

NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY,

AND

FREQUENCY ELECTRONICS, INC.

AGENT AND FINANCIAL ASSISTANCE AND PROJECT AGREEMENT

(Frequency Electronics, Inc. 2019 Project)

DATED AS OF MAY 1, 2019

AGENT AND FINANCIAL ASSISTANCE AND PROJECT AGREEMENT

THIS AGENT AND FINANCIAL ASSISTANCE AND PROJECT AGREEMENT (hereinafter, the "Project Agreement"), is made as of April 1, 2019, by and between the NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, having an office at One West Street, Mineola, NY 11501 (the "Agency"), and FREQUENCY ELECTRONICS, INC., a corporation organized and existing under the laws of the State of Delaware and qualified to do business in the State of New York as a foreign corporation with offices at 55 Charles Lindbergh Boulevard, Garden City, NY 11553 (the "Company").

WITNESSETH:

WHEREAS, the Agency is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act") and Chapter 674 of the 1975 Laws of New York, as amended, constituting Section 922 of said General Municipal Law (said Chapter and the Enabling Act, as in effect as of the Closing Date (as hereinafter defined), being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct, reconstruct and install one or more "projects" (as defined in the Act), or to cause said projects to be acquired, constructed, reconstructed and installed and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, the Company has submitted an application (the "Application") to the Agency requesting the Agency's assistance with respect to a certain project (the "Project") consisting of: (A)(1) the acquisition of an interest in a parcel of land located at 55 Charles Lindbergh Boulevard, Mitchel Field, Garden City, Town of Hempstead, Nassau County, New York (Section: 44; Block: F; Lot: 377) (the "Land"), (2) the renovation of the existing approximately 91,027 square foot building (collectively, the "Building") on the Land, together with related improvements to the Land, and (3) the acquisition of certain furniture, fixtures, machinery and equipment (the "Equipment") necessary for the completion thereof (collectively, the "Project Facility"), all of the foregoing for use by the Applicant as its corporate headquarters and manufacturing facility; (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of

potential exemptions or partial exemptions from sales and use taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Applicant or such other entity as may be designated by the Applicant and agreed upon by the Agency; and

WHEREAS, the Executive Director of the Agency (A) caused notice of a public hearing of the Agency pursuant to Section 859-a of the Act (the “Public Hearing”) to hear all persons interested in the Project and the Financial Assistance contemplated by the Agency with respect to the Project, to be mailed on February 11, 2019 to the chief executive officer of Nassau County, New York and of each other affected tax jurisdiction within which the Project Facility is or is to be located; (B) caused notice of the Public Hearing to be published on February 11, 2019 in the Nassau edition of Newsday, a newspaper of general circulation available to residents of the County of Nassau, New York; (C) caused the Public Hearing to be conducted on February 25, 2019, at 12:00 pm., local time, at Nassau County Executive & Legislative Building, Ceremonial Chambers, 1550 Franklin Avenue, Mineola, Town of Hempstead, Nassau County, New York; and (D) caused a report of the Public Hearing (the “Report”) to be prepared which fairly summarizes the views presented at the Public Hearing and distributed the Report to the members of the Agency; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”), and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (the “Regulations”, and collectively with the SEQR Act, “SEQRA”), the appropriate personnel of the Agency reviewed the environmental assessment form and other materials submitted by the Applicant and made any necessary comments to the members of the Agency, and by resolution of the members of the Agency adopted immediately prior to the adoption hereof, the Agency decided to conduct an uncoordinated review of the Project and determined that the Project will not have a significant adverse environmental impact and that an environmental impact statement will not be prepared; and

WHEREAS, by resolution adopted by the members of the Agency September 5, 2018, (the “Preliminary Inducement Resolution”), the Agency, made a determination to proceed with the Project; and

WHEREAS, by resolution adopted by the members of the Agency on February 28, 2019 (the “Authorizing Resolution”), the Agency, following a review of the Report, determined to proceed with the Project, to grant the Financial Assistance and to enter into the “straight lease transaction” (as such quoted term is defined in the Act) contemplated by this Project Agreement and the other Transaction Documents (as hereinafter defined); and

WHEREAS, by its Resolution, the Agency conferred on the Company in connection with the Project certain benefits, exemptions and other financial assistance consisting of an exemption from all New York State and local sales and use tax for purchases and rentals related to the Project with respect to the qualifying personal property included in or incorporated into the Facility or used in the acquisition, construction or equipping of the Facility, hereinafter referred to as the “Financial Assistance”; and

WHEREAS, pursuant to and in accordance with Sections 859-a and 874 of the Act, the Agency requires, as a condition and as an inducement for it to provide any Financial Assistance, that the Company enter into this Project Agreement for the purposes of, among other things, to govern administration of and provide assurances with respect to the provision and recapture of said Financial Assistance upon the terms herein set forth; and

WHEREAS, this Project Agreement sets forth the terms and conditions under which Financial Assistance shall be provided to the Company; and

WHEREAS, no agent status in favor of the Company or any subagent thereof, nor any amount of Financial Assistance shall be provided to the Company by the Agency prior to the effective date of this Project Agreement.

WHEREAS, the members of the Agency have determined that (A) the granting of the Financial Assistance by the Agency to the Company is necessary to induce the Company to proceed with the Project, and (B) there is a likelihood that the Project would not be undertaken but for the granting of the Financial Assistance by the Agency to the Company; and

NOW THEREFORE, in consideration of the covenants herein contained and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

ARTICLE I. DEFINITIONS

Section 1.1 Definitions of Terms. The words and terms as used in this Project shall have the same meanings as used in Schedule A attached hereto and made a part hereof, unless the context or use indicates another or different meaning or intent.

ARTICLE II. REPRESENTATIONS AND COVENANTS

Section 2.1 Representations and Covenants of the Company. The Company makes the following representations and covenants in order to induce the Agency to proceed with the Project/Facility:

(a) The Company is a corporation organized and existing under the laws of the State of Delaware and qualified to do business in the State of New York as a foreign corporation, has the authority to enter into this Project Agreement, and has duly authorized the execution and delivery of this Project Agreement.

(b) Neither the execution and delivery of this Project Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions of this Project Agreement will conflict with or result in a breach of any of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Company is a party or by which it is bound, or will constitute a default under any of the foregoing, or result in the creation or imposition of any lien of any nature upon any of the property of the Company under the terms of any such instrument or agreement.

(c) The Facility and the operation thereof will conform with all applicable zoning, planning, and building laws and regulations of governmental authorities having jurisdiction over the Facility, and the Company shall defend, indemnify and hold the Agency harmless from any liability or expenses resulting from any failure by the Company to comply with the provisions of this subsection (c).

(d) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body pending or, to the knowledge of the Company, threatened against or affecting the Company, to which the Company is a party, and in which an adverse result would in any way diminish or adversely impact on the Company's ability to fulfill its obligations under this Project Agreement.

(e) The Company covenants that the Facility will comply in all respects with all environmental laws and regulations, and, except in compliance with environmental laws and regulations, (i) that no pollutants, contaminants, solid wastes, or toxic or hazardous substances will be stored, treated, generated, disposed of, or allowed to exist on the Facility except in compliance with all material Applicable Laws, (ii) that the Company will take all reasonable and prudent steps to prevent an unlawful release of hazardous substances onto the Facility or onto any other property, (iii) that no asbestos will be incorporated into or disposed of on the Facility, (iv) that no underground storage tanks will be located on the Facility, and (v) that no investigation, order, agreement, notice, demand or settlement with respect to any of the above is threatened, anticipated, or in existence. The Company upon receiving any information or notice contrary to the representations contained in this Section shall immediately notify the Agency in writing with full details regarding the same. The Company hereby releases the Agency from liability with respect to, and agrees to defend, indemnify, and hold harmless the Agency, its executive director, directors, members, officers, employees, agents (other than the Company), representatives, successors, and assigns from and against any and all claims, demands, damages, costs, orders, liabilities, penalties, and expenses (including reasonable attorneys' fees) related in any way to any violation of the covenants or failure to be accurate of the representations contained in this Section. In the event the Agency in its reasonable discretion deems it necessary to perform due diligence with respect to any of the above, or to have an environmental audit performed with respect to the Facility, the Company agrees to pay the expenses of same to the Agency upon demand.

(f) Any personal property acquired by the Company in the name of the Agency shall be located in Nassau County, except for temporary periods during ordinary use.

(g) The Company hereby represents to the Agency that facilities and property that are primarily used in making retail sales of goods and services to customers who personally visit the Facility will not constitute more than one-third (1/3) of the total costs of the Facility, except in accordance with New York General Municipal Law (the "GML") Section 862.

(h) The Company acknowledges and agrees that, except to the extent of bond proceeds (to the extent bonds are issued by the Agency with respect to the Project), the Agency shall not be liable, either directly or indirectly or contingently, upon any such contract, agreement, invoice, bill or purchase order in any manner and to any extent whatsoever (including payment or performance obligations), and the Company shall be the sole party liable thereunder.

(i) The Company covenants and agrees that at all times, it will (i) maintain its existence and not dissolve, (ii) continue to be a business corporation subject to service of process in the State and either organized under the laws of the State, or organized under the laws of any other state of the United States and duly qualified to do business in the State, (iii) not liquidate, wind-up or dissolve or otherwise sell, assign, or dispose of all or substantially all of its property, business or assets. This Project Agreement may not be assigned in whole or part without the prior written consent of the Agency.

(j) The Company confirms and acknowledges under the penalty of perjury that as of the date hereof, the Company, as owner, occupant, or operator of the Project receiving Financial Assistance from the Agency in connection with the Project, is in substantial compliance with all applicable local, state and federal tax, worker protection and environmental laws, rules and regulations. The Company agrees that it will, throughout the term of this Project Agreement, promptly comply in all material respects with all statutes, codes, laws, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of all federal, state, county, municipal and other governments, departments, commissions, boards, companies or associations insuring the premises, courts, authorities, officials and officers, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Facility or any part thereof, or to any use, manner of use or condition of the Facility or any part thereof. Notwithstanding the foregoing, the Company may in good faith contest the validity of the applicability of any requirement of the nature referred to this Section 2(j). In such event, the Company, with the prior written consent of the Agency (which shall not be unreasonably conditioned, delayed or withheld) may fail to comply with the requirement or requirements so contested during the period of such contest and any appeal therefrom unless the Agency shall notify the Company that it must comply with such requirement or requirements.

(k) The Project will not have a “significant adverse environmental impact” (as such term is used in SEQRA) and the Company hereby covenants to comply with all mitigating measures, requirements and conditions enumerated or referenced in the resolution adopted by the Agency on February 28, 2019, if any, under SEQRA applicable to the acquisition, construction, renovation, installation, equipping and operation of the Project Facility contemplated by this Project Agreement and in any other approvals issued by any other Governmental Authority with respect to the Project Facility. No material changes with respect to any aspect of the Project have arisen from the date of the adoption of such resolution which would cause the determinations contained therein to be untrue.

(l) The Company is not a Prohibited Person, no Affiliate of the Company is a Prohibited Person and no member, manager, director or shareholder of the Company, as applicable, is a Prohibited Person.

(m) Neither this Project Agreement nor any other Transaction Document nor any other document, certificate, agreement or instrument furnished to the Agency by or on behalf of the Company contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein and therein not misleading.

(n) No funds of the Agency shall be used in connection with the transactions contemplated by this Project Agreement 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 hereunder to any group or organization which is attempting to prevent the establishment of an industrial or manufacturing plant within the State.

(o) The Company is, and shall at all times during the term of this Project Agreement, continue to be publicly traded.

(p) The Company shall (i) maintain at least one hundred forty (140) full-time equivalent, private sector jobs, (ii) create an additional at least 20 full-time equivalent, private sector jobs within one (1) year after the Scheduled Completion Date and create an additional at least 25 full-time equivalent, private sector jobs within two (2) year after the Scheduled Completion Date (for a total of 185 full-time equivalent, private sector jobs) and maintain such jobs throughout the term of this Project Agreement; and (iii) create at least ten (10) new, full-time equivalent, private sector construction jobs during the period from the Closing Date until the Completion Date, all of which jobs shall, at all applicable times during the term of this Project Agreement, be located at the Project Facility (collectively, the "Minimum Employment Requirement").

(q) The Project Facility is located entirely within the boundaries of the Town of Hempstead, Nassau County, New York, is not located in whole or in part within the boundaries of any incorporated village, and is located only within the Uniondale Schools District.

(r) The total cost of the Project is at least \$3,500,000.00.

(s) Neither the Company, nor any Affiliate of the Company has employed or retained any appointed or elected governmental official to solicit or secure the Agency's undertaking of the Project or its agreement to enter into this Project Agreement or any other Transaction Document upon an agreement of understanding for a commission or percentage, brokerage or contingent fee.

(t) The Company agrees, (i) at the sole expense of the Company, to erect signage at the Project Facility during the construction, renovation, installation and equipping of the Project Facility, which signage shall be in form and content reasonably satisfactory to the Agency and shall identify the Agency and its role in the Project, (ii) at the option of the Agency and at the sole expense of the Company, to install within the Project Facility a sign or plaque permanently memorializing the Agency's role in the Project, which sign or plaque shall be in form, content and placed in a location satisfactory to the Agency, and (iii) that the Agency may otherwise publicize the Agency's role in the Project.

(u) The Company agrees, to solicit bids, or cause bids to be solicited, from at least one (1) contractor or vendor based in the County for each contract entered into with respect to the Project Facility, including, without limitation, contracts for construction (including, without limitation, the initial construction, renovation, installation and equipping of the Project Facility), alteration, renovation, management, purchase of goods or services, maintenance and repair,

except in circumstances where specialty equipment is not available in the County. Further, the Company covenants to use its best efforts to let such contracts or cause its contractors or subcontractors to let such contracts, where practicable, to contractors or vendors based in the County.

(v) W/MBE Contractors.

(i) The Company will use commercially reasonable efforts to take or cause to be taken “affirmative steps” (as defined below) to assure that qualified women-owned and/or minority-owned business enterprises (“W/MBE’s”) are used, when possible, for each contract entered into with respect to the Project Facility, including, without limitation, contracts for construction (including, without limitation, the initial construction, renovation, installation and equipping of the Project Facility), renovation, demolition, replacement, alteration, management, purchase of goods and services, maintenance and repair.

(ii) For purposes of this subsection, the term “affirmative steps” shall mean: (a) placing qualified W/MBE’s on solicitation lists; (b) assuring that qualified W/MBE’s are solicited whenever they are potential sources; (c) dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by qualified W/MBE’s; (d) establishing delivery schedules, where the requirement permits, that encourage participation by qualified W/MBE’s; and (e) requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in clauses (a) through (d).

(iii) For purposes of this subsection, the term “qualified W/MBE’s” shall mean those women-owned and/or minority-owned business enterprises designated as such by New York State.

ARTICLE III.
GENERAL

Section 3.1 Purpose of Project. The purpose of the Financial Assistance with respect to the Project is to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of the Facility to advance job opportunities, health, general prosperity and economic welfare of the people of Nassau County, New York, and to specifically promote the investment commitment, employment commitment, and other commitments of the Company contained herein and in the Company's Application.

Section 3.2 Term. The term of this Project Agreement shall commence on the Closing Date and expire on the earlier to occur of (i) December 31, 2024 (“Stated Expiration Date”), or (ii) any earlier termination pursuant to the provisions hereof.

ARTICLE IV.
FINANCIAL ASSISTANCE AND RECAPTURE OF BENEFITS

Section 4.1 In accordance with the Resolution and the Cost-Benefit Analysis (or such other equivalent document or report, as determined by the Agency) (the “CBA”), attached hereto as **Exhibit A**, disclosed by the Agency at its public hearing for the Project (the “Public Hearing”), the Company further covenants, with respect to the Sales Tax Exemption, that it shall comply with this Project Agreement, specifically, but not limited to, Section 4.3 hereof.

Section 4.2 Construction, Renovation, Installation and Equipping of the Project Facility.

(a) The Company shall, on behalf of the Agency, promptly construct, renovate, install and equip the Project Facility, or cause the construction, renovation, installation and equipping of the Project Facility, in a first-class, workmanlike manner using high grade materials, free of material defects in materials and workmanship.

(b) The Agency hereby recognizes the appointment of the Company, and the Company hereby accepts such appointment, as its true and lawful agent to perform the following in compliance with the terms, purposes and intent of the Transaction Documents: (1) to construct, renovate, install and equip the Project Facility, (2) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions with any other Persons, and in general to do all things which may be required or proper, all for the construction, renovation, installation and equipping of the Project Facility, with the same powers and with the same validity as the Agency could do if acting in its own behalf, provided that the liability of the Agency thereunder shall be limited to the moneys made available therefore by the Company and advanced for such purposes by the Company pursuant to Section 4.2(e) of this Project Agreement, (3) to pay all fees, costs and expenses incurred in the construction, renovation, installation and equipping of the Project Facility from funds made available therefor in accordance with this Project Agreement, and (4) to ask, demand, sue for, levy, recover and receive all such sums of money, debts, dues and other demands whatsoever which may be due, owing and payable to the Agency under the terms of any contract, order, receipt, writing or instruction in connection with the acquisition, construction, renovation, installation and equipping of the Project Facility and to enforce the provisions of any contract, agreement, obligation, bond or other performance security in connection with the same.

(c) The Company has given or will give or cause to be given all notices and has complied and will comply or cause compliance with all Applicable Laws applying to or affecting the conduct of work on the Project Facility, and the Company will defend (with counsel selected by the Agency and reasonably acceptable to the Company), indemnify and save the Agency and its officers, members, agents, attorneys, servants and employees, past, present and future, harmless from all fees, expenses, fines and penalties due to failure to comply therewith, except those arising solely as a result of the gross negligence or willful misconduct of the Agency. All permits and licenses necessary for the prosecution of work on the Project Facility shall be procured promptly by the Company.

(d) The Company shall not take any action, or neglect to take any action, including, without limitation, the employment of any contractor, if such action or inaction would result in jurisdictional disputes or strikes or labor disharmony at or in connection with the Project Facility.

(e) The Company agrees, for the benefit of the Agency, to undertake and complete the Project and to pay all such sums as may be required in connection therewith.

(f) No payment by the Company pursuant to this Section 4.2 shall entitle the Company to any reimbursement for any such expenditure from the Agency or to any diminution or abatement of any amounts payable by the Company under this Project Agreement.

(g) The Company covenants and agrees to make a total investment in the Project Facility as of the Scheduled Completion Date in an amount not less than \$3,150,000 (which represents the product of (1) 0.90 and (2) the sum of \$3,500,000 being the total project costs as stated in the Application). The Company shall provide written documentation of such investment, in form and substance satisfactory to the Agency, no later than February 10th of the calendar year following the Scheduled Completion Date.

(h) The Company shall pay, or cause to be paid, within the time periods required by applicable Governmental Authorities, all construction related and other fees for the Project, including, without limitation, building permit fees, plumbing fixture permit fees, recreation fees, site planning fees, municipal consultant review fees, special use fees, variance fees, sewer hook-up fees, water service installation fees and fire line fees, if any

Section 4.3 Sales Tax Exemption.

(a) The Agency hereby confirms its appointment of the Company as the true and lawful agent of the Agency to undertake the Project. Such appointment was made by the Agency pursuant to the Resolution.

(b) The Company, as agent for the Agency, will undertake the Project. The Company will proceed with due diligence to commence construction, renovation, installation and equipping of the Project Facility in accordance with Section 4.2 of this Project Agreement within thirty (30) days after the Closing Date and shall proceed with due diligence to complete the construction, renovation, installation and equipping of the Project Facility on or before August 1, 2020 (the "Scheduled Completion Date"). The Company hereby agrees to limit its activities as agent for the Agency under the authority of the Authorizing Resolution to acts reasonably related to the, construction, renovation and equipping of the Facility. The right of the Company to act as agent of the Agency shall expire on the earlier of (x) the Completion Date of the Project, or (y) August 1, 2020 ("Termination Date"); provided, however, that the Agency may extend the Company's agent appointment at its discretion upon the written request of the Company if such activities and improvements are not completed by such time, and further provided that the Agency shall not unreasonably withhold its consent to the extension of such appointment.

Following the Completion Date the Company shall continuously operate the Project Facility in accordance with the provisions of this Project Agreement. The Company covenants

to diligently prosecute its application for any required building permits for the Project Facility. Completion of the construction, renovation, installation and equipping of the Project Facility shall be evidenced by a certificate signed by an Authorized Representative of the Company delivered to the Agency stating (A) the date of such completion, (B) that all labor, services, materials and supplies used therefor and all costs and expenses in connection therewith have been paid, (C) that the acquisition, construction, renovation, installation and equipping of the Project Facility have been completed in a good and workmanlike manner, (D) that the Company and the Agency have good and valid interests in and to all Property constituting a portion of the Project Facility, free and clear of all Liens and encumbrances except Permitted Encumbrances, and (E) that the Project Facility is ready for occupancy, use and operation for its intended purposes. Such certificate shall be accompanied by a temporary or permanent certificate of occupancy for all the Project Facility and any and all permissions, licenses or consents required of Governmental Authorities for the occupancy, operation and use of the Project Facility for its intended purposes.

(c) Agency's Exempt Status. The Agency constitutes a corporate governmental agency and a public benefit corporation under the laws of the State of New York, and therefore, in the exercise of its governmental functions, is exempt from the imposition of Sales and Use Taxes. As an exempt governmental entity, no exempt organization identification number has been issued to the Agency nor is one required. Notwithstanding the foregoing, the Agency makes no representation to the Company, any Agent or any third party that any Sales Tax Exemption is available under this Project Agreement.

(d) Scope of Authorization of Sales Tax Exemption. The Agency hereby authorizes the Company, subject to the terms and conditions of this Project Agreement, to act as its agent in connection with the Facility for the purpose of effecting purchases and leases of certain items so that such purchases and leases are exempt from the imposition of Sales and Use Taxes. The Agency's authorization with respect to such Sales Tax Exemption provided to the Company and its Agents pursuant to this Project Agreement shall be subject to the following limitations:

(i) The Sales Tax Exemption shall be effective only for a term commencing on the date hereof and expiring upon the earliest of (A) the termination of this Project Agreement, (B) the Termination Date, (C) failure of the Company to file Form ST-340, as described in Section 4.5 below, (D) the termination of the Sales Tax Exemption authorization pursuant to Section 4.3(b) or (E) the date upon which the Company received the Maximum Sales Tax Exemption.

(ii) The Sales Tax Exemption authorization set forth herein shall automatically be suspended upon written notice to the Company that the Company is in default under this Project Agreement until such default is cured to the satisfaction of the Agency.

(iii) The Sales Tax Exemption authorization shall be subject to all of the terms, conditions and provisions of this Project Agreement.

(iv) The Sales Tax Exemption shall only be utilized for items which shall be purchased, incorporated, completed or installed for use only by the Company at the Facility or in connection with the Project (and not with any intention to sell, transfer or otherwise dispose of any such item to a Person as shall not constitute the Company), it being the intention of the Agency and the Company that the Sales Tax Exemption shall not be made available with respect to any item unless such item is used solely by the Company at the Facility or in connection with the Project.

(v) The Sales Tax Exemption shall not be used to benefit any person or entity, including any tenant or subtenant located at the Facility, other than the Company, without the prior written consent of the Agency.

(vi) By execution by the Company of this Project Agreement, the Company agrees to accept the terms hereof and warrants to the Agency that the use of the Sales Tax Exemption by the Company or by any Agent is strictly for the purposes stated herein.

(vii) Upon the Termination Date, the Company and each Agent shall cease being agents of the Agency, and the Company shall immediately notify each Agent in writing of such termination.

(viii) The Company agrees that the aggregate amount of Sales Tax Exemption realized by the Company and by all Agents of the Company, if any, in connection with the Facility shall not exceed in the aggregate the Maximum Sales Tax Exemption.

Section 4.4 Procedures for Appointing Subagents. If the Company desires to seek the appointment of a contractor, a subcontractor or other party to act as the Agency's agent, including, but not limited, to the individuals and entities described on **Schedule B** attached hereto (a "Subagent") for the purpose of effecting purchases which are eligible for the Sales Tax Exemption pursuant to authority of this Project Agreement, it must complete the following steps:

(i) The Company shall have the right to amend **Schedule B** from time to time and shall be responsible for maintaining an accurate list of all parties acting as agent for the Agency. The Company's right to appoint subagents is expressly conditioned upon updating of **Schedule B** hereto, along with, for each Subagent, the Company must complete and submit Form ST-60 to the Agency, attached hereto as **Exhibit B**. An Authorized Representative of the Agency will sign the Form ST-60 and return the same to the Company. Following receipt of the signed Form ST-60, the Company must file such Form ST-60 within thirty (30) days of the date that the Agency appoints a project operator or other person or entity to act as agent of the Agency for purposes of extending a sales or use tax exemption to such person or entity. The Company acknowledges and agrees that it shall be the Company's sole and exclusive responsibility to file a completed Form ST-60 with respect to any Subagent.

(ii) The Company shall ensure that each Subagent shall observe and comply with the terms and conditions of this Project Agreement.

(iii) Form ST-60 Not an Exemption Certificate. The Company acknowledges that the executed Form ST-60 designating the Company or any Subagent as an agent of the Agency shall not serve as a sales or use tax exemption certificate or document. Neither the Company nor any other Agent may tender a copy of the executed Form ST-60 to any person required to collect sales tax as a basis to make such purchases exempt from tax. No such person required to collect sales or use taxes may accept the executed Form ST-60 in lieu of collecting any tax required to be collected. THE CIVIL AND CRIMINAL PENALTIES FOR MISUSE OF A COPY OF FORM ST-60 AS AN EXEMPTION CERTIFICATE OR DOCUMENT OR FOR FAILURE TO PAY OR COLLECT TAX SHALL BE AS PROVIDED IN THE TAX LAW. IN ADDITION, THE USE BY A SUBAGENT, THE COMPANY, OR OTHER PERSON OR ENTITY OF SUCH FORM ST-60 AS AN EXEMPTION CERTIFICATE OR DOCUMENT SHALL BE DEEMED TO BE, UNDER ARTICLES TWENTY EIGHT AND THIRTY SEVEN OF THE TAX LAW, THE ISSUANCE OF A FALSE OR FRAUDULENT EXEMPTION CERTIFICATE OR DOCUMENT WITH THE INTENT TO EVADE TAX.

(iv) Form ST-123 Requirement. As an agent of the Agency, the Company agrees that it will, and will cause each Subagent to, present to each seller or vendor a completed and signed Form ST-123, attached hereto as **Exhibit C-1**, for each contract, agreement, invoice, bill or purchase order entered into by the Company or by any Subagent, as agent for the Agency, for the purpose of undertaking the Project. Form ST-123 requires that each seller or vendor accepting Form ST-123 identify the Facility on each bill or invoice for purchases and indicate on the bill or invoice that the Agency or Agent or Company, as project operator of the Agency, was the purchaser. For the purposes of indicating who the purchaser is, each bill or invoice should state, "I, [NAME OF COMPANY OR SUBAGENT], certify that I am a duly appointed agent of the NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY and that I am purchasing the tangible personal property or services for use in the Frequency Electronics, Inc. 2019 Project located at land located at 55 Charles Lindbergh Boulevard, Mitchel Field, Garden City, Town of Hempstead, Nassau County, New York, IDA Project Number **2803-19-03A**". For convenience purposes, in the instance where the vendor does not print on each invoice the acknowledgment as described in the prior sentence, an "Invoice Rider" (a copy of which is attached hereto as **Exhibit C-3**) can be utilized for record keeping purposes. The Company shall retain copies of all such contracts, agreements, invoices, bills and purchase orders for a period of not less than six (6) years from the date thereof. For each Subagent the Form ST-123 shall be completed as follows: (i) the "Project information" section of Form ST-123, attached hereto as **Exhibit C-2**, should be completed using the name and address of the Facility as indicated on the Form ST-60 used to appoint the Subagent; (ii) the date that the Subagent was appointed as indicated on the Form ST-60; and (iii) the "Exempt purchases" section of Form ST-123 should be completed by marking "X" in box "A" only.

All contracts entered into by the Company and all subagents thereof as agent for the Agency shall include the language contained within Schedule C attached hereto. **Failure by the Company and/or any subagent thereof to include such language may disqualify the agent status and sales tax exemptions derived by virtue of this Project Agreement. The Company, for itself and on behalf of all duly appointed subagents, hereby agrees that all contracts entered into by the Company and any subagents thereof shall be available to the Agency for inspection and confirmation of the foregoing mandatory language.**

Section 4.5 Form ST-340 Filing Requirement. The Company shall annually file a statement with the State Department of Taxation and Finance (the "Commissioner") an "Annual Report of Sales and Use Tax Exemptions" (NYS Form ST-340, a copy of which is attached hereto as **Exhibit D**) regarding the value of Sales Tax Exemption the Company and its Subagents, if any, have claimed pursuant to the agency conferred on the Company with respect to the Project in accordance with General Municipal Law Section 874(8). On or before February 10th of each year, the Company shall provide a copy of same to the Agency. The Company understands and agrees that the failure to file such annual statement will result in the removal of the Company's authority to act as agent for the Agency and/or Recapture of Agency Benefits as described in Section 4.8 hereof.

Section 4.6 GML Provisions Relating to State Sales Tax Savings.

(a) The Company covenants and agrees to comply, and to cause each of its contractors, subcontractors, Subagents, persons or entities to comply, with the requirements of GML Sections 875(1) and (3) (the "GML Provisions"), as such provisions may be amended from time to time. In the event of a conflict between the other provisions of this Project Agreement and the GML Provisions, the GML Provisions shall control.

(b) The Company acknowledges and agrees that pursuant to GML Section 875(3), the Agency shall have the right to recover, recapture, receive, or otherwise obtain from the Company, State Sales Tax Savings taken or purported to be taken by the Company, any Subagent or any other person or entity acting on behalf of the Company to which the Company is not entitled or which are in excess of the Maximum Sales Tax Exemption or which are for property or services not authorized or taken in cases where the Company, any Subagent or any other person or entity acting on behalf of the Company failed to comply with a material term or condition to use property or services in the manner required by this Project Agreement. The Company shall, and shall require each Subagent and any other person or entity acting on behalf of the Company, to cooperate with the Agency in its efforts to recover, recapture, receive, or otherwise obtain such State Sales Tax Savings and shall promptly pay over any such amounts to the Subagent that it requests. The failure to pay over such amounts to the Subagent shall be grounds for the Commissioner to assess and determine State Sales and Use Taxes due from the Company under Article 28 of the New York State Tax Law, together with any relevant penalties and interest due on such amounts.

Subject to the provisions of subsection (i) above, in the event that the Company or any Subagent shall utilize the Sales Tax Exemption in violation of the provisions of this Project Agreement, the Company shall promptly deliver notice of same to the Agency, and the Company shall, upon demand by the Agency, pay to or at the direction of the Agency a return of sales or

use tax exemptions in an amount equal to all such unauthorized sales or use tax exemptions together with interest at the rate of twelve percent (12%) per annum compounded daily from the date and with respect to the dollar amount for which each such unauthorized sales or use tax exemption was availed of by the Company or any Subagent (as applicable).

(c) Upon request by the Agency with reasonable notice to the Company, the Company shall make available at reasonable times to the Agency and/or the Independent Accountant all such books, records, contracts, agreements, invoices, bills or purchase orders of the Company and any Agent, and require all appropriate officers and employees of the Company to respond to reasonable inquiries by the Agency and/or the Independent Accountant, as shall be necessary (x) to indicate in reasonable detail those costs for which the Company or any Agent shall have utilized the Sales Tax Exemption and the dates and amounts so utilized, and (y) to permit the Agency to determine any amounts owed by the Company under this Section 4.6(c).

Section 4.7 Grant of Security Interest. This Project Agreement shall constitute a “security agreement”, as such term is defined in the Uniform Commercial Code adopted in the State, as the same may from time to time be in effect (the “UCC”). The Company hereby grants the Agency a first-priority security interest in all of the right, title and interest of the Company in the Company Equipment acquired by or on behalf of the Company using the Sales Tax Agency Agreement and/or any Sub-Agent Agency Agreement, and conveyed to the Agency by the Bill of Sale and in all additions and accessions thereto, all replacements and substitutions therefor, all books, records and accounts of the Company pertaining to the Project Facility, and all proceeds and products thereof (collectively, the “Collateral”), as security for payment of the rental payments and all other payments and obligations of the Company hereunder, and the Agency is authorized to file financing statements with respect to such Collateral without the Company executing the same. If an Event of Default shall occur under this Agency Compliance Agreement or any other Transaction Document, the Agency shall have, in addition to any and all other rights and remedies set forth in this Project Agreement, and may exercise without demand, any and all rights and remedies granted to a secured party under the UCC, including, but not limited to, the right to take possession of the Company Equipment and any other personal property that constitute part of the Collateral, and the right to advertise and sell the same, or any part thereof, pursuant to and in accordance with the UCC. The Company agrees that any notice of public or private sale with respect to such Collateral, or any part thereof, shall constitute reasonable notice if it is sent to the Company not less than ten (10) days prior to the date of any such sale. The Company hereby irrevocably appoints the Agency as its attorney-in-fact to execute, deliver and/or file any instruments or statements necessary or convenient to perfect and continue the security interest granted herein.

Section 4.8 Recapture of Agency Benefits.

(a) It is understood and agreed by the parties hereto that the Agency is entering into this Project Agreement in order to provide financial assistance to the Company for the Facility and to accomplish the public purposes of the Act. In consideration therefor, the Company hereby agrees that if there shall occur a Recapture Event (as defined below) after the after the date hereof, the Company shall pay to the Agency, or to the State of New York, if so directed by the Agency (except as otherwise specified below) as a return of public benefits conferred by the Agency:

One hundred per cent (100%) of the Recaptured Benefits (as defined below) if the Recapture Event occurs on or before the fifth (5th) anniversary of the Closing Date;

(b) The term "Recaptured Benefits" shall mean all direct monetary benefits, tax exemptions and abatements and other financial assistance, if any, derived solely from the Agency's participation in the transaction contemplated by this Project Agreement including, but not limited to, the amount equal to 100% of:

Sales Tax Exemption savings realized by or for the benefit of the Company, including any savings realized by any Subagent;

which Recaptured Benefits from time to time shall upon the occurrence of a Recapture Event in accordance with the provisions of subsection (c) below and the declaration of a Recapture Event by notice from the Agency to the Company be payable directly to the Agency or the State of New York if so directed by the Agency within ten (10) days after such notice.

(c) The term "Recapture Event" shall mean any of the following events:

(i) The occurrence and continuation of an Event of Default under this Project Agreement which remains uncured beyond any applicable notice and/or grace period, if any, provided hereunder; or

(ii) The Company receives Sales Tax Savings in connection with property or services not authorized by the Agency as part of the Project; or

(iii) The Company receives Sales Tax Savings in connection with the Project in excess of the Maximum Approved Amount; provided, however, that the foregoing shall constitute a Recapture Event with respect to such excess Sales Tax Savings only. It is further provided that failure to repay the Sales Tax Savings within thirty (30) days shall constitute a Recapture Event with respect to all Recapture Benefits; or

(iv) The Company has made a material false or misleading statement, or omitted any information which, if included, would have rendered any information in the application or supporting documentation false or misleading in any material respect, on its application for Financial Assistance; or

(v) Failure of the Company to file a copy of the Form ST-340 with the Agency in compliance with Section 4.5 hereof; or

(vi) Failure of the Company to create or cause to be maintained the number of FTE jobs at the Facility as provided in Section 2.1(o) hereof.

In order to certify and verify the foregoing, the Company shall provide annually, to the Agency, a certified statement and documentation: (i) enumerating the full-time equivalent jobs retained and the full-time equivalent jobs created as a result of the financial assistance, by category, including full-time equivalent independent contractors or employees of independent contractors that work at the project location, (ii) indicating that the salary and fringe benefit

averages or ranges for categories of jobs retained and jobs created that was provided in the application for Financial Assistance is still accurate and if it is not still accurate, providing a revised list of salary and fringe benefit averages or ranges for categories of jobs retained and jobs created, and (iii) such other information, as so requested from time to time, to enable the Agency to assess the progress of the Project toward achieving the investment, job retention, job creation, or other objectives of the Project indicated in the Application for Financial Assistance.

(d) In the event any payment owing by the Company under this Section shall not be paid on demand by the Agency, such payment shall bear interest from the date of such demand at an interest rate equal to eighteen percent (18%) per annum or the maximum rate permitted by Applicable Law, whichever is less, until the Company shall have made such payment in full, together with such accrued interest to the date of payment, to the Agency (except as otherwise specified above).

(e) The Agency shall be entitled to deduct all reasonable out of pocket expenses of the Agency, including without limitation, reasonable legal fees, incurred with the recovery of all amounts due under this Section 4.8, from amounts received by the Agency pursuant to this Section 4.8.

ARTICLE V. INSURANCE

Section 5.1 Insurance Required. Effective as of the date hereof and until the expiration or termination of the right of the Company to act as agent of the Agency hereunder, the Company shall maintain, or cause to be maintained by its subagent or subcontractors, certain insurance against such risks and for such amounts as are customarily insured against by businesses of like size and type, and paying, as the same become due and payable, all premiums in respect thereto, including, but not necessarily limited to:

(a) Insurance protecting the interests of the Company, as insured, and the Agency, as loss payee, against loss or damage to the Project Facility by fire, lightning, vandalism, malicious mischief and other perils embraced by so-called "Special Form" policy of property insurance, in amounts sufficient to prevent the Company and/or the Agency from becoming a co-insurer under such policy and not less than 100% of the replacement cost of the Project Facility, without deduction for depreciation, and including coverage against acts of terrorism. Additionally, during any period in which construction work or alterations are being performed at the Project Facility, the Company shall maintain "Special Form" property insurance in the form of a "Builder's Risk" completed value non-reporting policy in an amount satisfactory to the Agency and which shall contain a provision granting the insured permission to complete and/or occupy.

(b) To the extent applicable, workers' compensation insurance, disability benefits insurance and such other forms 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 or who are responsible for the acquisition, construction, renovation, installation and equipping of the Project Facility.

(c) Commercial general liability insurance and professional liability insurance protecting the Company, as insured and the Agency, as additional insured, against loss or losses from liabilities imposed by law or assumed in any written contract (including, without limitation, the contractual liability assumed by the Company under Section 8.1 hereof) or arising from personal injury or death or damage to the Property of others caused by any accident or occurrence, with limits of not less than \$1,000,000.00 per person per accident or occurrence on account of personal injury, including death resulting therefrom, and \$1,000,000.00 per accident or occurrence on account of damage to the Property of others, and \$3,000,000 general aggregate, excluding liability imposed upon the Company by any applicable workers' compensation law, and a separate excess liability policy (written on a "follow form" basis to the commercial general liability policy) protecting the Company, as named insured, and the Agency, as additional insured, with a limit of not less than \$5,000,000.00, as said amounts may be adjusted by the Agency from time to time in its reasonable discretion; provided, however, that professional liability insurance shall only be required from and after the date the Project Facility commences operations.

(d) During any period of construction, renovation, improvement or reconstruction, to the extent not covered by the general liability insurance set forth in Subsection (C) above, Owners & Contractors Liability insurance for the benefit of the Company and the Agency in a minimum amount of \$2,000,000.00 aggregate coverage for personal injury and property damage.

(e) Boiler and machine property damage insurance in respect of any steam and pressure boilers and similar apparatus, insuring risks normally insured against under boiler and machinery policies and in amounts and with deductibles customarily obtained for similar enterprises.

(f) A policy or policies of flood insurance in an amount not less than the maximum amount of flood insurance available with respect to the Project Facility under the Flood Disaster Protection Act of 1973, as amended. The requirements of this Subsection (f) shall be waived upon presentation of evidence satisfactory to the Agency that no portion of the Project Facility is located within an area identified by the U.S. Department of Housing and Urban Development as having special flood hazards.

(g) Such other insurance in such amounts and against such insurable hazards and risks as the Agency from time to time may reasonably require, including, without limitation, environmental hazard and liability insurance.

Section 5.2 Additional Provisions Respecting Insurance.

(A) All insurance required by Section 5.1 hereof shall be procured and maintained in financially sound and generally recognized responsible insurance companies selected by the Company and authorized to write such insurance in the State and satisfactory and having an A.M. Best rating satisfactory to the Agency. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the Company is engaged, but in no event to exceed \$100,000, and shall provide that such insurance shall be

without any right of contribution from any other insurance carried by the Agency. All policies evidencing such insurance shall name the Company, as named insured, and the Agency as additional insured, with respect to liability policies, and name the Agency as loss payee, with respect to casualty policies, and provide for at least thirty (30) days' written notice to the Company and the Agency prior to cancellation, lapse, reduction in policy limits or material change in coverage thereof. All insurance shall be written on an occurrence basis or a claims made basis; provided, however, that if any insurance is written on a claims made basis, the Company agrees to maintain coverage for an adequate period of time to report losses, but in no event shall such period be less than three (3) years after the Stated Expiration Date. All insurance required hereunder shall be in form, content and coverage satisfactory to the Agency. Certificates satisfactory in form and substance to the Agency to evidence all insurance required hereby shall be delivered to the Agency on or before the Closing Date. The Company shall deliver to the Agency on or before the first Business Day of each calendar year thereafter a certificate dated not earlier than the immediately preceding month reciting that there is in full force and effect, with a term covering at least the next succeeding calendar year, insurance in the amounts and of the types required by Section 5.1 hereof. At least fifteen (15) days prior to the expiration of any policy required by this Section 5.1, the Company shall furnish to the Agency (i) a certificate of insurance with respect to such policy evidencing the renewal of such policy for a period of at least one (1) year, which certificate shall be in form and substance reasonably satisfactory to the Agency, and (ii) written evidence of the payment in full of the premium for such policy for the next succeeding one (1) year period.

(B) All premiums with respect to the insurance required by Section 5.1 hereof shall be paid by the Company; provided, however, that, if the premiums are not timely paid, the Agency may pay such premiums and the Company shall pay immediately upon demand all sums so expended by the Agency, together with interest thereon at the Default Interest Rate from the date of payment by the Agency.

(C) In the event of construction, reconstruction, improvement or renovation of any part of the Project Facility, the Company shall require its contractors and subcontractors, if any, to name the Agency as additional insured on liability policies carried by such contractors or subcontractors with respect to their operations at the Premises or with respect to the Project.

(D) Each of the policies evidencing the insurance required by Section 5.1 of this Project Agreement shall provide that: (i) there shall be no recourse against the Agency for the payment of premiums or commissions or, if such policies provide for the payment thereof, additional premiums or assessments; (ii) in respect of the interest of the Agency in such policies, the insurance shall not be invalidated by any action or inaction of the Company or any other Person and shall insure the Agency regardless of, and any losses shall be payable notwithstanding, any such action or inaction; (iii) if the insurers cancel such insurance for any reason whatsoever, including the insured's failure to pay any accrued premium, or the same is allowed to lapse or expire, or if there shall occur any reduction in amount, or any material change is made in the coverage, such cancellation, lapse, expiration, reduction or change shall not be effective as to the Agency until at least thirty (30) days after receipt by the Agency of written notice by such insurers of such cancellation, lapse, expiration, reduction or change; and (iv) the insurers waive subrogation thereunder against any Person insured under such policy, and

waive any right of the insurers to any setoff or counterclaim or other deduction, in respect of any liability of any Person insured under such policy.

(E) THE AGENCY DOES NOT IN ANY WAY REPRESENT THAT THE INSURANCE SPECIFIED HEREIN, WHETHER IN SCOPE OR COVERAGE OR LIMITS OF COVERAGE, IS ADEQUATE OR SUFFICIENT TO PROTECT THE COMPANY'S BUSINESS OR INTEREST IN THE PROJECT FACILITY.

(F) Any provision of this Project Agreement or any of the other Transaction Documents to the contrary notwithstanding, at any time during the term of this Project Agreement that a mortgage remains a lien on the Project Facility and that any portion of the indebtedness secured thereby remains outstanding, the Agency agrees that (i) the any mortgage lender and not the Agency shall be the loss payee with respect to the Net Proceeds of the insurance required by Sections 5.1(a) and (e) hereof, if any.

ARTICLE VI. EVENTS OF DEFAULT AND REMEDIES

Section 6.1 The following shall each be "Events of Default" under this Project Agreement:

- (a) the failure by the Company to observe and perform any covenant contained in Sections 2.1(g), 2.1(i), 4.3, 4.5, 5.1, 5.2, 7.1 and 7.6;
- (b) the failure by the Company to pay the Recapture Benefits on the date due;
- (c) the occurrence and continuation of a Recapture Event;
- (d) the dissolution or liquidation of the Company; or the failure by the Company to release, stay, discharge, lift or bond within thirty (30) days any execution, garnishment, judgment or attachment of such consequence as may impair its ability to carry on its operations; or the failure by the Company generally to pay its debts as they become due; or an assignment by the Company for the benefit of creditors; or the commencement by the Company (as the debtor) of a case in bankruptcy or any proceeding under any other insolvency law; or the commencement of a case in bankruptcy or any proceeding under any other insolvency law against the Company (as the debtor), wherein a court having jurisdiction in the premises enters a decree or order for relief against the Company as the debtor, or such case or proceeding is consented to by the Company or remains undismissed for forty (40) days, or the Company consents to or admits the material allegations against it in any such case or proceeding; or a trustee, receiver or agent (however named) is appointed or authorized to take charge of substantially all of the property of the Company for the purpose of enforcing a lien against such Property or for the purpose of general administration of such Property for the benefit of creditors.

Section 6.2 Remedies on Default.

(a) Whenever any Event of Default shall have occurred and be continuing, the Agency may take, to the extent permitted by law, any one or more of the following remedial steps:

(i) declare, by written notice to the Company, to be immediately due and payable, whereupon the same shall become immediately due and payable: (A) all due and owing Recapture Benefits and (B) all other payments due under this Project Agreement; or

(ii) terminate this Project Agreement and the Sales Tax Exemption authorization; or

(iii) take any other action at law or in equity which may appear necessary or desirable to collect the payments then due or thereafter to become due hereunder, and to enforce the obligations, agreements and covenants of the Company under this Project Agreement.

(b) No action taken pursuant to this Section 6.2 (including termination of the Project Agreement) shall relieve the Company from its obligation to make all payments required hereby including Recapture Benefits.

Section 6.3 Remedies Cumulative. No remedy herein conferred upon or reserved to the Agency is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and in addition to every other remedy given under this Project Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right and power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Agency to exercise any remedy reserved to it in this Article VI it shall not be necessary to give any notice, other than such notice as may be herein expressly required in this Project Agreement.

Section 6.4 Agreement to Pay Attorneys' Fees and Expenses. In the event the Company should default under any of the provisions of this Project Agreement and the Agency should employ attorneys or incur other expenses for the collection of amounts payable hereunder or the enforcement of performance or observance of any obligations or agreements on the part of the Company herein contained, the Company shall, on demand therefor, pay to the Agency the fees of such attorneys and such other expenses so incurred.

ARTICLE VII. SPECIAL COVENANTS

Section 7.1 Employment Opportunities

(a) The Company shall ensure that all employees and applicants for employment with regard to the Project, including, without limitation, the employees of and applicants for employment with the Company, are afforded equal employment opportunities without discrimination.

(b) Pursuant to Section 858-b of the Act, except as otherwise provided by collective bargaining contracts or agreements, the Company agrees (1) to list or cause to be listed all new employment opportunities created as a result of the Project with the New York State

Department of Labor, Community Services Division (the "NYSDOL") and with the administrative entity (collectively with NYSDOL, the "JTPA Referral Entities") of the service delivery area created by the federal Job Training Partnership Act (P.L. No. 97-300) (including any successor statute thereto, including, without limitation, the Workforce Investment Act of 1998 (P.L. No. 105-270), collectively, the "JTPA") in which the Project Facility is located, and (2) where practicable, to first consider and to cause to be first considered for such new employment opportunities persons eligible to participate in federal JTPA programs who shall be referred by the JTPA Referral Entities.

(c) Pursuant to the requirements of subsection one of Section 6 of Chapter 127 of the 1995 Laws of the State, the Company agrees to file with the Agency, prior to the effective date of this Project Agreement, an employment plan, in form and substance satisfactory to the Agency.

(d) The Company agrees to file with the Agency on a calendar year basis not later than February 10 of each year during the term of this Project Agreement, measured as of December 31st of the immediately preceding calendar year, reports (i) certifying the full-time equivalent jobs retained and the full time equivalent jobs created as a result of the granting of the Financial Assistance, by category, including full-time equivalent independent contractors and employees of independent contractors that work at the Project Facility, and (ii) certifying that the salary and fringe benefit averages or ranges for categories of jobs retained and jobs created that were set forth in the Application are then still accurate or, if not then still accurate, providing a revised list of salary and fringe benefit averages or ranges for categories of jobs retained and jobs created. Said annual reports shall be in substantially the form promulgated from time to time by the Agency. The current forms of reports are annexed hereto as Exhibit E. The Company shall provide such annual reports (and supporting documentation) with respect to its employees and shall cause its Affiliates, contractors and agents to provide such reports (and supporting documentation) with respect to their respective employees, if any, at the Project Facility. The Agency shall have the right, at the Company's expense, to audit, confirm and/or require additional information with regard thereto and the Company agrees to reasonably cooperate with and to cause its Affiliates and such third parties to cooperate with the Agency in connection therewith.

(e) The Company shall, at all times during the term of this Project Agreement, maintain or cause to be maintained the Minimum Employment Requirement. The Company agrees to give the Agency written notice of the occurrence of any default under this subsection (E) within five (5) days after the Company becomes aware of the occurrence of such default.

(f) Subject to (i) collective bargaining contracts or agreements and other existing contracts or agreements to which the Company is a party or by which the Company is bound and (ii) compliance with Applicable Laws, the Company agrees to list or cause to be listed all new employment opportunities created as a result of the Project on the Nassau County TweetMyJobs website or other website designated by the Agency from time to time, provided that such listing shall be at no cost to the Company.

(g) Subject to (i) collective bargaining contracts or agreements and other existing contracts or agreements to which the Company is a party or by which the Company is

bound and (ii) compliance with Applicable Laws, the Company agrees that to the greatest extent possible new employment opportunities shall be provided to Nassau County or Suffolk County residents first.

Section 7.2 Company not to Terminate Existence or Dispose of Assets. The Company agrees that, during the term of this Project Agreement, (A) it will maintain its business corporation existence as in effect on the Closing Date, (B) will not dissolve or otherwise dispose of all or substantially all of its assets, and (C) will not consolidate with or merge into another corporation or other Person, or permit one or more limited liability companies or other Persons to consolidate with or merge into it, without giving prior written notice to the Agency and obtaining the written consent of the Agency. The Company agrees that it will not change its name or its state of organization without giving prior written notice to the Agency and obtaining the written consent of the Agency, which consent shall not be unreasonably withheld or delayed.

Section 7.3 Agreement to Provide Information. The Company agrees whenever reasonably requested by the Agency, to promptly provide and certify or cause to be provided and certified such information concerning the Project Facility, the Company and/or the Company's finances, operations and affairs and other topics as the Agency from time to time reasonably considers necessary or appropriate, including, but not limited to, such information as to enable the Agency to make any reports required by Applicable Laws or other governmental regulation or to ensure compliance with the provisions of this Project Agreement and the other Transaction Documents.

Section 7.4 Books of Record and Account; Compliance Certificates. The Company agrees to maintain proper accounts, records and books in which full and correct entries shall be made, in accordance with generally accepted accounting principles, of all business and affairs of the Company.

(b) On or before February 10th of each year, the Company shall furnish to the Agency a certificate of an Authorized Representative of the Company stating that no Event of Default hereunder or under any other Transaction Document has occurred or is continuing or, if any Event of Default exists, specifying the nature and period of existence thereof and what action the Company has taken or proposes to take with respect thereto, it being understood and agreed that the Agency's annual employment report attached as Exhibit G may serve as such "No Event of Default" certificate. The Company represents to the Agency that the Company's fiscal year currently ends on December 31st.

Section 7.5 COMPLIANCE WITH APPLICABLE LAWS. The Company agrees, for the benefit of the Agency, that it will, during the term of this Project Agreement, promptly comply with all Applicable Laws.

(b) Notwithstanding the provisions of subsection (a) of this Section 7.5, the Company may in good faith actively contest the validity or the applicability of any Applicable Law, provided that the Company (1) first shall have notified the Agency in writing of such contest, (2) no Event of Default shall have occurred and be continuing under any of the Transaction Documents beyond any applicable notice or cure period, (3) shall have set aside adequate reserves for any such requirement, (4) demonstrates to the reasonable satisfaction of the

Agency that noncompliance with such Applicable Law will not subject the Project Facility or any part thereof to loss or forfeiture, (5) demonstrates to the reasonable satisfaction of the Agency that such contest shall not result in the Company or the Agency being in any danger of any civil or criminal liability for failure to comply therewith, and (6) diligently prosecutes such contest to completion. Otherwise, the Company shall promptly take such action with respect thereto as shall be reasonably satisfactory to the Agency.

(c) Notwithstanding the provisions of subsection (b) of this Section 7.5, if the Agency or any of its members, officers, agents (other than the Company), attorneys, servants or employees, past, present or future, may be liable for prosecution for failure to comply therewith, the Company shall promptly take such action with respect thereto as shall be satisfactory to the Agency.

Section 7.6 PERFORMANCE OF THE COMPANY'S OBLIGATIONS. Should the Company fail to make any payment or to do any act as herein provided beyond applicable notice and/or cure periods, if any, the Agency may, but shall not be obligated to, without notice to or demand on the Company and without releasing the Company from any obligation herein, make or do the same, including, without limitation, appearing in and defending any action purporting to affect the rights or powers of the Company or the Agency, and paying all fees, costs and expenses, including, without limitation, reasonable attorneys' fees, incurred by the Agency in connection therewith; and the Company shall pay promptly upon demand all sums so incurred or expended by the Agency under the authority hereof, together with interest thereon, at the Default Interest Rate, from the date of written demand to the Company.

ARTICLE VIII. MISCELLANEOUS

Section 8.1 Hold Harmless Provision. The Company hereby releases the Agency from, agrees that the Agency shall not be liable for, and agrees to indemnify, defend and hold the Agency and its executive director, directors, members, officers, employees, agents (other than the Company), representatives, successors and assigns harmless from and against, any and all (i) liability for loss or damage to property or injury to or death of any and all persons that may be occasioned by any cause whatsoever pertaining to the Facility or arising by reason of or in connection with the occupation or the use thereof or the presence on, in or about the Facility or breach by the Company of this Project Agreement or (ii) liability arising from or expense incurred by the Agency's financing, acquiring, constructing, equipping, owning and leasing of the Equipment or of the Facility, including without limiting the generality of the foregoing, all causes of action and reasonable attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. The foregoing indemnities shall apply notwithstanding the fault or negligence on the part of the Agency, or any of its respective executive director, directors, members, officers, agents or employees and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability, except that such indemnities will not be applicable with respect to willful misconduct or gross negligence on the part of the Agency or any other person or entity to be indemnified.

Section 8.2 This Project Agreement may be executed in any number of counterparts each of which shall be deemed an original but which together shall constitute a single instrument.

Section 8.3 All notices, claims and other communications hereunder shall be in writing and shall be deemed to be duly given if personally delivered or mailed first class, postage prepaid, or by a nationally-recognized overnight courier, addressed as follows:

To the Agency: Nassau County Industrial Development Agency
One West Street
Mineola, NY 11501
Attn: Chief Executive Officer

With a copy to: Harris Beach PLLC
333 Earle Ovington Blvd, Suite 900
Uniondale, NY 11553
Attn: Andrew Komaromi, Esq.

To the Company: Frequency Electronics, Inc.
55 Charles Lindbergh Boulevard
Garden City, NY 11553
Attn: Steve Bernstein

With a copy to: Hunton Andrews Kurth LLP
200 Park Avenue
New York, NY 10166
Attention: Laurie A. Grasso, Esq.

or at such other address as any party may from time to time furnish to the other party by notice given in accordance with the provisions of this Section. All notices shall be deemed given when mailed or personally delivered in the manner provided in this Section.

Section 8.4 This Project Agreement shall be governed by, and all matters in connection herewith shall be construed and enforced in accordance with, the laws of the State of New York applicable to agreements executed and to be wholly performed therein and the parties hereto hereby agree to submit to the personal jurisdiction of the federal or state courts located in Nassau County, New York.

Section 8.5 The warranties, representations, obligations and covenants of the Company under this Project Agreement shall be absolute and unconditional and shall remain in full force and effect during the term of this Project Agreement, shall be deemed to have been relied upon by the Agency, and shall survive the delivery and termination of this Project Agreement to the Agency, regardless of any investigation made by the Agency.

Section 8.6 By executing this Project Agreement, the Company covenants and agrees to pay all fees, costs and expenses incurred by the Agency for (a) legal services, including but not limited to those provided by the Agency's general counsel or bond/transaction counsel, (b) other consultants retained by the Agency, if any, in connection with the Project; and (c) with respect to Agency's enforcement of any event of default or failure to comply with the terms of this Project Agreement (including reasonable attorney fees). The Company further covenants and agrees that the Company is liable for payment to the Agency of all charges referred to above, as well as all other actual costs and expenses incurred by the Agency in undertaking the Project notwithstanding the occurrence of any of (i) the Company's withdrawal, abandonment, cancellation or failure to pursue the Project; (ii) the inability of the Agency or the Company to procure the services of one or more financial institutions to provide financing for the Project; or (iii) the Company's failure, for whatever reason, to undertake and/or successfully complete the Project.

Section 8.7 Lease of Equipment.

(a) The Agency hereby subleases and leases the Equipment, as more particularly described in Exhibit A attached hereto, to the Company and the Company hereby takes the Equipment from the Agency upon the terms and conditions of this Project Agreement.

(b) Title to all Company's Equipment shall vest in the Agency immediately upon execution of the Bill of Sale to Agency, subject to Permitted Encumbrances. Title to the Company's Equipment acquired subsequent to the Closing Date and intended to be incorporated in the Project Facility shall vest in the Agency immediately upon deposit on the Facility or incorporation in the Project Facility, whichever shall first occur, subject to Permitted Encumbrances. The Company shall execute, deliver and record or file all instruments necessary or appropriate to vest title to the above in the Agency and shall take all action necessary or appropriate to protect such title against claims of any third Persons.

(c) The Agency shall deliver to the Company sole and exclusive possession of the Equipment and the leasehold estate created hereby shall commence, and the Company shall accept possession of the Equipment on the Closing Date.

(d) The Company, as agent or subagent for the Agency, shall comply in all material respects with all provisions of the Labor Law, the Executive Law and the Civil Rights Law of the State applicable to the completion of the Project Work and shall include in all construction contracts all provisions which may be required to be inserted therein by such provisions. The Company agrees to comply with the relevant policies of the Agency with respect to such laws, a copy of which are set forth on Exhibit B hereto.

(e) *Identification of Equipment.* All Company Equipment acquired or installed by the Company pursuant to the provisions of this Project Agreement shall be properly identified by the Company by such appropriate records, including computerized records, as may be approved by the Agency. All Company Equipment conveyed to the Agency by the Bill of Sale shall be deemed presumptively to be owned by the Agency, rather than the Company, unless the same were installed by the Company and title thereto was retained by the Company and such Equipment was properly identified by such appropriate records as were approved by the Agency.

[Remainder of This Page Intentionally Left Blank]

[Signature Page to Agent and Financial Assistance and Project Agreement]

IN WITNESS WHEREOF, the parties hereto have executed this Project Agreement as of the day and year first above written.

**NASSAU COUNTY INDUSTRIAL
DEVELOPMENT AGENCY**

By: 
Harry Coghlan
Chief Executive Officer/Executive Director

**FREQUENCY ELECTRONICS, INC.,
A DELAWARE CORPORATION**

By: _____
Name: Steven Bernstein
Title: Chief Financial Officer

[Signature Page to Agent and Financial Assistance and Project Agreement]

IN WITNESS WHEREOF, the parties hereto have executed this Project Agreement as of the day and year first above written.

**NASSAU COUNTY INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____
Harry Coghlan
Chief Executive Officer/Executive Director

**FREQUENCY ELECTRONICS, INC.,
A DELAWARE CORPORATION**

By:  _____
Name: Steven Bernstein
Title: Chief Financial Officer

SCHEDULE A

SCHEDULE OF DEFINITIONS

“Applicable Law” or “Applicable Laws” means, individually or collectively as the context may require, all current and future statutes, codes, laws, acts, ordinances, treaties, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions, determinations and requirements, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to or affect the Project Facility or any part thereof or the conduct of work on the Project Facility or any part thereof or to the operation, use, manner of use or condition of the Project Facility or any part thereof (the applicability of the foregoing to be determined both as if the Agency were the owner of an interest in the Project Facility and as if the Company and not the Agency were the owner of an interest in the Project Facility), including but not limited to (1) applicable fair housing, health, building, zoning, use, rent, accessibility, environmental, planning and subdivision laws, ordinances, rules and regulations of Governmental Authorities having jurisdiction over the Project Facility, (2) restrictions, conditions or other requirements applicable to any permits, licenses or other governmental authorizations issued with respect to the foregoing, (3) judgments, decrees, orders or injunctions issued by any court or other judicial or quasi-judicial Governmental Authority, and (4) applicable covenants and restrictions relating in any way to the Project Facility.

“Authorized Representative” means, in the case of the Agency, the Executive Director, the Chairman or the Vice Chairman and such additional persons as, at the time, are designated to act on behalf of the Agency; and in the case of the Company, the members and such additional persons as, at the time, are designated to act on behalf of the Company.

“Completion Date” means such date as shall be certified by the Company to the Agency (and accepted by the Agency in its reasonable discretion) as the date of completion of the Project pursuant to Section 4.2 of this Lease, or such earlier date as the Company shall notify the Agency as being the date of completion of the Project (subject to acceptance thereof by the Agency in its reasonable discretion).

“Governmental Authority” means the United States of America, the State, any other state, the County, any political subdivision of any of the foregoing, and any court, tribunal, arbitrator, mediator, agency, department, commission, board, bureau, authority or instrumentality of any of them.

“Independent Accountant” shall mean an independent certified public accountant or firm of independent certified public accountants selected by the Company and approved by the Agency (such approval not to be unreasonably withheld or delayed).

“Maximum Sales Tax Exemption” shall mean the aggregate maximum dollar amount of Sales Tax Savings that the Company and all Subagents acting on behalf the Company are permitted to receive under this Project Agreement, which shall equal \$150,937.00, or such maximum dollar amount as may be determined by the Agency pursuant to such additional documents as may be required by the Agency for such increase.

“Prime Rate” means (i) if no lender, the rate designated by The Wall Street Journal from time to time as its “prime rate”, or (ii) if a lender exists, the rate designated by the lender from time to time as its “prime rate”.

“Prohibited Person” means (i) any Person (A) that is in default or in breach, beyond any applicable grace or cure period, of its obligations under any written agreement with the Agency or the County, or (B) that directly or indirectly controls, is controlled by or is under common control with a Person that is in default or in breach, beyond any applicable grace or cure period, of its obligations under any written agreement with the Agency or the County, unless such default or breach has been waived in writing by the Agency or the County, as the case may be, and (ii) any Person (A) that has been convicted in a criminal proceeding for a felony or any crime involving moral turpitude or that is an organized crime figure or is reputed to have substantial business or other affiliations with an organized crime figure, or (B) that directly or indirectly controls, is controlled by or is under common control with a Person that has been convicted in a criminal proceeding for a felony or any crime involving moral turpitude or that is an organized crime figure or is reputed to have substantial business or other affiliations with an organized crime figure.

“Sales Tax Exemption” shall mean an exemption from Sales and Use Taxes resulting from the Agency’s participation in the Facility.

“Sales and Use Taxes” shall mean local and State sales and compensating use taxes and fees imposed pursuant to Article 28 of the New York State Tax Law, as the same may be amended from time to time.

“Scheduled Completion Date” “Scheduled Completion Date” shall have the meaning assigned to such term in Section 4.3(b) of this Project Agreement.

“State Sales and Use Taxes” shall mean sales and compensating use taxes and fees imposed by Article 28 of the New York State Tax Law but excluding such taxes imposed in a city by Section 1107 or 1108 of such Article 28, as the same may be amended from time to time.

“State Sales Tax Savings” shall mean all Sales Tax Exemption savings relating to State Sales and Use Taxes realized by or for the benefit of the Company, including any savings realized by any Subagent, pursuant to this Project Agreement.

“Termination Date” shall have the meaning set forth in section 4.3(b) of this Project Agreement.

“Transaction Documents” means this Project Agreement, Environmental Compliance and Indemnification Agreement from the Company to the Agency, dated as of the date hereof and the Bill of Sale from the Company to the Agency, dated as of the date hereof.

SCHEDULE B

LIST OF APPOINTED AGENTS¹

1. **Frequency Electronics, Inc.**
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

¹ FOR EACH AGENT APPOINTED BY THE COMPANY, A NYS FORM ST-60 MUST BE COMPLETED AND FILED BY THE COMPANY WITH THE NYS DEPARTMENT OF TAXATION AND FINANCE IDA UNIT INDICATING THE APPOINTMENT OF SUCH AGENT OF THE COMPANY.

SCHEDULE C

MANDATORY AGENT AND SUBAGENT CONTRACT LANGUAGE

“This contract is being entered into by **[NAME OF COMPANY OR NAME OF SUBAGENT]** (the “Agent”), as agent for and on behalf of the **NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY** (the “Agency”), in connection with a certain project of the Agency for the benefit of **FREQUENCY ELECTRONICS, INC.**, consisting in part of the acquisition and installation of certain machinery, equipment and building materials, all for incorporation and installation in certain premises located at Frequency Electronics, Inc. 2019 Project located at land located at 55 Charles Lindbergh Boulevard, Mitchel Field, Garden City, Town of Hempstead, Nassau County, New York, IDA Project Number **2803-19-03A** (the “Premises”). The acquisition of the machinery, equipment and building materials to be incorporated and installed in the Premises and all services and rentals of equipment related to the acquisition, construction and equipping of the Project shall be exempt from all New York State and local sales and use taxes if the acquisition thereof is effected in accordance with the terms and conditions set forth in the attached sales tax exemption information letter of the Agency; and the Agent hereby represents that this contract is in compliance with the terms of the Agent and Financial Assistance and Project Agreement by and between Frequency Electronics, Inc., and the Agency, dated as of May 1, 2019. This contract is non-recourse to the Agency, and the Agency shall not be directly, indirectly or contingently liable or obligated hereunder in any manner or to any extent whatsoever. By execution or acceptance of this contract, the vendor/contractor hereby acknowledges and agrees to the terms and conditions set forth in this paragraph.”

EXHIBIT A

COST BENEFIT ANALYSIS AND FORM OF TAX AGREEMENT

[Attached]

FREQUENCY ELECTRONICS, INC.: ECONOMIC AND FISCAL IMPACT ANALYSIS

February 2019

Prepared for:

Nassau County Industrial Development Agency
Theodore Roosevelt Executive & Legislative Building
1550 Franklin Ave., Suite 235
Mineola, NY 11501



518.899.2608

www.camoinassociates.com

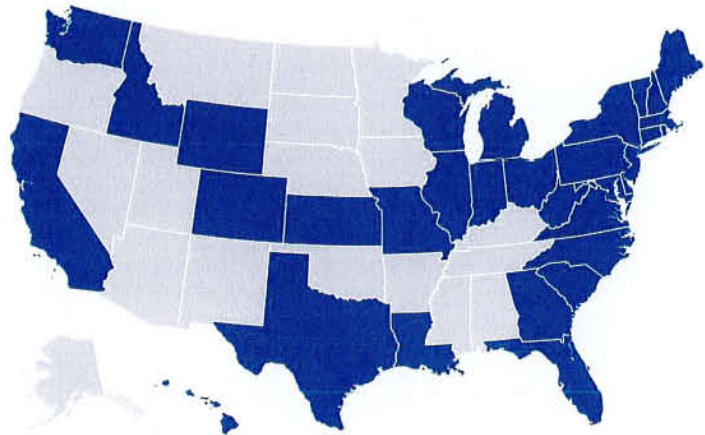
About Camoin Associates

Camoin Associates has provided economic development consulting services to municipalities, economic development agencies, and private enterprises since 1999. Through the services offered, Camoin Associates has had the opportunity to serve EDOs and local and state governments from Maine to California; corporations and organizations that include Lowes Home Improvement, FedEx, Volvo (Nova Bus) and the New York Islanders; as well as private developers proposing projects in excess of \$6 billion. Our reputation for detailed, place-specific, and accurate analysis has led to projects in 31 states and garnered attention from national media outlets including *Marketplace* (NPR), *Forbes* magazine, *The New York Times* and *The Wall Street Journal*. Additionally, our marketing strategies have helped our clients gain both national and local media coverage for their projects in order to build public support and leverage additional funding. We are based in Saratoga Springs, NY, with regional offices in Portland, ME; Boston, MA; Richmond, VA and Brattleboro, VT. To learn more about our experience and projects in all of our service lines, please visit our website at www.camoinassociates.com. You can also find us on Twitter [@camoinassociate](https://twitter.com/camoinassociate) and on [Facebook](https://www.facebook.com/camoinassociates).

The Project Team

Michael N'dolo
Vice President, Project Principal

Jessica Ulbricht
Economic Development Analyst, Project Staff



Summary

The Nassau County Industrial Development Agency (the "Agency") received an application for financial assistance from Frequency Electronics, Inc. (the "Applicant") for the redevelopment of a headquarters and manufacturing facility (the "Project") at 55 Charles Lindbergh Boulevard, Mitchel Field, Garden City, Town of Hempstead, County of Nassau, New York (the "Site"). The Project involves extensive renovations to 91,027 square feet of space, including improvements to HVAC equipment, windows, general tenant improvements and building systems, all for continued use by the Applicant as a headquarters facility and for manufacturing operations. The Agency commissioned Camoin Associates to conduct an economic and limited fiscal impact analysis of the Project on Nassau County (the "County").

This study analyzes the impact that the Project will have on the Nassau County economy and on local municipal revenues, net of any economic activity that would occur even if the Project was not completed. The Applicant is considering retaining its corporate headquarters in the County but will make a final location decision based on the best business opportunity. Without support from the IDA, the Applicant states it would consider relocating key work outside of the County. The goal of this Project is to enable the Applicant to continue maintaining operations in Nassau County. Following the redevelopment of 55 Charles Lindbergh Boulevard, the Applicant will retain 140 full-time employees and create an additional 116 jobs. Due to relocation considerations by the Applicant, but for IDA assistance, we will consider all 256 positions to be net new to the County. This study analyzes the impact that these 256 net new jobs and related renovation jobs would have on the County economy and on municipal revenue sources.

The following is a summary of our findings from this study, with details below and in the attachments.

Summary of Benefits to County	
Renovation Phase Jobs	24
Renovation Phase On-Site Jobs	14
Renovation Phase Earnings	\$ 1,941,004
Renovation Phase On-Site Earnings	\$ 1,324,656
One-Time Sales Tax Revenue to County	\$ 14,436
Annual Jobs	428
On-Site Jobs	256
Annual Earnings	\$ 33,669,951
On-Site Earnings	\$ 22,549,241
Average Annual Sales Tax Revenue to County	\$ 250,420

- The renovation of the Project would result in approximately 14 new direct construction jobs generating approximately \$1.3 million in direct new earnings on-site and an additional \$616,000 million in indirect earnings throughout Nassau County.
- The Project would retain the 140 current full-time employees and support 116 new employees, for a total of 256 net new jobs with over \$22.5 million in associated earnings. These on-site jobs support total of 428 total jobs generating nearly \$33.7 million in earnings throughout the County.
- Through negotiations with the Agency, the Applicant could have access to a sales tax exemption estimated to be valued at up to \$152,000. However, if we assume that the Project would not occur absent IDA benefits, this figure is not actually a "cost" to the affected tax jurisdictions since no future revenue stream would exist without the exemption. Annual sales tax revenue to the County as a result of the project will average over \$250,000 from employee spending.

Economic Impact Analysis

The estimates of direct economic activity generated during the renovation phase and on-site employment as provided by the Applicant were used as the direct inputs for the economic impact model. Camoin Associates used the input-output model designed by Economic Modeling Specialist International (EMSI) to calculate total economic impacts. EMSI allows the analyst to input the amount of new direct economic activity (spending or jobs) occurring within the County and uses the direct inputs to estimate the spillover effects that the net new spending or jobs have as these new dollars circulate through the Nassau County economy. This is captured in the indirect impacts and is commonly referred to as the “multiplier effect.” See Attachment A for more information on economic impact analysis.

Renovation Phase Impacts

The Applicant anticipates that the private sector investment in the renovation of the Project would cost approximately \$3.5 million. All of this cost represents private sector investment generated by the Project. The Applicant projects that 100% of the renovation spending would be sourced from within the County, and therefore, we can project that there will be \$3.5 million in net new renovation spending in the County associated with the renovation phase of the project.

Renovation Phase Spending		
Total Renovation Cost	\$	3,500,000
Percent Sourced from County		100%
Net New Renovation Spending	\$	3,500,000

Source: Applicant, Camoin Associates

Based on \$3.5 million worth of net new direct spending associated with the renovation phase of the Project, Camoin Associates determines that there would be a total of over \$5.2 million in one-time renovation related spending supporting 24 jobs throughout the County and nearly \$2.0 million in earnings.

Economic Impact - Renovation Phase					
	Direct		Indirect		Total
Jobs		14		10	24
Earnings	\$	1,324,656	\$	616,348	\$ 1,941,004
Sales	\$	3,500,000	\$	1,759,263	\$ 5,259,263

Source: EMSI, Camoin Associates

Based solely on information in the application, the construction phase timeline of 12 months, as estimated by the Applicant, should allow the Agency to reach the conclusion that there is a likelihood of accomplishing the project in a timely manner. Although we are not construction experts, nothing has come to our attention that would cause us to reach a contrary conclusion.

Impacts of On-Site Employment

The table below outlines the impact that the jobs associated with the Project would have on Nassau County in terms of direct, indirect, and total employment and wages. Without assistance from the IDA, the Applicant states it would consider relocating outside of the County and New York State. This Project enables the Applicant to continue operations within the County, thus retaining the current 140 jobs and creating an additional 116 new jobs. Due to relocation considerations but for IDA assistance, we will consider all 256 jobs (those retained and added) net new to the County.

Annual Economic Impact - On-Site Employment					
	Direct		Indirect		Total
Jobs		256		172	428
Earnings	\$	22,549,241	\$	11,120,710	\$ 33,669,951
Sales	\$	60,831,110	\$	29,470,787	\$ 90,301,897

Source: EMSI, Camoin Associates

As shown in the table above, the Applicant anticipates that 256 new jobs will be on-site in the first year following renovation. Taking into account the additional indirect and induced economic impacts on Nassau County from those direct jobs, total employment created by the project is estimated at 428 jobs and nearly \$34 million in annual earnings. As a result, the project would generate over \$90 million in total sales.

Fiscal Impact Analysis

In addition to the economic impact of the Project on the local economy (outlined above), there would also be a fiscal impact in terms of sales tax generation. The following section of the analysis outlines the impact of the completion of the Project on the local taxing jurisdictions in terms of the cost and/or benefit to municipal budgets.

Exemptions

Working with the Agency benefits the Applicant in terms of a sales tax exemption on construction materials and furniture, fixtures, and equipment.

Summary of Costs to County		
Sales Tax Exemption	\$	152,000

Source: Applicant IDA Application, Camoin Associates

This incentive offered by the Agency would benefit the Applicant but would not negatively affect the County because, without the Project, the County by definition would not be receiving any associated revenue.

Sales Tax Revenue - Renovation Phase

The one-time renovation phase earnings described by the total economic impact of the renovation work (described in above section) would lead to additional sales tax revenue for the County. It is assumed that 70%¹ of the renovation phase earnings would be spent within Nassau County and that 25% of those purchases would be taxable.

One-Time County Sales Tax Revenue Renovation Phase	
Total New Earnings	\$ 1,941,004
Amount Spent in County (70%)	\$ 1,358,703
Amount Taxable (25%)	\$ 339,676
County Sales Tax Rate	4.25%
New County Tax Revenue	\$ 14,436

Source: Nassau County, Camoin Associates

As a result of the renovation phase employment, the County would receive approximately \$14,436 in new sales tax revenue.

¹ A retail leakage analysis of Nassau County suggests that a vast majority of the goods and services that employees will be purchasing are available within the county (food, clothing, vehicles, computers, etc.), but there still will be some outside spending on travel and through purchases made online and in neighboring counties. Based on third party proprietary retail spending data, 70% is a reasonable assumption for the amount of in-county spending. (Source: ESRI Business Analysis Online Retail Market Profile)

Sales Tax Revenue – Employee Earnings

The additional earnings described by the total economic impact of the ongoing occupation (see the previous section) would lead to additional sales tax revenue for the County. It is assumed that 70%² of the earnings would be spent within Nassau County and that 25% of those purchases would be taxable.

Annual County Sales Tax Revenue Employee Earnings	
Total New Earnings	\$ 33,669,951
Amount Spent in County (70%)	\$ 23,568,966
Amount Taxable (25%)	\$ 5,892,241
County Sales Tax Rate	4.25%
New County Tax Revenue	\$ 250,420

Source: Nassau County, Camoin Associates

Under these assumptions, the County would receive approximately \$250,420 each year in tax revenue from the economic impacts of the Project.

² See footnote 2.

Attachment A

What is economic impact analysis?

The purpose of conducting an economic impact study is to ascertain the total cumulative changes in employment, earnings and output in a given economy due to some initial "change in final demand". To understand the meaning of "change in final demand", consider the installation of a new widget manufacturer in Anytown, USA. The widget manufacturer sells \$1 million worth of its widgets per year exclusively to consumers in Canada. Therefore, the annual change in final demand in the United States is \$1 million because dollars are flowing in from outside the United States and are therefore "new" dollars in the economy.

This change in final demand translates into the first round of buying and selling that occurs in an economy. For example, the widget manufacturer must buy its inputs of production (electricity, steel, etc.), must lease or purchase property and pay its workers. This first round is commonly referred to as the "Direct Effects" of the change in final demand and is the basis of additional rounds of buying and selling described below.

To continue this example, the widget manufacturer's vendors (the supplier of electricity and the supplier of steel) will enjoy additional output (i.e. sales) that will sustain their businesses and cause them to make additional purchases in the economy. The steel producer will need more pig iron and the electric company will purchase additional power from generation entities. In this second round, some of those additional purchases will be made in the US economy and some will "leak out". What remains will cause a third round (with leakage) and a fourth (and so on) in ever-diminishing rounds of spending. These sets of industry-to-industry purchases are referred to as the "Indirect Effects" of the change in final demand.

Finally, the widget manufacturer has employees who will naturally spend their wages. As with the Indirect Effects, the wages spent will either be for local goods and services or will "leak" out of the economy. The purchases of local goods and services will then stimulate other local economic activity; such effects are referred to as the "Induced Effects" of the change in final demand.

Therefore, the total economic impact resulting from the new widget manufacturer is the initial \$1 million of new money (i.e. Direct Effects) flowing in the US economy, plus the Indirect Effects and the Induced Effects. The ratio between Direct Effects and Total Effects (the sum of Indirect and Induced Effects) is called the "multiplier effect" and is often reported as a dollar-of-impact per dollar-of-change. Therefore, a multiplier of 2.4 means that for every dollar (\$1) of change in final demand, an additional \$1.40 of indirect and induced economic activity occurs for a total of \$2.40.

Key information for the reader to retain is that this type of analysis requires rigorous and careful consideration of the geography selected (i.e. how the "local economy" is defined) and the implications of the geography on the computation of the change in final demand. If this analysis wanted to consider the impact of the widget manufacturer on the entire North American continent, it would have to conclude that the change in final demand is zero and therefore the economic impact is zero. This is because the \$1 million of widgets being purchased by Canadians is not causing total North American demand to increase by \$1 million. Presumably, those Canadian purchasers will have \$1 million less to spend on other items and the effects of additional widget production will be cancelled out by a commensurate reduction in the purchases of other goods and services.

Changes in final demand, and therefore Direct Effects, can occur in a number of circumstances. The above example is easiest to understand: the effect of a manufacturer producing locally but selling globally. If, however, 100% of domestic demand for a good is being met by foreign suppliers (say, DVD players being imported into the US from Korea and Japan), locating a manufacturer of DVD players in the US will cause a change in final demand because all of those dollars currently leaving the US economy will instead remain. A situation can be envisioned whereby a producer is serving both local and foreign demand, and an impact analysis would have to be careful in calculating how many "new" dollars the producer would be causing to occur domestically.

Camoin Associates, Inc.
120 West Avenue, Suite 303
Saratoga Springs, NY 12866
518.899.2608
www.camoinassociates.com
@camoinassociate



EXHIBIT B

**FORM OF NYS FORM ST-60 TO BE COMPLETED BY COMPANY AND FILED WITH
THE NYS TAX DEPARTMENT IDA UNIT FOR EACH OF ITS SUBAGENTS WITHIN
THIRTY (30) DAYS OF APPOINTMENT**

[See Attached Page]



IDA Appointment of Project Operator or Agent For Sales Tax Purposes

The industrial development agency or authority (IDA) **must** submit this form within **30 days** of the appointment of a project operator or agent, whether appointed directly by the IDA or indirectly by the operator or another agent.

For IDA use only

IDA information

Name of IDA Nassau County IDA			IDA project number (use OSC numbering system for projects after 1998) 2803-19-03A
Street address One West Street			Telephone number (516) 571-1945
City Mineola	State NY	ZIP code 11501	Email address (optional) N/A

Project operator or agent information

Name of IDA project operator or agent		Mark an X in the box if directly appointed by the IDA: <input type="checkbox"/>	Employer identification or Social Security number
Street address		Telephone number ()	Primary operator or agent? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
City	State	ZIP code	Email address (optional) N/A

Project information

Name of project Frequency Electronics, Inc. 2019 Project			
Street address of project site 55 Charles Lindbergh Boulevard**			
**and any lands located in Nassau County and occupied by license or easement during construction or improved by third parties for the benefit of the Project			
City Garden City	State NY	ZIP code 11553	Email address (optional) N/A
Purpose of project The Project consists of: The acquisition/retention of an interest in, renovation and equipping of an approximately 91,027 square foot building for use as a corporate headquarters and manufacturing plant providing design, development and manufacture of high precision timing, frequency control and synchronization products for space and terrestrial applications.			

Description of goods and services intended to be exempted from New York State and local sales and use taxes Goods and services, inclusive of fuel and utilities, whether the goods and services are purchased or rented, and notwithstanding that they continue to constitute personal property or the item is used after the completion of the Project, or the item is geographically located outside the legal boundaries of the Project Facility; provided there is a reasonable basis to acquire the item to benefit the Project.		
Date project operator or agent appointed (mmddyy)	Date project operator or agent status ends (mmddyy)	Mark an X in the box if this is an extension to an original project: <input type="checkbox"/>
Estimated value of goods and services that will be exempt from New York State and local sales and use tax: \$1,750,000		Estimated value of New York State and local sales and use tax exemption provided: \$150,937

Certification: I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements with the knowledge that willfully providing false or fraudulent information with this document may constitute a felony or other crime under New York State Law, punishable by a substantial fine and possible jail sentence. I also understand that the Tax Department is authorized to investigate the validity of any information entered on this document.

Print name of officer or employee signing on behalf of the IDA Harry Coghlan		Print title Chief Executive Officer/Executive Director
Signature	Date	Telephone number (516) 465-0000

Instructions

When to file

An IDA must file this form within 30 days of the date they appoint any project operator or other person as agent of the IDA, for purposes of extending any sales and use tax exemptions.

Requirements to file

The IDA must file a separate form for each person it appoints as agent, whether directly or indirectly, and regardless of whether the person is the primary project operator or agent. If the IDA authorizes a project operator or agent to appoint other persons as agent of the IDA, the operator or agent making such an appointment must advise the IDA that it has done so, so that the IDA can file a form within 30 days of the date of the new agent's appointment. The IDA should not file this form for a person hired to work on an IDA project if that person is not appointed as agent of the IDA. The IDA should not file this form if they do not extend any sales or use tax exemption benefits for the project.

If an IDA modifies a project, such as by extending it beyond its original completion date, or by increasing or decreasing the amount of sales and use tax exemption benefits authorized for the project, they must, within 30 days of the change, file a new form with the new information.

If the information on this form changes

If an IDA amends, revokes, or cancels the appointment of an agent, or if an agent's appointment becomes invalid for any reason, the IDA, within 30 days, must send a letter to the address below for filing this form, indicating that the appointment has been amended, revoked, or cancelled, or is no longer valid, and the effective date of the change. They must attach to the letter a copy of the form it originally filed. The IDA should not send a letter for a form that is not valid merely because the *Completion date of project* has passed.

Mailing instructions

Mail completed form to:

NYS TAX DEPARTMENT
IDA UNIT
W A HARRIMAN CAMPUS
ALBANY NY 12227-0866

Private delivery services – See Publication 55, *Designated Private Delivery Services*.

Privacy notification

New York State Law requires all government agencies that maintain a system of records to provide notification of the legal authority for any request for personal information, the principal purpose(s) for which the information is to be collected, and where it will be maintained. To view this information, visit our website, or, if you do not have Internet access, call and request Publication 54, *Privacy Notification*. See *Need help?* for the Web address and telephone number.

Need help?



Visit our website at www.tax.ny.gov

- get information and manage your taxes online
- check for new online services and features

Telephone assistance

Sales Tax Information Center:	518-485-2889
To order forms and publications:	518-457-5431
Text Telephone (TTY) or TDD equipment users	Dial 7-1-1 for the New York Relay Service

EXHIBIT C-1

**NYS FORM ST-123
FOR
COMPANY**

[See Attached Page]



IDA Agent or Project Operator Exempt Purchase Certificate

Effective for projects beginning on or after June 1, 2014

This certificate is not valid unless all entries have been completed.

Note: To be completed by the purchaser and given to the seller. See TSB-M-14(1.1)S, Sales Tax Reporting and Recordkeeping Requirements for Industrial Development Agencies and Authorities, for more information.

Form with fields for Name of seller, Name of agent or project operator, Street address, City, town, or village, State, ZIP code, and Agent or project operator sales tax ID number.

Mark an X in one: [] Single-purchase certificate [X] Blanket-purchase certificate (valid only for the project listed below)

To the seller:

You must identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

Project information

I certify that I am a duly appointed agent or project operator of the named IDA and that I am purchasing the tangible personal property or services for use in the following IDA project and that such purchases qualify as exempt from sales and use taxes under my agreement with the IDA.

Form with fields for Name of IDA, Name of project, IDA project number, Street address of project site, City, town, or village, State, ZIP code, and dates for agent or project operator status.

Exempt purchases

(Mark an X in boxes that apply)

- List of purchase categories A, B, and C with checkboxes. A is checked.

Certification: I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements and issue this exemption certificate with the knowledge that this document provides evidence that state and local sales or use taxes do not apply to a transaction or transactions for which I tendered this document and that willfully issuing this document with the intent to evade any such tax may constitute a felony or other crime under New York State Law, punishable by a substantial fine and a possible jail sentence.

Form with fields for Signature of purchaser or purchaser's representative and Date.

Instructions

To the purchaser

You may use Form ST-123 if you:

- have been appointed as an agent or project operator by an industrial development agency (IDA) and
- the purchases qualify for exemption from sales and use tax as described in the IDA contract.

You may use Form ST-123 as a single-purchase certificate or as a blanket certificate covering the first and subsequent purchases qualifying for the project listed.

Agent or project operator sales tax ID number — If you are registered with the Tax Department for sales tax purposes, you must enter your sales tax identification number on this certificate. If you are not required to be registered, enter **N/A**.

Industrial development agencies and authorities (IDAs) are public benefit corporations under General Municipal Law Article 18-A and the Public Authorities Law, for the purpose of promoting, developing, encouraging, and assisting in the acquisition, construction, reconstruction, improvement, maintenance, equipping, and furnishing of industrial, manufacturing, warehousing, commercial, research, and recreational facilities in New York State.

IDAs are exempt from the payment of sales and use tax on their purchases, in accordance with Tax Law section 1116(a)(1). However, IDAs do not normally make direct purchases for projects. Commonly, IDAs instead appoint a business enterprise or developer, contractor, or subcontractor as its agent or project operator. Such purchases made by the agent or project operator, acting within the authority granted by the IDA, are deemed to be made by the IDA and therefore exempt from tax.

Example 1: IDA agreement with its agent or project operator states that contractor X may make all purchases of materials and equipment necessary for completion of the project, as agent for the IDA. Contractor X rents a backhoe and a bulldozer for site preparation, purchases concrete and lumber to construct a building, and purchases machinery to be installed in the building. All these purchases by contractor X as agent of the IDA are exempt from tax.

Example 2: IDA agreement with its agent or project operator states that contractor X may make all purchases of materials and equipment to be incorporated into the project, as agent for the IDA. Contractor X makes the same purchases as in Example 1. Since the concrete, lumber, and machinery will actually be incorporated into the project, contractor X may purchase these items exempt from tax. However, rental of the backhoe and bulldozer is not exempt since these transactions are normally taxable and the IDA agreement does not authorize contractor X to make such rentals as agent of the IDA.

A contractor or subcontractor not appointed as agent or project operator of an IDA must present suppliers with Form ST-120.1, *Contractor Exempt Purchase Certificate*, when making purchases that are ordinarily exempt from tax in accordance with Tax Law sections 1115(a)(15) and 1115(a)(16). For more information, see Form ST-120.1.

Exempt purchases

To qualify, the purchases must be made within the authority granted by the IDA and used to complete the project (not to operate the completed project).

- Mark box A to indicate you are purchasing tangible personal property and services (other than utility services and motor vehicles or tangible personal property installed in a qualifying motor vehicle) exempt from tax.
- Mark box B to indicate you are purchasing certain consumer utility services used in completing the project exempt from tax. This includes gas, electricity, refrigeration, and steam; and gas, electric, refrigeration, and steam services.
- Mark box C to indicate you are purchasing a motor vehicle or tangible personal property related to a qualifying motor vehicle exempt from tax.

Misuse of this certificate

Misuse of this exemption certificate may subject you to serious civil and criminal sanctions in addition to the payment of any tax and interest due. These include:

- A penalty equal to 100% of the tax due;
- A \$50 penalty for each fraudulent exemption certificate issued;
- Criminal felony prosecution, punishable by a substantial fine and a possible jail sentence; and
- Revocation of your *Certificate of Authority*, if you are required to be registered as a vendor. See TSB-M-09(17)S, *Amendments that Encourage Compliance with the Tax Law and Enhance the Tax Department's Enforcement Ability*, for more information.

To the seller

When making purchases as agent or project operator of an IDA, the purchaser must provide you with this exemption certificate with all entries completed to establish the right to the exemption. You **must** identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

As a New York State registered vendor, you may accept an exemption certificate in lieu of collecting tax and be protected from liability for the tax if the certificate is valid. The certificate will be considered valid if it is:

- accepted in good faith;
- in your possession within 90 days of the transaction; and
- properly completed (all required entries were made).

An exemption certificate is accepted in good faith when you have no knowledge that the exemption certificate is false or is fraudulently given, and you exercise reasonable ordinary due care. If you do not receive a properly completed certificate within 90 days after the delivery of the property or service, you will share with the purchaser the burden of proving the sale was exempt.

You must also maintain a method of associating an invoice (or other source document) for an exempt sale with the exemption certificate you have on file from the purchaser. You must keep this certificate at least three years after the due date of your sales tax return to which it relates, or the date the return was filed, if later.

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

Need help?



Visit our Web site at www.tax.ny.gov

- get information and manage your taxes online
- check for new online services and features



Sales Tax Information Center: (518) 485-2889

To order forms and publications: (518) 457-5431



Text Telephone (TTY) Hotline

(for persons with hearing and speech disabilities using a TTY): (518) 485-5082

EXHIBIT C-2

**NYS FORM ST-123
FOR
SUBAGENTS OF COMPANY**

[See Attached Page]



IDA Agent or Project Operator Exempt Purchase Certificate

Effective for projects beginning on or after June 1, 2014

This certificate is not valid unless all entries have been completed.

Note: To be completed by the purchaser and given to the seller. See TSB-M-14(1.1)S, *Sales Tax Reporting and Recordkeeping Requirements for Industrial Development Agencies and Authorities*, for more information.

Name of seller			Name of agent or project operator		
Street address			Street address		
City, town, or village	State	ZIP code	City, town, or village	State	ZIP code
Agent or project operator sales tax ID number (see instructions)					

Mark an **X** in one: Single-purchase certificate Blanket-purchase certificate (valid only for the project listed below)

To the seller:

You must identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

Project information

I certify that I am a duly appointed agent or project operator of the named IDA and that I am purchasing the tangible personal property or services for use in the following IDA project and that such purchases qualify as exempt from sales and use taxes under my agreement with the IDA.

Name of IDA Nassau County IDA			
Name of project Frequency Electronics, Inc. 2019 Project		IDA project number (use OSC number) 2803-19-03A	
Street address of project site 55 Charles Lindbergh Boulevard**		**and any lands located in Nassau County and occupied by license or easement during construction or improved by third parties for the benefit of the Project	
City, town, or village Garden City	State NY	ZIP code 11553	
Enter the date that you were appointed agent or project operator (mm/dd/yy)		Enter the date that agent or project operator status ends (mm/dd/yy)	
		08 / 01 / 2020	

Exempt purchases

(Mark an **X** in boxes that apply)

- A. Tangible personal property or services (other than utility services and motor vehicles or tangible personal property installed in a qualifying motor vehicle) used to complete the project, but not to operate the completed project
- B. Certain utility services (gas, propane in containers of 100 pounds or more, electricity, refrigeration, or steam) used to complete the project, but not to operate the completed project
- C. Motor vehicle or tangible personal property installed in a qualifying motor vehicle

Certification: I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements and issue this exemption certificate with the knowledge that this document provides evidence that state and local sales or use taxes do not apply to a transaction or transactions for which I tendered this document and that willfully issuing this document with the intent to evade any such tax may constitute a felony or other crime under New York State Law, punishable by a substantial fine and a possible jail sentence. I understand that this document is required to be filed with, and delivered to, the vendor as agent for the Tax Department for the purposes of Tax Law section 1838 and is deemed a document required to be filed with the Tax Department for the purpose of prosecution of offenses. I also understand that the Tax Department is authorized to investigate the validity of tax exclusions or exemptions claimed and the accuracy of any information entered on this document.

Signature of purchaser or purchaser's representative (include title and relationship)	Date
Type or print the name, title, and relationship that appear in the signature box	

Instructions

To the purchaser

You may use Form ST-123 if you:

- have been appointed as an agent or project operator by an industrial development agency (IDA) and
- the purchases qualify for exemption from sales and use tax as described in the IDA contract.

You may use Form ST-123 as a single-purchase certificate or as a blanket certificate covering the first and subsequent purchases qualifying for the project listed.

Agent or project operator sales tax ID number — If you are registered with the Tax Department for sales tax purposes, you must enter your sales tax identification number on this certificate. If you are not required to be registered, enter *N/A*.

Industrial development agencies and authorities (IDAs) are public benefit corporations under General Municipal Law Article 18-A and the Public Authorities Law, for the purpose of promoting, developing, encouraging, and assisting in the acquisition, construction, reconstruction, improvement, maintenance, equipping, and furnishing of industrial, manufacturing, warehousing, commercial, research, and recreational facilities in New York State.

IDAs are exempt from the payment of sales and use tax on their purchases, in accordance with Tax Law section 1116(a)(1). However, IDAs do not normally make direct purchases for projects. Commonly, IDAs instead appoint a business enterprise or developer, contractor, or subcontractor as its agent or project operator. Such purchases made by the agent or project operator, acting within the authority granted by the IDA, are deemed to be made by the IDA and therefore exempt from tax.

Example 1: IDA agreement with its agent or project operator states that contractor X may make all purchases of materials and equipment necessary for completion of the project, as agent for the IDA. Contractor X rents a backhoe and a bulldozer for site preparation, purchases concrete and lumber to construct a building, and purchases machinery to be installed in the building. All these purchases by contractor X as agent of the IDA are exempt from tax.

Example 2: IDA agreement with its agent or project operator states that contractor X may make all purchases of materials and equipment to be incorporated into the project, as agent for the IDA. Contractor X makes the same purchases as in Example 1. Since the concrete, lumber, and machinery will actually be incorporated into the project, contractor X may purchase these items exempt from tax. However, rental of the backhoe and bulldozer is not exempt since these transactions are normally taxable and the IDA agreement does not authorize contractor X to make such rentals as agent of the IDA.

A contractor or subcontractor not appointed as agent or project operator of an IDA must present suppliers with Form ST-120.1, *Contractor Exempt Purchase Certificate*, when making purchases that are ordinarily exempt from tax in accordance with Tax Law sections 1115(a)(15) and 1115(a)(16). For more information, see Form ST-120.1.

Exempt purchases

To qualify, the purchases must be made within the authority granted by the IDA and used to complete the project (not to operate the completed project).

- Mark box A to indicate you are purchasing tangible personal property and services (other than utility services and motor vehicles or tangible personal property installed in a qualifying motor vehicle) exempt from tax.
- Mark box B to indicate you are purchasing certain consumer utility services used in completing the project exempt from tax. This includes gas, electricity, refrigeration, and steam; and gas, electric, refrigeration, and steam services.
- Mark box C to indicate you are purchasing a motor vehicle or tangible personal property related to a qualifying motor vehicle exempt from tax.

Misuse of this certificate

Misuse of this exemption certificate may subject you to serious civil and criminal sanctions in addition to the payment of any tax and interest due. These include:

- A penalty equal to 100% of the tax due;
- A \$50 penalty for each fraudulent exemption certificate issued;
- Criminal felony prosecution, punishable by a substantial fine and a possible jail sentence; and
- Revocation of your *Certificate of Authority*, if you are required to be registered as a vendor. See TSB-M-09(17)S, *Amendments that Encourage Compliance with the Tax Law and Enhance the Tax Department's Enforcement Ability*, for more information.

To the seller

When making purchases as agent or project operator of an IDA, the purchaser must provide you with this exemption certificate with all entries completed to establish the right to the exemption. You **must** identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

As a New York State registered vendor, you may accept an exemption certificate in lieu of collecting tax and be protected from liability for the tax if the certificate is valid. The certificate will be considered valid if it is:

- accepted in good faith;
- in your possession within 90 days of the transaction; and
- properly completed (all required entries were made).

An exemption certificate is accepted in good faith when you have no knowledge that the exemption certificate is false or is fraudulently given, and you exercise reasonable ordinary due care. If you do not receive a properly completed certificate within 90 days after the delivery of the property or service, you will share with the purchaser the burden of proving the sale was exempt.

You must also maintain a method of associating an invoice (or other source document) for an exempt sale with the exemption certificate you have on file from the purchaser. You must keep this certificate at least three years after the due date of your sales tax return to which it relates, or the date the return was filed, if later.

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Manager of Document Management, NYS Tax Department, WA Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

Need help?



Visit our Web site at www.tax.ny.gov

- get information and manage your taxes online
- check for new online services and features



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To order forms and publications: (518) 457-5431



Text Telephone (TTY) Hotline
(for persons with hearing and
speech disabilities using a TTY): (518) 485-5082

EXHIBIT C-3

INVOICE RIDER FORM

I, _____, the
_____ of _____ certify that I am
a duly appointed agent of the NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY
(the “Agency”) and that I am purchasing the tangible personal property or services for use in the
following Agency Project and that such purchases qualify as exempt from sales and use taxes
under the Agent and Financial Assistance and Project Agreement, dated as of May 1, 2019, by
and between the Agency and Frequency Electronics, Inc.

Name of the Project:	Frequency Electronics, Inc. 2019 Project
Street address of the Project Site:	55 Charles Lindbergh Boulevard, Mitchel Field, Garden City, Town of Hempstead, Nassau County, New York,
IDA OSC project number:	2803-19-03A

EXHIBIT D

**NYS FORM ST-340 TO BE COMPLETED BY THE COMPANY AND FILED
ANNUALLY WITH THE NYS TAX DEPARTMENT IDA UNIT NO LATER THAN
FEBRUARY 10TH OF EACH YEAR**

[See Attached Page]



Annual Report of Sales and Use Tax Exemptions Claimed by Agent/Project Operator of Industrial Development Agency/Authority (IDA)

For period ending December 31, _____ (enter year)

Project information

Name of IDA agent/project operator Frequency Electronics, Inc. 2019 Project		Employer identification number (EIN) [REDACTED]	
Street address 55 Charles Lindbergh Boulevard		Telephone number (516) 794-4500	
City Garden City		State NY	ZIP code 11553
Name of IDA Nassau County IDA	Name of project Frequency Electronics, Inc. 2019 Project		IDA project number 2803-19-03A
Street address of project site 55 Charles Lindbergh Boulevard **		**and any lands located in Nassau County and occupied by license or easement during construction or improved by third parties for the benefit of the Project	
City Garden City		State NY	ZIP code 11553
Date project began		Completion date of project 080120 Actual <input type="checkbox"/> Expected <input checked="" type="checkbox"/>	
Total sales and use tax exemptions (actual tax savings; not total purchases)			\$ 150,937

Representative information (not required)

Authorized representative, if any	Title
Street address	Telephone number ()
City	State ZIP code

Certification

I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements with the knowledge that willfully providing false or fraudulent information with this document may constitute a felony or other crime under New York State Law, punishable by a substantial fine and possible jail sentence. I also understand that the Tax Department is authorized to investigate the validity of any information entered on this document.

Print name of officer, employee, or authorized representative	Title of person signing
Signature	Date

If you do not annually file a complete report, we may remove your authority to act as an IDA agent/project operator.

Mail completed report to:
NYS TAX DEPARTMENT
IDA UNIT
W A HARRIMAN CAMPUS
ALBANY NY 12227-0866

If not using U.S. Mail, see Publication 55, Designated Private Delivery Services.

Instructions

General information

Who must file

The General Municipal Law (GML) and the Public Authorities Law require the agent/project operator (also known as the *project occupant*) of an Industrial Development Agency or Authority (IDA) to file an annual report with the Tax Department. The agent/project operator required to file this report is the person **directly** appointed by the IDA to act for and to represent the IDA for the project. The agent/project operator is ordinarily the one for whom the IDA project was created.

There is usually only one agent/project operator directly appointed by the IDA for an IDA project. However, if the IDA directly appoints multiple agents/project operators, each agent/project operator must file this form (unless they are related corporations).

Only the agent/project operators directly appointed by the IDA must file Form ST-340. Contractors, subcontractors, consultants, or agents appointed by the agent/project operators should **not** themselves file Form ST-340. However, the agent/project operators must include on Form ST-340 information obtained from such contractors, subcontractors, consultants, and agents, as described below.

What you must report

The report must show the **total value** of all state and local **sales and use taxes exempted** during the calendar year, as a result of the project's designation as an IDA project. This includes:

- the value of the exemptions the agent/project operator (you) obtained; and
- the value of the exemptions obtained by your contractors, subcontractors, consultants, and others, whether or not appointed as agents of the IDA.

Include only the **total combined** exemptions obtained by the above people. A breakdown of the total is not required. However, since the report must include the value of the exemptions they obtained, you must keep records of the amounts others report to you.

You must make it clear to the contractors, subcontractors, consultants, and others that they must keep accurate tax information and have it available, so that you can comply with the annual reporting requirements.

Do not include on this report the amount of any sales and use tax exemptions from other provisions of the Tax Law (for example, manufacturer's production equipment exemption, research and development exemption, or contractor's exemption for tangible personal property incorporated into a project of an exempt organization).

When the report is due

You must file Form ST-340 on a calendar-year basis. It is due by the last day of February of the following year. The reporting requirement applies to IDA projects started on or after July 21, 1993.

Project information

At the top of the form, identify the reporting period by entering the year in the space provided. If an address is required, always include the ZIP code.

Name of IDA agent/project operator: Enter your name, address, employer identification number (EIN), and telephone number.

Name of IDA and IDA project number: Enter the name and address of the IDA. If more than one IDA is involved in a particular project, you must file a separate report for the tax exemptions attributable to each IDA. Also enter the ID project number.

Name of project: Enter the name of the project and the address of the project site. If you are involved in more than one project, you

must file a separate report for each project, even if authorized by the same IDA.

Date project began: Enter the date the project started (this means the earliest of the date of any bond or inducement resolution, the execution of any lease, or any bond issuance). Include month, day, and year.

Completion date of project: Enter the date installation, lease, or rental of property (for example, machinery or computers) on the project ended, or the date the project is expected to be completed. Mark an **X** in the appropriate box to indicate if the date entered is actual or expected.

Total sales and use tax exemptions: Enter the total amount of New York State and local sales and use taxes exempted during the reporting period as a result of the project's receipt of IDA financial assistance (*if none, enter 0*). This includes exemptions obtained at the time of purchase, as well as through a refund or credit of tax paid. Include the sales and use taxes exempted on purchases of property or services incorporated into or used on the exempt project. This includes the taxes exempted on purchases made by or on behalf of the agent/project operator, the general contractor for the project, and any subcontractors, consultants, or others. Do **not** enter total purchases.

Representative information

If applicable, enter the name, address, title (for example, attorney or accountant), and telephone number of the individual you authorize to submit this report. This section is not required.

Certification

Enter the name and title of the person signing on your behalf (for example, the IDA agent/project operator's officer, employee, or other authorized representative). Your officer, employee, or authorized representative must sign and date the report.

Mail completed report to:

**NYS TAX DEPARTMENT
IDA UNIT
W A HARRIMAN CAMPUS
ALBANY NY 12227-0866**

If not using U.S. Mail, see Publication 55, *Designated Private Delivery Services*.

Need help?



Visit our website at **www.tax.ny.gov**

- get information and manage your taxes online
- check for new online services and features

Telephone assistance

Sales Tax Information Center:	518-485-2889
To order forms and publications:	518-457-5431
Text Telephone (TTY) or TDD equipment users	Dial 7-1-1 for the New York Relay Service

Privacy notification

New York State Law requires all government agencies that maintain a system of records to provide notification of the legal authority for any request for personal information, the principal purpose(s) for which the information is to be collected, and where it will be maintained. To view this information, visit our website, or, if you do not have Internet access, call and request Publication 54, *Privacy Notification*. See *Need help?* for the Web address and telephone number.

EXHIBIT E

FORM OF ANNUAL EMPLOYMENT AND
FINANCIAL ASSISTANCE CERTIFICATION LETTER

Company name and address:

Project Name: [_____]

Job Information

Current number of full-time equivalent employees (“FTE”) retained at the project location, including FTE contractors or employees of independent contractors that work at the project location, by job category:

Category	FTE	Average Salary and Fringe Benefits or Ranges
Management	_____	_____
Professional	_____	_____
Administrative	_____	_____
Production	_____	_____
Other	_____	_____
Other	_____	_____

Current number of full-time equivalent employees (“FTE”) created at the project location, including FTE contractors or employees of independent contractors that work at the project location, by job category:

Category	FTE	Average Salary and Fringe Benefits or Ranges
Management	_____	_____
Professional	_____	_____
Administrative	_____	_____
Production	_____	_____
Other	_____	_____
Other	_____	_____

A copy of the NYS 45 form for the project location is required to be submitted with this report. If the NYS 45 form is not available for the specific project location or the form does not accurately reflect the full time jobs created, an internal payroll report verifying the total jobs by employment category as outlined above at the location is required with this submission.

Financing Information

Has the Agency provided project financing assistance (generally through issuance of a bond or note) Yes No

If financing assistance was provided, please provide:

• Original principal balance of bond or note issued \$ _____

• Outstanding principal balance of such bond or note
as of December 31 \$ _____

• Outstanding principal balance of such bond or note
as of December 31 \$ _____

Final maturity date of the bond or note _____

Sales Tax Abatement Information

Did your Company or any appointed subagents receive Sales Tax Abatement for your Project During the prior year? Yes No

If so, please provide the amount of sales tax savings received by the Company and all appointed subagents \$ _____

(Attach copies of all ST-340 sales tax reports that were submitted to New York State by the Company and all subagents for the reporting period. Please also attached all ST-60's filed for subagents for the reporting period)

Mortgage Recording Tax Information

Did your company receive Mortgage Tax Abatement on your Project during the prior year? Yes No

(note this would only be applicable to the year that a mortgage was placed upon the Project, so if the Agency did not close a mortgage with you during the reporting period, the answer should be no)

The amount of the mortgage recording tax that was exempted during the reporting period: \$ _____

PILOT INFORMATION:

County Real Property Tax without PILOT \$ _____

City/Town Property Tax without PILOT \$ _____

School Property Tax without PILOT \$ _____

TOTAL PROPERTY TAXES WITHOUT PILOT \$ _____

Total PILOT Payments made for reporting period: \$ _____

Whether paid separately or lump sum to Agency for distribution, please provide break down of allocation of PILOT Payment to individual taxing jurisdictions:

County PILOT	\$ _____
City/Town PILOT	\$ _____
Village PILOT	\$ _____
School PILOT	\$ _____
TOTAL PILOTS	\$ _____
Net Exemptions	\$ _____
(subtract Total PILOTS from TOTAL property taxes without PILOT)	

I certify that to the best of my knowledge and belief all of the information on this form is correct. I further certify that the salary and fringe benefit averages or ranges for the categories of jobs retained and the jobs created that was provided in the Application for Financial Assistance is still accurate and if not, I hereby attach a revised list of salary and fringe benefit averages or ranges for categories of jobs retained and jobs created. I also understand that failure to report completely and accurately may result in enforcement of provisions of my agreement, including but not limited to voidance of the agreement and potential claw back of benefits.

Signed: _____

Name: _____

Title: _____
(authorized Company representative)

Date: _____