

Terms and Conditions

Please read these terms and conditions carefully. They materially affect the parties' obligations. Finzer Roller, Inc. ("Seller") will accept orders and do business only on the terms and conditions on this form.

Acceptance; Contrary Terms; Entire Agreement.

All orders for goods and/or services ("Products") are subject to acceptance by Seller. BUYER'S ORDER IS ACCEPTED ONLY ON THE TERMS AND CONDITIONS CONTAINED HEREIN and Seller's acceptance is made conditional on Buyer's consent to these terms and conditions. If any of these terms and conditions are not acceptable to Buyer, Seller must be notified promptly. This writing is intended by Seller and Buyer to be the complete, exclusive and final statement of their agreement. Any changes to this Agreement must be in writing and signed by both parties to be binding.

Excuse From Performance.

Seller is excused from performance if it is rendered impracticable by any accident, war, terrorist action, delay, interruption in or failure of sources or subcontractors to supply materials and equipment, labor or transportation problem, act of God, force majeure, of other causes and conditions that are beyond the Seller's reasonable control; or any governmental orders, contracts, priorities, directives, requisitions or requests, whether or not voluntarily assumed.

Taxes and Fees.

Unless otherwise specified, prices do not include any sales, use or excise taxes, charges or duties. Buyer will pay all taxes, charges and duties that Seller may be required to pay under any existing or future law with respect to the sale, purchase, delivery, storage, processing, use, consumption or transportation of any of the Products covered, will be for the account of Buyer, who will promptly pay or reimburse the amount to the Seller upon demand. Prices; Payment Terms. Unless specifically held open for a length of time on Seller's Quotation, all prices are subject to change without notice and any unshipped balance on purchase orders will be invoiced to and paid by Buyer at prices in effect at the time of delivery. The invoice is payable net thirty (30) calendar days from the date of shipment. The unit price does not include charges for freight, packaging, insurance, federal, state or municipal taxes, all of which are the responsibility of Buyer. Buyer will pay Seller any collection fees and reasonable attorneys' fees incurred by Seller in enforcing this agreement or defending against any claim for breach of this agreement.

Risk of Loss; Shipment.

Unless otherwise specified on the front of this form, all shipments are F.O.B. Seller. Scheduled shipping dates on any order are estimates only and are not binding on the Seller. Seller will use every reasonable effort to meet the estimated scheduled shipping date, subject to Buyer's prompt provision of all necessary, complete and correct specification, but Seller will not be responsible for failure to meet such estimated date. Except as otherwise expressly agreed in writing, and for an additional charge, Seller does not insure Products against damage, loss or shortage in transit.

Exclusive Warranty.

Unless made in writing and approved by a person of authority designated by Seller, SELLER MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, AND SELLER EXPLICITLY EXCLUDES ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. SELLER WILL NOT BE LIABLE FOR ANY GENERAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES, INCLUDING WITHOUT LIMITATION ANY DAMAGES FOR LOSS OF USE OR LOSS OF PROFITS, FOR ANY BREACH OF WARRANTY OR FOR NEGLIGENCE. Any warranties made by Seller apply to Buyer only, and not to any subsequent buyer or user. Buyer will be solely responsible for any specifications it provides for the Products and Buyer should, before using any Products in production, perform its own tests to determine to its satisfaction whether the Products are acceptable for its particular purposes under its operating conditions.

Limitation of Remedies and Damages.

Seller's liability and Buyer's exclusive remedies under this agreement will be limited solely to repair, replacement or credit, at Seller's option, with respect to claims for shortage or damage to Products, claims must be made within 10 days of receipt of Products. Products may not be returned and will not be accepted for return without prior written consent of Seller's authorized officers, at Buyer's expense within 30 days after the Buyer's receipt of the Article. SELLER WILL NOT BE LIABLE, UNDER ANY CIRCUMSTANCES, FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, INCLUDING BUT NOT LIMITED TO, LABOR COSTS OR LOST PROFITS RESULTING FROM THE USE OF OR INABILITY TO USE THE PRODUCTS OR FROM THE PRODUCTS BEING INCORPORATED IN OR BECOMING A COMPONENT OF ANY OTHER ARTICLE. This is a commercial sales transaction. The parties want it to be governed by Article 2 of the Uniformed Commercial Code and related commercial legal principals. NEITHER PARTY WILL HAVE ANY NEGLIGENCE OR OTHER TORT LIABILITY TO THE OTHER, OR TO ANY THIRD PARTY, ARISING FROM ANY BREACH OF THIS AGREEMENT. Limitation Of Liability In General In no event whatsoever shall Seller or any of its shareholders, directors, officers, affiliates, predecessors, successors and

assigns, be liable to Buyer or any third party or any of their shareholders, directors, officers, affiliates, predecessors, successors and assigns, for any incidental, indirect, consequential, exemplary or special losses, damages, costs or expenses of any kind relating in any way to the manufacture and sale of the Products, the use of or inability to use such Products, or acts or omissions in connection herewith (including, without limitation, lost profits or the use of or the loss of use of any of the Products or other property), regardless of whether Seller and/or others may be wholly, concurrently, partially, jointly or solely negligent or otherwise at fault, and whether or not the Seller has been made aware of the potential for any such liability. In no event shall Seller's liability arising under this Agreement for any reason exceed, in the aggregate, the purchase price of the Products purchased hereunder.

Indemnification.

Buyer hereby waives and releases Seller from, and shall defend, indemnify and hold harmless Seller and its shareholders, directors, officers, affiliates, predecessors, successors and assigns from and against, any and all claims, actions, causes of action, liabilities, liens, losses, expenses and costs (including, without limitation, the costs of litigation and attorneys' fees), by Buyer or any third party claiming by, through or in the right of Buyer relating to: (i) any device, material or thing to which the Products are attached or of which the Products are made a part or within which the Products are enclosed; and (ii) any claimed or actual breach by Buyer of Buyer's obligations hereunder or any acts primarily attributable to the conduct of Buyer or its employees and agents, including, but not limited to, the negligence or reckless conduct of Buyer's employees or agents, Buyer's maintenance of the Products, Buyer's addition to or modification of the Products, or Buyer's use of the Products in an inappropriate manner, regardless of whether Seller may be wholly, concurrently, partially, jointly or solely negligent or otherwise at fault and regardless of the manner in which such claim or liability arises. Buyer shall bear sole responsibility for providing adequate and efficient safeguards, work-handling tools, and safety devices necessary to provide a safe workplace and to protect fully all personnel from bodily injury or death which otherwise may result from the use, operation, setup or maintenance of the Products. Compliance with all prevailing federal, state, and local codes and industry-accepted standards is the responsibility of Buyer alone. Seller shall bear no responsibility whatsoever for the failure of Buyer to order, install, or use safeguards, work-handling tools, or safety devices. Buyer shall establish, and require all persons who use, operate, set up, or maintain the Products to use, all proper and safe operating procedures, including, but not limited to, procedures set forth in any manuals or instruction sheets relating to the Products. Buyer shall not remove or modify any devices, warning signs, or manuals furnished with or installed upon or attached to the Products.

Patent Indemnity; Limitation to Responsibility and Damages.

(a) In the event any Article not made by another or not made to Buyer's specifications is claimed to infringe any United States patent, copyright, trademark or other trade designation, trade secret, or other intellectual property right in effect in the United States at the time Buyer's order is accepted, Seller agrees, at its option: (1) to procure for Buyer the right to use the Article; (2) to modify or replace the Article so as to avoid infringement; or (3) to accept redelivery of the Article and reimburse Buyer for the purchase price and any reasonable transportation expenses incurred by Buyer. Should any litigation be instituted against Buyer based on a claim that any Article in the condition received from Seller so infringes, Seller is given prompt written notice and is furnished with copies of all demands, process and pleadings; and provided Buyer cooperates fully in giving Seller authority, information and assistance at Seller's expense for defense, as well as control over the defense and any settlement and negotiations with regard to settlement.

(b) THE FOREGOING REPRESENTS THE SELLER'S ENTIRE AND EXCLUSIVE OBLIGATION WITH RESPECT TO ANY CHARGE OF INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHT AND IS IN LIEU OF ANY STATUTORY WARRANTY RELATING TO INFRINGEMENT. SELLER WILL HAVE NO RESPONSIBILITY INSOFAR AS ANY ARTICLE IS MADE BY ANOTHER, IS MODIFIED BY BUYER, OR IS MADE OR MODIFIED BY SELLER IN ACCORDANCE WITH BUYER'S ORDER, AND BUYER WILL INDEMNIFY, DEFEND AND HOLD SELLER HARMLESS AGAINST ALL DAMAGES, COST OR EXPENSES, INCLUDING ATTORNEYS' FEES, PAID OR INCURRED BY SELLER IN CONNECTION WITH ANY CLAIM OF INFRINGEMENT OF A PATENT, COPYRIGHT OR TRADEMARK, TRADE SECRET, OR OTHER SPECIFICATIONS, SELLER WILL ALSO HAVE NO RESPONSIBILITY WITH REGARD TO ANY SETTLEMENT, ADMISSION OF PROMISE MADE BY BUYER WITHOUT SELLER'S PRIOR WRITTEN CONSENT, NOR WILL SELLER BE LIABLE FOR ANY INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE WHATSOEVER, INCLUDING LOST PROFITS, CLAIMED TO HAVE BEEN SUSTAINED BY BUYER OR ANY USER OF AN ARTICLE ARISING OUT OF ANY CLAIM OF INFRINGEMENT.

(c) Seller may be entitled to indemnification from certain of its suppliers, and the rights and options vested in Seller will extend to suppliers and may be exercised by them.

Confidentiality.

Buyer acknowledges that Seller possesses certain confidential or proprietary information, including but not limited to the following: certain know-how, trade secrets, patent applications, formula books, information regarding research and inventions, customer, vendor and supplier lists, customer sales histories, customer-related data, processes, other data (including data relating to or provided by vendors or suppliers), specifications,

computer programs, drawings, designs, marketing plans, bid and pricing information and other trade secrets (collectively, “Confidential Information”), which may, whether intentionally or otherwise, be disclosed to Buyer. Buyer agrees that it will not under any circumstances disclose any Confidential Information to any other person or entity, or use such Confidential Information for or on behalf of itself or any third party, for any reason and whether or not for consideration, unless specifically authorized to do so by a corporate officer of Seller. Buyer acknowledges that any disclosure by Buyer of Confidential Information will cause irreparable harm for which monetary damages would not be an adequate remedy. Seller will have the right to enforce this section by seeking and obtaining injunctive or other equitable relief in any court of competent jurisdiction, without first having to show actual damages or post any bond. This relief shall be in addition to, and not in lieu of, any other relief available to Seller at law or pursuant to this agreement.

Ownership of Developments.

In the event that, as a result of or in connection with the performance of this Agreement, Seller either alone or in conjunction with Buyer, develops, discovers or invents any product, device, improvement, technique, invention, know-how, derivative work or otherwise, in the nature of intellectual property, then such intellectual property will not be deemed a work made for hire, and all right, title and interest therein will be owned by, and vest exclusively in, Seller. Buyer agrees to execute and deliver any document or instrument that Seller may reasonably request to better evidence Seller’s exclusive ownership of such intellectual property.

Claims, Cancellation.

All claims, including those for damages and defects, must be made within 30 days of receipt of the Products. THE BUYER’S FAILURE TO MAKE ANY CLAIM WITHIN THE SPECIFIED TIME PERIOD WILL RESULT IN THE UNCONDITIONAL WAIVER OF A CLAIM. Seller reserves the right to accept or reject any claim in whole or in part. Cancellation, modification, suspension, or delay in shipment of Buyer’s order will not be accepted on terms that will not fully indemnify and reimburse the Seller against loss. Such indemnity will include recovery of all costs incurred, including normal and indirect overhead charges and normal profit.

Setoff.

Seller may set off any amount due from Buyer, whether or not under this Agreement, against any amount that may become due to Buyer hereunder.

Assignment.

Buyer may not assign any of its rights, duties or obligation under this Agreement without Seller's prior written consent and any attempted assignment without such consent, even if by operation of law, will be void. Surcharge: all credit cards presented for payment will be assessed a 2.5% fee in all states allowable by law. Governing Law; Consent to Jurisdiction. The validity, construction and enforcement of this agreement will be governed by and interpreted under the local, domestic law of the State of Illinois, including its provisions of the Uniform Commercial Code. Buyer hereby submits to the jurisdictions of state and federal courts for the State of Illinois, County of Cook, and said courts shall have exclusive jurisdiction and venue to adjudicate the rights and obligations of the parties relating in any manner to this agreement. Buyer hereby designates the Secretary of State of Illinois as an authorized agent to accept service of process for Buyer in the State of Illinois.

Severability.

If any provision of this Agreement is held by any court to be invalid or unenforceable, such provision will be deemed to be modified or severed, but only to the minimum extent necessary to enable that and the remaining provisions of this Agreement to be valid and enforceable, and upon such modification or severance the other terms and conditions hereof will remain in full force and effect.