

**COUNTIES OF WARREN AND WASHINGTON  
INDUSTRIAL DEVELOPMENT AGENCY**

5 Warren Street, Suite 210  
Glens Falls, New York 12801

Tel. (518) 792-1312  
www.warren-washingtonida.com

A special meeting of the Counties of Warren and Washington Industrial Development Agency was held on Monday, April 5, 2021 via Zoom at 4:30 p.m. The following were:

<b>PRESENT:</b>	Dave O'Brien	Chairman
	Brian Campbell	Park Chair
	Nick Caimano	Member
	Craig Leggett	Vice Chairman
	Mike Wild	Member
	Michael Bittel	Sec/Treasurer
	Dan Bruno	Member
	Ginny Sullivan	Member

<b>ABSENT:</b>	Michael Bittel	Member
	Bruce Ferguson	Member

***The following were also present:***

Kara Lais, Esq.	FitzGerald Morris Baker Firth, PC
Lester Losaw	CEO/CFO
Erin Badcock	Hacker Boat Company
George Badcock	Hacker Boat Company

<b><i>Minutes were taken by:</i></b>	Alie Weaver	Office Administrator
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Roll call was taken and a quorum was confirmed.

**Approval of Hacker Boat Project**

Mrs. Weaver read the following public comment that was received via email:

*"The Hacker Boat company has decided to move their operations from Ticonderoga to Queensbury. While this relocation is already in the works, the IDA is contemplating awarding public assistance in addition to the assistance already awarded by the state several years ago. This is bad news for Ticonderoga. Let us look at some of the legalities of this contemplated award.*

*First, Part 250 of Title 19 NYCRR requires a statement in the application form that "there is a likelihood that the project would not be undertaken but for the financial assistance provided by the agency or authority, or, if the project could be undertaken without financial assistance ... a statement indicating why the project should be*

*undertaken by the agency or authority"*

*Second, referring to section 874 of GML 18-A which establishes the powers of an IDA:*

*(4) (c) With respect to projects authorized pursuant to paragraph (b) of this subdivision, no project shall be approved unless the agency shall find after the public hearing required by section eight hundred fifty-nine-a of this title that undertaking the project will serve the public purposes of this article by preserving permanent, private sector jobs or increasing the overall number of permanent, private sector jobs in the state. Where the agency makes such a finding, prior to providing financial assistance to the project by the agency, the chief executive officer of the municipality for whose benefit the agency was created shall confirm the proposed action of the agency.*

*As the WWIDA was created by the Warren and Washington County Boards it seems you would need a confirmation of the proposal from the 2 County Chairs and I do not think this has been done.*

*On the issue of project eligibility, GML 18-A states in section*

*§ 862. Restrictions on funds of the agency. (1) No funds of the agency shall be used in respect of any project if the completion thereof would result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state*

*further down there is an exception. .... or (ii) the project is located in a highly distressed area.*

*Is Queensbury considered more "distressed" than Ticonderoga?*

*The building has been purchased. The jobs are on the way. Why should the IDA further subsidize this business decision at the expense of all taxpayers in the County and the State?"*

Ms. Lais stated that the applicant answered that they would not be able to complete the project if financial assistance was not provided, based on their financial situation.

Ms. Lais also noted that the comments regarding the county's approvals and/or distressed area does not apply to this project as it is a manufacturing project whereas those directives apply to retail projects.

Ms. Lais explained that Hacker Boat Company does not have the ability to expand where they are currently located and have the opportunity to move outside of the state should they not be able to relocate to an area in New York State that fits their current and future needs.

Mr. O'Brien stated that the application explains that the new facility will support the business expansion and provide the basis to increase boat manufacturing. However, the costs associated with acquiring and refitting a new facility is concerning in that without assistance from the IDA, they would not be able to pursue the project as described, thwarting expansion.

The application further explains that a mortgage and sales tax exemption would be a way to make the investment more attainable and a PILOT would reduce operating costs to enable offering competitive product.

Mr. O'Brien stated that Hacker Boat Company is currently under contract to purchase the building in Queensbury and are awaiting financing.

Mr. Badcock stated that there are two financing sources for this current project; an SBA 504 loan and discussions with an individual investor.



Mr. Badcock noted that it is a possibility that the Ticonderoga facility will remain in their possession to be used as storage.

Ms. Badcock noted that in 2012 Hacker Boats applied for and was awarded the Excelsior Grant for \$600,000, of which they did not take advantage of.

Mr. Badcock added that Hacker Boat has not received any subsidies.

Mr. Leggett rebutted the comment of "actions taken by the IDA is at the expense of the county taxpayers" by explaining that a PILOT is not at an expense of the taxpayers since all the base taxes are still being paid with gradual increases.

Ms. Badcock stated that they currently have 30 employees, all of which are planning to relocate closer to the new facility.

A public comment asked Mr. Badcock why he did not pursue the proposed 2013 move to Queensbury?

Mr. Badcock responded that their engineering firm discovered that the water table was much higher than originally reported by the county, which would have created building issues and higher construction costs so they backed out.

A public comment directed for Mr. Leggett stated that mortgage and sales tax not collected comes out of the Warren County budget, as well as the difference between the PILOT and full property taxes.

Mr. Leggett stated that these kinds of taxes are not in the budget as they would be considered anticipated or projected revenue, not actual revenue.

Ms. Lais stated that this is a Type Two action under SEQR so no further environmental review is required as the only changes being made are to the original footprint of the building.

She also noted that the total project cost is \$3,016,000.00, the estimated sales tax exemption is \$14,000, estimated mortgage tax exemption is \$33,750.00 and the estimated PILOT is \$95,000 over the course of ten years.

She recommended that this resolution be contingent upon proof of financing and review of the lease.

Mr. Grasso made a motion to accept the resolution to approve the Hacker Boat project based on the stated contingencies and Mr. Caimano seconded. All voted in favor by roll call vote.

Ms. Lais verified that July 31, 2021 is the confirmed end date of this project's sales tax exemption.

### **Adjournment**

There being no further business to discuss or public comments, Mr. O'Brien adjourned the IDA April 5<sup>th</sup>, 2021 Special Meeting at 5:04 p.m.

**From:** Travis Whitehead <travis.whitehead@gmail.com>  
**Sent:** Monday, April 5, 2021 3:29 PM  
**To:** Dave O'Brien; Alie White  
**Subject:** PH comments

In place of the letter I sent which had many links in it, and was more for your information than to be read -- since you really can't read a link. Please substitute these more specific comments

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**Counties of Warren and Washington Industrial Development Agency**

Resolution No. 21-\_\_\_\_\_  
Adopted April 5, 2021

Introduced by \_\_\_\_\_  
who moved its adoption.

Seconded by \_\_\_\_\_

**RESOLUTION APPROVING A CERTAIN PROJECT, AS DEFINED HEREIN,  
APPOINTING HACKER BOAT COMPANY INC. (THE "COMPANY"), AS AGENT OF  
THE AGENCY FOR THE PURPOSE OF CONSTRUCTING AND EQUIPPING THE  
PROJECT FACILITY (AS DEFINED HEREIN) AND AUTHORIZING THE  
EXECUTION AND DELIVERY OF AN AGENT AGREEMENT AND CLOSING  
DOCUMENTS BY AND BETWEEN THE AGENCY AND THE COMPANY**

WHEREAS, the Counties of Warren and Washington Industrial Development Agency (the "Agency") is a body corporate and politic duly organized and existing under Sections 856 and 890-c of the General Municipal Law ("GML") of the State of New York (the "State"), with its principal place of business at 5 Warren Street, Glens Falls, New York; and

WHEREAS, Hacker Boat Company, Inc., a business corporation established pursuant to the laws of the State of New York, having an address of 8 Delaware Avenue, Silver Bay, New York 12874 (the "Company") has requested that the Agency provide financial assistance in the form of a partial real property tax abatement, a mortgage recording tax exemption and sales tax abatements regarding a manufacturing project (the "Project") to consist of: (i) the acquisition by the Agency of a leasehold interest in certain real property located at 315 Corinth Road in the Town of Queensbury, County of Warren, New York (the "Land"); (ii) the planning, design, renovation, operation and maintenance by the Company of an approximately 43,000+/- square foot facility to be used by the Company for the manufacturing of boats and office space (collectively, the "Improvements"); (iii) the acquisition of and installation in and around the Land and Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property (the "Equipment" and, collectively with, the Land and the Improvements, the "Facility"); and (iv) entering into a straight lease transaction (within the meaning of subdivision (15) of Section 854 of the Act), pursuant to which the Agency will retain a leasehold interest in the Facility for a period of time and sublease such interest in the Facility back to the Company (the "Straight Lease Transaction"), all pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York, Chapter 862 of the Laws of 1971 of the State of New York (collectively, the "Act"), as amended; and

WHEREAS, under Article 18-A of the General Municipal Law (the "Act"), the Legislature of the State of New York has granted the Agency the power and authority to undertake the Project, as the Act authorizes the Agency to promote, develop, encourage and assists projects such as this Project and to advance job opportunities, health general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, the Project will require the Agency and the Company to enter into an agreement whereby the Company will acquire, by lease, and construct the Project Facility and the Agency will lease the Project Facility to the Company; and

WHEREAS, the Company has agreed to indemnify the Agency against certain losses, claims, expenses, damages and liabilities which may arise in connection with the transactions contemplated by the lease of the Facility; and

WHEREAS, a lease agreement (the "Lease Agreement") with respect to the Project, along with certain financing documents, will be executed by and between the Company and the Agency; and

WHEREAS, the Agency is a state agency under Section 8-0105 of the Environmental Conservation Law of the State of New York and the Project is an action under Article 8 of said law (Article 8 hereinafter being referred to as the "State Environmental Quality Review Act" or "SEQRA") and under 6 NYCRR Part 617, §§ 617.2(b) and 617.3(g); and

WHEREAS, the Company has submitted to the Agency, and the Agency has reviewed information needed to determine whether or not the Project will have a significant impact on the environment; and

WHEREAS, the acquisition, construction and installation of the Project Facility has not been commenced, and the Agency has not yet authorized the Project; and

WHEREAS, the Agency conducted a public hearing on April 5, 2021 pursuant to Article 18-A of the New York State General Municipal Law (the "Law") before taking official action relating to the Project.

NOW, THEREFORE, BE IT RESOLVED:

SECTION 1. Findings. The Agency has reviewed the application to determine compliance with the requirements of the Act and based on the representations of the Company to the Agency in said application and elsewhere, the Agency hereby makes the following findings and determinations with respect to the Project:

(A) The Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes of the Act and to exercise all powers granted to it under the Act;

(B) The Project constitutes a "project", as that quoted term is defined in the Act;

(C) The acquisition, construction and installation of the Facility and the lease of the Facility to the Company (i) will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of the State of New York and the Counties of Warren and Washington and improve their standard of living;

(D) The Project will result in the removal of a commercial, industrial, or



manufacturing plant of the Company or any other proposed occupant of the Project from one area of the State of New York (the "State") to another area of the State or result in the abandonment of one or more plants or facilities of the Company, but based on information provided by the Company, including the inability to expand at its current location, lack of workforce at its current location, proximity to transportation options and its desire not to relocate outside of New York, the Agency has determined that the relocation within the State is determined to be reasonably necessary for the Company to maintain its competitive position in the industry and to discourage the Company from relocating the business operations outside of New York.

(E) It is in the public interest for the Agency to undertake the Project on behalf of the Company;

(F) The location of the site of the Project is acceptable to the Agency;

(G) The Facility is not known by the Agency to be in material violation of the local zoning laws and planning regulations of the Town of Queensbury and all regional and local land use plans for the area in which the Facility shall be located;

(H) The Facility and the operations of the Company are not known by the Agency to cause or result in the violation of the health, labor, environmental or other laws of the United States of America, the State of New York, the County of Warren or the Town of Queensbury;

(I) The Project consists of maintenance and repair of an existing structure; the replacement and rehabilitation of a structure, in kind, on the same site; and not involving a change in zoning or use variance and is considered a Type II Action pursuant to 6 NYCRR §§ 617.5(c)(1), (2) and (7) and, therefore, no further environmental review is required;

(J) The Agency further determines that the Project will consist of a private investment of \$3,016,000.00 and the Agency hereby determines this to be a Material Term, as defined in the Agency's Recapture of Benefits Policy, as amended from time to time, for the purposes of monitoring in accordance with the policies and procedures of the Agency; and

(K) Undertaking the Project will lead to the retention of thirty three (23) and the creation of ten to fifteen (10-15) full time equivalent job opportunities and the retention of two (2) and the creation of five to seven (5-7) part time equivalent job opportunities for the inhabitants of the Counties of Warren and Washington and in the State of New York, the Agency hereby determines this to be a Material Term, as defined in the Agency's Recapture of Benefits Policy, as amended from time to time, in its determination to approve the Project and will require the Company to annually report its job numbers as required by law.

## SECTION 2. Determinations. The Agency hereby determines to:

(A) enter into, execute and deliver a lease agreement from the Company to the Agency and the Lease Agreement with the Company for the Project Facility subject to the approval of said documents by the Chairman and counsel to the Agency; and

(B) execute and deliver all other certificates and documents subject to the review and approval of said documents by the Chairman and counsel to the Agency.

The Company shall complete the Project by July 31, 2021 (the "Completion Date"). Unless an extension is granted by the Agency, the failure of the Company to complete the Project by the Completion Date shall be considered a "significant change in the use of the facility" as set forth in the Agency's Recapture of Benefits Policy, as amended from time to time.

SECTION 3. Company Appointed Agent of Agency.

(A) The Company is hereby appointed the true and lawful agents of the Agency to:

- (1) construct and install the Project Facility;
- (2) make, execute, acknowledge, and deliver all contracts, orders, receipts, instructions, and writings needed to complete the Project; and
- (3) do all other things requisite and proper for the completion of the Project.

(B) The Company is authorized to proceed with the acquisition, construction and installation of the Project Facility, subject to receiving appropriate municipal approvals needed prior to commencement of construction, and to advance such funds as may be necessary to accomplish these goals.

(C) The Company is also authorized to appoint third party agents to undertake the Project and thereby make available to such third party agents an exemption from New York State sales and use taxes in connection with undertaking the Project. This provision is subject to the Company entering into an Agent Agreement with the Agency.

(D) The Agency hereby authorizes exemptions from State and local sales and use taxes for purchases and rentals related to the undertaking of the Project in an amount not to exceed Fourteen Thousand Dollars (\$14,000.00), based on eligible Project costs of Two Hundred Thousand Dollars (\$200,000.00); which exemption shall expire July 31, 2021.

(E) The Agency hereby approves of the Agent Agreement, a copy of which is incorporated herein by reference, with the Company which shall be subject to the termination and recapture of benefits policy of the Agency. The Agency further authorizes the execution and delivery of the Agent Agreement and any additional documents relative thereto.

(F) The Agency hereby acknowledges and approves a mortgage tax exemption relating to the Project in an estimated amount of \$33,750.00, based on an estimated mortgage amount of \$2,700,000.00.

SECTION 4. Payment in Lieu of Tax (PILOT) Agreement. Payment in Lieu of Tax (PILOT) Agreement. The Agency's approval is subject to the Company entering into a PILOT



Agreement with the Agency whereby the Company agrees to make payments in lieu of taxes in any given year as if the Company were the owner of the Project and not the Agency. The Agency's approval is also subject to the Company agreeing to the terms of the Agency's Recapture of Benefits Policy. The following PILOT schedule is consistent with the Agency's uniform policy is approved as follows:

The PILOT Agreement shall be for a term of ten (10) years. The PILOT payment schedule shall be as follows:

Year 1: Base Value plus 0.0% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 2: Base Value plus 0.0% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 3: Base Value plus 0.0% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 4: Base Value plus 0.0% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 5: Base Value plus 0.0% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 6: Base Value plus 50% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 7: Base Value plus 50% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 8: Base Value plus 50% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 9: Base Value plus 50% of increased assessed valuation attributable to improvements made to the Project Facility.

Year 10: Base Value plus 50% of increased assessed valuation attributable to improvements made to the Project Facility.

The Base Value for the City parcel shall be \$1,776,300.00 for the term of the PILOT.

At all times, including during the term of the PILOT Agreement, the Company shall be responsible for the full payment of water and sewer assessments, as may be applicable and any other special district assessments.

The estimated minimum real property tax benefit during the term of the PILOT Agreement is Ninety Five Thousand Seven Hundred Sixty Five Dollars (\$95,765.00).

The substance and form of the Agreement for Payments in Lieu of Taxes is hereby approved, subject to approval as to content by the Chairman and the Agency's counsel.

The substance and form of the Agreement for Payments in Lieu of Taxes is hereby approved, subject to approval as to content by the Chairman and the Agency's counsel.

SECTION 5. Administrative and Legal Fees. The Company will pay all costs incurred by the Agency, including but not limited to attorney's fees, which arise out of Company's Application for Financial Assistance, whether or not such assistance is ultimately issued. Agency's attorney's fees will be calculated at a time rate of \$275.00 per hour for attorney's time and \$105.00 per hour for senior legal assistant's time, plus disbursements. Upon closing of all of the Project documents, the Company will pay to the Agency an administrative fee (the "Administrative Fee") of \$22,620.00 based upon an estimated Project cost of \$3,016,000.00

pursuant to the schedule set forth below and contained within the Company's Application for Financial Assistance:

First \$10 Million of Project Costs:	$\frac{3}{4}$ of 1%
Next \$10 Million of Project Costs:	$\frac{1}{2}$ of 1%
Next \$10 Million of Project Costs:	$\frac{1}{4}$ of 1 %
Above \$30 Million of Project Costs:	$\frac{1}{8}$ of 1%.

Following the completion of the Project Facility, the Company shall confirm, in writing, the actual Project cost. In the event that the total Project cost exceeds the estimate provided herein, the Agency may require the payment of the difference that would otherwise be due pursuant to the above-schedule.

Upon adoption of this Resolution, the Company shall promptly deliver to the Agency the requisite security deposit in the amount of \$15,800.00 as calculated by the Agency's policies and procedures.

SECTION 6. Insurance. The Company shall deliver to the Agency a certificate of insurance, complying with the requirements as required by the Agency, and indicating that:

(a) The Company maintains insurance with respect to the Facility providing the coverage against the risks and for such amounts as are customarily insured against by businesses of like size and type, paying, as the same become due and payable, all premiums with respect thereto, and mandated by the Agency, including, but not necessarily limited to the following:

(i) Insurance protecting the interests of the Company and the Agency against loss or damage to the Project Facility by fire, lightning and other casualties normally insured against with a uniform standard extended coverage endorsement, such insurance at all times to be in an amount not less than the total cash replacement value of the Project Facility, as determined by a recognized appraiser or insurer selected by the Company; provided, however, that the Company may, insure all or a portion of the Project Facility under a blanket insurance policy or policies covering not only the Project Facility or portions thereof but other property. The parties agree that for purposes of this Project the Company will be responsible for providing builders risk insurance.

(ii) Workers' compensation insurance, disability benefits insurance, and each other form of insurance which the Company is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Company who are located at or assigned to the Project Facility and for all contractors and subcontracts.

(iii) Insurance protecting the Company and the Agency against loss or losses from liabilities imposed by law or assumed in any written contract and arising from personal injury and death or damage to the Property of others caused



by any accident or occurrence, with a single combined limit of not less than \$2,000,000.00 per accident or occurrence on account of personal injury, including death resulting therefrom, and damage to the Property of others, excluding liability imposed upon the Company by any applicable workers' compensation law; and a blanket excess liability policy in the amount not less than \$5,000,000.00 protecting the Company and the Agency against any loss or liability or damage for personal injury, death or Property damage.

(iv) If applicable and if it is determined that the Project Facility is located within an area identified by the Secretary of Housing and Urban Development as having special flood hazards, insurance against loss by floods in an amount not less than \$1,000,000.00 or to the maximum limit of coverage made available, whichever is less.

(v) Other insurance coverage required by any Governmental Authority in connection with any Requirement.

(b) all policies evidencing such insurance,

(i) name the Company and the Agency as insureds, as their interests may appear, and

(ii) provide for at least thirty (30) days' written notice to the Agency prior to cancellation, lapse, reduction in policy limits or material change in coverage thereof.

SECTION 7. Approval of Closing Documents. The substance and form of the Underlying Lease, the Lease Agreement, Project Agreement, Agent Agreement, Environmental Compliance and Indemnification Agreement and accompanying NYS forms, and all other certificates or documents to be delivered or executed and delivered by the Agency (hereinafter collectively referred to as the "Closing Documents") are hereby approved, subject to approval as to content by the Chairman and the Agency's counsel.

SECTION 8. Approval of Company's Financing Documents. The Chairman or the Vice Chairman of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver any mortgage, assignment of leases and rents, security agreement, UCC-1 Financing Statements and all documents reasonably contemplated by these resolutions or required by any lender identified by the Company in an estimated principal amount of \$2,700,000.00 to undertake the Project, acquire the Facility and/or finance equipment and other personal property and related transactional costs. The Agency hereby approves of a mortgage tax exemption in connection with the mortgage, assignment of leases and rents, and/or security agreement set forth in this Section.

SECTION 9. This section is intentionally left blank.

SECTION 10. Authorized Representatives. (A) The Chairman or the Vice Chairman is

hereby authorized to execute and deliver any and all documents necessitated by this Resolution. If required, the signature of the Chairman or Vice Chairman shall be attested by the Secretary or Treasurer of the Agency (or Agency Counsel, in the absence of a Secretary/Treasurer) who, if required, shall affix a facsimile of the Agency's seal to documents required to be under seal. (B) On the advice of Counsel to the Agency, the Chairman or Vice Chairman shall make such reasonable changes to the documents as shall be required to promote and protect the Agency's interests with respect to the Project. All such changes shall be made prior to the closing.

SECTION 11. Public Inspection. A copy of this resolution and a copy of the Company's Application for Assistance, together with all other application materials not protected under applicable Freedom of Information Laws, shall be placed on file in the office of the Agency. Such documents shall be available for public inspection during normal business hours.

SECTION 12. Document Preparation. Counsel to the Agency is hereby authorized and directed to cooperate with counsel to the Company, as well as all other necessary parties in order to prepare the documents need to undertake the Project and to effectuate the provisions of this Resolution.

SECTION 13. Distribution of Resolution. The Chairman of the Agency is hereby authorized to distribute copies of this resolution to the Company and all other persons requesting it.

SECTION 14. Public Hearing. A public hearing for this Project was duly authorized and held on April 5, 2021 in accordance with the provisions of Article 18-A of the General Municipal Law.

SECTION 15. Further Action. The Chairman of the Agency is authorized to take such further action as shall be necessary to give effect to and implement this resolution.

SECTION 16. Effective Date. This resolution shall take effect immediately.

The question of the adoption of the foregoing resolution was duly put to a vote by roll call and was thereupon declared duly adopted.

{Acknowledgement to Follow}



STATE OF NEW YORK     )  
                                      ) SS:  
COUNTY OF WARREN     )

This is to certify that I, Alie Weaver, Records Management Officer for the Counties of Warren and Washington Industrial Development Agency, do hereby certify that the foregoing is a true and correct copy and the whole thereof of a Resolution duly adopted by the Counties of Warren and Washington Industrial Development Agency, Glens Falls, New York on the \_\_\_\_ day of December, 2020.

In witness whereof, I have hereto set my hand and affixed the official seal of the Counties of Warren and Washington Industrial Development Agency on this \_\_\_\_ day of \_\_\_\_\_, 2020.

[SEAL]

\_\_\_\_\_  
Alie Weaver  
Counties of Warren and Washington  
Industrial Development Agency

Acknowledged and Agreed to

\_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_ of Hacker Boat Company Inc.