

CRAY NETWORK ACCESS AGREEMENT

This Network Access Agreement (“NAG”) is entered into _____ (“Effective Date”), by and among Cray Inc., with its principal office located at 411 First Avenue South, Suite 600, Seattle, Washington 98104-2860 (“Cray”), and _____ (“User”), and _____ (“Company”).

Whereas, User has demonstrated to Cray a need for use of certain of Cray’s internal systems;

Whereas, Cray has evaluated User’s needs and has agreed to grant access to certain of Cray’s systems for a specified limited term and subject to the terms and conditions of this NAG;

Now therefore Cray, User and Company (if applicable) agree to the following:

1. Grant of Access:

During the term of this NAG or such other term as determined solely by Cray, Cray agrees to grant User access to certain Cray computer(s), front-end computer(s) and other equipment located at Cray facilities (collectively referred to as the “Computing Environment”) subject to the terms of this NAG and User’s completion of the Access Request. User acknowledges that circumstances may, at times, limit the availability of the Computing Environment to User, and therefore such access shall be subject to the availability of resources, determined by Cray at its sole discretion.

2. User Obligations and Use Restriction:

User agrees that access and use of the Computing Environment will be limited solely for the purpose designated on the Access Request. User shall not attempt to access or use accounts, files, data or information of other users of the Computing Environment. If User obtains access to accounts, files, data or information of other users of the Computing Environment, User shall treat such data or information as confidential and shall not use or further disclose such information to other users. User further agrees to immediately report such access to Cray's designated computer security personnel, User’s Sponsor, or to another Cray employee if neither security personnel nor User’s Sponsor is available.

3. User’s Treatment of Computer Data and Files:

User agrees to treat all computer data and files and other computer based information (“Confidential Information”), whether belonging to Cray or to other users of the Computing Environment, as confidential and shall not use or disclose Confidential Information to third parties whether or not such information is labeled to indicate that it is confidential or proprietary information. Computer based information shall be treated as confidential until such information becomes part of the public domain through no act on the part of User.

4. Confidential Information:

For purposes of this NAG, “Confidential Information” means information, which is disclosed in any tangible form whether or not such information is labeled to indicate that it is confidential or proprietary information. In connection with User’s access to the Computing Environment under

this NAG, Cray may disclose confidential or proprietary information to User. User agrees to use such information only for purposes directly related to User's authorized access to the Computing Environment and User agrees that User will not disclose any such information to third parties.

5. Limitations Regarding the Disclosure of Confidential Information:

User shall not be obligated to maintain any information in confidence or refrain from use if:

- a. The information was in User's possession or was known to User prior to its receipt from Cray or other Computing Environment users;
- b. The information is independently developed by User without the utilization of Confidential Information of the disclosing party;
- c. The information is or becomes public knowledge without the fault of User;
- d. The information is or becomes available on an unrestricted basis to User from a source other than the disclosing party;
- e. The information is publicly disclosed (i.e. not under adequate protective order) by User under an order of a court or government agency, provided that User provides prior written notification to the disclosing party of such obligation and the opportunity to oppose such order. User shall not be obligated to maintain the confidentiality of any such information, except computer-based information.

6. Security Rules and Protection of Data:

User acknowledges that Cray permits other users (third parties as well as Cray employees) to access and use the Computing Environment, and that some users have remote access. Cray agrees to exercise reasonable care in authorizing access to the Computing Environment. As a condition of User's access to the Computing Environment, User acknowledges that User has been informed by Cray that unauthorized users may obtain access to the Computing Environment or User's data, and User agrees that Cray is not responsible for unauthorized access. User agrees to take appropriate precautions to protect all data and files User maintains in the Computing Environment. User further agrees to comply with the security rules and policies established from time to time by Cray. Cray will provide a copy of these policies to User upon creation of User's account, and will provide written notice to all users when Cray's policies change. Cray reserves the right to monitor or audit User's account for security purposes and to ascertain compliance with the terms of this NAG and the Access Request. Information obtained by Cray in these monitoring activities will be used only for the purposes described and will not be disclosed to any third parties except to appropriate law enforcement agencies or in connection with legal proceedings in the event of any misuse or breach of security.

7. User Solely Responsible for User's Accounts:

User agrees that User is solely responsible for User's accounts. User further agrees that User shall not permit others to use User's accounts. Disclosure of User's password(s) to any third party is strictly prohibited, is considered a material breach of this NAG, and will lead to the immediate cancellation of this NAG and User's access rights.

8. Limitation of Warranty and Disclaimer of Liability:

ACCESS TO THE COMPUTING ENVIRONMENT IS GRANTED TO USER "AS IS" AND WITHOUT WARRANTY OF ANY KIND. ALL WARRANTIES WITH RESPECT TO THE USE OF THE COMPUTING ENVIRONMENT OR ANY CRAY SYSTEM, EXPRESS OR IMPLIED, ARE HEREBY DISCLAIMED AND EXCLUDED BY CRAY, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR USE, OR FREEDOM OF ANY SOFTWARE CONTAINED IN THE COMPUTING ENVIRONMENT OR ANY CRAY SYSTEM FROM INFRINGEMENT OF THE INTELLECTUAL PROPERTY RIGHTS OF OTHERS.

CRAY SHALL HAVE NO LIABILITY FOR ANY LOSS OR DAMAGE ARISING OUT OF OR RELATING TO THE USE OF THE COMPUTING ENVIRONMENT OR CRAY SYSTEMS BY USER, OR ANY OTHER PERFORMANCE UNDER OR PURSUANT TO THIS NAG (INCLUDING LIABILITY FOR NEGLIGENCE) EXCEPT FOR THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF CRAY.

IN NO EVENT SHALL CRAY'S LIABILITY OF ANY KIND INCLUDE ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL LOSSES OR DAMAGES, EVEN IF CRAY SHALL HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH POTENTIAL LOSS OR DAMAGE.

9. Term

The term of this NAG shall begin on the date first written above and shall remain in effect until _____ unless otherwise terminated under Section 10 below.

10. Termination of this NAG:

Cray may terminate this NAG and User's access to the Computing Environment at any time. Notwithstanding such termination, User's obligations regarding non-disclosure of Confidential Information shall continue.

11. User Citizenship:

Cray technology is subject to various U.S. government export regulations. To enable Cray to comply with these regulations, User verifies that User is a citizen of the country named below, and agrees to provide Cray with proof, satisfactory to Cray, of such citizenship.

12. Intellectual Property Rights. No rights or obligations other than those expressly recited herein are to be implied from this NAG. No license is hereby granted, directly or indirectly, under any patent, trade secret, copyright, mask work right or other intellectual property right now held by, or which may be obtained by, or which are or may be licensable by either party.

13. Assignment. User may not assign any of User's rights or obligations under this NAG.

14. Return of Materials. Upon expiration of this NAG, or upon completion of the purpose contemplated for this NAG, or upon the request of Cray, whichever occurs first, User shall immediately return to Cray all SecurID cards, all Confidential Information received under this NAG and all copies thereof.

User Information and Signature

By signing this NAG User agrees to comply with all of its terms and conditions.

Signature: _____	Citizenship: _____
Printed Name: _____	Email Address: _____
User's Company: _____	Phone Number: _____
Date: _____	Mailing Address: _____

User's Company Information and Signature

The Undersigned, represents that the User listed above is an employee of or consultant working for the undersigned. The undersigned agrees to be bound by the terms of this NAG and agrees to be responsible for the User's use of his/her account.

Signature: _____	Address: _____
Printed Name: _____	_____
Title: _____	_____
Date: _____	

ADDITIONAL USERS

Users signing below have read the NAG and agree to be bound by the terms and conditions of this NAG.

User Number Two:

Signature: _____

Citizenship: _____

Printed Name: _____

Email Address: _____

User's Company: _____

Phone Number: _____

Date Signed: _____

Mailing Address: _____

User Number Three:

Signature: _____

Citizenship: _____

Printed Name: _____

Email Address: _____

User's Company: _____

Phone Number: _____

Date Signed: _____

Mailing Address: _____

User Number Four:

Signature: _____

Citizenship: _____

Printed Name: _____

Email Address: _____

User's Company: _____

Phone Number: _____

Date Signed: _____

Mailing Address: _____

User Number Five:

Signature: _____

Citizenship: _____

Printed Name: _____

Email Address: _____

User's Company: _____

Phone Number: _____

Date Signed: _____

Mailing Address: _____

**TSR LETTER OF ASSURANCE FOR EXPORT OF
SOFTWARE**
(Each User listed on the NAG must complete this page.)

DATE: _____

TO: Alan Benfell, Cray Inc – International Operations

SUBJECT: Restricted Software Received From:

CRAY INC.

I, _____, hereby certify that I will not: (I) re-export or release the software to a national of a country in Country Groups D:1 or E:2, or, (ii) export to Country Groups D:1 or E:2, the direct product of the software, if such foreign produced direct product** is subject to National Security (NS) Controls, as identified on the US Commerce Control List (CCL), General Prohibition 3, s.736.2 (b)(3) of the EAR.

GROUP COUNTRIES

D:1 Albania, Armenia, Azerbaijan, Belarus, Cambodia, China (PRC), Georgia, Iraq, Kazakhstan, Kyrgyzstan, North Korea, Laos, Libya, Macau, Moldova, Mongolia, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, Vietnam.

E:2 Cuba

(Signature)

(Title – as appropriate)

(Address of signer)

(Phone Number)

** There is no “direct product” of operating system software or compilers. Release of Software relates to any Cray proprietary source code controlled under the US Export Administration Regulations (EAR), Export Control Classification Number (ECCN) 4D001 or elsewhere controlled under EAR. For Non-US nationals or residents of other countries than US, it may also be contrary to the export regulations of your home or host country to release such information.

V.3. October 2006

- f. The information is publicly disclosed (i.e. not under adequate protective order) by the receiving party under an order of a court or government agency, provided that the receiving party provides prior written notification to the disclosing party of such obligation and the opportunity to oppose such order.
- 5. **INTELLECTUAL PROPERTY RIGHTS:** No rights or obligations other than those expressly recited herein are to be implied from this Agreement. No license is hereby granted, directly or indirectly, under any patent, trade secret, copyright, mask work right, or other intellectual property right now held by, or which may be obtained by, or which are or may be licensable by Cray.
- 6. **ASSIGNMENT:** User may not assign any of its rights or obligations under this Agreement without the prior written consent of Cray.
- 7. **RETURN OF MATERIALS:** Upon expiration of the period of use set forth in Paragraph 3 or upon completion of the purpose contemplated for the release of the Confidential Information, or upon request from Cray, whichever occurs first, User shall immediately return to Cray all Confidential Information received under this Agreement and all copies thereof or, if Cray requests, shall immediately destroy all Confidential Information, and shall certify such destruction to Cray.
- 8. **EXPORT COMPLIANCE:** User understands and acknowledges that information received from Cray, including Confidential Information, is controlled under the United States export laws, including, but not limited to, the Export Administration Regulations (“EAR”) administered by the United States Department of Commerce. User hereby certifies that such information will not be further disclosed, exported, reexported, transmitted or transferred, in any manner or for any purpose, to any foreign country, foreign person or foreign national, wherever located, including foreign persons employed in the United States, unless previously authorized in writing by Cray and the appropriate U.S. Government licensing agency. User agrees to provide Cray a copy of any export authorization or to certify that authorizations have been obtained. Export authorizations include export licenses obtained from U.S. Government licensing agencies or any license exceptions or exemptions invoked to authorize the controlled activity.
- 9. **TERM:** The obligations of User to refrain from disclosure of any of the Confidential Information received under this Agreement shall remain in effect after the termination or expiration of this Agreement.

Cray Inc.	Company: _____
Signature: _____	Signature: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

Cray Sponsor Information
(Cray will complete this page.)

Student Information

Student's Name _____ Employer Name: _____

Cray Sponsor's Manager Information

As the Sponsor's manager, I have read this NAG and understand my responsibilities to the User and to Cray regarding the protection of confidential and proprietary information. I understand that I am also responsible for any other issues regarding this account.

(NOTE: Must be signed by the Cray Sponsor's manager -- not the Cray Sponsor.)

Manager's Signature: _____

Manager's Printed Name: _____

Manager's Title: _____

Date: _____

Cray Sponsor Information

Sponsor's Name: _____ Employee Number: _____

Department Name/Number: _____ Phone Number: _____

Technical Contact: _____ Phone Number: _____
(if needed)

Cray Export Compliance Approval

Signature: _____ Date: _____
Alan Benfell

Cray Legal Approval

Signature: _____ Date: _____
Mary Davis

COMPUTER ACCESS REQUEST
(The Cray Sponsor will complete this page.)
===== Non-employee Cray User Information =====

Student's Name: _____ Employer Name: _____

1. Purpose of Account(s): _____
2. Current non-employee account(s) (if any): _____
3. If the answer to either of these questions is yes, a craypark UNIX domain account is necessary:
 - a. Is a Cray (username@cray.com) email account needed (**Cray contractors only**)?
Yes No
 - b. Will user be logging into a craypark domain desktop or server (Note: all linux and solaris desktop workstations, silver, zinc, mint, willow are part of the craypark domain)?
Yes No
4. If the answer to either of the following two questions is yes, a Cray Microsoft Windows domain account is necessary (**Cray contractors only**).
 - a. Will the User be logging into a Cray owned laptop or desktop running Microsoft Windows?
Yes No
 - b. Will the User be accessing Microsoft applications via Cray's Windows terminal service (rdesktop or wints)?
Yes No
5. Will User(s) need access to any of the databases, such as spr, cruise, JDE, etc. (Cray contractors only)? Yes No If yes, list the database(s): _____
6. Will the User need access to Cray (via SecurID/troll) resources from a remote location?
Yes No
7. Check computer center resources needed:
 Cray X1 – list specific system: _____
 Cray XT3 – list specific system: _____
 Cray XD1 – list specific system: _____
 Cray SV1ex _____
 Other – list specific system: _____
8. Shell: + - Requested Shell - []csh []sh []ksh
9. User Type:
 Channel Partner []Consultant []Contractor []Customer []Pre-installation []Prospect
 Research []Third Party Vendor
10. Market Type:
 Aerospace []Automotive []Chem/Pharm/Bio []Computing Services []Construction
 Electronics/Computers []Energy []Financial Services []Government []Multiple Industry
 Petroleum []Transportation []University []Weather []Other