



Custom Tube Products, Inc.

Terms and Conditions of Sale

THESE TERMS AND CONDITIONS OF SALE (hereinafter referred to as "Terms") apply to all quotations made and purchase orders entered into with Custom Tube Products, Inc. (hereinafter referred to as "Seller"). For the purposes of these Terms, the entity entering into a purchase order with Seller shall be referred to as "Buyer," and each shall be a "Party" and collectively the "Parties."

These Terms are effective as of the date they are posted at <https://customtubeproducts.com/>. Seller reserves the right to modify these Terms at any time, in its sole discretion. To ensure transparency and compliance, Seller will provide direct notice to all affected customers whenever changes are made to these Terms. By continuing to engage with Seller's offerings or placing orders with Seller after such notice, Buyer acknowledges and agrees to be bound by the updated Terms.

- BUYER'S ACCEPTANCE.** Any product sales to Buyer are made on the express condition that Buyer assents to the promises, terms, and conditions set forth below. Notwithstanding anything contained herein to the contrary, in the event of any inconsistency between these Terms and any other terms, understandings, and/or proposals between the Parties, these Terms shall govern. For the avoidance of doubt, nothing contained in Buyer's Purchase Terms and Conditions shall in any way supersede, modify, replace, amend, rescind, waive, narrow, or broaden any provision set forth in these Terms nor any of the rights, remedies or obligations arising therefrom. Seller's commencement of performance is not to be construed as acceptance of Buyer's Purchase Terms and Conditions. All orders or contracts must be approved, accepted, and acknowledged in writing by Seller.
- FORCE MAJUERE.** Seller shall not be liable for delays in shipment or impossibility of performance due to causes beyond its reasonable control including but not limited to, acts of God; acts of war or terrorism; riots or civil disobedience; flood, fire, earthquake, or explosion; accidents; strikes or labor disputes; delays in transportation; inability to procure supplies and raw materials; extraordinary price increases or the imposition of tariffs on supplies or raw materials; other governmental regulation; pandemic; national or regional emergency; or other contingencies beyond its control.
- LIMITATION OF BUYER'S REMEDIES.** Seller's liability hereunder shall be limited to the obligation to replace only those portions of products proven to have materially failed to meet the specifications required by Buyer's drawings or Purchase Order clauses. **IN NO EVENT SHALL SELLER'S TOTAL CUMULATIVE LIABILITY, ARISING FROM OR PERTAINING TO ANY PRODUCT SOLD TO BUYER, EXCEED THE PURCHASE PRICE PAID BY BUYER FOR SUCH PRODUCT.** To the fullest extent permitted by applicable law, under no circumstances will seller be liable for any special, indirect, incidental, consequential, punitive, or exemplary damages, including but not limited to loss of profits, loss of income or revenue, loss of labor, loss of business opportunities, or business interruption, whether Buyer's claim of damages be based in contract, tort (including negligence), warranty, strict liability, or otherwise, and regardless of whether such damages were foreseeable or Buyer was advised of the possibility of such damages. It is expressly agreed that Buyer's remedies expressed in this paragraph are Buyer's exclusive remedies. **CLAIMS FOR DEFECTIVE PRODUCT MUST BE MADE WITHIN THIRTY (30) DAYS AFTER RECEIPT OF MATERIAL BY BUYER. SELLER WILL NOT CONSIDER, NOR BE HELD LIABLE, FOR ANY CLAIM OF CORROSION OR RUST BEYOND THIRTY (30) DAYS OF RECEIPT OR BUYER'S REMOVAL OF PRODUCT FROM ITS ORIGINAL PACKAGING, WHICHEVER COMES FIRST.**
- TOOLING.** Unless explicitly agreed otherwise, all tooling developed for manufacturing Buyer's product(s) shall remain the exclusive property of Seller. Tooling will be maintained at Seller's expense, unless a material design change by Buyer necessitates substantial modifications.
- CANCELLATION AND CHANGES.** Once Seller initiates order fulfillment, Buyer cannot cancel, modify, or delay orders or releases without Seller's written consent. Unless Seller consents in writing, Buyer will be invoiced for all product(s) produced against a Purchase Order. Buyer acknowledges that any requested changes to an order must be submitted in writing to be effective, and may have an impact on price and delivery schedule. Agreement between both parties must be reached prior to the commencement of work on any changes.



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6. **CONFIGURATION AND REVISION.** Seller will produce product according to the part revision as described in Buyer's Purchase Order. Buyer must notify Seller in writing when a part revision changes. If a part revision changes after an order has been placed and Buyer fails to timely notify Seller, Buyer agrees to accept products made by Seller based on the original specifications, up to the quantity in the original Purchase Order.
7. **TAXES.** Seller shall not be liable for payment of any taxes with respect to the sale, purchase, delivery, transportation, storage, processing, use, or consumption of any of the materials or services supplied under this order. Buyer shall promptly pay the amount of any taxes levied by any government entity to Seller upon demand but may, in lieu of such tax payments, issue a tax exemption certificate acceptable to the appropriate taxing authority.
8. **TRANSPORTATION AND OTHER CHARGES.** Any and all costs associated with transportation or other related charges shall be Buyer's responsibility.
9. **PRODUCING OR SHIPPING POINT.** Seller reserves the right to produce and ship all or any part of the materials covered hereby from any of its plants, or from any plant or plants other than the plant or plants designated on the face of the order.
10. **LIMITED WARRANTY.** Seller warrants only that the material to be supplied will conform to the mutually agreed upon requirements of the order, and Seller will convey good title thereto and that the material will be delivered free from any security interest or other lien or encumbrance of which Buyer, at the time of placing this order, has no knowledge. THERE ARE NO WARRANTIES OF MERCHANTABILITY NOR OF FITNESS OF SAID MATERIAL FOR ANY PARTICULAR PURPOSE, NOR IS THERE ANY OTHER WARRANTY EXPRESSED OR IMPLIED EXCEPT AS HEREIN SET FORTH.
11. **INTEREST ON PAST-DUE ACCOUNTS, DEFAULT IN PAYMENT.** Invoices shall be due and payable to Seller within the timeframe individually negotiated with Buyer. Any past due undisputed amounts shall thereafter accrue interest, until paid, at the lesser of 1.5% per month or the maximum interest rate permitted under applicable law. In the event of default in payment on this or any other order between the Parties, Seller reserves the right to suspend or cease performance of any ongoing services or delivery of goods until payment is received in full. Seller shall provide written notice to Buyer of the suspension or cessation of performance, specifying the outstanding payment amount and the actions required to resume performance. If payment is not received within the period individually negotiated with Buyer, Seller may terminate the Purchase Order without further obligation to Buyer. Seller shall not be liable for any damages, losses, or delays resulting from the suspension or cessation of performance due to non-payment by Buyer.
12. **GOVERNING LAW, JURISDICTION.** These Terms, and any other agreement or terms between the Parties, shall be governed and construed in accordance with the laws of the State of Florida, without regard to its conflict of laws principles. Further, the Parties agree to exclusive jurisdiction and venue of the federal and state courts of Volusia County, Florida for any dispute or interpretation relating directly or indirectly to these Terms.
13. **ENTIRE AGREEMENT, ADDITIONS OR MODIFICATIONS, WAIVER.** These Terms contain the entire understanding between the Parties with respect to the subject matter hereof and replaces and supersedes all prior representations, understandings, terms, and agreements (whether written or oral) between the Parties. Any additions or modifications to these Terms must be made in writing and signed by the Parties. A waiver of any provision of these Terms will not constitute a waiver of any other provision(s) or a subsequent waiver of the same provision.
14. **SEVERABILITY.** In the event that any term or provision within these Terms shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other term or provision, and the Terms shall be interpreted and construed as if such term or provision, to the extent the same will be held to be invalid, illegal, or unenforceable, had never been contained herein.



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15. **ATTORNEYS' FEES.** If either Party incurs any legal fees associated with the enforcement of these Terms or any rights under these Terms, the prevailing party shall be entitled to recover their reasonable attorneys' fees and any other associated legal fees and expenses from the other party.