



Terms and Conditions of Sale

1. Parties: PUI AUDIO, Inc. an Ohio corporation, referred to as "PUI Audio". Person or company purchasing referred to as "Buyer". All materials, products, goods, or work described regardless of type, will be collectively referred to as "Products".

2. Documents Incorporated: These Terms and Conditions hereby incorporate, to the extent that they are consistent with the terms and conditions herein, any and all purchase orders, quotations and confirmations and/or acceptances of any purchase order submitted and exchanged by and between PUI AUDIO and Buyer. Any purchase order must be consistent with the quantity, price, and delivery terms stated on the quote and shall be consistent with these Terms and Conditions. Subject to section 28 below (Entire Agreement), PUI AUDIO rejects any deviation from its quotation and these Terms and Conditions.

3. Credit Approval: All of PUI AUDIO's credit requirements must be met and current in order to receive credit terms. If those terms requirements are not met, advance payment may be required before acceptance of any purchase order.

4. Price Adjustments; Payments: The prices stated herein do not include any sales, use, or other taxes unless so stated specifically. Such taxes will be added to invoice prices in those instances in which PUI AUDIO is required to collect them from Buyer; provided, however, that if PUI AUDIO does not collect any such taxes and is later asked by or required to pay the same to any taxing authority, Buyer will make such payment to PUI AUDIO or, if requested by PUI AUDIO, directly to the taxing authority. At PUI AUDIO's option, prices may be adjusted to reflect any increase in the costs of PUI AUDIO resulting from state, federal or local legislation, or any change in the rate, charge, or classification of any carrier.

Unless otherwise specified by PUI AUDIO, all prices are F.O.B. PUI AUDIO's factory or warehouse from which shipment is made, and payment will be net/cash 30 days from date of invoice. Invoices unpaid and past due will be subject to a service charge on the unpaid balance at an interest rate equal to the lesser of eighteen percent (18%) per annum or the maximum allowable interest rate under applicable law, and Buyer shall be responsible and liable for all expenses incurred by PUI AUDIO in collection of outstanding amounts due, including reasonable attorneys' fees and expenses incurred by PUI AUDIO in collection.

5. Scheduling: All scheduling changes are contingent on the prior written acceptance by PUI AUDIO. Additional charges resulting from scheduling changes shall be the sole responsibility of the Buyer.

6. Delivery Dates, Title/ Risk and Shipment: All delivery dates are approximate, and PUI AUDIO shall not be responsible for any damages of any kind resulting from any delay. Regardless of the manner of shipment, title to any Products and risk of loss or damage thereto shall pass to Buyer upon tender to the carrier at the factory or warehouse of PUI AUDIO. Unless otherwise stated herein, Buyer may exercise its judgment in choosing the carrier and means of delivery. No deferment of shipment at Buyer's request beyond the respective dates indicated will be made except on terms that will indemnify PUI AUDIO against all loss and additional expense, including, but not limited to demurrage, handling, storage and insurance charges.

7. Warranty: PUI AUDIO warrants its Products to be free from defects in material and workmanship, for a period of 12 months from the date of delivery to Buyer under normal and proper use, in audio devices only, and in accordance with instructions of PUI AUDIO. PUI AUDIO's liability under such warranty or in connection with any other claim relating to the Products shall be limited, or at PUI AUDIO's option, the repair or the replacement or refund of the purchase price, of any Products or parts or components thereof which are returned to PUI AUDIO freight prepaid and which are defective in material or workmanship. Products or parts or components thereof which are repaired or replaced by PUI AUDIO will be returned to Buyer freight collect. This warranty excludes Buyer damage due to mishandling, unauthorized use and/or repairs, shipping damage and parts/components specified by purchaser that have a shorter warranty period than PUI AUDIO's 1-year warranty. Buyer's account must be in current status as to all requirements, including but not limited to all amounts owed PUI AUDIO, for this warranty to be applicable.

PUI Audio does not warrant any "consumer product" within the meaning of the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act, 15 U.S.C. §§ 2301-12. PUI Audio disclaims all warranties, express or implied, to the extent that a Product qualifies as a consumer product.

EXCEPT AS EXPRESSLY STATED ABOVE, PUI AUDIO MAKES NO WARRANTY, EXPRESS OR IMPLIED, WHETHER OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR USE OR OTHERWISE, ON THE PRODUCTS, OR ON ANY PARTS OR LABOR FURNISHED DURING THE SALE, DELIVERY OR SERVICING OF THE PRODUCTS. PUI AUDIO DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED FOR PRODUCTS USED IN NON-AUDIO APPLICATIONS.

8. Excess Materials: Any unique excess inventory caused due to the following will be the responsibility of the Buyer:

a. Minimum purchase quantities beyond the actual order,

b. Non-returnable/non-cancelable materials, or

c. Design changes. In addition, any materials purchased for an order that is delayed at the request of the Buyer will be billed to the Buyer after 6 months if the order has still not been filled.

9. Cancellations: After acceptance by PUI AUDIO, orders shall not be subject to cancellation by Buyer, except with PUI AUDIO's prior written consent and upon terms that will indemnify PUI AUDIO against all direct, incidental, and consequential losses or damages. In the event of an approved cancellation, cancellation charges may apply. All cancellation charges shall be the responsibility of the Buyer. Cancellation charges will be calculated based on the status of product in process (value will be determined on raw materials costs associated with work order in process and labor charged to the job), raw materials in stock or on order/purchased that cannot be returned due to minimum buy requirements, Non Cancelable Non Refundable, engineering changes and do not include additional services, product or raw materials relating to the order. Cancellation charges may exceed the value of the order in the event excess materials apply. PUI AUDIO's approval and consent to a Buyer's cancellation of an accepted order, shall be at PUI AUDIO's sole discretion.

10. Claims; Commencement of Actions: Buyer shall promptly inspect all Products upon delivery. No claims for shortages will be allowed unless such shortages are reported in writing to PUI AUDIO within 10 calendar days after delivery. No other claims against PUI AUDIO will be allowed unless

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asserted in writing within 60 calendar days after delivery or, in the case of an alleged breach of warranty, be given by written notice within 60 calendar days after the date within the warranty period on which the defect is or should have been discovered by Buyer.

Any action based upon breach of this contract or upon any other claim arising out of this sale (other than an action by PUI AUDIO for any amount due to PUI AUDIO by Buyer) must be commenced within one year from the date of the tender of delivery by PUI AUDIO or, in the case of a cause of action based upon an alleged breach of warranty, within one year from the date within the warranty period on which the defect is or should have been discovered by Buyer.

Notwithstanding any other provision of these Terms and Conditions, PUI AUDIO may bring a court action for collection of amounts due and owing by a customer, solely in the Montgomery County Court of Common Pleas, Dayton, Ohio. Buyer shall reimburse PUI AUDIO all of its costs and expenses in collection of amounts due herein, including but not limited to attorney fees and related costs and expenses. Ohio law shall govern any court action filed by PUI AUDIO for collection of amounts due and owing by Buyer.

11. Dispute Resolution-Compulsory Arbitration: Except for the right of PUI AUDIO to bring a court lawsuit to collect amounts due and owing by Buyer, any dispute arising under this agreement shall be decided by dispute resolution as follows:

- a. The parties will attempt in good faith to resolve any controversy or dispute arising out of or relating to their transaction, promptly by negotiation between authorized persons for each party who have authority to settle the controversy; and
- b. In the event that informal negotiations do not resolve an ongoing controversy or dispute, the parties agree to resolve the same by compulsory arbitration to take place in Dayton, Ohio and which will proceed in accordance with the Commercial Arbitration Rules of the American Arbitration Association and in accordance with the laws of the State of Ohio without regard to the provisions thereof concerning conflicts of law. Within seven (7) days or longer if the parties mutually agree after either party elects arbitration, PUI AUDIO and Buyer shall each select one (1) arbitrator with a third arbitrator selected by the two (2) arbitrators chosen by the parties. The party electing arbitration shall bear the costs of the same including filing an arbitrators' fees. Further, the non-prevailing party in an arbitration shall reimburse the other for their attorneys' fees and related costs and expenses incurred in arbitration.

12. Last Time Buys: Buyer shall be notified of all last time buys or discontinuation of parts or products. PUI AUDIO shall not manufacture additional Products after the discontinuation date. The Buyer shall have the option to buy additional inventory for consignment of additional order requirements upon prior written notice to Buyer.

13. Parts Allocation: Buyer shall reimburse PUI AUDIO for all premium payments for procuring materials outside the initial proposal terms and/or qualified material providers.

14. Engineering Change Notification: Notification of proposed Buyer engineering change(s) shall be only submitted in writing, and are subject to PUI AUDIO's approval. Buyer is responsible for all costs associated with engineering change notification. PUI Audio shall be permitted to provide a new quote to address permanent changes that increase material and or labor costs.

15. Deviations: PUI AUDIO will manufacture Products according to the Gerber and documentation provided by the Buyer and will not be responsible for the accuracy of the Gerber or flaws related to the product design, excluding PUI AUDIO owned and/or created design.

16. Quote Validity: Quotations furnished by PUI AUDIO are not intended as and shall not be construed as constituting an offer to Buyer. Any quotation or confirmation of PUI AUDIO is subject to, and shall not become binding upon PUI AUDIO until (i) actual receipt by PUI AUDIO of Buyer's written order consistent with all of the quotations terms, without qualification, received by PUI AUDIO within 30 days after the date of quotation (unless otherwise noted in quote or confirmation), and (ii) PUI AUDIO's written acceptance of such order at its main office in Dayton, Ohio. A quotation is subject to change if the actual information or documentation is significantly different from the information supplied at the time of request for quotation. Quotations are also subject to change based on materials pricing. Pricing at the time of quotation may differ from actual pricing upon order placement.

17. Lead Times: Delivery dates and lead times indicated in the proposal are best estimates based on previous experience, process flow at time of quotation, and component manufacturer lead times for raw materials from quoted sources. Actual material availability, and/or delay of Buyer's furnished materials may impact original estimated delivery dates.

18. Limitations of Liability: IN NO EVENT SHALL PUI AUDIO BE LIABLE TO BUYER FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF, OR AS THE RESULT OF, THE SALE, DELIVERY, NON-DELIVERY, SERVICING, USE OR LOSS OF USE OF THE PRODUCTS OR ANY PART THEREOF, OR FOR ANY CHARGES OR EXPENSES OF ANY NATURE INCURRED BY BUYER WITHOUT PUI AUDIO'S PRIOR WRITTEN CONSENT, EVEN THOUGH PUI AUDIO HAS BEEN NEGLIGENT. IN NO EVENT SHALL PUI AUDIO'S LIABILITY UNDER ANY CLAIM MADE BY BUYER EXCEED THE PURCHASE PRICE OF THE PRODUCTS IN RESPECT OF WHICH DAMAGES ARE CLAIMED.

19. Contingencies: PUI AUDIO shall not be liable for any default or delay in performance if caused, directly or indirectly, by acts of God; war; force of arms; fire; the elements; riot; labor disputes; picketing or other labor controversies; sabotage; civil commotion; accidents; any governmental action, prohibition or regulation; delay in transportation facilities; shortage or breakdown of or inability to obtain or non-arrival of any labor, material or equipment used in the manufacture of the Products; failure of any party to perform any contract with PUI AUDIO relative to the production of the Products; or from any cause whatsoever beyond PUI AUDIO's control, whether or not such cause be similar or dissimilar to those enumerated. PUI AUDIO shall promptly notify Buyer of the happening of any such event and of, the contemplated effect thereof on the manufacture and delivery of the Products.

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20. Loss to Buyer's Property; Patent, Trademark, or Copyright Infringement, Etc: PUI AUDIO shall not be liable for, and shall have no duty to provide insurance against, any damage or loss to any goods or materials of Buyer which are used by PUI AUDIO in connection with this order. Where any Product is manufactured from patterns, plans, drawings, or specifications furnished by Buyer, Buyer shall indemnify PUI AUDIO against and save PUI AUDIO harmless from all loss, damage, and expense arising out of any suit or claim against PUI AUDIO for infringement of any patent, trademark, or copyright because of PUI AUDIO's manufacture of such Product or because of the use or sale of such Product by any person. Upon PUI AUDIO's request, Buyer shall appear in and assume the defense of the litigation, at no cost to PUI AUDIO.

21. PUI AUDIO's Specifications, Technical Data, Etc: Any specifications, drawings, plans, notes, instructions, engineering notices, or technical data of PUI AUDIO furnished to Buyer shall be deemed to incorporate these Terms and Conditions as if fully set forth. PUI AUDIO shall at all times retain title to all such documents, and Buyer shall not disclose any of the same to any party other than PUI AUDIO or a party duly authorized by PUI AUDIO. Upon PUI AUDIO's request, Buyer shall promptly return to PUI AUDIO all such documents and all copies thereof.

22. Buyer's Obligation; Rights of PUI AUDIO: If PUI AUDIO shall at any time doubt Buyer's financial responsibility, PUI AUDIO may demand adequate assurance of due performance or defer further shipments except upon receipt of cash payment in advance or security. If PUI AUDIO demands adequate assurance of due performance and the same is not forthcoming within 10 calendar days after the date of PUI AUDIO's demand, PUI AUDIO may, at its option, (i) continue to defer further shipments under this order and/or any other order from Buyer which has been accepted by PUI AUDIO until adequate assurance is received, or (ii) cancel this order and/or any other orders from Buyer which have been accepted by PUI AUDIO and recover damages. If Buyer fails in any way to fulfill PUI Audio's terms and conditions, PUI AUDIO may defer further shipments until such default is corrected or cancel this order and recover damages. PUI AUDIO shall have a security interest in, and lien upon, any property of Buyer in PUI AUDIO's possession as security for the payment of any amounts owing to PUI AUDIO by Buyer.

23. Limitation on Assignment: Neither party may assign any of its rights or obligations hereunder without the prior written consent of the other except that PUI AUDIO shall have the right to assign to any company with which it is affiliated or to any corporation into which it shall be merged, with which it shall be consolidated, or by which it, or all or substantially all of its assets, shall be acquired.

25. Export: If the Products herein are to be exported, this order is subject to PUI AUDIO's ability to obtain export licenses and other necessary papers within a reasonable period. Buyer will furnish all Consular and Custom declarations and will accept and bear all responsibility for penalties resulting from errors or omissions thereon. Buyer shall not re-export the Products or any goods or items which incorporate the Products if the re-export would violate United States export laws.

26. Equal Opportunity Clause: This clause applies only in the event that the Products are to be used in whole or in part for the performance of government contracts and where the dollar value of said Products exceeds, or may in any one year exceed \$10,000:

"In connection with the performance of work under this contract, the contractor (subcontractor) agrees not to discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The aforesaid provision shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor (subcontractor) agrees to post hereafter in conspicuous places, available for employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause."

"The provisions of the Equal Opportunity Clause, as promulgated by Executive Order 11246 dated September 24, 1965, as amended, are incorporated herein by reference"

27. Other Rights or Remedies: Except as otherwise provided herein, any rights or remedies granted hereunder to either party shall be in addition to, and not in lieu of, any other rights or remedies of such party at law or in equity.

28. Entire Agreement: This document and all purchase orders, quotes and/or confirmations incorporated herein, contain the entire agreement between PUI AUDIO and Buyer and constitute the final, complete and exclusive expression of the terms of the agreement, all prior or contemporaneous written or oral agreements or negotiations with respect to the subject matter hereof being merged herein. By way of illustration and not limitation, Buyer's order shall be deemed to incorporate, without exception, all the terms and conditions hereof notwithstanding any order form of Buyer containing additional or contrary terms or conditions, unless Buyer shall have expressly advised PUI AUDIO to the contrary in a writing apart from such order form. PUI Audio's acknowledgement of, reference to, or performance of any Buyer order shall not be deemed to be an acceptance by PUI AUDIO of any additional or contrary terms or conditions contained in Buyer's order. In the event of a written request by Buyer for additional or contrary terms or conditions, then such modifications may be made in these terms and conditions only by a written instrument signed by one of PUI AUDIO's officers.

29. Severability: In the event that any provision hereof shall violate any applicable statute, ordinance, or rule of law, such provision shall be ineffective to the extent of such violation without invalidating any other provision hereof.

30. Governing Law: This document and the sale of all Products shall be governed by and construed in accordance with the laws of the State of Ohio, as applicable to contracts executed and wholly performed therein.

We are pleased to submit the foregoing Quotation/Confirmation. Our Acceptance of your order will be subject to and include and incorporate these PUI AUDIO Terms and Conditions found at http://www.puiaudio.com/pdf/terms_conditions.pdf. It will be expressly made conditional on assent by you to all PUI AUDIO Terms and Conditions hereon, which also supersede and supplement any of your terms and conditions or their equivalent. Your acceptance of any PUI AUDIO quotation or confirmation constitutes your acceptance of and binds you to these PUI AUDIO Terms and Conditions. Means of your acceptance, includes but is not limited to your issuance of an order, purchase order or other accepting act or document agreeing to the terms offered by PUI AUDIO.

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