

GENERAL TERMS AND CONDITIONS FOR LENCORE EQUIPMENT INSTALLATION

These “General Terms and Conditions for Lencore Equipment Installation” (these “Installation Terms”), together with the terms set forth in the applicable executed Purchase Order (as such term is defined below, and collectively with these Terms, the “Agreement”) issued by Lencore Acoustics LLC (“Lencore”), apply to all installation transactions whereby a third party installer (the “Installer”) agrees to install Lencore sound masking equipment, paging equipment, or related accessory equipment (“Lencore Equipment”) which is manufactured or distributed by Lencore and purchased by a customer (the “Customer”) either from Lencore or an authorized independent distributor of Lencore. Lencore and the Installer are sometimes collectively referred to in this Agreement as the “Parties” or individually, a “Party”. In the event that a term or provision set forth in these Installation Terms conflicts with a term or provision set forth in the Purchase Order, the applicable provision set forth in the Purchase Order shall govern.

1. **Installer Obligations.** Upon Lencore’s issuance of the Purchase Order, Installer shall:

a. **Insurance.**

- i. Provide a certificate of insurance acceptable to Lencore naming Lencore as a certificate holder and an additional insured (required additional insured language below), documenting that Installer maintains insurance coverage acceptable to Lencore with the following minimum requirements: (1) \$1,000,000 per occurrence/\$2,000,000 aggregate General Liability (including completed operations aggregate) coverage; (2) \$1,000,000 automobile liability; and (3) \$4,000,000 additional umbrella coverage; and
- ii. Provide Proof of Workers’ Compensation insurance.
- iii. Include the following required additional insured language for the policies referenced in 1(a) above: Lencore Acoustics LLC, Emmis Corporation, and Emmis Operating Company (the “Additional Insureds”) are added as additional insureds to Installer’s insurance policies. Installer’s policies are primary and non-contributory to any other insurance available to the Additional Insureds.
- iv. Provide all insurance documents to Lencore at the following location:
Lencore Acoustics LLC
839 New York Ave., Suite 21
Huntington, New York 11743
Email: po@lencore.com
- v. Notwithstanding the foregoing minimum requirements, in the event that Lencore is a party to an agreement obligating Lencore and any of its subcontractors to carry additional or different insurance coverages and/or requirements, Installer shall also be bound by all such obligations.

b. **Tools and Equipment; Standard of Performance.** Provide and/or maintain at Installer’s own expense all tools, supplies, permits, licenses, personnel and anything else necessary for Installer to operate its business in compliance with all applicable federal, state, and local laws and building codes, and to perform this Agreement according to its terms. Installer shall perform the Work in a workmanlike manner and in accordance with all specifications, standards, and requirements for such Work as set forth under this Agreement.

c. **Installer Job Requirements.** Installer agrees to perform the following (the “Work”) for the Customer, at the Customer’s facility (the “Customer’s Facility”) as follows:

- i. In response to Lencore’s email solicitation to Installer, Lencore shall have received from Installer a quote for specific work to be performed by Installer. In the event that such quote from Installer is acceptable to Lencore, Lencore will issue a Purchase Order (the “Purchase Order”) to Installer. The price stated in the Purchase Order (the “Work Price”) shall be the total amount payable to Installer for the

Work. Installer shall sign the Purchase Order and these Installation Terms, and return both by email to Lencore at po@lencore.com. Following receipt of both signed documents, Installer will be notified as to when the order is scheduled to ship. The Installer must contact the Customer to schedule the installation date and if requested, the Lencore Equipment delivery date.

- ii. Installer shall conduct a thorough site visit to review any and all site conditions, including but not limited to, any unusual conditions that could impact the Work.
- iii. Installer shall utilize the proper labor force, either union installers or non-union installers, as required by the specific jobsite conditions. Installer shall pay any necessary and required scale for wages.
- iv. Installer shall assume responsibility for proper planning, coordination, scheduling, and the manning of the Work following the directions, instructions, requirements, and project schedule, of Customer or Customer's agent, including but not limited to, the general contractor. Lencore is not responsible for the coordination of the Work with the Customer.
- v. On the agreed installation date, the Installer shall install the Lencore Equipment and make the Lencore Equipment operational in strict compliance and accordance with all Lencore specifications and the Installation Manual ("Lencore Procedures") applicable to the Lencore Equipment, copies of which are packaged with Lencore Equipment and can also be accessed by the Installer at www.lencore.com/support, and with any drawings provided. Installer represents and agrees that it has read and understands the Lencore Procedures. Installation includes wiring, installation of speakers, OPs (amplifiers), the connection of power supplies and all other equipment provided by Lencore. All hardware such as wire, wire nuts, electrical tape, hanging mechanisms, clips, wire ties, etc. shall be provided by the Installer in strict compliance and accordance with Lencore Procedures. Installer shall install only Lencore-manufactured systems, products and equipment that are sold by Lencore, unless otherwise authorized in writing in advance by Lencore. Additionally, in the event that the Customer engages an acoustical consultant or similar expert, Installer shall ensure that all work performed by Installer meets the needs and specifications identified by any such acoustical consultant or similar expert.
- vi. Installer shall ensure that the placement of all speakers, equipment, and all speaker zoning is in accordance and strict compliance with the Lencore speaker placement, wiring diagrams and flow diagrams that are emailed to Installer.
- vii. If appropriate and if required by Lencore, Installer shall ensure that tuning and balancing is completed in accordance with Lencore specifications, including all zoning, gain, contour, and volume settings as indicated on the Lencore drawings and in the Lencore Tuning and Balancing Manual (located at www.lencore.com/support). Installer shall conduct a post-occupancy site visit for final tuning and balancing.
- viii. Installer shall provide to Lencore all "As-Built" wiring / layout diagrams and electronic downloads of the system tuning and balancing data. Final As-Built diagrams are to be returned to Lencore upon completion of the installation at installcomplete@lencore.com
- ix. If any modification to the quoted installation is necessary to perform installation of the Lencore Equipment at the Customer's location, **STOP! DO NOT PROCEED with the installation of the Lencore Equipment** and immediately contact Lencore's Design & Quotation Department at rfq@lencore.com for further instruction. Lencore will provide, at its discretion based on the circumstances,

updated written instructions regarding the installation of the Lencore Equipment, a copy of which may be emailed to the Installer and made a part of this Agreement.

- x. Upon completion of the installation of the Lencore Equipment and final tuning and balancing, Installer shall promptly submit a properly prepared invoice to Lencore at accounting@lencore.com for the Work Price.
 - d. **Conduct.** At all times Installer shall conduct itself with a high degree of professionalism so as not to damage Lencore's reputation in the course of performing under this Agreement. Installer shall have a comprehensive Drug and Alcohol Policy and Background Check Policy in place governing anyone performing under this Agreement on behalf of Installer. Notwithstanding anything to the contrary, in the event that Lencore is a party to an agreement obligating Lencore and any of its subcontractors to adopt a specific Drug and Alcohol Policy and/or a specific Background Check Policy, Installer shall be bound by all such obligations.
 - e. **Installation Warranty.** Installer shall provide a warranty covering Installer's installation work for a period of one (1) year from the completion of the installation work (the "Installation Warranty Period"), providing that the installation work shall be (i) performed using personnel of required skill, experience, and qualification 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. With respect to any installation services performed by Installer that are subject to a claim under this installation warranty during the Installation Warranty Period, at Lencore's sole election and discretion, Installer shall either (i) remove, repair, replace, or re-perform the applicable services, or (ii) credit or refund the price of such services.
2. **Upper Tier Obligations.** Installer acknowledges that (i) Lencore may be bound by upper tier agreements relating to the project(s) for which Installer is engaged under this Agreement, including but not limited to master subcontract agreement with general contractor and prime contract with owner, and (ii) Installer has had the opportunity to request a copy of any of those agreements and review them. Accordingly, Installer agrees under this Agreement to be bound by any upper tier obligations of Lencore related to Installer's performance under this Agreement. In the event of any conflict between this Agreement and any upper tier agreements, the more stringent requirement shall apply to Installer.
3. **Independent Contractor.** Nothing contained in this Agreement shall be deemed to create any association, partnership, or joint venture between Lencore and Installer. Installer will perform all of its obligations hereunder as an independent contractor without any right to bind Lencore in any way. Any and all obligations incurred by Installer in connection with the Work will be at its own risk and without obligation of any kind on the part of Lencore other than expressly set forth herein. All persons employed by Installer in connection with its performance hereunder shall be Installer's employees and/or agents, and Installer shall be fully responsible for them, including, without limitation, responsibility for all compensation, insurance, withholding taxes, worker's compensation insurance and other required payments in connection with such employees and/or agents.
4. **Term and Termination.** This Agreement shall remain in effect from the date of a fully executed Purchase Order until all Parties have fully performed their obligations under this Agreement, unless earlier terminated as provided for herein. Any and all of Installer's obligations under this Agreement shall survive the termination of this Agreement, except as otherwise agreed to in writing by Lencore.
- a. Lencore may terminate this Agreement by providing written notice if (i) Installer breaches, or threatens to breach, any representation, warranty or obligation of Installer under this Agreement and either the breach cannot be cured or, if the breach can be cured, it is not cured to Lencore's satisfaction within five (5) days of notice of such breach; (ii) Installer becomes insolvent, files or has filed against it, a petition for voluntary or

involuntary bankruptcy, or makes or seeks to make a general assignment for the benefit of its creditors; or (iii) Lencore determines, in its sole discretion, that Installer is unlikely to timely or effectively perform Installer's obligations under this Agreement.

- b. Customer and Customer's agents, including but not limited to general contractor of Customer, in Customer's or Customer's agents' sole discretion, shall have the right at any time to immediately terminate the Agreement upon written notice to Installer if, for any reason, Customer or Customer's agents are not satisfied with Installer's performance of the Work or wish to discontinue engagement with Installer for any reason. In such situation, Installer will be compensated for only the value of the work satisfactorily completed for Customer by Installer up until the date of notification of termination. In such situation, Installer shall immediately return to Lencore or Customer, in a manner specifically instructed by Lencore, any Lencore Equipment related to the terminated Agreement that is in Installer's possession at the time of termination.
5. **Payment Terms.** Upon (i) satisfactory completion of all of the Installer's obligations per this Agreement, (ii) Installer's submittal of all required documents referenced in this Agreement, and (iii) receipt by Lencore of payment by Customer, Lencore will promptly pay Installer, in full net thirty (30) days from receipt of payment by Customer. Lencore may withhold payment, in its sole and absolute discretion, (i) in the event of a lapse in the required insurance of Installer as set forth in Section 1, (ii) in the event Installer has not completed any of its obligations under this Agreement, including without limitation, the failure to submit any of the forms required to be submitted by Installer under this Agreement, or (iii) in the event that any or all of Installer's obligations under this Agreement were not performed in a satisfactory, workmanlike or thorough manner, as determined by Lencore and Customer in their sole and absolute discretion.
 6. **Confidentiality.** During the term of this Agreement, Lencore may disclose certain confidential or proprietary information (the "Confidential Information") to Installer. Installer acknowledges and agrees that such Confidential Information is and will be the sole and exclusive property of Lencore. Installer shall hold in strict confidence and shall not disclose to any person or entity any part of any of Lencore's Confidential Information without the prior written consent of Lencore. The term Confidential Information shall not include information that is: (i) known by Installer prior to receiving it from Lencore; (ii) developed by Installer independently of Lencore and not based upon or derived from information provided or delivered by Lencore to Installer; (iii) rightfully obtained by Installer from a third party without restriction; or (iv) publicly available.
 7. **Indemnification.**
 - a. Installer acknowledges that Lencore is responsible and liable only for the manufacturing of the Lencore Equipment and that Lencore shall have no obligation or liability with respect to the Installation of the Lencore Equipment and/or any alterations, modifications, damage, misuse, abuse, improper use or improper maintenance of the Lencore Equipment.
 - b. Installer accepts any and all liability relating to or arising from the installation of the Lencore Equipment under this Agreement. Installer shall indemnify, defend, and hold harmless Lencore, Emmis Operating Company, Emmis Corporation, and each of their respective affiliated entities, as well as each of their respective officers, directors, employees, agents, successors, and assigns from and against any and all losses, damages, liabilities, deficiencies, claims, actions, suits, proceedings, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees, the cost of enforcing any right to indemnification hereunder, and the cost of pursuing any insurance providers, arising out of or related to (i) Installer's breach of any provision of this Agreement, (ii) Installer's negligent performance of any of the Work, (iii) Installer's failure to do the Work in compliance with the Lencore Procedures, or any applicable federal, state, or local law, or building code, or (iv) Installer's alteration,

modification, damage, misuse, abuse or improper maintenance with respect to the Lencore Equipment in connection with performing the Work. Installer will promptly notify Lencore in writing of any such claims, suits, actions or proceedings, and Lencore reserves the right, at its expense, to participate in the defense of any such claims, suits, actions or proceedings involving Lencore. Installer agrees to cooperate with Lencore in any such defense.

8. Miscellaneous Provisions.

- a. **Applicable Law.** All of the rights and duties of the parties arising from or relating in any way to the subject matter of this Agreement, including without limitation, all disputes of the Parties arising out of or in connection with this Agreement, shall be governed, construed and enforced in accordance with the laws of the State of Indiana, without giving effect to any conflict of laws or choice of laws rules. Any action to enforce, challenge or construe the terms or making of this Agreement or to recover for its breach shall be litigated exclusively in the Commercial Court of the State of Indiana located in Marion County, so long as such court has subject-matter jurisdiction over such action, and that any cause of action arising out of this Agreement shall be deemed to have arisen from a transaction of business in the State of Indiana; provided, however, that Lencore may elect, at its sole and absolute discretion, to litigate the action in the county or state where any breach by Installer occurred or where Installer can be found. Notwithstanding anything to the contrary contained herein, in the event that Lencore is a party to an agreement obligating Lencore and any of its subcontractors to specific dispute resolution requirements and/or governing law, including but not limited to, choice of law, forum, venue, or arbitration or mediation clauses, Installer hereby also agrees to be bound by those same obligations.
- b. **Successors and Assigns.** This Agreement shall apply to, be binding upon, and inure to the benefit of the Parties, and their respective officers, directors, agents, servants, employees, corporate affiliates and/or subsidiaries, predecessors, administrators and successors, except that this Agreement is not assignable by Installer without Lencore's prior written consent. This Agreement is freely assignable by Lencore.
- c. **Captions.** Any captions or section headings used in this Agreement are for reference purposes only and are without substantive effect.
- d. **Notices.** All notices, demands and other communications made hereunder will be in writing and will be given either by personal delivery, by nationally recognized overnight courier (with charges prepaid), by first class mail postage prepaid, or sent by electronic mail with confirmation of receipt, addressed to the respective parties at the mailing addresses set forth on the Purchase Order. Any written notice is deemed to have been received: at the time of its delivery, if sent by personal delivery, registered mail or prepaid courier; on the seventh (7th) day following its sending, if sent by first class prepaid mail; or, on the second (2nd) day following its sending, if transmitted electronically. The notice addresses may be changed at any time by either party with prior written notice as provided above. The following addresses shall be used for electronic mail delivery for notice purpose: if to Lencore the notice email address is po@lencore.com; if to Installer, the notice email address set forth on the Purchase Order.
- e. **Severability.** If any portion of this Agreement is ruled to be invalid or illegal, the remainder of this Agreement shall be unaffected and enforceable, unless such partial invalidity negates the intent and substance of this Agreement.
- f. **Entire Agreement.** This Agreement constitutes the entire understanding between the Parties with respect to the subject matter addressed herein. This Agreement supersedes any prior understandings, representations, or agreements, whether oral or written, concerning the subject matter hereof. This Agreement may not be modified or amended except by a written instrument duly executed by all parties. Any and all change orders must be in writing and signed by a Lencore officer. Change orders not approved by a Lencore officer in writing will not be paid.

- g. **Counterparts.** This Agreement may be executed in counterparts, including facsimile or photocopy counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- h. **Incorporation.** The Lencore Procedures, relevant drawings and specifications, and Lencore Tuning and Balancing Manual are incorporated herein by reference as if fully set forth herein.
- i. **Survival.** The provisions set forth in the following Sections, and any other right or obligation of the parties in this Agreement that, by its nature should survive termination or expiration of this Agreement, will survive any expiration or termination of this Agreement: Sections 1, 2, 4, 5, 6, 7 and 8.

ACCEPTED AND AGREED BY:

Installer Company Name: _____

LENCORE ACOUSTICS LLC

Signed: _____

By: _____

Signatory Name Printed: _____

Date: _____

Signatory Title: _____

Date: _____