

# Lencore Terms and Conditions of Sale

## 1. Applicability.

(a) These terms and conditions of sale (these "**Terms**") are the only terms which govern the sale of the Equipment ("**Equipment**") and services ("**Services**") by Lencore Acoustics LLC ("**Lencore**") to the buyer ("**Buyer**") named on sales quotation, confirmation of sale, work order, invoice or other document into which these Terms are incorporated (the "**Sales Confirmation**"). Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of the Equipment and Services covered hereby, the terms and conditions of said contract shall prevail to the extent they are inconsistent with these Terms.

(b) The Sales Confirmation and these Terms (collectively, this "**Agreement**") comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These Terms prevail over any of Buyer's general terms and conditions of purchase regardless of whether or when Buyer has submitted its purchase order or such terms. Fulfillment of Buyer's order does not constitute acceptance of any of Buyer's terms and conditions and does not serve to modify or amend these Terms.

(c) Notwithstanding anything to the contrary contained in this Agreement, Lencore may, from time to time change the Services without the consent of Buyer provided that such changes do not materially affect the nature or scope of the Services, or the fees or any performance dates set forth in the Sales Confirmation.

## 2. Delivery of Equipment and Performance of Services.

(a) The Equipment will be delivered within a reasonable time after the receipt of Buyer's purchase order, subject to availability of finished Equipment. Delivery of Equipment occurs when the Equipment arrives at the destination to which Lencore ships the Equipment.

(b) Unless otherwise agreed in writing by the parties, Lencore shall deliver the Equipment to the location specified by Buyer or to an installer if Buyer has purchased installation services (the "**Delivery Point**") using Lencore's standard methods for packaging and shipping such Equipment. Buyer shall take delivery of the Equipment promptly after Lencore gives written notice that the Equipment has been delivered to the Delivery Point. Buyer shall be responsible for all loading costs and provide equipment and labor reasonably suited for receipt of the Equipment at the Delivery Point, and will unload and release all transportation equipment promptly so Lencore incurs no demurrage or other expense.

(c) Lencore may, in its sole discretion, without liability or penalty, make partial shipments of Equipment to Buyer. Each shipment will constitute a separate sale, and Buyer shall pay for the units shipped whether such shipment is in whole or partial fulfillment of Buyer's purchase order.

(d) If for any reason Buyer fails to accept delivery of any of the Equipment on the date fixed pursuant to Lencore's notice that the Equipment has been delivered at the Delivery Point, or if Lencore is unable to deliver the Equipment at the Delivery Point on such date because Buyer has not provided appropriate instructions, documents, licenses or authorizations: (i) risk of loss to the Equipment shall pass to Buyer; (ii) the Equipment shall be deemed to have been delivered; and (iii) Lencore, at its option, may store the Equipment until Buyer picks it up, whereupon Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).

(e) Lencore shall use reasonable efforts to meet any performance dates to render the Services specified in the Sales Confirmation, and any such dates shall be estimates only.

(f) With respect to the Services, Buyer shall (i) cooperate with Lencore in all matters relating to the Services and provide such access to Buyer's premises, and such office accommodation and other facilities as may reasonably be requested by Lencore, for the purposes of performing the Services; (ii) respond promptly to any Lencore request to provide direction, information, approvals, authorizations, or decisions that are reasonably necessary for Lencore to perform Services in accordance with the requirements of this Agreement; (iii) provide such customer materials or information as Lencore may reasonably request to carry out the Services in a timely manner and ensure that such customer materials or information are complete and accurate in all material respects; and (iv) obtain and maintain all necessary licenses and consents and comply with all applicable laws in relation to the Services before the date on which the Services are to start.

3. Non-Delivery. Whenever Equipment is shipped by Lencore:

(a) The quantity of any installment of Equipment as recorded by Lencore on dispatch from Lencore's place of business or place of manufacture is conclusive evidence of the quantity received by Buyer on delivery unless Buyer can provide conclusive evidence proving the contrary.

(b) Lencore shall not be liable for any non-delivery of Equipment (even if caused by Lencore's negligence) unless Buyer gives written notice to Lencore of the non-delivery within thirty (30) days of the date when the Equipment would in the ordinary course of events have been received.

(c) Any liability of Lencore for non-delivery of the Equipment shall be limited to replacing the Equipment within a reasonable time or adjusting the invoice respecting such Equipment to reflect the actual quantity delivered.

(d) Buyer acknowledges and agrees that the remedies set forth in Section 3 are Buyer's exclusive remedies for any non-delivery of Equipment.

4. Quantity. If Lencore delivers to Buyer a quantity of Equipment of up to 5% more than the quantity set forth in the Sales Confirmation, Buyer shall not be entitled to object to or reject the Equipment or any portion of them by reason of the surplus and shall pay for such Equipment at the price set forth in the Sales Confirmation adjusted pro rata.

5. Shipping Terms. Delivery of the Equipment shall be made FOB Delivery Point.

6. Title and Risk of Loss. Title and risk of loss passes to Buyer upon delivery of the Equipment at the Delivery Point. As collateral security for the payment of the purchase price of the Equipment, Buyer hereby grants to Lencore a lien on and security interest in and to all of the right, title, and interest of Buyer in, to and under the Equipment, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this provision constitutes a purchase money security interest under the Indiana Uniform Commercial Code.

7. Buyer's Acts or Omissions. If Lencore's performance of its obligations under this Agreement is prevented or delayed by any act or omission of Buyer or its agents, subcontractors, consultants, or employees, Lencore shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges, or losses sustained or incurred by Buyer, in each case, to the extent arising directly or indirectly from such prevention or delay.

8. Inspection and Rejection of Nonconforming Equipment; Returns.

(a) Buyer shall inspect the Equipment within five business days of receipt ("**Inspection Period**"). Buyer will be deemed to have accepted the Equipment unless it notifies Lencore in writing of any Nonconforming Equipment during the Inspection Period and furnishes such written evidence or other documentation as reasonably required by Lencore. Such written notice of Nonconforming Equipment shall be emailed to Returns@Lencore.com. "**Nonconforming Equipment**" means only the following: (i) product shipped is different than identified in Buyer's purchase order; or (ii) product's label or packaging incorrectly identifies its contents.

(b) If Buyer timely notifies Lencore of any Nonconforming Equipment, Lencore shall, in its sole discretion, (i) replace such Nonconforming Equipment with conforming Equipment, or (ii) credit or refund the Price for such Nonconforming Equipment, together with any reasonable shipping and handling expenses incurred by Buyer in connection therewith. If the Nonconforming Equipment has a value of \$500.00 or more, Buyer shall ship, at its expense and risk of loss, the Nonconforming Equipment to Lencore's facility in accordance with Lencore's instructions. If Lencore exercises its option to replace Nonconforming Equipment, Lencore shall, after receiving Buyer's shipment of Nonconforming Equipment, ship to Buyer, at Buyer's expense and risk of loss, the replaced Equipment to the Delivery Point.

(c) Buyer acknowledges and agrees that the remedies set forth in **Section 8(b)** are Buyer's exclusive remedies for the delivery of Nonconforming Equipment. Except as provided under Section 8(b) or 8(d), all sales of Equipment to Buyer are made on a one-way basis and Buyer has no right to return Equipment purchased under this Agreement to Lencore.

(d) **Returns:** Returns of Equipment will only be accepted for ninety (90) days from date of delivery (the "**Return Period**") and will only be accepted due to: cancellation of a job, incorrect or unneeded item ordered or purchased, or damaged or non-functional Equipment. After ninety (90) days from date of delivery, Lencore will no

longer accept returns for any reason. Only items that are unused and that have been purchased directly from Lencore can be returned to Lencore. Please ensure that the item you're returning is repackaged with all components, attachments, cords, and documentation that were included when you received it.

(i) **Returns \$500 and over with replacement Equipment needed – Returned Merchandise Authorization (“RMA”).** When Buyer finds during the Return Period that Equipment with an aggregate value (using the invoice price) of \$500 or more (such as an i.Net Operating Platform (OP), Data & Audio Router, or more than 5 speakers) are malfunctioning and replacement Equipment is needed, an RMA is required.

(A) Customer will email [returns@lencore.com](mailto:returns@lencore.com) stating a replacement is needed and the reason. This email will be transferred to Lencore's engineering team for troubleshooting.

(B) If Lencore's engineering team is unable to resolve the issue, a service ticket will be created to start the RMA process. To keep track of this type of return, shipping labels and an RMA form will be created and sent to the Buyer's representative who requested the RMA to return the defective Equipment.

(C) In those cases where Lencore is providing the installation and the installer has the Equipment, the installer shall have 30 days to return the faulty Equipment. If the Equipment is not returned within the 30 day period, the installer shall be responsible for the payment of the faulty Equipment.

(D) If Lencore is **not providing** the installation, Lencore will ship the replacement Equipment to Buyer. Again, the Buyer has 30 days to return the faulty Equipment to Lencore. If Lencore does not receive the Equipment within the 30 day period, Buyer shall be responsible for the payment of the faulty Equipment and no credit shall be issued.

(ii) **Returns of less than \$500 with replacement Equipment needed – No RMA.** When Buyer finds during the Return Period that Equipment with an aggregate value (using the invoice price) of less than \$500 (such as individual speakers) are malfunctioning and replacement Equipment is needed, no RMA is required, and these steps should be followed:

(A) Customer shall email [returns@lencore.com](mailto:returns@lencore.com) stating a replacement is needed and the reason. If there is an issue that requires troubleshooting, the email will be forwarded to Lencore's engineering team where they will reach out to the Buyer/installer and try to resolve the problem over the phone.

(B) If Lencore's engineering team is unable to resolve the issue, a service ticket will be created to start the process of issuing replacement Equipment. **Note, Lencore will no longer provide shipping**

**labels for the return of faulty Equipment under \$500. It will be the responsibility of the Buyer/installer to dispose of damaged Equipment. All defects must fall under the guidelines of Lencore's warranty for replacements to be issued.**

**Example:** If Buyer needs to return 4 G-545-U (which is under \$500), Buyer would follow the process above and dispose of the damaged Equipment. Replacement Equipment will be shipped at no cost to the Buyer/installer.

(iii) **Returns of Equipment where no replacement Equipment is needed:** When Buyer needs to return unused Equipment during the Return Period that wasn't needed or a job has been cancelled, Buyer shall be responsible for shipping the Equipment back. Lencore will **no longer** provide shipping labels for such **RETURNS**.

(A) To return any unused and unneeded Equipment to Lencore during the Return Period, please complete the RMA form located on Lencore's website at <https://www.lencore.com/returns/> (all fields are required). **All Equipment shall be returned within 30 days of submitting the return request.** Please provide tracking information to [accounting@lencore.com](mailto:accounting@lencore.com) as to not delay any processing of the return.

(B) When Lencore receives the returned Equipment, Lencore will begin to process a refund consistent with these Terms. All returns, with the exception of damaged or non-functional Equipment, carry a restocking fee in the amount of 40% of the cost of the original item. Once the returned Equipment is inspected and found to be un-damaged and resalable, a credit will be issued less the standard 40% restocking fee. If Buyer paid by credit card or debit card and qualified for a refund, the refund for the returned item(s) will be sent to the card-issuing bank within fourteen (14) business days of receipt of the returned item. All other refunds will be processed via ACH. Please contact accounting at [accounting@lencore.com](mailto:accounting@lencore.com) in order to provide banking information.

9. Price.

(a) Buyer shall purchase the Equipment and Services from Lencore at the price(s) (the "**Prices**") set forth in the Sales Confirmation.

(b) All Prices are exclusive of all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any Governmental Authority on any amounts payable by Buyer. Buyer shall be responsible for all such charges, costs and taxes; provided, that, Buyer shall not be responsible for any taxes imposed on, or with respect to, Lencore's income, revenues, gross receipts, personal or real property, or other assets.

10. Payment Terms.

(a) Buyer shall pay all invoiced amounts due to Lencore on receipt of Lencore's invoice unless a longer period of time is set forth in the invoice. Buyer shall make all payments hereunder by wire transfer or ACH and in US dollars.

(b) Buyer shall pay interest on all late payments at the lesser of the rate of 1.5% per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Buyer shall reimburse Lencore for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees and expenses. In addition to all other remedies available under these Terms or at law (which Lencore does not waive by the exercise of any rights hereunder), Lencore shall be entitled to suspend the delivery of any Equipment or performance of any Services and stop Equipment in transit if Buyer fails to pay any amounts when due hereunder.

(c) Buyer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Lencore, whether relating to Lencore's breach, bankruptcy or otherwise, except payment of any portion of any invoice contested in good faith (the undisputed portion of which is paid timely).

#### 11. Limited Warranty.

(a) Lencore warrants to Buyer that for a period of ten years from the earlier of (i) the date of installation of the Equipment if Lencore is performing the installation, or (ii) ninety (90) days after Buyer's receipt of the Equipment ("**Equipment Warranty Period**"), that such Equipment will be free from any material defects in material and workmanship under normal operating conditions, as hereinafter described, and subject to additional warranty terms and conditions. The limited Equipment warranty set forth herein, shall be specifically excluded, voided, and shall be deemed purchased "as is": if a product is used under abnormal, improper or unusual operating conditions, including but not limited to: use, storage, modifications, alterations, changes or repairs made to a product; misuse or abuse of a product; or unusual or improper use, as defined by acceptable industry standards. The limited Equipment warranty set forth herein for Lencore-manufactured systems shall also be excluded and voided in the event that a product that was not sold by Lencore is used in connection with any Lencore-manufactured system without Lencore's prior written consent authorizing such combination use, unless, in Lencore's sole discretion, the Lencore-manufactured system was purposefully and specifically designed to be integrated with such non-Lencore product. The limited Equipment warranty set forth herein for Lencore-manufactured products shall also be excluded and voided in the event that any installed Lencore-manufactured products are removed for any reason or moved from one installed location to another location.

(b) Lencore warrants to Buyer that for a period of one (1) year from the completion of any Equipment installation work performed by Lencore (the "**Installation Warranty Period**"), the installation work shall be (i) performed using personnel of required skill, experience, and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services, and (ii) free from faulty, defective or improper installation workmanship.

(c) **EXCEPT FOR THE WARRANTIES SET FORTH IN Section 11(a) AND Section 11(b), LENCORE MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE EQUIPMENT OR SERVICES, INCLUDING BUT NOT LIMITED TO ANY (a) WARRANTY OF MERCHANTABILITY; OR (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, IN ANY CASE WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE.**

(d) Products manufactured by a third party ("**Third Party Product**") may constitute, contain, be contained in, incorporated into, attached to or packaged together with, the Equipment. Third Party Products are not covered by the warranty in Section 11(a). For the avoidance of doubt, **LENCORE MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD-PARTY PRODUCT, INCLUDING BUT NOT LIMITED TO ANY (a) WARRANTY OF MERCHANTABILITY; OR (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, IN ANY CASE WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE.**

(e) Lencore shall not be liable for a breach of the warranties set forth in Section 11(a) and Section 11(b) unless: (i) Buyer gives written notice of the defective Equipment or Services, as the case may be, reasonably described, to Lencore within 30 days of the time when Buyer discovers or ought to have discovered the defect; (ii) if applicable, Lencore is given a reasonable opportunity after receiving the notice of breach of the warranty set forth in Section 11(a) to examine such Equipment and Buyer (if requested to do so by Lencore) returns such Equipment to Lencore's place of business at Lencore's cost for the examination to take place there; and (iii) Lencore reasonably verifies Buyer's claim that the Equipment or Services are defective.

(f) Lencore shall not be liable for a breach of the warranty set forth in Section 11(a) or Section 11(b) if: (i) the defect arises because Buyer failed to follow Lencore's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Equipment; or (ii) Buyer alters or repairs such Equipment without the prior written consent of Lencore.

(g) Subject to Section 11(e) and Section 11(f) above, with respect to any such Equipment during the Equipment Warranty Period, Lencore shall repair or replace such Equipment (or the defective part) provided that, if Lencore so requests, Buyer shall, at Lencore's expense, return such Equipment to Lencore. This limited warranty does not cover the costs of installing or reinstalling the repaired or replaced Equipment (or the defective part thereof), all of which costs which shall be borne by Buyer unless Lencore installed the Equipment and a proper warranty claim is submitted within one year of installation of the defective Equipment.

(h) Subject to Section 11(e) and Section 11(f) above, with respect to any Services, during the Installation Warranty Period, that are subject to a claim under the installation warranty set forth in Section 11(b), Lencore shall, in its sole discretion, (i) remove, repair, replace, or re-perform the applicable Services or (ii) credit or refund the price of such Services at the pro rata contract rate.

(i) **THE REMEDIES SET FORTH IN Section 11(g) AND Section 11(h) SHALL BE THE BUYER'S SOLE AND EXCLUSIVE REMEDY AND LENCORE'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTIES SET FORTH IN Section 11(a) AND Section 11(b), RESPECTIVELY.**

12. Limitation of Liability.

(a) **IN NO EVENT SHALL LENCORE BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT LENCORE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.**

(b) **IN NO EVENT SHALL LENCORE'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID BY BUYER TO LENCORE FOR THE EQUIPMENT AND SERVICES SOLD HEREUNDER.**

(c) The limitation of liability set forth in Section 12(b) shall not apply to liability resulting from Lencore's recklessness or willful misconduct.

13. Compliance with Law. Buyer shall comply with all applicable laws, regulations, and ordinances. Buyer shall maintain in effect all the licenses, permissions, authorizations, consents, and permits that it needs to carry out its obligations under this Agreement. Buyer shall comply with all export and import laws of all countries involved in the sale of the Equipment under this Agreement or any resale of the Equipment by Buyer. Buyer assumes all responsibility for shipments of Equipment requiring any government import clearance. Lencore may terminate this Agreement if any governmental authority imposes antidumping or countervailing duties or any other duties or penalties on the Equipment.

14. Termination. In addition to any remedies that may be provided under these Terms, Lencore may terminate this Agreement with immediate effect upon written notice to Buyer, if Buyer: (a) fails to pay any amount when due under this Agreement; (b) has not otherwise performed or complied with any of these Terms, in whole or in part; or (c) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization, or assignment for the benefit of creditors.

15. Waiver. No waiver by Lencore of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Lencore. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy,

power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

16. Confidential Information. All non-public, confidential or proprietary information of Lencore, including but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts, or rebates, disclosed by Lencore to Buyer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated, or otherwise identified as "confidential" in connection with this Agreement is confidential, solely for the use of performing this Agreement and may not be disclosed or copied unless authorized in advance by Lencore in writing. Upon Lencore's request, Buyer shall promptly return all documents and other materials received from Lencore. Lencore shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain; (b) known to Buyer at the time of disclosure; or (c) rightfully obtained by Buyer on a non-confidential basis from a third party.

17. Force Majeure. No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations of Buyer to make payments to Lencore hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the impacted party's ("Impacted Party") reasonable control, including, without limitation, the following force majeure events ("Force Majeure Event(s)": (a) acts of God; (b) flood, fire, earthquake, pandemic or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order, law, or actions; (e) embargoes or blockades in effect on or after the date of this Agreement; (f) national or regional emergency; (g) strikes, labor stoppages or slowdowns, or other industrial disturbances; and (h) and (i) other events beyond the reasonable control of the Impacted Party. The Impacted Party shall give notice within ten days of the Force Majeure Event to the other party, stating the period of time the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. In the event that the Impacted Party's failure or delay remains uncured for a period of 90 days following written notice given by it under this Section 17, the other party may thereafter terminate this Agreement upon ten days' written notice.

18. Assignment. Buyer shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Lencore. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Buyer of any of its obligations under this Agreement.

19. Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

20. No Third-Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or

implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of these Terms.

21. Governing Law. All matters arising out of or relating to this Agreement are governed by and construed in accordance with the internal laws of the State of Indiana without giving effect to any choice or conflict of law provision or rule (whether of the State of Indiana or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Indiana.

22. Submission to Jurisdiction. Any legal suit, action, or proceeding arising out of or relating to this Agreement shall be instituted in the federal courts of the United States of America or the commercial courts of the State of Indiana in each case located in the City of Indianapolis and County of Marion, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.

23. Notices. All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "Notice") shall be in writing and addressed to the parties at the addresses set forth on the face of the Sales Confirmation or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission), or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.

24. Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

25. Survival. Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Agreement including, but not limited to, the following provisions: Compliance with Laws, Confidential Information, Governing Law, Submission to Jurisdiction and Survival.

26. Amendment and Modification. These Terms may only be amended or modified in a writing stating specifically that it amends these Terms and is signed by an authorized representative of each party.