

BuildingGreen, Inc.
CONTRACT FOR INTERNET-BASED ACCESS TO THE
BUILDINGGREEN SUITE

This Contract for Goods and Services (the "Contract") is made effective as of __September 1, 2008, by and between __University of California San Diego_____, having a principal place of business at _ [REDACTED] _____, and BuildingGreen, Inc. of [REDACTED]. In this Contract, the party who is contracting to receive goods and services will be referred to as "Licensee, and the party who will be providing the goods and services will be referred to as "BGI."

AUTHORIZED USERS

Authorized Users are those students currently enrolled at the Licensee institution, professors and teaching staff affiliated with the Licensee, walk-in patrons of the libraries and employees who are officially affiliated with the Licensee.

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ACCESS RIGHTS

BGI agrees to allow access for Authorized Users of Licensee to all publications as described in Attachment A during the term of this contract. Remote access is permitted for Authorized Users only. On the expiration of this agreement for any reason all rights and obligations of the parties under this agreement will automatically terminate, except where the context requires otherwise.

1. PAYMENT FOR GOODS AND SERVICES. In exchange for the Goods and Services described in Attachment A, Licensee will pay BGI the sum of \$ [REDACTED] per year, payable on execution of this Contract.

2. TERM. The term of this agreement is one year from the date of signing of this agreement. BGI reserves the right to amend the terms of this Contract, including the scope of and payment for goods and services, before renewal. BGI shall provide Licensee thirty days written notice of any such changes.

3. COPYRIGHT. Licensee acknowledges that BGI represents that all information, data,

software applications, systems, and materials provided under this agreement are proprietary and are copyrighted works of BGI and that all rights except those that are expressly granted herein are reserved by BGI. Licensee agrees to use its reasonable best efforts to prevent the creation of unauthorized copies and the distribution of licensed information or copies to anyone other than Authorized Users licensed hereunder, with the following exceptions:

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Fair Use. *Nothing in this License shall in any way exclude, modify or affect any of Licensee's statutory or common law rights under the copyright laws of the United States..*

4. WARRANTY. BGI shall provide its goods and services and meet its obligations under this Contract in a timely and workmanlike manner, using knowledge and recommendations for performing the services which meet generally acceptable standards in BGI's community and region. For those services delivered via the Internet, BGI endeavors to provide uninterrupted 24-hour access. BGI guarantees that its servers and applications will function 99% of the time. Upon request, any documented loss of service exceeding 1% in a Contract year will be credited to Licensee at three (3) times the Contract rate on a prorated basis (not to exceed the full value of the Contract). Licensee agrees that the entire liability of BGI and the exclusive remedy of the Licensee under this warranty will in no event exceed an amount equal to the fee paid for one year of the use of goods and services.

5. DISCLAIMER. BGI assumes no responsibility as to the accuracy or usefulness of the information or products contained in GreenSpec or the BuildingGreen Suite, nor does it warrant that the statements or other information contained therein comply with applicable laws or regulations. BGI makes no representation or warranties as to the properties, merchantability, capabilities, or fitness for any particular purpose of any product listed or described in GreenSpec or any of the products or services provided under this Contract.

6. ENTIRE AGREEMENT. This Contract constitutes the entire agreement of the parties and supercede all prior communications, understandings and agreements relating to the subject matter of this Contract, whether oral or written..

7. SEVERABILITY. If any provision of this Contract will be held to be invalid or

unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court finds that any provision of this Contract is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.

8. INDEMNITIES. The Licensor shall indemnify and hold Licensee and Authorized Users harmless for any losses, claims, damages, awards, penalties, or injuries incurred, including reasonable attorney's fees, which arise from any claim by any third party of an alleged infringement of copyright or any other property right arising out of the use of the Licensed Materials by the Licensee or any Authorized User. NO LIMITATION OF LIABILITY SET FORTH ELSEWHERE IN THIS AGREEMENT IS APPLICABLE TO THIS INDEMNIFICATION.

Each party shall indemnify and hold the other harmless for any losses, claims, damages, awards, penalties, or injuries incurred, including reasonable attorney's fees, which arise from any alleged breach of such indemnifying party's representations and warranties made under this Agreement, provided that the indemnifying party is promptly notified of any such claims.

Recipient/Licensee:



By: Tony A Harvell, Head of Acquisitions

Provider:
BuildingGreen, Inc.

By: 

Jim Newman
Director of Online Services

Attachment A
Description of Services

BuildingGreen, Inc. (BGI) will provide the following goods and services to Licensee's Authorized Users for a period of one year from execution of this agreement:

1. Access via the Internet to the *GreenSpec*® database of green building products, including contact information, product descriptions, green attributes, links to related information, and additional features that may be developed as part of this database during the Contract term.
2. Access via the Internet to *Environmental Building News*, a monthly newsletter, and all of the archives of past monthly newsletters. This access will be provided in the form of a downloadable PDF file of each issue, and as a series of Web pages.
3. Access to BuildingGreen, Inc.'s presentation of the *High Performance Buildings Database* of building project case studies.
4. Access to other material that is available on the www.BuildingGreen.com Web site for subscribers.

BGI may also provide to one designated individual authorized user a semi-monthly e-mail Bulletin, which may include summaries of articles on the forthcoming issue of *Environmental Building News*, highlights and news of products in the *GreenSpec* database, and highlights of new case studies in the *High Performance Buildings Database*. Licensee may redistribute this Bulletin to all authorized users.