SOFTWARE LICENSE AGREEMENT

This agreement is between 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, having its principal place of business at the address below ("**Licensee**" or "**You**"):

Company/Institution _____

Name of authorized employee of Licensee: _____

Title or position: _____

Department (if applicable): _____

Street Address: _____

Street Address (cont'd): _____

City / State / Postal Code / Country: _____

Tel: _____   Fax: _____

E-Mail: _____   Web: http://_____

By signing below, we agree to be parties to this Software License Agreement (the "**Agreement**") and to be bound by the terms and conditions set forth below. These terms and conditions shall apply to any Order Schedule entered into between the parties during the Term (as defined below); each Order Schedule is hereby incorporated into this Agreement. The effective date of this Agreement will be the latter of the dates on which it is signed (the "**Agreement Effective Date**").

AGREED:

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

By: _____

Name: _____

Title: _____

Date: _____

_____
Licensee Organization Name

By: _____

Name: _____

Title: _____

Date: _____

TERMS AND CONDITIONS

1. Definitions

"**Software**" means the software program(s) (and any related documentation, instructions, exhibits and reference materials provided to Licensee) as well as Updates (as defined below) listed in the initial ordering document(s) and any subsequent ordering document(s) (each an "**Order Schedule**") signed by the parties.

2. License Grant.

2.1. Subject to receipt by Berkeley Lab of any required U.S. Department of Energy approvals, Berkeley Lab grants You, and You hereby accept, a non–transferable license to use the Software in accordance with the scope of the license defined herein and in the applicable Order Schedule. Licensee is responsible for supplying, at its own cost and expense, any hardware or applications required to use the Software.

2.2. Limitations on License. Licensee agrees that it will not: (i) for executable code, modify, disassemble, reverse engineer, or decompile the Software therein (or attempt to do any of the foregoing); (ii) attempt to access or use portions of the program code or Software for which Licensee has not acquired a license, or (iii) except as specifically authorized otherwise in an Order Schedule, create any derivative works, sublicense, distribute, transfer, rent, lease or loan the Software. Licensee understands and acknowledges that it is granted only those rights set out in this Agreement and any Order Schedule, and no other rights.

2.3. You may install and use copies of the Software on computers and networks only owned, leased or controlled by You, and You will not allow any unauthorized third party access to the Software. You agree to be fully liable for the actions or inactions of Your agents and/or subcontractors therein.

2.4. You may copy the Software solely to the extent necessary to exercise the foregoing license, and for backup and archival purposes; provided however that (i) You must reproduce all copyright notices and other proprietary notices on any copies of the Software and You must not remove or alter those notices; (ii) all copies of the Software shall be subject to the terms of this Agreement; and (iii) except as otherwise authorized in an Order Schedule, You must not otherwise copy or allow copies of the Software to be made.

3. Copyright; Retention of Rights.

3.1. Ownership of Software. Subject to receipt by Berkeley Lab or its licensors of any required approvals by the U.S. Department of Energy: (i) You hereby acknowledge that the Software is protected by United States copyright law and international treaty provisions; (ii) Berkeley Lab, and its licensors (if any), hereby reserve all rights in the Software which are not explicitly granted to You herein; and (iii) without limiting the generality of the foregoing, Berkeley Lab and its licensors retain all title, copyright, and other proprietary interests in the Software and any copies thereof, and You do not acquire any rights, express or implied, in the Software, other than those specifically set forth in this Agreement or applicable Order Schedule.

3.2. Derivative Works. If permitted as otherwise outlined in an Order Schedule, Berkeley Lab hereby grants Licensee a paid-up license to Licensee's derivative works of the Software, in both executable and source code formats as applicable, and the right therein to reproduce, prepare further derivative works, distribute copies to the public, perform publicly, display publicly, and to permit others to do so.

4. No Maintenance or Support. Berkeley Lab shall be under no obligation whatsoever to: (i) provide maintenance or support for the Software; or (ii) to notify You of bug fixes, patches, or updates (collectively, "**Updates**") to the Software (if any). If, in its sole discretion, Berkeley Lab makes an Update available to You and Berkeley Lab does not separately enter into an additional Order Schedule or new written license agreement with You relating to such Update, then it shall be deemed incorporated into the Software and subject to this Agreement.

5. License Fees & Taxes. In consideration of the rights granted hereunder, You agree to pay Berkeley Lab the fees, royalties, or both, as due upon execution of this Agreement in accordance with the applicable Order Schedule. Payment must be made in U.S. Dollars by check or wire order, payable to "The Regents of the University of California (LBNL)". Licensee agrees to pay all taxes, duties, import and export fees, and any other charges or assessments which are applicable to the performance of this Agreement, as it relates to the license rights granted to Licensee hereunder.

6. Confidentiality. Licensee will take appropriate steps to ensure that the source code and executable code of the Software remains confidential and is protected against unauthorized disclosure, use, or release, and will treat it with at least the same level of care as Licensee would use to protect and secure Licensee's own confidential information, but in any event using no less than a reasonable standard of care.

7. U.S. Government Rights. The Software was developed under funding from the U.S. Government. During a period of commercialization granted to Berkeley Lab by the U.S. Department of Energy, the U.S. Government is granted for

itself and others acting on its behalf a nonexclusive, paid-up, irrevocable, worldwide license in the Software to reproduce, prepare derivative works, and perform publicly and display publicly, by or on behalf of the U.S. Government. Subsequent to that period, the U.S. Government is granted for itself and others acting on its behalf a nonexclusive, paid-up, 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.

8. Warranty Disclaimer. THE SOFTWARE IS SUPPLIED "AS IS" WITHOUT WARRANTY OF ANY KIND. BERKELEY LAB, ITS LICENSORS (IF ANY), 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 RIGHTS OF A THIRD PARTY, AND (4) DO NOT WARRANT THAT THE SOFTWARE WILL FUNCTION UNINTERRUPTED, THAT IT IS ERROR-FREE. OR THAT ANY ERRORS WILL BE CORRECTED.

9. Limitation of Liability. IN NO EVENT SHALL BERKELEY LAB OR ITS LICENSORS (IF ANY), THE UNITED STATES, THE UNITED STATES DEPARTMENT OF ENERGY, OR THEIR EMPLOYEES 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 YOU FOR THE SOFTWARE AT ISSUE. THE PARTIES ACKNOWLEDGE THAT ANY FEES AS DUE UNDER THIS AGREEMENT ARE REFLECTIVE OF THE ALLOCATION OF RISK HEREUNDER.

10. Indemnity. You agree to indemnify, defend, and hold harmless Berkeley Lab, its licensors (if any), 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. You shall pay all costs incurred by Berkeley Lab in enforcing this provision, including reasonable attorneys' fees.

11. Term and Termination. The Agreement shall remain in full force and effect for the period outlined in the Order Schedule ("**Term**") unless terminated by Berkeley Lab in accordance with this Agreement. If You breach any term of this Agreement, and fail to cure such breach within thirty (30) days of the date of written notice, this Agreement shall immediately terminate. Upon such termination, You shall immediately: cease using the Software; return to Berkeley Lab or destroy, all copies of the Software; and provide Berkeley Lab with written certification of Your compliance with the foregoing. Termination shall not relieve You from Your obligations arising prior to such termination, including but not limited to the responsibility to pay previously accrued fees. Notwithstanding any provision to the contrary, Sections 3 through 16 shall survive termination of this Agreement.

12. Export Controls. You 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 Software and related technical data and direct products thereof, including, without limitation, the International Traffic in Arms Regulations (ITAR) and the Export Administration Regulations. Failure to obtain any required export control license may result in criminal liability under U.S. laws.

13. Audit. You shall maintain all necessary records to ensure compliance with this Agreement, including but not limited to, finance and accounting records as would be required by generally accepted accounting principles herein, and to retain such records for at least three (3) years after the expiration or termination of this Agreement. During the Term of this Agreement and for three (3) years thereafter, Berkeley Lab shall have the right, upon ten (10) days prior written notice, to audit You to ensure compliance with this Agreement, during normal business hours. Berkeley Lab may not request an audit more than once a calendar year unless an audit reveals an under reporting of fees due to Berkeley Lab, in which case, Berkeley Lab may not request an audit more than once per calendar quarter. If any audit reveals a shortfall, You shall promptly pay to Berkeley Lab such shortfall. If any audit reveals an overpayment, then You shall credit such overpayment against its next payment or fees to Berkeley Lab. If any audit reveals that fees due Berkeley Lab are more than five percent (5%) of amounts remitted to Berkeley Lab, You shall reimburse Berkeley Lab for its audit expenses for such audit.

14. Notices. All notices and demands under this Agreement will be in writing and will be delivered by personal service, express courier, or United States mail, to the respective addresses as set forth in this Agreement. Either party may change the addresses set forth above by written notice to the other party. Notice will be effective on receipt therein.

15. Use of Name. In accordance with California Education Code Section 92000, You shall not use in advertising, publicity or other promotional activities any name, trade name, trademark, or other designation of the University of California, nor use "Ernest Orlando Lawrence Berkeley National Laboratory" or "Department of Energy" (including

any contraction, abbreviation, or simulation of any of the foregoing) without Berkeley Lab's prior written consent.

16. GENERAL. The relationship created by this Agreement is one of independent contractors, and not partners or joint ventures. This Agreement, together with any Order Schedule and made a part hereof, constitute the complete and exclusive agreement between Berkeley Lab and You with respect to its subject matter, and supersede all prior oral or written understandings, communications or agreements. If any provision of the main body of the Agreement conflicts with a provision of any Order Schedule, then the terms of the Order Schedule will prevail. This Agreement shall automatically terminate without an obligation to provide any notice if You commence bankruptcy, reorganization, receivership or insolvency proceedings (including without limitation bankruptcy protection under Chapter 7 and 11 of the U.S. Bankruptcy Code), or any other proceeding under any U.S. Federal, state or other law for the relief of debtors. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement. The rights and remedies of the parties under this Agreement are cumulative and not exclusive of any rights or remedies to which the parties are entitled by law. The exercise by either party of any right or remedy under this Agreement or under applicable law will not preclude such party from exercising any other right or remedy under this Agreement or to which such party is entitled by law. This Agreement has been written in the English language. You waive any rights You may have under the law of Your country to have this Agreement written in the language of that country. Your rights and obligations under this Agreement shall not be assignable without the prior written consent of Berkeley Lab and any attempt to assign them without that consent will be void. This Agreement shall be governed by the laws of the State of California, excluding its rules governing conflicts of laws. If any action arises out of or relating to this Agreement, You hereby consent to the exclusive jurisdiction of the state courts located in the City and County of Alameda, California, or if applicable, the federal courts located in the Northern District of California. No provision in either party's purchase orders or in any other business forms employed by either party shall 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 is binding upon and shall inure to the benefit of Berkeley Lab, its successors and assigns. The waiver by either party of any breach of this Agreement by the other party will not waive subsequent defaults by such party of the same or a different kind. If any provision of this Agreement is held to be unenforceable for any reason, such provision shall be reformed only to the extent necessary to make it enforceable, and such decision shall not affect the enforceability of such provision under other circumstances, or of the remaining provision hereof.

This Order Schedule, including any Exhibits if attached, is hereby incorporated and made part of the Software License Agreement dated _____ (the "**Agreement**").

1.   **Software:** means the 'Automated Recommendation Tool (ART)', version 2.0, Berkeley Lab reference: 2020-012**,** plus any derivative works therein (unless otherwise specified) plus any associated documentation, if provided, in the following format(s):

⊟ Source Code

(collectively, the "**Software**").

2.   Term: *ninety (90) days* from the Order Effective Date hereunder.

3.   Software Order: Licensee is acquiring a license for the Software on the following conditions:

License Grant/Conditions	Additional Conditions
⊟ Non Commercial Use rights	You will use the Software for non-commercial purposes only. On this basis, You do not need to pay license fees, royalties, or other form of compensation or consideration apply.
⊟ Internal Use rights	The Software will be used solely by You and limited to use only within Your information technology infrastructure (i.e., Your hardware, software and networks under Your control).
⊟ Creation of derivative works	You may create derivative works of the Software.
⊟ Temporary evaluation use rights	You will use the Software for Non Commercial Use and Internal Use purposes only, until such rights expire as outlined in this Order Schedule and Agreement.

4.   **Total Fees:** The following fees will apply to this transaction:

License Fee $0.00

Total Fees ** Due: **$0.00**

Please sign and return this Order Schedule and the Agreement which is attached, to Berkeley Lab by April 30th, 2020. The effective date of this Order Schedule shall be the latter of the dates on which it is signed (the "**Order Effective Date**").

5.   **Reporting:** Licensee agrees to complete and submit reports as outlined in any Exhibits if attached. Berkeley Lab may update such Exhibits from time to time as significant developments arise.

6.   **Order of Precedence:** In the event of a conflict between the terms and conditions of the Agreement and the terms of this Order Schedule, the terms of this Order Schedule will prevail.

AGREED:

_____	ERNEST ORLANDO LAWRENCE
	BERKELEY NATIONAL LABORATORY

By: _____   By: _____
    (Authorized Representative)   (Authorized Representative)

Name: _____   Name: _____

Title: _____   Title: _____

Date: _____   Date: _____