



HOME ENERGY SAVER™ API LICENSE AGREEMENT

License: 20____ - ____
 MTA
For Berkeley Lab use only
API: HES APIs

This API License Agreement (the "**Agreement**") is entered into by The Regents of the University of California, Department of Energy contract-operators of the Ernest Orlando Lawrence Berkeley National Laboratory, 1 Cyclotron Road, Berkeley, CA 94720 ("**Berkeley Lab**"), and the entity listed below ("**Licensee**") having its principal place of business at the address below:

Company / Institution ("**Licensee**"): _____
Type (according to Exhibit B): A B C D For Type C: number Employees: _____
Name of responsible Licensee employee: _____
Title or position: _____
Department (if applicable): _____
Address 1: _____
Address 2: _____
Tel: _____ Email: _____
Fax: _____ Web: _____

The Home Energy Saver™ is a Berkeley Lab Application developed at Berkeley Lab for determining and optimizing energy use in homes. Licensee desires to obtain, and Berkeley Lab is willing to grant, the right to provide services that access the Berkeley Lab Application through use of the Licensed APIs.

The parties now agree as follows:

1. DEFINITIONS

- 1.1 "**API Key**" is a unique alpha-numeric string that provides each Licensee with authorized access to the Licensed APIs.
- 1.2 "**API**" means Application Programming Interface.
- 1.3 "**Berkeley Lab Application**" means the Home Energy Saver™ (HES) that can be accessed at lbl.gov or a via Berkeley Lab's Hosting Service.
- 1.4 "**Effective Date**" means the date this Agreement is signed by both parties. If the parties sign the Agreement on different days, the Effective Date shall be the later of the signing dates.
- 1.5 "**Employees**" means full-time or part-time employees employed by Licensee or Sublicensee (i) as of the Effective Date for purposes of determining the first year License Fee and Setup Fee and (ii) as of January 1 for purposes of determining the License Fee of each year thereafter.
- 1.6 "**HES**" means Home Energy Saver™ developed at Berkeley Lab for determining and optimizing energy use in buildings (Berkeley Lab reference number CR-2892).
- 1.7 "**Licensee Application**" is the Licensee's application or website that provides access to the Berkeley Lab Application through the Licensed APIs.
- 1.8 "**Licensed APIs**" means the APIs noted above providing the connection with the Berkeley Lab Application, together with any associated sample code, media, printed materials, and on-line or electronic documentation (if any).

- 1.9 "**Software**" means Berkeley Lab Application and Licensed APIs.
- 1.10 "**Aggregator**" means a Licensee who has Sublicensees and provides API access to the Sublicensees through its own servers.
- 1.11 "**Sublicensee**" means a 3rd party who is a sub-licensee of an Aggregator and accesses Licensed APIs indirectly by going through servers operated by the Aggregator.
- 1.12 "**License Fee**" means the yearly fee outlined in Exhibit B that Licensee pays to Berkeley Lab for itself and, in the case of an Aggregator, for each Sublicensee.
- 1.13 "**Setup Fee**" means the fee for onboarding a Licensee and providing support as outlined in Exhibit B.
- 1.14 "**Usage Cost**" means the cost charged by the Hosting Service for transactions through the APIs. Usage Costs are paid by the Licensee directly to the Hosting Service. Details are available at <http://hes.3scale.net>, or such other URL as Berkeley Lab provides Licensee.
- 1.15 "**Hosting Service**" means the service provider chosen by Berkeley Lab to host and allow access to Berkeley Lab Applications and Licensed APIs on behalf of Berkeley Lab itself.

2. LICENSE GRANT

- 2.1 Subject to Licensee's signing this agreement, and subject to receipt by Berkeley Lab of any required U.S. Department of Energy approvals, Berkeley Lab grants Licensee a non-exclusive, revocable, non-transferable license to use the Licensed APIs to develop, reproduce and distribute applications that interoperate

with the Berkeley Lab Application, solely to provide energy use information, subject to the following terms and conditions:

2.1.1 Licensee agrees that the following terms and conditions also apply to its Sublicensees and that Licensee is fully responsible for the actions of its Sublicensees.

2.1.2 Licensee agrees that whenever marketing the Licensee Application, Licensee will state as follows: "This site is powered by Berkeley Lab's Home Energy Saver™ calculation engine, but is not endorsed or certified by Berkeley Lab. User data collected by Berkeley Lab will be treated according to the HES privacy policy and will only be shared with the entity that originally submitted the data via the API data exchange process (i.e. the program or website you are currently using)." (the "Statement").

2.1.2.1 The words "Home Energy Saver™" in the Statement shall be hyperlinked to <http://hes.lbl.gov>, or such other URL as Berkeley Lab provides Licensee.

2.1.2.2 The words "Berkeley Lab" in the Statement shall be hyperlinked to <http://www.lbl.gov>, or such other URL as Berkeley Lab provides Licensee.

2.1.2.3 The words "HES privacy policy" in the Statement shall be hyperlinked to <https://commons.lbl.gov/x/q4BNaw>, or such other URL as Berkeley Lab provides Licensee.

2.1.2.4 The word "API" in the Statement shall be hyperlinked to <http://hes.3scale.net/>, or such other URL as Berkeley Lab provides Licensee.

2.1.2.5 Licensee agrees to include the Statement on any website utilizing the Licensed APIs, placed no more than one click from the homepage and in a location that does not require scrolling when displayed on a 15-inch monitor.

2.1.3 The API Keys are owned by Berkeley Lab, are strictly confidential and may not be provided by Licensee to any 3rd party, including Licensee's Sublicensees or users, except to contractors doing work related to the Licensed APIs for Licensee and that are under written confidentiality obligations prohibiting further disclosure of the API Keys. Licensee is responsible for the actions of its contractors.

2.1.4 Licensee agrees to be fully responsible for Licensee's own conduct and content while using the APIs, and for any consequences thereof. Licensee agrees to use the APIs only for purposes that are legal, proper and in accordance with this Agreement and any applicable policies or guidelines. By way of example, and not as a limitation, Licensee agrees that when using the APIs, Licensee will not:

2.1.4.1 upload, post, email or transmit or otherwise make available any content that infringes any patent, trademark, copyright, trade secret or other proprietary right of any party, unless Licensee is the owner of such rights or has the permission of the owner to post such content;

2.1.4.2 use the Licensed APIs for any illegal or unauthorized purpose;

2.1.4.3 remove or alter any copyright, trademark or other proprietary rights notices contained in the Licensed APIs;

2.1.4.4 submit content that falsely expresses or implies that such content is sponsored or endorsed by Berkeley Lab; or

2.1.4.5 transmit any viruses, worms, defects, Trojan horses, or any items of a destructive nature.

2.1.5 Licensee may not use the Licensed APIs for any other purpose without Berkeley Lab's prior written consent.

2.1.6 Licensee may not reverse engineer, disassemble, decompile, or otherwise attempt to derive the source code of the Licensed APIs. Licensee may not modify, alter, or create derivative works of the Licensed APIs in any manner.

2.1.7 Licensee's customers and users agree to the Minimum Terms for End User License Agreement in Exhibit A.

2.1.8 Berkeley Lab has affiliated legal entities or agents ("Affiliates"). Sometimes, these companies will be Hosting Services. Licensee acknowledges and agrees that Affiliates will be entitled to act on behalf of Berkeley Lab.

2.1.9 Licensee acknowledges and agrees that Berkeley Lab may stop temporarily providing access to the Licensed APIs (or any features of the Licensed APIs) to Licensee or to users generally, at Berkeley Lab's sole discretion, without prior notice to Licensee. Access to the Licensed APIs and Berkeley Lab Application may be interrupted for extended periods of time during the term of this Agreement.

2.1.10 Licensee acknowledges and agrees that if Berkeley Lab disables Licensee's access to the Licensed APIs, Licensee may not access them through any other means.

2.1.11 Licensee acknowledges and agrees that it will establish its own relationship with the Hosting Service and to pay the costs accrued under paragraph 2.1.15 directly to that Hosting Service.

2.1.12 Licensee may not rent, lease, loan, sublicense, distribute or transfer the Licensed APIs to any third party, nor use the Licensed APIs for commercial time-sharing or service bureau, except if it is an Aggregator, to its Sublicensees.

2.1.13 Licensee agrees not to name their web site or sub-areas of their web site "Home Energy Saver" or "Home Energy Saver Pro", which are trademarked by Berkeley Lab.

2.1.14 Licensee acknowledges and agrees that it will collect and cumulatively pay to Berkeley Lab the License Fees owed by itself and by its Sublicensees.

2.1.15 Licensee acknowledges and agrees that it is responsible for covering the Usage Costs for its own use and, in the case of an Aggregator, also the Usage Costs incurred by its Sublicensees.

3. NOTIFICATIONS TO LICENSEE

3.1 In the case of new Licensees, Berkeley Lab will notify Licensee by the Effective Date if Berkeley Lab will bear the Usage Costs of Licensee and Sublicensees, if any, in the current calendar year.

3.2 If Berkeley Lab will bear the Usage Costs of Licensee and Sublicensees, if any, in the next calendar year, Berkeley Lab will notify Licensee in writing by October 31 of the current year.

3.3 If Berkeley Lab will make substantial changes to the terms and conditions of this Agreement that will take effect in the next calendar year, or if Berkeley Lab will not renew this Agreement for the next calendar year, Berkeley Lab will notify Licensee in writing by October 31 of the current year. Berkeley Lab will not increase License Fees by more than 10% when renewing this Agreement for the next calendar year.

4. COPYRIGHT; RETENTION OF RIGHTS

4.1 Subject to approval by the U.S. Department of Energy: (i) Licensee hereby acknowledges that the Software is protected by United States copyright law and international treaty provisions; (ii) Berkeley Lab hereby reserves all rights in the Software which are not explicitly granted to Licensee herein; (iii) without limiting the generality of the foregoing, Berkeley Lab or its licensors retains all title, copyright, and other proprietary interests in the Software and any copies thereof, and Licensee does not acquire any rights, express or implied, in the Software, other than those specifically set forth in this Agreement.

5. MAINTENANCE AND SUPPORT

5.1 Except as outlined in Exhibit B, Berkeley Lab shall be under no obligation whatsoever to provide maintenance or support for the Software.

6. LICENSE AND SUBLICENSE FEES

6.1 All fees in this section 6 are according to Exhibit B.

6.2 Licensee shall pay to Berkeley Lab within thirty (30) days of the Effective Date:

- 6.2.1 the Setup Fee; and
- 6.2.2 the License Fee for the remainder of the calendar year prorated on a quarterly basis.

6.3 At the beginning of each calendar year, Licensee shall pay to Berkeley Lab:

- 6.3.1 the License Fee for Licensee for that calendar year;
- 6.3.2 the License Fee for each current Sublicensee for that calendar year.
- 6.3.3 for each Sublicensee for which the effective date of the sublicense falls within the previous calendar year, the License Fee for the previous calendar year prorated on a quarterly basis; and
- 6.3.4 The License Fees in this paragraph 6.3 accrue on January 1 of each calendar year, and Licensee shall pay them by February 28 of that calendar year.

6.4 Payment shall be made in U.S. Dollars by check made payable to "The Regents of the University of California (Berkeley Lab/HES-API)".

7. LICENSE REPORTS

7.1 At the beginning of each calendar year, Licensee shall make a license report to Berkeley Lab.

7.2 Licensee shall submit the license reports under paragraph 7.1 together with the License Fee and Setup Fee, if any, and in any event no later than February 28 of each year.

7.3 The license reports Licensee submits under paragraph 7.1 must include the following:

7.3.1 for Licensee:

- 7.3.1.1 type of Licensee (A, B, C or D), and
- 7.3.1.2 for type C and D Licensees, number of Employees;

7.3.2 for each Sublicensee;

- 7.3.2.1 the effective date of the sublicense,
- 7.3.2.2 type of Sublicensee (A, B, C or D),
- 7.3.2.3 for type C and D Sublicensees, number of Employees, and
- 7.3.2.4 the calculation of the amounts due.

8. U.S. GOVERNMENT RIGHTS

8.1 The Software was developed under funding from the U.S. Department of Energy and the U.S. Government consequently retains certain rights as follows: the U.S. Government has been granted for itself and others acting on its behalf a paid-up, nonexclusive, irrevocable, worldwide license in the Software to reproduce, prepare derivative works, and perform publicly and display publicly. Beginning five (5) years after the date permission to assert copyright is obtained from the U.S. Department of Energy, and subject to any subsequent five (5) year renewals, the U.S. Government is granted for itself and others acting on its behalf a paid-up, nonexclusive, irrevocable, worldwide license in the Software to reproduce, prepare derivative works, distribute copies to the public, perform publicly and display publicly, and to permit others to do so.

9. WARRANTY DISCLAIMER.

9.1 THE SOFTWARE IS SUPPLIED "AS IS" WITHOUT WARRANTY OF ANY KIND. BERKELEY LAB, THE UNITED STATES, THE UNITED STATES DEPARTMENT OF ENERGY, AND THEIR EMPLOYEES: (1) DISCLAIM ANY WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT, (2) DO NOT ASSUME ANY LEGAL LIABILITY OR RESPONSIBILITY FOR THE ACCURACY, COMPLETENESS, OR USEFULNESS OF THE SOFTWARE, (3) DO NOT REPRESENT THAT USE OF THE SOFTWARE WOULD NOT INFRINGE PRIVATELY OWNED RIGHTS, (4) DO NOT WARRANT THAT THE SOFTWARE WILL FUNCTION UNINTERRUPTED, THAT IT IS ERROR-FREE OR THAT ANY ERRORS WILL BE CORRECTED. FURTHER, BERKELEY LAB DISCLAIMS ANY WARRANTY THAT LICENSEE'S USE OF THE LICENSED APIs WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR FREE.

10. LIMITATION OF LIABILITY

10.1 IN NO EVENT WILL BERKELEY LAB OR ITS LICENSORS BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES OF ANY KIND OR NATURE, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS OR LOSS OF DATA, FOR ANY REASON WHATSOEVER, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), OR OTHERWISE, EVEN IF BERKELEY LAB HAS BEEN

WARNED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES. IN NO EVENT SHALL BERKELEY LAB'S LIABILITY FOR DAMAGES ARISING FROM OR IN CONNECTION WITH THIS AGREEMENT EXCEED THE AMOUNT PAID BY LICENSEE FOR THE SOFTWARE.

11. INDEMNITY

11.1 Licensee shall indemnify, defend, and hold harmless Berkeley Lab, the U.S. Government, the Software developers, the Software sponsors, and their agents, officers, and employees, against any and all claims, suits, losses, damage, costs, fees, and expenses arising out of or in connection with this Agreement. Licensee shall pay all costs incurred by Berkeley Lab in enforcing this provision, including reasonable attorney fees.

12. TERM AND TERMINATION

12.1 The license granted to Licensee under this Agreement will automatically renew each January 1, unless Berkeley Lab gives written notice to Licensee by the previous October 31 according to paragraph 3.3. If Berkeley Lab provides notice for substantial changes, Licensee must execute the amendment provided by Berkeley Lab by December 31.

12.2 If Licensee breaches any term of this Agreement, including without limitation failure to pay Setup Fee or License Fees or failure to provide the report required by sections 6 and 7, respectively, this Agreement shall immediately terminate. Upon such termination, Licensee and its Sublicensees, shall immediately cease using the Licensed APIs, destroy all API Keys. Licensee shall provide Berkeley Lab with written certification of Licensee's and Sublicensee's compliance with the foregoing.

12.3 Licensee may terminate this Agreement by providing 2 months' written notice to Berkeley Lab. Berkeley Lab has no obligation to provide any refund to Licensee.

12.4 Termination shall not relieve Licensee from Licensee's and its Sublicensee's obligations arising prior to such termination.

13. NOTICES

13.1 Any payment, notice or other communication this Agreement requires or permits either party to give must be in writing to the appropriate address given below, or to such other address as one party designates by written notice to the other party. The parties deem payment, notice or other communication

to have been properly given and to be effective (a) on the date of delivery if delivered in person; (b) on the fourth day after mailing if mailed by first-class mail, postage paid; (c) on the second day after delivery to an overnight courier service such as Federal Express, if sent by such a service; or (d) upon confirmed transmission by fax. The parties' addresses are as follows:

In the case of Berkeley Lab:

Lawrence Berkeley National Laboratory
Technology Transfer Department
One Cyclotron Road, Bldg. 56A-120
Berkeley, CA 94720
Attention: Licensing Manager
Tel: (510) 486-6467
Fax: (510) 486-6457

In the case of Licensee:

The contact information listed on page 1.

14. EXPORT CONTROLS

14.1 Licensee shall observe all applicable United States and foreign laws and regulations (if any) with respect to the export, re-export, diversion or transfer of the Licensed APIs, related technical data and direct products thereof, including, without limitation, the International Traffic in Arms Regulations (ITAR) and the Export Administration Regulations. The export of any technology from the United States, including without limitation the Licensed APIs and related technical data, may require some form of export control license from the U.S. Government and, pursuant to U.S. laws, failure to obtain such export control license may result in criminal liability under U.S. laws.

15. GENERAL

15.1 This Agreement shall be governed by the laws of the State of California, excluding its rules governing conflicts of laws. No provision in either party's business forms employed by either party will supersede the terms of this Agreement, and no modification or amendment of this Agreement is binding, unless in writing signed by a duly authorized representative of each party. This Agreement represents the entire understanding of the parties, and supersedes all previous communications, written or oral, relating to the subject of this Agreement.

IN WITNESS WHEREOF the parties have caused their duly authorized representatives to execute this Agreement on the date written below, to be effective as of the date of the last party's signature below.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, THROUGH THE ERNEST ORLANDO LAWRENCE BERKELEY NATIONAL LABORATORY

By (signature): _____
Name (print): _____
Title: _____
Date: _____

LICENSEE

By (signature): _____
Name (print): _____
Title: _____
Date: _____

EXHIBIT A

MINIMUM TERMS FOR END USER LICENSE AGREEMENT

(FOR LICENSEES AND SUBLICENSEES)

1. LICENSE GRANT RESTRICTIONS.

Licensee shall restrict its end users from:

- (a) reverse engineering, disassembling, decompiling, or otherwise attempting to derive the source code of the Home Energy Saver Pro™ (“**HESpro**”), the Application Programming Interface connecting to HESpro (the “**APIs**”) or the API Keys;
- (b) modifying, altering, or creating derivative works of HESpro or the API in any manner.

2. MANDATORY PROVISIONS. The following provisions must be included in any end user license agreement:

U.S. GOVERNMENT RIGHTS NOTICE. This software consists of HESpro, the APIs, sample code illustrating how to connect to HESpro via the APIs, related documentation or a derivative work thereof (combined, the “**Software**”). The Software was developed under funding from the U.S. Department of Energy. Consequently, the U.S. Government retains certain rights as follows: the U.S. Government is granted for itself and others acting on its behalf a paid-up, nonexclusive, irrevocable, worldwide license in the Software to reproduce, prepare derivative works, and perform publicly and display publicly. Beginning five (5) years after the date permission to assert copyright is obtained from the U.S. Department of Energy, and subject to any subsequent five (5) year renewals, the U.S. Government is granted for itself and others acting on its behalf a paid-up, nonexclusive, irrevocable, worldwide license in such portions of the Software and related to reproduce, prepare derivative works, distribute copies to the public, perform publicly and display publicly, and to permit others to do so.

WARRANTY DISCLAIMER. WITH REGARD TO THE SOFTWARE, THE REGENTS OF THE UNIVERSITY OF CALIFORNIA (THROUGH LAWRENCE BERKELEY NATIONAL LABORATORY), THE UNITED STATES, THE UNITED STATES DEPARTMENT OF ENERGY, AND THEIR EMPLOYEES: (1) DISCLAIM ANY WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT, (2) DO NOT ASSUME ANY LEGAL LIABILITY OR RESPONSIBILITY FOR THE ACCURACY, COMPLETENESS, OR USEFULNESS OF THE SOFTWARE, OR ANY DERIVATIVE WORKS THEREOF, (3) DO NOT REPRESENT THAT USE OF THE SOFTWARE WOULD NOT INFRINGE PRIVATELY OWNED RIGHTS, (4) DO NOT WARRANT THAT THE SOFTWARE WILL FUNCTION UNINTERRUPTED, THAT IT IS ERROR-FREE OR THAT ANY ERRORS WILL BE CORRECTED.

LIMITATION OF LIABILITY. WITH REGARD TO THE SOFTWARE, IN NO EVENT WILL THE REGENTS OF THE UNIVERSITY OF CALIFORNIA (THROUGH LAWRENCE BERKELEY NATIONAL LABORATORY), OR THEIR LICENSORS BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES OF ANY KIND OR NATURE, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS OR LOSS OF DATA, FOR ANY REASON WHATSOEVER, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), OR OTHERWISE, EVEN IF THE REGENTS OF THE UNIVERSITY OF CALIFORNIA (THROUGH LAWRENCE BERKELEY NATIONAL LABORATORY), OR THEIR LICENSORS HAS BEEN WARNED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES.

EXHIBIT B

FEES

Type	Description	Notes	Licensee			Sublicensee	
			First Year		Subsequent years	First Year	Subsequent years
			Setup Fee	License Fee	License Fee	License Fee	License Fee
			Fixed	Prorated based on calendar quarters	Fixed	Prorated based on calendar quarters	Fixed
A	Free Non-Profit ¹⁾	Govt., Non-Profit or Educational Institution providing free access through one website instance only. ²⁾	\$0	\$0	\$0	\$0	\$0
B	Non-Profit	Govt., Non-Profit, or Educational Institution <ul style="list-style-type: none"> • with more than one website instance, or • charging for access, or • using information derived from HES in a commercially available offering or product. 	\$1,000	\$2,500	\$2,500	\$2,500	\$2,500
C	Small Business	Has up to 50 Employees.	\$2,000	\$5,000	\$5,000	\$5,000	\$5,000
D	Large Business	Has 51 or more Employees.	\$8,000	\$10,000	\$10,000	\$10,000	\$10,000

¹⁾ Type A Licensees are not allowed to be Aggregators and have Sublicensees.

²⁾ U.S. Federal Government Licensees may provide access through more than one website instance and retain a Type A license.

For licenses of Type B, C and D, Berkeley Lab will provide up to 8 hours of technical support to assist each Licensee in addressing issues associated with the APIs.

Yearly Renewal Fees accrue on January 1 and are to be paid by February 28.

Specific examples are outlined in Exhibits C and D.

In addition to the above License Fees paid to Berkeley Lab, each Licensee separately covers the variable Usage Costs of its API calls and, in the case of Aggregators, the costs of the API calls of its Sublicensees as well.

EXHIBIT C

LICENSE EXAMPLE

C.1) The Effective Date for a new “Type C” Small Business Licensee is May 7, 2011 (in Q2 of 2011).

2011				2012				2013														
Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4											
Jan Feb Mar	Apr May Jun	Jul Aug Sep	Oct Nov Dec	Jan Feb Mar	Apr May Jun	Jul Aug Sep	Oct Nov Dec	Jan Feb Mar	Apr May Jun	Jul Aug Sep	Oct Nov Dec											
Licensee																						
	◆																					

C.2) Within 30 days of the Effective Date, Licensee will pay to Berkeley Lab:

\$5,000 Setup Fee
 + \$3,750 License Fee for Q2, Q3 and Q4 of 2011 ($\$5,000 / 4 \text{ quarters} * 3 \text{ quarters license term}$)
 \$8,750 TOTAL

2011				2012				2013														
Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4											
Jan Feb Mar	Apr May Jun	Jul Aug Sep	Oct Nov Dec	Jan Feb Mar	Apr May Jun	Jul Aug Sep	Oct Nov Dec	Jan Feb Mar	Apr May Jun	Jul Aug Sep	Oct Nov Dec											
Licensee																						
	\$1,250	\$1,250	\$1,250																			
	\$5,000 Setup																					

C.3) On January 1, 2012, Licensee will pay to Berkeley Lab a License Fee of \$5,000 for that current year.

2011				2012				2013															
Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4												
Jan Feb Mar	Apr May Jun	Jul Aug Sep	Oct Nov Dec	Jan Feb Mar	Apr May Jun	Jul Aug Sep	Oct Nov Dec	Jan Feb Mar	Apr May Jun	Jul Aug Sep	Oct Nov Dec												
Licensee																							
	◆			\$5,000																			

C.4) On January 1, 2013 (and on January 1 of the following years), Licensee will pay to Berkeley Lab a License Fee of \$5,000 for that current year.

2011				2012				2013																	
Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4														
Jan Feb Mar	Apr May Jun	Jul Aug Sep	Oct Nov Dec	Jan Feb Mar	Apr May Jun	Jul Aug Sep	Oct Nov Dec	Jan Feb Mar	Apr May Jun	Jul Aug Sep	Oct Nov Dec														
Licensee																									
	◆							\$5,000																	

EXHIBIT D

AGGREGATION EXAMPLE

D.1) The Effective Date for a new “Type C” Small Business Licensee is May 7, 2011 (in Q2 of 2011).

2011				2012				2013														
Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4											
Jan Feb Mar	Apr May Jun	Jul Aug Sep	Oct Nov Dec	Jan Feb Mar	Apr May Jun	Jul Aug Sep	Oct Nov Dec	Jan Feb Mar	Apr May Jun	Jul Aug Sep	Oct Nov Dec											
Licensee																						
	◆																					

D.2) Within 30 days of the Effective Date, Licensee will pay to Berkeley Lab:

\$5,000 Setup Fee
 + \$3,750 License Fee for Q2, Q3 and Q4 of 2011 ($\$5,000 / 4 * 3$)
 \$8,750 TOTAL

2011				2012				2013														
Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4											
Jan Feb Mar	Apr May Jun	Jul Aug Sep	Oct Nov Dec	Jan Feb Mar	Apr May Jun	Jul Aug Sep	Oct Nov Dec	Jan Feb Mar	Apr May Jun	Jul Aug Sep	Oct Nov Dec											
Licensee																						
	\$1,250	\$1,250	\$1,250																			
	\$5,000 Setup																					

D.3) On October 12, 2011, Licensee acquires its first Sublicensee (Type C).

2011				2012				2013														
Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4											
Jan Feb Mar	Apr May Jun	Jul Aug Sep	Oct Nov Dec	Jan Feb Mar	Apr May Jun	Jul Aug Sep	Oct Nov Dec	Jan Feb Mar	Apr May Jun	Jul Aug Sep	Oct Nov Dec											
Licensee																						
	◆		◆																			
	Sublicensee 1																					

D.4) On January 1, 2012, Licensee will pay to Berkeley Lab:

\$1,250 License Fee for Q4 of 2011 of Sublicensee 1 ($\$5,000 / 4$)
 + \$5,000 License Fee for 2012 of Licensee
 + \$5,000 License Fee for 2012 of Sublicensee 1
 \$11,250 TOTAL

2011				2012				2013														
Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4											
Jan Feb Mar	Apr May Jun	Jul Aug Sep	Oct Nov Dec	Jan Feb Mar	Apr May Jun	Jul Aug Sep	Oct Nov Dec	Jan Feb Mar	Apr May Jun	Jul Aug Sep	Oct Nov Dec											
Licensee																						
	◆																					
	Sublicensee 1																					
			\$1,250																			
							\$5,000															
							\$5,000															

D.5) In 2012, the Licensee acquires 2 additional Sublicensees:

September 20, 2012: Sublicensee 2 (Type C).

October 10, 2012: Sublicensee 3 (Type D).

2011				2012				2013																											
Q1			Q2			Q3			Q4			Q1			Q2			Q3			Q4														
Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Licensee																																			
Sublicensee 1																																			
Sublicensee 2																																			
Sublicensee 3																																			

D.6) On January 1, 2013, Licensee will pay to Berkeley Lab:

\$2,500 License Fee for Q3+ Q4 of 2012 of Sublicensee 2 ($\$5,000 / 4 * 2$)

+ \$2,500 License Fee for Q4 of 2012 of Sublicensee 3 ($\$10,000 / 4$)

+ \$5,000 License Fee for 2013 of Licensee

+ \$5,000 License Fee for 2013 of Sublicensee 1

+ \$5,000 License Fee for 2013 of Sublicensee 2

+ \$10,000 License Fee for 2013 of Sublicensee 3

+ \$30,000 TOTAL

2011				2012				2013																											
Q1			Q2			Q3			Q4			Q1			Q2			Q3			Q4														
Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Licensee																																			
Sublicensee 1																																			
Sublicensee 2																																			
Sublicensee 3																																			
\$5,000																																			
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\$1,250																																			
\$5,000																																			
\$2,500																																			
\$10,000																																			