

BaBar Collaborator Terms and Conditions
For Use of Objectivity Software

It is understood that Objectivity has granted to the University a right and license to use and distribute within the BarBar project, a domestic and international high energy physics experiment, the Software described in the appropriate purchase order to which this agreement is attached.

The undersigned collaborator agrees not to engage in, cause or permit the reverse engineering, disassembly, decompilation, or any similar manipulation of the Software, make available the software to any person or entity outside the collaboration, or copy the documentation”.

Infringement

Notwithstanding any other provision of the agreement, Licensor agrees to defend, or settle at its option without cost to the Collaborator or Government, any action at law or equity against the Collaborator or the Government, and to indemnify the Collaborator and the Government against any loss or costs related thereto, arising from a claim that the Program, in its unaltered state, as delivered to the University infringes on any patent or property right of any third party, provided that the University notifies Objectivity promptly in writing of the claim.

ACKNOWLEDGEMENT

This is to acknowledge that I have read this agreement and understand that I am liable to Objectivity for the requirements of the foregoing terms and conditions contained herein as a condition for receiving the Objectivity software, manuals, documentation for use on the BaBar project.

Print Name

Signature

Date

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OBJECTIVITY, INC.
MAINTENANCE AND SUPPORT SERVICES

1. *Maintenance and Support.* Objectivity shall provide the Maintenance and Support Services described below, including technical assistance, Updates, Releases, and Versions. Customer shall comply with the obligations set forth for all periods during which Customer receives Maintenance and Support Services.
2. *Definitions.* The following are defined terms:
 - a. "Maintenance and Support Services" for the Products shall mean those services related to consulting, installation and support to be provided by Objectivity to Customer (but not to any Distributor, End User, or other third party).
 - b. "Objectivity-Supported Configurations" shall mean hardware platform types, operating system types and their releases, network types and their releases, compilers, tools and their respective releases then supported by Objectivity.
 - c. "Product or Products" shall mean (i) the Objectivity computer software program or programs in Object Code only, (ii) Updates, Releases, and Versions as may be made available from time to time by Objectivity, and (iii) the User Documentation, whether in printed or machine readable form.
 - d. "Release" shall mean any modification of a Product for which Objectivity, in its sole discretion, adds minor new functionality to the Product and is indicated by a change in the number to the right of the first decimal point in the Product release number, e.g., a change from release 4.4 to 4.5.
 - e. "Software Problem" shall mean an error condition that is repeatable and reproducible and that causes a Product to not function according to the specifications in the User Documentation (including the specifications in the User Documentation for all Updates, Releases, or Versions), when properly installed and operated on Objectivity-Supported Configurations.
 - f. "Update" shall mean any modification of a Product for which Objectivity, in its sole discretion, provides maintenance to the Product and is indicated by a change in a number to the right of the second decimal point in the Product release number, e.g., a change from release 4.1.1 to 4.1.2.
 - g. "User Documentation" shall mean the Objectivity User Manual(s) and other related written materials regarding the proper installation and use of the Products and provided for use in connection with the Products.
 - h. "Versions" shall mean any modification of a Product for which Objectivity adds major new functions or extensively modifies existing functions of a Product and is designated by the number to the left of the first decimal point in the Product version number, e.g., a change from version 3.8 to 4.0.
3. *Technical Assistance.* Technical assistance shall be performed primarily by telephone and electronic mail from Objectivity's offices in Mountain View, California or, if elected by Objectivity in its sole discretion, at Customer's site. Objectivity shall provide technical assistance to the Customer Support Contacts for error correction and to advise Customer on the installation, operation, and maintenance of the Products. Objectivity's obligations will be carried out only during Objectivity's normal business hours which are between 6:00 a.m. and 6:00 p.m., Pacific Time, weekdays except normal business holidays observed by Objectivity. If elected by Customer, Objectivity shall provide support services, at additional fee, 24 hours per day, 7 days per week. If Customer is located outside the United States, the services shall be provided by Objectivity, an Objectivity distributor, or other entity designated by Objectivity.
4. *Customer Support Contacts.* Customer Support Contact means a maximum of two (2) individuals specified by Customer in writing to be support contacts. Customer may change the names on this list at any time, by written notice to Objectivity. All Maintenance and Support Services will be provided only through the Customer Support Contacts.
5. *Updates, Releases, and Versions.* In the event Objectivity, in its sole discretion, makes generally commercially available an Update, Release, or Version for one or more of the Products, then on Customer's request if Customer is then receiving Maintenance and Support Services, Customer shall receive one (1) free copy of the Update, Release or Version of the Products for each copy of the Products covered by maintenance with Objectivity.
6. *Media.* Delivery of Updates, Releases and Versions shall be provided in machine readable form on either magnetic tape or compact disk.
7. *Customer's Obligations.* Customer shall provide written notice to Objectivity of any Software Problem, including, but not limited to, descriptions or examples of a Software Problem in the form requested by Objectivity. Customer shall provide all reasonable assistance to Objectivity, including any supporting materials requested by Objectivity, in duplicating and/or correcting the Software Problem.

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8. *Objectivity's Obligations.*
- a. *General.* Objectivity will use its reasonable best efforts, according to the response objectives set forth herein, to provide a resolution to Software Problems brought to its attention by written notice by Customer that can be duplicated by Objectivity. Such Software Problem resolutions will consist of either (i) a direct solution to the Software Problem, including appropriate release notes or changes to the documentation, or (ii) a procedural workaround that provides a satisfactory solution to the Software Problem. Following duplication of any Software Problem, Objectivity will provide Customer with an estimate of how long it will take to resolve the Software Problem and will keep Customer informed of the progress of the resolution of the Software Problem.
 - b. *Definitions.* The response time objectives are based upon Objectivity's standard Software Performance Report ("SPR") definitions as follows: (1) "Critical". The Product is not usable. Data corruption or system crashes are certain. No procedural workaround exists. Work on this level Software Problem pre-empts all other lower priority problems. (2) "Serious". The Product is only usable with severe limitation. Data corruption or system crashes are possible. No effective procedural workaround exist. (3) "Moderate". The Product is usable with moderate limitation because minor features are affected. There is no data corruption, system crashes or loss of production. A procedural workaround exists. (4) "Low". The Product is usable, but has some usability (cosmetic) problems. There is no data corruption, system crashes or loss of production. Cosmetic errors exist in the User Documentation. (5) "Enhancement". No Software Problem exists. The Product is usable, functions as documented, but could benefit from modification.
 - c. *Response Objectives.* Objectivity will use reasonable best efforts to provide a resolution to Software Problems, as provided in Section 8(a) above, within the elapsed time objectives described below: (1) Critical Software Problems. Two (2) business days from Objectivity's duplication of the Software Problem; (2) Serious Software Problems. Five (5) business days from Objectivity's duplication of the Software Problem; (3) Moderate Software Problems. Six (6) calendar months from Objectivity's duplication of the Software Problem; (4) Low Software Problems. Provided solely at Objectivity's discretion; and (5) Enhancement. Provided solely at Objectivity's discretion.
9. *Limitations on Maintenance Coverage.*
- a. *General.* Objectivity has no obligation to provide Maintenance and Support Services for:
 - (1) Products which have been altered or modified by anyone other than Objectivity;
 - (2) Software Problems which arise as a result of Customer's negligence or fault, or from malfunctions of Objectivity-Supported Configurations;
 - (3) Products used on configurations other than Objectivity-Supported Configurations; and
 - (4) Products for which Customer has terminated Maintenance and Support Services pursuant to Section 9(c) herein.
 - b. *Support Limitation.* Objectivity's Maintenance and Support Services obligations are limited to the current Release and the prior Release of the Products.
 - c. *Termination.* (1) Customer may cancel Maintenance and Support Services at any time upon ninety (90) days prior written notice to Objectivity and Objectivity shall be entitled to receive and shall not be required to refund any fees or other amounts received by Objectivity for any term during which Customer elects cancellation. Termination shall be effective at the end of the then-current annual maintenance period. Customer shall pay any accrued charges incurred prior to the effective date of termination. (2) Objectivity shall have the right to cancel Maintenance and Support Services upon thirty (30) days prior written notice to Customer in the event that Customer fails to pay annual support fees as due. (3) Termination of Maintenance and Support Services for less than all of the Products shall have no effect on Maintenance and Support Services for the remainder of the Products.
 - d. *Miscellaneous.* Objectivity will provide Maintenance and Support Services for the Products, and will assist Customer in debugging applications which use the Products if the problems faced by Customer are caused by an Update, Release or a Version.
10. *Fees.* The fees for Maintenance and Support Services shall be as set forth on the Product Order Form. Such fees are subject to change by Objectivity after the first anniversary of the Effective Date, upon at least thirty (30) days written notice.
11. *Reinstatement.* Reinstatement of lapsed Maintenance and Support Services shall be permitted. If reinstatement of lapsed Maintenance and Support Services occurs within two years of the cancellation of services, a reinstatement fee of 1.5 times the current maintenance fee will be charged for the lapsed period. After two years of lapsed maintenance, Customer must repurchase licenses at the current list price.