



Aurora Microplates, LLC. | 25 Metro Drive, Suite 238 | San Jose, CA 95110

## **Aurora Microplates Terms and Conditions**

Agreement. The sale of the products described on the Quotation or Proposal to which these Standard Terms and Conditions are attached (the “Products”) by Aurora Microplates, LLC., (“AURORA MICROPLATES, LLC.”) to the buyer indicated on the Quotation or Proposal (the “Buyer”) is governed exclusively by the terms of this Agreement (the “Agreement”), which includes the following three (3) components: (1) the Quotation or Proposal to which these Standard Terms And Conditions are attached, (2) these Standard Terms and Conditions, and (3) the applicable license for the permitted use of the Products referenced in and attached to the Quotation or Proposal (“License”). The Agreement constitutes the entire agreement between Aurora Microplates, LLC. and Buyer pertaining to the sale of the Products by Aurora Microplates, LLC. to Buyer, and any prior understandings, agreements and representations, oral or written are superseded by this Agreement. Buyer acknowledges that AURORA MICROPLATES, LLC.’s sales representatives and other agents have no authority to make any representations not included herein.

Purchase Order. Buyer may order the Products by submitting a written purchase order to AURORA MICROPLATES, LLC. All purchase orders are non-cancelable and nonrefundable. Any terms or conditions in any purchase order, invoice, acknowledgment, confirmation or other document provided by Buyer to Aurora Microplates, LLC. that is different or in addition to those set forth in this Agreement are expressly rejected by Aurora Microplates, LLC. and shall be of no effect, even if signed and returned.

Price. The prices for the Product set forth in the Quotation or Proposal are valid solely during the period set forth in the Quotation or Proposal. After the expiration of such period, Aurora Microplates, LLC. shall have the right to change such prices at any time prior to receiving Buyer’s purchase order for Products. Prices do not include sales, excise, use or other taxes (other than taxes based on income) now in effect or hereafter levied by reason of this transaction. Buyer shall pay all such taxes.

Payment Terms. Any initial payment indicated on the Quotation or Proposal is payable by Buyer upon submitting a purchase order to AURORA MICROPLATES, LLC.. Aurora Microplates, LLC. shall have no obligation to ship the Products to Buyer until Aurora Microplates, LLC. receives from Buyer the initial payment indicated on the Quotation or Proposal. Any remaining amounts shall be invoiced by AURORA MICROPLATES, LLC.. Buyer shall pay the full amount of each such invoice(s) within 30 days after receipt thereof. Aurora Microplates, LLC. reserves the right to require alternative payment terms, including without limitation, sign draft, letter of credit or payment in advance. If payment is not received by the due date, a service



Aurora Microplates, LLC. | 25 Metro Drive, Suite 238 | San Jose, CA 95110

charge of 1.5% per month (18% per year) or the maximum legal rate, whichever is less, will be added to unpaid invoices from the due date thereof.

**Credit.** Shipment shall at all times be subject to the approval of AURORA MICROPLATES, LLC.'s credit department. Aurora Microplates, LLC. may at any time and in its sole discretion limit or cancel the credit of Buyer as to time and amount, and, as a consequence, may demand payment in cash before delivery of any unfilled portion of this Agreement and may demand assurance of Buyer's due performance.

**Shipment.** In the absence of specific shipping instructions, Aurora Microplates, LLC. will ship the Products by such shipping method as Aurora Microplates, LLC. determines. Shipping charges will be collect, or if prepaid, will be subsequently invoiced to Buyer. When special or export packaging is required, the cost of the same, if not set forth on the invoice, will be separately invoiced. Aurora Microplates, LLC. may make delivery in installments and may render a separate invoice for each installment. Buyer shall pay all invoices for shipping charges upon receipt. Each installment shall be deemed a separate sale. Delay in delivery of any installment shall not relieve Buyer of its obligation to accept delivery of remaining installments. All shipments of the Products to Buyer shall be FOB Origin. Title to each shipment of the Products sold hereunder and risk of loss thereon shall pass to Buyer when Aurora Microplates, LLC. delivers such shipment to a carrier.

**Delivery.** Aurora Microplates, LLC. will use reasonable efforts to effect shipment on or before the date indicated; provided, however, that Aurora Microplates, LLC. shall not be liable for any delay in performance due from any cause beyond the AURORA MICROPLATES, LLC.'s control. In the event of any such delay, Aurora Microplates, LLC. shall (a) have such additional time within which to perform its obligations hereunder as may reasonably be necessary under the circumstances, (b) have the right, to the extent necessary in AURORA MICROPLATES, LLC.'s reasonable judgment to apportion fairly among its customers the Products then available for delivery, and (c) use reasonable efforts to resume normal shipments upon the removal of any such cause beyond AURORA MICROPLATES, LLC.'s control.

**Acceptance.** Buyer shall give prompt written notice to Aurora Microplates, LLC. of (a) discrepancies between type and quantity of the Products ordered and delivered; or (b) Product defects, within ten (10) business days after delivery of the Products to Buyer. Lacking such notice, Buyer shall be deemed to have accepted the Products. In the event of any discrepancy between type and quantity of Product ordered and Product delivered, or if Products fail to conform to the specifications established by Aurora Microplates, LLC. therefor, Buyer shall return, within ten (10) business days of delivery of the Product to Buyer, such nonconforming Products to AURORA MICROPLATES, LLC.. Aurora Microplates, LLC. shall pay for any reasonable shipping expenses incurred by Buyer to return any nonconforming Products to AURORA MICROPLATES, LLC.. Aurora Microplates, LLC. shall repair or replace the returned Product, at AURORA MICROPLATES, LLC.'s sole discretion, as soon as reasonably



Aurora Microplates, LLC. | 25 Metro Drive, Suite 238 | San Jose, CA 95110

practicable. Notwithstanding the foregoing, Aurora Microplates, LLC shall not be responsible for any Products that fail to pass Buyer's quality control as a result of improper storage and handling during or after shipment to Buyer. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, THE REPAIR OR REPLACEMENT OF ANY NONCONFORMING PRODUCTS BY Aurora Microplates, LLC. SHALL BE BUYER'S SOLE AND EXCLUSIVE REMEDY FOR AURORA MICROPLATES, LLC.'S DELIVERY OF NONCONFORMING PRODUCTS.

**Limited Warranty and Disclaimer.** Aurora Microplates, LLC. warrants that as of the time of the delivery of the Products to a carrier, the Products (a) are of good quality and free from defects, whether patent or latent, in design, materials or workmanship, (b) are fit and sufficient for the use they are intended for, as such intended use is described in the accompanying Product documentation, and (c) have received all governmental approvals necessary for sale of such Product for the use it is intended for, as such intended use is described in the accompanying Product documentation. The foregoing warranty shall be void if the Product has been subjected to: (i) physical abuse, misuse, abnormal use, or use not consistent with the accompanying Product documentation, (ii) modification by anyone other than Aurora Microplates, LLC. or third parties designated by AURORA MICROPLATES, LLC.; (iii) tampering, unusual physical stress, negligence or accidents; or (iv) improper packaging of returns. OTHER THAN AS WARRANTED UNDER THIS SECTION, THE PRODUCTS ARE PROVIDED "AS IS." Aurora Microplates, LLC. MAKES NO OTHER WARRANTIES RELATING TO THE PRODUCTS, EXPRESS OR IMPLIED, AND EXPRESSLY EXCLUDES ANY IMPLIED WARRANTY OF NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY.

**Limitation of Liability.** IN NO EVENT SHALL Aurora Microplates, LLC. BE LIABLE TO BUYER OR ANY THIRD PARTIES FOR ANY CONSEQUENTIAL, INCIDENTAL, PUNITIVE, CONTINGENT, STATUTORY OR ANY OTHER SPECIAL DAMAGES. AURORA MICROPLATES, LLC.'S LIABILITY FOR DAMAGES ON ACCOUNT OF A CLAIMED DEFECT IN ANY PRODUCT DELIVERED BY Aurora Microplates, LLC. SHALL IN NO EVENT EXCEED THE PURCHASE PRICE OF THE PRODUCT ON WHICH THE CLAIM IS BASED. SPECIFICALLY, AND WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, Aurora Microplates, LLC. SHALL NOT BE RESPONSIBLE OR LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY LOST PROFITS, OR ANY CONSEQUENTIAL, INCIDENTAL, PUNITIVE, CONTINGENT, STATUTORY OR ANY OTHER SPECIAL DAMAGES FOR ANY BREACH OF WARRANTY OR OTHER BREACH OF AURORA MICROPLATES, LLC.'S OBLIGATIONS UNDER THIS AGREEMENT. Aurora Microplates, LLC. SHALL NOT BE LIABLE FOR DAMAGES RELATING TO ANY INSTRUMENT, EQUIPMENT, OR APPARATUS WITH WHICH THE PRODUCT SOLD UNDER THIS AGREEMENT IS USED.



Aurora Microplates, LLC. | 25 Metro Drive, Suite 238 | San Jose, CA 95110

**Compliance with Laws; Precautions.** Buyer shall use the Products in strict accordance with all applicable local, state and federal laws, regulations and guidelines, including without limitation all safety precautions accompanying the Products. Buyer understands that the Products, under certain circumstances, may have unpredictable and unknown biological and/or chemical properties. Buyer shall use prudence and reasonable care in the use, handling, storage, transportation, disposition, and containment of the Products. Buyer shall not use the Products for testing in or treatment of humans.

**Restrictions.** Except as expressly set forth in the License, Buyer shall not, and shall not attempt of purport to: (a) modify, reverse engineer, decompile or disassemble the Products, or determine the structure of the Products; or (b) rent, lease, loan, sell, sublicense, distribute, transmit or otherwise transfer its rights to use the Products to any third party.

**U.S. Government Agreements.** If the products to be furnished under this Agreement are to be used in the performance of a U.S. Government Agreement or subcontract and a U.S. Government Agreement number shall appear on the Buyers order, those clauses of the applicable U.S. Government procurement regulation which are mandatorily required by Federal Statute to be included in U.S. Government subcontracts shall be incorporated herein by reference including, without limitation, the Fair Labor Standards Act of 1938, as amended.

**Indemnification.** Buyer shall defend, indemnify and hold harmless Aurora Microplates, LLC. from and against all losses, liabilities, damages and expenses (including reasonable attorneys' fees and costs) resulting from all claims, demands, actions and other proceedings by any third party arising from (a) the use, handling, storage, transportation, disposition, and containment of the Products by Buyer, (b) a breach of this Agreement by Buyer.

**Choice of Law and Jurisdiction.** This Agreement is made in, governed by, and shall be construed in accordance with the laws of the State of Montana, without regard to the conflicts of law principles thereof, and shall not be governed by the United Nations Convention on Agreements for the International Sale of Goods. The parties hereby submit to the non-exclusive jurisdiction of, and venue in, the state and federal courts located in Flathead County, Montana, for the purposes of resolving any dispute arising from this Agreement.

**Assignment.** This Agreement and Buyer's right hereunder may not be assigned by Buyer except with the prior written approval of AURORA MICROPLATES, LLC..

**Waiver.** Waiver by Aurora Microplates, LLC. of any provision of this Agreement or of any breach by Buyer of any provision of this Agreement shall not be deemed a waiver of future compliance with this Agreement, and such provision, as well as all other provisions of this Agreement, shall remain in full force and effect.