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Version 1 (Rev. Date Nov. 3, 1999)
[Derived from SCSL Version 2.3 (Rev. Date Feb. 22, 1999)]

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High Performance Computing Clustertools software

Description of "Technology"

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d) Prerequisites. Under Sections 5.b) and c) above, You must, and under Section 5.a) above, Original Contributor or any Licensee must: (i) provide notice of the claim promptly to the party providing an indemnity; (ii) give the indemnifying party sole control of the defense and settlement of the claim; (iii) provide the indemnifying party, at indemnifying party's expense, all available information, assistance and authority to defend; and (iv) not have compromised or settled such claim or proceeding without the indemnifying party's prior written consent.

e) Additional Remedies. Should any Original Code, Upgraded Code, Specifications, or Modifications become, or in the indemnifying party's opinion be likely to become, the subject of a claim of infringement for which indemnity is provided above, the indemnifying party may, at its sole option, attempt to procure on reasonable terms the rights necessary for the indemnified party to exercise its license rights under this License with respect to the infringing items, or to modify the infringing items so that they are no longer infringing without substantially impairing their function or performance. If the indemnifying party

is unable to do the foregoing after reasonable efforts, then the indemnifying party may send a notice of such inability to the indemnified party together with a refund of any license fees received by the indemnifying party from the indemnified party for the infringing items applicable to the indemnified party's future use or distribution of such infringing items, in which case the indemnifying party will not be liable for any damages resulting from infringing activity with respect to the infringing items occurring after such notice and refund.

6. Support Programs.

Support to You. Technical support is not provided to You by Original Contributor under this License. You may contract for one or more support programs from Original Contributor relating to the Technology which are described on the SCSL Webpage.

Customer Support. You are responsible for providing technical and maintenance support services to Your customers for Your products and services incorporating the Compliant Covered code.

7. Royalties and Payments.

Technology specified in Attachment B.

Field of Use: _____

Royalty per Unit \$ _____

b) Royalty Payments. Payment of royalties shall be made quarterly, shall be due thirty (30) days following the end of the calendar quarter to which they relate and shall be submitted with a written statement documenting the basis for the royalty calculation.

c) Taxes. All payments required by this License shall be made in United States dollars, are exclusive of taxes, and Licensee agrees to bear and be responsible for the payment of all such taxes, including, but not limited to, all sales, use, rental receipt, personal property or other taxes and their equivalents which may be levied or assessed in connection with this License (excluding only taxes based on Original Contributor's net income). To the extent Licensee is required to withhold taxes based upon Original Contributor's income in any country, You agree to provide Original Contributor with written evidence of such withholding, suitable for Original Contributor to obtain a tax credit in the United States.

d) Records. You agree to maintain account books and records consistent with Generally Accepted Accounting

Principles appropriate to Your domicile, as may be in effect from time to time, sufficient to allow the correctness of the royalties required to be paid pursuant to this License to be determined.

e) **Audit Rights.** Original Contributor shall have the right to audit such accounts upon reasonable prior notice using an independent auditor of Original Contributor's choice (the "Auditor"). The Auditor shall be bound to keep confidential the details of Your business affairs and to limit disclosure of the results of any audit to the sufficiency of the accounts and the amount, if any, of a payment adjustment that should be made. Such audits shall not occur more than once each year (unless discrepancies are discovered in excess of the five percent (5%) threshold set forth in Section 7.f) below, in which case two consecutive quarters per year may be audited). Except as set forth in Section 7.f) below, Original Contributor shall bear all costs and expenses associated with the exercise of its rights to audit.

f) **Payment Errors.** In the event that any errors in payments shall be determined, such errors shall be corrected by appropriate adjustment in payment for the quarterly period during which the error is discovered. In the event of an underpayment of more than five percent (5%) of the proper amount owed, upon such underpayment being properly determined by the Auditor, You agree to reimburse Original Contributor the amount of the underpayment and all reasonable costs and expenses associated with the exercise of its rights to audit, and interest on the overdue amount at the maximum allowable interest rate from the date of accrual of such obligation.

8. **Notice of Breach or Infringement.** Each party shall notify the other immediately in writing when it becomes aware of any breach or violation of the terms of this License, or when You become aware of any potential or actual infringement by a third party of the Technology or Sun's Intellectual Property Rights therein.
9. **Proprietary Rights Notices.** You may not remove any copyright notices, trademark notices or other proprietary legends of Original Contributor or its suppliers contained on or in the Original Code, Upgraded Code and Specifications.
10. **Notices.** All written notices required by this License must be delivered in person or by means evidenced by a delivery receipt and will be effective upon receipt by the persons at the addresses specified below.

Original Contributor: You:

Sun Microsystems, Inc. _____

901 San Antonio Road _____

Palo Alto, California 94303 _____

Attn.: VP & General Manager
Computer Systems DHPG _____

cc: Computer Systems, VP & _____
General Counsel

11. Disclaimer of Agency. The relationship created hereby is that of licensor and licensee and the parties hereby acknowledge and agree that nothing herein shall be deemed to constitute You as a franchisee of Original Contributor. You hereby waive the benefit of any state or federal statutes dealing with the establishment and regulation of franchises.

Agreed:

You: _____
(Your Name)

Original Contributor:
Sun Microsystems, Inc.

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

ATTACHMENT E

[Reserved]

ATTACHMENT F

Additional provisions applicable to Executable code, including but not limited to binary code also known as object code.

The Covered Code may contain Executable code. As to Executable Code:

You may not modify, decompile, disassemble, decrypt, extract, or otherwise reverse engineer Executable code.