EPRI | ELECTRIC POWER RESEARCH INSTITUTE

ELECTRIC POWER RESEARCH INSTITUTE, INC.
ROYALTY-FREE LIMITED LICENSE AGREEMENT FOR PROPRIETARY SOFTWARE

This Royalty-Free Limited License Agreement for Proprietary Software (the "Agreement") is made and entered as of the Effective Date (as defined below) by and between the U.S. NUCLEAR REGULATORY COMMISSION having a place of business at 11545 Rockville Pike, Rockville, Maryland 20852-2738 (the "NRC") and ELECTRIC POWER RESEARCH INSTITUTE, INC., a nonprofit corporation organized under the laws of the District of Columbia, having a principal place of business at 3420 Hillview Avenue, Palo Alto, California 94304 ("EPRI"). The Effective Date shall mean the date the last party signs or executes this Agreement.

The Human Reliability Analysis ("HRA") Calculator (the "Software") contains information proprietary to EPRI. The term "Software" as used herein includes any and all proprietary and supplementary information and documentation provided with the Software. As of the Effective Date of this Agreement the current version of the Software is HRA Calculator version 4.1.1, EPRI Product No. 1020436. During the License Term (as defined below) of this Agreement any updates to the Software released by EPRI in final form and made available to others will automatically be made available to the NRC under this Agreement. Upon the NRC's initial application of the updated Software the NRC agrees to (i) return to EPRI, within thirty (30) days, at the NRC's expense, all copies of the previous Software, any Derivative Works of such Software and any related supplementary information (the "EPRI Materials"), or (ii) destroy the EPRI Materials and provide written certification of such destruction to EPRI.

EPRI hereby grants to the NRC a royalty-free, nonexclusive, revocable, nontransferable license, limited to the territory of the United States and only for the use of Authorized Users (as defined below), to use the Software only for the purpose of supporting the following research projects being conducted jointly by EPRI and NRC: (1) the extension to a reference US nuclear power plant of an international benchmarking study to compare different methods of performing human reliability analysis, and (2) investigation of the use of the EPRI methods employed in the HRA Calculator as a starting point for a hybrid method for human reliability analysis being developed in response to Staff Requirements Memorandum M061020.

The NRC may create Derivative Works (as defined below) of the Software only to the extent necessary to support the EPRI-NRC joint research projects identified in the previous paragraph. EPRI shall own all right, title and interest in all such Derivative Works. The NRC shall, upon the request of EPRI, provide EPRI with a copy of each such Derivative Work. "Derivative Works" shall mean a revision, modification, translation, abridgment, condensation or expansion of the Software, or any other form of change in which the Software may be recast, transferred or adapted.

Access to and use of the Software and any Derivative Work will be restricted to NRC employees and to those NRC contractors (subject to a written agreement, which protects the EPRI Software at least as well as this Agreement) listed on Attachment A hereto (the "Authorized Users"). The Authorized Users may be modified from time to time by the NRC by providing written notice of such modification to EPRI as follows:

Electric Power Research Institute, Inc.
Attn: Stuart Lewis
942 Corridor Park Blvd
Knoxville, TN 37932

with a copy to:

Electric Power Research Institute, Inc.
Attn: Legal Department
3420 Hillview Avenue
Palo Alto, CA 94304

Any such modification will be effective upon receipt by EPRI of such written notice thereof. No further use, delegation to others, or disclosure of the Software by or for any individual other than an Authorized User, any other third party or contractor is permitted.

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The NRC shall not, without EPRI's prior written consent executed by an officer of EPRI, directly or indirectly: (i) prepare or have prepared Derivative Works except as expressly permitted herein; (ii) use the Software to create materials the same as or substantially similar to the Software; or (iii) remove or cover any EPRI's proprietary rights notices from the Software.

The NRC shall not and shall not permit any third party to translate, reverse engineer, decompile, recompile, update or modify all or any part of the Software, or merge the Software into any other software, except as expressly permitted herein.

The license granted herein is not a sale, lease, loan or transfer of the Software. This Agreement and the license herein granted shall be binding upon and inure to the benefit of the permitted successors and assigns of the NRC and EPRI. This Agreement may not be assigned by the NRC without the prior written approval of EPRI, and any attempted assignment without prior written approval shall be null, void and of no effect.

LIMITATION OF WARRANTIES AND REMEDIES

EPRI WARRANTS THAT IT HAS THE RIGHT TO LICENSE OTHERS UNDER ITS COPYRIGHT AND PROPRIETARY RIGHTS IN THE SOFTWARE. HOWEVER, EPRI ASSUMES NO RESPONSIBILITY FOR ABATING ANY INFRINGEMENT OF ITS COPYRIGHT OR UNLAWFUL ACQUISITION OF INFORMATION IN THE SOFTWARE. ANY ACTION TAKEN BY EPRI WITH RESPECT TO ANY SUCH INFRINGEMENT OR UNLAWFUL ACQUISITION SHALL BE AT EPRI'S SOLE DISCRETION.

EPRI DOES NOT WARRANT THE NONINFRINGEMENT BY THE SOFTWARE OF ANY OTHER COPYRIGHT OR OTHER PROPRIETARY RIGHT, DOMESTIC OR FOREIGN.

NEITHER EPRI, ANY MEMBER OF EPRI, NOR ANY PERSON OR ORGANIZATION ACTING ON BEHALF OF ANY OF THEM:

(A) MAKES ANY WARRANTY OR REPRESENTATION WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY, FREEDOM FROM CONTAMINATION BY COMPUTER VIRUSES, OR FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO THE SOFTWARE, OR

(B) ASSUMES ANY LIABILITY WHATSOEVER WITH RESPECT TO ANY USE OF THE SOFTWARE OR ANY PORTION THEREOF OR WITH RESPECT TO ANY DAMAGES WHICH MAY RESULT FROM SUCH USE.

THE BREACH OF ANY WARRANTY SHALL CONSTITUTE A DEFAULT FOR WHICH THE SOLE REMEDY SHALL BE TERMINATION OF THIS AGREEMENT IN THE MANNER HEREINAFTER SPECIFIED.

DISPUTE RESOLUTION

(A) **Mediation**. If a dispute arises out of or relating to this Agreement, or any breach thereof, and if such dispute cannot be settled through direct negotiation between the parties, the parties shall submit the dispute to mediation with a mediator to be mutually agreed upon by the parties. The mediation may be initiated by the written request of either party and sent to the other party, and shall be concluded or otherwise terminated within three (3) months of receipt of such notice, unless otherwise agreed by the parties.

(B) **Expenses**. Each party shall bear its own expense (including attorneys' fees) of such mediation proceeding, unless otherwise agreed by the parties.

OTHER TERMS AND CONDITIONS

The NRC shall comply with all laws, rules and regulations including, without limitation, all U.S. and foreign export laws and regulations. The parties agree that access to and use of the Software is hereby granted with the specific understanding and requirement that responsibility for ensuring compliance with all applicable U.S. and foreign export laws and regulations is being undertaken by the NRC. This includes an obligation to ensure that any individual receiving access hereunder who is not a U.S. citizen or permanent U.S. resident is permitted access under applicable U.S. and foreign export laws and regulations. Although EPRI may make an informal assessment of the applicable U.S. export classification for specific Software, the NRC acknowledges that this assessment is solely for informational purposes and not for reliance purposes. The NRC acknowledges that it is still the obligation of the NRC to make its own assessment of the applicable U.S. export classification and ensure compliance accordingly. The NRC further understands and acknowledges its obligations to make a prompt report to EPRI and the appropriate authorities regarding any access to or use of Software hereunder that may be in violation of applicable U.S. and foreign export laws or regulations.

Failure by the NRC to comply with any of the obligations and conditions contained in this Agreement shall constitute a default. If such default is not cured or made good within thirty (30) days after receipt of written notice, this license may be terminated by EPRI by giving to the NRC notice of termination which shall take effect upon the latter of either the date of receipt of such notice of termination or a later date of termination if specified therein.

This Agreement shall become effective when the last party signs it and shall continue in effect until December 31, 2012 (the "License Term"). Upon expiration of the License Term or termination, the NRC agrees to (i) return to EPRI, within thirty (30) days, at the NRC's expense, all copies of the Software, any

Derivative Works of the Software and any related supplementary information (the "EPRI Materials"), or (ii) destroy the EPRI Materials and provide written certification of such destruction to EPRI. EPRI reserves the right to terminate this Agreement without cause upon thirty (30) days written notice to the NRC.

This Agreement, including the Attachments hereto, constitutes the complete agreement between the parties and supersedes all previous and contemporaneous agreements, written or oral, concerning the subject matter hereof. The terms and conditions of this Agreement shall prevail, notwithstanding any variance with any purchase order or other written instrument submitted by the NRC, whether formally rejected by EPRI or not.

This Agreement may be amended only by a written document signed by each party's authorized representative.

In the event of failure of mediation as provided for above, this Agreement shall be interpreted by, and construed in accordance with, applicable Federal law and regulations. To the extent that applicable Federal law does not exist and state law could become applicable to this Agreement, the laws of the State of California shall apply.

This Agreement may be executed in any number of counterparts each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives on the respective dates entered below.

U.S. NUCLEAR REGULATORY COMMISSION	ELECTRIC POWER RESEARCH INSTITUTE, INC.
By: _____	By: _____
Name: Christiana Lui	Name: Jesse Francway
Title: Director, Division of Risk Analysis Office of Nuclear regulatory Research	Title: Corporate Counsel
Date: 12/17/10	Date: Jan 6, 2011

ATTACHMENT A

AUTHORIZED USERS

NRC Employees

Idaho National Laboratory Authorized Users:

- Ronald Boring
- Dana Kelly
- April Whaley

Sandia National Laboratories Authorized Users:

- John Forester
- Katrina Groth
- Stacey Hendrickson