

ATTACHMENT J.4

APPENDIX D

**LEASE AND OCCUPANCY AGREEMENTS, CAMPUS BUILDINGS,
SPACE AND EQUIPMENT**

(Applies only if Clause H.40A is applicable)

**Applicable to the Operation of
Ernest Orlando Lawrence Berkeley National Laboratory**

Contract No. DE-AC02-05CH11231

LEASE AND OCCUPANCY AGREEMENTS,
CAMPUS BUILDINGS, SPACE AND EQUIPMENT

- (a) The Contractor and the Government have entered into the following lease and occupancy agreements:
- (1) Occupancy Agreement entered into on June 28, 1948; Supplement No. 1 dated May 16, 1956; Supplement No. 2 dated October 24, 1961; Supplement No. 3 dated April 30, 1963; Supplement No. 4 dated December 2, 1964; Supplement No. 5 dated June 15, 1970; Supplement No. 6 dated February 23, 1988; and Supplement No. 7 dated May 24, 2011.
 - (2) Lease Agreement entered into on September 1, 1948 (Wilson Tract); Supplement No. 1 dated January 3, 1949; Supplement No. 2 dated June 30, 1955; Supplement No. 3 dated April 17, 1962; Supplement No. 4 dated April 6, 1965; Supplement No. 5 dated December 5, 1967; Supplement No. 6 dated April 3, 1975; and Supplement No. 7 dated May 24, 2011.
 - (3) Lease Agreement entered into on November 9, 1959 (State University Tract); Supplement No. 1 dated December 2, 1964; Supplement No. 2 dated June 6, 1986; Supplement No. 3 dated February 23, 1988; and Supplement No. 4 dated May 24, 2011.
 - (4) Lease Agreement entered into on January 19, 1961 (East Site Development - Parcel 15); Supplement No. 1 dated May 25, 1962 (State University Tract, Simmons Plot); Supplement No. 2 dated September 21, 1962; Supplement No. 3 dated December 5, 1967; Supplement No. 4 dated October 6, 1969; Supplement No. 5 dated July 5, 1979; Supplement No. 6 dated April 1, 1985; Supplement No. 7 dated October 25, 1985; Supplement No. 8 dated October 12, 1985; Supplement No. 9 dated July 23, 1992; Supplement No. 10, dated June 2, 2003; Supplement No. 11, dated June 2, 2003; and Supplement No. 12 dated May 24, 2011.
 - (5) Lease Agreement entered into on May 1, 1962 (University Campus Plot "O"); Supplement No. 1 dated September 21, 1962; Supplement No. 2 dated October 21, 1964; Supplement No. 3 dated March 23, 1965; Supplement No. 4 dated April 27, 1966; Supplement No. 5 dated February 10, 1967. Supplement No. 6 dated July 5, 1979; and Supplement No. 7 dated May 24, 2011.
 - (6) Lease Agreement entered into on June 15, 1963 (Bailey Tract); Supplement No. 1 dated February 23, 1988; Supplement No. 2 dated May 24, 2011; and Supplement No. 3. dated June 7, 2011.
 - (7) Occupancy Agreement for the Computational Research and Theory (CRT) Facility, dated October 12, 2011

- (b) The provisions outlined below shall apply to the lease or occupancy by the Government of the property of the Contractor:
- (1) Lease and Occupancy Agreements For Structures And Improvements On Regular University Campus. The Contractor and DOE have entered into or shall enter into occupancy or lease agreements for the use of the regular University campus upon which structures and other improvements financed by the Government have been or will be constructed. Lease agreements shall be used in the case of new Government-owned structures and to the extent mutually agreed upon for other structures. Such lease agreements shall conform to leases entered into pursuant to paragraph (b)(2) below, except for such differences as the parties have agreed upon for prior leases on the State University Tract or may hereafter mutually agree upon. Such occupancy agreements shall incorporate the following terms and conditions, and such other provisions as may be agreed to by the parties:
- (i) DOE shall have the right to occupy and use the property in conjunction with the Contractor during the term of this contract and any successor contracts and for three years after termination of such contracts as provided below.
 - (ii) After termination of this contract or any successor contract, and by mutual agreement of the parties at any time during the course of the work, the Contractor shall have the right to purchase any such structure or improvement at a price to be agreed upon as fair and proper. DOE shall be given reasonable notice of the Contractor's election to purchase. In the event the parties cannot agree upon the price for any such structure or improvement which the Contractor elects to purchase, the value of the structure shall be determined by an appraiser mutually acceptable to the parties. In any such appraisal the original cost and appropriate depreciation of the structure or improvement shall be given full consideration in the determination of value.
 - (iii) Subject to the Contractor's right to purchase, DOE shall have the right to occupy and use the structures and improvements in conjunction with the Contractor for a period of three years after termination for storage and such other purposes as may be approved by the Contractor, and to remove all or any part of any such structure or other improvements.
 - (iv) DOE shall not be obligated to restore any such property to its original condition or otherwise, except if DOE removes any substantial part of any structure or improvement the Contractor may require the restoration of the affected premises to its original condition.

- (v) During the period of occupancy by DOE after termination, the Contractor shall continue to provide adequate maintenance, utilities and other necessary services, and shall afford DOE and its designees access to the premises at all times. DOE shall pay the Contractor for its direct expenses for maintenance and services for the structures and improvements attributable to DOE's occupancy and use during the period after termination.
 - (vi) Upon expiration of the three-year period after termination, all structures and improvements not purchased or removed shall become the property of the Contractor.
- (2) Lease Agreements For Structures And Improvements On Wilson Tract, Plot "O" And Plot "M." The Contractor and DOE have entered into or shall enter into lease agreements granting DOE rights in the property of the Contractor known as Wilson tract, Plot "O" and "M" upon which structures and other improvements financed by the Government have been or will be constructed. Such leases shall incorporate the following terms and conditions, and such other provisions as may be agreed to by the parties:
- (i) DOE shall be granted a 50-year lease, or as otherwise stated, for the premises occupied by such structures and improvements together with a reasonable surrounding area. If the contractual relations between the Contractor and the Government are in effect at the end of the 50-year period of any lease period, or as otherwise stated the term of the lease shall extend until the termination of such relationship and three years thereafter. The term of the lease for each structure or improvement shall be effective from the date of approval of construction by DOE.
 - (ii) Under any such lease during the term of this contract and its extensions, the premises shall be used solely by the Contractor and DOE in carrying on work under this contract, unless otherwise agreed to by the parties in writing.
 - (iii) The Contractor at any time during the term of the contract may purchase any such structure or improvement where the needs of the program no longer require their use. Such purchase shall be subject to paragraph (b)(2)(iv) below.
 - (iv) After termination of this contract or any successor contract, and by mutual agreement of the parties at any time during the course of the work, the Contractor shall have the right to purchase any such structure or improvement at a price to be agreed upon as fair and proper. DOE shall be given reasonable notice of the Contractor's election to purchase. In the event the parties cannot agree upon the price for any such structure or

improvement which the Contractor elects to purchase, the value of the structure shall be determined by an appraiser mutually acceptable to the parties. In any such appraisal the original cost and appropriate depreciation of the structure or improvement shall be given full consideration in the determination of value.

- (v) After termination, subject to the Contractor's right to purchase, DOE shall have the right to (A) continue research work related to energy, (B) place and maintain equipment related to the energy program, (C) remove all or any part of any such structure or improvements, and (D) carry on such other activities as may be mutually agreed to by the parties except as may be qualified by the parties. In exercising its rights pursuant to this subparagraph, DOE shall have the right to permit other organizations and individuals to participate with DOE in carrying on such activities.
 - (vi) Under any such lease, DOE shall not be obligated to restore any property to its original condition or otherwise, except that if DOE removes any substantial part of any structure or improvement the Contractor may require the restoration of the affected premises to its original condition.
 - (vii) During the period of the lease after termination of the contract, the Contractor shall continue to provide adequate maintenance, utilities, and other necessary services (including standby services), and shall afford DOE and its designees access to the premises at all times. DOE shall pay the Contractor for its direct expenses for maintenance and services for the structures and improvements attributable to DOE's use of the property during the period after termination.
 - (viii) Upon expiration of the term of this lease and such extensions as may be mutually agreed upon, all structures and improvements not purchased or removed shall become the property of the Contractor.
- (3) Lease And Occupancy By DOE Of Real Property Owned By The University - Responsibility For Environmental Restoration And Remedial Work. Upon termination or expiration of contract DE-AC02-05CH11231 or any lease or occupancy agreements providing for the Government's use of the property of the Contractor, DOE shall be responsible for complying with applicable laws, regulations, or orders requiring investigation, monitoring, cleanup, containment, restoration, removal, or other remedial activity with respect to any hazardous substances present in the soil, ground water or buildings as a result of activities conducted during the term of this contract or any prior contract modifications or during the term of any said lease or occupancy agreements.
- (4) Contractor Building Space And Equipment.

- (i) Contractor building space and equipment used directly by Laboratory personnel under Contract DE-AC02-05CH11231 (previously Contracts W-7405-ENG-48 and DE-AC03-76SF00098) shall be at least equivalent to:

Berkeley campus proper buildings

	Facility Area Net Sq. Ft.
1 – Donner Laboratory	23,013.16
3 – Melvin Calvin Laboratory	0.00
8 – Hearst Mining	964.00
11 – Hildebrand Hall	8,083.25
18 - Gilman Hall	2,173.55
19 – LeConte Hall	137.62
019A – Birge Hall	5,340.99
Life Sciences	0.00
21 – Giauque Lab	96.05
22 – Latimer Hall	5,736.47
24 – Etcheverry Hall	6.60
38 - Lewis Hall	610.18
Cory	0.00
301 - Hilgard	433.10
850 - Tan Hall	3,161.05
905 - Hesse Hall	103.47
Wurster Hall	0.00
922 - New Stanley	55.15
927 - Koshland Hall	159.32
953 - McCone	389.91
984 - Davis	37.60
990 - Evans	48.00
995 - Baker	27.00
Subtotal (Contractor)	50,576.47

LBNL site proper buildings:

Laboratories and Research Offices - Building No. 5	4,742.00
Advanced Light Source (previously 184" Cyclotron) Building 6	22,814.00
Computational Research and	73,700.00(ASF)

Theory Facility (CRT)

Subtotal (LBNL) 101,256.00

Richmond Field Station 6,161.00

Oakland Scientific Facility (OSF) 40,179.00 (occupied space)

Total Space Used 198,172.50

Equipment: Number/Value

Polar Crane from 184" Cyclotron (1997 Value on U. C. Books) \$ 50,000.00

Various Equipment (1997 approx. value) \$ 100,000.00

Total Equipment 150,000.00

- (ii) The Parties agree that Contractor space furnished under subparagraph (b)(4)(i) above by the Contractor may be changed from time to time by mutual agreement of the parties, and except as otherwise agreed, the Contractor shall continue to furnish space at no less than 198,172.5 square feet. In the event that the space actually furnished varies significantly from said 198,172.5 square feet, the Parties agree, upon the request of either party, to negotiate an appropriate adjustment for maintenance and service charges related to such variation.
- (iii) In addition to the direct expenses for maintenance and services, DOE authorizes reimbursement calculated in accordance with CAS 414 (Facilities Capital Cost of Money – FCCM) and FAR 31.205-11 for the following facilities:

Oakland Scientific Facility

- (iv) The following facilities are subject to additional occupancy agreements, which are incorporated herein by reference:

The Computational Research and Theory (CRT) Facility, dated October 12, 2011 note: Facilities are not constructed as of the date of this modification.

- (c). DOE shall have the right to occupy and use the property, identified below, in conjunction with the Contractor during the term of this contract and any successor contracts and for three years after termination of such contracts. Leases and Occupancy Agreements that are expiring during this period shall be modified by supplemental agreement to the end of contract period plus three years. Supplements shall be implemented 90 days prior to their expiration.

1. If DOE has no continuing need to occupy the Land a supplement will be prepared identifying the Land being returned to the University and the agreed to “clean-up standards.”
2. If DOE has a continuing need to occupy the Land or construct a new facility then DOE will enter into a lease parcel agreement rather than modify the occupancy agreement.

BERKELEY LAB PARCEL LEASES		
May 24, 2011		
<u>Tract / Parcel / Buildings</u>	<u>Start</u>	<u>End</u>
Wilson Tract		
Parcel 1 (Bldg 51,51A,56,60,63,64)	7/15/1949	May 31, 2014, or as further extended in accordance with Clause F.1.
Parcel 2 (Bldg 46,46A)	12/15/1948	May 31, 2014, or as further extended in accordance with Clause F.1.
Parcel 3 (Bldg 50)	9/14/1948	May 31, 2014, or as further extended in accordance with Clause F.1.
Parcel 4 (Bldg 70,54A)	3/27/1953	May 31, 2014, or as further extended in accordance with Clause F.1.
Parcel 5 (Bldg 17,27,47,52,52A,53,58A,58,58D)	12/18/1950	May 31, 2014, or as further extended in accordance with Clause F.1.
Parcel 6 (Bldg 55,55A,55B,60 is also in Parcel 1)	2/15/1951	May 31, 2014, or as further extended in accordance with Clause F.1.
Parcel 7 (Bldg 71, 71A,71B)	7/27/1955	May 31, 2014, or as further extended in accordance with Clause F.1.
Parcel 9 (Bldg 13B,90)	5/5/1959	May 31, 2014, or as further extended in

		accordance with Clause F.1.
Parcel 10 (OSF:13E, Bldg 65,88,88B, 88C,88D)	8/28/1959	May 31, 2014, or as further extended in accordance with Clause F.1.
Parcel 16 (Bldg 50A,50B,50C,50E &50F)	10/31/1960	May 31, 2014, or as further extended in accordance with Clause F.1.
Parcel 22 (Bldg 81,82)	2/13/1967	Feb. 13, 2017
Bailey Tract		
Parcel 20 (Bldg 26)	6/15/1963	July 1, 2061
Parcel 26 (Bldg 6,7,13H,34,37)	2/23/1988	Feb. 22, 2037
State Univ Tract (Plots 80 & 82)		
Parcel 5A (Bldg 2, 2A)	3/1/1986	Feb. 29, 2036
Parcel 11 (Bldg 70A, 70B)	11/9/1959	May 31, 2014, or as further extended in accordance with Clause F.1.
Parcel 21 (Bldg 54)	3/1/1965	Mar. 1, 2015
Parcel 27 (Bldg 6, 10A, 80 & 80A, 15)	2/23/1988	Feb. 22, 2037
State Univ. Tract (Simmons Plot)		
Parcel 14 (Bldg 33A, 73 & 73A)	10/13/1960	May 31, 2014, or as further extended in accordance with Clause F.1.
Parcel 15 (Bldg 74, 74F, 84 & 84B)	1/19/1961	May 31, 2014, or as further extended in accordance with Clause F.1.
Parcel 19 (Bldg 62, 62B, new bldg no number.)	12/1/1962	May 31, 2014, or as further extended in accordance with Clause F.1.
Parcel 23 (Bldg 61)	9/1/1969	Aug. 31, 2019
Parcel 25 (Bldg 83, 86)	9/1/1978	Aug. 31, 2028
Parcel 25A (Bldg 85 & 85A)	9/1/1991	Aug. 31, 2041
Parcel 28 (Bldg 7A,31,31A,66,72, 72A, 72B,72C, 67)	6/2/2003	June 1, 2053
State Univ. Tract (Plot "O")		
Parcel 12 (Bldg 33C, 68, 69,75A,75D, 75V, 75)	11/9/1959	May 31, 2014, or as further extended in accordance with Clause F.1.
Parcel 17 (Bldg 77,77A,77T,77H,77E,77C,77U,79, 79A,79B)	3/2/1962	May 31, 2014, or as further extended in accordance with Clause F.1.
Parcel 18 (Bldg 76,76K,76L,78,76A,76M,76N,76J)	12/1/1962	May 31, 2014, or as further extended in accordance with Clause F.1.
Parcel 29 (Bldg 36A and 36 Grizzly Peak Substation)	6/2/2003	June 1, 2053