



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

## AURORA MICROPLATES, LLC TERMS OF SALE

- 1. Terms.** These Terms of Sale (these “Terms”) govern the sale by Aurora Microplates, LLC (“Aurora”) of the product(s) described in any quotation, proposal, or purchase order (a “PO”) accepted by Aurora to which these Terms are attached (the “Product(s)”) to the buyer indicated on the quotation, proposal, or purchase order (the “Buyer”). Aurora’s sale of the Products to Buyer is governed exclusively by these Terms, which expressly incorporate by reference any such quotation, proposal, or purchase order accepted by Aurora, and any Product Documentation (as defined below) provided by Aurora to Buyer. Aurora and Buyer are sometimes referred to herein, individually, as a “Party” and, collectively, as the “Parties.”

These Terms, including the documents incorporated by reference above, constitute the entire agreement between the Parties pertaining to sale of the Products by Aurora to Buyer, and supersede all prior or contemporaneous oral or written understandings, agreements, or representations of any kind. Buyer acknowledges and agrees that Aurora’s sales personnel and other agents have no authority to modify or expand the terms of these Terms, or to make any representations not explicitly included herein, without a written amendment signed by a duly authorized representative of Aurora. Buyer further acknowledges and agrees that these Terms may be updated from time to time as set forth in Section 32 below. For purposes of these Terms, “Product Documentation” means any user manuals, specifications, safety instructions, or usage guidelines provided by Aurora in written or electronic form relating to the design, operation, maintenance, or intended use of the Products, as may be updated from time to time.

- 2. Purchase Order.** Buyer may order the Products by submitting a PO to Aurora. Each such PO is subject to review and approval by Aurora in its sole discretion. No PO shall be deemed accepted, and no binding obligation shall arise, unless and until Aurora expressly confirms acceptance of such PO in writing through an authorized representative. No PO may be cancelled or modified by Buyer without Aurora’s prior written consent, and any cancellation or modification that is permitted by Aurora may be subject to restocking or cancellation charges, as determined by Aurora in its sole discretion. For clarity: (i) any Buyer terms or conditions in any PO, acknowledgment, confirmation or any other document of any kind that attempt to form, add to, or conflict with these Terms are hereby rejected and shall be null and void, unless expressly accepted by Aurora in a writing signed by its duly authorized representative; and (ii) Aurora’s operational acknowledgment of receipt of a PO shall not, by itself, constitute legal acceptance of such PO. Aurora reserves the right to sell remanufactured, reconditioned, or refurbished Product, provided such Product meets applicable specifications and is identified as such in the applicable quotation, proposal, or PO confirmation issued by Aurora prior to shipment.

Notwithstanding the foregoing, any Products that are specially manufactured, customized, or labeled to Buyer’s specifications (“Custom Products”) are non-cancellable and non-returnable once Aurora accepts the PO. Buyer acknowledges that Custom Products may not be resold by Aurora to third parties and that Aurora incurs specific costs and production commitments for such Products. Accordingly, all sales of Custom Products are final, and the full purchase price shall remain payable even in the event of cancellation, return, or rejection by Buyer.



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3. **Right To Manufacture and Sell Competitive Products.** Nothing in these Terms shall be construed to create an exclusive arrangement between the Parties. Aurora reserves the unrestricted right to manufacture, market, sell, and distribute the Products, and any goods or services similar to or competitive with the Products, to any third party, without obligation or liability to Buyer.
4. **Minimums.** Buyer will purchase the minimum purchase commitment amount listed in the PO, if any ("Minimum Commitment") or, to the extent such Minimum Commitment is not met, pay Aurora the amount that would have been due to Aurora had the Minimum Commitment been satisfied in full. If no Minimum Commitment is expressly set forth in the PO, this Section shall not apply.
5. **Forecasts.** Buyer may be required to provide Aurora with forecasts of the specific Products and quantity of Products that Buyer will order from Aurora each calendar month ("Forecasts"). Unless otherwise expressly stated in the quotation, proposal, or PO confirmation issued by Aurora, Forecasts are for informational purposes only and do not create any binding obligations on either Party. If any Forecast is expressly designated by Aurora in writing as binding, Buyer shall be obligated to purchase the quantities of Product set forth in such Forecast during the applicable period, and Aurora may rely on such Forecast to schedule production, allocate inventory, or procure raw materials. For clarity, if Buyer is required to provide Forecasts under the quotation, proposal, or PO, Aurora will not be required to manufacture or sell to Buyer any quantity of Product that is, in Aurora's sole discretion, unreasonably disproportionate to any Forecast for the applicable calendar period or materially inconsistent with Forecasts previously provided by Buyer and accepted by Aurora.
6. **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 shall have the right to change such prices at any time prior to receiving and accepting Buyer's PO for Products. Prices are exclusive of taxes, duties, tariffs, fees, and other charges now in effect or hereafter imposed by any governmental authority, all of which shall be the sole responsibility of Buyer, other than any taxes imposed on Aurora's income.

Aurora further reserves the right to adjust the price of any Product(s), prior to transfer of title or physical possession to Buyer, to reflect any increase in tariffs, import duties, freight, fuel surcharges, export or customs fees, or other similar charges imposed by any governmental act or regulation, or similar circumstance, that impacts Aurora's cost to supply such Product(s). In such case, Aurora will provide notice of the adjustment to Buyer.

7. **Payment Terms.** Buyer must pay to Aurora any initial payment indicated on the quotation or proposal at the same time as submitting a PO to Aurora. Aurora shall have no obligation to ship the Products to Buyer until Aurora receives from Buyer the initial payment indicated on the quotation or proposal. Any remaining amounts due and owing from Buyer shall be invoiced by Aurora. Buyer shall pay the full amount of each such invoice(s) within 30 days after receipt thereof. Aurora 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 charge



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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.

8. **Credit.** Shipment shall at all times be subject to the approval of Aurora's credit department. Aurora 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 Product and may demand assurance of Buyer's due performance.
9. **Shipment.** In the absence of specific shipping instructions, Aurora will ship the Products by such shipping method as Aurora determines in its sole discretion. Shipping charges will be charged collect, or, if prepaid by Aurora, will be separately 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 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 of the Products sold hereunder and risk of loss thereon shall pass to Buyer when Aurora delivers such shipment to a carrier.

Aurora retains, and Buyer hereby grants, a purchase money security interest ("PMSI") in all Products sold under these Terms, and in the proceeds thereof, until full payment has been received by Aurora. Aurora shall have all rights and remedies accorded by law or equity to a secured seller, including the right to enter upon the premises where the Products are located to repossess them, and all such rights and remedies shall be cumulative. Buyer shall maintain insurance against all risks to cover full replacement value of the Products until payment in full has been received by Aurora and agrees to take all actions and execute all documents reasonably required to perfect and maintain such PMSI, including authorizing Aurora to file any UCC financing statements as necessary.

10. **Delivery.** Aurora will use reasonable efforts to effect shipment on or before the date indicated; provided, however, that Aurora shall not be liable for any delay in performance due from any cause beyond Aurora's control. In the event of any such delay, Aurora 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'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's control.
11. **Acceptance.** Buyer shall give written notice to Aurora of (a) discrepancies between type and quantity of the Products ordered and delivered; (b) Product defects; or (c) any other purported basis of non-acceptance, within ten (10) business days after delivery of the Products to Buyer. If Buyer does not provide written notice of (a)-(c), within such ten (10) business day period, Buyer shall be deemed to have unconditionally and irrevocably accepted the Products.

If Buyer timely rejects any Product in accordance with this Section, Buyer shall provide Aurora a



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reasonable opportunity to remedy the reported nonconformity or defect. Buyer shall provide reasonable assistance and furnish adequate means for Aurora to test the affected Product. Aurora shall have the right, in its sole discretion, to inspect and test any rejected Product before issuing a return authorization. Any such inspection, testing, or remedial efforts shall not constitute an admission by Aurora that the Product is defective or nonconforming.

If Aurora determines, in its sole discretion, that a Product materially fails to conform to the type, quantity, or specifications established by Aurora, and the issue is not remedied within a reasonable period following Buyer's timely notice, Buyer shall return the affected Product to Aurora at Aurora's expense, strictly in accordance with the return authorization issued in writing by Aurora. Buyer shall immediately notify Aurora of the return in accordance with the notice procedures set forth in Section 31, and Aurora shall then, at its option, either replace the relevant Product with conforming or non-defective Product, repair the relevant Product, or rescind the sale of the nonconforming Product and refund to Buyer any purchase price amounts already paid for that Product.

In no event shall Aurora be responsible for any Product that fails to pass Buyer's quality control as a result of improper storage or handling during or after shipment.

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THESE TERMS, AURORA'S OBLIGATION TO REPAIR, REPLACE, OR REFUND SHALL BE BUYER'S SOLE REMEDY FOR ANY NONCONFORMITY IDENTIFIED AND REPORTED UNDER THIS SECTION.

- 12. Limited Warranty and Disclaimer.** Aurora 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 material defects, in design, materials or workmanship, and (b) 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. Buyer must provide written notice of any warranty claim within thirty (30) days after delivery of the Product to Buyer. Any warranty claim not submitted within this period shall be barred. Buyer's written notice must specify the affected Product(s), the date of delivery, and a description of the claimed defect in sufficient detail to permit Aurora to assess the claim. This limited warranty does not apply to items, components, or materials not manufactured by Aurora that are contained in, incorporated into, attached to, or packaged together with the Product ("Third-Party Product"); provided, however, that to the extent permissible, Aurora will pass through any warranty that it has received for such Third-Party Product to Buyer. The foregoing limited warranty shall not apply if Buyer has not fully paid all fees and other amounts due for the Product, or if the Product has been subjected to: (i) physical abuse, neglect, misuse, abnormal use, or use not consistent with the accompanying Product documentation, (ii) modification by anyone other than Aurora or third parties designated by Aurora; (iii) tampering, unusual physical stress, negligence or accidents; or (iv) improper packaging of returns. OTHER THAN AS EXPRESSLY PROVIDED UNDER THIS SECTION, THE PRODUCTS ARE PROVIDED "AS IS" AND WITH ALL FAULTS. AURORA MAKES NO OTHER REPRESENTATIONS OR WARRANTIES RELATING TO THE PRODUCTS, EXPRESS OR IMPLIED, AND EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTY OF NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY.



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- 13. Limitation of Liability.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL AURORA BE LIABLE TO BUYER OR ANY THIRD PARTIES FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, PUNITIVE, CONTINGENT, STATUTORY OR ANY OTHER SPECIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS OR LOST BUSINESS. AURORA'S LIABILITY FOR DAMAGES DUE TO OR ARISING OUT OF ANY CLAIMS ARISING OUT OF THESE TERMS, INCLUDING ANY CLAIMED DEFECT IN ANY PRODUCT DELIVERED BY AURORA, SHALL IN NO EVENT EXCEED THE PURCHASE PRICE OF THE PRODUCT ON WHICH THE CLAIM IS BASED. AURORA SHALL NOT BE LIABLE FOR DAMAGES RELATING TO ANY INSTRUMENT, EQUIPMENT, OR APPARATUS WITH WHICH THE PRODUCT SOLD UNDER THESE TERMS IS USED.
- 14. 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, or in connection with any High-Risk Activities. "High-Risk Activities" shall include, without limitation, activities involving the design, construction, maintenance, or operation of any product or system whose failure could result in personal injury, death, or catastrophic property damage.
- 15. Excusable Delay.** Aurora shall not be liable to Buyer for any delay in performance or failure to perform any obligation under these Terms to the extent such delay or failure results from causes beyond Aurora's reasonable control and without Aurora's negligence or willful misconduct (each, a "Force Majeure Event"). Force Majeure Events include, but are not limited to, acts of God, fire, flood, earthquake, pandemic, epidemic, war, terrorism, acts of government, labor disruptions, shortages of raw materials, transportation failures, or other events beyond Aurora's reasonable control. Aurora shall notify Buyer promptly after becoming aware of the Force Majeure Event and shall use commercially reasonable efforts to mitigate its effects and resume performance as soon as practicable. For the avoidance of doubt, the terms of this Section shall in no way limit Aurora's rights with respect to price adjustments under Section 6 of these Terms.
- 16. Restrictions.** Except as expressly set forth in the License, Buyer shall not, and shall not authorize, permit, or assist others to: (a) alter, modify, reverse engineer, decompile or disassemble the Products, or otherwise attempt to replicate, derive, or determine the structure, design, or composition 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 without Aurora's written consent.
- 17. U.S. Government Agreements.** If the Products to be furnished under these Terms 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 Buyer's PO, 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,



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the Fair Labor Standards Act of 1938, as amended.

- 18. Indemnification.** Buyer shall defend, indemnify and hold harmless Aurora and its affiliates, and each of their respective officers, directors, employees, agents, licensors, successors, and permitted assigns, 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 handling, storage, transportation, disposition, containment, and other use of any kind of the Products by Buyer, (b) a breach of these Terms by Buyer, (c) Buyer's gross negligence, fraud, or willful misconduct; or (d) any claim that Buyer's use of the Products infringes or misappropriates the Intellectual Property Rights (as defined below) of a third party, or arises from Buyer's misuse, unauthorized disclosure, or infringement of Aurora's Intellectual Property Rights.
- 19. Insolvency.** For purposes of these Terms, "Insolvency" means that Buyer: (a) becomes unable to pay its debts as they become due in the ordinary course of business; (b) makes a general assignment for the benefit of creditors; (c) files, or has filed against it, a petition for voluntary or involuntary bankruptcy, reorganization, insolvency, or similar proceeding; or (d) is subject to the appointment of a receiver, trustee, custodian, or similar agent for substantially all of its property or business. In the event of any Insolvency, Aurora shall be entitled, in its sole discretion, to: (i) cancel these Terms (and any of Buyer's purchase orders then outstanding) and to receive reimbursement for Aurora's reasonable and proper cancellation charges, including, but not limited to, out-of-pocket expenses and delivery costs, as applicable; (ii) adjust the payment terms to cash in advance for all Products; and/or (iii) stop delivery of Products in transit, enforce any security interest Aurora may hold in the Products and proceeds thereof, and exercise any other rights or remedies available at law or in equity. Without limiting Buyer's obligations under Section 7, Buyer shall have no right to withhold, set-off, recoup, or debit any amounts owed (or to become due and owing) to Aurora or any of its affiliates, whether under these Terms or otherwise, against any other amount owed (or to become due and owing) to it by Aurora or its affiliates.
- 20. Governing Law.** These Terms are made in, governed by, and shall be construed in accordance with the laws of the State of California, 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.
- 21. Intellectual Property.** Aurora retains all right, title, and interest in and to the Products and all related Intellectual Property Rights. Buyer acknowledges and agrees that: (a) any and all Intellectual Property Rights embodied in or relating to the Products, their manufacture, design, packaging, labeling, documentation, or any proprietary processes, are and shall remain the exclusive property of Aurora or its licensors; (b) Buyer does not acquire any right, license, or interest in or to any such Intellectual Property Rights by virtue of purchasing the Products; and (c) all goodwill associated with any use of Aurora's trademarks, trade names, or other proprietary marks shall inure exclusively to Aurora. Buyer shall not (i) use Aurora's name, logo, or other marks without prior written consent; (ii) remove, obscure, or alter any proprietary legends or labels appearing on the Products or associated documentation; or (iii) contest or assist others in contesting Aurora's rights in its Intellectual





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**Property Rights.** For clarity, nothing in these Terms shall be construed as granting Buyer any license or other right to use Aurora's Intellectual Property Rights, except as necessary to use the Products in accordance with these Terms and the applicable License. "Intellectual Property Rights" means all intellectual property and proprietary rights of any kind, whether registered or unregistered, including but not limited to patents, patent applications, inventions, copyrights, trademarks, service marks, trade names, trade dress, domain names, trade secrets, know-how, design rights, database rights, mask works, moral rights, and all other similar rights recognized under applicable law, together with all related applications, registrations, renewals, extensions, reissues, and rights to sue for past, present or future infringement. Notwithstanding anything to the contrary herein, if Aurora manufactures a custom or Buyer-specific Product using Buyer-provided materials, designs, specifications, or other input ("Buyer Materials"), Buyer shall retain all right, title, and interest in and to such Buyer Materials; provided, however, that Aurora shall retain all right, title, and interest in and to any manufacturing process improvements, know-how, or other Intellectual Property developed independently by Aurora in connection with producing such custom Product

**22. Dispute Resolution.** Except for any dispute in which either Party seeks injunctive or other equitable relief for the alleged unauthorized use or misappropriation of its Intellectual Property Rights, Buyer and Aurora each waives any right to have any and all disputes arising out of or relating to these Terms or the Products resolved in court, and waives any right to a jury trial. Instead, the Parties agree that any such dispute shall be resolved solely and exclusively by final, binding arbitration conducted confidentially before a single arbitrator in accordance with the rules of Judicial Arbitration and Mediation Services ("JAMS"), which are incorporated herein by reference. The arbitration shall take place in Santa Clara County, California, unless the Parties mutually agree to an alternate location. The arbitrator shall be a licensed attorney with experience in commercial contracts and supply matters, and the Parties reserve the right to object to any individual employed by or affiliated with a competitor of either Party. The arbitrator shall issue a written award stating findings of fact and conclusions of law and may award costs, expenses, and reasonable attorneys' fees to the prevailing Party. Judgment on the arbitration award may be entered in any court of competent jurisdiction. Nothing in this Section shall preclude either Party from seeking temporary or permanent injunctive relief, or other equitable relief, in any court of competent jurisdiction to prevent the actual or threatened misuse or unauthorized disclosure of its Confidential Information or Intellectual Property Rights. The existence of any dispute, the arbitration proceeding, and any related materials or awards shall be treated as Confidential Information by both Parties, except as required by law or to enforce an arbitration award.

**23. Confidential Information.** "Confidential Information" means any non-public information disclosed by one Party ("Discloser") to the other ("Recipient"), whether oral or written, that is marked confidential, designated as confidential at the time of disclosure, or that should reasonably be understood to be confidential given its nature or content. This includes, without limitation, these Terms, business plans, technical data, customer or supplier lists, and product specifications. For clarity, Aurora's Confidential Information includes its Intellectual Property Rights, product documentation, specifications, and any proprietary manufacturing information. Confidential Information does not include information that: (i) is or becomes public through no fault of Recipient, (ii) was lawfully known to Recipient before disclosure, (iii) is rightfully received from a third party



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without restriction, or (iv) is independently developed by Recipient without reference to the Discloser's Confidential Information. Recipient shall: (i) use Confidential Information only as necessary to perform under these Terms; (ii) protect it using at least reasonable care; (iii) limit disclosure to its personnel and representatives with a need to know and who are bound by similar confidentiality obligations; and (iv) promptly notify Discloser of any unauthorized use or disclosure. If legally required to disclose Confidential Information, Recipient shall (where permitted) give Discloser prompt notice and cooperate to limit the disclosure. Each Party may disclose these Terms to legal or financial advisors, or to third parties in connection with a proposed merger, acquisition, or financing, provided such third parties are bound by confidentiality obligations no less protective than those herein.

- 24. Assignment.** These Terms and Buyer's rights hereunder may not be assigned by Buyer except with the prior written approval of Aurora.
- 25. Waiver.** Waiver by Aurora of any provision of these Terms or of any breach by Buyer of any provision of these Terms shall not be deemed a waiver of future compliance with these Terms, and such provision, as well as all other provisions of these Terms, shall remain in full force and effect.
- 26. Severability.** If any provision of these Terms is held to be invalid, illegal, or unenforceable, such provision shall be deemed severed and the remaining provisions shall continue in full force and effect to the maximum extent permitted by law, unless such severance would materially frustrate the purpose of these Terms.
- 27. Independent Contractors.** The relationship between the Parties is that of independent contractors. Nothing in these Terms shall be construed as creating a partnership, joint venture, agency, fiduciary, or employment relationship between the Parties.
- 28. No Third-Party Beneficiaries.** These Terms are intended for the sole benefit of the Parties and their respective successors and permitted assigns, and nothing herein, express or implied, is intended to or shall confer any rights or remedies upon any other person or entity.
- 29. Headings.** The headings in these Terms are included for convenience only and shall not affect the interpretation of any provision.
- 30. Survival.** The rights and obligations of the Parties under these Terms which by their nature should survive performance or expiration of the applicable transaction(s) shall remain in full force and effect. Without limiting the foregoing, the provisions of Sections 12 (Limited Warranty and Disclaimer), 13 (Limitation of Liability), 14 (Compliance with Laws), 18 (Indemnification), 19 (Insolvency), 21 (Intellectual Property), 22 (Dispute Resolution), and 23 (Confidential Information) shall survive.
- 31. Notices.** All notices under these Terms shall be in writing and delivered by personal delivery, express courier, registered mail (return receipt requested), or electronic mail (with confirmation of delivery), to the receiving Party at its address set forth in the applicable quotation or PO, or such





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other address as may be designated in writing. Notices shall be deemed received upon delivery or confirmed receipt.

**32. Updates to Terms.** Aurora may revise these Terms from time to time in its sole discretion. Updated Terms will be posted at [<https://auroramicroplates.com/terms/>], and such revised Terms shall apply to any subsequent quotations, proposals, POs, or transactions issued or received after the effective date of the update. Notwithstanding the foregoing, Buyer is solely and exclusively responsible for reviewing the Terms at the URL designated above prior to submitting any PO and shall be deemed to accept the posted Terms then in effect as of the effective date.