SOFTWARE LICENSE AND RELATED SERVICES AGREEMENT

This Software License and Related Services Agreement (the "Agreement") is a binding agreement for the purchase of the software and/or services described in a Purchase Order or Order Schedule that refers to this Agreement, acquired by Licensee from SAP Africa Region (Pty) Ltd, 1 Woodmead Drive, Woodmead, South Africa, 2148 or P.O. Box 1621, Gallo Manor, South Africa, 2052 or from its Authorized Partner ("LICENSOR").

1. DEFINITIONS.

1.1 **"Documentation"** means the user documentation and the reference manual(s), in whatever form recorded, supplied by Licensor with the Product.

1.2 "**Licensee**" means the specific corporation or division designated in the applicable Purchase Order or Order Schedule or any permitted successor assignee (whether by change of name, dissolution, merger, consolidation, reorganization or otherwise) to such corporation or division or its business assets.

1.3 **"Order Schedule"** means a document entitled "Order Schedule" executed by the parties that refers to this Agreement, and that describes in greater detail Licensee's order-specific information, including, but not limited to, Licensee's billing information, lists of Products ordered, pricing, and payment and shipping information. Such Order Schedule(s) is (are) hereby incorporated into this Agreement by reference.

1.4 **"Outsourcer"** means a third party engaged by a Licensee for data processing, consulting, product customization, or internal information management at a designated Licensee or Outsourcer site.

1.5 **"Products"** means the machine-readable object code of the software programs specified in an Order Schedule and/or a Purchase Order (in conjunction with a Licensor quotation), together with any Documentation and Updates thereto.

1.6 **"Purchase Order"** means a non-cancelable, non-refundable Licensee order to obtain Products or Support Services that is signed by an authorized Licensee representative.

1.7 **"Support Services"** means Product support services described in the Description of Support Services provided at the Business Objects Licenses web site (http://www.sap.com/company/licenses), as may be updated from time to time by Licensor.

1.8 **"Updates"** means any update, release, or enhancement that may be provided under Support Services.

1.9 **"Warranty Period"** means thirty (30) days from the date of initial delivery to Licensee of the applicable Product (excluding Updates).

2. LICENSE.

2.1 **License Grant.** Subject to Licensee's compliance with this Agreement, Licensee is granted a non-exclusive and non-transferable license to use the Products identified in a Purchase Order and/or Order Schedule accepted under this Agreement for Licensee's internal business purposes in accordance with the product use rights set forth in the Description of Product Use Rights provided at the Business Objects Licenses web site (http://www.sap.com/company/licenses), as may be updated from time to time by Licensor.

2.2 **License Restrictions.** Except as expressly permitted by this Agreement, Licensee may not: (i) lease, loan, resell, sublicense, or otherwise distribute a Product; (ii) use a Product to provide or operate Application Service Provider (ASP), service bureau, marketing, training, outsourcing services, or consulting services, or any other commercial service related to the Products; (iii) use a Product to develop a product which is competitive with any of the Products; (iv) permit third-party access to, or use of, the Products, except as expressly permitted herein; (iv) distribute or publish keycode(s) to the Products; or (v) use unauthorized keycode(s). Licensee shall notify Licensor if Licensee becomes aware of any unauthorized third party access to, or use of, a Product.

2.3 **Outsourcers.** If Licensee contracts with an Outsourcer, Licensee may permit access to, and use of, the Products by the Outsourcer, provided that: (i) the Outsourcer complies with the terms of this Agreement and accesses and uses the Products solely for purposes of rendering services to Licensee; and (ii) the total number of licenses used by Licensee and Outsourcer must not exceed the number of licenses ordered. Licensee shall be responsible for Outsourcer's compliance with the terms of this Agreement. Upon completion of Licensee's services by Outsourcer, Licensee shall certify in writing that Outsourcer has un-installed and destroyed all copies of Products within thirty (30) days of such completion of services.

2.4 **Product Territory**. (i) The licenses granted hereunder are only valid in the country of Licensee's main office (the "Territory"). Licensee shall not ship, transfer, or

otherwise export the Product outside the Territory without Licensor's prior written consent and Licensee's payment of any additional fees at Licensor's then current rates. (ii) Licensee agrees to comply with the export and import control laws, regulations and requirements of the United States and other applicable jurisdictions. Business Objects assumes no responsibility or liability for Licensee's failure to obtain any necessary export approvals. Without limiting the foregoing, Licensee agrees not to export to persons subject to restrictions, destinations subject to embargo, or to prohibited proliferation-related end-users or end-uses, without obtaining any export license or other approval that may be required under United States laws, regulations and requirements. This provision shall survive the expiration or earlier termination of this Agreement.

2.5 **Duplication of Product.** Licensee may make Product copies equal to the number of licensed copies expressly authorized under this Agreement plus a reasonable number of archival copies for inactive backup purposes. All Product copyright, trademark, patent, and related proprietary notices incorporated in or fixed to the Product shall be duplicated by Licensee on all copies or extracts thereof and shall not be altered, removed, or obliterated.

2.6 **Product Ownership and Restrictions.** All intellectual property rights and title to the Product shall remain with Licensor and/or its suppliers and no interest or ownership therein is conveyed to Licensee. No right to modify (even for purposes of error correction), adapt, or translate the Product or create derivative works therefrom is granted to Licensee, except as necessary to configure the Product using the menus, options and tools provided for such purposes and contained in the Product. Licensee shall not use the Product to develop 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 or alter, disassemble, decompile, translate, adapt, or reverse-engineer the report file (.RPT) format. Nothing in this Agreement shall be construed to mean, by inference or otherwise, that Licensee has any right to obtain Product source code. Except as required to be permitted by applicable law, reverse compiling (including reverse compiling to ensure interoperability), reverse engineering and other source code derivation of the Product is prohibited. If Licensee wishes to exercise any right to reverse engineer to ensure interoperability in accordance with applicable law, Licensee shall first provide written notice to Licensor and permit Licensor, at its discretion, to make an offer to provide information and assistance reasonably required to ensure Product interoperability with other Licensee products for a fee to be mutually agreed upon (if any).

3. SUPPORT AND ADDITIONAL SERVICES.

3.1 **Support Services.** The Description of Support Services available at the Business Objects Licenses web site (http://www.sap.com/company/licenses) describes terms and conditions for Support Services. Support Services may be obtained at Licensor's then-current rates and for terms specified in an Order Schedule or Purchase Order referencing a written Licensor quotation. Licensor may suspend or terminate Support Services for all Product(s) in the event that Licensee does not pay fees for Support Services when due. If Licensee purchases Support Services for a Product, then Licensee shall purchase Support Services for all licenses of such Product in its possession. Licensor may select qualified subcontractors to perform Support Services or assign performance of Support Services to Business Objects S.A. or any of its subsidiaries or affiliates. Support Services shall only be provided on a twelve (12) month basis, and shall be automatically renewed each year unless Licensee or Licensor gives written notice thirty (30) days prior to the end of the initial service period or any extension thereof, of its intention to terminate the service. Support Services fees at the time of automatic renewals shall be invoiced to Licensee at the then-current Support Services rates, subject to any limit on increases to maintenance renewal rates as set forth in the Description of Support Services.

3.2 **Consulting Services**. If Licensee acquires product consulting or professional services, those services will be governed by this Agreement and the Additional Consulting Terms available at the Business Objects Licenses web site (http://www.sap.com/company/licenses.). Consulting Services may be obtained at Licensor's then-current rates and for terms specified in an Order Schedule, Purchase Schedule, Statement of Work or Purchase Order referencing a written Licensor quotation. Should Licensor agree to provide consulting services, the payment of the Product license and Support Services fees under this Agreement shall not be contingent under any circumstances upon the performance of any such services including installation and implementation services.

3.3 **Education Services.** If Licensee acquires education or training services, those services will be governed by the Business Objects Education Services Terms available at the Business Objects Licenses web site (http://www.sap.com/company/licenses). Education services may be obtained at Licensor's then-current rates and for terms specified in an Order Schedule, Purchase Schedule or Purchase Order referencing a written Licensor quotation.

4. FEES; TAXES; PAYMENT TERMS; PURCHASE ORDERS; SHIPPING

4.1 **Fees.** Licensor fees or other charges for any Product, Support Services, Documentation, or other service shall be as specified in an Order Schedule, Purchase Order or on a written price quotation from Licensor duly referenced in the Purchase Order. Discounts extended by Licensor under this Agreement shall not apply to fees due when Licensee orders additional Products or services, unless otherwise stated in Licensor's price quotation or Order Schedule.

4.2 **Taxes.** Licensor fees are exclusive of, and Licensee is responsible for, duties and taxes (other than Licensor taxes on income).

4.3 **Invoicing and Payment.** All payments of fees and charges under this Agreement shall be made in Euros (€) within thirty (30) days of the date of the applicable Licensor invoice. Any amount payable by Licensee to Licensor hereunder which is past due shall be subject

to a late payment charge equal to one percent (1%) per month, or the highest rate permitted by law, whichever is less**.** The receipt or request for payment of such amounts shall not prejudice Licensor's rights with respect to Licensee's failure to pay on the due date**.**

4.4 **Shipping.** Licensor, without liability to Licensee, reserves the right to refuse shipment of Product if the Purchase Orders received are incomplete, improperly completed, or contain unacceptable terms. Licensor shall fulfill Purchase Orders in accordance with the terms of this Agreement and ship Products and Documentation via electronic delivery or other available shipping method FOB origin, Licensor's manufacturing site.

5. LIMITED WARRANTIES.

5.1 Licensor warrants that, during the Warranty Period, the Products will operate substantially in conformity with the applicable Documentation.

5.2 Within the Warranty Period, if Licensee detects a defect in a Product's physical media, Licensee may return the defective media to Licensor and Licensor will replace it free of charge.

5.3 Provided that Licensor is notified in writing of a Product's nonconformance with the warranty set forth in section 5.1 within the applicable Warranty Period, Licensor shall, at its option: a) repair or replace the defective Product, or b) refund the license fees paid for the Product in exchange for a return of the defective Product. This Section 5.3 is Licensee's exclusive remedy for breach of the limited warranty in Section 5.1. The above warranties specifically exclude defects resulting from accident, abuse, misapplication or unauthorized repair, modifications, or enhancements. Licensor does not warrant that use of the Products will be uninterrupted or error free.

5.4 EXCEPT FOR EXPRESS WARRANTIES STATED IN THIS SECTION 5 AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE PRODUCTS AND SERVICES ARE PROVIDED "AS IS", AND LICENSOR AND ITS SUPPLIERS DISCLAIM ALL OTHER WARRANTIES, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY (I) OF MERCHANTABILITY, (II) OF FITNESS FOR A PARTICULAR PURPOSE, OR (III) OF NON-INFRINGEMENT OF THIRD PARTY RIGHTS.

6. LIMITATION OF LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW**,** IN NO EVENT WILL LICENSOR OR ITS SUPPLIERS BE LIABLE TO LICENSEE 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 LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR THE OBLIGATION UNDER SECTION 7 (INDEMNIFICATION), LICENSOR'S AND ITS SUPPLIERS' AGGREGATE LIABILITY TO LICENSEE FOR ACTUAL DIRECT DAMAGES FOR ANY CAUSE WHATSOEVER SHALL BE LIMITED TO THE CUMULATIVE PRODUCT LICENSE FEES PAID BY LICENSEE TO LICENSOR FOR THE PRODUCT OR THE FEES PAID BY LICENSEE TO LICENSOR FOR THE SERVICE DIRECTLY CAUSING THE DAMAGES**.** IN NO EVENT SHALL LICENSEE RAISE ANY CLAIM UNDER THIS AGREEMENT MORE THAN TWO YEARS AFTER: (i)THE DISCOVERY OF THE CIRCUMSTANCES GIVING RISE TO SUCH CLAIM; OR (ii) THE EFFECTIVE DATE OF THE TERMINATION OF THIS AGREEMENT.

7. THIRD PARTY CLAIMS.

7.1 Licensor shall: (i) defend, or at its option settle, any claim by a third party against Licensee on the basis of a Product's infringement of any United States or Canada patent, trademark, copyright or trade secret; and (ii) pay any final judgment entered against Licensee on such claim or any settlement entered into by Licensor on Licensee's behalf, ***provided that***: Licensee (i) notifies Licensor promptly of each such claim; (ii) gives Licensor sole control of the defense and/or settlement of the claim; (iii) fully cooperates with Licensor in the defense or settlement of the claim; and (iv) takes no action that may prejudice Licensor's ability to defend the claim.

7.2 If all or any part of the Product is, or in the opinion of Licensor is likely to become, the subject of a claim of infringement, Licensor may at its sole discretion: (i) procure for Licensee the right to use the Product or the affected part thereof; (ii) replace the Product or affected part with other suitable software; (iii) modify the Product or affected part to make it non-infringing; or (iv) if none of the foregoing remedies is commercially feasible as determined by Licensor in its sole discretion, Licensor shall refund, upon return of the infringing Product, a pro-rated (over a 36 month period on a straight-line basis) portion of the payments paid by Licensee to Licensor for the Product or the affected part.

7.3 Licensor shall have no indemnity or other obligations to the extent a claim is based on: (i) failure to use an update provided by Licensor, if infringement could have been avoided by use of the updated version; (ii) combination, operation, or use of Products with other products not provided by Licensor, if such infringement would have been avoided in the absence of such combination, operation, or use; (iii) Licensee's use of Product in any manner inconsistent with the applicable license terms and conditions; or (iv) modification, alteration, or enhancement to the Product not performed or expressly authorized by Licensor.

THE FOREGOING PROVISIONS OF THIS SECTION STATE THE ENTIRE LIABILITY AND OBLIGATION OF LICENSOR AND THE EXCLUSIVE REMEDY OF LICENSEE FOR CLAIMS OF INFRINGEMENT OF THIRD PARTY RIGHTS.

8. TERM AND TERMINATION. Except where the Products are licensed on a subscription basis or as otherwise specified in an Order Schedule, a Purchase Order or any written Licensor price quotation duly referenced in a Purchase Order, the Product licenses granted hereunder shall be perpetual. Any Products licensed on a subscription basis shall terminate upon the expiration of the then current term, unless the term of the subscription is renewed on or prior thereto. Notwithstanding the foregoing, Licensor may immediately terminate this Agreement and any licenses and services provided hereunder if: (i) Licensor notifies Licensee in writing of a breach and such breach is not cured within thirty (30) days; or (ii) Licensee makes an assignment for the benefit of creditors or proceedings are commenced by or for Licensee under any bankruptcy, insolvency, or debtor's relief law. Termination shall not relieve Licensee from its obligation to pay fees that remain unpaid and shall not limit either party from pursuing other available remedies. Upon termination by Licensor of this Agreement or any part thereof, Licensor shall have no obligation to refund to Licensee any fees paid by Licensee, and Licensee agrees to waive, in perpetuity and unconditionally, any and all claims for refunds. If a Product license is revoked or expired, Licensee must certify in writing to Licensor that Licensee has immediately un-installed and destroyed all copies of the Product within thirty (30) days of such revocation/expiration. The following Sections survive termination of this Agreement: **2.4(ii), 4, 5.4**, **6**, **7**, **8**, and **9**.

9. GENERAL

9.1 **Confidential Information.** Each party receiving Confidential Information ("Recipient") shall retain in confidence and require its employees, agents, and contractors to retain in confidence all Confidential Information of the other party ("Discloser"). "Confidential Information" means (i) the terms and conditions of this Agreement, (ii) all financial terms and conditions contained in Licensor's quotation; (iii) the Products as well as results of any Product benchmark or similar tests (whether performed by Licensor, Licensee, or any third party); (iv) and any information, in written or other tangible form, which has been conspicuously marked by Discloser as "confidential" or "proprietary" or if not so marked, was indicated at the time of disclosure to be confidential and is later summarized and confirmed as confidential in a writing transmitted to Recipient within ten (10) days after disclosure. Recipient shall protect Discloser's Confidential Information in the same manner Recipient protects its own Confidential Information of similar importance, but in no event with less than reasonable care. Confidential Information shall remain the sole property of the Discloser and shall not be disclosed to any third party without Discloser's express written consent (except, solely to employees, agents, advisors, attorneys, consultants, and subsidiaries, who need to know and are bound by a written agreement with Recipient to maintain the confidentiality of such Confidential Information in a manner consistent with this Agreement). Confidential Information shall not include any information that: (i) is or becomes publicly available without the Recipient's breach of any obligations owed to the Discloser; (ii) is known to the Recipient prior to the Discloser's disclosure of such information to the Recipient; (iii) becomes known to the Recipient from a source other than the Discloser without a breach of an obligation of confidentiality owed to the Discloser; or (iv) is independently developed by the Recipient. Notwithstanding the foregoing, Licensor may disclose that Licensee is a customer of Licensor. In addition, either party may disclose information in compliance with applicable law or a court order, provided the Discloser is given reasonably prompt notice thereof.

9.2 **Duration of Confidentiality Obligation**. The obligations set forth herein with respect to Confidential Information shall continue in full force and effect for a period of two (2) years after the date of disclosure of Confidential Information. Thereafter, the parties' obligations survive and continue with respect to any Confidential Information that is a trade secret under applicable law.

9.3 **Feedback.** Notwithstanding Section 9.1, Licensor shall be free to use, for its own business purposes, any ideas, suggestions, concepts, know-how or techniques contained in information received from Licensee that directly relates to Licensor's products or business. For example, Licensor (and its suppliers) shall be free to incorporate any suggested changes or modification to the Products into products licensed to other customers.

9.4 **Governing Law and Venue**. This Agreement shall be construed, and the legal relations between the parties hereto shall be determined, in accordance with the laws of the Republic of South Africa, excluding its conflicts of law principles. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. The venue for any claims arising under this Agreement shall be the courts located in South Africa, and the parties agree to submit to the exclusive personal jurisdiction of such courts.

9.5 **Integration and Amendment**. This Agreement constitutes the entire agreement between the parties and supersedes all prior or contemporaneous conditions, agreements, communications or representations, whether oral or written, relating to the subject matter hereof. A party has not relied on any statement or representation by an employee or agent of the other party in entering into this Agreement. Any additional or different terms in Licensee's documents (including any preprinted terms contained on Purchase Orders) are hereby deemed to be material alterations and notice of objection to, and rejection of, them is hereby given. Except as permitted herein, this Agreement may not be modified or any term or condition waived except in a writing signed by a duly authorized representative of each party. No waiver of any breach of any provision of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provision hereof. Headings are for convenience only and shall not affect the interpretation of any provision hereunder. Signatures sent by electronic means (facsimile or scanned and sent via email) shall be deemed original signatures.

9.6 **Assignment**. Neither this Agreement nor any right, obligation, or Product licensed hereunder may be assigned by Licensee without Licensor's prior written consent. Any purported assignment in violation of the foregoing is void. Subject to the foregoing, the provisions of this Agreement shall be binding upon and inure to the benefit of the parties, and their permitted successors and assigns.

9.7 **Severability**. If any provision of this Agreement is declared unlawful, void, or unenforceable, then that provision shall be limited to the extent enforceable, or otherwise severed, and will not affect the validity and enforceability of the remaining provisions.

9.8 **Audits**. Licensor, or Licensor's designated agent, may, upon five (5) days prior written notice to Licensee, inspect any Licensee facility where Products are used and audit records for the purpose of confirming Licensee's compliance with this Agreement. Licensor may perform only one audit per twelve (12) month period unless a previous audit reveals a discrepancy. Licensor's audit shall be performed at Licensor's sole expense; ***provided however***, that if, as a result of Licensor's audit, it is determined that Licensee owes Licensor additional fees, then Licensee shall bear the reasonable cost of Licensor's audit and pay all past-due fees in accordance with the terms of this Agreement. This section survives termination of this Agreement for two (2) years.

9.9 **Force Majeure.** Except with respect to the obligation to pay fees when due hereunder, neither party shall be deemed in default of this Agreement because of a delay or failure in performance of its obligation resulting from any cause beyond its reasonable control (a "Force Majeure"), provided it gives reasonably prompt notice of the Force Majeure condition to the other party and uses reasonable efforts to mitigate the delay or failure.

9.10 **Notices**. Any notices required or permitted to be given hereunder shall be delivered by personal delivery, express courier, or certified mail, postage prepaid, return receipt requested, to a party's address set forth in an Order Schedule or Purchase Order, or if to Licensor to: SAP Africa Region (Pty) Ltd, 1 Woodmead Drive, Woodmead, South Africa, 2148 or P.O. Box 1621, Gallo Manor, South Africa, 2052. A notice shall be deemed effective when actually delivered. Either party may change its address for purposes of this Agreement by written notice given in accordance herewith.