

## **Introduction**

The Defense Advanced Research Projects Agency's (DARPA's) Cyber Grand Challenge (CGC) is a computer security skills competition between autonomous Cyber Reasoning Systems (CRSs). To facilitate the CGC, DARPA has procured high-performance computers (HPCs); CGC finalists (Competitors) may utilize one HPC to develop and field their systems in the CGC Final Event (CFE).

Competition integrity. DARPA will provide physical security, transportation, and operation of the HPCs at the event venue.

Logistics. DARPA will provide installation, power, and cooling of the DARPA HPCs at the CFE venue.

Continuity. Competitors' use of a DARPA HPC lowers the risk involved in porting a cloud-developed system to a competition rack.

Based on the foregoing, it is DARPA's intention to reduce risk and cost associated with participation in the CGC.

In order to provide HPC access to competitors, DARPA recognizes that teams must be assured that their use of an HPC is private. Acceptance of the below agreement and use of an HPC described herein confers no Intellectual Property rights to DARPA or any other party.

By accepting this agreement, competitors will receive access to a single dedicated HPC containing 64 nodes, each containing 20 Xeon cores with 256GB of RAM, 2TB of storage, and a gigabit Ethernet backplane. The resulting system specification yields 1,280 Xeon cores, 16,384GB of RAM, and 128TB of storage to each CGC competitor under this agreement.

**CLOUD COMPUTING AGREEMENT  
BETWEEN  
THE DEFENSE ADVANCED RESEARCH PROJECTS AGENCY  
AND  
COMPETITOR**

This CLOUD COMPUTING AGREEMENT is entered into by and between \_\_\_\_\_, located at \_\_\_\_\_ hereinafter referred to as the "Competitor," and the Defense Advanced Research Projects Agency (DARPA), a Department of Defense Government agency located at 675 N. Randolph Street, Arlington, VA 22203, hereinafter referred to as the "Operator." Competitor and Operator are also referred to individually as a "Party" and collectively as the "Parties." The Parties agree as follows:

**Purpose**

Operator owns and maintains High Performance Computers (HPCs). The Purpose of this Agreement is for Operator to grant Competitor access to a single HPC for use in participating in the DARPA Cyber Grand Challenge (CGC).

**Agreed Value**

The value of an HPC is \$600,000.

**Acceptable Uses**

During CGC, Competitor will develop Cyber Reasoning System (CRS) software. Operator and Competitor agree that the only acceptable uses of the HPC hardware are as follows:

- Use of the CRS to study any CGC Challenge software created in conformance with the Challenge Binary submission walkthrough<sup>1</sup>.
- Use of the CRS to study any CGC Challenge Binary distributed by DARPA, including all software released in accordance with CGC Frequently Asked Question<sup>2</sup> answer #25.
- Participation in CGC Events as defined by the DARPA Competition Agreement<sup>3</sup>.
- Software development, testing, and debugging of Competitor CRS conforming to the above three uses.

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<sup>1</sup> <https://github.com/CyberGrandChallenge/cgc-release-documentation/blob/master/walk-throughs/submitting-a-cb.md>

<sup>2</sup> The CGC FAQ is available under Documents at <https://cgc.darpa.mil/>

<sup>3</sup> The CGC Competition Agreement is available under Documents at <https://cgc.darpa.mil/>

Competitor may not use the HPC in any manner or for any purpose other than as expressly permitted by this Agreement. Operator may modify acceptable uses in writing.

### **Competitor Content**

As between Competitor and Operator, Competitor or Competitor licensors own all right, title, and interest in and to Competitor Content residing on the HPC. Operator obtains no rights under this Agreement from Competitor or Competitor licensors to Competitor Content, including any related intellectual property rights. Competitors are advised that no portion of this agreement supersedes or nullifies the DARPA Competition Agreement.

### **Adequate Rights**

Competitor represents and warrants that: (a) Competitor or Competitor licensors own all right, title, and interest in and to Competitor Content; (b) Competitor has all rights to Competitor Content necessary to grant the rights contemplated by this Agreement; and (c) no Competitor Content will exceed the Acceptable Uses.

### **Trade Secrets Act Acknowledgement**

Competitor must check one of the following:

\_\_\_\_\_ Content submitted to the HPC does consist of proprietary data under the United States Federal Trade Secret Act (18 U.S.C. § 1905).

\_\_\_\_\_ Content submitted to the HPC does not consist of proprietary data under the United States Federal Trade Secret Act (18 U.S.C. § 1905).

Operator will use the above to determine whether Competitor Content falls under 18 USC § 1905, below. Operator shall act in accordance with:

*18 USC § 1905, Disclosure of confidential information generally:*

*Whoever, being an officer or employee of the United States or of any department or agency thereof, any person acting on behalf of the Federal Housing Finance Agency, or agent of the Department of Justice as defined in the Antitrust Civil Process Act (15 U.S.C. 1311–1314), or being an employee of a private sector organization who is or was assigned to an agency under chapter 37 of title 5, publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association; or permits any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; shall be fined*

*under this title, or imprisoned not more than one year, or both; and shall be removed from office or employment.*

### **Miscellaneous Terms**

Modifications or alterations of Government property are prohibited, unless they are authorized in writing by the Program Manager.

DARPA may by written notice, at any time substitute another HPC for the HPC previously furnished, or to be furnished; or withdraw authority to use an HPC.

The Government shall retain title to the HPCs. Title to the HPCs shall not be affected by their incorporation into or attachment to any property not owned by the Government, nor shall the HPC become a fixture or lose its identity as personal property by being attached to any real property.

Unless otherwise authorized by the Program Manager, the Competitor shall not commingle Government software, hardware, data, or other material with material irrelevant to the purposes stated herein.

The Competitor shall enable the performance of normal and routine preventative maintenance and repair.

The Government shall not be liable for breach of contract for the following:

- Any delay in delivery of the HPCs.
- Delivery of the HPCs in a condition not suitable for their intended use.
- Substitution of an HPC.

### **Schedule of Use**

Terms of this agreement shall be in effect from the moment that the Operator allows Competitor access to the HPC equipment until the end of the CGC events in August 2016.

### **Revocation for Cause**

In the event that Competitor's use of the HPC is in violation of this Agreement, Operator may elect to suspend access to the HPC. Following a period of suspension of access, in the event that Operator finds cause, Operator may terminate this agreement as described in Termination, below.

### **Damage to or Loss of Operator Property**

The Competitor acknowledges that the HPC can be damaged via the use of software designed to disable physical devices such as hard disks and firmware. Excessive damage

caused by the Competitor's gross negligence or willful misconduct may result in termination of this Agreement and disqualification from the DARPA CGC. In the event of loss or irreparable damage to the HPC, Competitor's maximum liability shall not exceed the Agreed Value of the HPC.

The Competitor shall furnish a written statement to the Program Manager containing all relevant facts, such as cause or condition and a recommended course(s) of action, if damages and/or other discrepancies are discovered upon use of an HPC.

Unless otherwise directed by the Program Manager, the Competitor shall investigate and report to the Government all incidents of property loss as soon as the facts become known.

The Competitor shall take all reasonable actions necessary to protect the HPC from loss and further loss.

### **Modification of Operator Property**

The Competitor may make no physical modifications, substitutions, or additions to the HPC. Physical tampering with the HPC by the Competitor shall constitute Damage under the "Damage to or Loss of Operator Property" section of this document.

### **Risk acknowledgement and Liability Waiver**

Competitor acknowledges that like all computers, the HPC has a non-zero chance of physical failure at any time. The Competitor acknowledges that Operator will not conduct backups of Competitor Content, and that backups and retention of Competitor Content are the sole responsibility of the Competitor. The Competitor agrees that all potential consequences of HPC equipment failure, including failure in CGC events, are risks fully assumed by the Competitor.

Competitor agrees to release, waive, discharge, and covenant not to sue Operator from any and all liability, claims, demands, actions, and causes of actions arising from or related to any loss, damage or injury (including death) that may be sustained during Competitor's access to the HPC.

Operator acknowledges that a Competitor failing to succeed in a CGC Event due to HPC failure is a threat to CGC event integrity and Operator may, where possible, make efforts to remedy such a situation, to the level of "best effort," at the discretion of the Operator.

### **Indemnification**

To the extent permitted by applicable law, Competitor shall defend, indemnify, and hold harmless the Government from and against any claims, damages, losses, liabilities, costs, and expenses (including reasonable attorneys' fees) arising out of or relating to any third party claim concerning: (a) Competitor's use of the HPC; (b) breach of this Agreement or

violation of applicable law by Competitor; (c) Competitor Content or the combination of Competitor Content with other applications, content or processes, including any claim involving alleged infringement or misappropriation of third-party rights by Competitor Content or by the use, development, design, production, advertising or marketing of Competitor Content; or (d) a dispute between Competitor and any other user.

## **Disputes**

The Parties shall communicate with one another in good faith and in a timely and cooperative manner when raising issues relative to this Agreement. Nothing in this Agreement shall be deemed to give the participant a right to dispute matters which are not the subject of this Agreement.

### A. Dispute Resolution Procedures

1. Any disagreement, claim or dispute between Operator and the Competitor concerning questions of fact or law arising from or in connection with this Agreement, and, whether or not involving an alleged breach of this Agreement, may be raised only under this Disputes provision.
2. Whenever disputes, disagreements, or misunderstandings arise, the Parties shall attempt to resolve the issue(s) involved by discussion and mutual agreement as soon as practicable. In no event shall a dispute, disagreement or misunderstanding which arose more than one (1) month prior to the notification made under subparagraph A.3 of this article constitute the basis for relief under this article unless the official designated in subparagraph A.4, in the interests of justice waives this requirement.
3. Failing resolution by mutual agreement, the aggrieved Party shall document the dispute, disagreement, or misunderstanding by notifying the other Party in writing of the relevant facts, identify unresolved issues, and specify the clarification or remedy sought. Within five (5) working days after providing notice to the other Party, the aggrieved Party may, in writing, request a decision by the Director, Contracts Management Office. The other Party shall submit a written position on the matter(s) in dispute within fifteen (15) calendar days after being notified that a decision has been requested. The Director, Contracts Management Office, shall conduct a review of the matter(s) in dispute and render a decision in writing within fifteen (15) calendar days of receipt of such written position. Any such decision is final and binding.
4. In the absence of a decision, upon written request to the Director, DARPA, made within fifteen (15) calendar days of the expiration of the time for a decision under subparagraph A.3 above, the dispute shall be further reviewed. The Director, DARPA, may elect to conduct this review personally or through a designee or jointly with a representative appointed by the participant. Following the review, the Director, DARPA, or designee will resolve the issue(s) and notify the Parties in writing. Such resolution is not subject to further administrative review.

## B. Limitation of Damages

Claims for damages of any nature whatsoever pursued under this Agreement shall be limited to direct damages only. In no event shall the Government be liable for claims for consequential, punitive, special and incidental damages, claims for lost profits, or other indirect damages.

## **Termination**

This Agreement sets forth the entire and complete agreement between the parties regarding the matters which are the subject of this agreement. Either party may terminate this Agreement and the period for access to the HPC by giving the other Party \_\_\_\_ calendar days' notice thereof in writing. Upon such termination, Operator shall promptly revoke the access of Competitor. Upon termination of this agreement, Operator *shall permanently and irrevocably wipe all storage media. All Competitor data will be lost.*

## **Governing Law**

This Agreement shall be governed by the Federal laws and regulations of the United States of America.

## **Expression of the Parties**

This Agreement constitutes the sole and entire understanding between the Parties pertaining to access to the HPC listed under "Purpose" above. This Agreement signed by both Parties constitutes the complete and final written expression of all the terms of Agreement and it supersedes any prior or collateral communications or agreements. IN WITNESS WHEREOF, the authorized representatives of the Competitor and Operator have hereunto subscribed their names on the dates indicated.

**FOR THE COMPETITOR:**

**FOR THE GOVERNMENT:**