



**Electronic Materials Division**  
9433 Hyssop Drive, Rancho Cucamonga CA. 91730 Tel (909) 987-9533

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## **Vendor – Standard Terms and Conditions of Sale**

The Purchase Order is given and accepted subject to the following terms and conditions. No terms additional to or different from these terms and conditions shall be binding on ARLON EMD LLC. (Hereafter BUYER") unless and until accepted by Buyer in writing.

**OFFER AND ACCEPTANCE**, This Purchase Order includes these terms and conditions and all specifications attached hereto or expressly incorporated by Buyer herein by reference. Seller's acceptance of this Purchase Order or delivery or provision of "Product" as defined herein shall constitute acceptance by Seller of each and every term and condition herein. Buyer reserves the right to revoke the Purchase Order at any time prior to Seller's acceptance hereof.

**DEFINITION OF "PRODUCT"**, the term "Product" as used herein means, a) materials, supplies, diagrams, equipment, data and other articles or property and/or b) services as the case may be, which are to be delivered under this Purchase Order and includes design, installation, inspection and testing as specified herein or as required to supply or furnish same.

**DOCUMENTATION**, All invoices, shipping documents, labels, receipts and related correspondence and documentation referring to this Purchase Order shall carry Buyer's Purchase Order number. Seller's invoices shall clearly specify all Federal, state or municipal sales and use, excise and transportation taxes relating to the Product, and shall certify that the Product was produced, supplied and labeled in accordance with all applicable Federal, state and local statutes, administrative rules and regulations, including but not limited to the provisions of the Fair Labor Standards Act, as amended.

**DELIVERY, TRANSPORTATION, RISK OF LOSS**, Delivery of the Product shall be F.O.B. Buyer's address set forth on the face hereof, at the lowest cost form of transportation as commercially reasonable, unless otherwise specified by Buyer in this Purchase Order. Seller shall be liable for any difference in transportation charges between shipment as made and shipment as requested by Buyer in this Purchase Order, and such difference may be deducted by Buyer from payment to Seller. All transportation charges, including insurance, are to be prepaid by the Seller, and in the event such charges are not prepaid, Buyer shall have the right to refuse acceptance of this Product and cancel this Purchase Order. Title to and risk of loss of the Product shall remain with the Seller until receipt by Buyer.

**INSPECTION, PAYMENT**, Buyer shall have the right to inspect the Product Following Buyer's receipt thereof and, at Buyer's option, prior to receipt thereof at Seller's premises. The buyer may, during regular business hours and after reasonable notice access any of the seller's premises, including but not limited to, sites where the good and services are created for the inspection of goods, financial, etc.. Buyer's payment for the Product shall not be deemed to constitute acceptance thereof nor shall such payment be deemed to constitute a waiver by Buyer of any warranty of Seller, express or implied.

**TIME FOR PERFORMANCE**, Seller's performance under this Purchase Order by delivery of the Product at the date or dates specified therefor is a material term hereof and time is of the essence. In the event that Buyer does not receive the Product (or installment thereof, as applicable) on or before the date herein specified for delivery, Buyer shall have, In addition to all other remedies provided by law, the right to cancel this Purchase Order, in its entirety, without liability to Buyer. Buyer reserves the right to procure the Product elsewhere, in whole or in part, and charge Seller with any additional costs incurred unless Seller's default arises from causes beyond its control and without fault or negligence. Buyer at its option, may accept delivery of the Product (or installment thereof, as applicable) on a date or dates different from those specified for delivery herein without waiver of any rights by Buyer as to prior or subsequent deliveries of Product.

**WARRANTY REMEDIES**, Seller warrants that the Product shall conform in all respects to the terms, conditions, and specifications of this Purchase Order, shall not differ from any approved sample Product, that all designations or markings appearing on the Product relating to the weight, measurement, ingredients or quality of the Product shall represent the true net weight, measurement, ingredients or quality thereof, that the Product shall be

merchantable, fit for its intended use and free from defects in materials and workmanship. In the event the Product does not conform or is defective and Buyer (or within one year after discovery by Buyer or Buyer's customer in the case of latent nonconformity or defect) Seller shall promptly remedy the same at Seller's sole cost and expense, by repair, modification, replacement or full refund at Buyer's option and Buyer shall have all other remedies provided by law.

If a material does not meet agreed upon specifications, or is found to be defective during processing, Buyer reserves the right to hold Seller responsible for reimbursement of the cost for the defective goods and any additional costs the Buyer incurred as a result of using it in the Buyer's manufacturing process. These costs include, but are not limited to: freight, labor, hazardous waste disposal; as well as the cost of complimentary materials used during, and consumed in processing the material. Seller may also be responsible for other variable costs incurred during processing if these costs are attributed to defective product (e.g., in-house and outside testing). Seller agrees to work with Buyer in good faith to reach a reasonable settlement for reimbursing the Buyer for incurred costs due to defective material supplied by the Seller.

REPAIR BY BUYER; Buyer may, without waiver of any other right of Buyer hereunder repair, alter, or modify at Seller's sole cost,  
Product which is not in conformity with the terms and specifications of this Purchase Order.

INDEMNIFICATION OF BUYER, Seller shall be liable to Buyer for, and shall defend, hold Buyer harmless and indemnify Buyer from and against, any and all suits, actions, proceedings, claims, liabilities, judgements, damages, interest, attorney's fees, expenses and costs whatsoever, no matter when the same may arise or be sustained, whether relating to injury to person or property or any other loss, which are or are claimed to be in any manner caused, contributed to or occasioned by reason of the default or breach of any term or condition of this Purchase Order by Seller or Seller's agent, or by the performance or failure to perform hereunder by Seller or Seller's agent, or by the negligence, whether active or passive, or intentional act of Seller or Seller's agent. If this Purchase Order requires Seller to furnish services of a supervisor, expert, agent or other employee of Seller's, in performing such services is not an employee or agent of Buyer and Seller assumes full responsibility for such person's acts and omissions and agrees to indemnify and hold Buyer harmless from any claims whatsoever arising therefrom. Seller shall maintain such public liability, property damage and employee liability and compensation insurance as will protect Buyer from said risks and claims.

CHANGES, CANCELLATIONS, Buyer shall have the right on reasonable written notice to the Seller to change quantity, scope, specifications, time of performance or other content of this Purchase Order. Seller shall notify Buyer in writing immediately in the event that Seller desires to adjust Seller's quoted price for the Product or delivery thereof as set forth in this Purchase Order due to any such requested change. Buyer shall not, under any circumstances, be obligated by such adjustment to pay more than the price stated in this Purchase Order (or the price derived by application of "PRICES, DISCOUNT" section thereof, as applicable) for all Product previously delivered by Seller, plus Seller's actual out of pocket cost with respect to the uncompleted portion of the Purchase Order. Buyer shall have the right to cancel this Purchase Order without cause at any time. Cancellation charges incidental thereto shall be subject to negotiation and the Buyer may require delivery of any material for which payment is claimed.

TITLE: PATENTS: COPYRIGHTS, Seller warrants that it has good and transferable title to the Product free from any claim of any third party. Seller further warrants that neither the Product nor the sale thereof infringes or will infringe any United States or foreign letters patent or copyright and Seller shall defend and hold Buyer harmless from and against all costs, expenses, including attorney's fees and damages or loss occasioned by any alleged infringement of any patent or copyright, whether by reason of the sale or use of the Product or because the same is enjoined. In the event the Product is asserted by the Seller to be protected by one or more patents owned or controlled by the Seller and suit is instituted to declare any such patent or its' claims invalid or so limited in scope as to impair the Product's commercial protection in addition to all other remedies provided to Buyer herein, Buyer shall have the right to cancel this Purchase Order without obligation or liability.

DRAWINGS, TOOLS, INSURANCE, All drawings, prints, molds, templates, dies, patterns, tools, specifications, sketches, blueprints, prototypes, and similar items furnished by Buyer to Seller in connection with this Purchase Order shall remain Buyer's property and shall be returned to Buyer, at Buyer's request, in the same condition as originally received by Seller, reasonable wear and tear excepted. Seller shall keep all such items insured while in Seller's custody at no less than the replacement cost thereof, which insurance shall name Buyer as loss payee.

FORCE MAJEURE, DEFERMENT OF DELIVERY, In the event of fire, flood, strike or similar or labor disturbances, action of Federal, State or Local governmental authority or subdivision, accident, war or any other cause whatsoever beyond the reasonable control of Buyer which prevents or materially interferes with Buyer's acceptance or use of the Product, Buyer may, without obligation or liability to Seller cancel this Purchase Order in whole or in part or delivery

of the Product.

QUANTITIES, COUNT, Seller's delivery of Product in excess of that provided for in this Purchase Order shall not obligate Buyer to purchase any such excess. Excess quantities of Product may be returned to Seller and Seller shall reimburse Buyer for any costs or expense including all transportation charges incurred by Buyer with respect thereto. Buyer's count of the Product shall be conclusive.

PRICES, DISCOUNT, Seller shall provide the Product at prices no higher than as specified on the face of this Purchase Order, which Seller warrants to be no greater than Seller's price to similar Buyer's for the same or similar quantities of the Product. In the event that no price is specified, the price of the Product shall be the lower of (1) Sellers last quoted price for similar quantities of the Product to purchasers similar to Buyer; or (b) the then prevailing market price for the Product at the date of delivery by Seller; or (c) Seller's last quoted price to Buyer for the Product. Buyer shall not pay any charges whatsoever except as specifically set forth on this Purchase Order, whether for packing, loading, packaging, any other service, or material or administrative activity. Terms of payment are net thirty days from the date of invoice unless otherwise mutually agreed to by Buyer and Seller. Discount items shall be calculated from the date the invoice is received by Buyer or the date after the Product covered by the invoice is received by Buyer, whichever is later.

CONFIDENTIALITY, the terms and conditions of this Purchase Order shall be kept confidential by Seller and Seller take all necessary measures to ensure the confidentiality of the Buyer's scientific or technical data, specifications, engineering drawings, blueprints, and information identified by the Buyer as proprietary or trade secrets. Such information shall be disclosed within the Seller's organization solely on a need-to-know basis.

COMPLIANCE WITH OCCUPATIONAL SAFETY LAW, Seller shall comply in the performance of this Purchase Order with each and every provision of the applicable Federal, State or Local law, rule or regulation, including those set forth in applicable Executive Orders, as amended or superseded, relating but not limited to such matters as employment of veterans and handicapped persons, nondiscrimination, equal opportunity, utilization of minority business, small business, labor surplus area business and women owned business, each such provision being deemed by this reference to be expressly incorporated herein.

NON-WAIVER, Neither Buyer's exercise or failure to exercise any right or remedy granted or provided by this Purchase Order or Buyer's acceptance of or payment for the Product shall be construed to be a waiver of any right or remedy Buyer may have for Seller's then existing or subsequent default, breach or non-compliance thereunder.

ASSIGNMENT, This Purchase Order may not be assigned by Seller in whole or in part without the prior written consent of Buyer and any such attempted assignment shall be null and void. Buyer may offset against amounts payable to any person under this Purchase Order any claim or charge it may have against Seller.

GOVERNING LAW, This Purchase Order, and Seller's acceptance hereof shall be governed by the laws of the State of New York

ENTIRE AGREEMENT, This Purchase Order constitutes the sole and entire agreement between the Buyer and Seller relating to the subject matter hereof and all prior or contemporaneous understanding or agreements, oral or written are merged herein. No subsequent changes or modifications to this Purchase Order shall be binding unless expressly accepted by Buyer in writing. Seller expressly waives all provisions contained in correspondence, forms, or other writings related to the sale of the Product covered by this Purchase Order which negate, limit, extend or otherwise conflict with the provisions hereof.

Supplier recognizes, consistent with the public policy underlying enactment of the Conflict Minerals provision (Section 1502) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act"), the significant legal and non-legal risks associated with sourcing tin, tantalum, tungsten and gold (the "Conflict Minerals") from the Democratic Republic of the Congo and adjoining countries ("DRC countries"). Accordingly, Supplier commits to comply with Section 1502 of Dodd-Frank and its implementing regulations. In particular, Supplier commits to have in place a supply chain policy and processes to undertake (1) a reasonable inquiry into the country of origin of Conflict Minerals incorporated into products it provides Buyer; (2) due diligence of its supply chain, as necessary, to determine if Conflict Minerals sourced from the DRC countries directly or indirectly support unlawful conflict there, and (3) risk assessment and mitigation actions necessary to implement the country of origin inquiry and due diligence procedures. Supplier shall take all other measures as are necessary to comply with the Act and its implementing regulations, as they may be amended over time. Upon request, Supplier shall provide Conflict Minerals data/information and agree to submit to a Conflict Mineral audit if deemed necessary by Buyer.