

CHROMATIC INDUSTRIES, LLC
TERMS AND CONDITIONS FOR PURCHASE OF GOODS

THESE TERMS AND CONDITIONS FOR PURCHASE OF GOODS (“**Terms**”) govern the purchase and sale of Goods (as hereinafter defined) between Chromatic Industries, LLC, a Delaware limited liability company, as buyer (“**Buyer**”), and the seller or vendor entity, as vendor (“**Vendor**”), shown on the Order (as defined in Annex I). Buyer and Vendor are referred to herein individually as a “**Party**” and collectively as the “**Parties**.” Capitalized terms used herein and not otherwise defined shall have the meanings assigned to them in Annex I attached hereto and made a part hereof.

1. TERMS. These Terms control any purchase of products, goods, equipment, materials and services provided by Vendor to Buyer (“**Goods**”). The Order constitutes acceptance of Vendor’s offer and such acceptance is expressly made conditional on Vendor’s assent to the Order and these Terms. The Order will be deemed accepted by Vendor upon the first of the following to occur: (i) Vendor’s written acceptance of the Order, or (ii) Vendor’s commencement of performance under the Order. If the Order, Vendor’s quotation, or any other communication or form contains provisions that differ from those set forth in these Terms, these Terms shall be deemed a notification of Buyer’s objection to such provisions and a rejection thereof. Buyer hereby objects to the inclusion of any different or additional terms or conditions. Neither Buyer’s lack of objection to such terms, nor the acceptance of any Goods, shall constitute or be deemed an agreement by Buyer to such terms. These Terms are the only authorization that will be recognized by Buyer for purchases of Goods and charges to its account. Without limiting the foregoing, Vendor agrees (or is deemed to agree) to these Terms, and Vendor further agrees that the provisions under the Order, including these Terms and any documents incorporated herein by reference, shall constitute the entire agreement between the Parties and supersede all prior agreements, or communications regarding the subject matters hereof. Vendor represents and warrants that in entering the Order, Vendor does not rely on any previous direct or implied representations, inducement, or understanding of any kind. Any terms and conditions proposed by Vendor inconsistent with or in addition to the terms of the Order shall be void and of no effect, unless specifically agreed to by an authorized officer of Buyer in writing. To the extent of any conflicts among or between the provisions within the Order and these Terms, such conflicting provisions shall prevail in the following order of precedence: (i) these Terms, and (ii) the Order, unless the express intent to amend or supersede these Terms is expressly stated in a writing executed by authorized officers of both Parties. Provided, however, that if a separate master agreement signed by both Parties for the purchase and sale of Goods exists and is effective at the time of the Order, that agreement shall apply instead of these Terms so long as and only to the extent the Parties further agree in writing that such agreement shall apply to the purchase and sale of Goods instead of these Terms. If such a separate agreement does not exist, or exists but does not fulfill the condition set forth above, these Terms shall apply in place of any terms and conditions (i) provided by Vendor during the performance hereof, (ii) referred to in any form generally used by Vendor, any correspondence, other contracts performed by the Parties, or elsewhere, which may have been applicable to the subject matter hereof, or (iii) implied by trade, custom, practice or course of dealing. Any of such terms and conditions (other than those referred to in these Terms) are void and unenforceable, and any purported provisions to the contrary are hereby excluded or extinguished. The Parties’ accrued obligations, and those that by their nature continue beyond the termination of these Terms or the Order, shall survive a termination.

2. GOODS. All Goods shall be subject to an Order. The Parties shall endeavor to reduce any oral Order to writing. The Order will provide, where applicable, a description of Goods, the price, the job location, the items, equipment and supplies to be provided by Vendor, together with any additional relevant information regarding Goods. Nothing in the Order shall modify or change these Terms, which shall at all times control,

unless the Order references the specific provision(s) of these Terms to be modified, the modification is annotated on the Order, and signed by authorized officers of the Parties. Any modification shall be effective only with respect to that particular Order and no other. Buyer’s administrative or field personnel may not amend, release or modify the Terms or the Order.

3. CONFORMING GOODS. Neither the quality nor quantity of Goods shall differ from that specified or required in the Order. No modification of an Order or shipment of nonconforming Goods shall occur unless first authorized in writing by an authorized officer of Buyer. Buyer shall have the right at any time prior to the completion or delivery date of Goods to make changes in the scope of work, including, but not limited to, quantities, descriptions, drawings, designs, specifications, packaging, time and place of delivery and method or routing of transportation. If any such change causes an increase or decrease in the cost, the time required for the performance, or otherwise materially affects any other provision of the Order, an equitable proportionate adjustment may be made with Buyer’s approval, and the Order shall be modified in writing accordingly; provided, however, Vendor has notified Buyer in writing of the necessity of such adjustment within thirty (30) days of receiving Buyer’s directive to make such change. Vendor agrees that (i) the time period set forth in the Order is adequate for timely delivery of all Goods in good condition, and (ii) its failure to deliver all Goods within such period will cause loss and damage to Buyer.

4. WARRANTIES.

a. Vendor warrants that, for the greater of: (i) eighteen (18) months from date of Buyer’s final acceptance or (ii) the period of Vendor’s express warranty, Goods shall correspond with the description provided by Buyer; conform to applicable specifications or samples; comply with applicable laws and regulations whether existing or hereafter enacted; be new and of the best quality unless otherwise specified; be free from defects in design, materials and workmanship (including damage due to unsatisfactory packaging); be merchantable, and fit for the purpose for which they are furnished; and be free and clear of all liens and encumbrances. Vendor further warrants that it has good and marketable title to all Goods. The warranty period for repaired or replaced Goods will end at the later of (A) the original warranty period, or (B) one hundred eighty (180) days after the repaired or replaced Goods have been returned or restored to Buyer. All services related to Goods shall be performed in a workmanlike manner and to the highest industry standards. At all times, Vendor shall protect and preserve any property in its possession which Buyer or Buyer’s customer has an interest. The warranties of Vendor are in addition to any warranty or guarantee offered by Vendor or implied or provided by law. In the event of Vendor’s breach of this Section 4.a. Buyer shall be entitled, among other remedies, to terminate these Terms under Section 8.

b. Vendor warrants that it shall be an independent contractor and not an agent, partner or joint-venturer of Buyer in connection with these Terms and any Goods. Nothing contained in these Terms or otherwise shall create or be deemed to create any such relationship between Buyer and Vendor. No member of Vendor Group is under the control or supervision of any member of Buyer Group.

c. Vendor warrants that all Goods do not and will not infringe upon the rights of any third party, notwithstanding Buyer's release or approval of data or drawings. Any items corrected or furnished in replacement shall also be subject to this Section. Also, Vendor assigns all third parties' warranties to Buyer.

d. Vendor grants Buyer a non-exclusive, non-transferable, irrevocable, royalty-free, worldwide right and license to use, reproduce, sublicense and distribute any software that is part of Goods (including programs in firmware).

e. Any Goods deemed dangerous or hazardous will be packaged, marked and shipped by Vendor to comply with all present and future federal, state, and local laws and regulations and will further comply with any Buyer requirements or instructions. Vendor warrants that each and every chemical substance constituted or contained in Goods sold or otherwise transferred to Buyer in the U.S. is on the list of chemical substances compiled and published by the administrator of the U.S. Environmental Protection Agency pursuant to the Toxic Substances Control Act, as amended, or are otherwise in compliance with such Act. If Goods contain toxic chemical substances which exceed the de minimis concentration allowed in the reporting list under Section 313 of the Emergency Planning and Community Right to Know Act of 1986, as amended, Vendor shall promptly report same to Buyer and shall supply without request by Buyer, manufacturer's safety data sheets for such Goods and toxic chemical substances.

5. PAYMENT.

a. Buyer will pay Vendor for Goods satisfactorily provided under these Terms (i) at rates and/or prices agreed to by Vendor and Buyer in the Order or, absent such agreement (ii) in accordance with Vendor's published schedule of rates and/or prices in effect on the date of the Order, including applicable discounts and/or credits. Vendor shall submit invoices and supporting documentation, as appropriate, which reference the Order and Vendor's U.S. Federal Tax ID Number (or its equivalent).

b. Buyer shall pay within thirty (30) days of receipt of Vendor's properly furnished invoice. Payment does not constitute final acceptance. If Buyer disputes an amount billed, it shall endeavor to notify Vendor of the dispute within sixty (60) days of receiving such invoice. Payment of a disputed amount may be withheld until settlement of the dispute; however, undisputed portions shall be timely paid. Buyer may, in its sole discretion, pay disputed items without waiver of its right to contest the amount and seek reimbursement. Buyer shall have the right to deduct or setoff against any amounts it would otherwise owe Vendor any damages caused by Vendor's Default. Final payment will not be required unless Goods and/or any services related to Goods, are completed and accepted, and Vendor has furnished evidence satisfactory to Buyer that there are no Claims, obligations, or liens in connection with Goods. Final payment constitutes a waiver of any and all past, present and future Claims by Vendor related to the Order. Vendor shall promptly submit invoices to Buyer after performance or delivery of Goods, monthly. Invoices received by Buyer more than ninety (90) days after such performance or delivery shall be subject to non-payment, at the sole option of Buyer.

c. Vendor warrants that the applicable prices in the Order are no more than the prices charged to other customers for contemporaneous sales of similar items or Goods, in the same or substantially similar volumes, and under substantially similar terms.

6. DELIVERY/TITLE/RISK OF LOSS. Unless specified in the Order, the delivery of Goods will be made DDP, named place of destination, as defined in INCOTERMS 2020, as amended or revised. If not stated in the Order, the destination shall be a facility designated by Buyer. Buyer reserves the right to select the means of transport and carrier

for shipment, notwithstanding anything to the contrary in the Order. Vendor shall suitably pack, mark and ship Goods as instructed by Buyer and the requirements of common carriers so as to secure the lowest responsible transportation costs and prevent damage. Vendor shall be liable for increased shipping charges or damage to Goods. **Time is of the essence with respect to Vendor's delivery of Goods.** Title to and risk of loss of Goods shall pass to Buyer when Goods are unloaded at Buyer's facility and either (i) the common carrier has left the facility or (ii) Goods are in the sole care, custody and control of Buyer. Vendor shall, in the event of any delay, or threat of delay, in shipping or in the production or delivery of Goods, immediately notify Buyer in writing of such delay or threatened delay, and detail all relevant information with respect to the same. Vendor shall be liable for any damages resulting from failure to make delivery or performance within the time set forth in the Order or by any written instructions of Buyer, except where such delay in delivery or performance was due to causes beyond the reasonable control of Vendor and Vendor notifies Buyer as required by this Section. If Vendor maintains care, custody or control of certain property and/or Goods owned by Buyer ("**Property**"), then Buyer shall be the sole owner of Property, and title to such Property shall remain vested in Buyer at all times while it is in Vendor's care, custody or control. Vendor has no power to, and shall not, take any action inconsistent with Buyer's ownership of Property. Vendor will not commingle Property with any other property, and will identify Property as being owned by Buyer. Upon Buyer's request, Vendor will promptly provide Buyer a current, accurate report of Property currently held by Vendor for Buyer. Vendor shall secure and protect Property at all times. Subject to reasonable wear and tear, Vendor bears all risk of loss and damage to Property while it is in Vendor's care, custody or control. Vendor shall promptly notify Buyer in writing if any of Property is lost, stolen, or damaged. Promptly after receiving Buyer's request, Vendor will coordinate with Buyer the delivery of Property to Buyer, or Buyer's access to Property for the purpose of removal, in accordance with such request.

7. OBSERVATION AND TESTING; DEFECTIVE GOODS.

Buyer may observe and/or test Goods before and after delivery. If any Goods are nonconforming, unsatisfactory, or fail to meet warranties or specifications contained herein or under the Order, then without prejudice to any rights or remedies Buyer may have, Buyer may return Goods or any part thereof to Vendor. All amounts paid by Buyer for such returned Goods, together with any costs incurred by Buyer for the delivery, removal, or return of such Goods, shall be paid to Buyer by Vendor. Neither observation, testing, failure to test, nor receipt and/or use of Goods shall release Vendor from any warranties or other provisions of these Terms, nor impair Buyer's right to reject nonconforming Goods. Buyer may, even after it has paid for and taken delivery of Goods, recover against Vendor for any Goods that are unsatisfactory or defective, irrespective of Buyer's failure to notify Vendor of a rejection of nonconforming Goods or revocation of acceptance thereof or to specify any defect in nonconforming Goods. Buyer's payment shall not be deemed an acceptance or approval of Goods or relieve Vendor of any obligations under these Terms. Payments due to Vendor will be suspended until Vendor corrects all defects to Buyer's satisfaction.

8. TERMINATION/REMEDIES.

a. Without prejudice to any remedies provided in these Terms, the Order or by law or otherwise, upon Default, Buyer, in its sole discretion, may do any or all of the following: (i) immediately terminate these Terms, the Order or any part thereof, and in such event, Vendor shall (at Buyer's sole option and request) assign to Buyer any supply contracts, purchase orders and subcontracts relating to Goods; (ii) suspend payment until the Default has been remedied; and/or (iii) order all Goods under the Order to be stopped, or suspend the Order, and/or enter upon the premises to take possession of incomplete Goods wholly or partly from Vendor or any other person or entity that possesses such Goods or any part thereof.

Additionally, upon such Default, Buyer may take one or more of the following actions: (i) purchase similar Goods elsewhere on such terms and in such manner as Buyer may deem appropriate and Vendor shall be liable to Buyer for any excess costs occasioned by Buyer; (ii) purchase materials, supplies, equipment and labor necessary to complete Goods, and deduct the amount paid from any amount due Vendor; (iii) require Vendor to: (a) grant (and in such event, Vendor hereby grants) to Buyer a royalty-free, assignable and non-exclusive license to use and permit others to use, Vendor's designs, processes, drawings, and technical data for completion of the Order; and (b) transfer title and deliver to Buyer any completed and partially completed Goods; and/or (iv) take any other action under applicable law, these Terms or the Order. If the damages and amount incurred by Buyer exceed the unpaid balance of the Order, Vendor shall pay Buyer such excess within thirty (30) days after Buyer submits an invoice to Vendor. **IN THE EVENT OF TERMINATION OR THE EXERCISE OF ANY REMEDIES UNDER THIS SECTION, BUYER SHALL BE LIABLE TO VENDOR FOR ONLY GOODS COMPLETED BY VENDOR AND ACCEPTED BY BUYER BUT NOT PAID FOR, AND BUYER SHALL HAVE NO OTHER OBLIGATION OR LIABILITY TO VENDOR. ALSO, VENDOR SHALL BE LIABLE TO BUYER FOR ANY AND ALL COSTS INCURRED BY BUYER ARISING FROM SUCH TERMINATION, AND FROM THE EXERCISE OF ANY AND ALL RIGHTS AND REMEDIES PROVIDED TO BUYER UNDER THE ORDER AND APPLICABLE LAW, INCLUDING THE RIGHT OF SETOFF.**

b. Buyer may, in its sole discretion, terminate these Terms or the Order or any part thereof, for its convenience upon written notice to Vendor. Thereafter, Vendor shall immediately (i) stop work related to Goods or stop delivery of Goods as specified in the termination notice, and (ii) cause any and all of its suppliers and subcontractors to cease such work. Upon and after such termination, Vendor may be entitled to be paid a percentage of the Order price reflecting only Goods (or portion thereof) completed by Vendor, and delivered and accepted by Buyer in Buyer's sole discretion, but not yet paid for, prior to the notice of termination, plus reasonable out-of-pocket charges (without duplication) incurred by Vendor to unaffiliated third parties as a direct result of such termination that Vendor demonstrates to the sole satisfaction of Buyer. Vendor shall not be entitled to any Claim or lien against Buyer for additional compensation or damages.

c. The rights and remedies of Buyer under this Section are not exclusive, and apply in addition to any other rights and remedies available at law, in contract, in equity or otherwise.

9. CONFIDENTIAL INFORMATION, PATENTS, TRADE SECRETS, ETC.

a. Vendor recognizes that Confidential Information is the property of Buyer, and Vendor (for itself and Vendor Group) agrees to prevent the disclosure to others and maintain all Confidential Information in strict confidence and, unless otherwise agreed in a separate written agreement with Buyer authorizing the same, not to use or permit the use of, and shall not duplicate, such information other than in the course of the sale of Goods to Buyer under the Order. These obligations shall not apply to information that: (i) was in the public domain prior to Vendor's receipt of such information, or which subsequently become part of the public domain by publication or otherwise, except by wrongful act of Vendor or any other member of Vendor Group; (ii) Vendor can show was developed by Vendor and was in its possession prior to its receipt of it without reference to Confidential Information, and was not acquired directly or indirectly from Buyer; (iii) Vendor can show was rightfully received by it from a third party who did not acquire the same directly or indirectly from Buyer on a confidential basis and who holds proper authority to disclose; it being understood that specific information disclosed by Buyer pursuant to these Terms shall not be deemed to be within any of the

exclusions in (i), (ii), or (iii) above merely because it is captured by the more general information within one of such exclusions; or (iv) was independently developed by Vendor without access to or knowledge of Confidential Information.

b. Vendor shall release, protect, indemnify, Defend and hold Buyer Group (including its successors and any person or entity to which it owes such indemnity obligations) harmless from and against any action or Claim, or threatened action or Claim, based on or arising out of or in connection with the Order, or based on an assertion that the manufacture, sale, use or resale of Goods constitutes infringement of a patent, now or hereafter issued, or violates any intellectual property or proprietary interest, including, without limitation, copyrights, trademarks and trade secrets. If Buyer or Buyer Group is enjoined from operation, use or resale of any Goods, Vendor shall, at its expense, procure for Buyer and Buyer Group the rights to operate, use and resell such Goods without infringement. If Vendor cannot procure such rights within a reasonable time, Vendor shall promptly, at its sole expense, and at the sole option of Buyer (i) modify such Goods to avoid infringement or violation of any patent or other intellectual property proprietary interest, (ii) replace Goods with Goods that do not infringe or violate any patent or other intellectual property or proprietary interest, or (iii) remove such Goods, and refund to Buyer all compensation paid by Buyer to Vendor. Additionally, Vendor shall reimburse Buyer for additional transportation, removal, reinstallation and other costs and expenses incurred by Buyer in connection with the modified, replaced, or removed Goods.

10. RISK ALLOCATION. Vendor shall release, protect, Defend, indemnify and hold harmless Buyer Group from and against any and all Claims that arise out of, in connection with, are incident to, or result from: (i) Vendor's breach of any obligation under these Terms or the Order, (ii) Vendor's violation of any applicable federal, state and local law, ordinance or regulation, negligence, or other fault of Vendor Group, or (iii) these Terms, the Order and/or Goods. Vendor shall release, protect, Defend, indemnify and hold harmless Buyer Group from and against any and all Claims related to or arising out of the loss of or damage to property, or personal bodily injury, illness, or death of any member of Vendor Group arising out of, in connection with, incident to or resulting directly or indirectly from these Terms, the Order and/or Goods, **whether arising out of or related to ingress/egress, loading/unloading of personnel or cargo, presence on any premises owned, operated, chartered, leased, used, controlled or hired by a member of Buyer Group or Vendor Group, and such obligation shall apply without regard to the cause(s) of such Claims, including, without limitation, pre-existing conditions, whether such conditions be patent or latent, the imperfection of material, defect or failure of equipment, ruin of premises, breach of representation or warranty (express or implied), breach of duty (legal, statutory, contractual, equitable or otherwise, including breach of these Terms), ultrahazardous activity, strict liability, products liability, any theory of tort, or the negligence or fault of any person or entity whatsoever, expressly including the indemnitee, whether such negligence be sole, joint and/or concurrent, active or passive or any other theory of legal liability, but expressly not including gross negligence or willful misconduct of Buyer Group.**

11. INSURANCE.

a. All insurance policies of Vendor directly related to Goods, whether or not required by these Terms shall, to the extent of the risks and liabilities assumed by Vendor in these Terms and in the minimum amounts set forth below: (i) name Buyer Group as additional insured (except for worker's compensation or professional liability policies); (ii) waive subrogation against Buyer Group; and (iii) be primary and non-contributory to any insurance of Buyer Group. Such policies shall be taken out by Vendor at its cost, with a reputable insurance company rated by AM Best with at least an AVII rating unless no such company is

available in the local market, and shall include: (A) *Workmen's Compensation Insurance* covering all of the agents, servants and employees of Vendor as required by applicable State and Federal law or by governmental authority; (B) *Employer's Liability Insurance* with a limit of not less than \$1,000,000 for each person covering claims by the agents, servants or employees of Vendor; (C) *Comprehensive General Liability Insurance* including but not limited to Contractual Liability and Products/Completed Operations coverage with a combined single limit for both Bodily Injury and Property Damage of not less than \$2,000,000 per occurrence; (D) *Automobile Liability Insurance* covering all owned and non-owned automobiles utilized in connection with operations under these Terms with a combined single limit for both Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence; and (E) *Excess Liability Insurance* with limits of not less than \$5,000,000. The limits and coverages of any insurance obtained by Vendor shall in no way limit the other liabilities or obligations assumed by Vendor pursuant to these Terms.

b. The insurance provisions are, to the extent required to maximize their effectiveness, (i) separately and independently enforceable and (ii) distinct and severable from any release, protect, Defense, hold harmless or indemnity obligations in these Terms. The insurance above is intended to benefit both Parties.

12. TAXES. Unless otherwise agreed in the Order, Vendor's prices shall be exclusive of any governmental tax or duty and of any federal, state or local sales, use or excise taxes levied upon, or measured by, the sale, sales price, value or use of Goods. Vendor shall list separately in its pricing quotations and invoices any duty or tax which is payable by Buyer and with respect to which Buyer does not furnish Vendor evidence of exemption. Vendor's price shall be deemed to include all other federal, state, local and other governmental taxes and duties.

13. NO LIENS. Vendor shall not allow any lien to attach to Buyer's property or Goods. Vendor shall release, protect, Defend, indemnify and hold harmless Buyer from any lien and/or Claim arising in connection therewith. Vendor shall not file any lien against Buyer or its property. If any such lien is filed, Buyer shall have the right of setoff against any amounts due, or which may become due, to Vendor.

14. AUDIT. Buyer and its representatives shall have the right at all reasonable times to inspect and audit Vendor's records related to Goods for a period of two (2) years from the delivery of such Goods.

15. COMPLIANCE WITH LAW. Vendor and Vendor Group shall comply with all applicable federal, state and local laws, ordinances and regulations in its performance of these Terms. A breach of this Section shall entitle Buyer, among other remedies, to terminate these Terms and the Order.

16. SAFETY AND HEALTH REGULATIONS. While on the premises of Buyer, all members of Vendor Group shall comply with all safety and health laws and regulations, and with the safety, health and other regulations of Buyer. Vendor shall keep such premises clean and, upon delivery of Goods, shall leave the premises clean and ready for use. At no cost to Buyer, Vendor shall promptly remove from the premises of Buyer any person under its control who violates this Section, or who is otherwise objectionable to Buyer.

17. NO WAIVER. The failure of a Party to require performance by the other Party shall in no way affect the right of such non-breaching Party to enforce the same, nor shall any waiver of any breach of a provision by a Party be held to be a waiver by the non-breaching Party of any succeeding breach, or as a waiver of the provision itself.

18. NOTICES. Any notice, request, or communication given by either Party shall be in writing and sent to the attention of the contact name and address specified in the Order by courier (deemed served when delivered); fax (deemed served on the business day it was received with written confirmation of transmission or receipt); certified mail or its equivalent, postage prepaid, return receipt requested, or postage prepaid US Express Mail or its equivalent (deemed served the second business day after posting). Email notice is not sufficient. Any Party may change its address for such notices or communications by giving such notice to the other Party in conformance with this Section.

19. ASSIGNMENT. Vendor shall not have the right to assign or subcontract the Order or any rights, claims or obligations under the Order without the prior written consent of Buyer. Any such attempted assignment or subcontract without the prior written consent of Buyer shall be void. If a subcontract is permitted with Buyer's prior written consent, Vendor shall still remain responsible for the performance, acts or omissions of its assignees or subcontractors as if their performance, acts or omissions were its own performance, acts or omissions.

20. FORCE MAJEURE. A Party affected by Force Majeure shall give prompt written notice to the other Party, which shall suspend, without penalty, all obligations under the Order for a period of up to fifteen (15) consecutive days. The affected Party shall be relieved from its obligations (or part thereof) as long as the Force Majeure lasts and hinders the performance of such obligations. If the suspension exceeds fifteen (15) consecutive days, without prejudice to its other rights or remedies, Buyer, in its sole discretion, may either terminate the Order or suspend the Order for any additional period. If Buyer terminates the Order under this Section, Buyer shall be liable to Vendor for (i) Goods completed by Vendor and accepted by Buyer, but not paid for, as of the date of termination, and (ii) reasonable out-of-pocket costs incurred by Vendor as a direct result of such termination as demonstrated to Buyer's sole satisfaction. Any settlement or equitable adjustment sought by Vendor as a result of Force Majeure shall not include costs incurred during any suspension.

21. MATERIAL ADVERSE CHANGE.

a. If Vendor experiences or reasonably expects to experience a Material Adverse Change in its business operations, Vendor will promptly notify Buyer in writing of such change no later than five (5) days after such change occurs.

b. If, in the opinion of Buyer, Vendor's Material Adverse Change is likely to negatively affect Vendor's performance of its obligations hereunder, Buyer will be entitled to request reasonable assurances of performance from Vendor, which Vendor will provide in writing within five (5) days of Buyer's request. If such assurances are not adequate, Buyer will be entitled to immediately terminate the Order for Default upon written notice to Vendor. The occurrence of a Material Adverse Change shall not excuse Vendor's performance under the Order.

22. APPLICABLE LAW. These Terms and the Order shall be governed by and construed in accordance with the laws of the state of Texas, without reference to principles regarding conflicts of laws that would require the application of the law of another jurisdiction. The Parties each irrevocably and unconditionally submit to the exclusive jurisdiction of the state and federal courts of Harris County, Texas, and all courts competent to hear appeals therefrom. However, notwithstanding such submission, any dispute between Parties in connection with these Terms or the Order shall, at Buyer's sole discretion and option, be resolved through binding arbitration ("**Arbitration**") with one arbitrator pursuant to (a) for any Vendor located in the United States, the commercial arbitration rules of the American Arbitration Association ("**AAA**"), and (b) for any Vendor located outside the United States, the

International Rules of the International Centre for Dispute Resolution of the AAA, which rules are deemed incorporated herein by this reference. If Buyer exercises such Arbitration option, then Vendor's only forum for dispute resolution is the Arbitration. The venue of the Arbitration proceeding must be conducted in Houston, Harris County, Texas in the English language, and all submissions must be made in English or with an English translation. The Parties further agree that the court with jurisdiction within that Arbitration venue (or any other venue where a Party or its assets are located) may enter judgment consistent with any award entered in the Arbitration, and each Party irrevocably and unconditionally submits to the jurisdiction of each such court in any such action and waives any objection it may now or hereafter have to venue or personal jurisdiction in each such court. The results of any Arbitration will be final and non-appealable.

23. GRATUITIES; COMPLIANCE WITH BUSINESS STANDARDS; AND ANTI-CORRUPTION LAWS.

a. Vendor agrees not to offer or provide any gratuities to any officers, employees, agents or representatives of Buyer. Buyer may terminate the Order for Default if Buyer discovers that Gratuities were offered or given by Vendor, or any agent or representative of Vendor, to any officer, employee, agent or representative of Buyer. Vendor agrees to conduct business in compliance with Buyer's rules and regulations. Buyer reserves the right to modify, amend or revise its rules and regulations at any time without notice to Vendor. Without limiting the foregoing, Vendor agrees and represents that it shall: (i) not, either directly, or indirectly through a third party, pay, promise to pay, authorize the payment of, or transfer, money, or anything of value, or offer any inducement in any form to an official of any governmental body or agency or instrumentality thereof, or political party, to secure any advantage or benefit in relation to the matters contemplated in the Order, or influence the act or omission of any of such persons or entities in order to obtain or

retain business related to any contract it entered into with Buyer, or obtain any improper advantage or benefit; (ii) comply at all times with the applicable anti-corruption laws; and (iii) implement measures to prevent its employees or other representatives from doing anything in contravention of (i) and (ii) above, monitor the compliance of its employees and representatives with (i) and (ii) above, and immediately inform Buyer of any breach thereof.

b. Vendor shall at its own expense be responsible for obtaining all necessary export licenses and authorizations. Also, Vendor, at its own expense, agrees to comply with all laws and regulations of the United States related to exports, imports, and foreign transactions, including, but not limited to, the U.S. Export Administration Regulations (EAR) (15 C.F.R. §§ 730-774). Vendor agrees to bear sole responsibility for all regulatory record keeping associated with the use of licenses and license exceptions/exemptions.

c. Buyer may deem Vendor's failure to comply with any requirements of this Section 23 as a material failure to perform under the Order that shall entitle Buyer to immediately terminate the Order and these Terms for Default.

24. SEVERABILITY. If any provision of these Terms is held by a court of law to be unenforceable or in conflict with any law, the remaining portions or provisions shall not be affected. Any such term or provision shall be deemed amended to the minimum extent necessary to comply with such law. Without limiting the foregoing, if an obligation of Vendor in Section 10 is to any degree void or unenforceable, such obligation shall apply (i) except to the extent of the sole negligence of a member of Buyer Group or (ii) to the maximum degree permitted by law, whichever of (i) or (ii) provides the most protection to Buyer Group under applicable law.

**ANNEX I TO
CHROMATIC INDUSTRIES, LLC
TERMS AND CONDITIONS FOR PURCHASE OF GOODS**

DEFINITIONS

“Affiliate” means any person, partnership, joint venture, firm, corporation, association, trust or other legal entity directly or indirectly controlling, controlled by, or under common control with another person or legal entity (including but not limited to subsidiaries). The terms “control” and “controlling” as used in the preceding sentence means, with respect to a corporation or other entity which has been formed pursuant to law, the right to exercise, directly or indirectly, the majority of the voting rights attributable to the shares of the controlled corporation, and with respect to any person other than a corporation, the possession, directly or indirectly, of the power to direct or cause the direction of such person’s management or policies.

“Buyer Group” means Buyer, its Affiliates, parent and subsidiary corporation(s), partnership(s), and limited liability companies, and its and their invitees, non-operators, co-interest owners, joint venturers, co-owners, their Affiliates, its and their contractors (other than members of Vendor Group) and subcontractors of every type and tier, and any other customers or clients to whom Buyer provides Goods, and with respect to all the foregoing its and their respective shareholders, members, managers, owners, officers, directors, employees, agents, assigns, representatives, consultants, and insurers, excluding any member of Vendor Group.

“Claim” means all claims, damages, liabilities, losses, demands, liens, encumbrances, security interests, fines, penalties, causes of action of any kind and character (including actions in rem or in personam), obligations, costs, judgments, settlements, interest and awards (including reasonable attorneys’ fees and costs of litigation) or expense of any kind, whether under judicial proceedings, administrative proceedings or otherwise, arising out of, incident to or in any way in connection with these Terms.

“Confidential Information” means any and all technical or business information of Buyer, including without limitation, designs, drawings, plans, specifications, and other information, as well as any other business, economic and other information and data relating to Buyer’s business or assets, which is developed or received by Vendor in connection with Goods, or which is otherwise disclosed to Vendor by Buyer or a member of Buyer Group, directly or indirectly, orally or in writing.

“Default” means that Vendor (i) becomes insolvent, or solvency, receivership or bankruptcy proceedings are commenced by or against Vendor; (ii) attempts to assign the Order or these Terms or any interest therein without prior written authorization from Buyer; (iii) materially violates law or ordinances applying to Goods or Buyer’s policies; (iv) except as provided in Section 20, fails, neglects, refuses, or is unable to provide acceptable supervision, labor, materials or equipment to provide Goods at a rate and in a manner deemed sufficient by Buyer to give reasonable assurance that Vendor will satisfy its obligations under these Terms or the Order; (v) allows any third party liens to be placed on Goods or the work site; and/or (vi) materially defaults in its performance of any provision of these Terms or the Order.

“Defend” or **“Defense”** includes the obligation of the indemnitor to pay to the indemnitee actual attorneys’ fees, arbitral costs, court costs, experts’ fees and other costs incurred by the indemnitee as a result of defending against a Claim for which the indemnitee is indemnified under these Terms or, at the election and cost of the indemnitor, the obligation to select and engage attorneys and experts to defend against any Claim as required by these Terms.

“Force Majeure” means (to the extent and only to the extent that any of the following are not foreseeable, are not reasonably within the control of the Party claiming a Force Majeure and by the exercise of due diligence such Party could not have mitigated, avoided, or overcome such condition), including without limitation, an act of God or the public enemy; expropriation or confiscation of facilities; compliance with any order or requirement or any governmental authority; act of war, rebellion or sabotage or damage resulting there from, fire, flood, explosion or accident; riots or strikes or other concerted acts of workmen (except if limited to the Party affected), whether direct or indirect; inability after diligent effort to obtain necessary licenses or permits; or any other cause, whether or not of the same class or kind as those above named.

“Gratuities” means any money, fee, commission, credit, gift, thing of value, or compensation of any kind which is provided, directly or indirectly, to any member of Buyer Group for the purposes of improperly obtaining or rewarding favorable treatment in connection with the Order

“Material Adverse Change” means any change (whether related to financial considerations or otherwise) that negatively affects: (i) Vendor’s ability to perform its obligations under the Order or these Terms; (ii) Buyer’s rights and remedies under the Order or these Terms; (iii) the ability to pay creditors when due; or (iv) the validity or enforceability of the Order or these Terms.

“Order” means the purchase order, work order, service order or similar order, issued by Buyer, including these Terms and all other plans, specifications, schedules, statement of work, designs, drawings, and any other documents that Buyer provided to Vendor in connection with Goods, which may or may not be attached to or incorporated by reference into the Order.

“Vendor Group” means Vendor, its Affiliates, its parent, subsidiary companies, its and their respective non-operators and subcontractors of every type and tier, and any clients (other than Buyer) to whom Vendor provides Goods, together with its and all of their respective invitees, shareholders, members, managers, owners, officers, directors, employees, agents, assigns, representatives, consultants and insurers, excluding any member of Buyer Group.