

**CHROMATIC TECHNOLOGIES INC.
ONLINE INK ORDER AGREEMENT**

IMPORTANT: READ THIS ONLINE INK ORDER AGREEMENT (“**AGREEMENT**”) CAREFULLY. IT CONSTITUTES A BINDING AGREEMENT BETWEEN THE PURCHASING ENTITY OR INDIVIDUAL, (THE “**CUSTOMER**”) AND CHROMATIC TECHNOLOGIES INC. (“**CTI**”). IF A CUSTOMER IS AN ENTITY, THE PERSON ACCEPTING THIS AGREEMENT ACKNOWLEDGES THAT HE OR SHE IS BINDING THE ENTIRE ENTITY, AND REPRESENTS THAT HE OR SHE HAS THE AUTHORITY TO DO SO. BY EITHER CLICKING “**AGREE**,” OPENING THE SEALED PACKAGE, OR BY OTHERWISE USING THE HPP VERIFICATION AND HEAT DAMAGE ALERT INK (THE “**PRODUCTS**”), CUSTOMER AGREES TO BE BOUND BY THE TERMS OF THIS AGREEMENT. IF CUSTOMER DOES NOT AGREE TO THE TERMS OF THIS AGREEMENT THEN PROMPTLY CLICK “**DECLINE**” OR RETURN THE PRODUCTS TO THE PLACE FROM WHICH CUSTOMER OBTAINED IT FOR A FULL REFUND. THIS AGREEMENT MAY BE EXECUTED OR CONFIRMED AT THE INCEPTION OF THE PARTIES’ RELATIONSHIP, AT THE TIME OF THE SEPARATE PURCHASE ORDERS, OR AS PART OF A RENEWAL PROCESS; REGARDLESS, ALL PRODUCT ORDERS REMAIN SUBJECT TO THESE TERMS.

1. SCOPE OF AGREEMENT; TERM

(a) *Scope of Agreement.* This Agreement sets forth the terms and conditions governing the purchase and supply of the Products by Customer from CTI, subject to applicable Purchase Orders (as defined below). Nothing in this Agreement shall prevent CTI from providing goods that are the same, or similar to, the Products to third parties other than the Customer.

(b) *Term.* This Agreement will become effective on the date Customer first enters into this Agreement, and will remain in force until terminated in accordance with Customer’s Purchase Order (the “**Term**”).

2. SALE AND PURCHASE OF PRODUCTS. During the Term, and subject to CTI’s Purchase Order acceptance, CTI shall supply, and the Customer shall purchase, such quantities of the Products as the Customer may require in accordance with the terms and conditions of a separate purchase order entered into between CTI and Customer (“**Purchase Order**”).

3. INTELLECTUAL PROPERTY

(a) *Survival.* The parties’ obligations under this Section 3 (Intellectual Property) and Section 4 (Confidentiality) will survive termination or expiration of this Agreement.

(b) *Product Artwork.* All drawings, sketches, photography, renderings and other artwork (collectively, “**Artwork**”) used in connection with, incorporated into or created in connection with the Products will be deemed Customer intellectual property. CTI will not make any changes to the Artwork without the prior written approval of Customer.

(c) *Ownership.* Customer will own the entire right, title and interest and have exclusive rights in and to the Artwork, and, if separately engaged under a work for hire or similar agreement, all designated work product originated or created or developed by CTI and its employees or subcontractors pursuant to such separate agreement. Exclusive of Customer’s Artwork or separately engaged work for hire, CTI owns all right, title and interest in and to all intellectual property rights embodied in the Product, including all interactive ink technology and associated material formulations and proprietary printing processes; such information includes but is not limited to CTI’s patents, trade secrets, processes and

designs related to its thermochromic, photochromic and high pressure inks (“**CTI Intellectual Property**”).

(d) *Product Ownership; License.* Customer is purchasing the Product for the sole purpose of placing such ink products on its consumer containers or packaging. CTI hereby grants to Customer and Customer hereby accepts a non-exclusive, non-transferable right and license to use the CTI Intellectual Property on its consumer containers or packaging. Customer acknowledges that the Products incorporate patents of CTI, and Customer agrees that it will not attempt to decompile, reverse engineer and/or otherwise copy such materials during the term of this Agreement. Customer agrees to execute an updated ordinary and customary confidentiality agreement with CTI in furtherance of CTI’s trade secrets and other confidential information that may be required to be disclosed in performance of this Agreement.

4. CONFIDENTIALITY

(a) *Confidential Information.* Each party acknowledges that, during the course of performing its obligations under this Agreement, such party, its employees, agents and independent contractors are likely to encounter sensitive information that is non-public, confidential, or proprietary to the other party, or to a third party licensor of such party (“**Confidential Information**”). Confidential Information includes but is not limited to all information pertaining to each party’s business, operations, and activities, Product formulas and plans, as well as the terms and conditions of this Agreement. Each party agrees that it will disclose Confidential Information to only those of its employees, agents or independent contractors whose duties under this Agreement require such disclosure.

(b) *Injunctive Relief.* Due to the extremely sensitive nature of the Confidential Information, each party acknowledges and agrees that the unauthorized disclosure of Confidential Information will create immediate irreparable harm to the disclosing party, for which the disclosing party may obtain injunctive relief in addition to other applicable legal remedies.

(c) *Duration.* The restrictions and obligations regarding Confidential Information contained in this Section will be effective until the later of (i) three (3) years after the date this Agreement is terminated or (ii) the period of time in which the Confidential Information is regarded as confidential or trade secret by the disclosing party.

(d) *Return of Documents.* All Confidential Information made available by one party to the other will be delivered to the originating party upon written request of such party or upon the expiration or earlier termination of this Agreement or any Purchase Order.

5. SPECIFICATIONS; WARRANTIES; LIMITATION OF LIABILITY

(a) *Specifications.* The specifications for each of the Products ordered by Customer, including the maximum color density, psi during HPP processing, and packaging requirements for deliveries, are set forth or described in each mutually accepted Purchase Order (the “**Specifications**”).

(b) *Customer Warranty.* Customer warrants that the number of labels and size of the Artwork specified on any applicable Purchase Order are true and correct. Breach of this warranty will result in a revocation of license granted pursuant to Section 3(e) and require a return of the Products.

(c) *CTI Warranty.* CTI warrants that the Products will be manufactured in accordance with the Specifications. THE WARRANTIES SET FORTH HEREIN ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES, WHETHER ARISING FROM A COURSE OF DEALING, COURSE OF PERFORMANCE OR TRADE USAGE, OR WHETHER ORAL, WRITTEN, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE, ALL OF WHICH ARE EXPRESSLY WAIVED BY THE CUSTOMER. THE EMPLOYEES AND AGENTS OF CTI ARE NOT AUTHORIZED TO MAKE MODIFICATIONS TO SUCH WARRANTIES, OR

ADDITIONAL WARRANTIES BINDING UPON CTI. ACCORDINGLY, ADDITIONAL STATEMENTS, WHETHER ORAL OR WRITTEN, DO NOT CONSTITUTE WARRANTIES AND SHOULD NOT BE RELIED UPON BY THE CUSTOMER.

(d) **Limitation of Liability.** CTI's sole responsibility and the Customer's exclusive remedy for any claim arising out of the purchase of any Product is a refund or replacement, as described above. In no event shall any Party's liability exceed the purchase price paid therefore. NEITHER PARTY SHALL BE LIABLE OR RESPONSIBLE TO THE OTHER PARTY FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY WORK DELAYS, LOST GOODWILL, PROFIT, REVENUE OR SAVINGS, LOSS OF USE, COST OF CAPITAL, COST OF SUBSTITUTE PRODUCTS, FACILITIES OR SERVICES, OR DOWNTIME COSTS, EVEN IF CTI HAS BEEN ADVISED OR IS AWARE OF THE POSSIBILITY OF SUCH DAMAGES.

6. INDEMNIFICATION; INSURANCE

(a) *Indemnification by the Customer.*

(i) **General.** The Customer acknowledges and agrees that any work conducted by the Customer with regard to the use or placement of the Products is the Customer's sole and full responsibility. Except to the extent that a claim is solely attributable to CTI's breach of the warranty as set forth in Section 5(c) above, the Customer agrees, during the term of this Agreement and thereafter, to defend, indemnify and hold CTI, its divisions, parents, subsidiaries and affiliates, and their respective officers, directors, employees, representatives and agents (collectively, the "CTI Parties"), harmless from any and all damages, claims, liabilities, injuries (including personal injuries and death), losses, expenses (including attorneys' fees and litigation expenses), and costs (collectively, "Losses") arising out of or relating to the Products and their placement, use, storage, transportation, or otherwise, whether the claim is brought by the Customer, its customers or by a third party.

(ii) **Health and Safety.** The Customer shall be solely responsible for all health, safety and environmental matters arising from the use, placement, operation, storage, transportation, and/or disposal of the Products after delivery to the FOB Point by CTI. The Customer shall defend, indemnify, and hold the CTI Parties harmless from and against any and all Losses with respect to any pollution, threat and/or damage to the environment, or death, disease, incapacity or injury to any person or damage to any property resulting, directly or indirectly, from the use, placement, operation, storage, transportation, and/or disposal of the Products after delivery to the FOB Point, or the finished products on which the Products are applied; provided, however, that the Customer shall be exempted from such obligation to the extent that the cause of such damage is solely attributable to CTI's breach of the warranty in Section 5(c).

(b) ***Indemnification Procedure.*** CTI shall give the other Party prompt written notice of any Losses which are or may be subject to indemnification hereunder. The Customer will be responsible for defending against any and all such Losses hereunder. The Customer shall determine, in its sole and absolute discretion, the manner in which the defense of any Losses shall be handled or otherwise disposed of. CTI shall cooperate fully with Customer, including, but not limited to, complying with all reasonable requests for all relevant information and evidence. Customer shall be responsible for all reasonable direct costs and expenses incurred by CTI in connection with providing such cooperation, except for salaries of the employees of CTI and fees and expenses of any third party retained by CTI in the defense of any claim for Losses. In any action or proceeding the defense of which Customer assumes, CTI shall have the right to retain its own counsel and be represented in such litigation at CTI's own expense, provided, however, that CTI shall not consent to any judgment or decree in any such suit or pay or agree to pay any sum of money or agree to do any other act in compromise of such claim for Losses by a third party

without first obtaining Customer's consent thereto in writing.

(c) *Insurance.* The Customer agrees to maintain in full force and effect at all times while it has any obligations remaining under this Agreement, policies of insurance written as primary coverage and not contributing with or in excess of any coverage which CTI may carry. These policies will be issued by an insurance carrier acceptable to CTI with an A.M. Best's rating of at least A, which affords the following:

(i) Commercial general liability insurance, including coverage for bodily injury, property damage, personal injury, contractual liability, products and completed operations in an amount not less than \$1,000,000 per occurrence. Products and completed operations coverage shall be continued for two years following the expiration of the Term or the termination of this Agreement for any reason.

(ii) Workers' compensation insurance in statutory amounts and employer's liability insurance in an amount not less than \$500,000 per occurrence.

(iii) Umbrella excess liability insurance in an amount not less than \$10,000,000 per occurrence, combined single limit.

The Customer shall deliver to CTI within ten days of the Effective Date and annually thereafter, certificates of insurance evidencing the above coverages with limits not less than those specified above. Such certificates of insurance, with the exception of workers' compensation insurance, will confirm that each policy has been endorsed to name CTI, its officers, directors and employees as additional named insureds and contain a waiver of subrogation under the workers' compensation, commercial general liability and umbrella policies in favor of CTI. All certificates of insurance shall state that the carrier will provide 30 day notice to CTI in the event of cancellation. Failure by CTI to receive or request such certificates of insurance shall not represent a waiver of the requirements of insurance coverage as noted above. The limits of insurance required shall in no way limit the Customer's liability under this Agreement.

7. AUDIT RIGHTS. CTI may, at any time during the Term of this Agreement and with reasonable prior written notice, request, and gain physical access to Customer's premises for the limited purpose of conducting an audit of Customer's Compliance with this Agreement. Customer agrees to promptly grant such access and reasonably cooperate with such audit. The audit will be restricted in scope, manner, and duration to the extent reasonably required to achieve its purpose. Additionally, to ensure compliance with this Agreement or any other agreement entered into by CTI and Customer, Customer must provide CTI with a market sample of finished label/package product upon the reasonable request of CTI.

8. MISCELLANEOUS

(a) *Assignment.* Neither this Agreement nor any right hereunder nor interest herein may be assigned or transferred by either party without the express written consent of the other party; provided that either party may assign this Agreement without the prior written consent of the other party to an affiliate or to a successor in interest in connection with a sale of all of its issued and outstanding shares of capital stock or all or substantially all of its assets.

(b) *Waiver.* If either Party fails to insist on performance of any term or condition, or fails to exercise any right or privilege hereunder, such failure shall not constitute a waiver of such term, condition, right or privilege.

(c) *Survival of Obligations.* Termination or expiration of this Agreement will not relieve either Party of its obligations under Sections 5 (Specifications; Warranties; Limitation of Liability), 6 (Indemnification; Insurance), and 8 (Miscellaneous), all of which shall survive such termination or expiration and remain in full force and effect.

(d) *Severability.* Any provision of this Agreement that is held unenforceable or invalid for

any reason by a court of competent jurisdiction shall be reformed to the minimum extent necessary to be enforceable and valid and most closely reflect the true intent of the Parties, and the remainder of the Agreement shall continue in effect.

(e) *Governing Law; Venue.* This Agreement and any dispute arising out of or in connection with this Agreement or the Parties' relationship shall be interpreted, enforced and governed by the laws of the State of Colorado, excluding its choice of law rules. The Parties hereby agree that any and all causes of action arising under this Agreement shall be brought only in the state courts in El Paso County, Colorado, or in the United States Federal District Court for the District of Colorado. The Parties hereby submit to the jurisdiction of said courts, and agree not to object to the venue or the convenience of the forum.

(f) *Force Majeure.* If and to the extent that a Party's performance of any of its obligations pursuant to this Agreement (other than payment obligations) is prevented, hindered or delayed by fire, flood, earthquake, elements of nature or acts of God, acts of war, terrorism, riots, civil disorders, strikes, labor disputes or any other similar cause beyond the reasonable control of such Party (each, a "*Force Majeure Event*"), then the non-performing, hindered or delayed Party shall be excused for such non-performance, hindrance or delay, as applicable, of those obligations affected by the Force Majeure Event for as long as such Force Majeure Event continues. Either Party shall have the option to terminate this Agreement, should the Parties not have been able to find a solution to resolve the Force Majeure Event within [six] months after the occurrence and notification of such Force Majeure Event. For the avoidance of doubt, the inability to make any payments for any reason shall not be deemed a "Force Majeure Event."

(g) *Confidentiality; Press Releases; Publicity.* Each of the Parties agrees to keep the terms and conditions of this Agreement confidential and not disclose them to any third party, unless such terms and conditions are generally known or available other than as a result of a breach of this Agreement. If either Party is legally required to disclose the terms and conditions of this Agreement by law or pursuant to the order of a court of a governmental agency, such Party shall, unless legally prohibited, promptly notify the other Party to that effect, and shall seek appropriate protection of the terms and conditions of this Agreement. Such required disclosure shall not be construed as a breach of this Agreement. Neither of the Parties shall issue any press release, advertising, publicity or public statement nor in any way engage in any other form of public disclosure that refers to the relationship between the Parties or in any way relates to the terms and conditions of this Agreement without the prior written approval of the other Party. Each Party may disclose the terms and conditions of this Agreement to its parents, wholly-owned subsidiaries, accountants, attorneys, members of its Board of Directors, and as may be required by applicable law and securities regulation.

(h) *Entire Agreement.* This Agreement, including all exhibits, schedules and attachments, sets forth the entire understanding and agreement of the Parties as to the subject matter of this Agreement, and supersedes all prior agreements, understandings, proposals and representations, oral or written, between the Parties as to the subject matter, except for non-disclosure agreements. During the Term, all agreements between CTI and the Customer for the purchase and sale of the Products shall include and be governed exclusively by the terms and conditions set forth in this Agreement, except as the Parties may otherwise agree in a writing executed by their respective duly authorized representatives. Any printed terms of any Purchase Order of the Customer, or acknowledgement of CTI, and any other terms, provisions or conditions in any purchase order of the Customer, or acknowledgment of CTI, which vary from, or are inconsistent with, contrary to, or in addition to the terms, provisions and conditions of this Agreement, shall be null and void and of no effect.