

SGI FREE SOFTWARE LICENSE B (Version 1.1 [02/22/2000])

1. Definitions.

- 1.1. **"Additional Notice Provisions"** means such additional provisions as appear in the Notice in Original Code under the heading "Additional Notice Provisions."
- 1.2. **"Covered Code"** means the Original Code or Modifications, or any combination thereof.
- 1.3. **"Hardware"** means any physical device that accepts input, processes input, stores the results of processing, and/or provides output.
- 1.4. **"Larger Work"** means a work that combines Covered Code or portions thereof with code not governed by the terms of this License.
- 1.5. **"Licensable"** means having the right to grant, to the maximum extent possible, whether at the time of the initial grant or subsequently acquired, any and all of the rights conveyed herein.
- 1.6. **"License"** means this document.
- 1.7. **"Licensed Patents"** means patent claims Licensable by SGI that are infringed by the use or sale of Original Code or any Modifications provided by SGI, or any combination thereof.
- 1.8. **"Modifications"** means any addition to or deletion from the substance or structure of the Original Code or any previous Modifications. When Covered Code is released as a series of files, a Modification is:
 - A. Any addition to the contents of a file containing Original Code and/or addition to or deletion from the contents of a file containing previous Modifications.
 - B. Any new file that contains any part of the Original Code or previous Modifications.
- 1.9. **"Notice"** means any notice in Original Code or Covered Code, as required by and in compliance with this License.
- 1.10. **"Original Code"** means source code of computer software code that is described in the source code Notice required by Exhibit A as Original Code, and updates and error corrections specifically thereto.
- 1.11. **"Recipient"** means an individual or a legal entity exercising rights under, and complying with all of the terms of, this License or a future version of this License issued under Section 8. For legal entities, "Recipient" includes any entity that controls, is controlled by, or is under common control with Recipient. For purposes of this definition, "control" of an entity means (a) the power, direct or indirect, to direct or manage such entity, or (b) ownership of fifty percent (50%) or more of the outstanding shares or beneficial ownership of such entity.
- 1.12. **"Recipient Patents"** means patent claims Licensable by a Recipient that are infringed by the use or sale of Original Code or any Modifications provided by SGI, or any combination thereof.
- 1.13. **"SGI"** means Silicon Graphics, Inc.

1.14. **"SGI Patents"** means patent claims Licensable by SGI other than the Licensed Patents.

2. License Grant and Restrictions.

2.1. **SGI License Grant.** Subject to the terms of this License and any third party intellectual property claims, for the duration of intellectual property protections inherent in the Original Code, SGI hereby grants Recipient a worldwide, royalty-free, non-exclusive license, to do the following: (i) under copyrights Licensable by SGI, to reproduce, distribute, create derivative works from, and, to the extent applicable, display and perform the Original Code and/or any Modifications provided by SGI alone and/or as part of a Larger Work; and (ii) under any Licensable Patents, to make, have made, use, sell, offer for sale, import and/or otherwise transfer the Original Code and/or any Modifications provided by SGI. Recipient accepts the terms and conditions of this License by undertaking any of the aforementioned actions. The patent license shall apply to the Covered Code if, at the time any related Modification is added, such addition of the Modification causes such combination to be covered by the Licensed Patents. The patent license in Section 2.1(ii) shall not apply to any other combinations that include the Modification. No patent license is provided under SGI Patents for infringements of SGI Patents by Modifications not provided by SGI or combinations of Original Code and Modifications not provided by SGI.

2.2. **Recipient License Grant.** Subject to the terms of this License and any third party intellectual property claims, Recipient hereby grants SGI and any other Recipients a worldwide, royalty-free, non-exclusive license, under any Recipient Patents, to make, have made, use, sell, offer for sale, import and/or otherwise transfer the Original Code and/or any Modifications provided by SGI.

2.3. **No License For Hardware Implementations.** The licenses granted in Section 2.1 and 2.2 are not applicable to implementation in Hardware of the algorithms embodied in the Original Code or any Modifications provided by SGI .

3. Redistributions.

3.1. **Retention of Notice/Copy of License.** The Notice set forth in Exhibit A, below, must be conspicuously retained or included in any and all redistributions of Covered Code. For distributions of the Covered Code in source code form, the Notice must appear in every file that can include a text comments field; in executable form, the Notice and a copy of this License must appear in related documentation or collateral where the Recipient's rights relating to Covered Code are described. Any Additional Notice Provisions which actually appears in the Original Code must also be retained or included in any and all redistributions of Covered Code.

3.2. **Alternative License.** Provided that Recipient is in compliance with the terms of this License, Recipient may, so long as without derogation of any of SGI's rights in and to the Original Code, distribute the source code and/or executable version(s) of Covered Code under (1) this License; (2) a license identical to this License but for only such changes as are necessary in order to clarify Recipient's role as licensor of Modifications; and/or (3) a license of Recipient's choosing, containing terms different from this License, provided that the license terms include this Section 3 and Sections 4, 6, 7, 10, 12, and 13, which terms may not be modified or superseded by any other terms of such license. If Recipient elects to use any license

other than this License, Recipient must make it absolutely clear that any of its terms which differ from this License are offered by Recipient alone, and not by SGI. It is emphasized that this License is a limited license, and, regardless of the license form employed by Recipient in accordance with this Section 3.2, Recipient may relicense only such rights, in Original Code and Modifications by SGI, as it has actually been granted by SGI in this License.

3.3. **Indemnity.** Recipient hereby agrees to indemnify SGI for any liability incurred by SGI as a result of any such alternative license terms Recipient offers.

4. **Termination.** This License and the rights granted hereunder will terminate automatically if Recipient breaches any term herein and fails to cure such breach within 30 days thereof. Any sublicense to the Covered Code that is properly granted shall survive any termination of this License, absent termination by the terms of such sublicense. Provisions that, by their nature, must remain in effect beyond the termination of this License, shall survive.

5. **No Trademark Or Other Rights.** This License does not grant any rights to: (i) any software apart from the Covered Code, nor shall any other rights or licenses not expressly granted hereunder arise by implication, estoppel or otherwise with respect to the Covered Code; (ii) any trade name, trademark or service mark whatsoever, including without limitation any related right for purposes of endorsement or promotion of products derived from the Covered Code, without prior written permission of SGI; or (iii) any title to or ownership of the Original Code, which shall at all times remain with SGI. All rights in the Original Code not expressly granted under this License are reserved.

6. **Compliance with Laws; Non-Infringement.** There are various worldwide laws, regulations, and executive orders applicable to dispositions of Covered Code, including without limitation export, re-export, and import control laws, regulations, and executive orders, of the U.S. government and other countries, and Recipient is reminded it is obliged to obey such laws, regulations, and executive orders. Recipient may not distribute Covered Code that (i) in any way infringes (directly or contributorily) any intellectual property rights of any kind of any other person or entity or (ii) breaches any representation or warranty, express, implied or statutory, to which, under any applicable law, it might be deemed to have been subject.

7. **Claims of Infringement.** If Recipient learns of any third party claim that any disposition of Covered Code and/or functionality wholly or partially infringes the third party's intellectual property rights, Recipient will promptly notify SGI of such claim.

8. **Versions of the License.** SGI may publish revised and/or new versions of the License from time to time, each with a distinguishing version number. Once Covered Code has been published under a particular version of the License, Recipient may, for the duration of the license, continue to use it under the terms of that version, or choose to use such Covered Code under the terms of any subsequent version published by SGI. Subject to the provisions of Sections 3 and 4 of this License, only SGI may modify the terms applicable to Covered Code created under this License.

9. **DISCLAIMER OF WARRANTY.** COVERED CODE IS PROVIDED "AS IS." ALL EXPRESS AND IMPLIED WARRANTIES AND CONDITIONS ARE DISCLAIMED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES AND

CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. SGI ASSUMES NO RISK AS TO THE QUALITY AND PERFORMANCE OF THE SOFTWARE. SHOULD THE SOFTWARE PROVE DEFECTIVE IN ANY RESPECT, SGI ASSUMES NO COST OR LIABILITY FOR SERVICING, REPAIR OR CORRECTION. THIS DISCLAIMER OF WARRANTY IS AN ESSENTIAL PART OF THIS LICENSE. NO USE OF ANY COVERED CODE IS AUTHORIZED HEREUNDER EXCEPT SUBJECT TO THIS DISCLAIMER.

10. **LIMITATION OF LIABILITY.** UNDER NO CIRCUMSTANCES NOR LEGAL THEORY, WHETHER TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE OR STRICT LIABILITY), CONTRACT, OR OTHERWISE, SHALL SGI OR ANY SGI LICENSOR BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF GOODWILL, WORK STOPPAGE, LOSS OF DATA, COMPUTER FAILURE OR MALFUNCTION, OR ANY AND ALL OTHER COMMERCIAL DAMAGES OR LOSSES, EVEN IF SUCH PARTY SHALL HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF LIABILITY SHALL NOT APPLY TO LIABILITY FOR DEATH OR PERSONAL INJURY RESULTING FROM SGI'S NEGLIGENCE TO THE EXTENT APPLICABLE LAW PROHIBITS SUCH LIMITATION. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THAT EXCLUSION AND LIMITATION MAY NOT APPLY TO RECIPIENT.

11. **Indemnity.** Recipient shall be solely responsible for damages arising, directly or indirectly, out of its utilization of rights under this License. Recipient will defend, indemnify and hold harmless Silicon Graphics, Inc. from and against any loss, liability, damages, costs or expenses (including the payment of reasonable attorneys fees) arising out of Recipient's use, modification, reproduction and distribution of the Covered Code or out of any representation or warranty made by Recipient.

12. **U.S. Government End Users.** The Covered Code is a "commercial item" consisting of "commercial computer software" as such terms are defined in title 48 of the Code of Federal Regulations and all U.S. Government End Users acquire only the rights set forth in this License and are subject to the terms of this License.

13. **Miscellaneous.** This License represents the complete agreement concerning the its subject matter. If any provision of this License is held to be unenforceable, such provision shall be reformed so as to achieve as nearly as possible the same legal and economic effect as the original provision and the remainder of this License will remain in effect. This License shall be governed by and construed in accordance with the laws of the United States and the State of California as applied to agreements entered into and to be performed entirely within California between California residents. Any litigation relating to this License shall be subject to the exclusive jurisdiction of the Federal Courts of the Northern District of California (or, absent subject matter jurisdiction in such courts, the courts of the State of California), with venue lying exclusively in Santa Clara County, California, with the losing party responsible for costs, including without limitation, court costs and reasonable attorneys fees and expenses. The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded. Any law or regulation that provides that the language of a contract shall be

construed against the drafter shall not apply to this License.

Exhibit A

License Applicability. Except to the extent portions of this file are made subject to an alternative license as permitted in the SGI Free Software License B, Version 1.1 (the "License"), the contents of this file are subject only to the provisions of the License. You may not use this file except in compliance with the License. You may obtain a copy of the License at Silicon Graphics, Inc., attn: Legal Services, 1600 Amphitheatre Parkway, Mountain View, CA 94043-1351, or at:

<http://oss.sgi.com/projects/FreeB>

Note that, as provided in the License, the Software is distributed on an "AS IS" basis, with ALL EXPRESS AND IMPLIED WARRANTIES AND CONDITIONS DISCLAIMED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

Original Code. The Original Code is: [name of software, version number, and release date], developed by Silicon Graphics, Inc. The Original Code is Copyright (c) [dates of first publication, as appearing in the Notice in the Original Code] Silicon Graphics, Inc. Copyright in any portions created by third parties is as indicated elsewhere herein. All Rights Reserved.

Additional Notice Provisions: [such additional provisions, if any, as appear in the Notice in the Original Code under the heading "Additional Notice Provisions"]