

**CHROMA COLOR CORPORATION  
TERMS AND CONDITIONS OF SALE**

*The sale and acceptance of all goods purchased from or samples provided by Chroma Color® Corporation and its subsidiaries and affiliates ("Seller") is expressly conditioned upon Buyer's acceptance of Chroma Color® Corporation's Terms and Conditions of Sale, as amended from time to time. By placing an order or accepting delivery, Buyer agrees to be bound by Seller's Terms and Conditions of Sale. Seller rejects all additional, different, or conflicting terms or conditions proposed or submitted by Buyer. The Terms and Conditions of Sale are available at [www.chromacolors.com/terms-conditions](http://www.chromacolors.com/terms-conditions).*

- 1. Acceptance.** Seller's acceptance of Buyer's purchase order or sample request is expressly conditioned upon and limited to Buyer's acceptance of the Terms and Conditions of Sale contained in this document ("Terms and Conditions of Sale"), which shall exclusively govern the transaction and are in lieu of and notwithstanding any additional, different or conflicting terms that may be contained in Buyer's purchase order or in any other documents or communications (written and oral) pertaining to Buyer's order of the goods from Seller. Buyer's assent to these Terms and Conditions of Sale shall be conclusively evidenced by Buyer's failure to object in writing within a reasonable time or by Buyer's acceptance of any or all of the goods, use of the goods, or payment for any or all of the goods. Any prior negotiations, representations, or agreements between Buyer and Seller relating to the goods are hereby merged into these Terms and Conditions of Sale. Seller's commencement of performance, shipment of goods, delivery of samples, or failure to object to any terms or conditions contained in any Buyer purchase order, sample request, document, form, or other communication shall not be construed as a waiver of these Terms and Conditions of Sale, or as an acceptance of any additional, different, or conflicting terms and conditions. Seller expressly and specifically rejects any and all additional or different or conflicting terms and conditions in any request for quotation, sample request, purchase order, purchase acknowledgment or any other documents or communications (written and oral) received from Buyer relating to the purchase and sale of the goods. These Terms and Conditions of Sale shall exclusively govern the parties' transaction notwithstanding any course of dealing, course of performance, or usage of trade to the contrary. These Terms and Conditions of Sale may not be modified, superseded, or otherwise altered, except by a written instrument signed by an officer of Seller. All handwritten or electronic changes, additions, or deletions to these Terms and Conditions of Sale by Buyer are null and void and of no legal force or effect.
- 2. Payment Terms.** Unless otherwise stated on the face hereof, payments for all goods are due and payable thirty (30) days from the date of invoice. Accounts thirty (30) days past due will be subject to a monthly charge at the rate of one and one-half percent (1.5%) per month to cover the costs of servicing these accounts. If all the goods are not delivered at the time of any scheduled delivery and only a partial delivery of goods is rendered, Buyer shall pay the unit prices for the goods delivered as determined by Seller in its reasonable discretion. Buyer has no right of set off. All deliveries and performance of work shall at all times be subject to the credit approval of Seller, and Seller may at any time decline to make any shipments or deliveries, or perform any work, except upon receipt of payment in advance or upon financial terms and conditions or security arrangements satisfactory to Seller. Prices are payable in cash in the specified currency, free of exchange.
- 3. Pricing and Terms.** Prices and terms of delivery and shipment are subject to change upon notice and Seller shall promptly notify Buyer of any price changes prior to manufacturing the order. Buyer may then cancel any portion of any order not yet manufactured upon written notice to Seller, provided such notice is received by Seller not more than three (3) days after Buyer's receipt of Seller's notice of price increase. In addition, prior to delivery, Seller may pass through increased freight, transportation, and fuel charges or surcharges that were imposed upon it after order acceptance in connection with the sale or shipment of the goods. Unless otherwise stated on the face hereof, the prices for the goods covered hereby do not include costs of special packaging or shipping or other special requirements of Buyer.

As security for Buyer's performance of its obligations hereunder, Seller hereby reserves a purchase money security interest in all goods sold by Seller to Buyer, and in the proceeds thereof, until payment in full for such goods is received by Seller. In the event of default by Buyer in any of its obligations to Seller hereunder, Seller may repossess the goods sold hereunder without liability to Buyer. A copy of the invoice covering the goods may be filed with appropriate authorities at any time as a financing statement or chattel mortgage to perfect Seller's security interest. At the request of Seller, Buyer shall execute such financing statements and other instruments that Seller may reasonably request to perfect Seller's security interest. Furthermore, Seller is authorized to execute and file on Buyer's behalf, a financing statement evidencing this security interest.

- 4. Taxes.** Unless otherwise stated on the face hereof, the price for the goods covered hereby does not include customs duties or tariffs or sales, use, excise, or other similar taxes of any federal, state, local or foreign governmental authority with respect to the sale, purchase, delivery, storage, insurance, processing, use, consumption or transportation of any of the goods

covered hereby. Buyer shall pay, in addition to the prices quoted, the amount of any present or future customs duties, tariffs, or sales, use, excise or other similar tax applicable to the sale of goods or performance of services by Seller unless Buyer shall supply Seller with the appropriate tax exemption certificates. Buyer shall cooperate with Seller in Seller's application for duty drawback allowances, which are expressly reserved by Seller.

5. **Delivery.** Seller will make commercially reasonable efforts to make deliveries, whether full or partial, in accordance with the established delivery schedule set forth on the face hereof or as may be otherwise later revised. Unless otherwise stated on the face hereof, delivery of goods shall be deemed completed when Seller places the goods at the disposal of Buyer's carrier at Seller's manufacturing facility, not cleared for export and not loaded on any collecting vehicle. In any event and notwithstanding anything contained herein or otherwise to the contrary, upon such delivery of the goods at the point of shipment at Seller's plant to Buyer, title to the goods shall pass to Buyer (subject to Seller's purchase money security interest), and Buyer will thereupon be solely responsible for and bear the entire risk of any loss or damage to the goods from any cause whatsoever.
6. **Delivery Dates.** Scheduled dates of delivery are determined from the date of Seller's acceptance and confirmation of any order placed by Buyer, and are estimates of approximate dates of delivery, not a guaranty of a particular date of delivery. Seller shall not be liable for any damages caused by failure or delay in shipping of the goods described herein.
7. **Packaging.** Unless otherwise stated on the face hereof, the goods shall be packed by Seller and will be delivered for shipment in standard commercial packaging. When special or export packaging is requested or, in the opinion of Seller, is required under the circumstances to minimize risk of loss or damage in transit, the cost of the same, if not otherwise specifically shown as included in the price stated on the face hereof, will be separately invoiced to and paid by Buyer.
8. **Delivery Terms.** Unless otherwise stated on the face hereof and subject to Paragraph 3, delivery terms are F.O.B at Seller's plant. Any additional services or charges by the carrier including, without limitation, stopover charges, lumper fees and other accessorial charges are the responsibility of Buyer. Seller reserves the right to use the carrier and delivery routing of Seller's choice, with shipments made otherwise at the request of Buyer being Buyer's responsibility.
9. **Limited Warranty.** Buyer is solely responsible for final selection of the goods, determining if the goods are suitable, safe, effective and legal for use in Buyer's application(s), testing the goods in Buyer's application, and conducting any and all other evaluation Buyer deems necessary or appropriate to determine the suitability of goods and fitness for any intended use or purpose. Factors beyond Seller's control may affect or alter performance of the goods, including, but not limited to, Buyer's method of use, use of goods in combination with other materials, processing conditions, end-use applications, and environmental or other conditions affecting Buyer's finished product or that of Buyer's customers. Seller warrants that at the time of delivery as documented by Seller, Seller will convey good and marketable title to the goods and the goods supplied hereunder shall 1) conform to Seller's standard specifications for the goods (or such other specifications agreed to in writing by Seller) and 2) be free of material defect in workmanship ("Limited Warranty"). Samples are provided AS IS, and Seller provides no warranty of any kind on samples. **THERE ARE NO OTHER WARRANTIES WITH RESPECT TO THE GOODS, AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND/OR NON-INFRINGEMENT, ARE HEREBY FULLY DISCLAIMED. SELLER'S LIABILITY AND BUYER'S REMEDY FOR BREACH OF WARRANTY IS LIMITED SOLELY (AT SELLER'S SOLE OPTION) TO CREDIT FOR OR THE REPLACEMENT OF THE NONCONFORMING GOODS, WHICH SHALL BE RETURNED TO SELLER'S PLANT AT BUYER'S RISK, TRANSPORTATION CHARGES PREPAID BY BUYER.** THE FAILURE TO GIVE SELLER NOTICE OF A WARRANTY CLAIM WITHIN THIRTY (30) DAYS FROM DATE OF DELIVERY AS DOCUMENTED BY SELLER SHALL CONSTITUTE A COMPLETE WAIVER OF ALL OF BUYER'S CLAIMS RELATING TO SUCH GOODS, AND SUCH GOODS SHALL, FROM THAT POINT FORWARD, BE DEEMED CONFORMING GOODS THAT WERE ACCEPTED BY BUYER FOR ALL PURPOSES. THE LIMITED WARRANTY IS IMMEDIATELY AND AUTOMATICALLY INVALIDATED AND NULL AND VOID FOR ANY GOODS OTHERWISE COVERED BY THE AFOREMENTIONED WARRANTY ANYTIME THE GOODS ARE, WITHOUT LIMITATION, 1) EXPOSED TO ELEMENTS OR TEMPERATURES BEYOND THE COMMON SERVICE TEMPERATURES INTENDED FOR SUCH PRODUCTS OR ANY RAW MATERIALS CONTAINED THEREIN, OR 2) USED FOR APPLICATIONS NOT INTENDED FOR SUCH GOODS, OR 3) ALTERED OR TAMPERED WITH BY ANYONE.
10. **LIMITATION OF LIABILITY. THE RIGHT TO RETURN NONCONFORMING GOODS FOR CREDIT OR REPLACEMENT (AT SELLER'S SOLE OPTION), AS DESCRIBED HEREIN, SHALL CONSTITUTE SELLER'S SOLE LIABILITY AND BUYER'S EXCLUSIVE REMEDY, WHETHER SUCH CLAIM IS BASED UPON PRINCIPLES OF CONTRACT, WARRANTY, NEGLIGENCE OR OTHER TORT, BREACH OF ANY STATUTORY OR REGULATORY DUTY, PRINCIPLES OF INDEMNITY OR CONTRIBUTION, OR OTHERWISE, AND SHALL NOT**

**IN ANY CASE EXCEED THE AMOUNT ACTUALLY PAID BY BUYER FOR SUCH NON-CONFORMING GOODS. UNDER NO CIRCUMSTANCES SHALL SELLER BE LIABLE FOR SPECIAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO LOST SALES OR PROFITS, LOSS OF BUSINESS OPPORTUNITY OR DAMAGES FROM BUSINESS INTERRUPTION) OR SPECIFIC PERFORMANCE.** THE PRICE CHARGED FOR THE GOODS CONTEMPLATES AND INCLUDES CONSIDERATION FOR THIS LIMITATION OF SELLER'S LIABILITY. NO ACTION, REGARDLESS OF FORM, ARISING OUT OF THE TRANSACTION(S) CONTEMPLATED HEREUNDER MAY BE BROUGHT BY BUYER MORE THAN ONE (1) YEAR FOLLOWING THE DATE OF DELIVERY OF THE GOODS AS DOCUMENTED BY SELLER.

- 11. Claims.** Claims by Buyer for shortages or errors in delivery must be made within seven (7) days after the delivery of the goods as documented by Seller. Goods are sold subject to the standard manufacturing practices of Seller's suppliers. Goods purchased on the basis of weight are subject to customary quantity variations recognized by practice in the industry.
- 12. Returns and Credits.** Only non-conforming goods pursuant to the terms of the Limited Warranty may be returned to Seller for credit or replacement (at Seller's sole option), and only then following Seller's final written determination in Seller's sole determination that such goods are in fact non-conforming. No non-conforming goods shall be returned without first obtaining written consent from an officer of Seller. Unused credits will expire and be forfeited by Buyer twelve (12) months after issuance by Seller.
- 13. Orders Final Upon Acceptance; Cancellation.** Because all orders are manufactured by Seller to Buyer's particular specifications as special orders, any order for goods, once accepted by Seller, is not subject to cancellation by Buyer. In the event of cancellation (partial or full) of any order following Seller's acceptance, Buyer shall be considered in breach of its contract with Seller and Buyer shall, upon demand, in addition to any other rights or remedies Seller may have at law or in equity under applicable law, pay to Seller all damages resulting from Buyer's breach to include, without limitation: 1) the cost of all work and materials to which Seller has committed or identified with Buyer's order, plus 2) Seller's cancellation charge prescribed by Seller, and 3) Seller's anticipated profit on the entire order. Buyer acknowledges that the actual damages likely to result from cancellation of any order of goods are difficult to estimate on the date of the acceptance of Buyer's order and would be difficult for Seller to prove. The parties agree that Buyer's payment of, without limitation, the amounts stated above, would serve to fairly and reasonably compensate Seller for a breach by Buyer of Buyer's obligations hereunder and not be a penalty for such breach by Buyer.
- 14. Confidentiality; Equitable Relief.** The following provisions of Section 14 shall only apply in the event the parties have not entered into a separate confidentiality or similar agreement. All technical data, certificates of analysis, proprietary and other non-public information (including information that constitutes a "trade secret" under applicable state law) disclosed or furnished by Seller to Buyer: (i) shall be kept confidential and not be used for any purpose other than the transaction; (ii) shall remain Seller's exclusive property; and (iii) shall be returned to Seller upon request. The parties agree that Buyer's violation or threatened violation of the provisions set forth in this Section will result in irreparable harm to Seller and, accordingly, the parties agree that, in such event, Seller shall be entitled to institute judicial proceedings, seeking immediate injunctive relief (or similar equitable relief) against such violation or threatened violation without any requirement to post a bond as a condition of such relief, as well as damages at law as may be recoverable by Seller, and the attorney fees it incurs in enforcing any of the covenants contained in this Section.
- 15. Compliance with Law; Product Stewardship.** Buyer shall comply, and cause its contractors or any other parties acting on its behalf to comply, with all laws, regulations, and other binding legal standards ("Laws") applicable to the goods once delivered by Seller including, without limitation, those Laws related to the selection, handling, transportation, storage, use, applications, permitting, processing, disposal, distribution, sale, resale, export or re-export of the goods, or of any Buyer product incorporating the goods, including, without limitation, the U.S. Toxic Substances Control Act (TSCA), the E.U. Registration, Evaluation, Authorisation, and Restriction of Chemicals (REACH), and the California Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65), each as amended, and any other Laws related to health and safety and the protection of the environment. Buyer further acknowledges that Seller does not control or influence the use of the goods after receipt by Buyer, and agrees that Buyer shall be solely responsible for the design, manufacture, processing, testing, packaging, and labeling of, and to the extent required by Law, the provision to any third party of any information with respect to any product containing or produced using the goods. Buyer shall be solely responsible to familiarize itself with any hazards of the goods, their processing, and applications, and shall not hold Seller responsible for same. Buyer shall further ensure that, at any time (including, without limitation, during delivery or collection, handling, transportation, storage, use, processing, disposal, sale, resale treatment, and use of the goods), Buyer and any party acting on its behalf comply with all Laws and recommendations in any material safety data sheets or safety data sheets with respect to the goods, and shall in any event act with respect to the goods in a manner consistent with the standards of a reasonable and prudent operator.

- 16. Indemnification.** Buyer shall indemnify, defend, protect, and hold harmless Seller, its parent companies (direct and indirect), and all affiliated, related, and subsidiary companies (direct and indirect), and their respective officers, directors, shareholders, attorneys, accountants, representatives, agents, employees, successors and assigns, from and against any and all claims, actions, remedial and enforcement actions of any kind, administrative or judicial proceedings, causes of action, liabilities, penalties, forfeitures, damages, fines, injunctive relief, settlements, losses and expenses (including, without limitation, reasonable attorneys' and consultants' fees and costs of investigation and testing) arising from or caused in whole or in part, directly or indirectly, whether or not foreseeable, by (i) Buyer's failure to comply with any promise, covenant, representation or obligation (including under any Laws, including relating to health, safety, or the environment) in connection with the purchase of goods or services from Seller or any other agreement with Seller, including a request for samples; (ii) Buyer's negligent (whether active or passive) or intentional acts or omissions; (iii) any property damage, injury or death to any person, including any employee of Buyer, resulting in whole or in part from Buyer's selection, processing, use, disposal, or exposure of any person to the goods obtained from Seller or any products into which such goods were incorporated (even if such claim by such person would be barred if brought directly against Buyer by such person) or (v) any third-party claim that the goods purchased and sold or provided hereunder infringe or allegedly infringe on such third-party's patent, trademark, copyright or any other intellectual property rights or the handling of any goods by Buyer following delivery from Seller. For purposes of this indemnity provision, any acts or omissions of Buyer, or by employees, agents, assignees, successors and assigns, contractors and subcontractors of Buyer or others acting for or on behalf of Buyer shall be strictly attributable to Buyer.
- 17. Governing Law.** Any contract arising out of the transaction related to this acceptance of purchase order or sample request shall be deemed to have been made in Illinois. The parties hereby expressly agree that the validity, interpretation and performance of any agreement arising out of this transaction shall be governed by the laws of the State of Illinois without regard to conflict of interest laws. Applicability of the United Nations Convention of Agreements for the International Sale of Goods is disclaimed by both parties. Buyer and Seller hereby submit to the state and federal courts in Cook County, Illinois, as the sole and exclusive jurisdiction for the resolution of any disputes arising out of or related to transactions between Buyer by Seller. A TRIAL BY JURY WITH RESPECT TO ANY PROCEEDING RELATING TO BUYER'S PURCHASE OF GOODS FROM SELLER OR THIS AGREEMENT IS WAIVED BY SELLER AND BUYER.
- 18. Default.** In the case of default or breach by Buyer in the performance of any obligations contained herein, Seller may cancel any outstanding order from Buyer, accelerate and declare all obligations immediately due and payable, and shall in addition have all remedies afforded by the Uniform Commercial Code, as well as any other applicable law. In addition, Buyer shall be liable for Seller's expenses incurred in exercising any remedies available to it, including reasonable attorneys' fees, legal expenses and costs of court. All unpaid obligations shall bear interest at the contract rate provided under terms of payment above.
- 19. Force Majeure.** Seller shall not be liable for any failure to deliver, or delay in the delivery of, any goods, or any other performance hereunder, due to (i) compliance in good faith with any law, regulation, order or request of any governmental official or agency; (ii) the occurrence of any contingency the nonoccurrence of which was a basic assumption at the time Buyer's order was accepted by Seller, including without limitation acts of God, pandemics, disease, fire, flood, accident, riot, labor disputes, equipment breakdown or failure, or embargo; (iii) Seller's inability to obtain any required raw material, component, energy, manufacturing facility, labor or transportation on prices deemed by Seller to be acceptable; or (iv) any event or occurrence not within the reasonable control of Seller, whether or not foreseeable, that makes performance impracticable. The date of delivery or Seller's performance hereunder shall be extended by a period equal to the time lost by reason of such delay in the event Seller's production is curtailed for any of the aforementioned reasons. Furthermore, if a force majeure event impacts Seller's ability to manufacture and deliver goods to Buyer, Seller may allocate its production in its sole discretion among its various customers.
- 20. Intellectual Property.** Buyer does not acquire any of Seller's intellectual property rights in the goods by reason of its purchase of or acceptance of such goods from Seller or any other rights whether express, implied, or by estoppel, nor does Seller grant to Buyer any right, interest or license in or under any patent, trademark, copyright, trade secret or other proprietary right of Seller in or to the goods. Seller shall have sole ownership of all proprietary rights in and to all improvements, updates, modifications or enhancements that Seller develops pertaining to any goods sold hereunder or otherwise except where rights are assigned under written agreement by an officer of Seller. Buyer shall not, directly or indirectly, analyze any goods, materials, mixtures or samples to determine chemical structure, empirical formula, or molecular weight without the prior written consent of the Seller.

- 21. Notices.** All notices, requests, claims, demands and other communications hereunder shall be in writing. Such notices shall be given (i) by delivery in person (ii) by a nationally recognized express courier service, or (iii) by first-class, registered or certified mail, postage prepaid, to the address of the party specified on the purchase order or sample request, in the case of Buyer, and the acknowledgement or acceptance of purchase order or sample request, in the case of Seller, or such other address as either party may specify in writing. Notices so given shall be effective upon receipt by the party to which notice is given. Rejection or other refusal to accept shall be deemed to be receipt of the notice as of the date of such rejection or refusal. Notices pursuant to Paragraph 3 may be sent by electronic mail, and shall be deemed effective when acknowledged by recipient.
- 22. Decision Rule.** The Measurement of Uncertainty is not taken into consideration when making statements of conformity.
- 23. Miscellaneous.** Seller's failure to insist on the strict performance of any of the terms hereof, or to exercise any right or privilege hereunder, or Seller's waiver of any breach by Buyer hereof, shall not thereafter waive any such terms, conditions, rights or privileges that Seller may have hereunder. No course of dealing or usage of trade shall be applicable. Buyer may not assign this agreement or any of its rights or obligations hereunder without the prior written consent of Seller.