

**RESOLUTION INDUCING THE ACQUISITION AND INSTALLATION OF
MACHINERY AND EQUIPMENT FOR USE IN A MANUFACTURING
FACILITY OWNED BY MACHO LLC FOR THE BENEFIT OF MADELAINE
CHOCOLATE NOVELTIES, INC. AS AN INDUSTRIAL (STRAIGHT-
LEASE) TRANSACTION AND AUTHORIZING THE EXECUTION AND
DELIVERY OF AGREEMENTS IN CONNECTION THEREWITH**

WHEREAS, the New York City Industrial Development Agency, New York, New York (the “Agency”) is authorized under the laws of the State of New York, and in particular the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended, and Chapter 1082 of the 1974 Laws of New York, as amended (collectively, the “Act”), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial and research facilities and thereby advance the job opportunities, general prosperity and economic welfare of the people of the State of New York and to improve their prosperity and standard of living; and

WHEREAS, on November 18, 1997, the Agency entered into a straight-lease transaction with Macho LLC (the “Lessee”) on behalf of Madelaine Chocolate Novelty, Inc. (the “Company” and, collectively with the Lessee, the “Companies”) in connection with the construction and equipping of buildings totaling approximately 55,000 square feet and the improvement, equipping and consolidation of the Companies’ existing facilities at 3-33 Beach 95th Street, 320/388 Beach 97th Street, 96-03 Beach 96th Street and 97-01 Beach Channel Drive in Rockaway Beach, Queens (collectively, the “Facilities”), to be used by the Companies in the manufacturing and distribution of chocolate products (together with the Facilities, the “Initial Project”); and

WHEREAS, in connection with the Initial Project, the Agency entered into various agreements with the Companies, including but not limited to certain lease agreements between the Agency and the Lessee (as amended, “Lease Agreement” and together with the other agreements, the “Initial Project Documents”); and

WHEREAS, the Companies’ business operations were severely impaired and the Facilities suffered significant damage as a result of Super-storm Sandy in the Fall of 2012;

WHEREAS, the Companies have advised the Agency that it is continuing to rehabilitate and repair the Facilities and it intends to purchase to approximately \$8,760,000 of replacement equipment for the existing Facilities; and

WHEREAS, the Agency proposes to accomplish the purposes of the Act by inducing the Companies to undertake an additional project consisting of equipping of the existing Facilities to be used by the Companies in the manufacturing and distribution of chocolate products (together, with the existing Facilities, the “Project”); and

WHEREAS, the application materials provided by the Companies to the Agency (the “Materials”) set forth certain information with respect to the Companies and the Project, including the following: that the Companies are currently located in the City; that the Companies’ Facilities suffered significant damage as a result of Hurricane Sandy and assistance is needed in order to restore such Facilities to their prior use; that the Company expects to retain 113 existing employees and employ approximately 110 additional full time equivalent employees within the three years following the completion of the Project; that the Lessee must obtain Agency financial assistance in the form of a

straight-lease transaction to enable the Companies to proceed with the Project and thereby remain and expand their operations in the City; and that, based upon the financial assistance provided through the Agency, the Companies' desire to proceed with the Project and remain and expand its operations in the City; and

WHEREAS, based upon the Materials, the Agency hereby determines that Agency financial assistance and related benefits in the form of a straight-lease transaction between the Agency and the Lessee are necessary to induce the Companies to proceed with the Project; and

WHEREAS, in order to provide financial assistance to the Companies for the Project, the Agency intends to grant the Companies financial assistance through a straight-lease transaction in the form of additional real property tax exemptions all pursuant to the Act;

NOW, THEREFORE, NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY HEREBY RESOLVES AS FOLLOWS:

Section 1. The Agency hereby determines that the Project and the providing of financial assistance to the Companies pursuant to the Act in the form of a straight-lease transaction will promote and is authorized by and will be in furtherance of the policy of the State of New York as set forth in the Act and hereby authorizes the Companies to proceed with the Project. The Agency further determines that:

(a) no funds of the Agency shall be used in connection with the Project for the purpose of preventing the establishment of an industrial or manufacturing plant or for the purpose of advertising or promotional materials which depict elected or appointed government officials in either print or electronic media, nor shall any funds of the Agency be given in connection with the Project to any group or organization which is attempting to prevent the establishment of an industrial or manufacturing plant within the State of New York;

(b) not more than one-third of the total Project cost is in respect of facilities or property primarily used in making retail sales of goods or services to customers who personally visit such facilities within the meaning of Section 862 of the New York General Municipal Law; and

(c) the Project will create employment opportunities thereby increasing the overall number of permanent private sector jobs in the City in furtherance of the Agency's public purposes set forth in the Act.

Section 2. To accomplish the purposes of the Act and to provide financial assistance to the Companies for the Project, the Agency approves a deviation from the Agency's Uniform Tax Exemption Policy and hereby authorizes a straight-lease transaction subject to the provisions of this Resolution.

Section 3. The Agency authorizes the Companies to proceed with the Project on behalf of the Agency in accordance with this Resolution, the Initial Project Documents and the Agency Documents (hereinafter defined); provided, however, that it is acknowledged and agreed by the Companies that (i) the leasehold interest of the Agency in the Facilities shall be for purposes of granting financial assistance, and (ii) neither the Agency nor any of its members, directors, officers, employees or agents shall have personal liability for any such action taken by the Company or the Lessee or any director, officer, employee, agent or affiliate of either, for such purpose.

Section 4. The execution and delivery of certain amended and restated lease agreements and other amendments to the Initial Project Documents deemed necessary or appropriate in connection with

the Project (each document referenced in this Section 4 being, collectively, the "Agency Documents"), each being substantively the same as approved by the Agency for prior transactions, is hereby authorized. The Chairman, Vice Chairman, Executive Director, Deputy Executive Director, General Counsel and Vice President for Legal Affairs of the Agency are each hereby authorized to execute, acknowledge and deliver each such Agency Document. The execution and delivery of each such agreement by one of said officers shall be conclusive evidence of due authorization and approval.

Section 5. The officers of the Agency are hereby designated the authorized representatives of the Agency, and each of them is hereby authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution. The Agency recognizes that due to the unusual complexities of the transaction it may become necessary that certain of the terms approved hereby may require modifications which will not affect the intent and substance of the authorizations and approvals by the Agency herein. The Agency hereby authorizes the Chairman, Vice Chairman, Executive Director, Deputy Executive Director, General Counsel or Vice President for Legal Affairs to approve modifications to the terms approved hereby which do not affect the intent and substance of this Resolution.

Section 6. The officers of the Agency and other appropriate officials of the Agency and its agents and employees are hereby authorized and directed to take whatever steps may be necessary to cooperate with the Companies to assist in the Project.

Section 7. Any costs and expenses incurred by the Agency with respect to the Project and the financial assistance contemplated by this Resolution shall be paid by the Companies, whether or not the Companies proceed with the Project as contemplated herein or financial assistance by the Agency to the Companies, through the straight lease transaction between the Agency and the Companies, is provided as herein authorized. By acceptance hereof, the Companies agree to pay such costs and expenses and further agrees to indemnify the Agency, its members, directors, officers, employees and agents and hold the Agency and such persons harmless against claims for any loss, liability, damage or injury or cost or expense incurred as a result of action taken by or on behalf of the Agency in good faith with respect to the Project.

Section 8. This Resolution is subject to the approval of a private investigative report with respect to the Companies. The provisions of this Resolution shall continue to be effective until one year from the date hereof whereupon the Agency may, at its option, terminate the effectiveness of this Resolution (except with respect to the matters contained in Section 7 hereof).

Section 9. All covenants, stipulations, obligations and agreements of the Agency contained in this Resolution, the Agency Documents or any documents related thereto and authorized hereby (collectively, the "Project Documents") shall be deemed to be the covenants, stipulations, obligations and agreements of the Agency to the full extent authorized or permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the Agency and its successors from time to time and upon any board or body to which any powers or duties affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law. Except as otherwise provided in this Resolution, all rights, powers and privileges conferred and duties and liabilities imposed upon the Agency or the officers thereof by the provisions of this Resolution or any of the Project Documents shall be exercised or performed by the Agency or such officers, or by officers, board or body as may be required by law to exercise such powers and to perform such duties.

No covenant, stipulation, obligation or agreement herein contained or contained in any Project Document shall be deemed to be a covenant, stipulation, obligation or agreement of any member,

director, officer, agent or employee of the Agency in their individual capacity thereof and neither the members nor the directors of the Agency nor any officer executing any Project Document shall be liable personally for any amounts payable thereunder or arising from claims thereon or be subject to any personal liability or accountability by reason of the execution and delivery or acceptance thereof.

Section 10. The Agency has determined that the proposed project is a Type II action pursuant 6 NYCRR Part 617.5(c)(25), 'purchase or sale of furnishings, equipment or supplies...' which would not result in adverse environmental impacts requiring the preparation of an Environmental Impact Statement.

Section 11. The Chairperson, the Vice Chairperson, the Secretary, the Assistant Secretary, the Executive Director and the Deputy Executive Director, the Vice President for Legal Affairs and the General Counsel of the Agency, and any member of the Agency, are hereby designated the authorized representatives of the Agency and each of them is hereby authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits, agreements and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution and the Project Documents.

Section 12. In connection with the Project, the Agency intends to grant the Lessee real property tax exemptions.

Section 13. This Resolution shall take effect immediately.

ADOPTED: February 10, 2015

ACCEPTED: _____, 2015

MACHO LLC

By: _____
Name:
Title:

**MADELAINE CHOCOLATE NOVELTIES,
INC.**

By: _____
Name:
Title: