

# ObjectRiver Software Products Licensing

This agreement covers the products and services you license (or purchase) from ObjectRiver, unless and until we enter into a new agreement that expressly replaces this community edition one. If you use the ObjectRiver products and services as an employee of or for the benefit of your company, you represent that you have the power and authority to accept this agreement on behalf of your company. Your company will be the licensee under this agreement. By downloading, installing or using the ObjectRiver products or services, you consent to the terms and conditions of this agreement on behalf of yourself and the company on whose behalf you will use the ObjectRiver products and services provided under this agreement. The effective date of this agreement is the date that you first download, install or use the ObjectRiver products or services. If you do not agree to the terms and conditions of this agreement or if you do not have the power and authority to accept the terms and conditions of this agreement on behalf of your company, you may not use the ObjectRiver products and services and ObjectRiver is unwilling to provide you with them.

## 1. Products and Services

1.1. The ObjectRiver products and services that you may license or purchase under this agreement are identified in the Purchasing Agreements that you and ObjectRiver enter into from time to time under this agreement. These products and services may include (but are not limited to):

- a. **CloudCompiler**, which means any software products marketed by ObjectRiver under the brand name "CloudCompiler".

1.2. The term "Licensed Products" means Licensed Software.

1.3. Additional terms and conditions (beyond those stated here and in any attached supplements) may apply to certain Licensed Products. When ordering these Licensed Products, you will be given an opportunity to review the additional terms and conditions that must be accepted for you to receive the Licensed Products. If the additional terms and conditions conflict in any way with the terms and conditions stated here, the additional terms and conditions will prevail.

## 2. Licenses

2.1. Your License Rights: When you download the Community Edition license or choose to license a subscription to the product, upon its delivery you will have a nonexclusive right to:

- a. install the Licensed Product on one or more computers;
- b. install the username and password for the Licensed Product on the computer;
- c. allow your End Users to use the Licensed Product, during the License Term, solely for the purpose of creating, modifying, and developing in conjunction with entities generated from the CloudCompiler.
- d. Use the Documentation solely to support your use of the Licensed Product.

2.4. Community Edition Licenses: If you obtain a community edition license for the CloudCompiler, you will have the same license rights as described above except that you may use the CloudCompiler only up to a limited number of generated entities for that type of metadata.

The community edition is meant for internal use. I.e. List not limited to End Corporate Users, Academic Institutions, Non-Profits, and Government. You may not distribute the derivation work created with generated entities to others outside your organization to use the Software, distribution and/or use of the Software as either a bundled add-on to, or embedded component of, another application, with such application being made available to its users as, but not limited to, an on-premises application, a hosted application, a Software-as-a-Service offering or a subscription service for which the distributor of the application receives a license fee or any form of direct or indirect compensation. Except as expressly provided herein, you may not:

If you breach the forgoing restrictions, then you shall be required to license a subscription to the ObjectRiver Licensed Product. Also, community edition copies of Licensed Products are provided "AS IS". Therefore the warranty and indemnification provisions in this agreement do not apply to the community edition licenses.

2.8. Conditions: Your right to use the Licensed Product is conditioned upon your timely payment of the full amount of Fees due for the Licensed Product and your compliance with the terms of this agreement, including the following restrictions. When the License Term expires, your license rights also expire and you may no longer use the Licensed Product, or execute derivative work that was built using the Licensed Product generated entities.

2.9. Restrictions: You may not (and may not allow anyone else to):

- a. copy or use any Licensed Product (or Documentation) in any manner that is not expressly allowed by the license rights stated above;
- b. decompile, reverse engineer, or otherwise attempt to derive the source code for any Licensed Product or any underlying algorithms, user interface techniques, or other ideas embodied in a Licensed Product;
- c. tamper with, or attempt to circumvent or disable, any License Key the license key or circumvent the allowed number of generated entities of the community edition.
- d. distribute any copy of a Licensed Product (or Documentation) except as expressly allowed by the license rights stated above, or allow anyone other than your End Users to have access to or use any Licensed Product;
- e. use a Licensed Product or its output to develop or enhance any product that competes with a ObjectRiver product;
- f. modify or create a derivative work of any part of a Licensed Product or Documentation;
- g. use a Licensed Product in the development of any product if the failure or malfunction of that product could reasonably be expected to result in personal injury, death, or catastrophic loss.

If the License Key limits the number of End Users who may use a Licensed Product simultaneously or the number of simultaneous Clients, you must ensure that this limit is not exceeded.

2.10. Copies: If you make backup or archival copies of a Licensed Product or Documentation, you must reproduce all copyright, trademark, and other notices that appear on the original copy.

2.11. Transfers and Assignments: You may not transfer or assign your license rights to any other person in any manner (by assignment, operation of law or otherwise) unless you have obtained written consent from ObjectRiver. If you attempt to transfer or assign any of your license rights without ObjectRiver's consent, the transfer or assignment will be ineffective, null, and void (and you will be in material breach of this

agreement). For purposes of this section 2.11, a transfer or assignment of your license rights will be deemed to have occurred (a) if a third party (or group of third parties acting in concert) acquires beneficial ownership of fifty percent (50%) or more of either (i) your or a Parent Entity's assets or (ii) the stock or other equity interests entitled to vote for your or a Parent Entity's directors or equivalent managing authority, or (b) in the event of a merger, consolidation or other business combination between you or a Parent Entity and one or more third parties where your or a Parent Entity's stockholders immediately before that transaction own (directly or indirectly), after that transaction, less than fifty percent (50%) of the stock or other equity interests entitled to vote for the directors or equivalent managing authority of the surviving entity.

2.12. Open Source Software: The Licensed Product may be delivered with software that is subject to open source licensing terms ("Open Source Software") which are available at <http://www.objectriver.net/>. If the Open Source Software license also requires source code to be made available, Licensee may reference <http://www.objectriver.net/> for information on how to obtain such source code. Licensee agrees that all Open Source Software shall be and shall remain subject to the terms and conditions under which it is provided. The Open Source Software is provided "AS IS," WITHOUT ANY WARRANTY OF ANY KIND, AND OBJECTRIVER FURTHER DISCLAIMS ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO OPEN SOURCE SOFTWARE, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF NONINFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. NEITHER OBJECTRIVER NOR THE LICENSORS OF OPEN SOURCE SOFTWARE SHALL HAVE ANY LIABILITY FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION LOST PROFITS), HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, STRICT LIABILITY, OR TORT (INCLUDING NEGLIGENCE OR OTHERWISE) ARISING IN ANY WAY OUT OF THE USE OR DISTRIBUTION OF THE OPEN SOURCE SOFTWARE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. Copyrights to the Open Source Software are held by the copyright holders indicated in the copyright notices in the corresponding source files.

### **3. Order and Delivery**

3.1. Ordering ObjectRiver Products: You may order the products and services identified in the Purchasing Agreements at any time by calling ObjectRiver to purchase a software subscription. You shall be responsible for ensuring that all information you provide is accurate and complete and that any person placing an order on your behalf has your authority to do so. Your order must indicate which products and services you want to purchase (including, in the case of Licensed Products, the type of license, the quantity, the License Term and any other information ObjectRiver would need to fulfill your order (including any information needed to generate a License Key). ObjectRiver may, in its reasonable discretion, accept or reject your order. ObjectRiver may accept your order by sending you written or electronic notice of acceptance or simply by fulfilling your order.

3.2. Delivery: If ObjectRiver accepts your order for one or more Licensed Products, ObjectRiver will then deliver to you the Licensed Products along with the corresponding Documentation and License Keys. ObjectRiver will deliver these materials to you electronically except where prohibited by law.

### **4. Fees and Payment**

4.1. Fees: The Fees for the products and services you may purchase under this agreement will be identified in the Purchasing Agreements. You agree to pay the Fees according to the payment terms in the applicable Purchasing Agreement.

4.2. Payments: If the applicable Purchasing Agreement does not contain specific payment terms for the Fees in question, payment of those Fees will be due within 30 days after the date of ObjectRiver's invoice. If you do not pay an amount by the scheduled due date, ObjectRiver will have the right to withhold the delivery of License Keys and/or terminate this agreement or a Purchasing Agreement and accelerate the due date of all remaining payments. In this event, you will owe the entire outstanding balance as soon as you receive written notice from ObjectRiver that your payment is due. All payments you make to ObjectRiver are non-refundable. You may not offset any amounts you believe ObjectRiver owes you against any payments you make to ObjectRiver under this agreement. You must make payments in U.S. dollars. If you do not pay an amount by the due date, you must also pay a late payment charge of 1.5% per month or the highest rate permitted by law, whichever is less.

4.3. Taxes: You will be solely responsible for paying all taxes (including sales, use, consumption, withholding, and value-added taxes and similar taxes), other than ObjectRiver's income taxes, that are imposed on or result from your purchase, license, or use of ObjectRiver products and services. If ObjectRiver is required by law to collect and remit any such taxes, ObjectRiver may invoice you for such taxes and you agree to pay the invoiced amount to ObjectRiver. If you are required by the respective jurisdiction where the Licensed Products are used, or where services are provided, to withhold taxes from payments to ObjectRiver, you may withhold from the total amount due to the respective ObjectRiver distributing entity the minimum amount required (but no more). You may only withhold taxes related to a payment at the time of such payment. You must then promptly pay that amount to the appropriate tax authority and provide ObjectRiver with an official receipt for the payment within 60 days of your payment.

4.4. Bankruptcy: If you become the subject of any bankruptcy, dissolution, liquidation, or similar proceedings or make a general assignment for the benefit of your creditors, ObjectRiver may apply any payments you have previously made to ObjectRiver for products or services not yet delivered by ObjectRiver against any amounts you owe ObjectRiver at that time for products or services that have been delivered by ObjectRiver (under this agreement or otherwise).

## **5. Services**

5.1. Maintenance Services: Maintenance Services consist of the following:

- a. Support: ObjectRiver will provide you with access to our forum and online Documentation, and will use commercially reasonable efforts to make available the ObjectRiver Support Center on Monday through Friday, during ObjectRiver's normal business hours, excluding ObjectRiver's scheduled holidays. A valid corporate email address is required to access our forum and online Documentation.
- b. Software Updates: ObjectRiver will use commercially reasonable efforts to provide error corrections to the Licensed Products, as well as minor improvements to the Licensed Products, as such corrections and improvements become generally available. Any other upgrades or enhancements to the Licensed Products are not made available by ObjectRiver as part of Maintenance Services and may be subject to additional charges.

5.2. Updates to Terms: ObjectRiver may update its Maintenance Services terms on 60 days prior written notice, provided that these updates are applied generally to its Maintenance Service customers.

5.3. Conditions: In order to receive Maintenance Services for a Licensed Product, all of the following conditions must be met:

- a. you must have purchased a subscription for such Licensed Product .
- b. you must appoint a qualified contact person to interface with ObjectRiver regarding Maintenance Services, and identify such person to ObjectRiver in advance;
- c. such qualified contact person must be trained in the use of such Licensed Product;
- d. you must follow the directions provided by the ObjectRiver Support Center to resolve technical problems;
- e. you must follow the operating instructions and procedures for the Licensed Product as specified in the Documentation or provided by ObjectRiver; and
- f. you must notify ObjectRiver of any error or other problem in the Licensed Product using ObjectRiver's current problem reporting procedure.

5.5. Reinstatement of Maintenance Services: If Maintenance Services are terminated for any reason, or if you wish to renew Maintenance Services more than thirty (30) days after Maintenance Services have been terminated, you may be permitted to reinstate or renew Maintenance Services, at ObjectRiver's sole option, provided that (a) ObjectRiver offers Maintenance Services to its customers generally for the Licensed Product in question, and (b) you pay ObjectRiver the following: all applicable Maintenance Services fees for the period during which you were off Maintenance Services, and ObjectRiver's then-current reinstatement fee plus payment for the new Maintenance Services term.

5.6. GoToMeeting: If you wish to permit ObjectRiver to deliver Maintenance Services through the use of a shared customer desktop, you must download and install the GoToMeeting.

## **6. Confidentiality**

6.1. Confidentiality Obligations: Each party (you and ObjectRiver) agrees to abide by the following confidentiality obligations with respect to the other party's Confidential Information:

- a. do not disclose it to any third party unless (i) the other party has given its specific and express prior written approval, (ii) the disclosure is expressly allowed under this agreement, or (iii) the disclosure is necessary to comply with a valid court order or subpoena;
- b. do not use it for any reason other than to exercise its rights and perform its obligation under this agreement; and
- c. protect it from unauthorized dissemination in the same manner as that party protects its own Confidential Information, and in any event with reasonable precautions (which include limiting access to employees and contractors on a "need-to-know" basis).

6.2. Mandatory Disclosures: If you believe you must disclose ObjectRiver's Confidential Information in order to comply with a valid court order or subpoena, you must promptly notify ObjectRiver and cooperate with ObjectRiver if ObjectRiver chooses to contest the disclosure requirement, seek confidential treatment of the information to be disclosed, or to limit the nature or scope of the information to be disclosed. ObjectRiver will do the same if it believes it must disclose your Confidential Information in these circumstances.

6.3. Additional Obligations: In addition to your general obligations of confidentiality regarding the Licensed Products and Documentation, you must take the following steps to help prevent any unauthorized access to or use of the same:

- a. you must ensure that each End User who is your independent contractor (not your employee) has access to and uses the Licensed Products and Documentation only while working on your project.
- b. you must monitor each End User's use of the Licensed Products to ensure that the End User abides by the terms of this agreement.

## **7. Term and Termination**

7.1. Term of Agreement: The term of this agreement will begin on the effective date that you first use the products or services and will end when the last Purchasing Agreement expires, unless this agreement is terminated sooner by either party.

7.2. Term of Purchasing Agreement: Each Purchasing Agreement will have its own term, as indicated on that Purchasing Agreement.

7.3. Rights to Terminate: Each party has the right to terminate this agreement, by giving written notice of termination to the other party, if (a) the other party breaches this agreement and (b) either the breach cannot be cured or, if the breach can be cured, it is not cured by the breaching party within 15 days after receiving written notice of the breach from the non-breaching party. A substantial deviation of a Licensed Product from the specifications in the corresponding Documentation will not be considered a breach of this agreement that allows you to terminate the agreement, but it could give rise to a warranty claim under section 8.

7.4. Consequences of Termination: If and when either you or ObjectRiver terminates this agreement, all Purchasing Agreements in effect at that time will also terminate. When this agreement, a Purchasing Agreement or an individual license to a Licensed Product expires or is terminated:

- a. you must (i) immediately cease all use of the Licensed Products, Documentation, and derivative work that was developed using the Licensed Product generated entities. (ii) promptly return to ObjectRiver or destroy all copies of the Licensed Products and Documentation in your possession or control, and (iii) certify in writing to ObjectRiver that you have complied with clauses (i) and (ii);
- b. you will remain obligated to pay any amounts you owe to ObjectRiver at that time; and
- c. the provisions of sections 4, 6, 7.4, 8.4 and 10, and the warranty disclaimers in section 8, will remain in effect.

## **8. Limited Warranty**

8.1. Warranty: For a period of 90 days from when ObjectRiver delivers a Licensed Product to you (the "warranty period"), ObjectRiver warrants that the Licensed Product will have no Errors when used on the correct platform and according to the instructions in the corresponding Documentation. This warranty will be void if you, or anyone else other than ObjectRiver, modifies or attempts to modify the Licensed Product.

8.2. Warranty Claims: To claim a breach of this warranty, you must, during the warranty period, notify ObjectRiver in writing of the Error or Errors that you have encountered and provide ObjectRiver with all the

information you have, in written or electronic form, about those Errors, so that ObjectRiver can attempt to reproduce, diagnose, and correct the Errors.

8.3. **Exclusive Remedy:** Your exclusive remedy for any breach of this warranty is that ObjectRiver will use commercially reasonable efforts to (at ObjectRiver's option) correct the Errors you have reported or provide a replacement product that does not contain these Errors, or if ObjectRiver is unable to provide a correction or a replacement or determines that it will not be feasible to do so, ObjectRiver will refund the Fees you paid for that Licensed Product.

8.4. **Disclaimer:** This is the only warranty ObjectRiver provides for the Licensed Products. Except for this warranty, all Licensed Products, Documentation are provided "AS IS". ObjectRiver disclaims all other warranties (express, implied, or statutory), including any warranties of merchantability, fitness for a particular purpose, title, or non-infringement and any warranties arising from a course of dealing or usage of trade.

## 9. Infringement Claims

9.1. **Indemnity:** ObjectRiver will, at its own expense, be entitled to defend (or at its sole option, settle) any claim asserted against you by a third party that any Licensed Product you obtained from ObjectRiver under this agreement directly infringes any U.S. patent, copyright, trademark, or trade secret. ObjectRiver will indemnify you for any damages you suffer and costs you reasonably incur that are directly attributable to any such claim and that are assessed against you in a final, non-appealable judgment or agreed upon by ObjectRiver in a settlement.

9.2. **Conditions:** ObjectRiver's obligations to defend and indemnify you with respect to a particular claim are subject to the following conditions:

- a. you must promptly give ObjectRiver written notice of the claim;
- b. you must identify the specific Licensed Product(s) at issue in the claim and indicate how the Licensed Product(s) is(are) utilized by you or your products;
- c. you must give ObjectRiver sole control and authority over the defense and settlement of the claim; and
- d. you must provide ObjectRiver with all information you have regarding the claim and cooperate with ObjectRiver when ObjectRiver defends or attempts to settle the claim.

9.3. **Pro-Active Steps:** If any Licensed Product is, or ObjectRiver believes is likely to become, the subject of a claim for which ObjectRiver would be obligated to defend and indemnify you, then ObjectRiver may, at its option, do any of the following:

- a. obtain for you (at no cost to you) the right for you to continue using the Licensed Product as permitted by this agreement;
- b. replace or modify the Licensed Product to avoid the infringement problem, as long as there is no material loss of functionality; or
- c. if ObjectRiver reasonably concludes that it will not be feasible to do either of the above, terminate your license for the Licensed Product and give you a prorated refund (based on how much of the License Term has elapsed) of the Fees you paid for that license.

9.4. Exclusions: ObjectRiver will have no obligation to defend or indemnify you (notwithstanding the first paragraph of this section) with respect to any claim that is based on or attributable to any of the following:

- a. any modification made to the Licensed Product by anyone other than ObjectRiver;
- b. the combination or use of the Licensed Product with other products, processes, or materials not supplied by ObjectRiver or specified in the Documentation as being necessary to use the Licensed Product;
- c. your continued engagement in infringing activities after you were notified of the infringement or after ObjectRiver informed you of a modification or workaround that would have avoided the infringement; and
- d. your use of the Licensed Product in a manner not permitted by this agreement.

9.5. Burden of Proof: You will have the burden of showing that indemnification is required pursuant to this section 9 and that the exclusions in section 9.4 are not applicable.

9.6. No Other Obligations: Except as expressly stated in this section 9, ObjectRiver has no obligation or liability to you for any actual or alleged infringement related to the Licensed Products, Documentation, or Design Techniques.

## **10. Other Terms**

10.1. Ownership of IP Rights: ObjectRiver and its licensors own all Intellectual Property Rights in the Licensed Products, and Documentation. Your only rights in the Licensed Products, and Documentation are the rights expressly granted in this agreement; all other rights are reserved by ObjectRiver. ObjectRiver's licensors are third-party beneficiaries of, and thus may enforce against you, the license restrictions and confidentiality obligations in this agreement with respect to their products intellectual property and proprietary information. You will own all Intellectual Property Rights in the Designs you create using the Licensed Products, and Documentation, subject to ObjectRiver's (and its licensors') ownership of the Intellectual Property Rights in the Licensed Products, and Documentation. ObjectRiver may freely use and disseminate any Feedback you provide. You agree not to claim that ObjectRiver owes you any compensation for its use or dissemination of such Feedback.

10.2. Audit and Compliance: ObjectRiver may audit (using its own employees and those of an independent auditing firm that is subject to appropriate confidentiality obligations) your use of the Licensed Products and Documentation to verify your compliance with this agreement. You agree to give ObjectRiver (or the auditing firm) reasonable access to your facilities and records for purposes of conducting these audits. ObjectRiver will give you at least five days advance notice before conducting an audit. Audits will be conducted during normal business hours and no more than once per year, unless ObjectRiver has a good-faith basis for believing that more frequent audits are warranted. ObjectRiver will bear all the costs it incurs (including the fees and expenses of the auditing firm, if any) in conducting an audit, unless the audit reveals that you have failed to comply with this agreement in a material way, in which case you agree to reimburse ObjectRiver for these costs.

10.3. Automatic Updates: Licensed Products communicate with ObjectRiver servers for the purpose of providing Updates, detecting software piracy and verifying that customers are using Licensed Products in conformity with the applicable License Key for such Licensed Products. ObjectRiver will use information



gathered in connection with this process to deliver software updates and pursue software pirates and infringers.

10.4. **Limitation of Liability:** For each product or service you license or purchase from ObjectRiver under this agreement, ObjectRiver's total, cumulative liability to you, including under section 9, is limited to the amount of Fees you paid for that product or service (regardless of the nature of the liability or the nature or number of claims giving rise to the liability). ObjectRiver will not, under any circumstances or any theory of liability, be liable to you for any lost profits, loss of data, or consequential, incidental, or special damages arising from this agreement or the products and services provided to you under this agreement. However, this disclaimer of ObjectRiver's liability for consequential damages does not limit or reduce ObjectRiver's obligations to defend and indemnify you under section 9. The limitations of liability in this section are a fundamental part of this agreement and enable ObjectRiver to provide products and services to you at lower prices. These limitations of liability are intended to apply even if an exclusive remedy is found to have failed of its essential purpose.

10.5. **Export Controls:** You agree that the goods, software, and technology subject to this agreement are subject to the export control laws and regulations of the United States, including but not limited to the Export Administration Regulations ("EAR"), and sanctions regulations of the U.S. Department of Treasury, Office of Foreign Asset Controls and that you will comply with these laws and regulations. Without limiting the foregoing, if any technology, software or source code governed by this agreement, or the direct product of any such technology, software or source code (each is a "Controlled Product"), is subject to the national security controls as identified on the Commerce Control List (the "Controlled Products"), you will not, without a U.S. Bureau of Industry and Security license or license exception, export, re-export, or transfer a Controlled Product, either directly or indirectly, to any national of any country identified in Country Groups D:1 or E:1 as defined in the EARs. In addition, goods, software and any technology subject to this agreement may not be exported, reexported, or transferred to (a) any person or entity listed on the "Entity List", "Denied Persons List" or the list of "Specifically Designated Nationals and Blocked Persons" as such lists are maintained by the U.S. Government, or (b) an end-user engaged in activities related to weapons of mass destruction. Such activities include but are not necessarily limited to activities related to: (i) the design, development, production, or use of nuclear materials, nuclear facilities, or nuclear weapons; (ii) the design, development, production, or use of missiles or support of missiles projects; and (iii) the design, development, production, or use of chemical or biological weapons.

10.6. **Governing Law; Jurisdiction:** This agreement is governed by the laws of the United States and the State of Massachusetts, without regard to conflicts of laws principles. The federal and state courts located in Middlesex County, Massachusetts have exclusive jurisdiction over any disputes arising from or relating to this agreement, and each party consents to such jurisdiction and venue.

10.7. **Notices:** Any notice, approval, consent, or other communication intended to have legal effect under this agreement must be given to the other party in writing, must be sent by first-class, registered, or overnight mail or private overnight courier (to the address for the other party stated on the signature page, unless the other party has given notice of a new address), and will be deemed given upon receipt or when delivery is refused. A copy of any communication sent to ObjectRiver must also be sent to the attention of the General Counsel.

10.8. Waivers: Either party's failure to enforce any provision of this agreement will not be deemed a waiver of the future enforcement of that provision or enforcement of any other provision. In order to be binding, a waiver must be in writing and signed by the party giving the waiver.

10.9. Independent Contractors: The parties to this agreement are independent contractors. Neither party is the agent or partner of the other party, or has any power or authority to act on behalf of the other party

10.10. Severability: If any provision in this agreement is found to be invalid or unenforceable as written, the remaining provisions will remain in full force and effect and the invalid or unenforceable provision is to be construed (and, if necessary, modified) so that it is valid and enforceable to the greatest extent possible.

10.11. Attorneys' Fees: The prevailing party in any action to enforce this agreement will be entitled to recover costs and expenses including reasonable attorneys' fees.

10.12. Remedies: Except where this agreement expressly provides exclusive remedies, all rights and remedies of either party (including termination rights) are cumulative. You agree that monetary damages alone would not be an adequate remedy, and therefore ObjectRiver will be entitled to injunctive relief if you materially breach the license restrictions or confidentiality provisions in this agreement.

10.13. Force Majeure: Each party will be excused from performance of its obligations under this agreement, except payment obligations, to the extent that performance is rendered impossible by earthquake, fire, flood, governmental action, labor disruptions, supplier failures, or any other event or circumstance beyond that party's reasonable control.

10.14. Construction: Section headings in this agreement are for convenience only. The word "including" (and variations thereof) is not intended to be limiting. No rule of strict construction is to be used when interpreting this agreement.

10.15. Press Release: The parties intend to work together to prepare and publish a mutually acceptable press release concerning this agreement.

10.16. Government Users: If you are a branch or agency of the United States Government, or are acquiring any Licensed Product on behalf of any branch or agency of the United States Government, then the following provision applies. The Licensed Products and Documentation are comprised of "commercial computer software" and "commercial computer software documentation", as such terms are used in 48 C.F.R. 12.212, and are provided to the Government (a) for acquisition by or on behalf of civilian agencies, consistent with the policy set forth in 48 C.F.R. 12.212; or (b) for acquisition by or on behalf of units of the Department of Defense, consistent with the policies set forth in 48 C.F.R. 227.7202-1 and 227.7202-3.

10.17. ObjectRiver Entities: ObjectRiver, Inc. has agreed to their respective rights and obligations regarding the distribution of the Licensed Products and the performance of obligations related to the Licensed Products. You acknowledge that: (a) ObjectRiver Inc. or any directly or indirectly wholly-owned subsidiary or branch of ObjectRiver, Inc. may treat a purchase order addressed to that entity, representative office or branch as having been addressed to the appropriate entity or entities or branch with distribution rights for the geographic region in which the Licensed Products will be used; and (b) delivery will be completed by the ObjectRiver entity or branch with distribution rights for the geographic region in which the Licensed Products will be used or service will be provided.

10.18. Entire Agreement: This agreement and any applicable attachments and Purchasing Agreements are the entire agreement between the parties concerning its subject matter, and supersede any prior or contemporaneous agreements, communications, or understandings (whether written or oral). However, any confidentiality or nondisclosure agreements that ObjectRiver previously entered into with you will remain in effect (according to their terms) with respect to the confidential information disclosed thereunder.

10.19. Amendments: This agreement may be amended only by means of a written instrument signed by authorized representatives of both parties that specifically refers to this agreement and states the parties' intention to amend it. No additional or inconsistent terms on any purchase order or similar document you may submit to ObjectRiver will be binding on ObjectRiver or have any legal effect.