

Resolution inducing the financing of a manufacturing facility for National Acoustics Inc. as a Straight-Lease Transaction and authorizing and approving the execution and delivery of agreements in connection therewith

WHEREAS, New York City Industrial Development Agency (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, National Acoustics Inc., a New York corporation (the "Applicant"), has entered into negotiations with officials of the Agency for the acquisition, construction, renovation and equipping of a manufacturing facility (the "Facility"), consisting of an approximately 31,238 square foot, 2-story building on an approximately 37,050 square foot parcel of land located at 13-06 43<sup>rd</sup> Avenue, Long Island City, Queens, New York, all for the use by the Applicant in its operations as a custom-fabrication shop for architectural woodwork, millwork, lathing and fabric wall panels, for sublease to the Agency by the Applicant, and sub-lease by the Agency to the Applicant, and having a total project cost of approximately \$1,600,000 (the "Project"); and

WHEREAS, the Applicant has advised the Agency that (i) National 1306 LIC Holdings, LLC, a real estate holding company (the "Company") unrelated to the Applicant, will initially own the Facility, (ii) the Company will lease the Facility to the Applicant and (iii) the Applicant expects that it will acquire fee title to the Facility or acquire sole membership of the Company in 2013 (the "Exchange"); and

WHEREAS, the Applicant has submitted a Project Application (the "Application") to the Agency to initiate the accomplishment of the above; and

WHEREAS, the Application sets forth certain information with respect to the Applicant and the Project, including the following: that the Applicant is currently located in Manhattan, New York, and employs approximately 54 full-time and approximately 80 part-time employees within The City of New York (the "City"); that until the latter part of the 1990s, the Applicant strictly built, assembled and installed ceilings and, in response to the changing market, the Applicant expanded its scope of activity to include walls and woodwork; that in order for its growth to continue, the Applicant must secure a larger facility; that the Applicant has investigated alternative facilities located in Carlstadt, New Jersey, but would prefer to remain within the City; that the Applicant plans to relocate approximately 54 full-time and approximately 60 part-time employees to the Facility from its current location and expects to employ approximately 14 additional full-time equivalent employees within the three years following the completion of the Project; that the Applicant must obtain Agency financial assistance in the form of a straight-lease transaction to enable the Applicant to proceed with the

Project and thereby remain and expand its operations in the City; and that, based upon the financial assistance provided through the Agency, the Applicant desires to proceed with the Project and remain and expand its operations in the City; and

WHEREAS, based upon the Application, the Agency hereby determines that Agency financial assistance and related benefits in the form of a straight-lease transaction between the Agency and the Applicant are necessary to induce the Applicant to remain and expand its operations in the City; and

WHEREAS, in order to provide financial assistance to the Applicant for the Project, the Agency intends to grant the Applicant financial assistance through a straight-lease transaction in the form of real property tax abatements and sales 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 provision by the Agency of financial assistance to the Applicant 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 Applicant to proceed with the Project. The Agency further determines that

(a) the Project shall not result in the removal of any facility or plant of the Applicant or any other occupant or user of the Facility from outside of the City (but within the State of New York) to within the City or in the abandonment of one or more facilities or plants of the Applicant or any other occupant or user of the Facility located within the State of New York (but outside of the City);

(b) 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; and

(c) 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.

Section 2. To accomplish the purposes of the Act and to provide financial assistance to the Applicant for the Project, a straight-lease transaction is hereby authorized subject to the provisions of this Resolution.

Section 3. The Agency hereby authorizes the Applicant to proceed with the Project on behalf of the Agency as set forth in this Resolution; provided, however, that it is

acknowledged and agreed by the Applicant that (i) nominal leasehold title to or other interest of the Agency in the Facility shall be in the Agency for purposes of granting financial assistance, and (ii) the Applicant is hereby constituted the agent for the Agency solely for the purpose of effecting the Project, and the Agency shall have no personal liability for any such action taken by the Applicant for such purpose.

Section 4. The execution and delivery of a Company Lease Agreement from the Applicant subleasing the Facility to the Agency, an Agency Lease Agreement from the Agency sub-subleasing the Facility to the Applicant, a Sales Tax Letter from the Agency to the Applicant, and the acceptance of a Guaranty Agreement from the Applicant and the Applicant's owners and/or principals in favor of the Agency (each document referenced in this Section 4 being, collectively, the "Initial Agency Documents"), each being substantively the same as approved by the Agency for prior transactions, are 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 Initial 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. Upon the occurrence of the Exchange, the execution and delivery of implementing amendments and assignments, as applicable, to each of the applicable Initial Agency Documents (collectively, the "Amendment Documents; together with the Initial Agency Documents, the "Agency Documents"), are 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 Amendment Document. The execution and delivery of each such agreement by one of said officers shall be conclusive evidence of due authorization and approval.

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 Applicant to assist in the Project.

Section 7. All covenants, stipulations, obligations and agreements of the Agency contained in this Resolution and contained in the Agency 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 members thereof by the provisions of this Resolution or the Agency Documents shall be exercised or performed by the Agency or by such members, 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 the Agency Documents shall be deemed to be a covenant, stipulation, obligation or agreement of any member, director, officer, agent or employee of the Agency in his or her individual capacity and neither the members nor the directors of the Agency nor any officer executing any Agency

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 8. 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. The approval of such modifications shall be evidenced by a certificate of determination of an Agency officer.

Section 9. Any expenses incurred by the Agency with respect to the Project shall be paid by the Applicant. By acceptance hereof, the Applicant agrees to pay such expenses and further agrees to indemnify the Agency, its members, directors, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency in good faith with respect to the Project.

Section 10. This Resolution is subject to approval based on an investigative report with respect to the Applicant. The provisions of this Resolution shall continue to be effective for 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 9 hereof).

Section 11. The Agency, as lead agency, is issuing this determination pursuant to the State Environmental Quality Review Act (Article 8 of the Environmental Conservation Law) and implementing regulations contained in 6 N.Y.C.R.R. Part 617. This determination is based upon the Agency's review of information provided by the Applicant and such other information as the Agency has deemed necessary and appropriate to make this determination.

The Agency hereby determines that the Project is a Type II action pursuant to 6 N.Y.C.R.R. Part 617.5(c)(2) "replacement, rehabilitation or reconstruction of a structure or facility, in kind" and 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 12. In connection with the Project, the Agency intends to grant the Applicant real property tax abatements and sales tax exemptions.

Section 13. This Resolution shall take effect immediately

ADOPTED: December 11, 2012

Accepted: December \_\_, 2012

NATIONAL ACOUSTICS INC.

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

Name:

Title: