

## AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE

THIS PURCHASE AND SALE AGREEMENT (the "Agreement") is made this 24<sup>th</sup> day of January, 2022, between **DEVELOPMENT AUTHORITY OF FLOYD COUNTY**, an authority created and existing under the laws of the State of Georgia ("Seller"); and **BORDEAU METALS, LLC**, a \_\_\_\_\_ **limited liability company** ("Purchaser").

### WITNESSETH:

WHEREAS, Seller owns that certain tract of real property consisting of approximately 18 acres in Floyd County Georgia located in the Floyd County Industrial Park as more particularly shown on Exhibit "A" attached hereto and incorporated herein; and

WHEREAS, Purchaser desires to acquire such property and Seller desires to sell such property under the terms and conditions contained herein.

### ARTICLE I PURCHASE AND SALE

1.1 Agreement of Purchase and Sale. Subject to the terms and conditions hereinafter set forth, Seller hereby agrees to sell and convey, and Purchaser hereby agrees to purchase from Seller, all that certain tract or parcel of land containing **18.00 acres**, more or less, and being situated in **Floyd County, Georgia**, more particularly shown on **EXHIBIT "A"** attached hereto and made a part hereof with a more definite description to be based on the Survey as provided for herein below, together with all and singular the rights and appurtenances pertaining to such property, (being herein referred to as the "**Property**").

1.2 Permitted Exceptions. The Property shall be conveyed subject to the matters that constitute Permitted Exceptions pursuant to Article II hereof (herein referred to collectively as the "**Permitted Exceptions**").

1.3 Purchase Price. Purchaser, at Purchaser's expense, shall obtain a new plat of survey, which plat shall be ordered by seller and prepared by a Georgia registered land surveyor, which plat shall show the acreage contained within the bounds of the Property calculated to the nearest 1/100<sup>th</sup> of an acre (the "**New Plat**"). The New Plat shall be subject to Seller's approval as provided in Section 1.4 below. The purchase price of the Property shall be determined by multiplying the total acreage contained within the bounds of the Property as determined by the New Plat by the sum of **Twenty Five Thousand and No/100 Dollars (\$25,000.00)**, and the result of such calculation shall be the purchase price of the Property to be paid by Purchaser to Seller.

1.4 Survey. Seller shall, at Purchaser's expense, employ a reputable land surveyor or surveying firm, licensed by the state of Georgia and approved by Purchaser, to survey the Property and prepare and deliver to Purchaser and Seller during the Inspection Period a plat of survey thereof (the "**Survey**") reflecting the total area of the Property calculated to the nearest 1/100<sup>th</sup> of an acre, and the location of all improvements, if any, located thereon. The Survey shall be

delivered to Seller not later than 5:00 p.m. on the **tenth (10<sup>th</sup>)** day before the expiration of the Inspection Period and shall be subject to Seller's approval which shall not be unreasonably withheld.

1.5 Payment of Purchase Price. The Purchase Price, as increased or decreased by prorations and adjustments as herein provided, shall be payable in full at Closing.

1.6 Earnest Money. Simultaneously with the Purchaser's execution and delivery of this Agreement, Purchaser shall deposit with McRae, Smith, Peek, Harman & Monroe, LLP (the "**Escrow Agent**"), having its office at 111 Bridgepoint Plaza, Suite 300, Rome, GA 30161; Attention: Scott M. Smith, the sum of **Five Thousand and 00/100 Dollars (\$5,000.00)** (the "**Earnest Money**") in good funds, either by certified bank or cashier's check or by federal wire transfer. Time is of the essence for the delivery of Earnest Money under this Agreement.

1.7 Escrow Agent. If, in the sole discretion of the Escrow Agent, some doubt exists as to when, whom or under what circumstances such Earnest Money shall be disbursed hereunder, and the parties hereto are unable after ten (10) business days prior written notice thereof from Escrow Agent, to agree and direct Escrow Agent, in writing, as to when, whom or under what circumstances Escrow Agent shall disburse the same, Escrow Agent shall be entitled to interplead said Earnest Money into the appropriate court of the county in which Escrow Agent is a resident, without further liability or responsibility on its part. Costs, expenses and attorneys' fees incurred by Escrow Agent in connection with any such interpleader may be deducted by Escrow Agent from the amount of the Earnest Money prior to its deposit into the registry of the Court. In any event, however, all parties agree that Escrow Agent shall have no liability or any further responsibility to any party or person whomsoever for any disbursement of the Earnest Money made by Escrow Agent in good faith; and that Escrow Agent shall be liable only for its own willful default or gross negligence. Escrow Agent shall send written confirmation of receipt by regular United States mail or e-mail of each deposit within twenty-four (24) hours of such receipt to Seller and Seller's counsel pursuant to Section 9.3 of this Agreement.

## **ARTICLE II TITLE AND SURVEY**

2.1 Title Examination, Commitment for Title Insurance. Purchaser shall have until expiration of the Inspection Period, as provided in Section 3.1 below, to examine title to the Property. During the Inspection Period, Purchaser shall obtain from a nationally recognized title insurance company (the "**Title Company**") at Purchaser's expense, a title insurance commitment (the "**Title Commitment**") covering the Property, showing all matters affecting title to the Property and binding the Title Company to issue at Closing, an Owner's Policy of Title Insurance in the full amount of the Purchase Price pursuant to Section 2.4 hereof. Purchaser shall instruct the Title Company, or the agent of the Title Company, to timely deliver to Purchaser and Seller copies of the Title Commitment and copies of all instruments referenced in Schedules B-1 and B-2 thereof.

2.2 *Left Blank Intentionally.*

### 2.3 Title Objections: Cure of Title Objections.

(a) Purchaser shall have until the expiration of the Inspection Period (as defined in Section 3.1 hereof) to give written notice to Seller of such objections as Purchaser may have to any exceptions disclosed in the Title Commitment, any amendments thereto issued during the Inspection Period, or any plat of survey that may be completed during the Inspection Period. Any exception to title disclosed in the Title Commitment, any such amendments or any such survey to which Purchaser does not object by timely written notice shall be a Permitted Exception. Time is of the essence with respect to the provisions of this Section 2.3.

(b) If Seller fails or is unable to cure any such exception at or prior to Closing, Seller shall be entitled to one or more reasonable adjournments of the Closing of up to, but not beyond, the sixtieth (60th) business day following the date for Closing set forth in Section 4.1 hereof to attempt such cure, but Seller shall not be obligated to commence any suit or take any unreasonable action in order to effect the same.

(c) If Seller determines, within its sole discretion, that it is unable to remove, satisfy or otherwise cure any such title exceptions or just elects not to take any action, Purchaser's sole remedy hereunder in such event shall be either: (i) to accept title to the Property subject to such exceptions as if Purchaser had not objected thereto and without reduction of the Purchase Price or (ii) to terminate this Agreement. Upon such termination, the Earnest Money shall be returned to Purchaser and neither party hereto shall have any further rights, obligations or liabilities hereunder except to the extent that any right, obligation or liability set forth herein expressly survives termination of this Agreement.

(d) To terminate this Agreement pursuant to this Section 2.3, Purchaser must give written notice to Seller of its election to terminate not later than five (5) business days after receipt of written notice from Seller of Seller's determination that Seller cannot reasonably cure any exception to which Purchaser has properly objected or written notice of Seller's election not to cure. If Purchaser fails to give timely notice of its election to terminate, Purchaser shall be deemed to have elected to accept title subject to such exception without adjustment of the purchase price. The Closing date shall be extended as may be necessary to allow the parties hereto the benefit of the time periods set forth in this Section 2.3.

2.4 Conveyance of Title. At Closing, Seller shall convey and transfer to Purchaser, by limited warranty deed, such title to the Property as will enable the Title Company to issue to Purchaser, at Purchaser's expense, an Owner's Policy of Title Insurance (the "Title Policy") covering the Property, in the full amount of the Purchase Price without exception other than Permitted Exceptions. The legal description shall be based on the Survey.

2.5 Amendments to Title Commitment. Purchaser shall have the right to object to any title exceptions first raised by the Title Company in any amendments to the Title Commitment issued after the effective date of the Title Commitment by giving written notice of those exceptions to which Purchaser is objecting within ten (10) business days after Purchaser's receipt of any such amendment. If Purchaser does not object to any exception first raised in an amendment to the Title Commitment issued after Purchaser's receipt of the Title Commitment by giving timely written

notice as herein provided, such exception shall be a Permitted Exception. In the event Purchaser gives timely written notice of objection to any exception as herein provided, the provisions of Section 2.3 shall apply with respect thereto as if set forth herein in full. Time is of the essence with respect to the provisions of this Section 2.5.

### **ARTICLE III INSPECTION PERIOD**

3.1 Right of Inspection. During the period beginning upon the Effective Date (as hereinafter defined) and ending at **five o'clock p.m. (5:00 p.m.) sixty (60) days following the Effective Date** (hereinafter referred to as the "**Inspection Period**"), Purchaser shall have the right to: (a) make a physical inspection of the Property; (b) conduct environmental studies, feasibility studies, accessibility, and similar matters; and (c) conduct any and all other inspections, examinations or investigations that Purchaser may elect to make or have made that would aid Purchaser to determine the feasibility of Purchaser using the Property as desired or determined by Purchaser in its discretion. Purchaser understands and agrees that any on-site inspections of the Property shall be conducted in a manner as will not create any damage to the Property or any trees or improvements thereon and will be conducted only upon at least twenty-four (24) hours prior notice to Seller. Purchaser agrees to indemnify against and hold Seller harmless from any claim for liabilities, costs, expenses (including reasonable attorneys' fees actually incurred) damages or injuries arising out of or resulting from the inspection of the Property by Purchaser or its agents, and notwithstanding anything to the contrary in this Agreement, such obligation to indemnify and hold Seller harmless shall survive Closing or any termination of this Agreement. All inspections shall occur at reasonable times agreed upon by Seller and Purchaser and shall be conducted so as not to interfere unreasonably with use of the Property by Seller prior to Closing.

3.2. Right of Termination. For any reasons whatsoever, within Purchaser's sole discretion, and at any time during the Inspection Period, Purchaser may terminate this Agreement and all Purchaser's obligations hereunder by giving notice to Seller as provided in Paragraph 9.3 hereof. Upon such termination by Purchaser, the Escrow Agent shall promptly refund all Earnest Money to Purchaser and thereafter, neither party hereto shall thereafter have any further obligations hereunder to the other.

3.3 Inspection Reports, Studies, etc. Promptly upon receipt, Purchaser shall provide Seller with a copy of any survey, soil study, engineering report, feasibility study, or any other report or assessment prepared by or on behalf of Purchaser and pertaining to the Property or any portion thereof except for environmental reports which are addressed in Section 5.3.

### **ARTICLE IV CLOSING**

4.1 Time and Place. The consummation of the transaction contemplated hereby ("**Closing**") shall be held at the offices of McRae, Smith, Peek, Harman & Monroe, LLP at **10:00 a.m.**, on the earlier of the **ninetieth (90th) day following the Effective Date, or at such earlier date and time as the parties may agree. TIME IS OF THE ESSENCE WITH RESPECT TO**

**THE CLOSING DATE AND TIME.** At Closing, Seller and Purchaser shall each perform the obligations set forth in, respectively, Section 4.2 and Section 4.3, the performance of which obligations shall be concurrent conditions.

Notwithstanding the foregoing, there shall be no requirement that the parties physically meet for the Closing, and all documents and funds to be delivered at the Closing may be delivered by the respective attorneys of the parties, unless the parties hereto mutually agree otherwise.

4.2 Seller's Obligations at Closing. At Closing, Seller shall:

(a) deliver to Purchaser a duly executed limited warranty deed (the "**Deed**") in recordable form conveying the Property, subject only to the Permitted Exceptions; the warranty of title in the Deed will be only as to claims made by or through Seller and not otherwise;

(b) deliver to the Title Company such evidence as the Title Company and/or Purchaser's counsel may reasonably require as to the authority of the person or persons executing documents on behalf of Seller as well as a standard owner's or seller's affidavit as may be required by the Title Company or by Purchaser's Counsel;

(c) deliver to Purchaser an affidavit duly executed by Seller stating that Seller is not a "foreign person" as defined in the Federal Foreign Investment in Real Property Tax Act of 1980 and the 1984 Tax Reform Act;

(d) deliver to Purchaser possession and occupancy of the Property, subject to the Permitted Exceptions;

(e) deliver to Purchaser a residency certification as required by Georgia laws;

(f) deliver to Purchaser or the Title Company a Broker's Lien Certification;

(g) deliver such additional documents as shall be reasonably required to consummate the transaction contemplated by this Agreement

4.3 Purchaser's Obligations at Closing. At Closing, Purchaser shall:

(a) pay to Seller the full amount of the Purchase Price, as increased or decreased by prorations and adjustments as herein provided, in cash, cashier's check, by wire transfer or other immediately available funds at such time prior to or on the day of Closing so that the funds shall be credited to such account on the day of the Closing, pursuant to Section 1.5 above, it being agreed that at Closing, the Earnest Money shall be delivered to Seller and applied towards payment of the Purchase Price;

(b) deliver to Seller a Broker's Lien Certification;

(c) deliver to Seller such evidence as Seller's counsel and/or the Title Company may reasonably require as to the authority of the person or persons executing documents on behalf of Purchaser; and

(d) deliver such additional documents as shall be reasonably required to consummate the transaction contemplated by this Agreement.

4.4 Credits and Prorations. Ad valorem taxes and assessments will not be prorated as of the date of Closing due to the fact that the Seller is an exempt party from paying real estate taxes on the Property. To the extent there are any assessment of taxes due to Purchaser's ownership of the Property in the year 2022 then Purchaser shall be responsible for the payment of those real estate ad valorem taxes.

4.5 Closing Costs.

(a) Seller shall pay:

(1) the fees of counsel representing it in connection with this transaction;

(2) the Georgia Real Property Transfer Tax, if any, required in connection with the conveyance of the Property to Purchaser; and

(3) any cost incurred in conveying good and marketable title to the Property to Purchaser.

(b) Purchaser shall pay:

(1) the fees of counsel representing Purchaser in connection with this transaction;

(2) the fee for the title examination and the Title Commitment and the premium for the Owner's Policy of Title Insurance to be issued to Purchaser by the Title Company at Closing;

(3) the cost of the Survey;

(4) the fees for recording the Deed conveying the Property to Purchaser;  
and

(5) any expenses relative to any due diligence performed by Purchaser relative to this transaction and/or the Property.

(c) All other costs and expenses incident to this transaction and the Closing thereof shall be paid by the party incurring same.

**ARTICLE V**  
**REPRESENTATIONS, WARRANTIES AND COVENANTS**

5.1 Representations and Warranties of Seller. Seller hereby makes the following representations and warranties to Purchaser as of the Effective Date:

(a) Organization and Authority. Seller has been duly created and is validly existing under the laws of the State of Georgia. Seller has the full right and authority to enter into this Agreement and to transfer all of the Property to be conveyed by Seller pursuant hereto and to consummate or cause to be consummated the transactions contemplated herein to be made by Seller. The person signing this Agreement on behalf of Seller is authorized to do so and this Agreement constitutes the valid and binding obligation of Seller.

(b) Pending Actions. To Seller's knowledge, there is no action, suit, arbitration, unsatisfied order or judgment, governmental investigation claim, or proceeding pending against Seller, the Property or the transaction contemplated by this Agreement, which, if adversely determined, could individually or in the aggregate have a material adverse effect on title to the Property or any portion thereof or which could in any material way interfere with the consummation by Seller of the transaction contemplated by this Agreement.

5.2 Representations and Warranties of Purchaser. Purchaser hereby represents and warrants to Seller:

(a) Purchaser has been duly organized and is validly existing under the laws of Tennessee and is authorized to conduct business in the State of Georgia.

(b) Purchaser is not acquiring the Property with "plan assets" within the meaning of 29 C.F.R. § 2510.3-101 ("Plan Assets") of an employee benefit plan as defined in Section 3(3) of ERISA ("Employee Benefit Plan").

(c) Purchaser has the full right, power and authority to purchase the Property as provided in this Agreement and to carry out Purchaser's obligations hereunder, and all requisite action necessary to authorize Purchaser to enter into this Agreement and to carry out its obligations hereunder have been, or by the Closing will have been, taken. The person signing this Agreement on behalf of Purchaser is authorized to do so.

(d) There is no action, suit, arbitration, unsatisfied order or judgment, government investigation or proceeding pending against Purchaser which, if adversely determined, could individually or in the aggregate materially interfere with the consummation of the transaction contemplated by this Agreement.

5.3 Covenants of Purchaser. Purchaser hereby covenants with Seller that Purchaser may, in connection with its investigation of the Property during the Inspection Period, inspect the Property for the presence of Hazardous Substances (as defined in this Section 5.3), and, if Purchaser chooses to make such investigation, Purchaser shall furnish to Seller copies of any reports received by Purchaser in connection with any such inspection if and only if specifically

requested by Seller. Whether or not Purchaser chooses to make such investigation, Purchaser hereby assumes full responsibility for such inspections and irrevocably waives any claim against Seller arising from the presence of Hazardous Substances on the Property. Purchaser shall also furnish to Seller copies of any other reports received by Purchaser relating to any other inspections of the Property conducted on Purchaser's behalf, if any. As used herein, "Hazardous Substances" means all hazardous or toxic materials, substances, pollutants, contaminants, or wastes currently identified as a hazardous substance or waste in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (commonly known as "CERCLA"), as amended, the Superfund Amendments and Reauthorization Act (commonly known as "SARA"), the Resource Conservation and Recovery Act (commonly known as "RCRA"), or any other federal, state or local legislation or ordinances applicable to the Property.

**ARTICLE VI  
INTENTIONALLY OMITTED**

**ARTICLE VII  
DEFAULT**

7.1 Default by Purchaser. If Purchaser fails to perform any of its obligations under this Agreement for any reason other than Seller's default or the permitted termination of this Agreement by either Seller or Purchaser as herein expressly provided, Seller shall be entitled, as its sole remedy, to terminate this Agreement and receive the Earnest Money deposited by Purchaser to the date of such default as liquidated damages for the breach of this Agreement, it being agreed between the parties hereto that the actual damages to Seller in the event of such breach are impractical to ascertain and the amount of the Earnest Money is a reasonable estimate thereof.

7.2 Default by Seller. In the event that Seller fails to perform any of its obligations under this Agreement for any reason other than Purchaser's default or the permitted termination of this Agreement by Seller or Purchaser as herein expressly provided, Purchaser shall be entitled, as its sole remedy, either: (a) to receive a return of the Earnest Money, which return shall operate to terminate this Agreement and release Seller from any and all liability hereunder; or (b) to enforce specific performance of Seller's obligation to do all things reasonably necessary to execute the documents required by this Agreement and to convey marketable title to the Property to Purchaser. Purchaser shall be deemed to have elected to terminate this Agreement and receive back the Earnest Money if Purchaser fails to file suit for specific performance against Seller in a court having jurisdiction in the county and state in which the Property is located, on or before thirty (30) business days following the date upon which Closing was to have occurred.

**ARTICLE VIII  
COMMISSIONS**

8.1 Brokerage Commissions. The parties agree that no broker or sales representative has been engaged in this transaction and that no such broker or sales representative is entitled to a commission or brokerage fee of any kind. Each party agrees that should any claim be made for brokerage commissions or finder's fees by any broker or finder by, through or on account of any

acts of said party or its representatives, said party will indemnify and hold the other party free and harmless from and against any and all loss, liability, cost, damage and expense in connection therewith. The provisions of this paragraph shall survive Closing.

## ARTICLE IX MISCELLANEOUS

9.1 Public Disclosure. Purchaser acknowledges and accepts the fact that the Seller is a public entity and is subject to open meetings and open records request as provided for under State and Federal Law. Purchaser further acknowledges that for this Contract to be binding the Seller will have to vote and approve the actions and obligations as set forth in this Agreement which action will require a vote of approval in a duly called public meeting.

9.2 Assignment. Except for an assignment by Purchaser to BBK Holdings LLC or an entity in which Purchaser is the sole or majority owner, neither this Agreement nor any right, obligation or duty created by this Agreement shall be assignable or transferable by Purchaser without the prior written consent of Seller. Purchaser shall give Seller prior written notice of any proposed assignment of this Agreement or proposed transfer, directly or indirectly, to any corporation, partnership or other ownership interest in Purchaser. Such notice shall identify the proposed assignee or transferee and the constituent individuals and/or entities thereof. Such notice shall be accompanied, as the case may be, by the written certification of the proposed assignee in the case of an assignment or by the written certification of Purchaser in the case of a transfer, directly or indirectly, of any corporation, partnership or other ownership interest in Purchaser that the Property will not be purchased in whole or part with the assets of an Employee Benefit Plan. Purchaser shall in addition cause to be delivered to Seller such further information with respect to the proposed assignee or transferee and the constituent individuals and/or entities thereof, including specifically, without limitation, any pension or profit sharing plans related thereto, as Seller may request. Neither Purchaser's assignment to an entity in which Purchaser is the sole or majority owner, nor Seller's consent to any other assignment or transfer to a third party shall relieve Purchaser of its obligations under this Agreement.

9.3 Notices. Any notice pursuant to this Agreement shall be given in writing by: (a) personal delivery; or (b) reputable overnight delivery service with proof of delivery; or (c) United States Mail, postage prepaid, registered or certified mail, return receipt requested; or (d) legible facsimile or e-mail transmission sent to the intended addressee at the mail, facsimile or e-mail address set forth below, or to such other address or to the attention of such other person as the addressee shall have designated by written notice sent in accordance herewith, and shall be deemed to have been given either at the time of personal delivery, or, in the case of expedited delivery service or mail, as of the date of first attempted delivery at the address and in the manner provided herein, or, in the case of facsimile transmission, as of the date of the facsimile transmission provided that an original of such facsimile is also sent to the intended addressee by means described in clauses (a), (b) or (c) above. Unless changed in accordance with the preceding sentence, the addresses for notices given pursuant to this Agreement shall be as follows:

If to Seller:

DEVELOPMENT AUTHORITY OF FLOYD COUNTY  
c/o Ryan Earnest  
501 Broad Street

Rome, GA 30161  
Telephone: (706) 378-5300  
Email: [REarnest@heritagefirstbank.com](mailto:REarnest@heritagefirstbank.com)

With a copy to: DEVELOPMENT AUTHORITY OF FLOYD COUNTY  
c/o Missy Kendrick  
800 Broad Street, Suite 102  
Rome, GA 30161  
Telephone: (706) 413-4213  
Email: [missykendrick@developromefloyd.com](mailto:missykendrick@developromefloyd.com)

with a copy to: McRae, Smith, Peek, Harman & Monroe, LLP  
Seller's Attorney 111 Bridgepoint Plaza, Suite 300  
Rome, GA 30161  
Attn: Scott M. Smith  
Telephone: (706) 291-6223  
Facsimile: (706) 291-7429  
Email: [ssmith@msh-lawfirm.com](mailto:ssmith@msh-lawfirm.com)

If to Purchaser: Bordeau Metals, LLC  
c/o Brad Bordeau  
701 Arnold Road  
White Bluff, TN 37187  
Telephone: (615) 210-7963  
Facsimile: \_\_\_\_\_  
Email: [brad@bordeaumetals.com](mailto:brad@bordeaumetals.com)

with a copy to:  
Purchaser's Attorney

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_  
Facsimile: \_\_\_\_\_  
Email: \_\_\_\_\_

9.4 Offer and Acceptance; Effective Date. This Agreement, when executed and delivered to Seller by Purchaser (the "**Submission Date**"), shall constitute an offer by Purchaser, open for acceptance by Seller at any time within **three (3)** business days after the Submission Date. The date upon which the Purchaser's offer is accepted by Seller and a fully executed copy hereof is delivered to Purchaser shall be the effective date (the "**Effective Date**") hereof. If, prior to the Effective Date, Seller notifies Purchaser in writing that this Agreement has been disapproved by Seller's corporate officers, then this Agreement shall be deemed terminated and Purchaser shall be entitled to the return of the Earnest Money. It is understood and agreed that Seller shall have the right, in its unfettered discretion, prior to the Effective Date, to disapprove the transaction contemplated by this Agreement for any reason whatsoever, without obligation. Seller's approval of this Agreement shall be evidenced only by Seller's execution of this Agreement prior to the Effective Date and, accordingly, Purchaser acknowledges and agrees that Purchaser cannot and will not rely upon any other statement or action of Seller or its representatives as evidence of Seller's approval of this Agreement or the subject matter hereof.

9.5 Modifications. This Agreement cannot be changed orally, and no executory agreement shall be effective to waive, change, modify or discharge it in whole or in part unless such executory agreement is in writing and is signed by the parties against whom enforcement of any waiver, change, modification or discharge is sought.

9.6 Calculation of Time Periods. Unless otherwise specified, in computing any period of time described in this Agreement, the day of the act or event on which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is a Saturday, Sunday or legal holiday under the laws of the State in which the Property is located, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday nor legal holiday. The final day of any such period shall be deemed to end at 5:00 p.m., local time.

9.7 Successors and Assigns. The terms and provisions of this Agreement are to apply to and bind the permitted successors and assigns of the parties hereto.

9.8 Entire Agreement. This Agreement, including the Exhibits, contains the entire agreement between the parties pertaining to the subject matter hereof and fully supersedes all prior written or oral agreements and understandings between the parties pertaining to such subject matter.

9.9 Further Assurances. Each party agrees that it will without further consideration execute and deliver such other documents and take such other action, prior to Closing, as may be reasonably requested by the other party to consummate more effectively the purposes or subject matter of this Agreement. Without limiting the generality of the foregoing, Purchaser shall, if requested by Seller, execute acknowledgments of receipt with respect to any materials delivered by Seller to Purchaser with respect to the Property. The provisions of this Section 9.9 shall survive Closing.

9.10 Counterparts. This Agreement may be executed in counterparts, and all such executed counterparts shall constitute the same agreement. It shall be necessary to account for only one such counterpart in proving this Agreement.

9.11 Facsimile or "Acrobat"-Readable Signatures. The parties further agree that, for this Agreement and for the closing of the transaction provided for herein, a signature and execution transmitted by legible facsimile or Acrobat-readable image should be considered and relied on by the parties as an original.

9.12 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall nonetheless remain in full force and effect.

9.13 Applicable Law. This Agreement is performable in the state of Georgia and shall in all respects be governed by, and construed in accordance with, the substantive federal laws of

the United States and the laws of such state. Seller and Purchaser hereby irrevocably submit to the jurisdiction of any state or federal court sitting in or having jurisdiction over the county of the state in which the Property is located in any action or proceeding arising out of or relating to this Agreement and hereby irrevocably agree that all claims in respect of such action or proceeding shall be heard and determined in a state or federal court sitting in or having jurisdiction over the county of the state in which the Property is located. Purchaser and Seller agree that the provisions of this Section 9.13 shall survive the Closing of the transaction contemplated by this Agreement.

9.14 No Third Party Beneficiary. The provisions of this Agreement and of the documents to be executed and delivered at Closing are and will be for the benefit of Seller and Purchaser only and are not for the benefit of any third party, and accordingly, no third party shall have the right to enforce the provisions of this Agreement or of the documents to be executed and delivered at Closing.

9.15 Exhibits and Schedules. The following schedules or exhibits attached hereto shall be deemed to be an integral part of this Agreement:

(a) Exhibit "A" Property

9.16 Captions. The section headings appearing in this Agreement are for convenience of reference only and are not intended, to any extent and for any purpose, to limit or define the text of any section or any subsection hereof.

9.17 Construction. The parties acknowledge that the parties and their counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any exhibits or amendments hereto.

9.18 Termination of Agreement. It is understood and agreed that if either Purchaser or Seller terminates this Agreement pursuant to a right of termination granted hereunder, such termination shall operate to relieve Seller and Purchaser from all obligations under this Agreement, except for such obligations as are specifically stated herein to survive the termination of this Agreement.

9.19 Survival. The provisions of this Agreement shall survive Closing or any termination of this Agreement prior thereto and shall not be merged into the execution and delivery of the Deed. The foregoing is in addition to and not in exclusion of any survival provisions elsewhere set forth in this Agreement.

9.20 No Recordation. Neither this Agreement nor any memorandum of the terms hereof shall be recorded or otherwise placed of public record and any breach of this covenant shall, unless the party not placing same of record is otherwise in default hereunder, entitle the party not placing same of record to pursue its rights and remedies under Article VII.

9.21 Cash Contract. This is a cash contract, so it is not contingent on bank financing.

**ARTICLE X  
SPECIAL PROVISIONS**

10.1 Use. The Purchaser has represented to Seller that Purchaser intends to use the Property as a “Lay Down” yard for purposes of gathering, collecting, cutting, resizing and storing for a limited time period certain metal items which have been obtained from the demolition and scrapping of Plant Hammond under a separate contract with Georgia Power Company. Purchaser understands that there shall be no other waste material to be stored or collected on the Property.

10.2 Buffer Zone. Purchaser shall at all times maintain the existing Buffer Zone with the residential neighborhood located adjacent to the Property in its natural state and agrees to replace and repair any item which may be damaged, destroyed or die in such a manner as to impact the buffer. In addition Purchaser will use good faith efforts to maintain the noise and/or other disturbances at a level that would have minimal impact on the neighboring residential subdivision.

10.3 Hazardous Materials. Notwithstanding anything contained herein to the contrary no Hazardous Materials shall be located, gathered or stored on the Property.

10.1-10.3 shall be covenants running with the Property.

10.4 Right of First Refusal. Purchaser agrees to convey to Seller at Closing a Right of First Refusal under terms to be mutually agreed to between Purchaser and Seller.

10.5 Approval of Sale. As a condition of the sale as contemplated in this Agreement, Purchaser understands that Seller has a real interest in protecting the integrity of the South Floyd Industrial Park of which the Property is part of. Therefore as a condition and covenant of this transaction set forth herein Seller shall have the right to approve any subsequent sale by Purchaser of the Property which approval not to be unreasonably withheld, conditioned or delayed.


10.6 Georgia Power Contract. This Sale is contingent upon the Purchaser being awarded and entering into a Contract with Georgia Power Company for the demolition and scrapping of Plant Hammond as referred to in Section 10.1 above.


*[The immediately following pages are the signature pages]*

**IN WITNESS WHEREOF**, the proper corporate officers of the respective parties hereto have duly executed this Agreement as of the Effective Date.

**SELLER:**

**DEVELOPMENT AUTHORITY OF  
FLOYD COUNTY**

By:   
Name: Ryan P. Earnest  
Title: Chairman

By:   
Name: Corey L. Townsend  
Title: Secretary / Treasurer

*[Signatures continued on following page]*

**PURCHASER:**

BORDEAU METALS, LLC

By: *J. H. Blew*  
Name: *Brent Bordeaux*  
Title: *MAS member*

By: *Kris Spinks*  
Name: *Kris Spinks*  
Title: *Vice President*

# Exhibit "A" - Sketch of Property

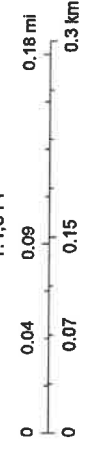
## Project Clean Sweep



10/12/2021, 4:54:39 PM

- Override 1
- LandHook
- Override 2
- Roads
- Lines
- Override 1
- LotLine
- Parcels
- Override 1
- floyd\_ga\_anno

1:4,514



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