

STANDARD TERMS & CONDITIONS OF SALE

Purchaser, by placing this order, hereby acknowledges and accepts the following terms and conditions and acknowledges that these terms and conditions apply to all sales.

1. **Definitions.** "Contract" shall mean any purchase order, invoice, change orders or any specifications, drawings, including these "Terms and Conditions," attached hereto or referred to herein for the sale of any goods and/or for the furnishing of any services by The Finishing Company (hereinafter referred to as "TFC"). The term "Customer" means the person, firm or corporation placing the purchase order with TFC or entering into any contract with TFC. The term "Product(s)" means all goods, items, articles, materials, apparatus and equipment. The term "Services" shall mean labor, work, services and operations of TFC to be performed by TFC pursuant to this Contract.
2. **Quotations.** Price quotations are open for acceptance no longer than ninety (90) days from the date of issuance. After ninety (90) days, prices and terms are subject to change without notice unless otherwise specified. All quotations, orders or agreements and modifications thereof are contingent upon and subject to any and all occurrences beyond TFC's control, including, but not limited to: strikes or other labor action or boycotts wherever these occurrences are located, including but not limited to any TFC facility, any Customer facility, supplier, common carrier or elsewhere, and which affects the completion of the Contract; accidents; thefts; fires; war; acts of terrorism; shortage of materials or equipment; casualty; or acts of God, and TFC shall not be liable for failure to perform any agreement for such causes. For special or experimental processing and finishing, charges are not contingent upon the success of the Products or Services provided by TFC or benefit derived there from by the Customer.
3. **Acceptance.** Customer accepts this Contract by: (a) executing a separate agreement with TFC, incorporating these terms and conditions, or (b) delivering to TFC a purchase order for Products and/or Services with quantities and delivery dates acceptable to TFC; or (c) accepting delivery of the Products and/or Services; or (d) paying the price for the Products and/or Services, whether prior to delivery or not, as agreed to by TFC and Customer and/or set forth in the Contract. Any counteroffer or proposed addition to or supplement of, or any material variances from the material terms and conditions of this Contract are hereby prohibited unless agreed to in writing by TFC. All price quotations are valid on work performed within 180 days from date of quotation unless extended in writing.
4. **Payment Terms.** For Customers with established credit, terms are net thirty (30) days from the date of shipment. Credit is extended solely at TFC's discretion and is subject to revocation at any time. For Customers without established credit, or for any other reason at the sole discretion of TFC, the terms shall be COD. Cash or anticipation discounts are not allowed. All payments must be in U.S. dollars. TFC shall have the right of set-off and deduction for any sums owed. If Customer fails to make timely payment, TFC, at its sole option, reserves the right to defer any shipment until such payment is made, or may cancel any or all of the remaining unshipped order. A service charge in the amount of the lesser of 1.5 % per month (18% per annum), or the maximum amount allowed by law, will be added to all invoices that are sixty (60) days past due as of the tenth day of the month following the date of the invoice. Customer shall be liable for all costs and expenses incurred by TFC if Customer fails to perform its obligations pursuant to his Contract, including, but not limited to, collection costs, attorneys' fees and expenses, and all other expenses incurred by TFC to collect on any unpaid amount. TFC shall have a lien on Customer's property in TFC's possession until the outstanding balance on the property is satisfied which may extend to property that is subject to an installment contract. TFC's right shall be considered a security interest under the Uniform Commercial Code and foreclosure thereon shall be in the manner prescribed for security interests in Article 9 of the Uniform Commercial Code.
5. **Time of Delivery.** Deliveries made by TFC no later than (10) days after the time specified in the Contract shall be deemed in full compliance with this Contract. TFC reserves the right to make partial or installment deliveries, for which Customer shall pay at the contract price. Any claims of defective delivery or non-delivery with respect to any installment or partial delivery under this Contract shall be severable from the Contract and shall not give Customer the right to terminate its obligations under this Contract or to claim that the entire Contract has been breached.
6. **Modification.** None of the terms and conditions contained in this Contract may be added to, modified, superseded or otherwise altered except by written agreement of the parties. Terms from Customer are not accepted and do not constitute part of this Contract unless expressly agreed to in writing by the TFC and Customer. Any change in circumstance in materials, application or product will constitute a modification that shall be approved by Customer and reflected in the final price.
7. **Special Orders.** Special orders or accounts may require TFC to stock ample volumes of product to meet production requirements. Upon termination of a Special Order contract, or inactivity, Customer agrees to purchase the product so ordered, at cost, from TFC. Special tools, racks and fixtures required for the performance of the work herein described which have been designed and/or built by us shall be and remain our property whether or not the customer is charged with time and/or material in connection therewith.
8. **Cancellation.** In the event of cancellation of any or all of the order for products and/or services under this Contract by Customer, Customer shall reimburse TFC for a all work completed, work in process and for tooling and engineering expenses incurred in connection with such order, including any lost profit.
9. **Force Majeure.** TFC shall not be liable for any delay in or impairment of performance resulting in whole or in part from catastrophic events, labor disruptions, shortages, inability to procure product, supplies or raw materials, severe weather, acts of war, acts of terrorism, accidents, thefts, fires, war, acts of terrorism, shortage of materials or equipment, casualty, or acts of God, or any other circumstance or cause beyond the control of TFC. In the event that such occurrences prevent or interfere with TFC's ability to complete the Contract, Customer shall accept as full and complete fulfillment of the order such portion of the goods as TFC is able, under the circumstances to procure and deliver in accordance with the same. The provisions stated in this paragraph are for the sole benefit of TFC and Customer, and confer no rights, benefits or claims upon any person or entity not a party hereto.
10. **Risk of Loss.** Notwithstanding any agreement to pay freight or other transportation charges, the risk of loss shall remain with Customer until receipt of the product by TFC, and is then the responsibility of Customer once work is completed. Title and risk of loss pass to Customer on delivery of the product to the common carrier, or any other person or entity that receives the product for delivery to Customer. During storage and transportation of Customer's material and/or merchandise, Customer's containers, used for delivery to TFC, shall be used for storage and/or reshipment, and any damage resulting there from shall be the sole responsibility of Customer. We shall not, under any circumstances, be considered as an insurer of customer's material or merchandise and shall not be liable, regardless of cause, for loss by fire, explosion, theft, pilferage, vandalism, casualty or acts of God while such material or merchandise is in our possession. Should customer desire other packaging or containers, we will charge for material and handling, only upon receipt of a written order. Additional charges may be incurred by Customer for repackaging goods to other specifications. If product is damaged in transit, Customer must file any claim with the carrier and TFC shall have no liability as a result of any damage occurring in transit.
11. **Shipping Charges.** Unless agreed otherwise by the parties, TFC shall charge Customer, and Customer hereby agrees to be responsible for, any and all costs or charges for freight transfer and delivery of the product using routing of TFC's choice.
12. **Limited Warranty and Exclusion.** TFC warrants that the product conforms to customer's specifications supplied by Customer, in writing, and that such processing and finishing shall be free from defects in material or workmanship at the time of delivery. Warranty coverage applies on a case-by case-basis and subject to the following:
 - (A) If Customer specifies methods and procedures to be followed, TFC assumes no responsibility for the correctness of such method and procedure or the results due to compliance with said instructions. The absence of full disclosure by Customer of the use of material or parts to be processed and finished, TFC assumes no liability for subsequent failures or defects.
 - (B) No claim for shortage in weight, defect or count will be allowed unless made, in writing, within three (3) working days after receipt of product by Customer or the Customer's consignee to whom it was delivered, provided however, a shrinkage or defective quantity in bulk processing of two (2%), and in the case of reel to reel plating, five (5%), shall be allowed without charge or liability. TFC shall not be responsible for weight counts or their inspection functions or for merchandise received from third parties on behalf of Customer.
 - (C) Metal finishing over anything other than raw, new metal may cause problems with the final finish. Specifically, previous organic coatings, hot rolled steel, pre-plating, corrosion, pickling, stripping, polishing compounds, or other, can cause problems with subsequent coatings. Pre-production samples are recommended but even successful samples do not insure perfect results in production. TFC will not bear responsibility for these problems.
 - (D) In the event that results of metal finishing operations are unsatisfactory due to metal imperfections, changes in grade or composition of materials, manufacturing and/or fabrication imperfections, usages for which the plating or other finishing operation was not reasonably designed, and similar variables over which TFC has no control, Customer will be required to pay the contracted amount for the finishing operation performed.
 - (E) Upon receipt of timely notice of defect from Customer or Customer's consignee, and, unless otherwise specified in writing, any defect that has been reported by Customer as defective in material or workmanship shall be examined by TFC, at TFC's facilities, with no charge to Customer for service time expended. It shall be the sole responsibility of Customer to return the Product to TFC for inspection. Should Customer fail to return the Product to TFC for inspection, no claim shall be allowed. If examined product is found not to be defective or is not, for some other reason, within the warranty coverage, TFC's service time expended shall be charged to Customer. If product is found to be defective due to TFC's work, TFC's obligation shall be limited to providing remedial service to repair the defect or, upon TFC's sole option, to refund the amount of the purchase price paid for the product to the extent that the product is damaged or defective.
 - (F) Product returned to TFC under claim of defect must not be altered structurally or chemically since processed by TFC. Processing or assembly of any such product by Customer or its consignee, or any other party, shall constitute a waiver of this warranty and any liability by TFC.
 - (G) TFC hereby disclaims any warranty under this Contract if the product is subject to abuse, misuse, negligence accident or any other damage, not caused by TFC, or if Customer fails to perform any of its duties under this Contract.
 - (H) TFC reserves the right, at our option, either to reject work or to make an extra charge for finishing any base metal below our agreed standard.
 - (I) TFC assumes no responsibility for defective plating or other finish on materials on merchandise previously plated or finished by others.
 - (J) Localities may have varying regulations governing sales, construction, installation, and/or use of products for certain purposes. TFC does not guarantee compliance with such regulations and is not responsible for how the product is used. Before placing and order with TFC, it is the sole responsibility of Customer to review the product application, and any applicable statute, ordinance or other regulation which may govern the use of the [product]. It shall be the sole responsibility of Customer to inform TFC, in writing, of any such need for compliance. TFC shall not be liable for any claim based upon the failure of Customer to comply with this Paragraph.
 - (K) No specification with respect to any part of this Contract shall constitute a warranty, express or implied, against any claims for infringement of patents, copyrights or trademarks. TFC shall not be responsible to Customer, or any other person or entity, for or on account of any such claim or liability. Should any party make a claim against TFC under this paragraph, Customer hereby agrees to indemnify TFC for any damages, including attorneys' fees and expenses, incurred by TFC for defending such claim.
 - (L) TFC makes no warranties or representations, express or implied, as to workmanship, performance, quality, durability, fitness for purpose or merchantability for any of the articles we process except as otherwise stated herein. This disclaimer is for all liability including, among other, liability for consequential, incidental and special damages. The only warranties applying to such articles are those which are written and are specifically provided by us. Seller makes no warranties concerning the manufacturer's warranties. THE WARRANTY EXPRESSED IN THIS PARAGRAPH IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE. The warranty contained herein is the only warranty applicable to this Contract. All other warranties express or implied, including but not limited to the implied warranties of merchantability and fitness for a particular purpose are disclaimed.
13. **Liquidated Damages.** It is understood and agreed that TFC's liability, whether in contract, tort, or any other legal theory, under any warranty, in negligence or otherwise, shall not exceed the return of the amount of the purchase price paid by Customer and under no circumstances shall TFC be liable for special, indirect or consequential damages.
14. **Indemnification.** Customer agrees that TFC shall not be held liable for, and hereby agrees to indemnify TFC and hold TFC harmless for (1) loss of use resulting from pre-existing damage to Customer's property while in TFC's possession, custody or control, or (2) demands, claims suits losses, damages, costs and expenses, including attorneys' fees, arising out of bodily injury to any person or damage to any property caused by or resulting from the sole negligence of Customer or (3) loss resulting from damage to Product due to TFC's application process. Customer states and warrants that it has sufficiently investigated and approved TFC's application processes and applications and assumes full responsibility for any alteration or damage to Customer's product during TFC's application process. TFC shall reimburse Customer only for damage to Customer's product due to TFC's negligence.
15. **Severability.** If any provision of this Contract shall be deemed unenforceable or invalid by operation of law, the remaining parts of this Contract shall remain in full force and effect.
16. **Assignment.** Customer shall not assign any Contract or any interest therein to any other person or entity without the written consent of TFC. Any actual or attempted assignment without TFC's prior written consent shall entitle TFC to cancel such order upon notice to Customer. Upon such cancellation, Customer shall still be responsible for payment to TFC or any work completed or in the process of completion.
17. **Uniform Commercial Code.** The provisions of the Uniform Commercial Code shall govern, except as provided in these Terms and Conditions to the contrary and all interpretation of the terms of the transaction between the parties shall be governed by the laws of the State of Illinois.
18. **Attorneys' Fees and Expenses.** Customer shall pay and discharge all costs, expenses and attorney's fees which shall be incurred and extended by TFC in enforcing the covenants and agreements of this contract, whether by the institution of litigation or in taking the advice of counsel, or otherwise.
19. **Governing Law; Forum Selection.** THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ILLINOIS (WITHOUT REGARD TO CONFLICT OF LAW PRINCIPLES). EACH PARTY HERETO IRREVOCABLY AGREES THAT ANY AND ALL ACTIONS OR PROCEEDINGS BROUGHT BY ANY PARTY AGAINST ANY OTHER PARTY IN ANY WAY, MANNER OR RESPECT ARISING OUT OF OR FROM OR RELATED TO THIS AGREEMENT OR THE RATE AGREEMENT SHALL BE LITIGATED IN COURTS HAVING SITUS WITHIN CHICAGO, ILLINOIS, AND EACH PARTY HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY LOCAL, STATE OR FEDERAL COURTS LOCATED WITHIN SAID CITY AND STATE OVER ANY ACTION OR PROCEEDING BROUGHT BY SUCH PARTY AGAINST ANOTHER PARTY.
20. **Entire Agreement.** This Agreement and any agreement, document or instrument attached hereto or referred to herein constitute the entire agreement and understanding between the parties hereto and supersede any and all prior agreements and understandings related to the subject matter hereof including, without limitation, any term sheet and other correspondence between the parties in connection therewith. In the event of any conflict between the terms, conditions and provisions of this Agreement and any such agreement, document or instrument, the terms, conditions and provisions of this Agreement shall prevail and in no event shall any provision of any such agreement, document or instrument be construed so as to limit the rights and obligations of the parties hereto under this Agreement.