

Parallel Crystal Report Engine License Agreement And Limited Warranty

1. INTRODUCTION

This License Agreement and Limited Warranty (herein referred to as "Agreement") is a legal agreement between you (either an individual, or an entity) and Dynalivery Corporation (herein referred to as "Dynalivery") for the Parallel Crystal Report Engine software product, which includes computer software and associated media, printed materials, and "on-line" or electronic documentation (herein referred to as "Software Product"). Dynalivery is authorized by agreements with suppliers, including but not limited to Seagate Software, Inc., (herein referred to as "Seagate") to include, modify and resell licenses of the suppliers software bundled with or compiled into the Software Product. The terms of this License and Limited Warranty Agreement shall benefit and be enforceable by Dynalivery and its suppliers. By opening the sealed software package and/or by installing, copying or otherwise using the Software Product, you agree to be bound by the terms of this Agreement. If you do not agree to the terms of this Agreement, promptly return the Software Product and destroy all copies in your possession.

2. LIMITED LICENSE

- 2.1 You are purchasing only a non-exclusive right to use a single copy of the Software Product, and are acquiring no rights to the software itself, or the enclosed copy, except the Limited License granted herein.
- 2.2 Dynalivery grants you a Limited License to use one copy of the Software Product on a single server computer. You may access the Software Product from a hard disk, over a network or by any other method, strictly in accordance to the terms hereof.
- 2.3 Dynalivery grants you the right to reproduce and distribute the client libraries of the Software Product subject to the following:
 - 2.31 Such distribution shall be in conjunction with and as a component of an application you developed using the Software Product;
 - 2.32 You remain solely responsible for support, service, upgrades, and technical or other assistance, required or requested by anyone receiving such copies;
 - 2.33 You shall affix a valid copyright notice on such application;
 - 2.34 Unless otherwise agreed to in writing by Dynalivery, you shall not use the Dynalivery name, logo or trademark in marketing your application;
 - 2.35 You shall indemnify, defend and agree to hold Dynalivery harmless from and against any claims or lawsuits, including reasonable attorney's fees that arise from the use or distribution of such application.

Parallel Crystal Report Engine License Agreement And Limited Warranty

- 2.4 You may not include the Software Product in any general-purpose report writing and/or database querying product, or any other product that is generally competitive with Dynalivery product offerings.
- 2.5 You may use the subsidiary dynamic link libraries (DLL's) and other components contained in the Software Product only with the Software Product or applications you develop in accordance with this Agreement.
- 2.6 The limited use Open Database Connectivity (“ODBC”) drivers licensed to Seagate by Merant and packaged with Seagate Crystal Reports shall not be used with the Software Product. To the extent that you wish to use Merant ODBC drivers, you must separately license full-use ODBC drivers directly from Merant.
- 2.7 Independent Contractor User. The term “Independent Contractor User” shall mean an employee of an independent contractor of you who is under contract with you to perform services for you. You shall take appropriate action by instruction, non-disclosure agreement or otherwise to ensure that each Independent Contractor User who has access to the Software Product protects and limits its use to the same extent that Licensee is obligated to do so under this Agreement.

3. COPYRIGHT

All title and copyrights in and to the Software Product (including but not limited to, any images, photographs, animation, video, audio, music, and text incorporated into the Software Product), the accompanying printed materials, and any copies of the Software Product are owned by Dynalivery or its suppliers. The Software Product is protected by copyright laws and international treaty provisions. Therefore, you may not copy the Software Product except that you may either make one copy of the Software Product solely for backup or archival purposes, or install the Software Product on a single computer provided you keep the original solely for backup or archival purposes. You may not copy the printed materials accompanying the Software Product. You will not remove, alter or destroy any form of copyright notice, proprietary markings or confidential legends placed upon or contained within the Software Product.

4. OTHER RESTRICTIONS

- 4.1 Rental. You may not rent or lease the Software Product.
- 4.2 Software Transfer. Upon written approval of Dynalivery, you may transfer the Software Product provided the recipient agrees to the terms of this Agreement.
- 4.3 Export. Any export of the Software Product or its technical data from the United States may be restricted by U.S. export control laws, and accordingly you must comply with such laws before engaging in any such export.

Parallel Crystal Report Engine License Agreement And Limited Warranty

- 4.4 Limitations on Modifications or Reverse Engineering. You may not alter, disassemble, decompile, or reverse-engineer the Software Product.
- 4.5 No Separation of Components. The Software Product is licensed as a single product, and neither the software programs comprising the Software Product or any update or upgrade may be separated for use by more than one server computer at a time.
- 4.6 Termination. Without prejudice to any other rights, Dynalivery may terminate this Agreement if you fail to comply with the terms and conditions of this Agreement. In such event, you must destroy all copies of the Software Product.

5. LIMITED WARRANTY

- 5.1 Dynalivery warrants the physical disk(s) and physical documentation to be free of defects in materials and workmanship for a period of 90 days from the purchase date. If Dynalivery receives notification within this warranty period of any such defects and such notification is determined to be correct, Dynalivery will replace the disk(s) or documentation.
- 5.2 Dynalivery's entire liability for any breach of the warranty in Section 5.1 is limited to replacement of defective disk(s) or documentation, and does not include or extend to claims for any other damages.
- 5.3 Except as specifically set forth in the agreement, Dynalivery and its suppliers specifically disclaim all other conditions and warranties, express, implied, statutory or otherwise, including but not limited to, any implied condition or warranty of merchantability or fitness for a particular purpose.

6. LIMITATION OF LIABILITY

IN NO EVENT SHALL DYNALIVERY AND ITS SUPPLIERS BE LIABLE FOR, LOSS OF PROFITS, DATA OR USE OF THE SOFTWARE PRODUCT, OR SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED, AND ON ANY THEORY OF LIABILITY, EVEN IF DYNALIVERY HAS BEEN SPECIFICALLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL DYNALIVERY'S LIABILITY FOR ANY DAMAGES TO YOU OR ANY OTHER PERSON EVER EXCEED THE LOWER OF THE SUGGESTED LIST PRICE OR THE ACTUAL PURCHASE PRICE PAID FOR THE SOFTWARE PRODUCT, REGARDLESS OF THE FORM OF THE CLAIM. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. ALL THIRD PARTY SUPPLIERS TO DYNALIVERY OF ANY PORTION OF THE SOFTWARE PRODUCT MAKE NO WARRANTY AND SHALL HAVE NO LIABILITY TO YOU.

7. HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE CONTROLS

Parallel Crystal Report Engine License Agreement And Limited Warranty

The Software Product is not designed or licensed for use in hazardous environments requiring fail-safe controls, including without limitation operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, and life support or weapons systems. Dynalivery specifically disclaims any express or implied warranty of fitness for such purposes.

8. UNITED STATES GOVERNMENT RESTRICTED RIGHTS

The Software Product and accompanying documentation are deemed to be “commercial computer software” and “commercial computer software documentation,” respectively, pursuant to DFAR Section 227.7202 and FAR Section 12.212, as applicable. Any use modification, reproduction release, performance, display or disclosure of the software and accompanying documentation by the U.S. Government shall be governed solely by the terms of this Agreement and shall be prohibited except to the extent expressly permitted by the terms of this Agreement.

9. DATE COMPATIBILITY

Dynalivery represents that any portion of the Software Product which Dynalivery created, and Dynalivery represents that to the best of its knowledge all third party software supplied as part of the Software Product, will correctly employ century specific date logic, alone and in combination with other hardware and software with which the Software Product is intended to be compatible, to provide fault-free performance in the processing of dates and date-related data, including in calculation, comparison and sequencing processes. Such fault-free performance shall include the manipulation, of data with dates prior to, through, and subsequent to January 1, 2000. The Software Product delivered hereunder shall successfully transition into the Year 2000 with the correct date system date, without human intervention, shall perform leap year calculations correctly and shall provide correct results when moving forward and backward in time from January 1, 2000. Dynalivery shall either correct or replace any Software Product which does not correctly perform date logic or refund to you all fees paid under this Agreement. Notwithstanding the foregoing, Dynalivery shall have no obligation to indemnify you against any loss, cost, damage or expenses which arise out of a defect in any other software product in use, not acquired from Dynalivery, which causes Dynalivery' Software Product not to correctly perform date logic when used in combination with such other software product. As part of its obligations or subsequent paid maintenance service, Dynalivery shall use reasonable efforts to work with you to identify the source of any defect or error in the operation of Dynalivery' Software Product, of which you notify Dynalivery, at no additional fee.

10. GOVERNING LAW

This Agreement is governed by the laws of the State of Missouri, United States of

Parallel Crystal Report Engine License Agreement And Limited Warranty

America; each party irrevocably attorns to the exclusive jurisdiction of the courts of the State of Missouri.

11. MISCELLANEOUS

This document constitutes the entire agreement of the parties regarding the subject matter herein. All rights not expressly granted to you are retained by Dynalivery.

12. AMENDMENTS

No change, modification or alteration of this Agreement shall be effective unless in writing and signed by both parties.

13. WAIVER

No waiver of any provision of this Agreement or of the rights and obligations of the parties shall be effective unless in writing and signed by the party waiving compliance. Any such waiver shall be effective only in the specific instances and for the specific purpose stated in such writing.

14. SEVERABILITY

If any term, clause or provision of this Agreement shall be deemed invalid or unenforceable for any reason, the remainder of this Agreement shall remain valid and enforceable in accordance with its terms.