

WEST VIRGINIA ECONOMIC DEVELOPMENT AUTHORITY

RESOLUTION AUTHORIZING THE ISSUANCE OF BONDS BY THE WEST VIRGINIA ECONOMIC DEVELOPMENT AUTHORITY TO BE EXCHANGED FOR CERTAIN COMMERCIAL FACILITIES AND EQUIPMENT OWNED BY ROXUL USA INC. D/B/A ROCKWOOL

WHEREAS, the West Virginia Economic Development Authority ("WVEDA") is a public corporation and government instrumentality of the State of West Virginia (the "State") that is empowered and authorized by the West Virginia Economic Development Authority Act, Chapter 31, Article 15, Section 1, *et seq.*, of the Code of West Virginia, 1931, as amended (the "Act"), in furtherance of the public purposes as found and determined by the Legislature of the State and as set forth in Section 6 of the Act, to issue and exchange revenue bonds of WVEDA for a commercial or industrial undertaking, for such undertakings to create or preserve jobs and to enhance the economic welfare and benefit of the citizens of the State; and

WHEREAS, Roxul USA Inc. d/b/a ROCKWOOL, a Delaware corporation (the "Corporation"), has acquired a parcel of real property comprising approximately 130 acres (the "Project Site") which is a part of the approximately 400-acre tract of real property located in Jefferson County, West Virginia, that is commonly known as Jefferson Orchards, is constructing a manufacturing facility thereon (the "Facility"), and will install certain manufacturing equipment and machinery and other personal property at the Facility (the "Equipment" and collectively with the Project Site and the Facility, the "Project Property"), which will result in the Corporation creating a minimum of 120 full-time equivalent jobs in connection with the operation of the Facility and which will provide for future potential employment opportunities within the State; and

WHEREAS, the Corporation has requested that WVEDA enter into certain arrangements by which, among other things, the Corporation will convey to WVEDA its ownership interest in the Project Property and WVEDA will lease the Project Property to the Corporation; and

WHEREAS, the conveyance of the Project Property to WVEDA will be made by the Corporation from time to time, in exchange for one or more series of West Virginia Economic Development Authority Lease Revenue Bonds (ROCKWOOL Project) (the "Bonds"), to be issued pursuant to a Bond Indenture and Security Agreement (the "Indenture"), between WVEDA and a trustee to be selected, and in accordance with other terms and conditions, set forth in Contracts of Exchange between the Corporation and WVEDA. As such exchanges are made, the Corporation will lease the Project Property from WVEDA for its exclusive use and benefit, pursuant to one or more Lease Agreements (the "Lease"), between the Corporation and WVEDA.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF WVEDA AS FOLLOWS:

1. Public Purpose. WVEDA hereby finds and determines that the acquisition of the Project Property to the Corporation promotes economic development and other public purposes of WVEDA pursuant to the Act.
2. Cooperation in Bond Issuance. WVEDA will cooperate with the Corporation, and such parties as the Corporation may select for the purpose of assisting or participating in the issuance and exchange of the Bonds on mutually agreeable terms, and WVEDA will adopt such resolutions and proceedings and authorize the execution and delivery of such instruments and the taking of such further actions as may be necessary or advisable to the authorization, issuance and exchange of the Bonds with the Corporation or its designee for the Project Property, all as shall be authorized by law and mutually satisfactory to WVEDA and the Corporation.
3. Designation of Trustee. WVEDA will designate one or more banks located either within or without the State of West Virginia at the direction of the Corporation to serve as trustee and will enter into the Indenture with such trustee.
4. The Lease. The Project Property shall be leased to the Corporation by WVEDA pursuant to the Lease for a term not to exceed the term of the Bonds and for lease payments equal to the debt service payments on the Bonds, and otherwise on such additional terms, conditions, agreements and provisions as the Chairman, Executive Director, including any acting or interim Executive Director, and legal counsel for WVEDA determine are reasonably necessary, desirable or appropriate with regard to the leasing of the Project Property to the Corporation which Lease and terms are hereby authorized and approved. The Corporation shall have an option under the Lease to purchase the Project Property from WVEDA for One Dollar (\$1.00) at the end of the term of the Lease.
5. The Bonds. There are hereby authorized to be issued and WVEDA hereby determines to issue, pursuant to the Act, the Bonds, as requested by the Corporation, in an aggregate principal amount to be agreed upon by WVEDA and the Corporation, not to exceed the maximum aggregate face amount of \$150,000,000, and to exchange the Bonds for the Project Property from time to time pursuant to Contracts of Exchange, the Bonds to be secured by and payable exclusively from the revenues to be derived by WVEDA under the terms of the Lease and the Indenture. The exact principal amount of the Bonds not to exceed \$150,000,000 shall be approved by the Chairman, such approval to be evidenced by the execution by the Chairman of a Certificate of Determinations setting forth such principal amount. The Bonds shall contain a recital that they are issued pursuant to the Act, which recital shall be conclusive evidence of their validity and of the regularity of their issuance. WVEDA shall require the Corporation to reimburse WVEDA for all costs incurred by or for WVEDA in connection with the issuance of the Bonds.
6. Authorized Officers. The Indenture, the Lease and any other documents required to complete this transaction, except the Bonds, are hereinafter collectively referred to as the "Bond Documents." The Chairman, Secretary and Executive Director, including any acting or interim Executive Director, are hereby authorized, empowered and directed to execute and deliver the Bond Documents prior to or simultaneously with the issuance of the Bonds for and on behalf of WVEDA, in the form and upon those terms and conditions as approved by the

Chairman, with the assistance of counsel, and the Executive Director and such approval shall be conclusively evidenced by the execution of the Bond Documents by the Chairman, Secretary or Executive Director. The Chairman is hereby authorized and directed to execute and deliver, by manual or facsimile signature, and the Secretary is hereby authorized and directed to affix the corporate seal of WVEDA to, and attest to, by manual or facsimile signature, the Bonds; and the Chairman is authorized and directed to deliver the Bonds to the trustee, as paying agent, for authentication under the Indenture and, when the Bonds have been authenticated, to deliver the same or cause said Bonds to be delivered to the Corporation in exchange for the receipt of Project Property, as provided in the Indenture.

7. Term of the Bonds. The Bonds shall be dated such date(s) as approved by the Chairman, and as otherwise described in the Indenture, shall be issued in one or more series not to exceed \$150,000,000 in the aggregate, with maturity dates not to exceed ten (10) years from the date of issuance of each series of Bonds, and the final principal amount (or principal amounts if issued in one or more than one series), maturity dates, interest rate or rates, redemption provisions and other terms of the Bonds to be approved by the Chairman, such approval to be evidenced by the execution by the Chairman of a Certificate of Determinations setting forth such principal amount (or principal amounts if issued in more than one series), interest rate or rates, redemption provisions and other terms of the Bonds. The Bonds shall be in the denominations and in registered form, be payable in the medium of payment and at such places, be subject to optional redemption prior to maturity and be entitled to the priorities and the revenues of WVEDA from the Project Property all as provided in the Indenture as finally approved by the Chairman. All of the provisions of the Indenture, as amended, shall be deemed to be part of this Resolution as fully and to the same extent as if incorporated herein and shall be in force and effect from the date of the execution thereof.

8. Limited Obligations. Any Bonds issued by WVEDA for the acquisition of the Project Property are special obligations of WVEDA payable solely from and secured by the Project Property and any rental or other payments derived therefrom, and shall not be construed to obligate the expenditure of any funds or monies of WVEDA derived from any other source whatsoever. The State shall not be liable for the payment or performance of any Bonds issued by WVEDA for the acquisition of the Project Property, and such bonds as to both principal and interest are not a debt of the State of West Virginia or any county, municipality or political subdivision thereof, and are payable solely from the revenues and funds pledged for their payment. Any Bonds issued by WVEDA for the acquisition of the Project Property as to both principal and interest shall not constitute a debt or a pledge of the faith and credit or taxing power of the State or of any county, municipality or other political subdivision of the State, and the holders and owners of such Bonds shall have no right to have taxes levied by the Legislature of the State or the taxing authority of any county, municipality or any other political subdivision of the State for the payment of such Bonds.

9. Indemnification. WVEDA shall require the Corporation to hold harmless, indemnify and defend WVEDA and its board members, officers, employees and representatives from any and all actions, liabilities, lawsuits, damages, expenses (including, without limitation, reasonable attorneys' fees and expenses), claims, obligations and other costs to, against or incurred by WVEDA and its board members, officers, employees and representatives (collectively, "Losses") arising out of or caused by the adoption of this Resolution or the

transactions contemplated hereby or the operations, actions, omissions, business or other activities of the Corporation and its contractors and subcontractors or arising from or relating to the purchase of the Project Property by WVEDA, the lease back of the Project Property to the Corporation, the use or operation of the Project Property and any other activities with regard thereto, regardless of whether such Losses are incurred before or after the Lease has been executed.

10. Expenses of WVEDA. The Corporation shall pay and/or reimburse all costs and expenses incurred by WVEDA, including without limitation, attorney's fees and expenses in connection with the acquisition, leasing, financing, including the issuance and sale of the Bonds, and operation of the Project Property. WVEDA shall receive a fee of \$10,000 upon the issuance and sale of the Bonds.

11. Open Meeting. WVEDA hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of WVEDA and that all deliberations of WVEDA that resulted in formal action were taken in meetings open to the public, in full compliance with all applicable legal requirements.

12. Notice. Publication in the *West Virginia Register* of the notice for the regular meeting at which this Resolution was adopted by WVEDA's Board is deemed sufficient availability to the news media as contemplated by Procedural Rule 117-2-3.5 of WVEDA.

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ADOPTED BY THE BOARD OF WVEDA at a regularly scheduled meeting held in Charleston, West Virginia, on May 2, 2019.

**WEST VIRGINIA ECONOMIC
DEVELOPMENT AUTHORITY**

Michael R. Caraway

Chairman

ATTEST:

Alex W. Stange

Secretary

[SEAL]

CERTIFICATION

I hereby certify that the foregoing is a true copy of a Resolution duly adopted by the Board of the West Virginia Economic Development Authority on the 2nd day of May, 2019, and that such actions remain in full force and effect and have not been amended, rescinded, superseded, repealed or changed.

WITNESS my signature on the ___ day of _____, 20__.

[SEAL]

Secretary



May 2, 2019

West Virginia Economic Development Authority
NorthGate Business Park
180 Association Drive
Charleston, West Virginia 25311-1217

Re: West Virginia Economic Development Authority
Lease Revenue Bonds (ROCKWOOL Project)

Ladies and Gentlemen:

Roxul USA Inc., a Delaware corporation doing business as ROCKWOOL (the "Corporation"), requested that the West Virginia Economic Development Authority (the "Issuer") adopt a Resolution (the "Resolution") authorizing, among other things, the issuance of the above-referenced bonds (the "Bonds") and the purchase by the Issuer and lease back to the Corporation of certain property owned by the Corporation in Jefferson County, West Virginia, and manufacturing equipment and machinery and other personal property at such property (collectively, the "Property").

As required by the aforesaid Resolution, the Corporation hereby agrees to hold harmless, indemnify and defend the Issuer and its board members, officers, employees and representatives from any and all actions, liabilities, lawsuits, damages, expenses (including, without limitation, reasonable attorneys' fees and expenses), claims, obligations and other costs to, against or incurred by the Issuer or its board members, officers, employees or representatives (collectively, "Losses") arising out of or caused by the adoption of the Resolution or the transactions contemplated thereby or the operations, actions, omissions, business or other activities of the Corporation and its contractors and subcontractors or arising from or relating to the purchase of the Property by the Issuer, the lease back of the Property to the Corporation, the use or operation of the Property and any other activities with regard thereto, regardless of whether such Losses are incurred before or after the Lease contemplated by the Resolution has been executed.

The Issuer agrees to provide to the Corporation prompt written notice (a "Claim Notice") of any Losses brought against the Issuer, its board members, employees and representatives for which the Issuer shall seek to be defended and/or indemnified against by the Corporation. The Issuer's failure to provide a Claim Notice to the Corporation does not relieve the Corporation of any liability that the Corporation may have to the Issuer, but in no event shall the Corporation be liable for any Losses that result directly from a delay in providing a Claim Notice. The Issuer agrees to promptly furnish to the Corporation copies of all papers and official documents received in respect of any Losses.

In connection with any defense to any Losses, the Corporation shall be entitled to select counsel of its choosing subject to approval of the Issuer, which approval shall not be unreasonably withheld; provided, however, that in the event the parties reasonably determine that independent counsel



is required, then the Issuer shall be entitled to engage its own independent counsel subject to approval of the Corporation, which approval shall not be unreasonably withheld. In that event, the Issuer and its independent counsel shall fully cooperate with the Corporation, and its counsel, to the extent reasonably possible in defending any Losses.

The Corporation further agrees to reimburse the Issuer for all expenses (including without limitation reasonable attorneys' fees and expenses) incurred by the Issuer with respect to the Resolution or the transactions contemplated thereby regardless of whether such transactions are consummated; provided, however, the Corporation shall not be obligated to reimburse such reasonable expenses if the Issuer unilaterally and unreasonably determines not to consummate the transactions contemplated by the Resolution.

ROXUL USA INC. D/B/A ROCKWOOL
By: [Signature]
Its: SECRETARY

Accepted and agreed to this 2nd day of May, 2019, by:

**WEST VIRGINIA ECONOMIC
DEVELOPMENT AUTHORITY**

By: [Signature]
Michael R. Graney
Its: Chairman