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4. PRODUCT SPECIFIC USE RIGHTS.

- 4.1 **Designer Tools.** The Crystal Reports report design application and utilities installed by the Crystal Reports setup program ("Designer Tools") are licensed on a Named User basis. Each copy of Crystal Reports includes one Named User license of the Designer Tools.

4.2 Crystal Reports Runtime Product.

4.2.1 Definitions

"*Client Application*" means an application developed by Licensee that a) utilizes the Runtime Product, b) is installed fully on an end user's machine, with all report processing local to that machine, and c) adds significant and primary functionality to the Runtime Product.

"*Internal Installation*" or "*Internally Install*" means installing into production Client Applications and/or Server Applications on one or more computers within Licensee's company or organization only in connection with Licensee's internal business purposes.

"*Distribution*" or "*Distribute*" means selling, leasing, licensing, granting access to, or redistributing Client Applications and/or Server Applications to third party end users external to Licensee's company or organization.

"*Runtime Product*" means the version specific files and application program interfaces (APIs) specified in the RUNTIME.TXT file provided with the Product.

"*Server Application*" means an application developed by Licensee that a) utilizes the Runtime Product, b) allows more than one user to access the Runtime Product either directly or indirectly through any middle tier application(s), and c) adds significant and primary functionality to the Runtime Product. A Client Application installed in a Windows terminal server environment (e.g. Citrix or Microsoft Remote Desktop Platform) is a Server Application.

"Deployment" means a single installation of no more than one of the following Product modules or files: Crystal Reports Runtime Engine.

4.2.2 Use of the Runtime Product. Licensee may install and use a single copy of the Runtime Product to develop Client Applications and Server Applications. The Distribution and Internal Installation terms and conditions differ based on the type of applications Licensee develops, as described in the following sections.

4.2.3 Internal Installation of Client Applications and Server Applications. Licensor grants Licensee a personal, nonexclusive, limited license to Internally Install the Runtime Product with Client Applications and Server Applications.

4.2.4 Distribution of Client Applications. Licensor grants Licensee a personal, nonexclusive, limited license to Distribute Client Applications to end users, if Licensee complies with all of the terms herein, including without limitation section 4.2.6.

4.2.5 Distribution of Server Applications. Licensor grants Licensee a personal, nonexclusive limited license to Distribute Server Applications to third parties provided that either a) Licensee has acquired a licensed copy of Crystal Reports for each Deployment of a Server Application that is distributed to a third party, provided that the version of the Runtime Product utilized by such Server Application is the same as that provided with Crystal Reports or b) Licensee owns at least one licensed copy of Crystal Reports Developer Advantage, provided that the version of the Runtime Product utilized by such Server Application is the same as that provided with Crystal Reports Developer Advantage. In all cases the Licensee must comply with all of the terms of such license and this license agreement, including without limitation section 4.2.6.

4.2.6 Runtime Product Distribution Requirements. If Licensee Distributes the Runtime Product to third parties pursuant to sections 4.2.4 or 4.2.5, Licensee shall comply with the following requirements:

- (a) Licensee Distributes copies of the Runtime Product solely as a part of an application that adds specific and primary functionality to the Runtime Product;
- (b) Licensee remains solely responsible for support, service, upgrades, and technical or other assistance, required or requested by anyone receiving such Runtime Product copies or sample applications;
- (c) Licensee does not use the name, logo, or trademark of Licensor, or the Product, without prior written permission from Licensor;
- (d) Licensee will defend, indemnify and hold Licensor harmless against any claims or liabilities arising out of the use, reproduction or distribution of Runtime Product or the associated application;
- (e) Licensee shall not distribute the Runtime Product with any general-purpose report writing, data analysis or report delivery product or any other product that performs the same or similar functions as Licensor product offerings; and
- (f) Licensee shall secure the end user's ("End User") consent to terms substantially similar to the following:

End User agrees not to modify, disassemble, decompile, translate, adapt or reverse-engineer the Runtime Product or the report file (.RPT) format;

End User agrees not to distribute the Runtime Product to any third party;

End User agrees not to use the Runtime Product to create for distribution a product that is generally competitive with Licensor product offerings;

End User agrees not to use the Runtime Product to create for distribution a product that converts the report file (.RPT) format to an alternative report file format used by any general-purpose report writing, data analysis or report delivery product that is not the property of Licensor;

End User agrees not to use the Product on a rental or timesharing basis or to operate a service bureau facility for the benefit of third-parties;

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8. **LIMITED WARRANTY AND REMEDY.**
 - (a) Business Objects warrants to you that: (i) for a period of thirty (30) days from delivery of the Software, the Software will substantially conform to the functional description set forth in the standard documentation accompanying the Software; and (ii) for a period of thirty (30) days from delivery the physical media (e.g., CD-ROM), such physical media will be free from defects in materials and workmanship. Any implied warranties on the Software and media are limited to thirty (30) days from delivery, to the extent such warranties cannot be disclaimed under Section 8(c) below. The above warranties specifically exclude defects resulting from accident, abuse, unauthorized repair, modifications, or enhancements, or misapplication. Business Objects does not warrant that the Software will operate uninterrupted or error free. Delivery of additional copies of, or revisions or upgrades to, the Software, including releases provided under Support Services, shall not restart or otherwise affect the warranty period.

- (b) Your exclusive remedy for breach of the above-stated limited warranty shall be, at Business Objects' option, either: (i) correction or replacement of the Software with product(s) which conform to the above-stated limited warranty; or (ii) return of the price paid for the Software and termination of this License Agreement with respect to those copies not in compliance. Such remedy shall be provided to you by Business Objects only if you give Business Objects written notice of any breach of the above-stated limited warranty, within thirty (30) days of delivery of the Software.
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9. **LIMITATION OF LIABILITY.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL BUSINESS OBJECTS OR ITS DISTRIBUTORS, SUPPLIERS OR AFFILIATES BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION, ANY LOST PROFITS OR REVENUES, LOSS OR INACCURACY OF ANY DATA, OR COST OF SUBSTITUTE GOODS, REGARDLESS OF THE THEORY OF LIABILITY (INCLUDING NEGLIGENCE) AND EVEN IF BUSINESS OBJECTS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BUSINESS OBJECTS AND ITS SUPPLIERS' AGGREGATE LIABILITY TO YOU FOR ACTUAL DIRECT DAMAGES FOR ANY CAUSE WHATSOEVER SHALL BE LIMITED TO THE SOFTWARE LICENSE FEES PAID BY YOU FOR THE SOFTWARE OR THE FEES PAID BY YOU FOR THE SERVICE DIRECTLY CAUSING THE DAMAGES. THESE LIMITATIONS WILL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. THE FOREGOING ALLOCATION OF RISK IS REFLECTED IN THE FEES CHARGED UNDER THIS LICENSE AGREEMENT. SOME STATES/JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY IN CERTAIN CIRCUMSTANCES INCLUDED IN THIS SECTION, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU ONLY IN SUCH CIRCUMSTANCES.
10. **SUPPORT SERVICES.** If you purchased Support Services, Business Objects will provide to you product support services for the Software in accordance with Business Objects then current Support Services terms and conditions. If you purchase Support Services for the Software, you must purchase Support Services for all authorized copies of said Software in your possession.
11. **TERMINATION.** This Agreement is effective until terminated. You may terminate this License Agreement at any time by providing Business Objects with written notice, provided that you have complied with the return and/or destruction policy set forth below. However, you shall receive a refund of your license fee only if this Agreement is terminated in compliance with Section 8 hereof. If you ordered an Evaluation License for the Software that is time disabled, this Agreement will automatically terminate after the Evaluation Period, and you agree not to avoid, or attempt to avoid, any applicable time limitation. This Agreement may be terminated by Business Objects if: (i) you fail to pay the license fees and other charges set forth at the time of your order; or (ii) you fail to comply with any of the terms and conditions set forth in this Agreement and do not remedy such failure within thirty (30) days after receiving notice thereof. Termination shall not relieve you from your obligation to pay fees that remain unpaid and shall not limit Business Objects from pursuing other available remedies. Upon termination by Business Objects of this Agreement, Business Objects will have no obligation to refund to you any fees paid by you and you agree to waive in perpetuity and unconditionally any and all claims for refunds. Upon any termination of this Agreement, you agree to: (i) immediately cease all use of the Software, including the use and distribution of any Custom Applications incorporating the Software; and (ii) either return the Software to Business Objects or destroy same, and certify to Business Objects, in writing, that all copies and partial copies thereof have been returned or completely destroyed and are no longer being used. Sections 5, 6, 8(c), 9, 11, 12, 13, 14, 15, 17 and 18 shall survive any termination of this Agreement.
12. **AUDIT.** During the term of this Agreement and for two (2) year after termination or expiration, Business Objects may audit, upon reasonable notice to you and at Business Objects' expense, your books and records to determine your compliance with this Agreement. In the event any such audit reveals that you have underpaid Business Objects by an amount greater than five percent (5%) of the amounts due Business Objects in the period being audited, or that you have knowingly breached any material obligation hereunder, then, in addition to such other remedies as Business Objects may have, you shall pay or reimburse to Business Objects the cost of the audit.
13. **GENERAL.** If any provision of this Agreement is ruled invalid, such invalidity shall not affect the validity of the remaining portions of this Agreement. This Agreement constitutes the entire agreement between you and Business Objects, and supersedes any prior agreement, whether written or oral, relating to the subject matter of this Agreement. This Agreement may not be modified except by an instrument in writing duly signed by an authorized representative of each of the parties. If you are acquiring the Software on behalf of an entity, you represent and warrant that you have the legal capacity to bind such entity to this Agreement. All terms of any purchase order or other ordering document submitted by you shall be superseded by this Agreement. In the event you and Business Objects have executed a mutually agreed upon a separately executed software license and related services agreement ("MSLA") and acquired the Software pursuant to such MSLA, the terms of the MSLA may govern your use of the Software and the terms of this Agreement shall be superseded by the MSLA. The product name for the Software is a trademark or registered trademark of Business Objects. Should you have questions concerning this License Agreement, please contact your local Business Objects sales office or authorized reseller, or write to: Business Objects, Attn: Contracts Department, 3030 Orchard Parkway, San Jose, CA 95134.

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- 16. ORDER TERMS.** Purchase orders conforming to Business Objects purchase order requirements may be accepted from qualified companies. All pre-printed terms of any purchase order not approved in writing by Business Objects shall have no effect. Payment terms are net-30 days from date of invoice. FOB Business Objects facility. Business Objects specifically disclaims price guarantees of any kind. You are responsible for payment of all applicable sales, use, consumption, VAT, GST, and other taxes and all applicable export and import fees, custom duties and similar charges, excluding taxes based on Business Objects net income.
- 17. GOVERNING LAW.** Except as otherwise preempted by United States federal law, this Agreement is governed by the laws of the State of California, United States, without reference to conflict of laws provisions or the United Nations 1980 Convention on Contracts for the International Sale of Goods and any amendments thereto.

18. COUNTRY UNIQUE TERMS.

If you purchased the Software in any territory specified below (the "Local Territory"), this section sets forth specific provisions as well as exceptions to the above terms and condition. To the extent any provision applicable to the Local Territory (the "Local Provision") set forth below is in conflict with any other term or condition in this agreement, the Local Provision will supersede such other term or condition with respect to any licenses purchased in the Local Territory.

Australia:

a) Limited Warranty and Remedy (Section 8): *The following is added:*

The warranties specified in this Section are in addition to any rights You may have under the Trade Practices Act 1974 or other legislation and are only limited to the extent permitted by the applicable legislation.

b) Limitation of Liability (Section 9): *The following is added:*

To the extent permitted by law, where Business Objects is in breach of a condition or warranty implied by the Trade Practices Act 1974 or the equivalent State or Territory legislation which cannot be excluded, Business Objects' liability is limited, at Business Objects' sole election: (i) in case of the Software: (a) (i) to repair or replace the goods, or the supply of equivalent goods, or (ii) payment of the cost of such repair or replacement or of acquiring equivalent goods; and (ii) in case of Support Services: (x) re-supply of the Support Services; or (y) the cost of having the services supplied again. In calculating Business Objects' aggregate liability under this Agreement, the amounts paid or the value of any goods or services replaced, repaired, or supplied by Business Objects pursuant to this paragraph shall be included.

c) Governing Law (Section 17): *The following replaces the terms of this section in its entirety:*

This Agreement is governed by the laws of the State or Territory in which you acquired the Software, without reference to conflict of laws provisions or the United Nations 1980 Convention on Contracts for the International Sale of Goods and any amendments thereto.

Belgium and France

a) Limitation of Liability (Section 9): *The following replaces the terms of this section in its entirety:*

Except as otherwise provided by mandatory law:

1. Business Objects' liability for any damages and losses that may arise as a result of the performance of its obligations in connection with this Agreement is limited to the compensation of only those damages and losses proved and actually arising as an immediate and direct consequence of the non-fulfillment of such obligations (if Business Objects is at fault), for a maximum amount equal to the charges You paid for the Software that has caused the damages. This limitation shall not apply to damages for bodily injuries (including death) and damages to real property and tangible personal property for which Business Objects is legally liable.

2. UNDER NO CIRCUMSTANCES IS BUSINESS OBJECTS, OR ANY OF ITS SOFTWARE DEVELOPERS, LIABLE FOR ANY OF

THE FOLLOWING, EVEN IF INFORMED OF THEIR POSSIBILITY: 1) LOSS OF, OR DAMAGE TO, DATA; 2) INCIDENTAL OR INDIRECT DAMAGES, OR FOR ANY ECONOMIC CONSEQUENTIAL DAMAGES; 3) LOST PROFITS, EVEN IF THEY ARISE AS AN IMMEDIATE CONSEQUENCE OF THE EVENT THAT GENERATED THE DAMAGES; OR 4) LOSS OF BUSINESS, REVENUE, GOODWILL, OR ANTICIPATED SAVINGS.

3. The limitation and exclusion of liability herein agreed applies not only to the activities performed by Business Objects but also to the activities performed by its suppliers and Software developers, and represents the maximum amount for which Business Objects as well as its suppliers and Software developers, are collectively responsible. This limitation shall not apply to damages for bodily injuries (including death) and damages to real property and tangible personal property for which Business Objects is legally liable.

b) Governing Law (Section 17): *The following replaces the terms of this section in its entirety:*

This Agreement is governed by the laws of country in which you acquired the Software, without reference to conflict of laws provisions or the United Nations 1980 Convention on Contracts for the International Sale of Goods and any amendments thereto.

Germany and Austria

a) Warranty (Section 8): *The following replaces the terms of this section in its entirety:*

Business Objects warrants that the Software provides the functionalities set forth in the associated documentation ("Documented Functionalities") for the Limited Warranty Period following receipt of the Software when used on the recommended hardware configuration. Limited Warranty Period means one year if you are a business user and two years if you are not a business user. Non-substantial variation from the Documented Functionalities does not establish any warranty rights. THIS LIMITED WARRANTY DOES NOT APPLY TO SOFTWARE PROVIDED TO YOU FREE OF CHARGE (FOR EXAMPLE, UPDATES, PRE-RELEASE, EVALUATION, OR NFR) OR SOFTWARE THAT HAS BEEN ALTERED BY YOU, TO THE EXTENT SUCH ALTERATION CAUSED A DEFECT. To make a warranty claim, you must return, at Business Objects expense, the Software and proof of purchase to the company from whom you obtained it. If the functionalities of the Software vary substantially from the agreed upon functionalities, Business Objects is entitled, by way of re-performance and at its own discretion, to repair or replace the Software. If that fails, you are entitled to a reduction of the purchase price or to cancel the purchase agreement.

b) Limitation of Liability (Section 9): *the following paragraph is added to this Section:*

The limitations and exclusions specified in this Section will not apply to damages caused by Business Objects' intentional or by gross negligence. In addition, Business Objects shall be responsible up to the amount of the typically foreseeable damages from any damage which has been caused by Business Objects or its agents due to the slightly negligent breach of a material contractual duty. This limitation of liability shall apply to all damage claims, irrespective of the legal basis thereof and in particular, to any pre-contractual or auxiliary contractual claims. This limitation of liability shall not, however, apply to any mandatory statutory liability under the product liability act nor to any damage which is caused due to the breach of an express warranty to the extent the express warranty was intended to protect you from the specific damage incurred. This clause shall not be intended to limit liability where the extent of liability is provided by mandatory law.

c) Governing Law (Section 17): *The following replaces the terms of this section in its entirety:*

This Agreement is governed by the laws of country in which you acquired the Software, without reference to conflict of laws provisions or the United Nations 1980 Convention on Contracts for the International Sale of Goods and any amendments thereto.

Italy

a) Limitation of Liability (Section 9): *the following replaces the terms of this section in its entirety:*

Apart from damages arising out of gross negligence or willful misconduct for which Business Objects may not limit its liability, Business Objects' liability for direct and indirect damages related to the original or further defects of the Software, or related to the use or the nonuse of the Software or related to any case whatsoever for breach of the Agreement, shall be limited to the fees paid by you to Business Objects for the Software or for the part of the Software upon which the damages were based.

b) Governing Law (Section 17): *The following replaces the terms of this section in its entirety:*

This Agreement is governed by the laws of country in which you acquired the Software, without reference to conflict of laws provisions or the United Nations 1980 Convention on Contracts for the International Sale of Goods and any amendments thereto.

United Kingdom

c) Governing Law (Section 17): *The following replaces the terms of this section in its entirety:*

This Agreement is governed by the laws of England and Wales, without reference to conflict of laws provisions or the United Nations 1980 Convention on Contracts for the International Sale of Goods and any amendments thereto. Notwithstanding any other provision in this Agreement, nothing in this Agreement shall create or confer (whether expressly or by implication) any rights or other benefits whether pursuant to the Contracts Rights of Third Parties) Act 1999 or otherwise in favour of any person not a party hereto.

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