



# ORDER FORM, continued

By my signature below, I am agreeing on behalf of myself and/or the individual or organization indicated on this Order Form (the "Customer") to all of the following:

I am placing an order for the product(s) and services described on the attached Customer Quote, which has been signed by The Gate and Customer (or Customer's authorized representative). I am the Customer or I am fully authorized by the Customer to place this order on behalf of the Customer and to bind the Customer to this agreement. Customer has received The Gate's Standard Terms and Conditions of Sale (the "Standard Terms"), agrees that it is a part of the agreement between Customer and The Gate, and agrees to be bound by them.

Customer agrees to pay to The Gate the amounts set forth on the Customer Quote in exchange for the products and services identified on the Customer Quote and in accord with the Standard Terms. If Customer chooses to cancel or modify this order after it has been placed, Customer agrees that it will be responsible for all work done on this order up to the point of cancellation or modification and agrees to pay for all work done at the rates set forth in The Gate Music Arts LLC's Standard Rates and Policies. If Customer chooses to cancel this order, Customer agrees to notify The Gate of the decision to do so in writing and as required by the Standard Terms.

I agree and acknowledge that I personally assume liability as principal for payment of all invoices related to this order, that I am responsible for paying for all work done for this order, and that I will pay all outstanding invoices for work billed and performed for this project, even if I am not the Customer if such invoices are not paid by Customer when due.

I further represent, warrant and affirm that I have read Section 11 of the Standard Terms, titled Representations and Warranties of Customer, and that Customer and I, if I am not the Customer, make the representations and warranties set forth in that section. Customer and I, if I am not the Customer, further agree to indemnify and hold harmless The Gate in accord with Section 10 of the Standard Terms.

Completed graphics in electronic format received from customers are considered to be in final form. Changes and corrections made to electronic files after receipt by The Gate will incur charges. Corrections and/or changes on such files will be billed at US\$80.00 per hour with a minimum charge of US\$25.00. There will be a US\$25.00 service charge if we preflight your project and the files are not to our specification. Please see our checklist in this media kit or on-line at [www.gatemediacom.com](http://www.gatemediacom.com).

Deposits: the minimum deposit required for complete CD or DVD packages is US\$1,000.00 or 50% of the invoice amount, whichever is greater. No work will proceed on any order until the appropriate deposit has been received. Final payment in full must be made before any product ships. Sorry, we do not ship C.O.D.

I affirm that all information provided herein is true and that all disc contents indicated as being "licensed" are properly licensed for replication under the terms of the original rights holder(s) with proof of such licensing and/or trademark authorization attached to this order form. I affirm that I am the intellectual property rights owner for all contents indicated as being "owned" and approve of replication. I agree to abide by the current version of the Anti-Piracy Compliance Program of the International Recording Media Association (available at [www.recordingmedia.org](http://www.recordingmedia.org)). The Gate reserves the right to refuse the processing of any order not complying with the Anti-Piracy Compliance Program guidelines.

NOTE: PLEASE DON'T FORGET TO INCLUDE YOUR ORDER CHECKLIST!

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

PLEASE NOTE: IF PAYING BY CREDIT CARD YOU WILL NOT BE ELIGIBLE FOR OUR 4% CASH/CHECK PAYMENT DISCOUNT.

YES, WE TAKE CHECKS! Personal and business checks, money orders, and cashier's checks. Make checks payable to: The Gate Music Arts LLC

If paying by credit card, I agree to pay the total amount as billed for all work done according to the card issuer agreement and according to The Gate Music Arts LLC's Standard Terms and Conditions of Sale. I also agree that my signature below is as binding as if I were signing a credit card sales slip in person. Furthermore, I also acknowledge that the product(s) The Gate produces for me are custom manufactured; as such, The Gate has no opportunity to resell returned merchandise, and thus cannot issue refunds under any circumstances except as provided for in the Standard Terms. Lastly, I agree that except as previously provided for under the Standard Terms, all sales are final and that there are no refunds or returns. If paying by check or money order, I agree to pay the total amount as billed for all work done according to the Standard Terms. We will send you a PayPal invoice.

Payment Information: Check  Money Order  MasterCard  Visa  American Express  Discover

Credit Card Number: \_\_\_\_\_ Exp. Date: \_\_\_\_\_

Name as it appears on card: \_\_\_\_\_

(Sign for all payment forms) Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Billing address for credit card: \_\_\_\_\_  
\_\_\_\_\_



# Intellectual Property Rights (IPR) Form

To be submitted with every order

- Letters of Indemnity are not adequate.
- LICENSED content requires proof of licensing for replication.
- OWNED content indicates the individual/organization completing this form is the IPR owner.
- Must be completed by the organization soliciting replication and not a broker or intermediary.

Album/Project Title \_\_\_\_\_

Distribution Within an organization \_\_\_\_ Retail \_\_\_\_ Free to public \_\_\_\_ Other \_\_\_\_\_

Countries Where Distributed \_\_\_\_\_

Are you the IPR owner for the entire disc contents? \_\_\_\_ YES \_\_\_\_ NO\*

Complete the section(s) below describing the content that is applicable to the media you have ordered.  
MP3 or Enhanced Disc content requires completion of both ROM and Audio sections.

## 1. CD-ROM / DVD-ROM Content \_\_\_\_\_

**\*If Not IPR owner, list all included non-owned software, freeware, and shareware products. Attach necessary distribution licensing documentation from the IPR owner.** Some shareware and freeware products require distribution licensing. Consult the software vendor for what is necessary.

## 2. CD / DVD Audio Content Check here if COMPILATION \_\_\_\_\_

Artist(s) \_\_\_\_\_ Content/Music Type \_\_\_\_\_

An attached track list of track title, artist, and IPR owner is REQUIRED. Sampling/mixing of additional recordings not owned (regardless of type, quantity, and length) requires licensing of those original recordings.

**\*If Not IPR owner, proof of replication licensing from IPR owner for licensed tracks is REQUIRED.**

## 3. CD / DVD Video Content (If Audio is separately licensed, complete Audio section and provide necessary Audio/Video Synchronization licensing)

**\*If Not IPR owner, proof of replication licensing from IPR owner is REQUIRED.**

*I affirm that all information provided herein is true and that all disc contents indicated as being "licensed" are properly licensed for replication under the terms of the original rights holder(s) with proof of such licensing and/or trademark authorization attached. I affirm that I am the intellectual property rights owner for all contents indicated as being "owned" and approve of replication. I agree to abide by the current version of the Anti-Piracy Compliance Program procedures and standards of the International Recording Media Association (available at [www.recordingmedia.org](http://www.recordingmedia.org)). The replicator reserves the right to refuse the processing of any order not complying with the Anti-Piracy Compliance Program guidelines.*

Print Organization Name & Telephone # of Party Soliciting Order \_\_\_\_\_

Signature of Representative from Party Soliciting Order \_\_\_\_\_

Print Name, Title, & Date \_\_\_\_\_

# FINAL APPROVAL FORM

KEEP THIS FORM UNTIL YOU HAVE APPROVED EVERYTHING

Fax to: 925-478-7962 or send this form in with your final payment

P.O. #: \_\_\_\_\_ CUSTOMER NAME: \_\_\_\_\_  
DATE: \_\_\_\_\_ PHONE: \_\_\_\_\_  
TITLE: \_\_\_\_\_ MASTER TITLE(S): \_\_\_\_\_  
FORMAT(S): CD  Cassette  Video  Printed CDR   
Blu-ray  DVD  CD-ROM  Vinyl  Other: \_\_\_\_\_

POST-PRODUCTION WORK BY THE GATE ON MASTER RECORDING?  Yes  No

The customer identified above ("Customer") authorizes The Gate Music Arts LLC ("The Gate") to proceed with full production of the order listed above, in quantities specified on the Customer Quote. Customer has approved copies of all labeling and packaging materials ordered and has approved them for production. If a Master Recording was supplied without a request for mastering and/or post-production, it will be manufactured "as is." If mastering and/or post-production was performed by The Gate, Customer has listened to the Final Master Recording, approves it for manufacturing. Customer agrees that any changes, errors, or omissions from this point forward are the responsibility of Customer and may result in additional charges if changes are ordered or required to be made. Customer acknowledges that Customer has read and accepted the Standard Terms and Conditions of Sale ("Standard Terms"), the Customer Quote and all terms on the Order Form. Customer agrees to all the terms and conditions of the Standard Terms, Customer Quote and Order Form.

By the signature below, Customer further acknowledges having read the Representations and Warranties of Customer contained in Section 11 of the Standard Terms and affirms and makes those Representations and Warranties as a material term of this agreement. Customer acknowledges that The Gate would not proceed with full production of Customer's order in the absence of such representations and warranties.

Customer further affirms, by the signature below, that all information provided on this Final Approval Form, all information provided on the Order Form and all of the Customer's representations and warranties are true.

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

**The Gate Music Arts LLC**  
**1839 Ygnacio Valley Rd., Suite 117**  
**Walnut Creek, CA 94598-3214**

Internet: [www.gatemedias.com](http://www.gatemedias.com)  
E-mail: [sales@gatemedias.com](mailto:sales@gatemedias.com)  
Phone: 925-478-7965  
Fax: 925-478-7962

Clearly a better way!

*For Office Use Only*

SEL# \_\_\_\_\_

TITLE# \_\_\_\_\_

# The Gate Music Arts LLC

## STANDARD TERMS AND CONDITIONS OF SALE

These Standard Terms and Conditions of Sale ("Standard Terms") set forth the terms and conditions of the agreement between The Gate Music Arts LLC, including their subsidiaries, agents, and partners ("The Gate"), and the party identified on The Gate Order Form as the customer ("Customer"). These Standard Terms, The Gate Order Form, and the Customer Quote signed by The Gate and by or on behalf of the Customer, (collectively, the "Agreement") comprise the entire agreement between The Gate and Customer.

1. **Customer Authorization of Work:** The Gate will perform work or provide services with respect to any related master material ("Duplication Material"), related packaging material ("Package Material") and/or films, screens, texts, or other related labeling material ("Labeling Material") (Duplication Material, Package Material and Labeling Material are collectively referred to in this Agreement as "Content"), only upon receipt at its offices of a completed Order Form, all required deposit(s) and/or payments, a completed Final Approval Form and all necessary tax documents. Due to quality control considerations, it is not always possible to produce the exact number of units ordered. Therefore The Gate reserves the right to produce and bill for production overruns up to 10 percent over the Customer's order for Product with the price adjusted accordingly.

2. **License of Master Recordings and Materials:** The Customer hereby grants to The Gate and The Gate hereby accepts from The Customer, a non-exclusive license to manufacture the product from the Master Recording(s) identified on this order and to use any related photographs, biographical material, label data, or album cover artwork, or any other materials provided to The Gate hereunder by The Customer, for that purpose.

3. **Pricing and Shipping Terms:** Prices are FOB The Gate's plants and are subject to change without notice. The Gate is not responsible for loss or damage once any product has left our premises. Claims for damage to product while in transit are the responsibility of the Customer and/or shipping carrier. Customer has option of purchasing additional shipping insurance for their product. The Gate shall have no obligation to ship any goods prior to the payment in full by Customer of all outstanding invoices.

4. **Terms of Payment:** Payment(s) for goods and services are due in full immediately upon the invoice date. Returned checks shall be assessed a US\$25.00 returned item processing fee. The Gate reserves the right, among other remedies, either to terminate this Agreement or to suspend further deliveries upon failure of Customer to make any payment as herein provided. Should any amount remain outstanding after its due date, interest shall run on said amount from the initial billing date at the rate of one and three-quarters percent per month (21% per annum) or the highest amount otherwise permitted by law and shall accrue daily. Notwithstanding the foregoing, The Gate may, at its sole discretion, require part or full payment in advance for any work or services to be performed, or may require such security or guarantee of payments as it may in its discretion see fit. The Gate shall have no obligation to commence production of any goods for Customer prior to the payment in full by Customer of all outstanding invoices.

5. **The Gate's Warranty of Product:** EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 5, THE GATE MAKES NO WARRANTY, EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO ANY MATTER RELATED TO THIS AGREEMENT. The following warranty is the sole warranty given by The Gate to Customer with respect to any matter related to this Agreement: The Gate warrants that material produced and delivered by The Gate hereunder meets The Gate's standard specifications for the material or such other specifications as have been expressly made a part of this Agreement in writing, and that such material is adequately contained, packaged and labeled. THE FOREGOING WARRANTY IS THE SOLE AND EXCLUSIVE WARRANTY OFFERED BY THE GATE AND ALL OTHER WARRANTIES, WHETHER WRITTEN, ORAL, OR IMPLIED, ARE DISCLAIMED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.

6. **Remedies:** The Gate's liability for breach of the warranty set forth in Section 5 is limited solely to the replacement or repair of the defective material as set forth below. If any compact disc or other material produced by The Gate ("Product") is found to be defective in quality, or is shipped or labeled in error, The Gate will, at its sole and absolute discretion, replace or repair such defective Product and/or correct such error in shipment or labeling at its own expense, on the condition that: a) written notice of such defect or error is received by The Gate at its office within ten days after the arrival of the Product at its destination (the "Warranty Claim Period"); and b) the defect or error did not result from a defect or error in the Duplication Material, Packaging Material and/or Labeling Material supplied by or on behalf of Customer, as determined by The Gate in its sole and absolute discretion. If notice of the claimed defect is not received by The Gate within the Warranty Claim Period, The Gate is released from any and all liability related to such Product. At The Gate's request, the Customer shall return any defective Product to The Gate.

7. **Delivery Times:** While The Gate makes every effort to ensure on-time delivery of all ordered items, Customer acknowledges that all deadlines and delivery times are estimates and The Gate makes no representation, warranty or guarantee regarding the delivery time of Products.

8. **Limitation of Liability.** EXCEPT AS SET FORTH IN SECTIONS 5 AND 10, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY DAMAGES WHATSOEVER ARISING OUT OF THIS AGREEMENT OR ANY MATTER RELATED TO IT, INCLUDING WITHOUT LIMITATION CUSTOMER'S USE OF, OR INABILITY TO USE, ANY PRODUCT PROVIDED BY THE GATE UNDER THIS AGREEMENT, INCLUDING WITHOUT LIMITATION ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, OR DAMAGES FOR LOSS OF DATA, LOST PROFITS, OR LOST BUSINESS OPPORTUNITIES, REGARDLESS OF THE LEGAL THEORY UNDER WHICH SUCH DAMAGES ARE SOUGHT, AND EVEN IF ADVISED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES. CUSTOMER ACKNOWLEDGES THAT THE LIMITATION OF LIABILITY EXTENDS, WITHOUT LIMITATION, TO THE LOSS, DESTRUCTION, OR PARTIAL OR FULL DETERIORATION OF DUPLICATION MATERIAL, PACKAGING MATERIAL OR LABELING MATERIAL DUE TO ANY CAUSE WHATSOEVER, INCLUDING, WITHOUT LIMITATION DAMAGES DUE TO THE METHOD OF WORK EMPLOYED BY THE GATE, THE QUALITY OF SERVICES PROVIDED BY THE GATE, NEGLIGENCE OR ERROR BY THE GATE OR BY ANY OF ITS EMPLOYEES OR AGENTS, FAULTY MAINTENANCE, DEFECTIVE MACHINERY OR FAULTY EQUIPMENT, NOTWITHSTANDING THE FACT THAT THE GATE IS OR SHOULD BE AWARE OF ANY OF THE FOREGOING. CUSTOMER EXPRESSLY ACKNOWLEDGES AND AGREES THAT CUSTOMER'S SOLE REMEDY FOR ANY MATTER RELATED TO THIS AGREEMENT IN ANY WAY IS THE REMEDY SET FORTH IN SECTION 6.

9. **Termination:** Customer orders for products not yet manufactured by The Gate may be terminated by either party upon 10 days written notice. The Customer will be responsible for all costs incurred and fees for work performed that are associated with the work authorized in the Customer Quote and that have been incurred by The Gate related to pre-manufacturing or manufacturing of any product prior to receipt of notice of termination. After such termination, The Customers' original materials and any completed product may be delivered to The Customer only after all sums owing to The Gate Music Arts LLC have been paid in full by cash or cashier's check.

10. **Indemnification:** Customer hereby agrees to indemnify and hold The Gate harmless from and against any and all third-party claims and/or any and all losses, costs, damages, liabilities, judgments, or settlements resulting from such third-party claims or from regulatory actions, including defense costs, fines, expenses and reasonable attorneys' fees arising from, or in any manner relating to (1) the breach of any of the obligations which Customer is to perform pursuant to this Agreement; (2) any unauthorized or unlawful action taken by the Customer; (3) any negligent acts or omissions, whether inadvertent or intentional on behalf of the Customer; (4) any willful misconduct of Customer or any of its agents in connection with this Agreement; (5) any breach of Customer's representations and warranties under this Agreement; and (6) any claim that Product or any material used or created by The Gate related in any way to Duplication Material, Package Material and/or Labeling Material infringes any intellectual property rights, including without limitation copyrights. The obligations of this provision shall include any legal or other expenses reasonably incurred by The Gate in connection with investigating any claim against it, defending any action and any amounts paid in settlement or compromise.

11. **Representations and Warranties of Customer:** Customer represents and warrants to The Gate: (1) that all information provided by the Customer in this Agreement is true; (2) that either (a) all Content is owned by Customer; or (b) Customer has properly licensed all Content from the original rights holder(s) with proof of such licensing and/or trademark authorization attached to the order form; (3) Customer has paid any required mechanical licensing fees to The Harry Fox Agency, to another performing rights organization, or directly to the composer/intellectual property owner(s); (4) that Customer is authorized to grant The Gate the licenses granted in this Agreement; (5) that Customer complies with and agrees to abide by the current version of the Anti-Piracy Compliance Program of the International Recording Media Association (available at [www.recordingmedia.org](http://www.recordingmedia.org)); (6) the individual completing this online agreement has the authority to bind Customer to this Agreement; (7) this Agreement constitutes a valid and binding obligation on Customer, enforceable in accordance with its terms; (8) no suit, action, arbitration, or legal, administrative, or other proceeding or governmental investigation is pending or threatened against or affecting Customer, its business or properties, financial or other condition, or the transactions contemplated under this Agreement; and (9) neither the execution or delivery of this Agreement nor the consummation of the transactions contemplated by it would constitute a default or violation of Customer's articles of incorporation, bylaws, or any license, lease, franchise, mortgage, instrument, or other agreement(s) (if any).

12. **Reservation of Rights for the Prevention of Piracy.** The Gate reserves the right to refuse the processing of any order not complying with the Anti-Piracy Compliance Program guidelines of the International Recording Media Association. The Gate reserves the right, at its sole discretion, to investigate the ownership of any and all Content or any other materials provided for manufacturing. If The Gate determines, or has reason to believe, that Customer does not have the authority to reproduce the product or materials provided, The Gate will have no further obligation to Customer to provide any services with respect to the materials provided. By reserving these rights, The Gate does not in any way assume an obligation to investigate or verify ownership of any and all intellectual property or any other materials provided by customer, and The Gate will rely solely on the Customer's representations and warranties as provided herein.

**CONTINUED ON REVERSE SIDE**

THE GATE MUSIC ARTS LLC  
STANDARD TERMS AND CONDITIONS OF SALE  
(CONTINUED)

13. **Security:** The Customer agrees that there is an implied lien on all materials supplied to The Gate until final payment is made. The Customer also agrees that The Gate may retain, dispose of, sell, or license my materials to recoup any debt owed by Customer if Customer fails to pay their bill in full.

14. **Miscellaneous:**

14.1 **Force Majeure:** The Gate shall not be liable or responsible for any failure to perform its obligations under this Agreement (other than obligations to pay money) if such failure is caused by acts of God, war, terrorist activities, strikes, inability to secure labor materials or third-party services, revolutions, fire, earthquake or other casualty, lack or failure of transportation, water or electrical facilities, changes in laws or governmental regulations or any other causes that are beyond its reasonable control (a "Force Majeure Event").

14.2 **Notices.** All notices under this Agreement shall be given in writing and in one or more of the following ways: (i) by delivery by a commercially recognized overnight carrier; (ii) via electronic mail, or (iii) via facsimile, at the physical address, e-mail address and fax numbers set forth in the signature block of this Agreement. If a party provides notice via either method (ii) or (iii), then such delivery is effective only if receipt of the notice is acknowledged in writing by the party receiving the notice. Notice is effective upon receipt, and notice received after 5 p.m. will be deemed effective on the next business day. Either party may from time to time change its address or other information for notification purposes by giving the other prior written notice of the new address and the date upon which it shall become effective.

14.3 **Relationship.** The relationship of the parties under this Agreement is one of independent contractors and no agency, partnership, joint venture, or similar relationship is created hereby. Except as specifically authorized, neither party shall have any authority to assume or create obligations on the other party's behalf. Neither party shall take any action that has the effect of creating the appearance of its having such authority.

14.4 **Taxes.** All taxes and charges of any kind imposed by any national, federal, state, or local government concerning the products, services, or other items covered by this Agreement, or their sale or use, or measured by the gross receipts to Customer under this Agreement, shall be collected and paid by Customer, exclusive of franchise taxes and taxes based on The Gate's income, which shall be paid by The Gate. The provisions of this section shall survive the expiration or earlier termination of this Agreement.

14.5 **No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the parties to this Agreement and their permitted successors and assigns, and no other person or entity, including without limitation End-Users, shall have or acquire any right by virtue of this Agreement.

14.6 **Waiver.** The waiver, modification, or failure to insist by The Gate on any of the provisions of this Agreement shall not void, waive, nor modify any of the other provisions nor be construed as a waiver or relinquishment of The Gate's right to performance in the future of any such provision.

14.7 **Severability.** If any provision of this Agreement is declared or found to be illegal, unenforceable, or void by a court of competent jurisdiction, then both parties shall be relieved of all obligations arising under such provision, but only to the extent that such provision is illegal, unenforceable, or void, it being the intent and agreement of the parties that this Agreement shall be deemed amended by modifying such provision to the extent necessary to make it legal and enforceable while preserving its intent or, if that is not possible, by substituting for such provision another provision that is legal and enforceable and achieves the same objective. If the remainder of this Agreement shall not be affected by such declaration or finding and is capable of substantial performance, then, each provision not so affected shall be enforced to the extent permitted by law.

14.8 **Successors.** This Agreement shall inure to the benefit of and be binding on the legal representatives and permitted successors and assigns of the parties.

14.9 **Headings.** Headings used herein are for reference purposes only and neither limit nor amplify the terms and conditions herein.

14.10 **Governing Law and Dispute Resolution.**

**Law.** This Agreement and any disputes between the parties shall be governed by and construed according to the laws of California as such laws are applied to contracts made and to be performed entirely in California, but without reference to California's rules regarding conflicts of laws.

**Obligation to Meet and Confer.** Before invoking the binding dispute mechanism set forth below, the parties shall first meet and confer in good faith to resolve any dispute or controversy that may arise between them (a "Dispute"). To begin the meet and confer process, a party shall serve on the other party to this Agreement (a) written notice of the claim,

specifying the exact nature of the Dispute, including any amount claimed to be owed under this Agreement, and the provision of the Agreement or other authority for the claim; and (b) a copy of all supporting documents. Within 10 business days after receiving notice of a dispute the responding party and the initiating party will meet to discuss resolution of the claim. Each party must bring at least one person to the negotiation with full authority to resolve the dispute on any terms. The written claim notice and any documents produced by either party, but not the subsequent discussion, shall be admissible in any subsequent proceeding.

**Mediation.** If the parties are unable to resolve a Dispute through the process described above, the parties will submit their dispute to mediation prior to proceeding to arbitration. The administrative costs of the mediation, including the mediator's fee, shall be borne by the parties equally. Otherwise, each party shall be responsible for its own costs and expenses relating to the mediation, including any attorneys' fees. Disclosures made by either party during the mediation will be treated as confidential and may not be offered as evidence in any subsequent proceeding unless the proceeding is initiated to enforce the terms of an agreement arising from the mediation.

**Arbitration.** If the dispute resolution mechanisms set for the above fail to resolve the dispute, binding arbitration shall be the sole and exclusive remedy for resolution of disputes between the parties. Such dispute shall be submitted for arbitration in San Francisco, California, before a single arbitrator agreed upon by the parties, or, if they are unable to agree, a single arbitrator appointed by American Arbitration Association ("AAA"). Such arbitration shall be governed by the commercial rules of the AAA. The arbitrator's decision will be final and entered into any court of competent jurisdiction. The prevailing party will be entitled to recover its attorneys' fees and costs in connection with such arbitration.

**Disputes Involving Indemnification.** Claims for indemnification pursuant to Section 10 of these Standard Terms ("Indemnification Claims") are subject to the governing law requirements of this Section 14.10, but not to its Mediation or Arbitration requirements. Instead, Indemnification Claims may be brought either before the adjudicative body considering the third-party claim (if any) or before the appropriate state or federal court located in the Northern District of California.

14.11 **Survival of Certain Provisions.** The following will survive any expiration or termination of this Agreement: (i) any accrued rights to payment; (ii) any remedies; (iii) Sections 5, 6, 8, 10, 11, 14.4, and 14.10 (iv) all provisions governing the enforcement and interpretation of surviving provisions; and (v) any other provision expressly stating that it survives the termination of the Agreement.

14.12 **Entire Agreement.** This Agreement constitutes the entire understanding and agreement between the parties with respect to the subject matter hereof and supercedes any and all prior or contemporaneous oral or written communications with respect hereto, all of which are merged herein. In the case of a conflict between these Standard Terms and any provision of the Order Form or a Customer Quote, the terms of the Standard Terms shall prevail.

14.13 **Modifications.** Except as specifically provided for herein, this Agreement may not be altered, amended, or modified except by an instrument in writing signed by a duly authorized representative of each party. A signed Customer Quote may only be modified by a written Change Order signed by Customer (or Customer's authorized representative) and The Gate.

14.14 **Word Usage.** Unless the context clearly requires otherwise, (a) the plural and singular numbers shall each be deemed to include the other; (b) the masculine, feminine, and neuter genders shall each be deemed to include the others; (c) "shall," "will," or "agrees" are mandatory, and "may" is permissive; (d) "or" is not exclusive; and (e) "includes" and "including" are not limiting.

**The Gate Music Arts LLC**  
**1839 Ygnacio Valley Rd., Suite 117**  
**Walnut Creek, California 94598-3214**



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Clearly a better way!