

# CITY OF GENEVA INDUSTRIAL DEVELOPMENT AGENCY

## APPLICATION FOR FINANCIAL ASSISTANCE

Guardian Industries Corp.  
(Applicant Name)

**Mathew Horn**  
**Executive Director**  
47 Castle Street  
Geneva, NY 14456  
Phone: 315-789-4393 Fax: 315-789-4294  
<http://visitgenevany.com/do-business/industrial-development-agency>

# CITY OF GENEVA INDUSTRIAL DEVELOPMENT AGENCY

## APPLICATION FOR FINANCIAL ASSISTANCE

### I. APPLICANT INFORMATION

Company Name: Guardian Industries Corp.  
Mailing Address: 2300 Harmon Rd, Auburn Hills, MI 48326  
Phone No.: 248-340-2272  
Fax No.: 248-758-6112  
Fed Id. No.: 38-0614230  
Contact Person: Katherine Castillo

Principal Owners/Officers/Directors (list owners with 15% or more in equity holdings with percentage ownership):

Guardian Industries Corp. is an indirect, wholly owned subsidiary of Koch Industries.

Corporate Structure (attach schematic if applicant is a subsidiary or otherwise affiliated with another entity)

### Form of Entity

Corporation

Date of Incorporation: 4-10-1968

State of Incorporation: Delaware

Partnership

General \_\_\_\_\_ or Limited \_\_\_\_\_

Number of general partners \_\_\_\_\_

If applicable, number of limited partners \_\_\_\_\_

Date of formation \_\_\_\_\_

Jurisdiction of Formation \_\_\_\_\_

Limited Liability Company/Partnership (number of members \_\_\_\_\_)

Date of organization: \_\_\_\_\_

State of Organization: \_\_\_\_\_

Sole Proprietorship

If a foreign organization, is the applicant authorized to do business in the State of New York?

Yes

If any of the above persons, or a group of them, owns more than a 50% interest in the company, list all other organizations which are related to the company by virtue of such persons having more than a 50% interest in such organizations.

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Is the company related to any other organization by reason of more than 50% common ownership? If so, indicate name of related organization and relationship.

Visit [www.Kochind.com](http://www.Kochind.com)

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Has the company (or any related corporation or person) made a public offering or private placement of its stock within the last year? If so, please provide offering statement used.

No offering, but ownership changed Feb. 1, 2017.

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APPLICANT'S COUNSEL

Name: Gina Capva

Address: 2300 Harmon Rd, Auburn Hills, MI 48326

Phone No.: 248-340-2017

Fax No.: 248-758-6112

II. PROJECT INFORMATION

A) Project Address: 50 Forge Avenue, Geneva, NY

Tax Map Number 91.13-1-2.2, 90.12-3-1.111  
(Section/Block/Lot)

Located in City of Geneva

Located in Town of \_\_\_\_\_

Located in Village of \_\_\_\_\_

School District of \_\_\_\_\_

B) Are utilities on site?

Water ✓  
Gas ✓

Electric ✓  
Sanitary/Storm Sewer ✓

C) Present legal owner of the site City of Geneva Industrial Development Agency  
If other than from applicant, by what means will the site be acquired for this project? \_\_\_\_\_

D) Zoning of Project Site: Current: \_\_\_\_\_ Proposed: \_\_\_\_\_

E) Are any variances needed? \_\_\_\_\_

F) Furnish a copy of any environmental application presently in process of completion concerning this project, providing name and address of the agency, and copy all pending or completed documentation and determinations.

G) Statement describing project (i.e. land acquisition, construction of manufacturing facility, etc.):

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H) Principal use of project upon completion:

<input checked="" type="checkbox"/> manufacturing	<input type="checkbox"/> warehousing	<input type="checkbox"/> research	<input type="checkbox"/> offices
<input type="checkbox"/> industrial	<input type="checkbox"/> recreation	<input type="checkbox"/> retail	<input type="checkbox"/> residential
<input type="checkbox"/> training	<input type="checkbox"/> data process	<input type="checkbox"/> other	

If other, explain: \_\_\_\_\_

I) Estimated Project Costs, including:

Value of property to be acquired: \$ \_\_\_\_\_

Value of improvements: \$ \_\_\_\_\_

Value of equipment to be purchased: \$ 60,000,000

Estimated cost of engineering/architectural services: \$ \_\_\_\_\_

Other: \$ \_\_\_\_\_

Total Capital Costs: \$ 60,000,000

Project refinancing; estimated amount  
(for refinancing of existing debt only) \$ \_\_\_\_\_

*Sources of Funds for Project Costs:*

Bank Financing: \$ \_\_\_\_\_

Equity (excluding equity that is attributed to grants/tax credits) \$ 60,000,000

Tax Exempt Bond Issuance (if applicable) \$ \_\_\_\_\_

Taxable Bond Issuance (if applicable) \$ \_\_\_\_\_

Public Sources (Include sum total of all state and federal grants and tax credits) \$ \_\_\_\_\_

Identify each state and federal grant/credit:

\_\_\_\_\_ \$ \_\_\_\_\_  
\_\_\_\_\_ \$ \_\_\_\_\_  
\_\_\_\_\_ \$ \_\_\_\_\_  
\_\_\_\_\_ \$ \_\_\_\_\_  
\_\_\_\_\_ \$ \_\_\_\_\_

Total Sources of Funds for Project Costs: \$ 60,000,000

J) Inter-Municipal Move Determination

Will the project result in the removal of a plant or facility of the applicant from one area of the State of New York to another?

Yes or  No

Will the project result in the removal of a plant or facility of another proposed occupant of the project from one area of the State of New York to another area of the State of New York?

Yes or  No

Will the project result in the abandonment of one or more plants or facilities located in the State of New York?

Yes or  No

If Yes to any of the questions above, explain how, notwithstanding the aforementioned closing or activity reduction, the Agency's Financial Assistance is required to prevent the Project from relocating out of the State, or is reasonably necessary to preserve the Project occupant's competitive position in its respective industry:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Project Data

1. Project site (land)

(a) Indicate approximate size (in acres or square feet) of project site.

76 ± acres

(b) Are there buildings now on the project site? X Yes \_\_\_\_\_ No

(c) Indicate the present use of the project site.

Glass Manufacturing

(d) Indicate relationship to present user of project.

Guardian is the present user of the project.

2. Does the project involve acquisition of an existing building or buildings? If yes, indicate number, size and approximate age of buildings:

No

3. Does the project consist of the construction of a new building or buildings? If yes, indicate number and size of new buildings:

No

4. Does the project consist of additions and/or renovations to existing buildings? If yes, indicate nature of expansion and/or renovation:

No

5. What will the building or buildings to be acquired, constructed or expanded be used for by the company? (Include description of products to be manufactured, assembled or processed, and services to be rendered. . .

N/A

. . . including the percentage of building(s) to be used for office space and an estimate of the percentage of the functions to be performed at such office not related to the day-to-day operations of the facilities being financed.)

6. If any space in the project is to be leased to third parties, indicate total square footage of the project amount to be leased to each tenant and proposed use by each tenant.

N/A

7. List principal items or categories of equipment to be acquired as part of the project.

Repair / replacement / restoration of glass  
manufacturing, including furnace components

8. Has construction work on this project begun?

Complete the following

(a) site clearance	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> % complete
(b) foundation	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> % complete
(c) footings	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> % complete
(d) steel	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> % complete
(e) masonry work	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> % complete
(f) other (describe below)	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> % complete

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III. FINANCIAL ASSISTANCE REQUESTED

A) Benefits Requested:

Sales Tax Exemption  IRB  MRT Exemption  Real Property Agreement

B.) Value of Incentives:

IDA PILOT Benefit: Agency staff will indicate the amount of PILOT Benefit based on estimated Project Costs as contained herein and anticipated tax rates and assessed valuation, including the annual PILOT Benefit abatement amount for each year of the PILOT benefit year and the sum total of PILOT Benefit abatement amount for the term of the PILOT as depicted under the heading "Real Property Tax Benefit (Detailed)" of the Application.

Estimated duration of Property Tax exemption: extend existing agreement by 12 years to 2035

Sales and Use Tax:

Estimated value of Sales Tax exemption for facility construction: \$ 0

Estimated Sales Tax exemption for fixtures and equipment: \$ 0 (also manufacturing exempt)

Estimated duration of Sales Tax exemption: extend existing agreement to 2035

Mortgage Recording Tax Exemption Benefit:

Estimated value of Mortgage Recording Tax exemption: \$ \_\_\_\_\_

IRB Benefit:

IRB inducement amount, if requested: \$ \_\_\_\_\_

Is a purchaser for the Bonds in place?

Yes or  No

Percentage of Project Costs financed from Public Sector sources:

Agency staff will calculate the percentage of Project Costs financed from Public Sector sources based upon Sources of Funds for Project Costs as depicted above under the heading "Estimated Project Costs" (Section II(I)) of the Application.

C.) Likelihood of Undertaking Project without Receiving Financial Assistance

Please confirm by checking the box, below, if there is likelihood that the Project would not be undertaken but for the Financial Assistance provided by the Agency?

Yes or  No

If the Project could be undertaken without Financial Assistance provided by the Agency, then provide a statement in the space provided below indicating why the Project should be undertaken by the Agency:

*The project represents a major, long term commitment by the company to quality manufacturing jobs in the community. Financial support is requested to achieve the greatest opportunities for future growth at this location.*

IV. EMPLOYMENT PLAN – *Not Applicable*

	Current # of jobs at proposed project location or to be relocated to project location	IF FINANCIAL ASSISTANCE IS GRANTED – project the number of FTE and PTE jobs to be RETAINED	IF FINANCIAL ASSISTANCE IS GRANTED – project the number of FTE and PTE jobs to be CREATED upon THREE Years after Project completion	Estimate number of residents of the Labor Market Area in which the Project is located that will fill the FTE and PTE jobs to be created upon THREE Years after Project Completion **
Full time (FTE)				
Part Time (PTE)				
Total				

\*\* For purposes of this question, please estimate the number of FTE and PTE jobs that will be filled, as indicated in the third column, by residents of the Labor Marker Area, in the fourth column. The Labor Marker Area includes [ ] (or six other contiguous counties, including Ontario County, chosen at the Agency's discretion).

Salary and Fringe Benefits for Jobs to be Retained and/or Created:

Category of Jobs to be Retained and Created	Average Salary or Range of Salary	Average Fringe Benefits or Range of Fringe Benefits
Management		
Professional		
Administrative		
Production		
Independent Contractor		
Other		

III. REPRESENTATIONS BY THE APPLICANT

The Applicant understands and agrees with the Agency as follows:

- A. Job Listings In accordance with Section 858-b(2) of the New York General Municipal Law, the applicant understands and agrees that, if the proposed project receives any Financial Assistance from the Agency, except as otherwise provided by collective bargaining agreements, new employment opportunities created as a result of the proposed project must be listed with the New York State Department of Labor Community Services Division (the "DOL") and with the administrative entity (collectively with the DOL, the "JTPA Entitle") of the service delivery area created by the federal job training partnership act (Public Law 97-300) ("JPTA") in which the project is located.
- B. First Consideration for Employment In accordance with Section 858-b(2) of the General Municipal Law, the applicant understands and agrees that, if the proposed project receives any Financial Assistance from the Agency, except as otherwise provided by collective bargaining agreements, where practicable, the applicant must first consider persons eligible to participate in JTPA programs who shall be referred by the JPTA Entities for new employment opportunities created as a result of the proposed project.
- C. A liability and contract liability policy for a minimum of three million dollars will be furnished by the Applicant insuring the Agency.
- D. Annual Sales Tax Filings In accordance with Section 874(8) of the General Municipal Law, the Applicant understands and agrees that, if the proposed project receives any sales tax exemptions as part of the Financial Assistance from the Agency, in accordance with Section 874(8) of the General Municipal Law, the applicant agrees to file, or cause to be filed, with the New York State Department of Taxation and Finance, the annual form prescribed by the Department of Taxation and Finance, describing the value of all sales tax exemptions claimed by the applicant and all consultants or subcontractors retained by the Applicant.

E. Annual Employment Reports The applicant understands and agrees that, if the proposed project receives any Financial Assistance from the Agency, the applicant agrees to file, or cause to be filed, with the Agency, on an annual basis, reports regarding the number of people employed at the project site.

F. Compliance with N.Y. GML Sec. 862(1): Applicant understands and agrees that the provisions of Section 862(1) of the New York General Municipal Law, as provided below, will not be violated if Financial Assistance is provided for the proposed Project:

§ 862. Restrictions on funds of the agency. (1) No funds of the agency shall be used in respect of any project if the completion thereof would result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, provided, however, that neither restriction shall apply if the agency shall determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry.

G. Compliance with Applicable Laws: The Applicant confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the proposed Project is in substantial compliance with applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.

H. False and Misleading Information: The Applicant confirms and acknowledges that the submission of any knowingly false or knowingly misleading information may lead to the immediate termination of any Financial Assistance and the reimbursement of an amount equal to all or part of any tax exemption claimed by reason of the Agency's involvement the Project.

I. Recapture: Should the Applicant not expend or hire as presented, the Agency may view such information/status as failing to meet the established standards of economic performance. In such events, some or all of the benefits taken by the Applicant will be subject to recapture.

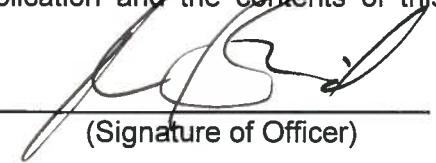
J. Absence of Conflicts of Interest The applicant has received from the Agency a list of the members, officers, and employees of the Agency. No member, officers or employee of the Agency has an interest, whether direct or indirect, in any transaction contemplated by this Application, except as herein described.

The Applicant and the individual executing this Application on behalf of applicant acknowledge that the Agency and its counsel will rely on the representations made in this Application when acting hereon and hereby represents that the statements made herein do not contain any untrue statement of a material fact and do not omit to state a material fact necessary to make the statements contained herein not misleading.

Michigan  
STATE OF NEW YORK  
COUNTY OF ONTARIO (Oakland) ss.:

Kevin Baird, being first duly sworn, deposes and says:

1. That I am the President-Glass (Corporate Office) of Guardian Industries Corp. (Applicant) and that I am duly authorized on behalf of the Applicant to bind the Applicant.
2. That I have read the attached Application, I know the contents thereof, and that to the best of my knowledge and belief, this Application and the contents of this Application are true, accurate and complete.

  
(Signature of Officer)

Subscribed and affirmed to me under penalties of perjury  
this 6th day of February, 2017

Joy B. Horne  
(Notary Public)

JOY B. HORNE  
Notary Public, State of Michigan  
County of Oakland  
My Commission Expires Aug. 06, 2019  
Acting in the County of Oakland

This Application should be submitted to the City of Geneva Industrial Development Agency, c/o Frank Cecere, Chairman, 47 Castle Street, Geneva, NY 14456.

The Agency will collect an administrative fee at the time of closing.  
**SEE ATTACHED FEE SCHEDULE**

Bond Counsel  
RUSSELL GAENZLE, ESQ.  
Harris Beach PLLC  
99 Garnsey Road  
Pittsford, New York 14534  
Tel: (585) 419-8633  
Fax: (585) 419-8817

Attach copies of preliminary plans or sketches of proposed construction or rehabilitation or both.

**Attach the following Financial Information of the Company**

1. Financial statements for last two fiscal years (unless included in company's Annual Reports).
2. Company's annual reports (or Form 10-K's) for the two most recent fiscal years.
3. Quarterly reports (Form 10Q's) and current reports (Form 8-K's) since the most recent Annual Report, if any.
4. In addition, please attach the financial information described above in items 1, 2 and 3 of any expected Guarantor of the proposed bond issue, if different from the company.

## HOLD HARMLESS AGREEMENT

Applicant hereby releases the CITY OF GENEVA INDUSTRIAL DEVELOPMENT AGENCY and the members, officers, servants, agents and employees thereof (the "Agency") from, agrees that the Agency shall not be liable for and agrees to indemnify, defend and hold the Agency harmless from and against any and all liability arising from or expense incurred by (A) the Agency's examination and processing of, and action pursuant to or upon, the attached Application, regardless of whether or not the Application or the Project described therein or the tax exemptions and other assistance requested therein are favorably acted upon by the Agency, (B) the Agency's acquisition, construction and/or installation of the Project described therein and (C) any further action taken by the Agency with respect to the Project; including without limiting the generality of the foregoing, all causes of action and attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. If, for any reason, the Applicant fails to conclude or consummate necessary negotiations, or fails, within a reasonable or specified period of time, to take reasonable, proper or requested action, or withdraws, abandons, cancels or neglects the Application, or if the Agency or the Applicant are unable to reach final agreement with respect to the Project, then, and in the event, upon presentation of an invoice itemizing the same, the Applicant shall pay to the Agency, its agents or assigns, all costs incurred by the Agency in processing of the Application, including attorneys' fees, if any. *Language in Addendum 13-B inserted here and incorporated by reference*

*Language in Addendum 13A inserted here and incorporated by reference.*



(Applicant Signature)

By: \_\_\_\_\_

Name: Kevin Baird

Title: President - Guardian Glass

Joy B. Horne  
(Notary Public)

Sworn to before me this 6<sup>th</sup> day

[stamp]

of February, 20 17



Addenda to Application for Financial Assistance

Addendum 13-A

;provided, however, this indemnity and release shall not apply to the extent that the liability or expense arises from or is in connection with the Agency's failure to comply with law or the Agency's negligence or misconduct. In no event will Applicant's indemnity obligations exceed Twenty-One Million Dollars (\$21,000,000).

Addendum 13-B

The indemnity set forth above is subject to the following conditions: (A) Agency will provide written notice to Applicant within ten (10) business days after receiving notice of any third party claim, demand or other suit (provided that failure to provide timely notice shall not affect or limit Applicant's obligations with respect to such claim, demand or other suit except to the extent that Applicant is actually prejudiced thereby) for which it may seek indemnity under the Hold Harmless Agreement; (B) Applicant will have the right at its own expense to control the defense or prosecution of the third party claim and may contest or settle it on such terms as it may choose; (C) the Agency at its own expense may participate with Applicant in the defense of the third party claim; (D) the Agency will reasonably cooperate with Applicant in the defense; and (E) Agency will not be responsible for any obligations or commitments set forth in any settlement without its prior written consent, not to be unreasonably withheld, conditioned or delayed.

**Real Property Tax Benefits (Detailed):**

\*\* This section of this Application will be: (i) completed by IDA Staff based upon information contained within the Application, and (ii) provided to the Applicant for ultimate inclusion as part of this completed Application.

**PILOT Estimate Table Worksheet**

Dollar Value of New Construction and Renovation Costs	Estimated New Assessed Value of Property Subject to IDA*	County Tax Rate/1000	Local Tax Rate (Town/City/Village)/1000	School Tax Rate/1000

\*Apply equalization rate to value

PILOT Year	% Payment	County PILOT Amount	Local PILOT Amount	School PILOT Amount	Total PILOT	Full Tax Payment w/o PILOT	Net Exemption
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15							
16							
17							
18							
19							
20							
<b>TOTAL</b>							

\*Estimates provided are based on current property tax rates and assessment values

## Cost Benefit Analysis:

### **To be completed/calculated by AGENCY**

Costs =

Financial Assistance

Benefits =

Economic Development

\*Estimated Sales Tax Exemption \$ \_\_\_\_\_

New Jobs Created

Permanent \_\_\_\_\_

Temporary \_\_\_\_\_

Estimated Mortgage Tax  
Exemption \$ \_\_\_\_\_

Existing Jobs Retained

Permanent \_\_\_\_\_

Temporary \_\_\_\_\_

Estimated Property Tax  
Abatement \$ \_\_\_\_\_

Expected Yearly Payroll \$ \_\_\_\_\_

Expected Gross Receipts \$ \_\_\_\_\_

Additional Revenues to School Districts

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Additional Revenues to Municipalities

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Other Benefits \_\_\_\_\_

Private Funds invested \$ \_\_\_\_\_

Likelihood of accomplishing proposed  
project within three (3) years

Likely or  Unlikely

Estimated Interest Savings  
IRB Issue \$ \_\_\_\_\_

\* Estimated Value of Goods and Services to be exempt from sales and use tax as a result of the Agency's involvement in the Project. PLEASE NOTE: These amounts will be verified and there is a potential for a recapture of sales tax exemptions (see "Recapture" on page 11).

\$ \_\_\_\_\_ (to be used on the NYS ST-60)

**FEE SCHEDULE FOR THE  
CITY OF GENEVA IDA IS AS FOLLOWS:**

**Application Fee:** \$500 non-refundable, due at application.

**Closing Fees/Expenses:**

***IDA Administrative Fee***

~~One percent (1%) of the project cost.~~

*One quarter of one-percent (0.25%) payable \$100,000 at project start and \$50,000 twelve months later.*

***IDA Transaction Counsel Fee***

\$20,000 plus disbursements (typically \$1,000).

**NOTE:** IDA reserves the right to seek additional IDA and Counsel fees for exceptionally complex/large transactions.

**Please make all Checks payable to:**

*City of Geneva Industrial Development Agency*

**Mail to:**

*47 Castle Street  
Geneva, NY 14456.*

**FINAL RESOLUTION**  
*(Guardian Industries Corp.)*

A regular meeting of the City of Geneva Industrial Development Agency was convened on Tuesday, March 21, 2017, at 8:00 a.m.

The following resolution was duly offered and seconded, to wit:

Resolution No. 03/2017 -

RESOLUTION OF THE CITY OF GENEVA INDUSTRIAL DEVELOPMENT AGENCY (i) MAKING A DETERMINATION WITH RESPECT TO THE GUARDIAN INDUSTRIES CORP. (THE "COMPANY") PROJECT PURSUANT TO SEQRA (AS HEREINAFTER DEFINED), (ii) AUTHORIZING THE NEGOTIATION, EXECUTION AND DELIVERY OF AN AGENT AGREEMENT, LEASE AGREEMENT (OR AMENDMENT TO AN EXISTING 1997 LEASE AGREEMENT), PAYMENT-IN-LIEU-OF-TAX AGREEMENT (OR AMENDMENT TO AN EXISTING 1997 PAYMENT-IN-LIEU-OF TAX AGREEMENT) AND RELATED DOCUMENTS; (iii) AUTHORIZING FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF (A) A SALES AND USE TAX EXEMPTION FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, RECONSTRUCTION, RENOVATION AND EQUIPPING OF THE PROJECT (AS HEREINAFTER DEFINED), (B) A REAL PROPERTY TAX ABATEMENT STRUCTURED THROUGH A PAYMENT-IN-LIEU-OF-TAX (OR AMENDMENT TO AN EXISTING 1997 PAYMENT-IN-LIEU-OF-TAX AGREEMENT); AND (C) A MORTGAGE RECORDING TAX EXEMPTION; AND (iv) AUTHORIZING THE EXECUTION AND DELIVERY OF A MORTGAGE AND RELATED DOCUMENTS.

WHEREAS, by Title I of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 390 of the Laws of 1972 of the State of New York, (hereinafter collectively called the "Act"), the **CITY OF GENEVA INDUSTRIAL DEVELOPMENT AGENCY** (hereinafter called the "Agency") was created with the authority and power and for the purpose of, among other things, acquiring, constructing, reconstructing and equipping manufacturing, warehousing, research, commercial, or industrial facilities as authorized by the Act; and

WHEREAS, the Agency owns certain real property located at 50 Forge Avenue, in the City of Geneva, Ontario County, New York (the "Land"); and

WHEREAS, the Agency has leased the Land to **GUARDIAN INDUSTRIES CORP.** (the "Company") pursuant to a certain Lease Agreement, dated as of April 1, 1997 (the "1997 Lease Agreement") to effectuate the undertaking by the Company of a certain project (the "1997 Project") on the Land consisting of the construction of a certain industrial development facility (the "1997 Facility"); and

WHEREAS, in connection with the 1997 Project, the Agency and the Company entered into a certain Payment-In-Lieu-of-Tax Agreement, dated as of April 10, 1997 (the "1997 PILOT Agreement"), pursuant to which the Company agrees to make payments in lieu of real property taxes to the City of Geneva, Ontario County and the Geneva City School District (the "Affected Taxing Jurisdiction Officials") with respect to the 1997 Facility during the term of the 1997 Lease Agreement; and

WHEREAS, the Company previously submitted an application (the "Application") to the Agency requesting the Agency's assistance with a certain project (the "Project") consisting of: (i) the retention by the Agency of fee interest in the 1997 Facility; (ii) the repair, replacement and restoration of glass manufacturing facilities, furnace components and related improvements constituting the 1997 Facility by the Company (the "Improvements"); (iii) the acquisition and installation in and around the Improvements of certain items of equipment, machinery and other tangible personal property (the "Equipment", and collectively with the Land and the Improvements, the "Facility"); and (iv) the amendment of the 1997 PILOT Agreement such that the term of the 1997 PILOT Agreement is extended by twelve (12) years and the related amendment of the 1997 Lease Agreement such that the term of the 1997 Lease Agreement is extended by twelve (12) years; and

WHEREAS, pursuant to Article 18-A of the General Municipal Law the Agency desires to adopt a resolution describing the Project and the Financial Assistance (as defined below) that the Agency is contemplating with respect to the Project; and

WHEREAS, it is contemplated that the Agency will (i) designate the Company as agent of the Agency for the purpose of undertaking the Project pursuant to an agent, financial assistance and project agreement (the "Agent Agreement"), (ii) negotiate and enter into a lease agreement (or amendment to the 1997 Lease Agreement) (the "Lease Agreement"), a payment-in-lieu-of-tax agreement (or amendment to the 1997 PILOT Agreement) (the "PILOT Agreement") and related documents with the Company, (iii) retain title to Facility (once the Lease Agreement and PILOT have been negotiated), and (iv) provide Financial Assistance to the Company in the form of (a) a sales and use tax exemption for purchases and rentals related to the acquisition, reconstruction, renovation and equipping of the Project, (b) a real property tax abatement through the Tax Agreement, and (c) a mortgage recording tax exemption; and

WHEREAS, on February 21, 2017, the Agency adopted a resolution (the "Initial Resolution") accepting the Company's Application and directing that a public hearing be held; and

WHEREAS, pursuant to Section 859-a of the Act, on Tuesday, March 14, 2017, at 6:00 p.m., local time, at the City of Geneva Public Safety Building, 255 Exchange Street, Geneva, New York, the Agency held a public hearing with respect to the Project and the proposed Financial Assistance being contemplated by the Agency (the "Public Hearing"), whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto at 6 N.Y.C.R.R. Part 617, as amended (collectively referred to as "SEQRA"), the Agency must satisfy the applicable requirements set forth in SEQRA, as necessary, prior to making a final determination whether to undertake the Project; and

WHEREAS, the Agent Agreement, Lease Agreement, PILOT Agreement and related documents have been negotiated and are presented to this meeting for approval and execution.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE CITY OF GENEVA INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. Based upon the review by the Agency of the Application submitted by the Company with respect to the Project, the Agency finds that the proposed action constitutes a "Type II action" pursuant to 6 N.Y.C.R.R. § 617.5 and therefore is exempt from review under SEQRA.

Section 2. Based upon representations and warranties made by the Company in the Application, the Agency hereby authorizes and approves the Company, as its agent, to make purchases of goods and services relating to the Project, that would otherwise be subject to New York State and local sales and use tax in an amount up to \$60,000,000.00, which result in New York State and local sales and use tax exemption benefits ("sales and use tax exemption benefits") not to exceed \$4,500,000.00. The Agency agrees to consider any requests by the Company for increase to the amount of sales and use tax exemption benefits authorized by the Agency upon being provided with appropriate documentation detailing the additional purchases of property or services. Pursuant to Section 875(3) of the New York General Municipal Law, the Agency may recover or recapture from the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, any sales and use tax exemption benefits taken or purported to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, if it is determined that: (i) the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, is not entitled to the sales and use tax exemption benefits; (ii) the sales and use tax exemption benefits are in excess of the amounts authorized to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project; (iii) the sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; or (iv) the sales and use tax exemption benefits are taken in cases where the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Project. As a condition precedent of receiving sales and use tax exemption benefits, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, shall (i) cooperate with the Agency in its efforts to recover or recapture any sales and use tax exemption benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands.

Section 3. Subject to the Company executing the Agent Agreement and the delivery to the Agency of a binder, certificate or other evidence of liability insurance policy for the Project satisfactory to the Agency, the Agency hereby authorizes the Company to proceed with the acquisition, construction and equipping of the Project and hereby appoints the Company as the true and lawful agent of the Agency: (i) to acquire, reconstruct, renovate and equip the Project; (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency with the authority to delegate such agency, in whole or in part, to agents, subagents, contractors, and subcontractors of such agents and subagents and to such other parties as the Company chooses; and (iii) in general, to do all things which may be requisite or proper for completing the Project, all with the same powers and the same validity that the Agency could do if acting in its own behalf; *provided, however,* the Agent Agreement shall expire on December 31, 2017 (*unless extended for good cause by the Executive Director of the Agency*) if the Lease Agreement and Tax Agreement contemplated have not been executed and delivered

Section 4. The Executive Director, Chairman and/or Vice Chairman of the Agency are hereby authorized, on behalf of the Agency, to negotiate and enter into (A) the Agent Agreement, (B) the Lease Agreement, pursuant to which the Agency leases its interest in the Project to the Company, and (C) the PILOT Agreement; *provided, that,* (i) the rental payments under the Lease Agreement include payments of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project; and (ii) the terms of the PILOT Agreement are consistent with the Agency's Uniform Tax Exemption Policy or the procedures for deviation have been complied with.

Section 5. The Executive Director, Chairman or Vice Chairman of the Agency is hereby further authorized, on behalf of the Agency, to execute and deliver one or more mortgages, assignments of leases and rents, security agreements, UCC-1 Financing Statements and all documents reasonably contemplated by these resolutions or required by any lender identified by the Company (the "Lender") up to a maximum principal amount necessary to undertake the Project and/or finance or re-finance acquisition and Project costs, equipment and other personal property and related transactional costs (hereinafter, with the Transaction Documents, collectively, the "Agency Documents") and, where appropriate, the Secretary or Assistant Secretary of the Agency is hereby authorized to affix the seal of the Agency to the Agency Documents and to attest the same, all with such changes, variations, omissions and insertions as the Executive Director, Chairman or Vice Chairman of the Agency shall approve, the execution thereof by the Executive Director, Chairman or Vice Chairman of the Agency to constitute conclusive evidence of such approval; provided, in all events, recourse against the Agency is limited to the Agency's interest in the Project.

Section 6. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of

the foregoing resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

**Section 7.** These Resolutions shall take effect immediately upon adoption.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

	<i>Yea</i>	<i>Nay</i>	<i>Absent</i>	<i>Abstain</i>
Frank Cecere	[ X ]	[ ]	[ ]	[ ]
Teresa Angelo	[ ]	[ ]	[ X ]	[ ]
Lawrence (Rick) Bley	[ X ]	[ ]	[ ]	[ ]
Brian Finnerty	[ X ]	[ ]	[ ]	[ ]
Anne Nenneau	[ X ]	[ ]	[ ]	[ ]
Robert Anania	[ ]	[ ]	[ X ]	[ ]
Nicholas Massa	[ X ]	[ ]	[ ]	[ ]

## **SECRETARY'S CERTIFICATION**

*(Guardian Industries Corp. Project)*

STATE OF NEW YORK )  
COUNTY OF ONTARIO ) ss.:

I, the undersigned Secretary of the City of Geneva Industrial Development Agency, DO  
HEREBY CERTIFY:

That I have compared the annexed extract of minutes of the meeting of the City of Geneva Industrial Development Agency (the "Agency"), including the resolution contained therein, held on March 21, 2017, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

I FURTHER CERTIFY, that all members of said Agency had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with such Article 7.

I FURTHER CERTIFY, that there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY, that as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or modified.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Agency this      day of March, 2017.

  
George R. Kelly  
Secretary

## AGENT, FINANCIAL ASSISTANCE AND PROJECT AGREEMENT

THIS AGENT, FINANCIAL ASSISTANCE AND PROJECT AGREEMENT (hereinafter, the "Agent Agreement"), dated as of August 31, 2017, by and between the **CITY OF GENEVA INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation of the State of New York, having its offices at 47 Castle Street, Geneva, New York 14456 (the "Agency"), and **GUARDIAN INDUSTRIES, LLC**, a limited liability company duly organized and validly existing under the laws of the State of Delaware and duly authorized to conduct business in the State of New York with offices at 2300 Harmon Road, Auburn Hills, Michigan 48326 ("Company").

### WITNESSETH:

WHEREAS, the Agency was created by Article 18-A of the General Municipal Law of the State of New York (the "Act") as a body corporate and politic and as a public benefit corporation of the State of New York; and

WHEREAS, the Company has submitted an application (the "Application") to the Agency requesting the Agency's assistance with a certain project (the "Project") consisting of (i) the acquisition or retention of title to or a leasehold interest in certain land located at 50 Forge Avenue, City of Geneva, New York (the "Land") and the existing improvements located thereon, consisting principally of the Company's glass manufacturing business (the "Existing Improvement"); (ii) the repair, replacement and restoration of the Existing Improvements (the "Improvements"); and (iii) the acquisition and installation in and around the Existing Improvements and Improvements of certain items of equipment, machinery and other tangible personal property (the "Equipment"; and, collectively with the Land, the Existing Improvements, and the Improvements, the "Facility"); and

WHEREAS, by resolution adopted on March 21, 2017 (the "Resolution"), the Agency authorized the Company to act as its agent for the purposes of undertaking the Project subject to the Company entering into this Agent Agreement; and

WHEREAS, by the Resolution, the Agency conferred on the Company in connection with the Project certain benefits, exemptions and other financial assistance consisting of: (a) an exemption benefit from all New York State and local sales and use tax exemption benefits 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, and (b) a partial abatement from real property taxes benefit conferred through a certain Amended and Restated Payment in Lieu of Tax Agreement, dated as of August 31, 2017 (the "Tax Agreement") requiring the Company to make payments in lieu of taxes ("Tax Payments") for the benefit of each municipality and school district having taxing jurisdiction over the Project (together, the sales and use tax exemption benefit and the partial abatement from real property taxes benefit, are hereinafter collectively 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 Agent 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 Agent 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 Agent Agreement.

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. Purpose of Project and Scope of Agency. The purpose of the Agency's provision of Financial Assistance with respect to the Project is to promote, develop, encourage and assist in the undertaking of the Project to advance job opportunities, health, general prosperity and economic welfare of the people of City of Geneva, Ontario County, New York, and to specifically promote the investment, employment and other commitments of the Company contained herein and in the Company's Application.

Pursuant to the Resolution, the Agency has appointed the Company as agent to undertake the Project. The Company hereby agrees to limit its activities as agent for the Agency under the authority of the Resolution to acts reasonably related to the acquisition and installation of certain machinery, equipment and building materials, all for incorporation and installation thereof in and around the Facility. Pursuant to the Resolution and this Agent Agreement, the Company has the power to delegate such agency, in whole or in part, to agents, subagents, contractors, subcontractors, contractors and subcontractors of such agents and subagents and to such other parties as the Company chooses including but not limited to the individuals and entities described on Schedule A attached hereto (collectively, the "Subagent"). The Company shall have the right to amend Schedule A from time to time and shall be responsible for maintaining an accurate list of all parties acting as agent of the Agency. The Company's right to appoint subagents is expressly conditioned upon updating Schedule A, hereto, along with the timely filing of Form ST-60 (non-primary) for each subagent, with such updated Schedule A and a copy of and proof of filing of such ST-60 (non-primary) being immediately filed with the Agency. The right of the Company and all duly appointed subagents to act as agent of the Agency shall expire on December 31, 2019 unless extended as contemplated by the Resolution. The aggregate amount of work performed by the Company and all subagents as agent for the Agency shall not exceed the amounts identified in the Resolution and Section 2(h)(i) of this Agent Agreement.

All contracts entered into by the Company and all subagents thereof as agent for the Agency shall include the language contained in Schedule B, hereto. Failure by the Company and/or any subagent thereof to include such language shall disqualify the agent status and sales tax exemptions derived by virtue of this Agent 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.

2. Representations and Covenants of the Company. The Company makes the following representations as of the date hereof and covenants in order to induce the Agency to proceed with the Project:

(a) The Company is a limited liability company organized, validly existing and in good standing under the laws of the State of Delaware, is duly qualified and authorized to conduct business in the State of New York, has the authority to enter into this Agent Agreement, and has duly authorized the execution and delivery of this Agent Agreement.

(b) Neither the execution and delivery of this Agent Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions of this Agent 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, in all material respects, 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 Agent Agreement.

(e) The Company covenants that the Facility will comply in all material 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, in all material respects, (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) except as otherwise disclosed in writing to Agency, 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 promptly notify the Agency in writing regarding the same and will provide such details that it is permitted to provide. 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 (except 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, except to the extent arising from the Agency's failure to comply with law, willful misconduct or gross negligence.

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

(g) In accordance with Section 875(3) of the New York General Municipal Law, the policies of the Agency, and the Resolution, the Company covenants and agrees that it may be subject to a Recapture Event Determination (as hereinafter defined) resulting in the potential recapture and/or termination of any and all Financial Assistance, as described below, if the Company receives, or any duly appointed subagents receives any Financial Assistance from the Agency, and it is determined by the Agency that (each a "Recapture Event Determination"):

- (1) the Company or its Subagents, if any, authorized to make purchases for the benefit of the Project is not entitled to the sales and use tax exemption benefits; or
- (2) the sales and use tax exemption benefits are in excess of the amounts authorized by the Agency to be taken by the Company or its Subagents, if any; or
- (3) the sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; or
- (4) 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
- (5) the Company fails to meet and maintain the following thresholds and requirements:

(i) The Company recognizes and acknowledges that the Agency is entering into this Agent Agreement based in part on representations made by the Company in its new application to the Agency, dated on or about February 6, 2107 (the "Application") regarding job retention at the Facility.

(ii) For the purposes of this Agent Agreement, "Full-Time Equivalent Employee" shall mean, with respect to any specific date or period, a person or persons directly employed on such date or during such period by the Company (inclusive of its Affiliates, tenants and other occupants and users of the Facility), and who shall on such date or for such period have carried out the terms of such employment on a "full-time equivalent basis" at the Facility. "Full-time Equivalent basis" shall mean a person or persons who shall on an aggregate basis work at least 35 hours per week, or 140 hours per month which shall be measured on a quarter annual basis.

(iii) The Application represents that, for the purpose of this Agent Agreement, the Company intends to employ and maintain for the term of the Tax Agreement, a workforce of no less than 250 retained employees which in the aggregate shall work at least 35 hours per week at the Facility, as of December 31, 2018.

(iv) The Company is required under this Agent Agreement and hereby agrees to submit a copy of quarterly NYS-45 reports, and any other reports required by the Agency to evidence the employment commitment.

(v) If it is determined upon review of the Annual Report that the number of Full-Time Employees at the Facility is less than what was represented in the Application (the "Employment Target"), the Agency shall have the right to require the Company pay to the Agency for the benefit of the Affected Tax Jurisdictions an amount equal to the benefits provided hereunder and any sales and mortgage tax exemptions provided by the Agency to the Company in connection with the Project.

(vi) In addition, in the event that (i) the Company closes or sells/transfers the Facility without the consent of the Agency; (ii) the use of the Facility or contemplated business activities at the Facility are materially changed or modified; (iii) there is a material non-compliance by the Company with the Lease Agreement, Leaseback Agreement, Tax Agreement or any other agreement with the Agency or any state or federal law or regulation that remains uncured after notice and any applicable cure period, Agency shall have the right to require the Company pay to the Agency for the benefit of the Affected Tax Jurisdictions an amount equal to the benefits provided hereunder and any sales, real property tax and mortgage tax exemptions, if any, provided by the Agency to the Company in connection with the Project.

In order to certify and verify the foregoing, the Company or the tenant shall annually complete and submit to the Agency the Annual Certification Report in the form attached hereto as **Exhibit F. Failure by the Company to complete and submit said form to the Agency by February 15 of each year commencing as of December 31, 2018, after notice and a five (5) day period to cure, shall constitute an Event of Default hereunder, whereby the Agency, in its sole and absolute discretion, may terminate this Agent Agreement and/or the Tax Agreement and recapture any or all Financial Assistance.**

If the Agency makes a Recapture Event Determination, the Company agrees and covenants that it will (i) cooperate with the Agency in its efforts to recover or recapture any or all Financial Assistance obtained by the Company and (ii) promptly pay over any or all such amounts to the Agency that the Agency demands in connection therewith. Upon receipt of such amounts, the Agency shall then redistribute such amounts to the appropriate affected tax jurisdiction(s). The Company further understands and agrees that in the event that the Company fails to pay over such amounts to the Agency, the New York State Tax Commissioner and/or local taxing authorities may assess and determine the Financial Assistance due from the Company, together with any relevant penalties and interest due on such amounts.

(h) The Company further: (i) covenants that the purchase of goods and services relating to the Project and subject to New York State and local sales and use taxes are estimated in an amount up to \$60,000,000.00, and, therefore, the value of the sales and use tax exemption benefits authorized and approved by the Agency, subject to Section 2(g) of this Agent Agreement, cannot exceed \$4,500,000.00, (ii) confirms that the mortgage recording tax exemption amount shall not exceed \$-0-, and (iii) and confirms that real property tax abatement benefits to be provided to the Company shall conform to those contained within the Tax Agreement, a copy of such Tax Agreement is attached hereto as Exhibit D.

(i) The Company further covenants and agrees to complete "IDA Appointment of Project Operator or Agent For Sales Tax Purposes" (NYS Form ST-60), in the form attached hereto as Exhibit A, for each Subagent, if any, and such other parties as the Company chooses who provide materials, equipment, supplies or services and forward said form to the State Department of Taxation and Finance within thirty (30) days of appointment.

(j) The Company acknowledges and agrees that all purchases made in furtherance of the Project shall be made using "IDA Agent or Project Operator Exempt Purchase Certificate" (NYS Form ST-123, a copy of which is attached hereto as Exhibits B-1 and B-2), and it shall be the responsibility of the Company (and not the Agency) to complete NYS Form ST-123. The Company acknowledges and agrees that it shall identify the Project on each bill and invoice for such purchases and further indicate on such bills or invoices that the Company is making purchases of tangible personal property or services for use in the Project as agent of the Agency. For purposes of indicating who the purchaser is, the Company acknowledges and agrees that the bill or invoice should state:

"I, GUARDIAN INDUSTRIES, LLC [or, name of subagent: \_\_\_\_\_], certify that I am a duly appointed agent of the City of Geneva Industrial Development Agency and that I am purchasing the tangible personal property or services for use in the Guardian Industries, LLC Project located at 50 Forge Avenue, in the City of Geneva, Ontario County, New York, IDA Project Number 3201-17-01A".

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 B-3) can be utilized for record keeping purposes.

(k) The Company further covenants and agrees to file an annual statement with the State Department of Taxation and Finance on "Annual Report of Sales and Use Tax Exemptions" (NYS Form ST-340, a copy of which is attached hereto as Exhibit C) regarding the value of sales and use tax exemptions 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). The Company further covenants and agrees that it will, within thirty (30) days of each filing, provide a copy of same to the Agency; provided, however, in no event later than February 15<sup>th</sup> of each year. 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 of the Agency.

(l) 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.

(m) The Company covenants and agrees that it will (i) maintain its existence and not dissolve, (ii) continue to be an entity 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 Agent Agreement may not be assigned in whole or part without the prior written consent of the Agency.

(n) 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 Agent 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(p). 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.

### 3. Hold Harmless.

(a) 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 (except 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 Agent Agreement or (ii) liability arising from or expense incurred by the Agency's financing, acquiring, constructing, rehabilitating, renovating, 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 application of any rule of comparative or apportioned liability, except that such indemnities will not be applicable with respect to failure to comply with law, willful misconduct or gross negligence on the part of the Agency or any other person or entity to be indemnified.

(b) Indemnification Procedure. All indemnities provided by the Company to the Agency in this Agent Agreement and all other agreements between the Company and the Agency are subject to the following conditions: (i) Agency will provide written notice to Company within ten (10) days after receiving notice of any claim, demand or other suit (provided that failure to provide timely notice shall not affect or limit Company's obligations with respect to such claim, demand or other suit except to the extent that Company is actually prejudiced thereby) for which it seeks indemnity from Company, (ii) Company will have the right at its own expense to control the defense or prosecution of the claim and may contest or settle it on such terms as it may choose, (iii) the Agency may, at the reasonable expense of the Company, participate in the defense, (iv) the Agency will reasonably cooperate with Company in the defense, (v) Agency will not be responsible for any obligations or commitments set forth in any settlement without its prior written consent, not to be unreasonably withheld, conditioned or delayed, (vi) the Agency shall, at the cost of the Company, take reasonable steps to mitigate any losses that might be the subject of an indemnification claim and (vii) the obligation of the Company to provide any indemnification shall survive only as long as the applicable statute of limitation relating to the claim that is the subject of the indemnification.

4. Insurance Required. Effective as of the date hereof and until the Agency consents in writing to a termination, the Company shall maintain or cause to be maintained 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) (i) Insurance against loss or damage by fire, lightning and other casualties, with a uniform standard extended coverage endorsement, such insurance to be in an amount not less than the full replacement value of the Facility, exclusive of excavations and foundations, as determined by the Company or (ii) as an alternative to the above requirements, the Company may insure the Facility under a blanket insurance policy or policies covering not only the Facility but other properties as well.

(b) Workers' compensation insurance, disability benefits insurance, and each other form of insurance which the Agency or 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 Facility.

(c) Insurance against loss or losses from liabilities imposed by law or assumed in any written contract and arising from personal injury and death or damage to the property of others caused by any accident or occurrence, with limits of not less than **\$4,000,000** per accident or occurrence on account of personal injury, including death resulting therefrom, and **\$4,000,000**

per accident or occurrence on account of damage to the property of others, excluding liability imposed upon the Company by any applicable workers' compensation law.

5. Additional Provisions Respecting Insurance.

(a) All policies evidencing such insurance shall provide for payment of the losses of the Company and the Agency as their respective interests may appear. The Company shall cause all contractors and agents of the Company undertaking the Project to carry and provide evidence of insurance as required within Section 4(b) and Section 4(c) of this Agent Agreement. All limits of insurance set forth in Section 4 can be provided by a combination of primary and excess liability policies.

(b) All such certificates of insurance of the insurers indicating that such insurance is in force and effect, shall be deposited with the Agency on the date hereof. At least thirty (30) days prior to expiration of the policy evidenced by said certificates, the Company shall furnish the Agency evidence that the policy has been renewed or replaced or is no longer required by this Agent Agreement.

(c) The Company may satisfy any of the insurance requirements set forth in Section 4 by using blanket policies of insurance, provided all the requirements and specifications of Section 4 respecting insurance are complied with. The Company may satisfy any of the insurance requirements set forth in Section 4 using self-insurance or insurance through a subsidiary or affiliate.

6. This Agent 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. This Agent Agreement may be executed and delivered by the Company and the Agency by facsimile or other electronic transmission and any such execution and delivery shall be fully effective as if executed and delivered in person with the intent that it shall have the same effect as an original executed agreement.

7. 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: City of Geneva Industrial Development Agency  
47 Castle Street  
Geneva, NY 14456  
Attn: Executive Director

With a Copy to: Harris Beach PLLC  
99 Garnsey Road  
Pittsford, NY 14534  
Attn.: Russell E. Gaenzle, Esq.

And To: Paul Bleakley, Esq.  
33 Seneca Street

Geneva, NY 14456

To the Company:      Guardian Industries, LLC  
                          2300 Harmon Road  
                          Auburn Hills, MI 48326  
                          Attn: Richard J. Zoulek, Vice President – Americas

With a Copy to:      Gina Capua, Esq.  
                          Guardian Industries, LLC  
                          2300 Harmon Road  
                          Auburn Hills, MI 48326

And to:                Baker & McKenzie LLP  
                          452 Fifth Avenue  
                          New York, NY 10018  
                          Attn: Gerard V. Hannon, 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.

8. This Agent Agreement shall be governed by, and all matters in connection therewith 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 Ontario County, New York.

9. The warranties, representations, obligations and covenants of the Company under this Agent Agreement shall be absolute and unconditional and shall remain in full force and effect during the term of this Agent Agreement, shall be deemed to have been relied upon by the Agency, and shall survive the delivery and termination of this Agent Agreement to the Agency, regardless of any investigation made by the Agency. This Agent Agreement shall survive any termination or expiration of the Leaseback Agreement or the Tax Agreement, but only to the extent set forth in Section 9.8 of the Leaseback Agreement (as defined below).

10. The parties are contemplating that unless the Agency and Company enter into the Lease Agreement, and related Leaseback Agreement (the "Leaseback Agreement"), the Company agrees not to take title to any real property as agent for the Agency. The Agency will provide the Company with a bill of sale (a form of which is attached hereto as Exhibit E) which sells, transfers and delivers unto the Company and its successors and assigns, all Equipment which were acquired and installed and/or are to be acquired and installed by the Company as agent for the Agency pursuant to this Agent Agreement which Equipment is located or intended to be located within and used exclusively in furtherance of the operations of the Facility.

11. With the consent of the Agency, which consent shall not be unreasonably withheld or delayed, the Company may assign this Agent Agreement to an affiliate of Company.

12. The Company covenants and agrees to pay all fees, costs and expenses incurred by the Agency, as set forth in the Application, 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 Agent 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.

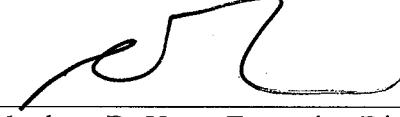
*[Remainder of Page Intentionally Left Blank]*

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

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

**CITY OF GENEVA INDUSTRIAL  
DEVELOPMENT AGENCY**

By: \_\_\_\_\_

  
Matthew D. Horn, Executive Director

**GUARDIAN INDUSTRIES, LLC**

By: \_\_\_\_\_

  
Ronald D. Vaupel, President

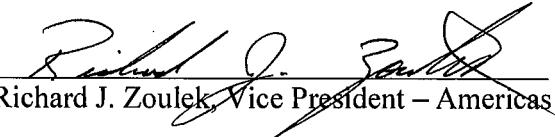
**[Signature Page to Agent, Financial Assistance and Project Agreement]**

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

**CITY OF GENEVA INDUSTRIAL  
DEVELOPMENT AGENCY**

By: \_\_\_\_\_  
Matthew D. Horn, Executive Director

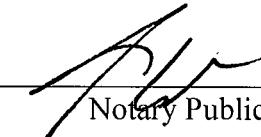
**GUARDIAN INDUSTRIES, LLC**

By:   
Richard J. Zoulek, Vice President – Americas

[Acknowledgment Page to Agent, Financial Assistance and Project Agreement]

STATE OF NEW YORK )  
COUNTY OF *Monroe* ) SS.:

On the 17<sup>th</sup> day of August in the year 2017, before me, the undersigned, personally appeared **MATTHEW D. HORN**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



\_\_\_\_\_  
Notary Public

AMY C. ABBINK  
Notary Public, State of New York  
No. 01AB5057993  
Qualified in Ontario County 17  
Commission Expires April 1, 20\_\_\_\_

STATE OF )  
COUNTY OF ) SS.:

On the    day of August in the year 2017, before me, the undersigned, personally appeared **RONALD D. VAUPEL**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

[Acknowledgment Page to Agent, Financial Assistance and Project Agreement]

STATE OF NEW YORK )  
COUNTY OF ) SS.:

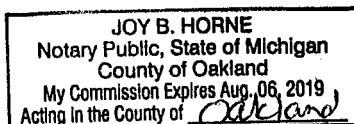
On the \_\_\_\_ day of August in the year 2017, before me, the undersigned, personally appeared **MATTHEW D. HORN**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

---

Notary Public

STATE OF *Michigan* )  
COUNTY OF *Oakland* ) SS.:

On the 29 day of August in the year 2017, before me, the undersigned, personally appeared **RICHARD J. ZOULEK**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



*Joy B. Horne*  
\_\_\_\_\_  
Notary Public

**SCHEDULE A**

**LIST OF APPOINTED AGENTS<sup>1</sup>**

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_
7. \_\_\_\_\_
8. \_\_\_\_\_
9. \_\_\_\_\_
10. \_\_\_\_\_

---

<sup>1</sup> 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 B**

### **MANDATORY AGENT AND SUBAGENT CONTRACT LANGUAGE**

"This contract is being entered into by **GUARDIAN INDUSTRIES, LLC** [or, subagent name: \_\_\_\_\_] (the "Agent"), as agent for and on behalf of the **CITY OF GENEVA INDUSTRIAL DEVELOPMENT AGENCY** (the "Agency"), in connection with a certain project (the "Project") of the Agency for the benefit of Guardian Industries, LLC consisting of the acquisition and installation of certain machinery, equipment and building materials in certain premises located at 50 Forge Avenue in the City of Geneva, Ontario County, New York (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 and installation thereof is effected in accordance with the terms and conditions set forth in the Agent, Financial Assistance and Project Agreement, dated as of August 31, 2017, by and between the Agency and the Company (the "Agent Agreement)." 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**

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

[See Attached]



# IDA Appointment of Project Operator or Agent

## For Sales Tax Purposes

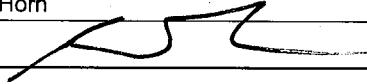
ST-60

(4/13)

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

Name of IDA City of Geneva Industrial Development Agency		IDA project number (use OSC numbering system for projects after 1998) 3201 17 01A	
Street address 47 Castle Street		Telephone number ( 315 ) 789-4393	
City Geneva		State NY	ZIP code 14456
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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
City		State	ZIP code
Name of project Guardian Industries, LLC Project	Purpose of project (see instructions) Manufacturing		
Street address of project site 50 Forge Avenue			
City Geneva		State NY	ZIP code 14456
Description of goods and services intended to be exempted from New York State and local sales and use taxes glass manufacturing business		Goods/services used to repair, replace and restore	

Date project operator or agent appointed (mm/dd/yy)	Date project operator or agent status ends (mm/dd/yy) 12/31/19	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:		Estimated value of New York State and local sales and use tax exemption provided:
<p><b>Certification:</b> 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.</p>		
Print name of officer or employee signing on behalf of the IDA Matthew D. Horn		Print title Executive Director
Signature 		Date 08/ 31 /2017 Telephone number ( 315 ) 789-4393

## Instructions

### Filing requirements

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

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 need not file this form if the IDA does 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, the IDA must, within 30 days of the change, file a new form with the new information.

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 must, within 30 days, 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. It should attach to the letter a copy of the form it originally filed. The IDA need not send a letter for a form that is not valid merely because the "Completion date of project" has passed.

### Purpose of project

For Purpose of project, enter one of the following:

- Services
- Agriculture, forestry, fishing
- Finance, insurance, real estate
- Transportation, communication, electric, gas, sanitary services
- Construction
- Wholesale trade
- Retail trade
- Manufacturing
- Other (specify)

### Mailing instructions

Mail completed form to:

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

### 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?



**Internet access: [www.tax.ny.gov](http://www.tax.ny.gov)**  
(for information, forms, and publications)



**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 B-1**

**NYS FORM ST-123  
FOR  
COMPANY**

[See Attached]



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 Guardian Industries, LLC		
Street address	Street address 2300 Harmon Road		
City, town, or village	State	ZIP code	City, town, or village Auburn Hills
			State MI ZIP code 48326
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 City of Geneva IDA			
Name of project Guardian Industries, LLC Project	IDA project number (use OSC number) 3201-17-01A		
Street address of project site 50 Forge Avenue			
City, town, or village City of Geneva	State NY	ZIP code 14456	
Enter the date that you were appointed agent or project operator (mm/dd/yy) ..... 08 / 31 / 17	Enter the date that agent or project operator status ends (mm/dd/yy) ..... 12 / 31 / 19		

#### 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.

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- check for new online services and features



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(518) 457-5431



Text Telephone (TTY) Hotline

(for persons with hearing and speech disabilities using a TTY):

(518) 485-5082

**EXHIBIT B-2**

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

[See Attached]



# 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 City of Geneva IDA			
Name of project Guardian Industries, LLC Project	IDA project number (use OSC number) 3201-17-01A		
Street address of project site 50 Forge Avenue			
City, town, or village City of Geneva	State NY	ZIP code 14456	
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 / 19

**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

**EXHIBIT B-3**  
**INVOICE RIDER FORM**

I, \_\_\_\_\_, the \_\_\_\_\_ of  
GUARDIAN INDUSTRIES, LLC [or, subagent name:  
\_\_\_\_\_] certify that I am a duly appointed agent of  
CITY OF GENEVA INDUSTRIAL DEVELOPMENT AGENCY ("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, Financial Assistance and Project Agreement, dated  
as of August 31, 2017, by and between the Agency and GUARDIAN  
INDUSTRIES, LLC.

Name of the Project: Guardian Industries, LLC Project

Street address of the Project Site: 50 Forge Avenue  
City of Geneva, New York

IDA OSC project number: 3201-17-01A

**EXHIBIT C**

**NYS FORM ST-340  
TO BE COMPLETED BY THE COMPANY  
AND FILED ANNUALLY WITH THE NYS TAX DEPARTMENT IDA UNIT**

[See Attached]



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

OSC Project Code:  
3201-17-01A

For Period Ending December 31, \_\_\_\_\_ (enter year)

**Project information**

Name of IDA agent/project operator <b>Guardian Industries, LLC</b>	Federal employer identification number (FEIN) <b>38-0614230</b>
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Street address <b>2300 Harmon Road</b>	Telephone number <b>( 248 ) 340-2017</b>
---	---

City <b>Auburn Hills</b>	State <b>MI</b>	ZIP code <b>48326</b>
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Name of IDA agent/project operator's authorized representative, if any	Title
--	-------

Street address	Telephone number ( )
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City	State	ZIP code
------	-------	----------

Name of IDA <b>City of Geneva IDA</b>
--

Name of project <b>Guardian Industries, LLC Project</b>
--

Street address of project site
--------------------------------

<b>50 Forge Avenue</b>
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City <b>Geneva</b>	State <b>NY</b>	ZIP code <b>14456</b>
-----------------------	--------------------	--------------------------

1 Project purpose (mark an X in the appropriate box):	<input checked="" type="checkbox"/> Services	<input type="checkbox"/> Construction	<input type="checkbox"/> Agriculture, forestry, fishing
	<input type="checkbox"/> Wholesale trade	<input type="checkbox"/> Retail trade	<input type="checkbox"/> Finance, insurance or real estate
	<input type="checkbox"/> Transportation, communication, electric, gas, or sanitary services		
	<input checked="" type="checkbox"/> Manufacturing	<input type="checkbox"/> Other (specify) _____	

2 Date project began (mm/dd/yy): 08 / 31 / 17 (Date of appointment as IDA agent)

3 Beginning date of construction or installation (mm/dd/yy; see instructions): \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ ;  actual  expected

4 Completion date of construction phase of project (mm/dd/yy; see instructions): \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ ;  actual  expected

5 Completion date of project (mm/dd/yy; see instructions): 12 / 31 / 19 ;  actual  expected (Date of expiration as IDA agent)

6 Duration of project (actual or expected; years/months): \_\_\_\_\_ / \_\_\_\_\_

7 Total sales and use tax exemptions (actual tax savings; NOT total purchases) ..... **7** **\$**

**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 signing for the IDA agent/project operator	Title of person signing
--	-------------------------

Signature	Date
-----------	------

**Failure to annually file a complete report may result in the removal of 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.**

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

#### What must be reported?

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

The report requires only the **total combined** exemptions obtained by the above people. A break down of the total is not required. However, since the report must include the value of the exemptions they obtained, the agent/project operator must keep records of the amounts others report to the agent/project operator.

It is important that the agent/project operator make it clear to the contractors, subcontractors, consultants, and others that they must keep accurate tax information and have it available so that the agent/project operator can comply with the annual reporting requirements.

Do not include in this report the amount of any sales and use tax exemptions arising out of 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).

See instructions below for additional information required.

#### When is the report 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 the name, address, federal employer identification number (FEIN), and telephone number of the IDA agent/project operator.

#### Name of IDA agent/project operator's authorized representative

Enter the name, address, title (for example, attorney or accountant), and telephone number of the individual authorized by the IDA agent/project operator to submit this report.

#### Name of IDA

Enter the name and address of the IDA. If more than one IDA is involved in a particular project, the IDA agent/project operator must file a separate report for the tax exemptions attributable to each IDA.

#### Name of project

Enter the name of the project and the address of the project site. If the IDA agent is involved in more than one project, a separate report must be filed by the IDA agent/project operator for each project, even if authorized by the same IDA.

#### Line instructions

**Line 1 — Project purpose** — Mark an **X** in the box that identifies the purpose of the project. If you mark *Other*, please be specific in identifying its purpose.

**Line 2** — 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.

**Line 3** — Enter the date you, or your general contractor or subcontractor, actually began, or expect to begin, construction or installation on the project. Mark an **X** in the appropriate box to indicate if the date entered is actual or expected. If the project does not involve any construction, enter **Does not apply**.

**Line 4** — Enter the date the construction phase of the project was completed or is expected to be completed. Mark an **X** in the appropriate box to indicate if the date entered is actual or expected.

**Line 5** — 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.

**Line 6** — Enter the total number of years and months from the project's inception to its completion or expected completion.

**Line 7** — Enter the total amount of New York State and local sales and use taxes exempted during the reporting period (if none, enter **0**) as a result of the project's receipt of IDA financial assistance. 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 on line 7.

#### Signature area

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

Mail completed report to: **NYS Tax Department, IDA Unit, W A Harriman Campus, Albany NY 12227**.

#### Need help?

	<b>Internet access:</b> <a href="http://www.tax.ny.gov">www.tax.ny.gov</a> (for information, forms, and publications)
	<b>Sales Tax</b> Information Center: (518) 485-2889 To order forms and publications: (518) 457-5431
	<b>Text Telephone (TTY) Hotline</b> (for persons with hearing and speech disabilities using a TTY): (518) 485-5082

#### 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.

**EXHIBIT D**

**TAX AGREEMENT**

[See Attached]

**CITY OF GENEVA INDUSTRIAL DEVELOPMENT AGENCY**  
**AND**  
**GUARDIAN INDUSTRIES, LLC**

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**AMENDED AND RESTATED TAX AGREEMENT**

---

**Dated as of August 31, 2017**

Street Address:  
50 Forge Avenue  
City of Geneva, Ontario County

Tax Map Number:  
90.12-3-2.1  
90.12-3-2.2

Affected Tax Jurisdictions:  
Ontario County  
City of Geneva  
Geneva City School District

## AMENDED AND RESTATED TAX AGREEMENT

THIS AMENDED AND RESTATED TAX AGREEMENT (the "Agreement"), dated as of August 31, 2017, is by and between the **CITY OF GENEVA INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation of the State of New York, with offices at City of Geneva 47 Castle Street Geneva, New York 14456 (the "Agency") and **GUARDIAN INDUSTRIES, LLC**, a limited liability company duly organized under the laws of the State of Delaware and duly qualified and authorized to do business in the State of New York, with offices at 2300 Harmon Road, Auburn Hills, Michigan 48326 (the "Company").

### WITNESSETH:

WHEREAS, the Agency was created by Article 18-A of the General Municipal Law of the State of New York (the "Act") as a body corporate and politic and as a public benefit corporation of the State of New York; and

WHEREAS, the Agency and Company previously entered into a certain Payment In Lieu of Tax Agreement, dated as of April 10, 1997 (the "Original Tax Agreement"), in connection with the acquisition, construction and equipping by the Company at 50 Forge Avenue, City of Geneva, New York (the "Land") of a certain glass manufacturing facility, pursuant to which Original Tax Agreement the Company agreed to make payments in lieu of taxes for the benefit of Ontario County (the "County"), the City of Geneva (the "City") and the Geneva City School District (the "School District"; and, collectively with the County and the City, the "Affected Tax Jurisdictions"); and

WHEREAS, the term of the Original PILOT Agreement expires on or about January 31, 2023; and

WHEREAS, the Company has submitted an application (the "Application") to the Agency requesting the Agency's assistance with a certain project (the "Project") consisting of (i) the repair, replacement and restoration of the Facility (the "Improvements"); and (ii) the acquisition and installation in and around the Improvements of certain items of equipment, machinery and other tangible personal property (the "Equipment"; and, collectively with the Land and the Improvements, the "Facility").

WHEREAS, in order to induce the Company to undertake the Project and renovate, reconstruct and equip the Facility and maintain employment in the City of Geneva New York County, the Agency is willing to (i) take or retain a leasehold interest in the Land, Improvements and personal property constituting the Facility and lease said Land, Improvements and personal property back to the Company pursuant to the terms and conditions of that certain Leaseback Agreement, dated as of August 31, 2017 (the "Amended and Restated Leaseback Agreement"), by and between the Agency and the Company; and (ii) amend and restate the Original PILOT Agreement to, *inter alia*, extend its terms such that the Original PILOT Agreement as amended and restated herein expires on December 31, 2036; and

WHEREAS, pursuant to Section 874(1) of the Act, the Agency is exempt from the payment of taxes imposed upon real property and improvements owned by it or under its jurisdiction, control or supervision, other than special ad valorem levies, special assessments and service charges against real property which are or may be imposed for special improvements or special district improvements; and

WHEREAS, the Agency and the Company deem it necessary and proper to enter into an agreement making provisions for payments in lieu of taxes by the Company to the Agency for the benefit of the Affected Tax Jurisdictions.

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 that the Original PILOT Agreement be amended and restated so that, as amended and restated, it shall read in its entirety as follows:

Section 1 - Payment in Lieu of Ad Valorem Taxes:

Section 1.1 A. The Agency shall file a new New York State Form RP-412-a "Application For Real Property Tax Exemption" (the "Exemption Application") under Section 412-a of the New York State Real Property Tax Law and Section 874 of the Act. The Facility is currently exempt and shall continue to be exempt from Real Estate Taxes commencing with the 2018 City and County tax year and the 2017 – 2018 School District tax year. For purposes of the foregoing "Real Estate Taxes" means all general levy real estate taxes levied against the Facility by the City, County and School District. The Company shall provide the Agency with the information necessary for the completion and filing of the Exemption Application and shall provide such additional information and take such actions as are required by the appropriate assessors or Board of Assessment Review to process and approve the Exemption Application. Notwithstanding anything contained herein or in the Leaseback Agreement to the contrary, in the event the exemption from Real Estate Taxes is denied for any reason, the Company shall pay (and hereby agrees to pay) all Real Estate Taxes levied upon the Facility as they become due. After giving written notice to the Agency, the Company may in good faith contest the denial of the Exemption Application, provided that (i) the overall operating efficiency of the Facility is not impaired and the Facility continues to qualify as a "project" under the Act; (ii) neither the Facility nor any part of or interest in it would be in any danger of being sold, forfeited or lost; or (iii) neither the Company nor the Agency, as a result of such contest, shall be in any danger of any civil or criminal liability. The Company hereby waives any claim or cause of action against the Agency, and releases the Agency from any liability to the Company, arising from the denial of an exemption from Real Estate Taxes except to the extent that such denial results solely from the failure of the Agency to file the Exemption Application with the appropriate assessors or Board of Assessment Review by March 1, 2018 (the "Taxable Status Date").

B. Payee. As long as the Facility is owned by or leased by the Company to the Agency or under the Agency's jurisdiction, control or supervision, the Company agrees to pay annually to the Affected Tax Jurisdictions as a payment in lieu of taxes, on or before January 31 of each calendar year (collectively, the "Payment Date") for City, County and School District taxes commencing on January 31, 2018, an amount equal to the "Total Tax Payment", as defined

and described on Schedule A attached hereto for the applicable tax year. Such payments to be made by the Company without invoicing by or notice from the Agency or any other party.

The parties agree and acknowledge that payments made hereunder are to obtain revenues for public purposes, and to provide a revenue source that the Affected Tax Jurisdictions would otherwise lose because the subject parcels are not on the tax rolls.

1.2 Allocation. The Agency shall remit to the Affected Tax Jurisdictions amounts received hereunder (if any) within thirty (30) days of receipt of said payment and shall allocate said payments among the Affected Tax Jurisdictions in the same proportion as ad valorem taxes would have been allocated but for the Agency's involvement, unless the Affected Tax Jurisdictions have consented in writing to a specific allocation.

1.3 Tax Rates. For purposes of determining the allocation of the Total Tax Payment among the Affected Tax Jurisdictions, the Agency shall use the last tax rate utilized for levy of taxes by each such jurisdiction. For County, City and special district purposes, the tax rates used to determine the allocation of the Total Tax Payment shall be the tax rates relating to the calendar year which includes the Tax Payment due date. For School District purposes, the tax rates used to determine the Tax Payment shall be the rate relating to the school year which includes the Tax Payment due date.

1.4 Valuation of Future Additions to the Facility: If there shall be a future addition to the Facility constructed or added in any manner after the date of this Agreement, the Company shall notify the Agency of such future addition ("Future Addition"). The notice to the Agency shall contain a copy of the application for a building permit, plans and specifications, and any other relevant information that the Agency may thereafter request. Upon the earlier of substantial completion, or the issuance of a certificate of occupancy for any such Future Addition to the Facility, the Company shall become liable for payment of an increase in the Total Tax Payment. The Agency shall notify the Company of any proposed increase in the Total Tax Payment related to such Future Addition. If the Company shall disagree with the determination of assessed value for any Future Additions made by the Agency, then and in that event that valuation shall be fixed by a court of competent jurisdiction. Notwithstanding any disagreement between the Company and the Agency, the Company shall pay the increased Tax Payment until a different Total Tax Payment shall be established. If a lesser Total Annual Payment is determined in any proceeding or by subsequent agreement of the parties, the Total Tax Payment shall be recomputed and any excess payment shall be refunded to the Company or, in the Agency's sole discretion, such excess payment shall be applied as a credit against the next succeeding Tax Payment(s). In the event that the Facility is damaged by fire or other casualty or a portion thereof is condemned it is expressly understood that the Total Tax Payment shall be reduced to reflect the decrease in value of the Facility caused by any such casualty or condemnation event.

1.5 Period of Benefits. The tax benefits provided for herein should be deemed to include (i) the 2017-2018 School District tax year through the 2035-2036 School District tax year, and (ii) the 2018 County and City tax year through the 2036 County and City tax year. This Tax Agreement shall expire on December 31, 2036; *provided, however,* the Company shall pay the 2036-2037 School District tax bill and the 2037 County and City tax bills on the dates and in the amounts as if the Agency were not in title on the tax status date with respect to said

tax years. In no event shall the Company be entitled to receive tax benefits relative to the Facility for more than the periods provided for herein, unless the period is extended by amendment to this Agreement executed by both parties after any applicable public hearings. The Company agrees that it will not seek any tax exemption for the Facility which could provide benefits for more than the periods provided for herein and specifically agrees that the exemptions provided for herein, to the extent actually received (based on the number of lease years elapsed), supersede and are in substitution of the exemptions provided by Section 485-b and 485-e of the New York Real Property Tax Law ("RPTL"). It is hereby agreed and understood that the Affected Tax Jurisdictions can rely upon and enforce the above waiver to the same extent as if they were signatories hereto.

Section 2 - Special District Charges, Special Assessments and other Charges. Special district charges, special assessments, and special ad valorem levies (specifically including but not limited to fire district charges), and pure water charges and sewer charges are to be paid in full in accordance with normal billing practices.

Section 3 - Transfer of Facility. In the event that the Lease Agreement and Leaseback Agreement are terminated, and the Company is ineligible for a continued tax exemption under some other tax incentive program, or the exemption results in a payment to the Affected Tax Jurisdictions in excess of the payment described in Section 1 herein, or this Agreement terminates and the property is not timely transferred back to the Company, the Company agrees to pay no later than the next tax lien date (plus any applicable grace period), to each of the Affected Tax Jurisdictions, an amount equal to the taxes and assessments which would have been levied on the Facility if the Facility had been classified as fully taxable as of the date of transfer or loss of eligibility of all or a portion of the exemption described herein or date of termination. There shall be deducted from any such amount payable to the respective Affected Tax Jurisdiction any amounts previously paid pursuant to this Agreement by the Agency or the Company to the respective Affected Tax Jurisdiction relating to any period of time after the date of termination of this Agreement and the Lease Agreement (the "Deduction Amount"). To the extent the Affected Tax Jurisdictions will not recognize the Deduction Amount the Agency agrees, at the Company's reasonable expense, to promptly assist the Company to recover from the Affected Tax Jurisdictions amounts paid pursuant to this Agreement by the Company equal to the Deduction Amount.

Section 4 - Assessment Challenges.

4.1 For the term of this Agreement, the Company shall not challenge or grieve any proposed assessment or change in assessment with respect to the Facility by any of the Affected Tax Jurisdictions.

4.2 With the exception of Section 4.1 above, the Company shall have all of the rights and remedies of a taxpayer with respect to any tax, service charge, special benefit, ad valorem levy, assessment, or special assessment or service charge in lieu of which the Company is obligated to make a payment pursuant to this Agreement, as if and to the same extent as if the Company were the owner of the Facility.

4.3 The Company shall (i) cause the appropriate real estate tax assessment office and tax levy officers to assess the Facility and apply tax rates to the respective assessments as if the Facility were owned by the Company, (ii) file any accounts or tax returns required by the appropriate real estate tax assessment office and tax levy officers.

Section 5 - Changes in Law. To the extent the Facility is declared to be subject to taxation or assessment by an amendment to the Act, other legislative change, or by final judgment of a Court of competent jurisdiction, the obligations of the Company hereunder shall, to such extent, be null and void.

Section 6 - Events of Default.

6.1 The following shall constitute "Events of Default" hereunder. The failure by the Company to: (i) make the payments described in Section 1 within thirty (30) days of the Payment Date (the "Delinquency Date"); (ii) make any other payments described herein on or before the last day of any applicable cure period within which said payment can be made without penalty; or (iii) the occurrence and continuance of any events of default under the Leaseback Agreement after any applicable notice and cure periods. Upon the occurrence of any Event of Default hereunder, in addition to any other right or remedy the Agency and/or the Affected Tax Jurisdictions may have at law or in equity, the Agency and/or Affected Tax Jurisdictions may, immediately and without further notice to the Company (but with notice to the Agency with respect to actions maintained by the Affected Tax Jurisdictions) pursue any action in the courts to enforce payment or to otherwise recover directly from the Company any amounts so in default. The Agency and the Company hereby acknowledge the right of the Affected Tax Jurisdictions to recover directly from the Company any amounts so in default pursuant to Section 874(6) of the General Municipal Law and the Company shall immediately notify the Agency of any action brought, or other measure taken, by any Affected Tax Jurisdiction to recover any such amount.

6.2 If payments pursuant to Section 1 herein are not made by the Delinquency Dates, or if any other payment required to be made hereunder is not made by the last day of any applicable cure period within which said payment can be made without penalty, the Company shall pay penalties and interest as follows. With respect to payments to be made pursuant to Section 1 herein, if said payment is not received by the Delinquency Date defined in Section 6.1 herein, Company shall pay, in addition to said payment, (i) a late payment penalty equal to five percent (5%) of the amount due and (ii) for each month, or any part thereof, that any such payment is delinquent beyond the first month, interest on the total amount due plus the late payment penalty, in an amount equal to one percent (1%) per month. With respect to all other payments due hereunder, if said payment is not paid within any applicable cure period, Company shall pay, in addition to said payment, the greater of the applicable penalties and interest or penalties and interest which would have been incurred had payments made hereunder been tax payments to the Affected Tax Jurisdictions.

Section 7 - Assignment. No portion of any interest in this Agreement may be assigned by the Company except to an affiliate, nor shall any person other than the Company and its affiliates be entitled to succeed to or otherwise obtain any benefits of the Company hereunder without the

prior written consent of the Agency, which shall not be unreasonably withheld or delayed.

Section 8 - Miscellaneous.

8.1 This 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. This Agreement may be executed and delivered by the Company and the Agency by facsimile or other electronic transmission and any such execution and delivery shall be fully effective as if executed and delivered in person with the intent that it shall have the same effect as an original executed agreement.

8.2 This Agreement shall inure to the benefit of and shall be binding upon the Agency, the Company and their respective successors and assigns.

8.3 In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

8.4 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, as follows:

To the Agency:

City of Geneva Industrial Development Agency  
47 Castle Street  
Geneva, NY 14456  
Attn: Executive Director

With Copy To:

Harris Beach PLLC  
99 Garnsey Road  
Pittsford, NY 14534  
Attn: Russell E. Gaenzle, Esq.

To the Company:

Guardian Industries, LLC  
2300 Harmon Road  
Auburn Hills, MI 48326  
Attn: Richard J. Zoulek, Vice President – Americas

And To:

Baker & McKenzie LLP  
452 Fifth Avenue  
New York, NY 10018  
Attn: Gerard V. Hannon, Esq.

With Copy To:

Guardian Industries, LLC  
2300 Harmon Road  
Auburn Hills, MI 48326  
Attn: Gina Capua, 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.

8.5 This 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 Ontario County, New York.

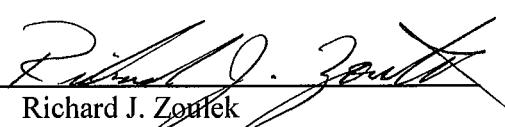
8.6 Notwithstanding any other term or condition contained herein, all obligations of the Agency hereunder shall constitute a special obligation payable solely from the revenues and other monies, if any, derived from the Facility and paid to the Agency by the Company. Neither member of the Agency nor any person executing this Agreement on its behalf shall be liable personally under this Agreement. No recourse shall be had for the payment of the principal or interest on amounts due hereunder or for any claim based upon or in respect of any modification of or supplement hereto against any past, present or future member, officer, agent, servant, or employee, as such, of the Agency, or of any successor or political subdivision, either directly or through the Agency or any such successor, all such liability of such members, officer, agents, servants and employees being, to the extent permitted by law, expressly waived and released by the acceptance hereof and as part of the consideration for the execution of this Agreement.

[THE BALANCE OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

**[Signature Page to Amended and Restated Tax Agreement]**

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

**GUARDIAN INDUSTRIES, LLC**

By: 

Richard J. Zoulek  
Vice President - Americas

**CITY OF GENEVA INDUSTRIAL  
DEVELOPMENT AGENCY**

By: 

Matthew D. Horn  
Executive Director

**[Signature Page to Amended and Restated Tax Agreement]**

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

**GUARDIAN INDUSTRIES, LLC**

By: \_\_\_\_\_

Ronald D. Vaupel  
President

**CITY OF GENEVA INDUSTRIAL  
DEVELOPMENT AGENCY**

By: \_\_\_\_\_

  
Matthew D. Horn  
Executive Director

**SCHEDULE A**  
**TO AMENDED AND RESTATED**  
**TAX AGREEMENT DATED AS OF AUGUST 31, 2017, BY AND BETWEEN**  
**CITY OF GENEVA INDUSTRIAL DEVELOPMENT AGENCY**  
**AND**  
**GUARDIAN INDUSTRIES, LLC**

"Total Tax Payment" shall be as follows:

Tax Year	County / City Tax Year	School District Tax Year	Assessment	Adjusted Payment
1	2018	2017-2018	\$55,854,700	\$914,995
2	2019	2018-2019	\$55,854,700	\$914,995
3	2020	2019-2020	\$55,854,700	\$914,995
4	2021	2020-2021	\$55,854,700	\$914,995
5	2022	2021-2022	\$55,854,700	\$914,995
6	2023	2022-2023	\$55,854,700	\$1,070,994
7	2024	2023-2024	\$55,854,700	\$1,070,994
8	2025	2024-2025	\$55,854,700	\$1,070,994
9	2026	2025-2026	\$55,854,700	\$1,070,994
10	2027	2026-2027	\$55,854,700	\$1,070,994
11	2028	2027-2028	\$55,854,700	\$1,285,651
12	2029	2028-2029	\$55,854,700	\$1,285,651
13	2030	2029-2030	\$55,854,700	\$1,285,651
14	2031	2030-2031	\$55,854,700	\$1,285,651
15	2032	2031-2032	\$55,854,700	\$1,285,651
16	2033	2032-2033	\$55,854,700	\$1,478,702
17	2034	2033-2034	\$55,854,700	\$1,478,702
18	2035	2034-2035	\$55,854,700	\$1,478,702
19	2036	2035-2036	\$55,854,700	\$1,478,702

**EXHIBIT E**

**BILL OF SALE**

**CITY OF GENEVA INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation of the State of New York with offices at 47 Castle Street, Geneva, New York 14456 (the "Grantor"), for the consideration of One Dollar (\$1.00), cash in hand paid, and other good and valuable consideration received by the Grantor from **GUARDIAN INDUSTRIES, LLC**, a limited liability company duly organized and validly existing under the laws of the State of Delaware and authorized to conduct business in New York with offices at 2300 Harmon Rd., Auburn Hills, Michigan 48326 (the "Grantee"), the receipt of which is hereby acknowledged by the Grantor, hereby sells, transfers and delivers unto the Grantee and its successors and assigns, the Equipment, as defined in the Agent, Financial Assistance and Project Agreement dated as of August 31, 2017 (the "Agent Agreement"), as may be amended from time to time, which were acquired and installed and/or are to be acquired and installed by the Grantee as agent for the Grantor pursuant to the Agent Agreement, which Equipment is located or intended to be located at the Grantee's Facility located at 50 Forge Avenue, in the City of Geneva, Ontario County, New York.

TO HAVE AND TO HOLD the same unto the Grantee and its successors and assigns, forever.

THE GRANTOR MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE CONDITION, TITLE, DESIGN, OPERATION, MERCHANTABILITY OR FITNESS OF THE EQUIPMENT OR ANY PART THEREOF OR AS TO THE SUITABILITY OF THE EQUIPMENT OR ANY PART THEREOF FOR THE GRANTEE'S PURPOSES OR NEEDS. THE GRANTEE SHALL ACCEPT TITLE TO THE EQUIPMENT "AS IS," WITHOUT RE COURSE OF ANY NATURE AGAINST THE GRANTOR FOR ANY CONDITION NOW OR HEREAFTER EXISTING. NO WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY IS MADE. IN THE EVENT OF ANY DEFECT OF DEFICIENCY OF ANY NATURE, WHETHER PATENT OR LATENT, THE GRANTOR SHALL HAVE NO RESPONSIBILITY OR LIABILITY WITH RESPECT THERETO.

IN WITNESS WHEREOF, the Grantor has caused this bill of sale to be executed in its name by the officer described below on the date indicated beneath the signature of such officer and dated as of the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

[ ]

**Form Only - Do Not Sign**

By:

Name:

Title:

## EXHIBIT F

### FORM OF ANNUAL EMPLOYMENT AND FINANCIAL ASSISTANCE CERTIFICATION LETTER

Company name and address:                   Guardian Industries, LLC  
   2300 Harmon Road  
   Auburn Road, Michigan 48326

Project Name:                                   Guardian Industries, LLC Project

#### 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:

<b>Category</b>	<b>FTE</b>	<b>Average Salary and Fringe Benefits or Ranges</b>
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:

<b>Category</b>	<b>FTE</b>	<b>Average Salary and Fringe Benefits or Ranges</b>
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 attach 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:



### Part D - Form NYS-1 corrections/additions

Use Part D **only** for corrections/additions for the quarter being reported in Part B of **this** return. To correct original withholding information reported on Form(s) NYS-1, complete columns a, b, c, and d. To report additional withholding information not previously submitted on Form(s) NYS-1, complete **only** columns c and d. Lines 12 through 15 on the front of this return **must** reflect these corrections/additions.

a <b>Original</b> last payroll date reported on Form NYS-1, line A (mmdd)	b <b>Original</b> total withheld reported on Form NYS-1, line 4	c <b>Correct</b> last payroll date (mmdd)	d <b>Correct</b> total withheld
[Redacted]	[Redacted] . [Redacted]	[Redacted]	[Redacted] . [Redacted]
[Redacted]	[Redacted] . [Redacted]	[Redacted]	[Redacted] . [Redacted]
[Redacted]	[Redacted] . [Redacted]	[Redacted]	[Redacted] . [Redacted]
[Redacted]	[Redacted] . [Redacted]	[Redacted]	[Redacted] . [Redacted]
[Redacted]	[Redacted] . [Redacted]	[Redacted]	[Redacted] . [Redacted]
[Redacted]	[Redacted] . [Redacted]	[Redacted]	[Redacted] . [Redacted]
[Redacted]	[Redacted] . [Redacted]	[Redacted]	[Redacted] . [Redacted]

### Part E - Change of business information

22. This line is not in use for this quarter.

23. If you **permanently ceased paying wages**, enter the date (mmddyy) of the final payroll (see Note below) ..... [Redacted]

24. If you **sold or transferred all or part of your business**:

- Mark an **X** to indicate whether in **whole**  or in **part**
- Enter the date of transfer (mmddyy) .....
- Complete the information below about the acquiring entity

Legal name	EIN
Address	

**Note:** For questions about other changes to your withholding tax account, call the Tax Department at (518) 485-6654; for your unemployment insurance account, call the Department of Labor at (518) 485-8589 or 1 888 899-8810. If you are using a paid preparer or a payroll service, the section below must be completed.

Paid preparer's use	Preparer's signature		Date	Preparer's NYTPRIN	Preparer's SSN or PTIN	NYTPRIN excl.code
	Preparer's firm name (or yours, if self-employed)	Address		Firm's EIN	Telephone number ( )	
Payroll service's name				Payroll service's EIN	[Redacted]	

Checklist for mailing:

- File original return and keep a copy for your records.
- Complete lines 9 and 19 to ensure proper credit of payment.
- Enter your withholding ID number on your remittance.
- Make remittance payable to **NYS Employment Contributions and Taxes**.
- Enter your telephone number in boxes below your signature.
- See **Need help?** on Form NYS-45-I if you need forms or assistance.

Mail to:

**NYS EMPLOYMENT  
CONTRIBUTIONS AND TAXES  
PO BOX 4119  
BINGHAMTON NY 13902-4119**