## Commercial

## Commercial Type and St. Bride Type Foundry Font Software End User License Agreement

## Please read this document carefully

and we recommend that you keep a copy for further reference.

This End User License Agreement (the "Agreement" "EULA," "License," "Agreement" or "License Agreement") is a legal agreement between you and Schwartzco, Inc., d/b/a Commercial Type, a/d/b/a St. Bride Type Foundry (collectively, "Commercial Type") and becomes a binding contract between you and Schwartzco. This Agreement governs the terms of use the Font Software and the design of the Fonts embodied therein (collectively, "Font Software"), together with any media, printed materials, electronic documentation, updates, add-ons, artwork, web services and any other material that may be associated with the product now or in the future. This Agreement becomes effective (a) when you "ACCEPT LICENSE AGREEMENT," or (b) if you are acquire and accept the Font Software on a Compact Disc or Digital Video Disk (CD, DVD), or (c) when you open the compressed electronic file in which the Font Software is contained. If you do not wish to enter into this Agreement, do not purchase, access, download and/or install or otherwise use the Font Software.

1 Upon payment in full, Commercial Type will grant you a non-exclusive terminable License to the Font Software that accompanies this EULA. Use of the Font Software is limited to Personal or Internal Business Use only. For the purposes of this Agreement, "Font Software" shall be defined as the design of the Fonts together with the Font Software which, when used generates the typeface, typographic designs and, if applicable, ornaments or other designs. Personal or Internal Business Use shall mean Use of the Font Software for your customary personal or internal business purposes and, except as may otherwise permitted herein, shall not mean or include the commercial distribution or use of Font Software, the design of the fonts or artwork embodied therein or any component thereof for any commercial use or in any Commercial Product for sale whatsoever. For the purposes of this Agreement, prohibited commercial uses include, by way of example not limitation, T-shirts, third-party software, electronic devices, mugs, animation, etc.

and as may be further noted below. If you are unsure whether your use is not permitted, contact Commercial Type. Your failure to contact to seek permission or the lack of a specific prohibition in this Agreement shall not be interpreted or deemed a waiver or permissible use of any kind. You hereby agree that the Font Software shall further comprise all bitmap representations of typeface and typographic designs and ornaments created by or derived from the Font Software. The Font Software shall be deemed to include any upgrades, updates, related files, permitted modifications, if any, permitted copies, and related documentation.

- 2 If you are a design consultancy, advertising agency or purchasing this license for use by or on behalf of such an entity, the ultimate end user should also purchase a license appropriate for their intended use of the Font Software, if their use of the Font Software is likely to involve uses not permitted under this Agreement. The license granted herein for personal use does not extend to uses by temporary employees or independent contractors using the Font Software as their use may relate to providing professional services or for other professional uses. Under such circumstances an employer and/or the ultimate end user are also required to purchase a license appropriate for their usage.
- 3 For the purposes of this Agreement, "Commercial Product" shall also mean, among other things, a user editable electronic document created by Use of the Font Software which is offered for distribution to the general public (or to some subset of the general public), in Flash type software distributed or exhibited, in gaming products or software where the extraction of the Font Software or the designs embodied therein may be extracted; or use on goods for sale as a commercial product in exchange for a separate fee or other consideration. However, a document distributed in connection with a commercial transaction in which the consideration is unrelated to such a document (for example, printed advertising, a business letter or a receipt for purchase of tangible goods such as clothing), or as other design materials distributed incidental to the purchase of goods or services, shall not be considered a Commercial Product.
- 4 a) Except as may be prohibited herein, you are permitted to electronically distribute a "Personal or Internal Business Use" document (that is, a document other than a Commercial Product as defined above) (i) that is in a static graphic image (for example, a "gif") or in an embedded electronic document, and (ii) which is distributed in a format that permits only the viewing and printing (and not the editing, altering, enhancing, or modifying) of such static graphic image or embedded document. Personal or Internal Business Use shall not include any Use of the Font Software by persons that are not members of your immediate household, your authorized employees, or your authorized agents. All such household members, employees and agents shall be notified by you as to the terms and conditions of the Agreement and shall agree to be bound by it prior to use of the Font Software.

- b) Use of the Font Software in *sIFR* (Scalable Inman Font Replacement) is permitted. However, the use of *Cufón* or *@font-face* or other forms of web embedding or web font replacement technologies, ("Font Replacement Technologies") other than PDF as otherwise expressly permitted herein, each require the purchase of a license upgrade.
- 5 Commercial Type, its successors and assigns, expressly retain all right and title in and to the Font Software together with the design of the Font embodied therein together with any trademarks used in connection therewith. Except as may be otherwise expressly permitted herein, you agree not to copy the Font Software or create derivative works based upon the design of the Font or the Font Software. You hereby agree that the design of the Font and the Font Software are the exclusive property of Commercial Type and that the unauthorized use of the design of the Font or the Font Software is an infringement of Commercial Type's exclusive rights and causing significant monetary harm. All rights not expressly granted herein are reserved to Commercial Type. Commercial Type's rights and remedies in the event of an infringement shall be cumulative in nature.
- 6 Except as is prohibited herein, you may install and Use the Font Software on a single file server for Use on a single local area network ("LAN") only when the Use of such Font Software is expressly for and limited to the number of total users disclosed and licensed under this Agreement, i.e., the total number of users who could use the Font Software, not the total number of users who might have access to the Font Software at any one time.
- or copy the Font Software or the designs embodied therein in any manner whatsoever. Reformatting the Font Software into other formats for use in other operating systems is expressly prohibited. Upon payment of an additional fee and a separate written agreement Commercial Type may, if so agreed, provide the Font Software in alternate and/or additional font formats, contact Commercial Type for a quotation. Altering or amending the embedding bits characteristics of the Font Software is expressly prohibited. The Font Software may not be used to create or distribute any electronic document in which the Font Software or any part thereof, is embedded in a manner or format that permits editing, alterations, enhancements, or modifications by the recipient of such document. You may not knowingly transmit any electronic document or the Font Software to any party that intends or is likely to "hack," edit, alter, enhance, or otherwise modify the Font Software or remove the Font Software from any document.
- **8** You may make one (1) back-up copy of Font Software for archival purposes only, and you agree to retain exclusive custody and control over any such copy. Upon termination of the Agreement, you must destroy the original

- and any and all copies of the Font Software. The unauthorized sharing, lending, renting, sale, or other unauthorized use or misuse of the back-up copy is a material breach of this Agreement and will result in the immediate termination of this License.
- 9 If no other option exists, you may take a digitized copy of the Font Software used for a particular document, or Font Software embedded in an electronic document that is sent to a commercial printer or service bureau for use by the printer or service bureau for preparing the document provided that the printer or service bureau represents that it shall destroy any and all copies of the Font Software upon completion of its work. Notwithstanding, you agree that the transmission of a "print/preview" PDF document is the first and preferred method of transmitting such documents to a service bureau or printer.
- trademarks associated therewith are the exclusive property of Commercial Type and their designers, where applicable and are protected by the copyright and other intellectual property laws of the United States, by the copyright and design laws of other nations, and by other international treaties. Any copies that you are expressly permitted to make pursuant to the Agreement must contain the same copyright, trademark, and other proprietary notices that appear on or in the Font Software.
- 11 You agree not to create, assist in and/or cause the creation of modifications or additions to the Fonts or Font Software, including, but not limited to, creating additional weights; creating additional or deleting existing characters; modifying existing characters; modifying font spacing and kerning; or converting fonts to an alternate digital format, modify, adapt, translate, reverse engineer, decompile, disassemble, alter, or otherwise attempt to discover the source code of the Font Software without first obtaining written permission from Commercial Type. In the event that permission is given to you, any and all modifications and additions shall become and shall remain the sole and exclusive property of Commercial Type and you may not sell, lend or otherwise transmit any modifications or additions to the Font Software to any third party. Other jurisdictions may provide for additional rights, and if applicable, you may reverse engineer or decompile the Font Software only to the extent that sufficient information is not available for the purpose of creating an interoperable software program (but only for such purpose and only to the extent that sufficient information is not provided by Commercial Type upon written request). All trademarks shall be used in accordance with accepted trademark practice, including identification of the trademark owner's name. Use of the trademarks associated with the Font Software inures solely to the benefit of Commercial Type.

- **12** Use of Commercial Type Font Software in the following circumstances and/or applications is **not** permitted without first obtaining the appropriate licensing upgrade.
  - a) alphabet or letterform-related products for resale or letterform creation products or devices;
  - $\ b)\,embedding\,in\,electronic\,devices; all\,gaming\,uses\,and/or\,devices;$
  - c) embedding in software;
  - d) storing and/or serving the font software for the purposes of making the font software available via the internet using font replacement technologies.
  - i) Letterform or Alphabet Products include, but are not limited to, signage and/or scrapbooking uses involving reproductions of individual letterforms, use in the creation of signage or numbering products, rubber stamps, die-cut products, stencil products, tattoo, flash, or adhesive sticker alphabet products or any other product containing any image of or derived from the design of the Font embodied in the Font Software of which any likeness of the alphabet can be reproduced.
  - ii) Embedding of the Fonts in a print/preview format is permitted.
    Notwithstanding, embedding or other use of the Fonts or the outlines thereof in any method which permits the extraction of the Font Software of the designs embodied therein is expressly prohibited. Any such use requires the express written permission of Commercial Type and may or may not require the purchase of a license upgrade at the sole discretion of Commercial Type.
    iii) In the event any dingbats or other art forms are part of the Font Software, use of the artwork is further restricted. You may use the artwork, drawings and/or dingbats on goods for sale, in logo design, retail packaging or in point of sale uses only after the purchase of a license upgrade.

In order to obtain a license upgrade, you must contact Commercial Type at info@commercial type.com for more information. If you are unsure whether your use of the Font Software is specifically permitted under this Agreement, contact Commercial Type.

- on-screen display or on an electronic device outside a single location. For example, and not by way of limitation, such electronic devices include a kiosk, gaming devices, embroidery or sewing machines game playing or gambling devices, irrespective of whether the showing or creation of copies of the design embodied in the Font Software is created by use of the software or as an image of the design in tiff, gif or other format.
- 14 Commercial Type Font Software is licensed for use by a specified number of users. Use of the Font Software in more than one geographic location or by means of server or central CPU outside of the terms of your license

- is permitted provided the each user or potential user is licensed. License upgrades may be purchased from Commercial Type at *info@commercialtype.com*.
- agree not to rent, lease, sublicense, give, lend, or further distribute the Font Software. You may transfer all your rights under this Agreement another person or entity provided that (i) the transferee accepts and agrees to be bound by all the terms and conditions of this Agreement, and (ii) you destroy all copies of the Font Software, including all copies stored in the memory of a hardware device.
- 16 Commercial Type warrants that the Font Software will perform substantially in accordance with its documentation for ninety (90) days following delivery of the Font Software. To make a warranty claim, you must either return the Font Software to the location from which you obtained it together with a copy of your sales receipt or, if acquired on-line, contact the on-line provider with sufficient information regarding your acquisition of the Font Software to permit the confirmation of the effective date of this License. Schwartzco, Inc. and Commercial Type hereby EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS AND IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. COMMERCIAL TYPE DOES NOT WARRANT THAT THE OPERATION OF THE FONT SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT THE FONT SOFTWARE IS WITHOUT DEFECTS. UNDER NO CIRCUMSTANCES SHALL COMMERCIAL TYPE BE LIABLE TO YOU OR ANY OTHER PARTY, WHETHER IN CONTRACT OR TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, FOR ANY SPECIAL, CONSEQUENTIAL, OR INCIDENTAL DAMAGES, INCLUDING LOST PROFITS, SAVINGS OR BUSINESS INTERRUPTION AS A RESULT OF THE USE OF THE FONT SOFTWARE EVEN IF NOTIFIED IN ADVANCE OF SUCH POSSIBILITY. You hereby agree that your entire, exclusive, and cumulative liability and remedy shall be limited to the purchase price of this Font Software License. Under no circumstances shall Schwartzco, Inc.'s or Commercial Type's liability to you exceed either the refunding of the cost of the Font Software License or replacement of the Font Software either of which shall be at Commercial Type's sole discretion.
- 17 OTHER LAW CONSUMERS ONLY. Some jurisdictions do not allow the exclusion or limitation of incidental, consequential or special damages, implied warranties or implied warranties as they relate to sales to consumers. ANY IMPLIED WARRANTY OR OTHER RIGHT CREATED BY LAW IS ONLY EFFECTIVE FOR THE NINETY (90) DAY WARRANTY PERIOD. THERE ARE NO WARRANTIES OR CONDITIONS OF ANY KIND AFTER THE NINETY (90) DAY WARRANTY PERIOD. To the extent permissible by law, you agree that all implied warranties are not to be effective for more than thirty (30) days.

- 18 You expressly agree that this Agreement shall be governed by the laws of the State of New York, USA, as they apply to contracts entered into and wholly performed therein and without respect to its conflict of laws provisions or the conflict of laws provisions of any other jurisdiction. You expressly submit to the personal jurisdiction of the state and federal courts in the State of New York, USA, agree to waive any defenses arising out of the selection of jurisdiction or venue and further agree to service of process by mail. You hereby expressly agree that the application of the United Nations Convention of Contracts for the International Sale of Goods is expressly excluded.
- 19 You acknowledge that you have read and understand this Agreement and that by using the software you agree to be bound by its terms and conditions. You further agree that it is the complete and exclusive statement of the agreement between Commercial Type and you which supersedes any proposal or prior agreement, oral or written, and any other communications relating to the subject matter of this Agreement. No variation of the terms of this Agreement or any different terms will be enforceable in the absence of an express written amendment, or consent, including a written express waiver of the affected terms of this Agreement. If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall continue in full force and effect, and the invalid provision shall be replaced by Commercial Type with a provision that effects the intent of the invalid provision.
- **20** Commercial Type expressly reserves the right to amend or modify its License Agreements at any time and without prior notification.
- The Agreement shall automatically terminate in the event you or
  any authorized user breaches any term or condition set forth herein.
  Notwithstanding any termination of this License, Commercial Type expressly reserves any and all other rights and remedies under equity or law. The Agreement may only be modified in a writing signed by an authorized officer of Commercial Type.
- 22 You agree to be responsible for compliance with all laws, foreign and domestic relating to the control of exports or the transfer of technology. If you are purchasing this License for government use, or under a government contract, you agree to familiarize yourself with and follow any applicable rules and regulations relating to the purchase of a license to use software and the actual use thereof.

All inquiries and arrangements for returns, if any, may be sent via e-mail to *info@commercialtype.com*. The Commercial Type website is located at *www.commercialtype.com*.