

**ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT
ACUTRONIC REAL ESTATE HOLDING, INC. AND THE ACUTRONIC
COMPANY**

This Performance Agreement (this “Agreement”) is entered into to be effective as of the Effective Date (as defined in Article III below), by and between the Bastrop Economic Development Corporation, located in Bastrop County, Texas, a Texas Type B economic development corporation under the Development Corporation Act and governed by TEX. LOC. GOV. CODE chapters 501, 502 and 505 and the Texas Non-Profit Corporation Act (hereinafter called “BEDC”), created by, and for the benefit of the City of Bastrop, Texas (hereinafter sometimes called the “City”), Acutronic Real Estate, Inc. a Delaware corporation (hereinafter “Acutronic Real Estate”), and The Acutronic Company, a [Delaware corporation authorized to do business in the State of Texas (hereinafter called “Acutronic Operating Company”); the BEDC , Acutronic Real Estate and Acutronic Operating Company collectively referred to as the “Parties” to this Agreement.

RECITALS

WHEREAS, the Development Corporation Act of 1979, as amended (Section 501.001 *et seq.*, Texas Local Government Code, formerly the Development Corporation Act of 1979) (the “Act”) authorizes a development corporation to fund certain projects as defined by the Act and requires development corporations to enter into performance agreements to establish and provide for the direct incentive or make an expenditure on behalf of a business enterprise under a project; and

WHEREAS, Section 501.158 of the Act requires a performance agreement to provide at a minimum for a schedule of additional payroll or jobs to be created or retained and capital investment to be made as consideration for any direct incentives provided or expenditures made by a corporation under an agreement and to specify the terms under which repayment must be made if the business enterprise does not meet the performance requirements specified in the agreement; and

WHEREAS, the Acutronic Group, which includes Acutronic Real Estate and Acutronic Operating Company, develops and manufactures specialty components and products, including but not limited to, electric power systems, servo-actuators, micro turbines, and Hybrid-Electric-Propulsion-Systems, for use by the aerospace, defense, transportation, and related industries; and

WHEREAS, Acutronic Real Estate commits to constructing a minimum 20,000 square foot industrial production and manufacturing facility, at a minimum capital investment of \$4,000,000.00, on approximately ten (10) acres of land currently owned by the BEDC and located in Bastrop, Texas, and which Acutronic Real Estate has contracted to purchase from the BEDC; and

WHEREAS, Acutronic Operating Company, together with or through existing and future Affiliates, as defined herein, commits to creating and retaining, over the term of this Agreement, a minimum of 50 full-time jobs with an average total compensation of at least \$56,240.00; and

WHEREAS, Acutronic Real Estate is seeking funding in the form of performance-based financial incentives from the BEDC to help offset certain costs associated with its proposed facility construction and commencement of local operations; and

WHEREAS, the BEDC desires to provide such funding to Acutronic Real Estate pursuant to the terms of this Agreement, as an incentive for the construction of Acutronic Real Estate's new facility and associated investment of new capital; and

WHEREAS, the Parties are executing and entering into this Agreement to set forth certain terms and obligations of the Parties; and

WHEREAS, the Parties recognize that all agreements of the Parties hereto and all terms and provisions hereof are subject to the laws of the State of Texas and all rules, regulations and interpretations of any agency or subdivision thereof at any time governing the subject matters hereof; and

WHEREAS, the Parties agree that all conditions precedent for this Agreement to become a binding agreement have occurred and been complied with, including all requirements pursuant to the Texas Open Meetings Act and all public notices and hearings, if any, have been conducted in accordance with Texas law; and

WHEREAS, on the Effective Date, the commitments contained in this Agreement shall become legally binding obligations of the Parties.

NOW, THEREFORE, in consideration of the mutual covenants, benefits and agreements described and contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and further described herein, the Parties agree as follows:

ARTICLE I RECITALS

1. Recitals. The recitals set forth above are declared true and correct by the Parties and are hereby incorporated as part of this Agreement.

ARTICLE II AUTHORITY AND TERM

1. Authority. The BEDC's execution of this Agreement is authorized by the Act and will constitute a valid and binding obligation of the BEDC. Acutronic Real Estate's and Acutronic Operating Company's execution of this Agreement is authorized by the appropriate authority and constitutes a valid and binding obligations of each entity.

2. Term. This Agreement shall become enforceable upon the Effective Date, hereinafter established, and shall continue until the Expiration Date, hereinafter established, unless terminated sooner or extended by written mutual agreement of the Parties in the manner provided for herein.

3. Purpose. The purpose of this Agreement is to formalize the agreements between the Parties and specifically state the covenants and representations of the Parties, and the incentives associated with Acutronic Real Estate's and Acutronic Operating Company's commitment to abide by the provisions of the Act and to abide by the terms of this Agreement which has been approved by the Parties as complying with the specific requirements of the Act. It is expressly agreed that this Agreement constitutes a single transaction.

4. Administration of Agreement. Upon the Effective Date, the BEDC delegates the administration and oversight of this Agreement to the Executive Director of the BEDC. Any proposed amendments to the Agreement shall require the approval of the Board of Directors of the BEDC.

ARTICLE III DEFINITIONS

As used in this Agreement, the following terms shall have the meanings ascribed below. All undefined terms shall retain their usual and customary meaning as ascribed by common and ordinary usage.

“Affiliate” means any existing or future registered business organization which is (1) controlled by or under common control with Acutronic Operating Company, and (2) authorized to do business in the state of Texas.

“Bankruptcy” shall mean the dissolution or termination of a Party's existence as a going business, insolvency, appointment of receiver for any party of such Party's property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against such party and such proceeding is not dismissed within ninety (90) days after the filing thereof.

“Business Operations” shall mean the following activities carried out or managed by Acutronic Operating Company and/or its Affiliates: production and testing of aerospace and defense products and other commercial and industrial products (including assembly cells/lines and specialized equipment for testing and manufacturing); metal working (including CNC machines); metal casting (including a metal foundry); and/or associated office, engineering, and storage space.

“Capital Investment” shall mean those items set forth in Article IV Section 1.

“Commencement of Construction” shall mean the commencement of construction of improvements or delivery of construction materials to the Property, the construction of improvements or materials of which must be visible from inspection of the Property.

“Completion of Construction” shall mean completion of the Facility improvements construction on the Property, as evidenced by the receipt of a temporary or final Certificate of Occupancy from the City of Bastrop.

“Effective Date” shall be the date of the last signing by a Party to this Agreement.

“Expiration Date” shall mean the earlier of (1) ten (10) years from the Effective Date; or (2) the date of termination provided for under Article VII of this Agreement.

“Facility” shall mean the minimum 20,000 square foot industrial, manufacturing, and production facility, to be constructed by Acutronic Real Estate for the it Business Operations of Acutronic Operating Company and/or its Affiliates.

“Force Majeure” shall mean any contingency or cause beyond the reasonable control or anticipation of a Party, including, without limitation, natural disasters or other acts of God or the public enemy, war, riot, civil commotion, insurrection, government or de facto governmental action, fires, explosions, floods, strikes, lock-outs, slowdowns, work stoppages, unusual and unforeseeable delay that results from an interruption or failure of any public utilities, (e.g., electricity, gas, water), terrorism, bioterrorism, pandemic or epidemic.

“Full-Time Jobs” shall mean the number of Acutronic Operating Company’s or Affiliate’s employees that (a) have a regular work schedule of at least 36 hours per week as reported on the Texas Employers Quarterly Wage Report from the Texas Workforce, and (b) are entitled to at least the customary employer-sponsored benefits package afforded by the Company to its similarly situated employees at other locations.

“New Jobs” shall mean those jobs that are created for the purposes of satisfying Acutronic Operating Company’s obligations, as further described in Article IV, Section 2, herein. Notwithstanding anything herein to the contrary, New Jobs shall include any jobs that may have existed at the Acutronic Group’s other locations prior to the Completion of Construction and were transferred to the Facility following Completion of Construction.

“Performance-Based Financial Incentive” or “PBF” shall mean the amount of \$1,089,000.00, which is equivalent to the purchase and sale price of the Property as provided herein.

“Project” shall mean the Capital Investment and Pay Roll Creation as defined herein.

“Property” shall mean the real property purchased by Acutronic Real Estate from the BEDC, consisting of an approximately 10-acre portion out of Bastrop Business and Industrial Park, Phase 1, Lot Reserve D, Acres 67.672, (Replat of Lots 1 and 2), and pursuant to the Purchase and Sale Agreement provided in Exhibit A to this Agreement, attached hereto and incorporated herein.

ARTICLE IV PERFORMANCE OBLIGATIONS OF ACUTRONIC REAL ESTATE AND ACUTRONIC OPERATING COMPANY

The obligation of the BEDC to pay funds from the PBF shall be conditioned upon Acutronic Real Estate’s and Acutronic Operating Company’s continued compliance with and satisfaction of each of Acutronic Real Estate’s and Acutronic Operating Company’s obligations under this Article IV (the “Performance Obligations”). Capital Investment. Acutronic Real Estate shall make a new Capital Investment of at least **\$4,000,000.00** for the construction of the Facility, designed specifically for the Business Operations of Acutronic Operating Company and its Affiliates, to be constructed on the Property. The Capital Investment shall include costs related to

site preparation and the construction of the Facility, including but not limited to site investigations; architect fees; clearing; grading; environmental reviews; preliminary analysis; design and engineering; materials and testing; materials and labor costs; plant, property, equipment, furnishings and furniture installed in the Facility; landscaping; and ancillary improvements paid, payable, or actually incurred. Acutronic Real Estate may request and the BEDC shall consider, within a reasonable time, preapproval of a construction budget, or specific construction costs or categories of cost, prior to Commencement of Construction.

- (a) Commencement of Construction. Construction of the Facility shall commence no later than 120 days after the later of (i) the date upon which BEDC delivers a ‘shovel-ready’ site with the Necessary Infrastructure improvements, as specified in Article V, Section 3, or (ii) the issuance of a building permit by the City of Bastrop and all other City or governmental approvals necessary to begin construction of the Facility. Notwithstanding the foregoing, the Parties may agree in writing to an extension of time for Acutronic Real Estate to commence construction on the Facility.
- (b) Business Operations shall commence at the Facility upon Completion of Construction, but in no event later than 32 months after the Commencement of Construction. Notwithstanding the foregoing, the Parties may agree in writing to an extension of time for Acutronic Operating Company to commence Business Operations.

1. New Jobs. Acutronic Operating Company or its Affiliates will be obligated to create or document (or transfer from another location), in total, at least 50 New Jobs. The BEDC acknowledges and agrees that the 50 New Jobs may be: (1) transferred from another Acutronic Group location to the Facility; (2) created by Acutronic Operating Company; and/or (3) created by an existing or future Affiliate of Acutronic Operating Company.

- (a) All New Jobs shall be Full-Time Jobs with an average total compensation of at least \$56,240. The average shall be calculated by omitting the highest-total compensation job and the lowest-total compensation job from the calculation and taking the average of the remaining jobs (everything between the lowest total-compensation job and the highest total-compensation job).
- (b) After their creation, all New Jobs are required to be retained by Acutronic Operating Company and/or an Affiliate at the Facility for the remaining duration of this Agreement. Notwithstanding the foregoing, nothing herein shall prevent Acutronic Operating Company and/or an Affiliate from hiring, terminating, or re-classifying individual employees per its normal employment practices, but the total number of New Jobs created shall comply with Acutronic Operating Company’s obligations hereunder if individual employees leave or are re-classified and are replaced.
- (c) The New Jobs creation and retention shall be in accordance with the following schedule:

- i. New Jobs Obligation 1: Acutronic Operating Company or Affiliates shall create and employ at least ten (10) Full-Time Jobs no later than the first anniversary of the Completion of Construction.
 - ii. New Jobs Obligation 2: Acutronic Operating Company or Affiliates shall create and employ an additional ten (10) Full-Time Jobs no later than the second anniversary of the Completion of Construction.
 - iii. New Jobs Obligation 3: Acutronic Operating Company or Affiliates shall create and employ an additional ten (10) Full-Time Jobs no later than the third anniversary of the Completion of Construction.
 - iv. New Jobs Obligation 4: Acutronic Operating Company or Affiliates shall create and employ an additional ten (10) Full-Time Jobs no later than the fourth anniversary of the Completion of Construction.
 - v. New Jobs Obligation 5: Acutronic Operating Company or Affiliates shall create and employ an additional ten (10) Full-Time Jobs no later than the fifth anniversary of the Completion of Construction.
- (d) The Parties hereby agree to establish a hiring goal that on or before the fifth anniversary of the Completion of Construction, 75% (or 38) of the New Jobs should be filled by residents of Bastrop County. Further, Acutronic Operating Company or an Affiliates agree to use best efforts to fill 100% of the New Jobs with residents of Bastrop County. The Parties acknowledge that Acutronic Operating Company or Affiliates have no control over specific employees who may choose to re-locate outside of Bastrop County after beginning employment by the Company as a resident of Bastrop County.

2. Work-Based Learning Facilities. To the extent that the Memorandum of Understanding (included as Exhibit “B” to this Agreement) between Acutronic Operating Company and the Bastrop Independent School District is still in effect, Acutronic Operating Company or Affiliates will provide appropriate job training space within the Facility for use in conjunction with the “P-TECH” Program, as provided in the Memorandum of Understanding included as Exhibit “B” to this Agreement.

3. Acutronic Real Estate will provide such written records or other internal backup information that the BEDC may reasonably request to verify compliance of its the Performance Obligations hereunder. Acutronic Operating Company will provide such written record or other backup information that the BEDC may reasonably request to verify compliance of the job creation obligations hereunder, including written records or other backup information from Affiliates.

**ARTICLE V
BEDC OBLIGATIONS**

1. Payment of Performance-Based Financial Incentive. Subject to the conditions provided herein, the BEDC shall release incremental portions of the PBFi in accordance with the following schedule:

(a) Distribution 1 – Completion of Construction: A portion of the PBFi in the amount of **\$500,000.00** shall be paid to Acutronic Real Estate no later than 30 days following (1) the Completion of Construction, as defined herein; and (2) -the delivery by Acutronic Operating Company or an Affiliate to the BEDC of a written compliance verification signed by a duly authorized representative, certifying that the Acutronic Operating Company or Affiliates have fulfilled the New Jobs obligation as described above in Article IV, Section 2 (a), (b), and (c)(i).

(b) Distribution 2 – A portion of the PBFi in the amount of **\$147,250.00** shall be paid to Acutronic Real Estate no later than 30 days following delivery by Acutronic Operating Company or an Affiliate to the BEDC of a written compliance verification signed by a duly-authorized representative, certifying that the Acutronic Operating Company or Affiliates have fulfilled the New Jobs obligation as described above in Article IV, Section 2 (a), (b), and (c)(ii).

(c) Distribution 3 – A portion of the PBFi in the amount of **\$147,250.00** shall be paid to Acutronic Real Estate no later than 30 days following delivery by Acutronic Operating Company or an Affiliate to the BEDC of a written compliance verification signed by a duly-authorized representative, certifying that Acutronic Operating Company or Affiliates have fulfilled the New Jobs obligation as described above in Article IV, Section 2 (a), (b), and (c)(iii).

(d) Distribution 4 – A portion of the PBFi in the amount of **\$147,250.00** shall be paid to Acutronic Real Estate no later than 30 days following delivery by Acutronic Operating Company or an Affiliate to the BEDC of a written compliance verification signed by a duly-authorized representative, certifying that Acutronic Operating Company or Affiliates have fulfilled the New Jobs obligation as described above in Article IV, Section 2 (a), (b), and (c)(iv).

(e) Distribution 5 – A portion of the PBFi in the amount of **\$147,250.00** shall be paid to Acutronic Real Estate no later than 30 days following delivery by Acutronic Operating Company or an Affiliate to the BEDC of a written compliance verification signed by a duly-authorized representative, certifying that Acutronic Operating Company or Affiliates have fulfilled the New Jobs obligation as described above in Article IV, Section 2 (a), (b), and (c)(v).

2. BEDC represents and warrants that it will cause the Property to be legally subdivided in compliance with applicable State, City, and County subdivision laws prior to closing of Acutronic Real Estate's purchase of the Property.

3. BEDC acknowledges that a substantial capital investment of up to one million dollars (\$1,000,000.00) in infrastructure improvements at or near the Property by the BEDC is necessary to deliver a 'shovel-ready' site to Acutronic Real Estate. BEDC represents and warrants

that it has committed sufficient funding for this capital investment and will make the necessary infrastructure improvements at or near the Property, including but not limited to, storm sewer system improvements, roadway improvements, and municipal utility improvements (water, wastewater, electric, and fiber) necessary to deliver a ‘shovel-ready’ site to Acutronic Real Estate (the “Necessary Infrastructure”). BEDC agrees to provide Acutronic Real Estate a written summary of the proposed Necessary Infrastructure improvements at or near the Property to be made by BEDC in advance of commencing such improvements and further agrees to keep Acutronic Real Estate regularly informed as to the status of completion of the Necessary Infrastructure improvements contemplated herein. Notwithstanding anything herein to the contrary, Acutronic Real Estate and Acutronic Operating Company reserve the right to terminate this Agreement in the event BEDC fails to complete all Necessary Infrastructure improvements on or before December 31st, 2025; in which case the BEDC may exercise the Exclusive Repurchase Option Agreement pertaining to the Property, as provided herein as Exhibit “C”.

ARTICLE VI COVENANTS AND DUTIES

1. Covenants and Duties. Acutronic Real Estate and Acutronic Operating Company make the following covenants and warranties to the BEDC and agrees to timely and fully perform the obligations and duties contained in Article IV of this Agreement.

(a) Acutronic Real Estate and Acutronic Operating Company are authorized to do business and is in good standing in the State of Texas and shall remain in good standing in the State of Texas during any term of this Agreement.

(b) The execution of this Agreement has been duly authorized by Acutronic Real Estate and Acutronic Operating Company, and the individual(s) signing this Agreement are authorized to execute such Agreement and bind Acutronic Real Estate and Acutronic Operating Company. Said authorization, signing, and binding effect is not in contravention of any law, rule, regulation, or of the provisions of the organizational documents, or of any agreement or instrument to which Acutronic Real Estate and/or Acutronic Operating Company is a party to or by which it may be bound.

(c) Acutronic Real Estate and Acutronic Operating Company are not a party to any Bankruptcy proceedings currently pending or contemplated, and Acutronic Real Estate and Acutronic Operating Company have not been informed of any potential involuntary Bankruptcy proceedings.

(d) To their current, actual knowledge, Acutronic Real Estate and Acutronic Operating Company have acquired and maintained all necessary rights, licenses, permits, and authority to carry on its business in the City and will continue to use best efforts to maintain all necessary rights, licenses, permits, and authority.

(e) Except as otherwise provided herein, Acutronic Real Estate and Acutronic Operating Company agree to obtain, or cause to be obtained, all necessary permits and approvals from City and/or all other governmental agencies having jurisdiction over the Project.

(f) Except as otherwise provided herein, Acutronic Real Estate shall be responsible for paying, or causing to be paid, to the City and all other governmental agencies the cost of all applicable permit fees and licenses required for construction of the Project. Acutronic Real Estate agrees to develop the Project in accordance with the ordinances, rules, and regulations of the City in effect on the date the Project was designed, unless specified otherwise in this Agreement or in another agreement between the Parties.

(g) Except as otherwise provided herein, Acutronic Real Estate agrees to commence and complete the Project in strict accordance with this Agreement.

(h) Acutronic Real Estate shall cooperate with the BEDC in providing all necessary information to assist the BEDC in complying with this Agreement. Cooperation shall include, but not be limited to, providing evidence and copies of construction contracts, payments for construction, permits, construction supply purchases, and any other documentation deemed necessary by BEDC to substantiate the reported Capital Investment.

(i) During the term of this Agreement, Acutronic Real Estate and Acutronic Operating Company agree to not knowingly employ or knowingly permit to be employed by an Affiliate any undocumented workers as part of the Project, and, if convicted of a violation under 8 U.S.C. Section 1324a (1), Acutronic Real Estate or Acutronic Operating Company shall be in Default (as defined below). Acutronic Real Estate and Acutronic Operating Company is not liable for an unknown violation of this Section by a subsidiary, affiliate, or franchisee of Acutronic Real Estate or Acutronic Operating Company or by a person with whom Acutronic Real Estate or Acutronic Operating Company contracts, provided however that identical federal law requirements provided for herein shall be included as part of any agreement or contract which Acutronic Real Estate or Acutronic Operating Company enters into with any subsidiary, assignee, affiliate, or franchisee for which the PBFIs provided herein will be used.

(j) Acutronic Real Estate or Acutronic Operating Company shall not be in arrears and shall be current in the payment of all City taxes and fees.

2. BEDC's Covenants and Duties.

(a) The BEDC represents and warrants to Acutronic Real Estate and Acutronic Operating Company that the execution of this Agreement has been duly authorized by the BEDC, and the individual signing this Agreement is empowered to execute such Agreement and bind the BEDC. Said authorization, signing, and binding effect is not in contravention of any law, rule, regulation, or of the provisions of the BEDC's organizational documents, or of any agreement or instrument to which the BEDC is a party to or by which it may be bound.

(b) BEDC shall cooperate with Acutronic Real Estate and Acutronic Operating Company in providing all necessary information and documentation to assist

Acutronic Real Estate and Acutronic Operating Company in complying with this Agreement.

(c) BEDC represents and warrants to Acutronic Real Estate and Acutronic Operating Company that, according to the most recent zoning map and associated regulations of the City of Bastrop, the current zoning of the Property authorizes the Project as a permitted use(s) and that no additional zoning amendment or special or conditional use permit is required for the construction of the Facility or operation of the Business Operations. The Property is currently zoned “P-EC Place Type-Employment Center”. This Place Type Zoning is appropriate for manufacturing/light industrial uses. Under Place Type P-EC, as currently adopted, metalworking (including the use of CNC machines); testing of turbine engines in dedicated engine test cells; metal casting (including a metal foundry); warehousing of raw materials and finished products; and general-purpose office space would be acceptable uses.

ARTICLE VII TERMINATION

1. Termination. This Agreement shall terminate upon the earliest occurrence of any one or more of the following:

(a) The mutual agreement of the Parties, as reflected in writing signed by the Parties;

(b) Acutronic Real Estate and Acutronic Operating Company satisfying all the Performance Obligations set forth in Article IV, but in no event later than the tenth anniversary of the Effective Date;

(c) The BEDC electing to terminate this Agreement by written notice to the Acutronic Real Estate and Acutronic Operating Company following an Event of Default by Acutronic Real Estate or Acutronic Operating Company;

(d) Acutronic Real Estate and/or Acutronic Operating Company electing to terminate this Agreement by written notice to the BEDC following an Event of Default by the BEDC;

(e) Acutronic Real Estate electing to terminate this Agreement in the event that the BEDC fails to complete all the Necessary Infrastructure improvements on or before December 31st 2025, as specified in Article V, Section 3; or

ARTICLE VIII DEFAULT

1. Acutronic Real Estate or Acutronic Operating Company Events of Default. The following shall be considered a “Default” by Acutronic Real Estate or Acutronic Operating Company:

- (a) Failure of Acutronic Real Estate and/or Acutronic Operating Company to timely perform any term, covenant, obligation, duty, or agreement contained in this Agreement, including without limitation the Performance Obligations;
- (b) BEDC determines that any representation or warranty contained herein or in any financial statement, certificate, report or opinion prepared and submitted to BEDC in connection with or pursuant to the requirements of this Agreement was false, incorrect or misleading in any material respect when made;
- (c) Any judgment is assessed against Acutronic Real Estate or Acutronic Operating Company or any attachment or other levy against the property of Acutronic Real Estate or Acutronic Operating Company with respect to a claim remains unpaid, unstayed on appeal, not discharged, not bonded or not dismissed for a period of ninety (90) days; or
- (d) Acutronic Real Estate or Acutronic Operating Company makes an assignment for the benefit of creditors; files a petition in bankruptcy; is adjudicated insolvent or bankrupt; commences any action relating to the Acutronic Real Estate or Acutronic Operating Company under any reorganization, arrangement, readjustment of debt, dissolution or liquidation law or statute of any jurisdiction whether now or hereafter in effect; or if there is commenced against Acutronic Real Estate or Acutronic Operating Company any such action and such action remains undismissed or unanswered for a period of ninety (90) days from such filing.

2. BEDC Events of Default. BEDC's failure to fulfill any obligation set forth within the terms and conditions of this Agreement or breach of any covenant, representation, warranty, or duty set forth in this Agreement shall be deemed a "Default" by the BEDC.

3. Remedies for Default.

- (a) In the event of Default by Acutronic Real Estate or Acutronic Operating Company, the BEDC shall give Acutronic Real Estate or Acutronic Operating Company, as applicable, written notice of such Default and if Acutronic Real Estate or Acutronic Operating Company, as applicable has not cured such Default within 60 days after receipt of such Notice, an "Event of Default" by Acutronic Real Estate or Acutronic Operating Company, as applicable, shall have occurred. The applicable Parties may mutually agree to extend the period of time required to cure an Event of Default. Upon the occurrence and during the continuance of an Event of Default by Acutronic Real Estate or Acutronic Operating Company, as applicable, the BEDC shall have the right to terminate this Agreement, and pursue all rights and remedies provided by applicable law. After such termination by the BEDC, the BEDC shall have no further obligation to Acutronic Real Estate or Acutronic Operating Company under this Agreement. The BEDC also retains the right, at its sole discretion, to

withhold payment of any PBFi funds during the continuance of any such Default, or, following termination of this Agreement in accordance with this paragraph 3, require repayment of all or any portion of PBFi funds already paid, as may be appropriate.

- (b) In the event of Default by the BEDC, Acutronic Real Estate and/or Acutronic Operating Company, as applicable, shall give the BEDC written notice of such Default and if the BEDC has not cured such Default within 60 days after receipt of such Notice, an “Event of Default” by the BEDC shall have occurred. The applicable Parties may mutually agree to extend the period of time required to cure an Event of Default. Upon the occurrence and during the continuance of an Event of Default by the BEDC, Acutronic Real Estate or Acutronic Operating Company, as applicable, shall have the right to terminate this Agreement, and pursue all rights and remedies provided by applicable law. After such termination by Acutronic Real Estate and/or Acutronic Operating Company, Acutronic Real Estate and Acutronic Operating Company shall have no further obligation to the BEDC under this Agreement.

ARTICLE IX MISCELLANEOUS

1. Binding Agreement. The terms and conditions of this Agreement shall be binding on and inure to the benefit of the Parties, and their respective successors and assigns. This Agreement is contingent upon the purchase of the Property by Acutronic Real Estate from the BEDC. This Agreement is not binding until it has been approved by the Bastrop Economic Development Corporation and the City of Bastrop; upon said approval, the Executive Director of the BEDC shall be responsible for the administration of this Agreement and shall have the authority to execute any instruments, duly approved by the BEDC, on behalf of the Parties related thereto.

2. Mutual Assistance. The Parties will do all things reasonably necessary or appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out such terms and provisions.

3. Independent Contractors.

- (a) It is expressly understood and agreed by all Parties hereto that in performing their services hereunder, Acutronic Real Estate or Acutronic Operating Company at no time will be acting as an agent of the BEDC and that all consultants or contractors engaged by the BEDC, Acutronic Real Estate or Acutronic Operating Company respectively will be independent contractors of the BEDC, Acutronic Real Estate, or Acutronic Operating Company, as applicable; and nothing contained in this Agreement is intended by the Parties to create a partnership or joint venture between the Parties, and any implication to the contrary is hereby expressly disavowed. The Parties hereto understand and agree that the BEDC will not be liable for any claims that may be asserted by any third party occurring in connection with

services performed by Acutronic Real Estate or Acutronic Operating Company respectively under this Agreement, unless any such claims are due to the fault of the BEDC.

- (b) By entering into this Agreement, except as specifically set forth herein, the Parties do not waive, and shall not be deemed to have waived, any rights, immunities, or defenses either may have, including the defense of parties, and nothing contained herein shall ever be construed as a waiver of sovereign or official immunity by the BEDC, with such rights being expressly reserved to the fullest extent authorized by law and to the same extent which existed prior to the execution hereof.
- (c) No employee of the BEDC, or any board member, or agent of the BEDC, shall be personally responsible for any liability arising under or growing out of this Agreement.

Notice. Any notice required by or permitted under this Agreement must be in writing. Notice may be given by certified or registered mail, personal delivery, courier delivery, or e-mail and will be effective when received, provided that (a) any notice received on a Saturday, Sunday, or holiday will be deemed to have been received on the next day that is not a Saturday, Sunday, or holiday and (b) any notice received after 5:00 P.M. local time at the place of delivery on a day that is not a Saturday, Sunday, or holiday will be deemed to have been received on the next day that is not a Saturday, Sunday, or holiday. Any address for notice may be changed by not less than ten (10) days' prior written notice given as provided herein.

If intended for BEDC: Bastrop Economic Development Corporation
Attention: Executive Director
301 State Hwy 71, Suite 214
Bastrop, TX 78602

With a copy to:
Denton, Navarro, Rocha, Bernal, & Zech, PC
Attention: Charles E. Zech
2500 W. William Cannon, Suite 609
Austin, Texas 78745

If to Acutronic Real Estate: Acutronic Real Estate Inc.
Attention: Florian Aigrain
700 Waterfront Drive
Pittsburgh, PA, 15222

With a copy to:
Jackson Walker, LLP
Attention: Henry Gilmore or Steve Martens
100 Congress Avenue, Ste. 1100
Austin, Texas 78701

If to Acutronic Operating Company: The Acutronic Company
Attention: Florian Aigrain
700 Waterfront Drive
Pittsburgh, PA, 15222

With a copy to:
Jackson Walker, LLP
Attention: Henry Gilmore or Steve Martens
100 Congress Avenue, Ste. 1100
Austin, Texas 78701

4. Governmental Records. All invoices, records and other documents required for submission to the City pursuant to the terms of this Agreement are Governmental Records for the purposes of Texas Penal Code Section 37.10.

5. Governing Law. The Agreement shall be governed by the laws of the State of Texas, and the venue for any action concerning this Agreement shall be in the Courts of Bastrop County, Texas, United States of America. The Parties agree to submit to the personal and subject matter jurisdiction of said court.

6. Amendment. This Agreement may be amended by mutual written agreement of the Parties, as approved by the Board of Directors by the BEDC and the City of Bastrop.

7. Legal Construction. In the event any one or more of the provisions contained in this Agreement shall, for any reason, be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions of this Agreement, and it is the intention of the Parties to this Agreement that, in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid, or unenforceable.

8. Interpretation. Each of the Parties has been represented by counsel of their choosing in the negotiation and preparation of this Agreement. Regardless of which Party prepared the initial draft of this Agreement, this Agreement shall, in the event of any dispute, whatever its meaning or application, be interpreted fairly and reasonably and neither more strongly for or against any Party.

9. Entire Agreement. This Agreement, in conjunction with the contract governing the purchase of the Property by Acutronic Real Estate from the BEDC, constitutes the entire agreement between the Parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written agreement between the Parties that, in any manner, relates to the subject matter of this Agreement, except as provided for in any Exhibits attached hereto or duly executed amendments to this Agreement.

10. Paragraph Headings. The paragraph headings contained in this Agreement are for convenience only and will in no way enlarge or limit the scope or meaning of the various and several paragraphs.

11. Counterparts. This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

12. Exhibits. Any Exhibits attached hereto are incorporated by reference for all purposes.

13. Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

14. Indemnification. ACUTRONIC REAL ESTATE AND ACUTRONIC OPERATING COMPANY SHALL RELEASE, HOLD HARMLESS, DEFEND AND INDEMNIFY THE BEDC, INCLUDING ITS RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND REPRESENTATIVES, AND THE CITY COUNCIL MEMBERS AND MAYOR INDIVIDUALLY AND ACTING IN THEIR CAPACITY OF REVIEWING AND APPROVING ACTIONS OF THE BEDC (COLLECTIVELY "THE INDEMNITEES") FROM AND AGAINST ANY AND ALL SUITS, CLAIMS AND OTHER DEMANDS OF EVERY TYPE WHATSOEVER, INCLUDING ALL REASONABLE ATTORNEY'S FEES AND COSTS, ARISING FROM OR OTHERWISE RELATING TO THE BEDC CONTRIBUTION OR THE DESIGN, CONSTRUCTION OR OPERATION OF THE FACILITY, AND SUCH OBLIGATION SHALL NOT BE AFFECTED BY ANY ACTUAL OR ALLEGED NEGLIGENCE, CONTRIBUTORY NEGLIGENCE, OR STRICT LIABILITY ON THE PART OF THE INDEMNITEES (OTHER THAN AS A RESULT OF THE GROSS NEGLIGENCE, RECKLESS DISREGARD, OR WILLFUL MISCONDUCT OF THE INDEMNITEES). IF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION IS ASSERTED AGAINST ANY INDEMNITEE, SUCH INDEMNITEE SHALL PROMPTLY NOTIFY THE OTHER PARTIES, BUT THE FAILURE TO SO PROMPTLY NOTIFY THE OTHER PARTIES SHALL NOT AFFECT SUCH OTHER PARTIES OBLIGATIONS UNDER THIS PARAGRAPH UNLESS SUCH FAILURE MATERIALLY PREJUDICES THE OTHER PARTIES' RIGHT TO PARTICIPATE IN THE CONTEST OF SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION, AS HEREINAFTER PROVIDED. IF REQUESTED BY THE PARTY HAVING THE OBLIGATION TO INDEMNIFY IN WRITING, SO LONG AS THE OTHER PARTY IS NOT IN DEFAULT UNDER THIS AGREEMENT, SUCH INDEMNITEE SHALL IN GOOD FAITH CONTEST THE VALIDITY, APPLICABILITY AND AMOUNT OF SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION AND SHALL PERMIT THE INDEMNIFYING PARTY TO PARTICIPATE IN SUCH CONTEST. ANY INDEMNITEE THAT PROPOSES TO SETTLE OR COMPROMISE ANY CLAIM, DEMAND, ACTION, CAUSE OF ACTION OR PROCEEDING FOR WHICH THE OTHER PARTY MAY BE LIABLE FOR PAYMENT OF INDEMNITY HEREUNDER SHALL GIVE SUCH PARTY WRITTEN NOTICE OF THE TERMS OF SUCH PROPOSED SETTLEMENT OR COMPROMISE REASONABLY IN ADVANCE OF SETTLING OR COMPROMISING SUCH CLAIM OR PROCEEDING AND SHALL OBTAIN SUCH PARTY'S CONCURRENCE THERETO.

15. Additional Instruments. The Parties agree and covenant to cooperate, negotiate in good faith, and to execute such other and further instruments and documents as may be reasonably required to fulfill the public purposes provided for and included within this Agreement.

16. Force Majeure. Whenever a period of time is herein prescribed for action to be taken by Acutronic Real Estate or Acutronic Operating Company, Acutronic Real Estate or Acutronic Operating Company shall not be liable or responsible for, and there shall be excluded from the computation of any such period of time, any delays due to causes of any kind whatsoever which are caused by Force Majeure.

17. Time Periods. Unless otherwise expressly provided herein, all periods for delivery or review and the like will be determined on a “calendar” day basis. If any date for performance, approval, delivery or Closing falls on a Saturday, Sunday or legal holiday (state or federal) in the State of Texas, the time therefore will be extended to the next day which is not a Saturday, Sunday or legal holiday.

18. Assignability. This Agreement, or its obligations therein, may be assigned to an Affiliate. For the avoidance of doubt, the Performance Obligations of Acutronic Operating Company can be met by any Affiliate (or any combination of Affiliates), without the necessity of a formal written assignment, with the same force and effect as if those Performance Obligations were met by Company itself. Acutronic Real Estate and Acutronic Operating Company agree that the assignment of this Agreement or any of the obligations therein to an Affiliate does not relieve Acutronic Real Estate or Acutronic Operating Company from the applicable obligations, performance, compliance, and liabilities under or in connection with this Agreement.

[SIGNATURE PAGES IMMEDIATELY FOLLOWING]

Executed on this ____ day of _____, 2023.

ACUTRONIC REAL ESTATE:

Acutronic Real Estate Inc., a Delaware corporation

By: _____

Name: Florian Aigrain

Title: President

**ACUTRONIC OPERATING
COMPANY:**

The Acutronic Company, a Delaware corporation

By: _____

Name: Florian Aigrain

Title: President

Executed on this ____ day of _____, 2023.

**BASTROP ECONOMIC DEVELOPMENT
CORPORATION**

By: _____
Name: Sylvia Carrillo
Title: Interim Executive Director

APPROVED AS TO FORM:

By: _____
Charles E. Zech, BEDC Attorney