

## INDUCEMENT RESOLUTION

A regular meeting of the County of Oswego Industrial Development Agency was convened in public session on November 11, 2013, at 3:30 p.m., at 44 West Bridge Street, Oswego, New York.

The meeting was called to order by the Chair and, upon the roll being duly called, the following members were:

**PRESENT:** Donald H. Kunzwiler, Carolyn A. Rush, H.  
Leonard Schick, Morris Sorbello and Gary T. Toth

**ABSENT:** Nick Canale, Jr.

**ALSO PRESENT:** Kevin C. Caraccioli and L. Michael Treadwell

The following resolution was duly offered and seconded:

**RESOLUTION UNDERTAKING THE ACQUISITION,  
CONSTRUCTION, RENOVATION AND EQUIPPING OF A  
CERTAIN PROJECT, APPOINTING THE COMPANY  
AGENT OF THE AGENCY FOR THE PURPOSE OF THE  
ACQUISITION, CONSTRUCTION, RENOVATION AND  
EQUIPPING OF THE PROJECT; APPROVING  
FINANCIAL ASSISTANCE IN THE FORM OF REAL  
PROPERTY TAX AND STATE AND LOCAL SALES AND  
USE TAX EXEMPTIONS; AND AUTHORIZING THE  
EXECUTION AND DELIVERY OF AN AGREEMENT  
BETWEEN THE AGENCY AND THE COMPANY**

**WHEREAS**, the County of Oswego Industrial Development Agency (the “*Agency*”) is authorized and empowered by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the “*State*”), as amended, together with Chapter 234 of the Laws of 1973 of the State of New York, as amended from time to time (collectively, the “*Act*”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, including industrial pollution control facilities, railroad facilities and certain horse racing facilities, for the purpose of promoting, attracting, encouraging and developing recreation and economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, prosperity and standard of living, and to prevent unemployment and economic deterioration; and

**WHEREAS**, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to grant “financial assistance” (as defined in the Act) in connection with the acquisition, construction, renovation and equipping of one or more “projects” (as defined in the Act); and

**WHEREAS**, Novelis Corporation (the “*Company*”), submitted an application to the Agency on or about October 11, 2013 (the “*Application*”), a copy of which is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the “*Project*”) consisting of: (A) (i) the acquisition of a leasehold interest in one or more parcels aggregating approximately 3.1 acres of improved real property (“*Existing Facility*”) being part of a larger parcel all located at 448 County Route 1A, Town of Scriba, New York, Oswego County (the “*Land*”); (ii) the construction of an additional one story approximately 125,000 square foot building on the Existing Facility (the “*Facility*”) for use as an aluminum pre-treatment facility and infrastructure upgrades throughout the Land; and (iii) the acquisition of and installation in the Facility and on the Land of various machinery, equipment and furnishings (the “*Equipment*”) (the Existing Facility, the Facility and Equipment are hereinafter collectively referred to as the “*Project Facility*”); (B) granting certain financial assistance in the form of exemptions from real property tax and State and local sales and use taxation (collectively the “*Financial Assistance*”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, renovation and equipping of the Project; and (D) the lease of the Existing Facility and the Facility from the Company by the Agency pursuant to a lease agreement; a license to access the Land pursuant to a license agreement between the Company and the Agency; the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company; and the sublease of the Project Facility by the Agency to the Company pursuant to a sublease agreement; and

**WHEREAS**, the Agency conducted a public hearing with respect to the Project and the proposed Financial Assistance on October 30, 2013 pursuant to Section 859-a of the Act, notice of which was published on October 21, 2013 in The Palladium-Times, a newspaper of general circulation in the County of Oswego, New York and given to the chief executive officers of the affected tax jurisdictions by letter dated October 17, 2013; and

**WHEREAS**, the Agency adopted a resolution on October 16, 2012 describing the Project and the financial assistance and authorizing a public hearing (“*Initial Resolution*”); and

**WHEREAS**, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as “*SEQRA*”), the Agency is required to make a determination whether the “action” (as said quoted term is defined in SEQRA) to be taken by the Agency may have a “significant impact on the environment” (as said quoted term is utilized in SEQRA), and the preliminary agreement of the Agency to undertake of the Project constitutes such an action; and

**WHEREAS**, the New York State Department of Environmental Conservation (the “*DEC*”) acted as lead agency for the purpose of conducting a coordinated environmental review under 6 NYCRR Part 617 (“*SEQRA*”) based upon an application received by the Company (the “*DEC Application*”). The DEC Application identified the size of the Facility as approximately

83,000 square feet. On or about August 21, 2013, the DEC issued a negative declaration finding that the Project constitutes a "Type 1 Action" which would not result in any significant adverse environmental impacts (the "*DEC Determination*"); and

**WHEREAS**, following the DEC determination, the Company amended the size of the Facility to approximately 125,000 square feet; and

**WHEREAS**, on October 31, 2013, the DEC consented to the Town of Scriba Planning Board ("*Planning Board*") acting as lead agency for purposes of issuing a determination based upon the amended Facility size as noted herein; and

**WHEREAS**, on November 4, 2013, the Agency also consented to the Planning Board acting as lead agency for purposes of issuing a determination based upon the amended Facility size; and

**WHEREAS**, on November 6, 2013 the Planning Board acting as lead agency for the purpose of conducting a coordinated environmental review of the Project under 6 NYCRR Part 617 ("*SEQRA*"), issued a negative declaration finding that the Project, as outlined herein and including the 125,000 sq. foot Facility, constitutes a "Type 1 Action" which will not result in any significant adverse environmental impacts (the "*Determination*"); and

**WHEREAS**, for purposes of exemption from New York State (the "*State*") sales and use taxation as part of the Financial Assistance requested, "sales and use taxation" shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the New York State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight; and

**WHEREAS**, the Agency has given due consideration to the Application and to representations by the Company that the provision of Financial Assistance (i) will induce the Company to develop the Project Facility in the County of Oswego, and (ii) will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or any other proposed occupant of the Project Facility 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 Company or any other proposed occupant of the Project Facility located in the State, except as may be permitted by the Act;

**NOW, THEREFORE**, be it resolved by the members of the County of Oswego Industrial Development Agency, as follows:

**Section 1.** It is the policy of the State to promote the economic welfare, recreation opportunities and prosperity of its inhabitants and to actively promote, attract, encourage and develop economically sound commerce and industry for the purpose of preventing unemployment and economic deterioration. It is among the purposes of the Agency to promote, develop, encourage and assist in the acquiring, constructing, improving, maintaining, equipping and furnishing of certain facilities, including commercial facilities, and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the State and to improve their recreation opportunities, prosperity and standard of living.

**Section 2.** Based upon the representations and projections made by the Company to the Agency, the Agency hereby and makes the following determinations:

- a. The Project was subject to a coordinated environmental review conducted by the Town of Scriba Planning Board as lead agency. This Agency, as an involved agency, is bound by and acknowledges the Town of Scriba Planning Board's Determination that the Project is a Type 1 action under SEQRA and will not have a significant impact on the environment;
- b. The granting of the Financial Assistance will be an inducement to the Company to develop the Project in the Town of Scriba, County of Oswego.
- c. The commitment of the Agency to provide Financial Assistance to the Company will enable the Company to construct the Project and help to ensure the continued physical and financial viability of the Project.
- d. The construction, renovation and equipping of the Project will promote employment opportunities and help prevent economic deterioration in the Town of Scriba by the creation and preservation of both full and part-time jobs.
- e. The construction and equipping of the Project and the attendant promotion of the local economy will advance the job opportunities, health, prosperity and economic welfare of the people of the County of Oswego and the granting of the other Financial Assistance is necessary to finance the costs of the acquisition, construction and equipping of the Project.
- f. The Project will not result in the removal of any commercial, industrial or manufacturing plant or facility of the Company or of any other proposed occupant of the Project Facility 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 Company or any other proposed occupant of the Project Facility located in the State, except as may be permitted by the Act.

**Section 3.** Subject to the conditions set forth in Section 4.02 of the Agreement (hereinafter defined), the Agency will (i) acquire a controlling interest in the Existing Facility and the Facility from the Company pursuant to a lease agreement (the "**Lease**"); a license to access the Land pursuant to a license agreement between the Company and the Agency (the "**License**"); acquire an interest in the Equipment pursuant to a bill of sale from the Company (the "**Bill of Sale**"); and (ii) sublease the Project Facility to the Company pursuant to a sublease agreement (the "**Sublease**" and together with the Lease, the License and the Bill of Sale, collectively, the "**Lease Documents**") to be entered into between the Agency and the Company; (iii) grant the Financial Assistance; (iv) provided that no default shall have occurred and be continuing under the Agreement or the Lease Documents, execute and deliver all other certificates and documents necessary or appropriate for the grant of the Financial Assistance requested by the Company, in form and substance acceptable to the Agency in connection with financing for the Project. Notwithstanding anything herein to the contrary, the amount of State and local sales and use tax exemption benefits comprising the Financial Assistance approved herein shall not exceed \$3,676,800.

**Section 4.** The Company shall provide to the Agency, and the Agency shall maintain records of the amount of State and local sales and use tax exemption benefits provided to the Project and each agent or Project operator and shall make such records available to the State Commissioner of Taxation and Finance (the “*Commissioner*”) upon request. The Agency shall, within thirty (30) days of providing any State sales and use tax exemption benefits, report to the Commissioner the amount of such benefits for the Project, identifying the Project, along with any such other information and specificity as the Commissioner may prescribe. As a condition precedent to the Company’s receipt of, or benefit from, any State or local sales and use tax exemptions, the Company must acknowledge and agree to make, or cause its agents and/or operators to make, all records and information regarding State and local sales and use tax exemption benefits available to the Agency upon request.

**Section 5.** The form and substance of the proposed agreement (in the form and on the terms and conditions as presented at this meeting and attached hereto as **Exhibit “A”**) (the “*Agreement*”) between the Agency and the Company setting forth the preliminary undertakings of the Agency and the Company with respect to the Project Facility are hereby approved. The Chief Executive Officer or (Vice) Chairperson of the Agency are each hereby authorized, on behalf of the Agency, to execute and deliver the Agreement, in substantially the same form as presented at this meeting and attached hereto as **Exhibit “A”**, with changes in terms and form as shall be consistent with this Resolution and as the Chief Executive Officer or (Vice) Chairperson shall approve consistent with this Resolution. The execution thereof by the Chief Executive Officer or (Vice) Chairperson shall constitute conclusive evidence of such approval.

**Section 6.** Subject to the due execution and delivery by the Company of the Agreement, the satisfaction of the conditions of this Resolution, and the payment by the Company of any attendant fees the Company and its designees are appointed the true and lawful agent of the Agency to proceed with the Project, all with the same powers and the same validity as if the Agency were acting in its own behalf. The appointment made by this Section 6 shall not be effective until the Agreement referred to in Section 5 hereof is duly executed and delivered by the Company.

**Section 7.** No covenant, stipulation, obligation or agreement contained in this resolution or any document referred to herein shall be deemed to be the covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity. Neither the members nor officers of the Agency, nor any person executing any documents referred to herein on behalf of the Agency, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution or delivery thereof.

**Section 8.** A copy of this Resolution, together with the attachments hereto, shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

**Section 9.** The Chief Executive Officer of the Agency is hereby authorized and directed to distribute copies of this Resolution to the Company and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

**Section 10.** Counsel to the Agency and special Agency counsel are hereby authorized

to work with the Company, and others to prepare, for submission to the Agency, all documents necessary to effect the grant of Financial Assistance and consummate the Lease Documents.

**Section 11.** This Resolution shall take effect immediately.

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

	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>	<u>Recuse</u>
Nick Canale, Jr.				X	
Donald H. Kunzwiler	X				
Carolyn A. Rush	X				
H. Leonard Schick	X				
Morris Sorbello	X				
Gary T. Toth	X				

The resolution was thereupon declared duly adopted.



## EXHIBIT "A"

### AGENCY/COMPANY AGREEMENT

#### AGREEMENT

**This Agreement** is between the County of Oswego Industrial Development Agency (the "**Agency**"), and Novelis Corporation, a Texas corporation (the "**Company**").

**Article 1. Preliminary Statement.** Among the matters of mutual inducement which have resulted in the execution of this Agreement are the following:

1.01. The Agency is authorized and empowered by the provisions of Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "**State**"), as amended, together with Chapter 234 of the Laws of 1973 of the State of New York, as amended from time to time (collectively, the "**Act**") to grant "financial assistance" (as defined in the Act) in connection with "Projects" (as defined in the Act) and to lease or sell the same upon such terms and conditions as the Agency may deem advisable.

1.02. The purposes of the Act are to promote, attract, encourage and develop recreation and economically sound commerce and industry in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, prosperity and standard of living, and to prevent unemployment and economic deterioration. The Act vests the Agency with all powers necessary to enable it to accomplish such purposes, including the power to grant financial assistance.

1.03. The Company has requested that the Agency undertake a project (the "**Project**") consisting of: (A) (i) the acquisition or continuation of a leasehold interest in one or more parcels aggregating approximately 5.0 acres of improved real property ("**Existing Facility**") being part of a larger parcel all located at 448 County Route 1A, Town of Scriba, New York, Oswego County (the "**Land**"); (ii) the construction of an additional one story approximately 125,000 square foot building on the Existing Facility (the "**Facility**") and infrastructure upgrades throughout the Land for use as an aluminum pre-treatment facility; and (iii) the acquisition of and installation in the Facility and on the Land of various machinery, equipment and furnishings (the "**Equipment**") (the Existing Facility, the Facility and Equipment are hereinafter collectively referred to as the "**Project Facility**"); (B) granting certain financial assistance in the form of exemptions from real property tax and State and local sales and use taxation (collectively the "**Financial Assistance**"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, renovation and equipping of the Project; and (D) the lease of the Existing Facility and the Facility from the Company by the Agency pursuant to a lease agreement; a license to access the Land pursuant to a license agreement between the Company and the Agency; the acquisition of an interest in the

Equipment pursuant to a bill of sale from the Company; and the sublease of the Project Facility by the Agency to the Company pursuant to a sublease agreement.

1.04. The Company hereby represents to the Agency that undertaking the Project, the appointment of the Company as the agent of the Agency for the acquisition, construction, renovation and equipping of the Project Facility and the grant of Financial Assistance (A) will be an inducement to it to develop and operate the Project Facility in the County of Oswego, and (B) will not result in the removal of any commercial, industrial or manufacturing plant or facility of the Company or of any other proposed occupant of the Project Facility 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 Company or any other proposed occupant of the Project Facility located in the State, except as may be permitted by the Act.

1.05. On November 4, 2013, the Agency adopted a resolution (the “*Inducement Resolution*”) determining that the acquisition, construction, renovation and equipping of the Project Facility and the leasing of the same to the Company will promote and further the purposes of the Act.

1.06 In the Resolution, subject to the execution of this Agreement by the Company and other conditions set forth therein and herein the Agency has agreed to appoint the Company as its agent for the purposes of constructing and equipping the Project Facility, entering into contracts and doing all things requisite and proper for constructing, renovating and equipping the Project Facility. For purposes of that appointment, the Agency authorized State and local sales and use tax exemption benefits as part of the approved Financial Assistance in an amount not exceed \$3,676,800.

**Article 2. Undertakings on the Part of the Agency.** Based upon the statements, representations and undertakings of the Company and subject to the conditions set forth herein, the Agency agrees as follows:

2.01. The Agency confirms that it has authorized and designated the Company as the Agency’s agent for acquiring, constructing, renovating and equipping the Project Facility.

2.02. The Agency will adopt such proceedings and authorize the execution of such documents as may be necessary or advisable for (A) the designation of the Company as the Agency’s agent, (B) the acquisition, construction, renovation and equipping of the Project Facility, and (C) the leasing and subleasing of the Project Facility to the Company, all as shall be authorized by law and be mutually satisfactory to the Agency and the Company.

2.03. The Agency will enter into the agreement to lease the Project Facility to the Company (the “*Agency Lease*”). The Agency Lease shall contain all provisions required by law and such other provisions as shall be mutually satisfactory to the Agency and the Company.

2.04 Nothing contained in this Agreement shall require the Agency to

apply its funds to Project costs.

2.05. The Company may proceed with the acquisition, construction, renovation and equipping of the Project Facility and advance such funds as may be necessary to accomplish such purposes.

2.06. Subject to Section 4.02 hereof, the Company is appointed the true and lawful agent of the Agency for the construction and equipping of the Project Facility, and to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency, and in general to do all things which may be requisite or proper for the construction, renovation and equipping of the Project Facility, all with the same powers and the same validity as if the Agency were acting in its own behalf.

**Article 3. Undertakings on the Part of the Company.** Based upon the statements, representations and undertakings of the Agency and subject to the conditions set forth herein, the Company agrees as follows:

3.01. (a) The Company shall indemnify and hold the Agency harmless from all losses, expenses, claims, damages and liabilities arising out of or based on labor, services, materials and supplies, including equipment, ordered or used in connection with the acquisition, construction and equipping of the Project Facility (including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of any of the foregoing) whether such claims or liabilities arise as a result of the Company acting as agent for the Agency pursuant to this Agreement or otherwise.

(b) The Company shall not permit to stand, and will, at its own expense, take all steps reasonably necessary to remove, any mechanics' or other liens against the Project Facility for labor or material furnished in connection with the acquisition, constructing and equipping of the Project Facility.

(c) The Company shall indemnify and hold the Agency, its members, officers, employees and agents and anyone for whose acts or omissions the Agency or any one of them may be liable, harmless from all claims and liabilities for loss or damage to property or any injury to or death of any person that may be occasioned subsequent to the date hereof by any cause whatsoever in relation to the Project, including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of the foregoing.

(d) The Company shall defend, indemnify and hold the Agency harmless from all losses, expenses, claims, damages and liabilities arising out of or based on the non-disclosure of information, if any, requested by the Company in accordance with Section 4.05 hereof.

(e) The defense and indemnities provided for in this Article 3 shall survive expiration or termination of this Agreement and shall apply whether or not the claim, liability, cause of action or expense is caused or alleged to be caused, in whole or in part, by the activities, acts, fault or negligence of the Agency, its members, officers, employees and agents,

anyone under the direction and control of any of them, or anyone for whose acts or omissions the Agency or any of them may be liable, and whether or not based upon the breach of a statutory duty or obligation or any theory or rule of comparative or apportioned liability, subject only to any specific prohibition relating to the scope of indemnities imposed by statutory law.

(f) The Company shall provide and carry worker's compensation and disability insurance as required by law and comprehensive liability insurance with such coverages (including, without limitation, owner's protective coverage for the benefit of the Agency and contractual coverage covering the indemnities herein provided for), with such limits and with such companies as may be approved by the Agency. Upon the request of the Agency, the Company shall provide certificates of insurance in form satisfactory to the Agency evidencing such insurance.

(g) The Company shall include the Agency as a named insured under all public liability insurance policies obtained by the Company with respect to the Project Facility.

(h) The Company shall apply and diligently pursue all approvals, permits and consents from the State of New York, the Town and any other governmental authority which approvals, permits and consents are required under applicable law for the development, construction and renovation of the Project and any related site improvements. The Company acknowledges and agrees that the Agency's findings and determinations under SEQRA do not and shall not in and of themselves (except as specifically set forth in SEQRA) satisfy or be deemed to satisfy applicable laws, regulations, rules and procedural requirements applicable to such approvals, permits and consents.

3.02. The Company agrees that as agent of the Agency or otherwise, it will comply at the Company's sole cost and expense, with all the requirements of all federal, state and local law, rules and regulations of whatever kind and howsoever denominated applicable to the Agency and/or the Company with respect to the Project, the acquisition, construction and equipping of the Project Facility and the financing thereof. Every provision required by law to be inserted herein shall be deemed to be set forth herein as if set forth in full, including, but not limited to, Section 875 of the Act; and upon the request of either party, this Agreement shall be amended to specifically set forth any such provision or provisions.

3.03. The Company agrees that, as agent for the Agency, to the extent that such provisions of law are in fact applicable (without creating an obligation by contract beyond that which is created by statute), it will comply with all the requirements Section 220 of the Labor Law of the State of New York, as amended.

3.04. The Company will take such further action and adopt such further proceedings as may be required to implement its aforesaid undertakings or as it may deem appropriate in pursuance thereof.

3.05. If it should be determined that any State or local sales or compensatory use taxes are payable with respect to the acquisition, purchase or rental of

machinery or equipment, materials or supplies in connection with the Project Facility, or are in any manner otherwise payable directly or indirectly in connection with the Project Facility, the Company shall pay the same and defend and indemnify the Agency from and against any liability, expenses and penalties arising out of, directly or indirectly, the imposition of any such taxes.

3.06 The Company hereby ratifies and confirms its obligations to pay an administrative fee to the Agency in the amount of .50% of the Project costs. Such amount is due and payable in full at closing.

3.07 The Company hereby ratifies and confirms its obligations to pay an annual administrative reporting fee of \$500.00 to cover administrative and reporting requirements to comply with New York State reporting regulations on Agency assisted projects.

3.08 Whenever practicable, the Company and/or its agents, employees and contractors agree to hire from the local labor pool during the construction period of the Project Facility.

#### **Article 4. General Provisions.**

4.01. This Agreement shall take effect on the date of the execution hereof by the Agency and the Company and, subject to Section 4.04 hereof, shall remain in effect until the Agency Lease becomes effective. It is the intent of the Agency and the Company that this Agreement be superseded in its entirety by the Agency Lease.

4.02. (a) It is understood and agreed by the Agency and the Company that the grant of Financial Assistance and the execution of the Agency Lease and related documents are subject to (i) payment by the Company of the Agency's fee and Agency's counsel fees; (ii) obtaining all necessary governmental approvals, permits and consents of any kind required in connection with the Project Facility; (iii) approval by the members of the Agency; (iv) approval by the Company; and (v) the condition that there are no changes in New York State Law, including regulations, which prohibit or limit the Agency from fulfilling its obligations hereunder; (b) The Company, by executing this agreement, acknowledges and agrees to make, or cause its agents and/or operators to make, all records and information regarding State and local sales and use tax exemption benefits given to the Project as part of the Financial Assistance available to the Agency upon request; (c) The Company, by executing this Agreement, acknowledges and agrees to the terms and conditions of Section 875(3) of the Act as if such section were fully set forth herein and further agrees to cause all of its agents to acknowledge, agree and consent to same. Without limiting the scope of the foregoing the Company acknowledges that pursuant to Section 875(3) of the Act, the Agency shall recover, recapture, receive or otherwise obtain from the Company the portion of the Financial Assistance (the "**Recapture Amount**") consisting of: (1) (a) that portion of the State sales tax exemption to which the Company was not entitled, which is in excess of the amount of the State sales tax exemption authorized by the Agency or which is for property or services not authorized by the Agency; or (b) the full amount of such State sales tax exemption, if the Company fails to comply with a material term or condition regarding the use of the property or services as represented to

the Agency in its Application or otherwise; and (2) any interest or penalties thereon imposed by the Agency or by operation of law or by judicial order or otherwise; and (d) The failure of the Company to promptly pay such Recapture Amount to the Agency will be grounds for the Commissioner to collect sales and use taxes from the Company under Article 28 of the State Tax Law, together with interest and penalties. In addition to the foregoing, the Company acknowledges and agrees that for purposes of exemption from New York State (the “*State*”) sales and use taxation as part of the Financial Assistance requested, “sales and use taxation” shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the New York State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight.

4.03. The Company agrees that it will reimburse the Agency for all reasonable and necessary expenses, including without limitation the fees and expenses of counsel to the Agency and special counsel to the Agency arising from, out of or in connection with the Project, and/or any documents executed in connection therewith, including but not limited to any claims or actions taken by the Agency against the Company or third parties and indemnify the Agency from all losses, claims, damages and liabilities, in each case which the Agency may incur as a consequence of executing this Agreement or performing its obligations hereunder.

4.04. If for any reason the Agency Lease is not executed and delivered by the Company and the Agency on or before eighteen (18) months from the execution hereof, the provisions of this Agreement (other than the provisions of Articles 3.01, 3.02, 3.03, 3.05, 4.02, 4.03 and 4.05, which shall survive) shall unless extended by agreement of the Agency and the Company, terminate and be of no further force or effect, and following such termination neither party shall have any rights against the other party except:

(a) The Company shall pay the Agency for all expenses incurred by the Agency in connection with the acquisition, construction and equipping of the Project Facility;

(b) The Company shall assume and be responsible for any contracts for construction or purchase of equipment entered into by the Agency at the request of or as agent for the Company in connection with the Project Facility; and

(c) The Company will pay the out-of-pocket expenses of members of the Agency, counsel for the Agency and special Agency counsel incurred in connection with the Project and will pay the fees of counsel for the Agency and special Agency counsel for legal services relating to the Project or the proposed financing thereof.

**4.05. The Company acknowledges that Section 875(7) of the New York General Municipal Law (“GML”) requires the Agency to post on its website all resolutions and agreements relating to the Company’s appointment as an agent of the Agency or otherwise related to the Project, including this Agreement; and Article 6 of the New York Public Officers Law declares that all records in the possession of the Agency (with certain limited exceptions) are open to public inspection and copying. If the Company feels that there are elements of the Project or information about the Company in the Agency’s possession which are in the nature of trade secrets or information, the nature of which is such that if**

**disclosed to the public or otherwise widely disseminated would cause substantial injury to the Company's competitive position, the Company must identify such elements in writing, supply same to the Agency: (i) with respect to this Agreement, prior to or contemporaneously with the execution hereof; and (ii) with respect to all other agreements executed in connection with the Project, on or before the Closing Date, and request that such elements be kept confidential in accordance with Article 6 of the Public Officers Law. Failure to do so will result in the posting by the Agency of all information in accordance with Section 875 of the GML.**

**In Witness Whereof**, the parties hereto have entered in this Agreement as of \_\_\_\_\_, 2013.

**COUNTY OF OSWEGO INDUSTRIAL  
DEVELOPMENT AGENCY**

By: \_\_\_\_\_  
L. Michael Treadwell  
Chief Executive Officer

**NOVELIS CORPORATION**

By: \_\_\_\_\_  
John Tillman  
Assistant Secretary