

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.
 - (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.
 - (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.
 - (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.
 - (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.
 - (6) Lease Agreement entered into on June 15, 1963 (Bailey Tract); Supplement No. 1 dated February 23, 1988.
- (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 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 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 or July 1, 1948, whichever is later. In special cases the Administration may approve the use of a different effective date or lease term.
 - (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-AC03-76SF00098 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) Campus Building Space And Equipment.
- (i) Campus building space and equipment used directly by Laboratory personnel under Contract DE-AC03-76SF00098 (previously Contract W-7405-ENG-48) shall be at least equivalent to:

<u>Location</u>	<u>Facility Area Net Sq. Ft.</u>
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Berkeley campus proper buildings:

Donner Laboratory	20,951
Melvin Calvin Lab	17,724
Hearst Mining	9,652
Hildebrand Hall	13,194
Gilman Hall	5,050
LeConte Hall	1,842
Birge Hall	5,662
Life Sciences	409
Giauque Lab	6,154
Latimer Hall	14,824
Etcheverry Hall	3,092
Lewis Hall	3,585
Cory Hall	53
Hesse Hall	1,594
Wurster Hall	1,717
Subtotal (Campus)	105, 503

LBNL site proper buildings:

Chemistry Building No. 5	4,742
Advanced Light Source Building (previously 184" Cyclotron Building)	22,814
Subtotal (Hill)	27,556
Richmond Field Station	6,161
Total Space Used	137,022

<u>Equipment:</u>	<u>Number/Value</u>
Polar Crane from 184" Cyclotron (Value of U. C. Books)	\$50,000
Various Equipment (approx)	\$100,000
Total Equipment	\$150,000

- (ii) The Parties agree that campus 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 78,890 square feet. In the event that the space actually furnished varies significantly from said 78,890 square feet, the Parties agree, upon the request of either party, to negotiate an appropriate adjustment for maintenance charges related to such variation.