



**Mercedes-Benz U.S.
International, Inc.**

METAL ACCESS AND SALE AGREEMENT

THIS METAL ACCESS AND SALE AGREEMENT (“Agreement”) is entered into by and between Owner and Supplier.

In consideration of the mutual promises contained herein, the parties agree to the following contractual terms:

RECITALS

WHEREAS, Owner has previously engaged the Supplier as a supplier of Products and Services to Owner in connection with the production by Owner of certain Mercedes-Benz vehicles (the “Vehicles”) at its automobile assembly plant in Vance, Alabama; and

WHEREAS, in connection with the supply of the Products and Services, Owner and Supplier are parties to a supply agreement, including without limitation, Owner’s Master Terms Direct Purchasing (collectively, the “Supply Agreement”); and

WHEREAS, Owner operates a metal resale program for suppliers and sub-suppliers involved in the manufacture of Products for the Vehicles, pursuant to which Owner purchases metal (the “Goods”) from certain mills or suppliers (each a “Metal Supplier”) for resale to Owner’s suppliers (the “Metal Resale Program”); and

WHEREAS, the Products produced by Supplier for Owner require Supplier to purchase Goods, and Owner is requiring that Supplier participate in the Metal Resale Program upon the terms and conditions set forth in this Agreement.

1. Definitions.

(a) “Agreement”: This Metal Access and Sale Agreement, all referenced attachments and policies herein, the Sales Contract Document, and the applicable Orders.

(b) “EDI”: the electronic data interchange system described in Section 13 hereof.

(c) “Order”: Means an order for the supply of specific Goods issued by Supplier to Metal Supplier pursuant to this Agreement.

(d) “Owner”: Means Mercedes-Benz U.S. International, Inc., an Alabama corporation.

(e) “Product”: The product(s) to be supplied by Supplier to Owner in accordance with the Supply Agreement.

(f) “Sales Contract Document”: the document between Owner and Supplier designating the identity of the Metal Supplier(s) who the Supplier may order the Goods from, the price of the Goods, the Incoterms, the quantity, unit of measure, currency, ship-to location pricing duration and description of the Goods.

(g) “Services”: Shall collectively refer to all products supplied and/or services rendered by Supplier pursuant to the Supply Agreement.

(h) “Metal Resale Program”: Has the meaning set forth in the recitals hereto.

(i) “Metal Supplier”: Has the meaning set forth in the recitals hereto.

(j) “Supplier”: Means the legal entity which purchases the Goods from Owner pursuant to this Agreement.

(k) “Supplier Portal”: Owner’s supplier portal found at <https://supplier.mercedes-benz.com> or its successor site.

(l) “Supply Agreement”: Means the agreement and all related contract documents between Owner and Supplier in connection with the provision of Products and Services by Supplier to Owner, including without limitation, the Master Terms Direct Purchasing of Owner.

(m) “Vehicles”: Has the meaning set forth in the recitals hereto.

2. Purchase of Metal.

(a) Pursuant to Owner’s Metal Resale Program, Supplier agrees to purchase from Owner and Owner agrees to sell to Supplier, all of Supplier’s requirements of Goods necessary for the production of the Products for Owner. Supplier shall have the right to purchase Goods for use in the Products from sources other than the Metal Resale Program only to the extent that Goods of suitable quantity and quality are not available from Owner pursuant to the Metal Resale Program on a timely basis. At the option of Owner, Owner may also require that Supplier purchase the Goods directly from the Metal Supplier. The supply of Goods contemplated by this Agreement includes all terms, conditions, requirements and obligations provided for in this Agreement including the Sales Contract Document, and the applicable Orders. The Goods purchased hereunder may only be used by Supplier in the production of Products for Owner and may not be used by Supplier for any other customer or business, whatsoever. Owner shall coordinate with Supplier in connection with its communications with and provisions of documents and Orders to the Metal Supplier.

(b) THE PARTIES AGREE THAT THE CONTRACT DOCUMENTS CONSTITUTE THE EXCLUSIVE TERMS AND CONDITIONS OF SALE BETWEEN THE PARTIES WITH RESPECT TO THE GOODS, AND THAT THE CONTRACT DOCUMENTS SHALL SUPERSEDE AND REPLACE ALL OTHER QUOTES, PROPOSALS, "CLICK THROUGH", ACKNOWLEDGEMENTS, RESERVATIONS, OBJECTIONS, INVOICES, OR OTHER FORMS ISSUED BY SUPPLIER, WHETHER PRINTED OR BY ELECTRONIC DATA INTERCHANGE, AND REGARDLESS OF THE MEANS BY WHICH SUPPLIER EFFECTS ACCEPTANCE. This provision shall be deemed incorporated into each Sales Contract Document issued under the Agreement.

3. Term of Agreement.

(a) The terms and conditions of this Agreement and the Contract Documents shall be deemed to have been accepted by Supplier upon the first to occur of: (a) written, electronically communicated, or electronic data acceptance thereof by Supplier, whether through Owner's Supplier Portal or otherwise or (b) Supplier's first order for the Goods or other commencement of performance under a Sales Contract Document or other contract document.

(b) The term of this Agreement shall be as set forth in the Sales Contract Document issued by Owner; provided, however, that Owner may terminate the Metal Resale Program upon ninety (90) days prior written notice to the Supplier.

4. Quality of Goods.

(a) Supplier is solely responsible for providing Owner and Metal Supplier with the dimensions and other required information for the Goods required by Supplier. The dimensions and such other information are intended to describe the Goods to be purchased and to furnish sufficient information to Owner and the Metal Supplier to indicate what is necessary for the Goods required by Supplier, complete in all details in order for Supplier to comply with its obligations under the Supply Agreement. If Supplier requires Metal Supplier to supply Goods with certain qualities or in a manner that is in addition to Owner's specification for the Goods found in Owner's contract with Metal Supplier (such as a requirement that Metal Supplier roll or package the Goods in a certain manner), Supplier must supply its requirements to Owner and Metal Supplier in writing, obtain Metal Supplier's written agreement to comply with such requirements and provide a copy of Metal Supplier's written agreement to Owner; provided however, Supplier may not change or modify the specification for the Goods found in Owner's contract with Metal Supplier without Owner's written permission. In the event that Supplier causes Metal Supplier to supply Goods to Supplier in a manner that prevents Supplier from complying with the Supply Agreement, Supplier shall bear the costs of its failure to comply with the Supply Agreement at its sole expense.

(b) Supplier is solely responsible to ensure that the Goods (1) meet the specifications for the Goods identified on the Order and in the Sales Contract Document, including, without limitation, those specifications drafted by Owner and provided to the Metal Supplier and all updates and amendments thereto; (2) meet Owner's quality requirements; and (3) are in compliance with the dimensions and other information provided by Supplier regarding the Goods and to ensure that the Goods are complete in every detail. Supplier shall not be relieved of any

obligations, responsibilities or liabilities under the Supply Agreement as a result of its participation in the Metal Resale Program.

(c) Supplier shall cooperate with Owner and the Metal Supplier with regard to any questions regarding the Goods ordered or any obscurity as to the wording of them. All directions and explanations requisite or necessary to complete, explain or make definite any of the Orders and give them due effect, will be given by Supplier in writing upon request from Owner or the Metal Supplier.

5. Shipping and Transportation.

(a) Supplier shall provide Metal Supplier with any and all logistics directives with respect to the Goods through EDI in accordance with Owner's requirements and the Steel Offload Process Implementation Guide attached hereto as **Attachment 1**. Delivery times specified shall be times of delivery of the Goods at the place of delivery or destination designated by Supplier.

(b) Without the prior written consent of Owner, Supplier may not change shipping schedules previously furnished Metal Supplier, or direct temporary suspension of scheduled shipments.

(c) Supplier is responsible for providing the Metal Supplier with packing and marking instructions for the Goods. Owner shall not be responsible for any improper packing, marking, or routing.

(d) Upon receipt of the Goods, Supplier shall provide Owner with a notice of either receipt or rejection of the Goods through EDI in accordance with Owner's requirements and the Steel Offload Process Implementation Guide attached hereto as **Attachment 1** within twenty-four (24) hours of receipt of the Goods. Supplier shall also notify Owner of the quantity of the Goods that it receives.

6. Pricing Terms.

a) The price(s) for the Goods supplied to the Supplier shall be based upon the agreed price(s) in the Sales Contract Document. Without limiting any other provision of this Agreement, the price includes preparation of the Goods to be fit for transportation, packaging and racks with appropriate shipping dunnage, unless otherwise specifically excluded.

b) Owner reserves the right to charge the Supplier for all Goods that Supplier orders from the Metal Supplier. In the event that the amount of Goods supplied to the Supplier does not match the amount of Goods shipped as indicated by the Metal Supplier's statement of Goods shipped, Owner shall charge Supplier for the Goods as follows:

(A) if the amount of Goods Supplier receives as indicated by Supplier receipt acknowledgment is a minimum of 99.5% of the total weight of the amount of Goods shipped as indicated by the Metal Supplier's statement of Goods shipped, Supplier shall be charged for the amount of Goods shipped;

(B) if the amount of Goods Supplier receives as indicated by Supplier receipt acknowledgment is less than 99.5% of the total weight of Goods shipped as indicated by the Metal Supplier's statement of Goods shipped, Supplier shall initiate an investigation with Metal Supplier into the amount of Goods received. The Owner will charge the Supplier for the amount of Goods received based on the results of the investigation. The Supplier shall complete the investigation and resolution within 14 calendar days. If the matter is not resolved within such 14 day time period, Supplier shall pay in accordance with the Metal Supplier's statement of Goods shipped and any further dispute will be resolved in accordance with the dispute resolution procedures of this Agreement. The Supplier is required to track and submit, and ensure Metal Supplier tracks and submits, to the Owner all investigation materials, analysis issues and results.

7. Warranties.

(a) Owner warrants that, on delivery, Supplier shall receive good title to the Goods, free and clear of all liens and encumbrances.

(b) Except as specifically set forth above in subsection (a), the Owner makes no representation or warranty regarding the Goods. The only warranties are those made by the Metal Supplier. OWNER HEREBY DISCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, AND INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. OWNER SHALL NOT BE LIABLE FOR CONSEQUENTIAL DAMAGES DIRECTLY OR INDIRECTLY ARISING OR RESULTING FROM THE BREACH OF ANY OF THE TERMS HEREOF OR FROM THE SALE, HANDLING OR USE OF THE GOODS SOLD.

(c) Owner agrees to assign to Supplier any and all warranty rights of Owner against the Metal Supplier; provided, that any such assignment will not jeopardize the rights, liabilities and obligations of Owner.

8. Inspections and Rejections. Supplier shall be responsible for the inspection and evaluation of all Goods. Supplier must carefully document in detail all aspects of the inspection and evaluation process. Supplier may revoke acceptance and reject Goods or require correction and return the Goods to the Metal Supplier if any Goods do not conform to applicable requirements. If Supplier rejects the Goods, it must carefully document all aspects of the rejection process and maintain possession of the Goods in the condition in which it received the Goods until the Metal Supplier instructs Supplier in writing regarding the return of the Goods or Metal Supplier's inspection of the Goods. If Metal Supplier requires its own inspection of the Goods, Supplier must make the Goods available to Metal Supplier in the form in which it received the Goods. Supplier acknowledges and agrees that the Metal Supplier, not Owner, will be responsible for correction of any defect or the provision of conforming Goods. Supplier must negotiate with Metal Supplier for the return of any rejected Goods with the Metal Supplier and must exhaust its remedies with the Metal Supplier before asking Owner for assistance in its negotiations with the Metal Supplier. Supplier shall not make a claim to Owner either to avoid charge for a shipment of Goods because it has rejected the Goods or for a return of money paid for a shipment of Goods that it rejected until Supplier has obtained an authorization code for the return of the Goods from the Metal Supplier.

9. Changes, Suspension of Work and Force Majeure.

(a) Owner or Supplier may require a change or modification of the Goods identified in the Sales Contract, but Supplier may not require a change or modification of the Goods at issue in an Order after the Order has been placed.

(b) Owner may at any time, and from time to time, by written or telegraphic notice to Supplier, suspend further performance of all or any portion of the supply of the Goods pursuant to an Order. Said notice of suspension shall specify the date of suspension and the estimated duration of the suspension. Such suspensions shall not exceed **one hundred eighty (180) consecutive calendar days** each nor aggregate more than **two hundred seventy (270) calendar days**. Upon providing any such notice of suspension, Owner shall promptly suspend further supply of the Goods to the extent specified, and during the period of such suspension shall properly care for and protect all Goods in progress.

(c) Owner may at any time withdraw the suspension of the supply of the Goods as to all or part of the suspended supply by written or telegraphic notice to Supplier specifying the effective date and scope of withdrawal, and Owner shall resume the supply of the Goods for which the suspension is withdrawn on the specified effective date of withdrawal.

(d) Owner shall not be liable for delays or defaults in furnishing the Goods hereunder, and Supplier shall not be liable for failure to accept the Goods hereunder, if such delays or failure on the part of either Party or the Metal Supplier are due to acts of God, war, riots, civil insurrection, acts of the public enemy, accidents, acts of civil or military authority, fires, floods, or earthquakes, beyond the reasonable control of the party delayed. Upon the occurrence of such an event, the Owner shall immediately notify Supplier of the occurrence and Owner or Supplier may suspend performance for as long as the force majeure event continues. Supplier shall, without any obligation to Owner, be entitled to obtain the Goods from other sources for the duration of the inability of Owner or the Metal Supplier to perform due to a delay in delivery caused by a force majeure event, and reduce the quantity of the Goods specified in existing Orders.

10. Orders and Invoicing.

(a) The purchase of Goods shall be made pursuant to this Agreement by issuance by Supplier to Metal Supplier of Orders, in forms adopted by Owner from time to time for such purpose, communicated via EDI in accordance with Owner's requirements and the Steel Offload Process Implementation Guide attached hereto as **Attachment 1**. The Order must contain, at a minimum, the part number(s) of the Goods to be ordered (using Owner's part number system), the quantity of each part number, the unit of measure, the date upon which Supplier wishes the Goods to be delivered and the time window for the delivery. Supplier shall continuously provide a forecast of its need for the Goods categorized per Owner's part number to Metal Supplier at least fourteen (14) weeks in advance. In order to place an Order, Supplier must have given the Metal Supplier a fourteen (14) week forecast indicating that it would need the Goods identified in the Order. Supplier must accept delivery of the quantity of Goods included in its fourteen (14) week forecast. Supplier shall be responsible for any cost or damage relating to Supplier's non-acceptance of the quantity of Goods included in its fourteen (14) week forecast. Owner and Metal Supplier shall not

be required to supply Goods to Supplier in quantities different from those forecast at least fourteen (14) weeks in advance. In the event Supplier (i) fails to forecast its need for the Goods at least fourteen (14) weeks in advance or (ii) adjusts its forecast quantity within fourteen (14) weeks of the delivery date, Owner and Metal Supplier reserve the right to reject any such Order or such change. Supplier acknowledges that the amount of Goods supplied is typically not exactly the same as the amount of Goods ordered and agrees that Owner and Metal Supplier reserve the right to supply more or less of the Goods than the amount ordered.

(b) Except as otherwise specifically provided herein, this Agreement may not be modified, superseded, or altered except by written agreement, by telecopied agreement, or by electronic data agreement signed or issued by an authorized representative of Owner, notwithstanding any terms which may now or in the future appear on any quotations, sales orders, acknowledgments, invoices, or other forms issued by Supplier, whether printed, by telecopy, or by EDI. THIS AGREEMENT SHALL CONTROL IN THE EVENT OF ANY CONFLICT WITH THE TERMS OF ANY QUOTATION, SALES ORDER, ACKNOWLEDGMENT, INVOICE, PURCHASE ORDER OR OTHER FORM ISSUED BY SUPPLIER, WHETHER PRINTED, BY TELECOPY, OR BY EDI, AND REGARDLESS OF THE MEANS BY WHICH METAL SUPPLIER EFFECTS ACCEPTANCE OF THE ORDER. This provision shall be deemed to be incorporated into each Order issued under this Agreement.

(c) Separate invoices shall be issued by Owner for deliveries of the Goods within thirty (30) days of delivery to the designated place of delivery. Each invoice shall specify the Order to which it relates. Supplier acknowledges and agrees that payment to Owner shall be made by way of deduction or credit against any and all amounts owing by Owner to Supplier under the Supply Agreement, or otherwise.

11. Indemnity.

(a) Supplier shall indemnify and hold harmless Owner against all claims, liabilities, losses, expenses, fees, and other damages in connection with (a) any breach by Supplier of this Agreement; or (b) for damage or loss of any property in each case allegedly or actually resulting from, or arising out of, any act, omission, or negligence of Supplier or its employees, agents, suppliers or subcontractors in connection with performing any aspect of this Agreement.

(b) In the event that any claims, demands, or lawsuits are made or brought against Owner relating to the Goods in connection with specifications or other information about the Goods furnished by Supplier or relating to the trade name, trademarks, copyrights or patents in connection with the manufacturing process, and/or based upon unfair competition by reason of sale or use of the Goods by Owner, Supplier shall indemnify and hold harmless Owner against all actions brought against Owner, pay all costs of any lawsuit, including reasonable legal fees and expenses, and indemnify and hold harmless Owner for any cost incurred by Owner in connection therewith.

(c) Except as provided herein, in the event of any suit, claim, threatened claim, or notification of a claim which may be the subject of indemnification provided for in this Section 11, the Party receiving such notification shall provide prompt written notice thereof to the other Party.

(d) The terms of this Section 11 shall survive any termination of this Agreement.

12. Intellectual Property Rights.

(a) All materials which Supplier prepare or develop specifically for Owner in the purchase of the Goods hereunder, including documents, calculations, programs, financial or accounting information, maps, sketches, notices, reports, data, models and samples, and any and all inventions and copyrightable material contained therein, shall become the exclusive property of Owner, subject to Supplier's right to use the same to purchase and use the Goods under this Contract. Supplier agrees to execute all documents and to take all steps requested by Owner which Owner deems necessary or desirable to complete and perfect Owner's said ownership and Owner's property rights in said material.

(b) Supplier hereby grants to Owner a worldwide, exclusive and perpetual license of the Supplier's intellectual property rights to inventions, ideas, improvements, or discoveries, processes, composition of materials, designs, specifications, software, mask works, or other technical information involving the Goods, including without limitation, all Drawings, Specifications, rights to patents, trademarks, copyrights, or legally protected trade secrets pertaining thereto and renewals thereof, whether or not incorporated into the Goods ("Supplier's Intellectual Property Rights") (except for Supplier's retained rights to same to meet its obligations under this Agreement and the Supply Agreement), with right to sublicense, to make, have made, use, maintain, repair, service and sell any Goods. Supplier agrees to deliver to Owner, promptly upon demand therefor by Owner, one full set of all documents and materials embodying or containing Supplier's Intellectual Property Rights.

(c) The terms of this Section 12 shall survive the termination or expiration of the Agreement.

13. Supplier Obligations.

(a) Supplier shall comply with all Owner requirements, as applicable, as to electronic data exchange. Supplier shall comply with Owner's IT Requirements, which are located on the Supplier Portal and as may be amended from time to time.

(i) Even in the absence of electronic signatures, the parties agree that the orders, decisions and commitments communicated by them over the EDI system shall be binding and shall be considered legally valid. Offers and acceptances submitted electronically via the EDI system shall be legally binding upon the Supplier. Decisions and commitments communicated by one of the Supplier's registered users shall constitute binding confirmation of the acceptance of orders or sales agreements. The Supplier shall only grant employees and agents entitled to submit legally binding declarations of intent authorized status to make those declarations via the EDI system. The user IDs and passwords created for the EDI system shall only be accessible to Supplier's agents and employees who are able to submit declarations of intent, offers and acceptances that are legally binding on Supplier. Supplier shall, and shall cause its employees and agents to keep such IDs and passwords confidential. In the event that Supplier terminates its

relationship with an employee or agent who has knowledge of such an ID or password, Supplier shall immediately terminate that ID and/or password.

(ii) Every process communicated via the EDI system, and particularly, offers acceptances and communications regarding the Goods shall be recorded and stored along with the identification of the user creating it. This record shall be used exclusively as evidence of the content and the fact that a party submitted a legally binding offer, acceptance or declaration of intent.

(b) Supplier shall adhere to and comply with the Steel Offload Process Implementation Guide which is attached hereto as **Attachment 1**, and any amendments and updates thereto. When required by Owner in the Steel Offload Process Implementation Guide or otherwise, Supplier shall use this EDI system as the means of communication under this Agreement.

(c) Supplier shall comply with all Owner requirements, as applicable, as to the security of Owner's data and information. Supplier shall comply with the Information Security Requirements, which are located on the Supplier Portal and as may be amended from time to time.

(d) Supplier shall comply with the standards and requirements of Owner regarding social responsibility, compliance, sustainability and environmental protection as specified in both the latest versions of (i) MBST 36, and (ii) Mercedes' Responsible Sourcing Standards, located on the Supplier Portal and as either may be amended from time to time.

14. Miscellaneous.

(a) Confidentiality. Drawings, specifications, and other information which may be obtained by Supplier from Owner or the Metal Supplier in connection with the Goods including without limitation, this Agreement, shall be held in strict confidence by Supplier and shall not be used by Supplier for any purpose other than for the purchase of the Goods and the supply of the Products or as authorized in writing by Owner, and shall not be disclosed by Supplier or its officers, directors, suppliers, subcontractors or agents to any third parties. All such documents furnished by Owner or the Metal Supplier to Supplier shall remain the sole property of Owner or the Metal Supplier, as the case may be, and upon completion of the purchase of the Goods and the supply of the Products, Supplier shall, as requested by Owner, either destroy or return such documents including any copies thereof as instructed in writing by Owner.

(b) Publicity. Supplier shall not make news releases, publicize or issue advertising pertaining to the Goods or this Agreement without first obtaining the written approval of Owner.

(c) Communications. All communications pursuant to or in connection with this Agreement shall be identified by Owner's contract number and shall be communicated as set forth below:

(i) Form of Communication. All contractual notices given under this Agreement shall be sufficient if in writing and delivered in person to the designated representative of the party

to be notified, addressed as set forth below, by registered mail, telex, facsimile or cable. Telexes, facsimiles and cables must be confirmed in writing within three days thereafter.

(ii) Addresses. The addresses for communications for Owner and Supplier shall be as listed on the Sales Contract Document.

(d) Owner Dispute with Third Party. In the event that Owner is required to arbitrate a dispute with a third party, which dispute arises out of or is directly related to the Goods to be purchased by Supplier under this Agreement or any other contract or agreement related, directly or indirectly, to any of the foregoing, Supplier agrees to join in such arbitration proceeding as Owner may direct and shall submit to such jurisdiction and be finally bound by the judgment rendered in accordance with the arbitration rules as may be established therein.

(e) Validity of Provisions. In the event any section, or any part or portion of any section of this Agreement, shall be held to be invalid, void or otherwise unenforceable, such holding shall not affect the remaining part or portions of that section, or any other section hereof; provided, however, that the intention and essence of this Agreement may still be accomplished and satisfied. In the event that any provision of the Agreement is held to be unenforceable or invalid by any court of competent jurisdiction, Owner and Supplier shall negotiate an equitable adjustment in the provisions of this Agreement to preserve the purpose of this Agreement and maintain the allocation of risks, liabilities and obligations originally agreed upon.

(f) Assignment. Supplier shall not assign this Agreement wholly or in part, voluntarily, by operation of law, or otherwise without first obtaining the written consent of Owner. Any assignment of this Agreement in violation of the foregoing shall be, at the option of Owner, void. Subject to the foregoing, the provisions of this Agreement shall extend to the benefit of and be binding upon the successors and assigns of the parties hereto. Owner reserves the right at its sole option to assign this Agreement or any Order to its designated agent, including without limitation, the Metal Supplier, or to any of Owner's affiliates.

(g) Waiver. Owner's failure to insist on performance of any term, condition, or instruction, or to exercise any right or privilege included in this Agreement, or its waiver of any breach, shall not thereafter waive any such term, condition, instruction, and/or any right or privilege.

(h) Survival Of Obligations. Notwithstanding the acceptance of the Goods by Supplier or the termination of this Agreement, any duty or obligation which has been incurred by Supplier and which has not been fully observed, performed and/or discharged and any right, unconditional or conditional, which has been created for the benefit of Owner and which has not been fully enjoyed, enforced and/or satisfied shall survive such acceptance or termination until such duty or obligation has been fully observed, performed and or discharged and such right has been fully enjoyed, enforced and/or satisfied.

(i) Headings; Intent. Captions and headings in this Agreement are intended for ease of reference only and shall not in any manner affect the construction or meaning of this Agreement or the rights of the parties thereto. As used in this Agreement, the neuter gender shall include the

masculine and the feminine, the masculine and feminine genders shall be interchangeable, the singular number shall include the plural, and the plural the singular. Should a question or doubt arise as to the intent and meaning of any part of this Agreement, Supplier shall immediately notify Owner. Owner's determination of intent and meaning of such part shall be final and binding upon Supplier.

(j) Execution In Counterparts. This Agreement may be executed in one or more counterparts and by the parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all the counterparts shall together constitute one and the same instrument. All signatures need not appear on the same counterpart.

(k) Special, Indirect And Consequential Damages. To the extent permitted by applicable law, Owner shall not be liable to Supplier in contract, tort or otherwise (including negligence, warranty or strict liability) for any incidental, special, indirect, exemplary or consequential damages arising out of or in connection with or resulting from this Agreement and/or the Goods, whether or not such damages arise out of, or in connection with, or result from, the negligence of Owner or its employees or agents.

(l) Contract Under Seal. This Contract is executed under seal and it is the parties' express intention that this agreement be treated as such.

(m) Waiver Of Trial By Jury

EACH PARTY HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY ON ANY CLAIM, COUNTERCLAIM, SETOFF, DEMAND, ACTION OR CAUSE OF ACTION, NOT RESOLVED BY ARBITRATION, (A) ARISING OUT OF OR IN ANY WAY RELATING TO THIS AGREEMENT OR EXECUTED OR DELIVERED IN CONNECTION WITH THIS AGREEMENT OR (B) IN ANY WAY CONNECTED WITH OR RELATED TO OR INCIDENTAL TO ANY DEALINGS OF THE PARTIES HERETO WITH RESPECT TO THIS AGREEMENT, WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. ALL PARTIES AGREE THAT ANY ONE OF THEM MAY FILE A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY, AND BARGAINED AGREEMENT BETWEEN THE PARTIES IRREVOCABLY TO WAIVE TRIAL BY JURY, AND THAT ANY DISPUTE OR CONTROVERSY WHATSOEVER BETWEEN THEM SHALL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.

(n) Jurisdiction And Venue; Governing Law.

(i) Jurisdiction and Venue. If any controversy or claim arising out of or relating to this Agreement is found by a court of competent jurisdiction not to be subject to arbitration, such controversy or claim, including actions for specific performance or other equitable relief, shall be brought in and each party irrevocably submits itself to the jurisdiction of the state and federal courts of the State of Alabama sitting in Tuscaloosa County, Alabama, and irrevocably agrees that all claims in respect of such action or proceeding shall be heard and determined only in and by either of the state or federal courts sitting within Tuscaloosa County, Alabama. Any controversies or claims relating to arbitration and the enforceability of the arbitration provisions

of this Agreement and any claims for judgment on final award of an arbitration pursuant to this Agreement shall be brought in and each party irrevocably submits itself to the jurisdiction of the state and federal courts of the State of Alabama sitting in Tuscaloosa County, Alabama, and irrevocably agrees that all claims in respect of such action or proceeding shall be heard and determined only in and by either of the state or federal courts sitting within Tuscaloosa County, Alabama. Furthermore, each party hereby irrevocably waives and agrees not to assert by way of motion, as a defense or otherwise in any such action or proceeding, any Claim that such party is not personally subject to the jurisdiction of the state or federal court sitting in Tuscaloosa County, Alabama, that such action or proceeding is brought in an inconvenient forum, that the venue of such action or proceeding is improper or that this Agreement may not be enforced in or by such state or federal court sitting in Tuscaloosa County, Alabama. Each party agrees that process against such party may be served by delivery of service of process by certified or registered mail in the manner provided for the giving of notices under this Agreement.

(ii) Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Alabama without reference to its principles of conflicts of law.

(iii) Remedies Cumulative. Owner's remedies herein shall be cumulative and in addition to any further remedies provided in law or equity.

(o) Entire Agreement.

(i) This Agreement and the Supply Agreement constitute the entire agreement between the parties pertaining to the subject matter hereof and supersedes all prior agreements, representations and understandings of the parties. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by a duly authorized officer of each of the parties. No waiver of any provision of this Agreement shall be deemed or shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

(ii) Nothing contained in this Agreement shall be construed or interpreted to relieve Supplier of any of its obligations under the Supply Agreement, all of which shall remain in full force and effect with respect to the supply of Products thereunder. No provision of this Agreement shall invalidate any provision of the Supply Agreement.

Attachment 1

Steel Offload Process Implementation Guide