

# Custom Cupholders Company LLC

P.O. Box 2020, North East, Maryland 21901 USA, [www.customcupholders.com](http://www.customcupholders.com)

## General Terms and Conditions

### 1. General; Entire Agreement

These terms and conditions apply to all bids, quotations and orders for the sale of products by Custom Cupholders Company LLC (hereinafter referred to as "CCC"). These terms and conditions represent the sole understanding between CCC and customer (hereinafter referred to as "Buyer"), with respect to the purchase and sale of products.

- A. CCC's offer to sell the Products to Buyer is expressly limited to Buyer's acceptance of these terms and conditions. Any of the following constitutes Buyer's unqualified acceptance of these terms and conditions.
  - (i) Approval by signing and returning the CCC Quotation for specific product,
  - (ii) Issuance or assignment of a purchase order for the Products,
  - (iii) Acceptance of any Product under the purchase order, or
  - (iv) Payment for any of the Products under the purchase order.
- B. Additional or different terms or conditions proposed by Buyer (including any additional or different terms provided in a purchase order) shall be void and of no effect unless specifically accepted in writing by CCC.
- C. The CCC quotation and any resulting purchase order shall be the exclusive agreement between the parties for the Products, subject to the terms and conditions herein. Any prior or contemporaneous understandings, agreements, and representations, oral or written, are superseded by these terms and conditions. No modification to these terms and conditions shall be valid unless in writing and signed by CCC.
- D. Agents and sales representatives of CCC have no authority to make any representations not included herein, and any such representations should not be relied on by Buyer.

### 2. Governing Law

This transaction shall be governed in all respects by the laws of the Commonwealth of Maryland (excluding choice of law provisions). All actions, regardless of form, arising out of or related to this transaction or the products sold hereunder must be brought against CCC within the applicable statutory period, but in no event more than ONE (1) YEAR after the date of invoice.

### 3. Risk and Liability

Buyer assumes all risk and liability in connection with use, installation, and/or possession of any CCC Products. It is

the Buyer's responsibility to determine the suitability of intended use, to employ any and all precautions that may be necessary, and to use their own best judgment regarding how and when to use the Product. CCC shall not be liable for injury, loss or damage, direct or coincidental, arising from the installation, use, or misuse of the Product, including consequential damages, inconvenience or interruption of operation. Buyer agrees to indemnify and hold CCC harmless for any claim, action or demand arising out of or incident to Buyer's installation or use of the Product or injury to any third parties. CCC assumes no responsibility for installation and/or use of the Product. All Products are installed at the Buyer's own risk. Use, possession, and installation of the Product is subject to all applicable laws and regulations

CCC's total aggregate liability to Buyer for any and all claims and causes of action whatsoever is limited to the cost of the products actually paid by Buyer to CCC for the products covered hereby and does not include any related or unrelated costs, fees or charges, including, without limitation, shipping charges, taxes, duties and assessments. In no event shall CCC be liable to Buyer or to anyone claiming by or through Buyer for any consequential, incidental, special, indirect, exemplary or punitive damages (including, without limitation, damages in respect of lost revenue or profits), howsoever arising, whether or not foreseeable and even if CCC is made aware in advance of the possibility of such damages.

### 4. Delivery

CCC will make a good faith effort to complete delivery of the products as indicated in its Quotations, but does not guarantee any delivery dates and shall not be responsible for any loss or damage of any kind or nature whatsoever caused by any delay in delivery irrespective of the cause of such delay. Under no circumstances shall CCC be liable for any special, consequential, incidental, indirect, or liquidated damages, losses, or expense (whether or not based on negligence) arising directly or indirectly from delays or failure to give notice of delay.

### 5. Cancellation

Buyer's purchase orders are not subject to cancellation or modification by Buyer, in whole or in part, after CCC's acceptance of the purchase order, except with CCC's prior written consent. Cancellation or modification of the purchase order by Buyer, after acceptance by CCC, may result in additional costs and penalties.

### 6. Price

The Products and other items or services covered by this contract shall be sold and invoiced at the prices listed in the quotation provided that Buyer has issued a purchase order

prior to the expiration date of the quotation. Prices do not include sales, excise, use or other taxes now in effect or hereafter levied by reason of this transaction. Buyer will pay and indemnify and hold CCC harmless from all such taxes.

All prices are subject to adjustment on account of changes in specifications, quantities, shipment arrangements, and the like or the inclusion of terms and conditions which had not been part of any valid price quotation issued by CCC.

## **7. Payment Terms:**

- A. Buyer agrees to pay for the products according to the payment terms shown on CCC Quotations approved by the Buyer or as indicated below.
- B. Payment terms are as follows:
  - Approved Credit Customers
  - All products: - Net 30
  - NOTE: Some large order custom items may require a 50% deposit.
  - New or non-credit approved Customers
  - Stock or standard items: - Payment prior to shipping
  - Custom, special finishing or assembled items: - Payment prior to production.
- C. If the Buyer fails to make any payment to CCC when due, Buyer's entire account(s) with CCC shall become immediately due and payable without notice or demand. All past due amounts are subject to service charges at the rate agreed upon by the parties, otherwise at the maximum contract rate permitted by law.
- D. All payments (checks) should be sent to:
  - Custom Cupholders Company LLC
  - P.O. Box 2020
  - North East, MD 21901
- E. Payments may also be made by wire. Contact Custom Cupholders Company LLC for current wire transfer information.
- F. If Buyer is delinquent in paying any amount owed to CCC by more than ten (10) days, then without limiting any other rights and remedies available to CCC

under the law, in equity, or under the contract, CCC may (i) suspend production, shipment and/or deliveries of any or all products purchased by Buyer, or (ii) by notice to Buyer, treat such delinquency as a repudiation by Buyer of the portion of the contract not then fully performed, whereupon CCC may cancel all further deliveries and any amounts unpaid hereunder shall immediately become due and payable.

- G. By agreeing to these Terms and Conditions set forth herein Buyer represents to CCC that Buyer is now solvent and agrees that each acceptance of delivery of the Products sold hereunder shall constitute reaffirmation of this representation at such time.

## **8. Terms of Shipment**

Unless stated otherwise by CCC, all shipment will be EXW (Ex Works) (as defined in Incoterms 2000) CCC's manufacturing facility, if destination of delivery is outside the United States and F.O.B. (Free on Board) (as defined in U.C.C. Section 2-319) CCC's manufacturing facility, if destination of delivery is within the United States

Unless written instructions from the Buyer specifying the method of shipment to be used, have been received and accepted by CCC, CCC will exercise its own discretion with respect to manner of shipment, insurance, and carrier to be used.

Title to each shipment of the Products sold hereunder and risk of loss thereon shall pass to Buyer when CCC or its agent tenders such shipment to the carrier, but such shipment shall remain subject to CCC's rights of stoppage in transit and of reclamation.

## **9. Taxes, Duties and Fees**

All taxes, other than taxes on income, including but not limited to sales, use, excise, value added or similar taxes applicable to the manufacture or sale of products shall be paid by the Buyer and, when applicable, shall be added to the purchase price. In lieu of the imposition of any particular tax, the Buyer may, where applicable, provide a tax exemption certificate to CCC in a form acceptable to the taxing authorities.