

**FIRST AMENDMENT TO  
PROJECT AGREEMENT**

THIS FIRST AMENDMENT TO PROJECT AGREEMENT (hereinafter, this "Amendment"), made as of December 16, 2022, by and between the **TOMPKINS COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation duly existing under the laws of the State of New York with offices at 119 E. Seneca Street, Suite 200, Ithaca, New York 14850 (the "Agency") and **KNICKERBOCKER BED COMPANY**, a New Jersey corporation, having its offices at 770 Commercial Avenue, Carlstadt, New Jersey 07072 (the "Company").

WITNESSETH:

WHEREAS, the Agency and Company previously entered into a certain Project Agreement, dated as of December 23, 2021 (the "Original Project Agreement") in connection with a certain Project (as defined within the Original Project Agreement); and

WHEREAS, the Company, pursuant to correspondence dated November 14, 2022, requested that the Agency: (1) increase the authorized sales and use tax exemption amount to \$350,000.00 and (2) extend the Termination Date (as defined in the Original Project Agreement) to December 31, 2023; and

WHEREAS, the Agency and Company desire to amend the Original Project Agreement to document same pursuant to an in accordance with the terms hereof.

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:

1. Section 4.3(b) of the Original Project Agreement shall be replaced in its entirety and shall read as follows:

(b) The Company, as agent of the Agency, will undertake the Project. The Company hereby agrees to limit its activities as agent of the Agency under the authority of the Resolution to acts reasonably related to the acquisition, construction, rehabilitation 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 of the Project, or (y) **December 31, 2023** ("Termination Date"); provided, however, that the Agency, through its Administrative Director, 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.

2. The definition of "Maximum Sales Tax Exemption" in Schedule A to the Original Project Agreement shall be replaced in its entirety and shall read as follows:

**"Maximum Sales Tax Exemption"** shall mean the aggregate maximum dollar amount of Sales Tax Savings that the Company and all Subagents acting on behalf of the Company

are permitted to receive under this Project Agreement, which shall equal **\$350,000.00** 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.


3. All other provisions of the Original Project Agreement shall remain unchanged and in full force and effect in accordance with the terms thereof.
4. This Amendment may be executed in any number of counterparts each of which shall be deemed an original but which together shall constitute a single instrument.

*(Remainder of page intentionally left blank)*

*[Signature Page to First Amendment to Project Agreement]*

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

TOMPKINS COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By:   
Name: Heather McDaniel  
Title: Administrative Director

KNICKERBOCKER BED COMPANY

By: \_\_\_\_\_  
Name: Richard Polevoy  
Title: President

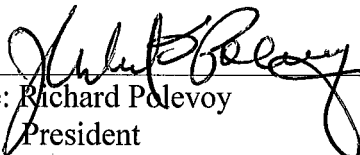
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TOMPKINS COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By: \_\_\_\_\_  
Name: Heather McDaniel  
Title: Administrative Director

KNICKERBOCKER BED COMPANY

By:  \_\_\_\_\_  
Name: Richard Polevoy  
Title: President



Department of Taxation and Finance

AMENDED

# IDA Appointment of Project Operator or Agent For Sales Tax Purposes

# ST-60

(1/18)

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 <b>Tompkins County IDA</b>		IDA project number (use OSC numbering system for projects after 1998) <b>5003-21-08A</b>	
Street address <b>410 E. State Street / E MLK Jr Street, Ste 402B</b>		Telephone number <b>(607) 273-0005</b>	
City <b>Ithaca</b>	State <b>NY</b>	ZIP code <b>14850</b>	Email address (optional) <b>info@tcad.org</b>

### Project operator or agent information

Name of IDA project operator or agent		Mark an X in the box if directly appointed by the IDA: <b>N/A</b> <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) <b>N/A</b>

### Project information

Name of project <b>Knickerbocker Bed Company Project</b>			
Street address of project site <b>17 Hall Road**</b>		<b>**and any lands located in Tompkins County and occupied by license or easement during construction or improved by third parties for the benefit of the Project</b>	
City <b>Town of Dryden</b>	State <b>NY</b>	ZIP code <b>14850</b>	Email address (optional) <b>N/A</b>
Purpose of project (i) the acquisition by the Agency of a leasehold or other interest in approximately 23.09 acres of real property located at 17 Hall Road, Town of Dryden, New York, Tompkins County, New York (the "Land", being more particularly described as tax parcel No. 52.-1-4.32) including the existing improvements located thereon consisting principally of an approximately 220,000 square foot building (the "Existing Improvements"), (ii) the planning, design, reconstruction and renovation of the Existing Improvements, including, but not limited to, certain lighting and HVAC upgrades, site improvements, parking lots, access and egress improvements, signage, curbage, sidewalks, landscaping and stormwater retention improvements, for operation of a manufacturing facility (collectively, the "Improvements")			

Description of goods and services intended to be exempted from New York State and local sales and use taxes <b>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.</b>			
Date project operator or agent appointed (mmddyy)	Date project operator or agent status ends (mmddyy)	<b>123123</b>	Mark an X in the box if this is an extension to an original project: <input checked="" type="checkbox"/>
Estimated value of goods and services that will be exempt from New York State and local sales and use tax:	<b>\$4,375,000</b>	Estimated value of New York State and local sales and use tax exemption provided:	<b>\$350,000</b>
	<b>all agents; all in</b>		<b>all agents; all in</b>

**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 to investigate the validity of any information entered on this document.

Print name of officer or employee signing on behalf of the IDA <b>Heather McDaniel</b>		Print title <b>Administrative Director</b>	
Signature 	Date <b>12/16/2022</b>	Telephone number <b>(607) 273-0005</b>	



# IDA Appointment of Project Operator or Agent For Sales Tax Purposes

# ST-60

(1/18)

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.

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### IDA information

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Street address <b>410 E. State Street / E MLK Jr Street, Ste 402B</b>			Telephone number <b>(607) 273-0005</b>
City <b>Ithaca</b>	State <b>NY</b>	ZIP code <b>14850</b>	Email address (optional) <b>info@tcad.org</b>

### Project operator or agent information

Name of IDA project operator or agent		Mark an X in the box if directly appointed by the IDA: <b>N/A</b> <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) <b>N/A</b>

### Project information

Name of project <b>Knickerbocker Bed Company Project</b>			
Street address of project site <b>17 Hall Road**</b>		<b>**and any lands located in Tompkins County and occupied by license or easement during construction or improved by third parties for the benefit of the Project</b>	
City <b>Town of Dryden</b>	State <b>NY</b>	ZIP code <b>14850</b>	Email address (optional) <b>N/A</b>
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Description of goods and services intended to be exempted from New York State and local sales and use taxes <b>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.</b>			
Date project operator or agent appointed (mmddyy)	Date project operator or agent status ends (mmddyy)	<b>123123</b>	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: <b>\$4,375,000</b> all agents; all in		Estimated value of New York State and local sales and use tax exemption provided: <b>\$350,000</b> all agents; all in	

**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 <b>Heather McDaniel</b>		Print title <b>Administrative Director</b>	
Signature 		Date <b>12/16/2022</b>	Telephone number <b>(607) 273-0005</b>



New York State Department of Taxation and Finance

New York State Sales and Use Tax

# IDA Agent or Project Operator

## Exempt Purchase Certificate

Effective for projects beginning on or after June 1, 2014

# ST-123

(2/14)

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 Knickerbocker Bed Company		
Street address			Street address 770 Commercial Avenue		
City, town, or village	State	ZIP code	City, town, or village	State	ZIP code
			Carlstadt	NJ	07072
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 Tompkins County IDA		
Name of project Knickerbocker Bed Company Project	IDA project number (use OSC number) 5003-21-08A	
Street address of project site 17 Hall Road**	**and any lands located in the Tompkins County and occupied by license or easement during construction or improved by third parties for the benefit of the Project	
City, town, or village Town of Dryden	State NY	ZIP code 14850
Enter the date that you were appointed agent or project operator (mm/dd/yy) ..... 12 / 23 / 21	Enter the date that agent or project operator status ends (mm/dd/yy) ..... 12 / 31 / 23	

### 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, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

### Need help?



Visit our Web site at [www.tax.ny.gov](http://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





New York State Department of Taxation and Finance

New York State Sales and Use Tax

# IDA Agent or Project Operator

## Exempt Purchase Certificate

Effective for projects beginning on or after June 1, 2014

# ST-123

(2/14)

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:

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Name of project <b>Knickerbocker Bed Company Project</b>	IDA project number (use OSC number) <b>5003-21-08A</b>	
Street address of project site <b>17 Hall Road**</b>	<b>**and any lands located in the Tompkins County and occupied by license or easement during construction or improved by third parties for the benefit of the Project</b>	
City, town, or village <b>Town of Dryden</b>	State <b>NY</b>	ZIP code <b>14850</b>
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) .....	<b>12</b>	<b>/ 31 / 23</b>

### Exempt purchases

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

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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.

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

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### Need help?



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- 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



New York State Department of Taxation and Finance  
**New York State Taxes on Fuel (Articles 12-A, 13-A, 28, and 29)**  
**IDA Agent or Project Operator**  
**Exempt Purchase Certificate for Fuel**

**FT-123**  
(10/14)

This certificate is not valid unless all entries have been completed.  
 To be completed by the purchaser and given to the seller.

Name of seller			Name of agent or project operator <b>Knickerbocker Bed Company</b>		
Street address			Street address <b>770 Commercial Avenue</b>		
City, town, or village	State	ZIP code	City, town, or village	State	ZIP code
			<b>Carlstadt</b>	<b>NJ</b>	<b>07072</b>
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 fuel for use in the following IDA project and that such purchases qualify as exempt from excise taxes and sales and use taxes under my agreement with the IDA.

Name of IDA <b>Tompkins County IDA</b>		
Name of project <b>Knickerbocker Bed Company Project</b>		IDA project number (use OSC number) <b>5003-21-08A</b>
Street address of project site <b>17 Hall Road**</b>		
<b>**and any lands located in the Tompkins County and occupied by license or easement during construction or improved by third parties for the benefit of the Project.</b>		
City, town, or village <b>Town of Dryden</b>	State <b>NY</b>	ZIP code <b>14850</b>
Enter the date that you were appointed agent or project operator (mm/dd/yy) ..... <b>12 / 23 / 21</b>		Enter the date that agent or project operator status ends (mm/dd/yy) ..... <b>12 / 31 / 23</b>

**Exempt purchases** – Only fuel or residual petroleum product used to **complete** the project may be purchased by IDA agents or project operators exempt from the fuel excise tax, petroleum business tax, and sales and use tax. Fuel or residual petroleum product used to **operate** a business after the project is completed does not qualify for this exemption (see instructions).

Mark an X in boxes that apply:

- A. Motor fuel  C. Non-highway diesel motor fuel  
 B. Highway diesel motor fuel  D. Residual petroleum product

**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 excise taxes and 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 FT-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 excise taxes and sales and use tax as described in the IDA contract.

You may use Form FT-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. However, IDAs do not normally make direct purchases for projects. Commonly, an IDA instead appoints 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. Purchases made by an agent or project operator to operate a business after the project is completed are subject to tax.

**Example:** *An IDA agreement with its agent, Contractor X, 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 purchases non-highway diesel motor fuel for use in construction equipment that will be used to prepare the site for construction. Since the fuel is being used to complete the project, Contractor X may purchase the fuel exempt from taxes.*

*When the project is completed, Contractor X purchases motor fuel and highway diesel motor fuel for use in snowplows and other maintenance vehicles used to maintain the parking lots for the business. Contractor X may not purchase this fuel exempt from tax because it is being used to operate, not to complete, the project.*

### Exempt purchases

To qualify for exemption, the purchases must be made within the authority granted by the IDA and used to **complete** the project, but not to **operate** the completed project.

**Box A – Motor fuel** is gasoline, benzol, reformulated blend stock for oxygenate blending, conventional blend stock for oxygenate blending, E85, fuel grade ethanol that meets the ASTM International active standards specification D4806 or D4814, or other product which is suitable for use in the operation of a motor vehicle engine. If you are purchasing motor fuel exempt from tax, mark this box.

**Box B – Highway diesel motor fuel** is any diesel motor fuel that is **not** non-highway diesel motor fuel. If you are purchasing highway diesel motor fuel exempt from tax, mark this box.

**Box C – Non-highway diesel motor fuel** is any diesel motor fuel designated for use other than on a public highway, and is dyed diesel motor fuel. If you are purchasing non-highway diesel motor fuel exempt from tax, mark this box.

**Diesel motor fuel** is No. 1 diesel fuel, No. 2 diesel fuel, biodiesel, kerosene, fuel oil, or other middle distillate, and also motor fuel suitable for operating a diesel engine. Diesel motor fuel does not include any product specifically designated "No. 4 diesel fuel."

**Box D – Residual petroleum product** means the topped crude of refinery operations, including No. 5 fuel oil, No. 6 fuel oil, bunker C, and the special grade of diesel product designated as No. 4 diesel fuel, that is not suitable for use in the operation of a motor vehicle engine. If you are purchasing residual petroleum product exempt from tax, mark this box.

### 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

New York State Law requires all government agencies that maintain a system of records to provide notification of the legal authority for any request, the principal purpose(s) for which the information is to be collected, and where it will be maintained. To view this information, visit our Web site, 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 Web site at [www.tax.ny.gov](http://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



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# FT-123

(10/14)

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

To be completed by the purchaser and given to the seller.

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)

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Name of IDA Tompkins County IDA		
Name of project Knickerbocker Bed Company Project		IDA project number (use OSC number) 5003-21-08A
Street address of project site                      **and any lands located in the Tompkins County and occupied by license or easement during construction or improved by third parties for the benefit of the Project. 17 Hall Road**		
City, town, or village Town of Dryden	State NY	ZIP code 14850
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) ..... 12 / 31 / 23

**Exempt purchases** – Only fuel or residual petroleum product used to **complete** the project may be purchased by IDA agents or project operators exempt from the fuel excise tax, petroleum business tax, and sales and use tax. Fuel or residual petroleum product used to **operate** a business after the project is completed does not qualify for this exemption (see instructions).

Mark an **X** in boxes that apply:

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- B. Highway diesel motor fuel
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