its Subsidiaries; (ii) a director of the Corporation or one of its Subsidiaries; or (iii) an individual consultant or advisor who renders or has rendered bona fide services (other than services in connection with the offering or sale of securities of the Corporation or one of its Subsidiaries in a capital-raising transaction or as a market maker or promoter of securities of the Corporation or one of its Subsidiaries) to the Corporation or one of its Subsidiaries and who is selected to participate in this Plan by the Administrator; provided that your participation in the Plan would not adversely affect either the Corporation’s eligibility to use Form S-8 to register under the Securities Act, the offering and sale of shares issuable under this Plan by the Corporation or the Corporation’s compliance with any other applicable laws.

(c) **“Securities Act”** means the Securities Act of 1933 and the rules promulgated thereunder, as amended.

(d) **“You”; “Your”**. You means the recipient of the Restricted Stock Units as reflected in the first paragraph of this Agreement. Whenever the word “you” or “your” is used in any provision of this Agreement under circumstances where the provision should logically be construed, as determined by the Administrator, to apply to the estate, personal representative, or beneficiary to whom the Restricted Stock Units may be transferred by will or by the laws of descent and distribution, the words “you” and “your” will be deemed to include such person.

{The signature page follows.}

IN WITNESS WHEREOF, the Corporation has caused this Agreement to be executed by its duly authorized officer as of [_____].

EMCORE CORPORATION

By: _____

Name:

Title:

The undersigned hereby represents that he/she has read the Prospectus and is familiar with the Plan's terms. The undersigned hereby acknowledges that he/she has carefully read this Agreement and agrees, on behalf of himself/herself and on behalf of his/her beneficiaries, estate and permitted assigns, to be bound by all of the provisions set forth herein, and that the Award and Restricted Stock Units are subject to all of the terms and provisions of this Agreement, and of the Plan under which it is granted, as the Plan and this Agreement may be amended in accordance with their respective terms. The undersigned agrees to accept as binding, conclusive, and final all decisions or interpretations of the Administrator concerning any questions arising under this Agreement or the Plan with respect to the Award or Restricted Stock Units.

WITNESS

AWARD RECIPIENT

Date: _____

Calculation of Filing Fee Tables

S-8

(Form Type)

EMCORE Corporation

(Exact Name of Registrant as Specified in its Charter)

Table 1: Newly Registered Securities

	Security Type	Security Class Title	Fee Calculation Rule	Amount Registered ⁽¹⁾	Proposed Maximum Offering Price Per Unit	Maximum Aggregate Offering Price	Fee Rate	Amount of Registration Fee
Fees to be Paid	Equity	Common Stock, no par value per share	457(h), 457(c)	380,000	\$ 3.20 ⁽²⁾	\$ 1,216,000.00	0.0000927	\$ 112.73
		Total Offering Amounts				\$ 1,216,000.00		\$ 112.73
		Total Fee Offsets						—
		Net Fee Due						\$ 112.73

(1) Pursuant to Rule 416 of the Securities Act of 1933 (the “Securities Act”), this registration statement on Form S-8 also covers any additional shares of Registrant’s common stock that may be offered or become issuable under the EMCORE Corporation 2022 New Employee Inducement Plan in connection with any stock split, stock dividend, recapitalization, or any other similar transaction effected without receipt of consideration, which results in an increase in the number of the Registrant’s outstanding shares of common stock.

(2) Estimated in accordance with Rules 457(h) and 457(c) under the Securities Act, solely for the purposes of calculating the registration fee, based on the average of the high and low prices of the Registrant’s common stock as reported on the Nasdaq Global Market on August 2, 2022.