

RESOLUTION OF THE TOWN OF LANCASTER INDUSTRIAL DEVELOPMENT AGENCY (THE "AGENCY") AUTHORIZING MOTIVAIR CORPORATION (THE "LESSEE") TO PURCHASE THE EXISTING INDUSTRIAL BUILDING, PROPERTY AND CONTENTS AS WELL AS RENOVATIONS, AND THE ACQUISITION OF EQUIPMENT AND FIXTURES IN CONNECTION THEREWITH, AND THE GRANT TO THE LESSEE OF ASSISTANCE INCLUDING MORTGAGE TAX ABATEMENT, SALES TAX ABATEMENT AND REAL PROPERTY TAX ABATEMENT THROUGH A PAYMENT IN LIEU OF TAX ABATEMENT.

WHEREAS, Motivair Corporation (including its affiliates, the "Lessee") has entered into negotiations with officials of the Town of Lancaster Industrial Development Agency (the "Agency") with respect to the acquisition of title in a certain machinery manufacturing facility and contents, acquisition of fee title in the property, with an acquisition cost of the real property and improvements thereon anticipated in the amount of \$3,018,000.00, together with any renovations, upgrading and equipping the facility located at 5900 Genesee Street in the Town of Lancaster, New York, and the purchase of fixtures and equipment in connection therewith, which facilities are to be acquired and/or leased by the Agency and leased back by the Agency to the Lessee and the which fixtures equipment are to be acquired by the Agency through an Installment Sale Agreement (the "Project"); and

WHEREAS, the Lessee has submitted an Eligibility Questionnaire and other materials and information to the Agency (collectively hereinafter the "Eligibility Questionnaire") to initiate the accomplishment of the above; and

WHEREAS, the Eligibility Questionnaire sets forth certain information with respect to the Lessee, including the following: the Lessee desires Agency assistance to construct the Project with resultant continued employment in the Town of Lancaster; and it is anticipated that the Lessee will employ 35 to 40 full time employees after the Project is completed, which represents an increase of between 4 and 9 jobs from its current number of employees; that manufacturing operations will be restored to the facility that is currently vacant, that the availability of financing and/or other assistance by the Agency will facilitate the Lessee's ability to expand and upgrade Lessee's business within the Town of Lancaster; the Lessee will continue to provide employment and substantial

capital investment in the Town of Lancaster; and that Agency financing or other assistance is necessary to allow the Lessee to proceed with the Project in the Town of Lancaster; and

WHEREAS, the Agency held a public hearing on the Project on Tuesday, July 28, 2020 at 8:30 a.m., at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, pursuant to Section 859-A of the General Municipal Law; and

WHEREAS, the Agency desires to further encourage the Lessee with respect to the acquisition and renovations of the Project, if by so doing it is able to induce the Lessee to proceed with the Project in the Town of Lancaster to acquire the equipment, furnishings and fixtures required in connection therewith immediately; and

WHEREAS, the project contemplates an inter-municipal move from Amherst to Lancaster, and the Agency has provided notice of the anticipated inter-municipal move as required by the Countywide Uniform Tax Exemption policy (“UTEp”) to the Supervisor of the Town of Amherst as well as to the Executive Director of the Amherst Industrial Development Agency; and

WHEREAS, the Project contemplates a PILOT agreement that deviates from the PILOT schedules included in the UTEp, and the Agency has provided notice of the proposed PILOT deviation as required by the UTEp, to the Chief Executive Officers of the affected tax jurisdictions and each of the local industrial development agencies that are signatories to the UTEp.

NOW, THEREFORE, THE TOWN OF LANCASTER INDUSTRIAL DEVELOPMENT AGENCY HEREBY RESOLVES AS FOLLOWS:

Section 1. The Agency hereby determines that the acquisition of the equipment, furnishing, and fixtures for the Project and the assistance thereof by the Agency pursuant to the New York State Industrial Development Agency Act will promote, and is authorized by, and will be in furtherance of, the policy of the State as set forth in said Act. The Agency further hereby determines, on the basis of the Eligibility Questionnaire and supplemental information furnished by the Lessee, as

follows: (a) it would not have assisted the Project except to induce the location of the Project in the area to be served by the Project as there is a demonstrable need for the Project and the services it offers; (b) that but for the availability of Agency financing or other assistance for the Project in such area, the Project would not be economically feasible; (c) there is anticipated to be an increase in the number of jobs at the facility (d) the Project will provide substantial employment and substantial capital investment; (e) the Project is necessary for the Lessee to maintain employment in the Town of Lancaster. (f) the Project as represented is reasonably necessary to provide the purposes of the Act, subject to verification and confirmation of such representations prior to the Agency entering into a lease and leaseback only transaction; (g) the Agency's assistance with the Project is an integral part of the Lessee's plans to proceed in the Town of Lancaster; and (h) after taking into consideration the factors included in the Agency's policy with respect to a proposed deviation from its uniform tax exemption policies, and after providing the affected tax jurisdictions and countywide industrial development agencies with notice of the proposed deviation, it is determined that the proposed deviation is reasonable and necessary to make the Project viable and that the Project promotes economic development, enhances job opportunities, and will improve the general prosperity and economic welfare of the County of Erie.

Section 2. The Agency hereby authorizes the Lessee to proceed with the acquisition of the facility and renovations of the Project with the estimated maximum cost to the Lessee of the Project not to exceed \$3,800,000.00, as herein authorized. The assistance by the Agency shall be financed through a mortgage transaction with a lease and leaseback transaction and installment sale agreement between the Agency and the Lessee on the acquisition of the Facility and the purchase and installation of Equipment required in connection therewith. Other than the mortgage tax abatement, sales tax abatement and real property tax abatement contemplated herein, no other financial assistance shall be provided unless and until it is authorized following a duly held public hearing.

Section 3. The Agency will undertake, as soon as particular terms and conditions of a Lease Agreement are determined to enter into a lease and leaseback with the Lessee.

Section 4. The Chairman, Vice Chairman, Secretary and Assistant Secretary 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 Lessee to assist in the acquisition and renovations of the Project.

Section 5. The Lessee is authorized to initiate the acquisition of the facility and installation of equipment, furnishings and fixtures required in connection herewith with a cost not to exceed \$3,800,000.00 without further approval by the Agency. The Agency is hereby authorized to enter into such agreements with the Lessee as the Chairman, Vice Chairman or other authorized officer may deem necessary in order to accomplish the above.

Section 6. Any such action heretofore taken by the Lessee in initiating the acquisition and installation of the Project are hereby ratified, confirmed and approved.

Section 7. Any expenses incurred by the Agency with respect to the Project and the financing thereof shall be paid by the Lessee. By acceptance hereof, the Lessee agrees to pay such expenses with respect to the Project 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 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 and the financing thereof, if applicable.

Section 8. The Agency hereby authorizes the Lessee to proceed with the Project with the estimated maximum cost to the Lessee of the Project not to exceed \$3,800,000.00, as herein authorized. The assistance by the Agency shall be financed through a lease with a mortgage or lease and leaseback, payment in lieu of taxes (PILOT) and installment sale agreement between the Agency and the Lessee, sales tax abatement, mortgage tax abatement and real property tax abatement. The PILOT agreement shall be for an initial five (5) year period and shall set the amount of the PILOT payments during that period at the fixed amount as if the property had been assessed at the rate of \$3,018,000.

Section 9. The provisions of this resolution shall continue to be effective until one year from the date hereof whereupon this resolution shall cease to be effective (except with respect to matters contained in Section 7 hereof) unless prior to the expiration of such period (a) the Agency shall by subsequent resolution extend the effective date of this resolution, or (b) the Lessee shall continue to take affirmative steps to secure financing for the Project.

Section 10. The execution and delivery of an Agent Agreement and lease/leaseback between the Agency and the Lessee, substantially in the form approved by the Agency for prior transactions or in form approved by the Chairman, Vice Chairman or Secretary, are hereby authorized. The appropriate officers of the Agency are hereby authorized to execute, seal, acknowledge and deliver such agreement and 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 execution and delivery of each such instrument shall be conclusive evidence of due authorization and approval.

Section 11. The Agency hereby determines, based upon information furnished to the Agency by the Lessee including a completed Short Environmental Assessment Form with Attachments prepared pursuant to the State Environmental Quality Review Act and its implementing regulations as promulgated by the New York State Environmental Conservation (collectively "SEQRA") as well as its review of the negative declaration by the Town Board pursuant to SEQRA on October 7, 2019, and such other information regarding potential adverse environmental impacts that the Agency has deemed relevant to make this determination, that the Project constitutes an Unlisted Action and hereby issues a negative declaration since the Project will not result in any significant adverse environmental impacts.

Section 12. The Agency has made and makes no representation or warranty whatsoever, either express or implied, with respect to the merchantability, condition, environmental status, fitness, design, operation or workmanship of any part of the Project, its fitness for any particular purpose, the quality or capacity of the materials in the Project, or the suitability of the Project for the Lessee's purposes or needs or the extent to which proceeds derived from the sale of any bonds

will be sufficient to pay the cost of the acquisition, construction, renovation and installation of the Project. The Lessee is satisfied that the Project is suitable and fit for Lessee's purposes. The Agency shall not be liable in any manner whatsoever to anyone for any loss, damage or expense of any kind or nature caused, directly or indirectly, by the Project or the use or maintenance thereof or the failure of operation thereof, or the repair, service or adjustment thereof, or by any delay or failure to provide any such maintenance, repairs, service or adjustment, or by any interruption of service or loss of use thereof or for any loss of business howsoever caused, and the Lessee hereby agrees to indemnify and holds the Agency harmless from any such loss, damage or expense.

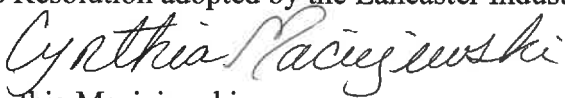
Section 13. Should the Agency's participation in the Project be challenged by any party, in the courts or otherwise, the Lessee and shall defend, indemnify and hold harmless the Agency and its members, officers and employees from any and all losses arising from any such challenge including, but not limited to, the fees and disbursements of the Agency's counsel. Should any court of competent jurisdiction determine that the Agency is not authorized under Article 18-A of the General Municipal Law to participate in the Project, this resolution shall automatically become null and void and of no further force and effect, and the Agency shall have no liability to the Lessee hereunder or otherwise.


Section 14. This resolution is subject to compliance with all local building and zoning requirements.

Section 15. This resolution shall take effect immediately.

ADOPTED: July 28, 2020

I, Cynthia Maciejewski, being the Administrative Secretary and Records Management Officer of the Lancaster Industrial Development Agency, hereby certify that this is a true and correct copy of the Resolution adopted by the Lancaster Industrial Development Agency Board on July 28, 2020.


Cynthia Maciejewski


Date