



42802 Mound Rd
 Sterling Heights, MI 48314
 Ph: 586-731-1700 Fx: 586-731-1342

Source One Metals, Inc.

Credit Application

Please Fax to: 586-731-1342

Business Name _____ No. of years _____

Address _____
 (Street) (City) (State) (Zip code)

Phone _____ Fax _____ E Mail _____

Type of Business _____

Former Business name / address (if applicable)

Has the firm or any of its Principals ever been bankrupt? (Y) (N)

Person to contact about the account _____ E Mail _____

Taxable (Y) (N) Federal Tax ID Number _____

Please fill out trade and bank references below (metal distributors preferred). List any significant business debts (you may attach a separate sheet).

Trade & Bank References:

Company Name:	Contact:
Address:	Phone:
Email:	Fax:

Company Name:	Contact:
Address:	Phone:
Email:	Fax:

Company Name:	Contact:
Address:	Phone:
Email:	Fax:

Bank Name:	Contact:
Address:	Phone:
Email:	Fax:

Payment Terms are Net 30 days unless specified on Invoice

Authorization: I, the undersigned as a representative for the applicant, understand the terms and conditions of sale, and certify that all information on this form and attached is correct and that I fully understand the terms of payment to Source One Metals. I authorize the references listed on the attached sheet to release all pertinent credit information to Source One Metals and warrant that all information submitted is true and correct. I agree to pay any and all collection fees incurred to collect balances on this account, including reasonable attorney's fees.

Name (sign & print)

Title

Date

TERMS AND CONDITIONS OF SALE

1. **SELLER'S TERMS AND CONDITIONS:** All sales by Source One Metals, Inc. and its subsidiaries (collectively "*Seller*") are subject to all of the terms and conditions contained herein and upon no other terms and conditions. Seller's acceptance of Buyer's order is expressly made conditional upon Buyer's assent to all of Seller's terms, and Seller objects to any terms or conditions at variance with, different from or additional to the terms set forth herein, unless such terms are set forth in a writing signed by a corporate office of Seller. Any amendment to or any waiver, modification or deletion of, any of Seller's terms shall be ineffective unless such amendment, waiver, modification or deletion is accepted in a writing signed by a corporate officer of Seller.
2. **BUYER'S ACCEPTANCE OF SELLER'S TERMS:** Buyer's acceptance of Seller's terms shall be conclusively presumed by: (a) Buyer's submissions of a credit application to Seller, (b) Buyer's execution of any other document containing these terms and conditions of sale, or (c) Buyer's acceptance of delivery of any products ordered from Seller.
3. **PRICES:** All prices shall be adjusted to conform to Seller's prices in effect as of the date of shipment. All prices proposed by Seller to Buyer are confidential information of Seller, and Buyer shall take all reasonable actions to keep such prices confidential. Disclosure of Seller's prices to any third party for any reason whatsoever (other than as required by law or directly in connection with purchase of materials hereunder) is expressly prohibited.
4. **TAXES:** Unless otherwise indicated herein, Seller's prices do not include any taxes due or payable on account of the transactions between Buyer and Seller, and all such taxes shall be paid by Buyer.
5. **PAYMENT:** Buyer agrees to pay for all materials purchased from Seller based on the Buyer's and Seller's agreed upon terms. Buyer shall pay interest on all late payments at the lesser of the rate of [1.5%] per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Buyer shall reimburse Seller for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees. In addition to all other remedies available under these Terms or at law (which Seller does not waive by the exercise of any rights hereunder), Seller shall be entitled to suspend the delivery of any Goods if Buyer fails to pay any amounts when due hereunder and such failure continues for 15 days following written notice thereof.
6. **SHIPPING AND RISK OF LOSS:** All sales are made F.O.B Point of Shipment (Origin), unless otherwise agreed upon. In all cases, title shall pass upon delivery to the carrier at point of shipment and thereafter all risk of loss or damage shall be upon Buyer. Any deviation after placement of order, including but not limited to changes in quantity or partial releases, will be subject to a price increase and/or additional freight charges. All labor or mechanical facilities required to unload shall be provided by Buyer without any cost to Seller. As collateral security for the payment of the purchase price of the Goods, Buyer hereby grants to Seller a lien on and security interest in and to all of the right, title and interest of Buyer in, to and under the Goods, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this provision constitutes a purchase money security interest under the Michigan Uniform Commercial Code.
7. **DELIVERY:** Any and all delivery dates given by Seller prior to shipment constitute estimates only. Seller will make a good faith effort to complete delivery of the products as indicated by Seller in writing, but Seller assumes no responsibility or liability, and Seller will not accept any backcharge for losses or damages due to delay or inability to deliver. Buyer represents, warrants, and agrees that any employee or agent of Buyer signing any delivery document provided by Seller is and shall be deemed fully authorized on behalf of the Buyer. Seller may, in its sole discretion, without liability or penalty, make partial shipments of Goods to Buyer. Each shipment will constitute a separate sale, and Buyer shall pay for the units shipped whether such shipment is in whole or partial fulfillment of Buyer's purchase order.
8. **DELAY:** Seller shall not be liable to Buyer for any failure to perform, failure to deliver or for any delay in delivery due to an Act of God, act or omission of Buyer, any actions, events, conditions, inactions, or any other cause beyond Seller's reasonable control. In the event of any such delay, the date for performance or delivery shall be extended for a period equal to the time lost by reason of delay.
9. **VARIATION IN GOODS:** All products sold by Seller are subject to normal variations in weight, color, size, quantities, etc., as are standard in the trade.
10. **STORAGE FEE:** If Buyer postpones delivery for more than thirty (30) days, Buyer agrees to pay reasonable storage fees.

11. **SHORTAGES AND/OR DEFECTIVE OR DAMAGED PRODUCTS:** Any claim for alleged shortages and/or defects or damages to products received by Buyer from Seller must be reported by Buyer to Seller in writing within five (5) days of receipt of the products. After such five (5) day period, Buyer shall be deemed to have irrevocably accepted the products, if not previously accepted. After such acceptance, Buyer shall not have any right to reject the products for any reason or to revoke acceptance. Buyer hereby agrees that such five (5) day period is a reasonable amount of time for such inspection and revocation.
12. **CANCELLATION AND RETURNS:** Buyer may not cancel any order for products or return any products without Seller's express written consent. Any cancellation authorized by Seller shall be subject to a cancellation charge of at least fifteen percent (15%). The amount of credit, if any, allowed to Buyer for returned good shall be at the sole discretion of Seller. Used goods, processed material or specially manufactured materials may not, under any circumstances, be returned to Seller. In the event Buyer cancels any order without Seller's written consent, Seller shall be entitled to recover any and all damages suffered by Seller.
13. **EXCLUSION OF ALL EXPRESS AND IMPLIED WARRANTIES:** ALL PRODUCTS BEING SOLD HEREUNDER ARE BEING SOLD "AS IS." ALL EXPRESS AND IMPLIED WARRANTIES OF EVERY TYPE AND KIND IN CONNECTION WITH THE SALE, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANT ABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE EXCLUDED IN ALL RESPECTS AND FOR ALL PURPOSES. SELLER IS NOT THE MANUFACTURER OF THE PRODUCTS BEING SOLD HEREUNDER AND SELLER HAS NOT MADE ANY INDEPENDENT CHEMICAL OR PHYSICAL ANALYSIS OR ANY OTHER TYPE OF TEST ON ANY OF THE PRODUCTS WHATSOEVER. SELLER DOES NOT MAKE ANY REPRESENTATION AND DOES NOT ASSUME ANY LIABILITY OR RESPONSIBILITY WITH REGARD TO THE CONTENT, ACCURACY, MANNER OR PREPARATION OF ANY GENERAL TRADE INFORMATION, THIRD PARTY CERTIFICATION OR REPORT SUPPLIED WITH THE PRODUCTS.
14. **CERTIFICATION:** Upon request, the Seller shall provide the Buyer with material certification. It shall be understood that Mill or Manufacturer certifications may not be available for every product, in which case the Seller will issue a Certificate of Conformity to the Buyer.
15. **BUYER'S ACKNOWLEDGMENT:** Buyer acknowledges that Buyer must conduct its own testing to ascertain the specific chemical and physical characteristics of the products purchased hereunder. Buyer affirmatively states that Buyer is not relying on any representation, warranty or promise from Seller in connection with this transaction.
16. **LEGAL ACTION:** All actions filed by Buyer against Seller arising out of or related to this transaction, whether based on contract, tort or any other legal theory of recovery, must be commenced within the applicable statutory period, but in no event more than one (1) year from the date of the Seller's invoice.
17. **BUYER'S EXCLUSIVE REMEDY/SELLER'S LIMIT OF LIABILITY:** BUYER'S SOLE AND EXCLUSIVE REMEDY AND SELLER'S ABSOLUTE LIMIT OF LIABILITY IN CONNECTION WITH ANY LAWSUIT, CLAIM OR CAUSE WHATSOEVER DIRECTLY OR INDIRECTLY RELATING TO OR ARISING OUT OF THIS TRANSACTION, WHETHER BASED ON CONTRACT, TORT OR ANY OTHER LEGAL THEORY OF RECOVERY, SHALL IN ALL CASES BE STRICTLY LIMITED, AT SELLER'S SOLE OPTION, TO EITHER: (a) REIMBURSING BUYER FOR BUYER'S ACTUAL DIRECT DAMAGES UP TO THE AMOUNT OF THE PURCHASE PRICE OF THE PRODUCTS PURCHASED IN SUCH TRANSACTION; OR (b) REPLACING ANY ALLEGED NONCONFORMING PRODUCTS AT THE ORIGINAL POINT OF DELIVERY. AS A CONDITION PRECEDENT IN SUCH SELLER'S OBLIGATION TO REIMBURSE THE PURCHASE PRICE OR REPLACE THE PRODUCTS, BUYER MUST ASSIST SELLER IN ALL RESPECTS IN ITS INVESTIGATION OF THE BASIS OF LEGITIMACY OF ANY SUCH CLAIMS. BUYER ACKNOWLEDGES AND AGREES THAT THE REMEDIES SET FORTH HEREIN ARE BUYER'S SOLE AND EXCLUSIVE REMEDIES EVEN IF SUCH REMEDIES FAIL IN THEIR ESSENTIAL PURPOSE FOR ANY REASON WHATSOEVER. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY PUNITIVE, INCIDENTAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES TO BUYER OR ANY THIRD PARTY ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE AND ALL SUCH DAMAGES ARE HEREBY DISCLAIMED AND IN NO EVENT SHALL SELLER BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT OR LOSS OF DATA OR DIMINUTION IN VALUE.

18. **FORCE MAJEURE:** The Seller shall not be liable or responsible to Buyer, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Seller including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lockouts, strikes or other labor disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage, provided that, if the event in question continues for a continuous period in excess of 30 days, Buyer shall be entitled to give notice in writing to Seller to terminate this Agreement].

19. **HAZARDOUS WARNING LABEL:** Metal products under normal conditions do not pose health problems. However, fumes or particles may be generated when welding, burning, grinding, or similar operations are performed.

20. **HAZARDOUS ACTIVITIES:** Unless otherwise agreed in writing by a corporate officer of Seller, products sold hereunder are not intended for use in connection with any hazardous activity or any other critical application where failure of a single component could cause substantial harm to persons or property. If so used, Seller disclaims all liability for any damage, contamination or other injury and Buyer shall indemnify and hold Seller harmless from such liability, whether as a result of breach of contract, warranty, tort (including negligence) or any other legal theory of recovery.

21. **IMPROPER USE AND INDEMNITY:** Buyer shall indemnify, defend, and hold Seller harmless from any claim, liability, damages, lawsuits, and costs (including attorney's fees), whether for personal injury, property damage or other, brought by or incurred by Buyer, Buyer's employees, or any other person, arising out of improper selections, improper application or other misuse of products purchased by Buyer from Seller.

22. **PATENT INFRINGEMENT:** If any material is furnished to Buyer's specifications, Buyer shall defend, indemnify, and hold harmless Seller and its officers, directors, employees, agents, shareholders, affiliated companies, and their respective successors and assigns from or against any and all claims, liabilities, fine, penalties, fees, costs, and expenses, including, without limitation, reasonable attorney's fees and other litigation costs, resulting from or in connection with any claim of patent infringement related to the processing of such material.

23. **EXPORT LAWS:** Seller's obligations are subject to the export administration and control laws and regulations of the U.S. Government. Buyer shall comply fully with such laws and regulations in the export, resale or other disposition of the products. By accepting this Sales Agreement, Buyer confirms that it is not a resident or citizen of any country embargoed by the U.S. A list of embargoed countries is available at the official website of the US Bureau of Export Administration at <http://www.bxa.dox.gov>.

24. **CREDIT APPROVAL:** The performance of any work and all shipments shall be subject to the approval of Seller's Credit Department. Seller, in its sole discretion, may, at any time and for any reason, decline to perform any work or make and shipment, prior to the receipt of payment or adequate assurances of payment

25. **CREDIT CARD TRANSACTION:**

Source One Metals (Seller) accepts all major credit cards, including Visa, Mastercard, & American Express.

- A. For orders made on terms of "Credit Card" the Buyer must provide credit card information before the order will be processed.
- B. For orders of \$5,000 or more, a transaction fee of 3%-5% may be applied.
- C. A 3%-5% transaction fee may also be applied if a Credit Card is used for payment after terms (i.e. Net 30 or Net 60) have been taken.

Buyer's acceptance of these terms shall be conclusively presumed by: (a) Buyer's submissions of a credit card to Seller, (b) Buyer's execution of any other document containing these terms and conditions of sale, or (c) Buyer's acceptance of delivery of any products ordered from Seller.

26. **NON-WAIVER BY SELLER:** Any waiver of any term, provision or other condition by Seller, whether by conduct or otherwise, shall not be construed as further or continuing waiver of any such term, provision or condition or as a waiver of any other term, provision or condition hereof.

27. **SOLVENCY:** Buyer hereby represents and warrants to Seller that Buyer is solvent (on a balance sheet basis) and has the unrestricted ability to pay its debts in the ordinary course of business as and when such debts are due and payable. Buyer also acknowledges and agrees that each purchase order or request from Buyer to Seller shall constitute a written reaffirmation of Buyer's representation of solvency as of the date of Buyer's request, which representation shall be deemed to

grant to Seller the maximum right of reclamation available at law or in equity under either the Commercial Code or any other applicable state law, or in any bankruptcy or insolvency proceeding.

28. **SET OFF:** Seller is authorized to apply any sums now or hereafter owed to Buyer or any entity affiliated with Buyer toward the payment of any monies due Seller hereunder.

29. **GOVERNING LAW:** This transaction shall be governed in all respects by the laws of the State of Michigan. The laws of the State of Michigan shall be applicable to all disputes arising under this Sales Agreement and the Terms and Conditions herein. Buyer agrees and acknowledges that venue, at the sole election of Seller, shall be either: Macomb County, Michigan or the county and state from which the Seller's products were shipped. Buyer waives the right to trial by jury in any action arising from the vendor/vendee relationship between Seller and Buyer.

30. **ATTORNEY'S FEES:** In the event that Seller institutes a legal proceeding against Buyer to collect any monies due Seller hereunder, or if Seller successfully defends any lawsuit instituted by Buyer, whether based on contract, tort or any other legal theory of recovery, then Seller shall be entitled to recover its costs and expenses, including reasonable attorney's fees, from Buyer.

In the event Buyer institutes legal proceedings against Seller under this Agreement or if Buyer successfully defends any lawsuit instituted by Seller, whether based on contract, tort or any other legal theory of recovery, then Buyer shall be entitled to recover its costs and expenses, including reasonable attorney's fees from Seller.

31. **SEVERABILITY:** If any term or condition herein, or the application thereof to any person or circumstance, shall be deemed to be invalid or unenforceable, the remainder of these terms shall not be affected thereby, and all such terms, covenants or conditions shall be valid and shall be enforced to the fullest extent permitted by law.

32. **ENTIRE CONTRACT:** These terms and conditions constitute the entire understanding between the parties with respect to the terms governing the subject transaction and supersede all prior negotiations, discussions and preliminary agreements, if any. Except for representations set forth herein, neither party has relied on any promises or representations made by the other or any third party as an inducement to enter into the subject transaction.

33. **TERMINATION:** In addition to any remedies that may be provided under these Terms, Seller may terminate this Agreement with immediate effect upon written notice to Buyer, if Buyer: (i) fails to pay any amount when due under this Agreement [and such failure continues for 20 days after Buyer's receipt of written notice of nonpayment; (ii) has not otherwise performed or complied with any of these Terms, in whole or in part; or (iii) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.