

The Power-Sonic Corporation Terms and Conditions - 2025

Any order by a person ("Buyer") for goods (an "Order"), is subject to these Power-Sonic Standard Terms and Conditions of Sale ("T&Cs"), which are incorporated into any acceptance, acknowledgement, invoice and other document issued by Power-Sonic, Inc. ("Seller") in response to such Order (each a "Response"), and any reference thereto shall include these T&Cs. No waiver, alteration, or modification of these T&Cs shall be valid unless expressly agreed to in writing by Seller. The T&Cs constitute the entire agreement between the parties and any different, additional or conflicting terms or conditions set forth in Buyer's purchase order or any other document issued by Buyer are expressly objected to by Seller and the terms hereof, including those contained in the applicable Response, shall exclusively govern the purchase and sale of the goods covered by the Response unless there is another manually signed agreement between the parties, which shall control to the extent there is a conflict between the terms of such agreement and these T&Cs.

1. Payment Terms. Net 30 days from the date of invoice unless otherwise specified by Seller. Buyer agrees that any overdue amounts shall be subject to a late payment charge on the overdue balance of 1.5% per month or such lesser amount as is the maximum rate of interest allowed by law. Buyer shall pay any and all reasonable costs, including attorneys' fees, incurred by Seller while collecting any delinquent balance. Debit memos are not accepted.
2. Price. The Seller list or quoted price is subject to change without notice. The goods are invoiced at prices in effect on date of shipment. Changes to the price or charges related to delivery are subject to change, notice shall be provided to the customer at the earliest opportunity by the Seller. Changes include but are not limited to any sales tax, excise tax, duty, custom, inspection or testing fee, or any other tax, fee or charge of any nature whatsoever imposed by any governmental authority, on or measured by the transaction between Seller and Buyer in addition to those considered at the time of a purchase order. These changes shall be identified by the Seller and paid by Buyer in addition to the prices quoted or invoiced. In the event Seller is required to pay any such tax, fee or charge, Buyer shall reimburse Seller thereafter.
3. Handling Fee. Any order submitted below \$100 shall be subject to a \$10 handling fee. Any order submitted below \$50 shall be subject to a \$15 handling fee.
4. Delivery Terms. All goods are sold FOB Warehouse unless otherwise specified by the Seller or specified in writing by the either party. Direct ship container orders are sold FOB Port and the Buyer is responsible for all shipping, handling, taxes, duties, and any other costs beyond the unit cost identified on the Purchase Order. Dates for delivery are estimates, not guarantees, and are determined from the date of Seller's receipt of a written purchase order. Overtime and other expenses incurred to hasten delivery at Buyer's request shall be added to the quoted prices and paid by Buyer. Shipment of goods ready for delivery can be deferred beyond the date for delivery only with Seller's written consent. Any additional charges or fees required to deliver product to Buyer beyond standard requirements, including but not limited to delivery to military location, residential location, requirements of lift gate or other machinery shall be charged to the Buyer.
5. Title/Security. Title to the goods shall be retained by Seller, as a vendor's lien, until such goods are delivered to Buyer, or Buyer's designate. Buyer hereby grants Seller and Seller hereby reserves a purchase money security interest in and to the goods sold to Buyer together with all proceeds thereof to secure Buyer's performance and payment. Buyer agrees upon Seller's request to do all acts and execute all documents reasonably necessary to assist Seller's perfection and maintenance of any such security title and right of possession, including, but not limited to, executing and filing documents with the appropriate governmental agency.
6. Orders. Buyer shall submit a purchase order ("Purchase Order") for the goods which shall, at a minimum, include: (a) part number of the goods ordered; (b) quantity; (c) price of the goods; (d) requested delivery date; and (e) shipping instructions and shipping address. All Purchase Orders are subject to acceptance by Seller. Buyer shall be responsible for all additional costs resulting from errors made in connection with telephone or handwritten Purchase Orders accepted by Seller and any errors related to such a Purchase Order must be disputed within 72 hours from Seller's receipt of the Purchase Order. Confirming Purchase Orders are not accepted by Seller. If such a confirming Purchase Order is sent to Seller, it may be treated as an original open Order and duplicated. Seller will not be responsible for expenses or inconveniences incurred thereby. If Buyer's Order is in the form of a blanket Purchase Order, Buyer agrees that each release shall be treated as a separate sales transaction hereunder, that all releases shall be non-cancelable and, unless agreed in writing by Seller, all releases under such blanket Purchase Order shall be accepted by Buyer within 12 months of Seller's Order acknowledgement. Blanket orders can be cancelled by the Seller at any point and any amount paid relating to those blanket orders will be refunded to the Buyer.
7. Order Cancellation/Amendment. Orders cannot be canceled or amended except with Seller's written consent. Cancellation charges may be applied at Seller's discretion. Seller may, in its sole discretion and without liability, alter the specifications for any goods.
8. Acceptance. Buyer shall conduct any incoming inspection tests on the goods within 10 days of delivery. In the event of any shortage, damage or discrepancy in or to a shipment of goods or pricing discrepancies, Buyer shall give notice no later than 30 days of delivery, and shall furnish such written evidence or other documentation Seller reasonably may deem appropriate. If such evidence indicates, in Seller's reasonable judgment, that such shortage, damage or discrepancy existed at the time of delivery of the goods to the carrier, Seller shall promptly deliver additional or substitute goods to Buyer. Seller may, in its sole discretion, require Buyer to return all damaged goods prior to delivery of substitute goods.

9. **Termination.** Seller has the right to cancel for default hereunder all or any part of Buyer's order. This right of cancellation is in addition to and not in lieu of any other remedies which Seller may have in law or equity.
10. **Returns.** No goods shall be returned to Seller without Seller's prior written authorization to Buyer to make such returns and must be returned within 30 days of such authorization at Buyer's cost. If Buyer returns goods in the manner required, and if the returned goods are (a) in new, unused, unopened and undamaged condition; and (b) not more than 12 months after the original invoice date; the returned goods will, subject to the applicable handling charge, be accepted by Seller for return. Used or discontinued goods or parts or goods specially manufactured will not be accepted for credit unless specifically agreed to by Seller in its sole discretion. Buyer's sole remedy for returns of goods shall be a credit for the purchase price less any handling charges. Returned goods are subject to a minimum of 20% handling charge. Returns found to be free of material and workmanship defects will be held for 20 days and if Buyer does not provide Seller repair or return instructions, the Seller will scrap the goods.
11. **Buyer's Specifications.** Buyer shall be solely responsible for ensuring that all specifications, drawings, information, advice, recommendations or requests provided to Seller by Buyer or any of its agents are accurate and suitable. Seller's examination or consideration of any such specifications, drawings, information, advice, recommendations, or requests shall not result in any liability on the part of Seller.
12. **Seller Warranty.** Seller warrants those goods sold hereunder are warranted to be free from defects in material and workmanship for a period of two years from the date of invoice when used according to the manufacturer's recommended usage and in an ordinary manner. Seller's liability for breach of this warranty is limited to the repair of or replacement in kind or credit, at Seller's option, of any items proved defective, in Seller's reasonable discretion, provided the allegedly defective goods are returned to Seller prepaid. All costs and expense related to shipping of any replacement parts or goods shall be paid by Seller if there is a breach of this warranty, but Buyer shall pay for all installation costs. Buyer must provide written notice to Seller of any breach of this warranty within 30 days of identified breach to obtain its benefits. The warranty expressed herein is in lieu of and exclusive of all other warranties. There are no other warranties expressed or implied except as stated herein. There are no implied warranties of merchantability or fitness for a particular purpose and are specifically disclaimed. Seller's liability for breach of warranty is as stated herein and is the exclusive remedy and in no event shall Seller be liable or responsible for incidental or consequential damages, even if possibility of incidental or consequential damages has been made known to Seller. The warranty set forth above is for the sole benefit of the Buyer. All claims shall be made by Buyer and not by Buyer's customers. It shall not be deemed a "defect," and Seller will not be liable under the warranty, if the goods have been exposed to any: (1) maintenance, repair, or other use that is improper for the good's ordinary use or otherwise not in compliance with Seller's instruction; (2) goods alteration, modification or repair by anyone other than Seller or authorized by Seller; (3) damage after shipment to Buyer; (4) improper voltage or wiring; or (5) use of parts that are not 100% compatible with the goods. Buyer agrees to warranty information detailed here and those outlined on Power-Sonic Corporation's website located here: <https://www.power-sonic.com/>
13. **Buyer Warranty.** Buyer shall provide a no-defect in materials or workmanship warranty with respect to each product sold to an end customer for a period not less than the then remaining warranty period related to such product and afforded to Buyer pursuant to Seller Warranty above. Except with respect to the remedies described in these Terms and Conditions, any other warranties or representations, or remedies for breach thereof, which Buyer may provide to its end customers shall be the sole responsibility of Buyer.
14. **Damages Amount Limitation.** Unless otherwise stated herein, each party's cumulative liability for damages to the other party for any cause whatsoever, and regardless of the form of action, whether in contract or in tort, including, but not limited to, negligence, shall be limited to the total contract price of the goods sold, and the applicable amounts of all unpaid accounts payable and receivable between the parties, if any
15. **Consequential Damages Limitation.** In no event shall Seller's liability of any kind include any special, indirect, incidental or consequential loss or damage, even if Seller shall have been advised of the possibility of such potential loss or damage.
16. **Sole Remedy.** The sole and exclusive remedy for breach of any non-warranty obligation of Seller liability of any kind, including liability for negligence, shall be to use all commercially reasonable efforts to promptly cure such breach. Buyer must commence any suit for a cause of action within one year from the date in which the facts that gave rise to the cause of action occurred.
17. **Indemnification.** Buyer shall hold harmless, indemnify and defend Seller for any damages, liabilities, and expenses including any costs of litigation, fines, or losses in connection with any threatened or actual claims, actions, demands, investigations, or suits, including, but not limited to, claims or suits by third parties, arising out of any of the following: (a) Buyer's negligent or willful acts, or those of its employees and/or agents, (b) such goods being repaired or altered by persons other than Seller unless expressly authorized in writing by Seller, (c) any modified or combined goods purchased from Seller resulting in the actual or alleged infringement of intellectual property rights of any third party, (d) from goods produced by Seller according to Buyer's specifications, (e) any violations of export control laws by Buyer, or (f) Buyer's breach of any provision in these T&Cs.
18. **Seller Intellectual Property Indemnification.** Seller will defend, indemnify and hold harmless Buyer from and against all loss, damage, cost or expense arising as a result of any claim that the goods sold hereunder infringe any third-party U.S. patent, copyright, trademark, trade secret or other intellectual property right.
19. **Confidentiality.** "**Confidential Information**" means any of Seller's business information, specifications and all related writings,



drawings, designs and similar works or any other information which is disclosed by Seller and labeled or marked as confidential, proprietary or its equivalent, or oral or visual information that is designated confidential, proprietary or its equivalent at the time of its disclosure. All Confidential Information shall be the exclusive property of Seller, and Seller retains all rights, title and interest. Buyer agrees to use Confidential Information for the exclusive purpose of performance under the Purchase Order and not to disclose or provide any Confidential Information to any third party and to take all necessary measures to prevent any such disclosure by its employees, agents, contractors or consultants. Upon request of Seller or completion of the Order, Buyer shall return all Confidential Information to Seller and provide certification of such return.

20. Tooling. Charges made for tools, dies, gauges, jigs, fixtures or equipment made or acquired by Seller in connection with the work do not convey title to or any proprietary interest in such tools. All such tools will remain the exclusive property of Seller.

21. Force Majeure. Seller shall not be liable for any failure to perform this agreement when such failure is due to circumstances beyond its control. Circumstances beyond the control of Seller shall be deemed to include, but shall not be limited to, acts of God, governmental action, accidents, labor trouble, and inability to obtain materials, equipment or transportation.

22. Waiver. No oral statements, recommendations or assistance given by a representative and/or distributor of Seller to Buyer or its representatives in connection with the use of the goods shall constitute a waiver by Seller of any of the provisions hereof or affect Seller's liability herein.

23. Arbitration. Except for any action where the sole relief sought is an injunction, any controversy or claim arising out of or relating to these T&Cs, or the making, performance or interpretation thereof, including without limitation alleged fraudulent inducement thereof, shall be settled by binding arbitration in Denver, Colorado by one arbitrator in accordance with the Commercial Arbitration Rules of the American Arbitration Association. Judgment upon any arbitration award may be entered in any court having jurisdiction thereof.

24. Compliance with Laws. Buyer agrees that all applicable import, export control and sanction laws, regulations, orders and requirements, as they may be amended from time to time, including without limitation those of the United States, the European Union and the jurisdictions in which Seller and Buyer are established or from which items may be supplied, and the requirements of any licenses, authorizations, general licenses or license exceptions relating thereto will apply to its receipt and use of goods. In no event shall buyer use, transfer, release, export, or re-export any such goods in violation of such applicable laws, regulations, orders or requirements or the requirements of any licenses, authorizations or license exceptions relating thereto. Buyer agrees furthermore that it shall not engage in any activity that would expose the Seller to a risk of penalties under laws and regulations of any relevant jurisdiction prohibiting improper payments, including but not limited to bribes, to officials of any government or government agency, instrumentality or political subdivision thereof, to political parties or political party officials or candidates for public office, or to any employee of any customer or supplier. Buyer agrees to comply with all appropriate legal, ethical and compliance requirements.

25. Miscellaneous. All provisions set forth herein regarding warranty, confidential information, indemnification, liability and limits thereon, and any other provisions that survive by their terms will survive any termination or expiration of any Response delivered in connection herewith pursuant to the terms of such sections. In the event that any provision of these terms is held to be illegal, invalid or unenforceable under any present or future law, rule or regulation, such provision shall be deemed stricken from these T&Cs, but such illegality, invalidity or unenforceability shall not invalidate any of the other provisions of these T&Cs. Buyer represents and covenants that it has, and will continue to, comply with all laws and regulations related to the goods sold hereunder, including, but not limited to, export control laws. This sale transaction shall be governed, construed and enforced solely by the laws of the State of Colorado. Buyer may not assign, including by operation of law, its obligations hereunder without Seller's written consent. The relationship of Buyer and Seller is that of independent contractors.

Buyer Agrees to be bound by Power-Sonic Corporation Terms and Conditions.

Buyer's Signature: _____

Title of Signatory: _____

Date: _____