

Med Mail & File Off

CHANGE ORDER
(OR ADMINISTRATIVE CHANGE)

PAGE NO. 1
NO. OF PAGES 1

REQUISITION NO./PURCHASE AUTHORITY

CONTRACT (or) NO.
DA18-108-CML-6364
DA18-108-405-CML-79
CP7-10916

MODIFICATION NO.
17

TO: (Contractor's name and address)

Board of Regents
University of Washington
Seattle 5, Washington

ISSUED BY

Contracting Officer MG
U. S. Army Edgewood Arsenal
Edgewood Arsenal, Maryland

- PURSUANT TO THE "CHANGES" CLAUSE OF THE ABOVE-NUMBERED CONTRACT, THE FOLLOWING CHANGES ARE MADE THEREIN.
- THE ABOVE-NUMBERED CONTRACT IS MODIFIED TO REFLECT THE FOLLOWING ADMINISTRATIVE CHANGES.

The Contractor having completed performance and having submitted a final payment release, the final contract amount is established at \$221,529.41.

ACCOUNTING AND APPROPRIATION DATA

Decrease \$896.59 Prior citation unchanged
21X2040 204-8409 P5010-25
S18-121 4C08-02-NEW-01 X.O. 5-621-80 CC 553

*Record Filed
10/3
Med Mail & File Off
Cont # Cml-6364
& Cml-79.*

1804-01 CML 6364

Except as hereby modified, all terms and conditions of said contract as heretofore modified remain unchanged and in full force and effect.

DATE 24 AUG 1964

UNITED STATES OF AMERICA

INVESTIGATION

BY *[Signature]*
SIGNATURE OF CONTRACTING OFFICER

E. W. BANKERT

TYPED NAME OF CONTRACTING OFFICER

DD FORM 1319
1 MAY 60

7720011 17 MAR 1978

REGRADED UNCLASSIFIED
ORDER SEC ARMY BY TAG PER

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SUPPLEMENTAL AGREEMENT		EFFECTIVE DATE 14 FEB 1964	SERIAL NO. 1	NO. OF PAGES 1
REQUISITION NO./PURCHASE AUTHORITY	CONTRACT (Order) NO. DA18-108-CML-636 DA18-108-405-CML-79 CPZ-10916	MODIFICATION NO. 16		
TO: (Contractor's name and address) Board of Regents University of Washington Seattle 5, Washington		ISSUED BY Contracting Officer U. S. Army Edgewood Arsenal Edgewood Arsenal, Maryland MG		
ACCOUNTING AND APPROPRIATION DATA Citation and Amount unchanged 21X2040 204-8409 P5010-25 S18-121 4C08-02-NEW-01 X.O. 5-621-80 CC 553				

The above numbered contract is modified as follows:

Paragraph II.B.2 of the Schedule of the contract entitled "Indirect Costs", as amended, is further amended to provide that the contractor shall be reimbursed for its indirect costs at the negotiated final rate of 40% applicable to direct salaries and wages including vacation, holiday and sick leave pay for the period 1 July 1961 through 30 November 1962.

In computing the rates, the following items were treated as indicated:

Direct Charges:

- a. Vacation, holiday and sick leave pay.
- b. Retirement and annuity premiums of direct employees.
- c. Travel expense directly related to contracts.
- d. Long distance telephone expense directly related to contracts.

*Record File
1/2 Mar 64
Med Mail
Cont # CML 6364*

1304-01 CML 6364

Except as hereby modified, all terms and conditions of said contract as heretofore modified remain unchanged and in full force and effect. This Supplemental Agreement is entered into pursuant to the authority of 10 U.S.C. 2304 (a) () (IF APPLICABLE).

NAME OF CONTRACTOR		UNITED STATES OF AMERICA	
BY	SIGNATURE	DATE	DATE
TYPED NAME		SIGNATURE OF CONTRACTING OFFICER	
TITLE		E. W. BANKERT	
		TYPED NAME OF CONTRACTING OFFICER	

MODIFICATION EXECUTED

DD FORM 1320 MAY 60

7720011 17 MAR 1978

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CANCELLED

*Dir. Med Res
Clinical Res*

DEPARTMENT OF DEFENSE
NEGOTIATED CONTRACT

DEPARTMENT OF THE
Army

NO
D:18-108-CML-6364

ISSUING OFFICE CP7-10916

NAME
U.S. Army Chemical Center Procurement Agency

ADDRESS
Army Chemical Center, Maryland

CONTRACTOR 55-MC-7 SSG:js RP-60

NAME
Board of Regents
University of Washington

ADDRESS
Seattle 5, Washington

CONTRACT FOR
Neurological Action of CW Agents

AMOUNT
\$ 40,000.00

APPROPRIATION AND OTHER ADMINISTRATIVE DATA
Chargeable to the following Procurement Authorities, the available balances of which are sufficient to cover the cost of same:

21X2040 SEA 5730 704-8409 P5730-07
S18-035 Project 4-08-02-018-01 X.O. 075-270 - \$40,000.00

UNCLASSIFIED

Regraded by authority of Director of Medical Research

Paragraph I.A. of the Schedule is classified; the remaining paragraphs of the Schedule are unclassified.

17 June 64

by JOSEPH M. CLUTCHER, Chairman
Classified Document Review Committee
CRDL, Edgewood Arsenal, Maryland

10 JUL 1964

DO-C9 Certified Under DMS Reg. I.

REGRADING DATA CANNOT BE PREDETERMINED

Invoices to be mailed by direction of Contracting Officer, U.S. Army Chemical Center Procurement Agency, Army Chemical Center, Maryland

Payments to be made by: Finance & Accounting Officer U. S. Army Army Chemical Center, Maryland

This negotiated contract is entered into pursuant to the provisions of 10 U.S.C. 2304 (a)(5) and any required determination and findings have been made, and Presidential Proclamation No. 2914.

THIS CONTRACT is entered into as of 10 April, 19 57, by and between the United States of America, hereinafter called the Government, represented by the Contracting Officer executing this contract, and Board of Regents, University of Washington

(NAME OF CONTRACTOR)

- (i) a corporation organized and existing under the laws of the State of Washington
- (ii) a partnership consisting of M-6-82-(57)-C
PCO-57-C-130
- (iii) an individual trading as CWL 57 C - 2115

hereinafter called the Contractor. The parties hereto agree that the Contractor shall furnish and deliver all the supplies and perform all the services set forth in the attached Schedule for the consideration stated therein.

DD Form 1 JUN 50 351

12 of 19 Copies

1584-10 CML 6364
 Copy 13
 Declassified in C. H. 18 July 57
 See 16 Dec 57 Contract case 6364
 RP 57C 109 FOI 025 PM

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[REDACTED]

Contract No. DA18-108-CML-6364
Order No. CP7-10916

SCHEDULE

I. Statement of Work

A. Services to be Performed

1. The Contractor shall furnish the necessary personnel, materials, facilities, and equipment; with the exception of any Government furnished property that may be hereinafter provided for in this contract, and exert its best efforts to study, investigate, and evaluate the action of certain psychotomimetic and tranquilizing compounds on animals and human subjects. The compounds to be studied initially will be those selected by the Project Officer.

2. The studies will include, but will not be limited to, the following areas of study, which may be developed singly, in sequence, or concurrently, as directed by the Project Officer.

a. The general plan of the research study is to provide a means of determining the exact dosage of the compounds under study which may be introduced into the human system within adequate margins of safety. Such determinations to be secured through animal experimentation, whereby indexes may be compiled, which will reflect lethal dosages, toxic symptoms, and causes of death.

b. Compounds and derivatives of candidate therapeutic agents are to be evaluated through the use of polygraphic techniques, psychological testing, and psychiatric interviews. Some of the new compounds originating within the Chemical Warfare Laboratories may be furnished the Contractor for study, after preliminary screening and toxicity studies are completed. In addition, a correlary study of drugs which are antidotal to the above compounds will be investigated utilizing these same techniques.

c. One of the end results of the research study will have as its objective, the understanding and control of the effects of CW Agents in the central nervous system, and to provide information as a basis for comparison with those in normal individuals.

d. The basic neurochemical studies of CW Agents and candidate therapeutic agents shall be correlated with clinical studies to supplement present knowledge of various reactions, by association of brain mechanisms with behavior patterns, and to furnish fundamental knowledge concerning the nature, mechanism, and site of action in the nervous system of CW Agents, therapeutic agents, and other chemicals of military importance.

e. On the basis of information compiled, the Contractor shall endeavor to suggest development of novel or more effective diagnostic, protective, antidotal, and therapeutic measures for presently known agents.

[REDACTED]

RP 57C 103

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~~CANCELLED~~

Contract No. DA18-108-CML-6364
Order No. CP7-10916

SCHEDULE

f. The types of compounds, psychotomimetic and tranquilizing, CW Agents, derivatives of candidate therapeutic agents, and drugs antidotal in nature, which are to be used, studied, evaluated and tested during this research study shall be selected by, or approved for use by, the Project Officer prior to their inclusion in this research study. In addition, the type or classification of animals to be used in any experimentation shall require the prior approval of the Project Officer.

B. Materials to be Furnished by the Contractor

1. Reports:

The Contractor shall be required to submit thirteen (13) copies of semi-annual reports, and thirteen (13) copies of a Final Comprehensive Report. All reports to be submitted in accordance with CWL Memo 80-2, Semi-annual and Final Comprehensive Reports to be sent to:

Chemical Warfare Laboratories
ATTN: Technical Library
Building #330
Army Chemical Center, Maryland

2. One (1) copy of the semi-annual report, Final Comprehensive Report, and all records required under the contract such as approach completion records, etc., will be sent to:

Commanding Officer
U. S. Army Chemical Center Procurement Agency
Army Chemical Center, Maryland
ATTN: Contracting Officer

3. In addition to the above reports, the Contractor shall submit two (2) copies of the Monthly Status and Fiscal Report directly to the Contracting Officer, setting forth therein a report on the status of funds expended under the contract to the date of the report, percentage of completion of services, unusual delays being encountered or anticipated by the Contractor, and any recommendations of the Contractor for improving performance of the contract.

C. Period of Performance. Commencing on or about 1 April 1957 the contract will be performed within a period of twelve (12) months until on or about 31 March 1958, unless further extended by mutual agreement.

D. Government Furnished Property

1. Chemical agents which are not commercially available to the Contractor.

~~CANCELLED~~

RP 57C 103

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- REGRADED UNCLASSIFIED
ORDER SEC ARMY BY TAG PER

Contract No. DA18-108-CML-6364
Order No. CP7-10916

SCHEDULE

2. Protective clothing and gas masks required by the Contractor in performance of the contract will be furnished by the Government.

E. Packaging and Delivery. Packaging and delivery of all items to be furnished, by the Contractor to the Government, under this contract, shall be in accordance with standard commercial practice to insure acceptance by common carrier, and shall be delivered, F.O.B., Army Chemical Center, Maryland.

F. Transportation of Government Property. All Government property to be supplied under this contract will be delivered F.O.B. Contractor's Plant. All property being returned to Army Chemical Center, Maryland, shall be appropriately crated and packaged and returned, F.O.B., Army Chemical Center, Maryland.

G. Policy with Respect to Use of Human Volunteers. The Contractor will be bound by the provisions of Appendix "A" attached hereto with respect to the use of human subjects under this contract. The Contractor will also be required to obtain the prior written approval of the Commanding Officer, Chemical Warfare Laboratories before initiating any research on human volunteers under this contract.

H. Anticipatory Costs. All costs which have been incurred by the Contractor on or after 1 April 1957 in anticipation of this contract and prior to the signing hereof and which, if incurred after the signing of this contract, would have been considered as allowable items of cost within the meaning of this contract, shall be allowable items of cost hereunder.

I. Level of Effort. The contract and the estimated costs thereof are predicated upon the Contractor's utilizing the services of personnel as follows:

1 Clinical Psychologist	Full Time
1 Experimental Psychologist	75% Time
1 Psychiatrist	25% Time
1 Electronics Technician	25% Time
1 Secretary	Full Time

II. Consideration.

A. Estimated Costs. It is estimated that the total cost to the Government for full performance of this contract will not exceed \$40,000.00 which has been allotted for the performance of this contract.

B. Allowable Costs. In accordance with the principles set forth in Section XV, Part 3, of the Armed Services Procurement Regulations, the Contractor shall be reimbursed as set forth in General Provision No. 4 entitled

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Contract No. DA18-108-CML-6364
Order No. CP7-10916

SCHEDULE

"Allowable Costs Fixed Fee and Payment," for such of its actual expenditures as are included in, but not limited to, the following categories:

1. Direct Costs.

a. Direct Labor. The Contractor shall be reimbursed for salaries and wages chargeable directly to this contract, consistent to and in accordance with the Contractor's established accounting system. No salary or wage of any employee in excess of \$15,000.00 per annum will be allowable as a direct cost to this contract unless approved, in writing, by the Contracting Officer. No salary or wage, nor increase in salary or wage, not in conformity with established policies and procedures of the Contractor will be allowed as a direct charge to this contract unless prior approval is secured, in writing, from the Contracting Officer.

b. Overtime. Overtime shall not be an allowable item of direct cost unless and until approval, in writing, has been obtained from the Contracting Officer.

c. Travel. In accordance with its established policies and practices, the Contractor shall be reimbursed for the transportation expenses of the persons engaged in the performance of this contract, plus an allowance in lieu of actual subsistence expenses of such persons not exceeding \$12.00 per day for each calendar day, or any additional period in excess of twelve hours, during the period of travel, or \$3.00 for each one-fourth day (or fractional part thereof); provided that expenses for transportation hereunder by motor vehicle other than common carrier, Contractor's vehicle, or rented automobile, shall be reimbursed at the rate of \$0.08 per mile, plus any tolls or ferry charges; provided that no amount hereunder shall be in excess of rates normally paid by the Contractor to employees engaged upon comparable functions the cost of which is not reimbursable under Government contracts. All travel to technical society meetings, charged directly to this contract, shall be approved by the Contracting Officer, in writing, prior to travel.

2. Indirect Costs.

The Contractor shall be reimbursed for its indirect costs at a provisional rate of 40% of direct salaries until such time as a negotiated overhead rate is established in accordance with the provision of this contract, entitled "Negotiated Overhead Rates." The period for establishing a negotiated overhead rate shall be the Contractor's fiscal year.

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APPENDIX A

Policy to be followed by the Contractor where the use of human subjects is involved.

1. The voluntary consent of the human subject is absolutely essential.

a. This means that the person involved should have legal capacity to give consent; should be so situated as to be able to exercise free power of choice, without the intervention of any element of force, fraud, deceit, duress, over-reaching, or other ulterior form and constraint or coercion; and should have sufficient knowledge and comprehension of the elements of the subject matter involved as to enable him to make an understanding and enlightened decision. This latter element requires that before the acceptance of an affirmative decision by the experimental subject, there should be made known to him the nature, duration, and purpose of the experiment; the method and means by which it is to be conducted; all inconveniences and hazards reasonably to be expected; and the effects upon his health or person which may possibly come from his participation in the experiment.

b. The consent of the human subject shall be in writing; his signature shall be affixed to a written instrument setting forth substantially the aforementioned requirements and shall be signed in the presence of at least one (1) witness who shall attest to such signature in writing.

c. The duty and responsibility for ascertaining the quality of the consent rests upon each individual who initiates, directs, or engages in the experiment. It is a personal duty and responsibility which may not be delegated to another with impunity.

2. The experiment should be such as to yield fruitful results for the good of society, unprocurable by other methods or means of study, and not random and unnecessary in nature.

3. The number of volunteers used shall be kept at a minimum consistent with item 2 above.

4. The experiment should be so designed and based on the results of animal experimentation and a knowledge of the natural history of the disease or other problem under study that the anticipated results will justify the performance of the experiment.

5. The experiment should be so conducted as to avoid all unnecessary physical and mental suffering and injury.

6. No experiment should be conducted where there is an a priori reason to believe that death or disabling injury will occur.

7. The degree of risk to be taken should never exceed that determined by the humanitarian importance of the problem to be solved by the experiment.

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APPENDIX A
(Cont'd)

8. Proper preparations should be made and adequate facilities provided to protect the experimental subject against even remote possibilities of injury, disability, or death.

9. The experiment should be conducted only by scientifically qualified persons. The highest degree of skill and care should be required through all stages of the experiment of those who conduct or engage in the experiment.

10. During the course of the experiment the human subject should be at liberty to bring the experiment to an end if he has reached the physical or mental state where continuation of the experiment seems to him to be impossible.

11. During the course of the experiment the scientist in charge must be prepared to terminate the experiment at any stage, if he has probable cause to believe, in the exercise of the good faith, superior skill and careful judgment required of him, that a continuation of the experiment is likely to result in injury, disability, or death to the experimental subject.

12. Agents used in research must have the following limiting characteristics:

- a. Controllable lethality
- b. No serious chronicity anticipated
- c. Effective therapy available
- d. Adequate background of animal experimentation

13. As added protection for volunteers, the following safeguards will be provided:

a. Direct responsibility for the planning and conduct of the investigations and for the medical care will rest with one adequately-trained physician.

b. All apparatus and instruments necessary to deal with any emergency situations must be available, e. g., Drinker Respirator, Mine Safety Pneophore, oxygen apparatus, etc.

c. Medical treatment and hospitalization will be provided for all casualties of the experimentation as required.

d. The physician in charge will have available to him on short notice throughout the investigation competent consultants representing any of the specialties to be encountered.

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GENERAL PROVISIONS1. Definitions

As used throughout this contract, the following terms shall have the meanings set forth below:

(a) The term "Secretary" means the Secretary, the Under Secretary, or any Assistant Secretary of the Department and the head or any assistant head of the executive agency; and the term "his duly authorized representative" means any person or persons or board (other than the Contracting Officer) authorized to act for the Secretary.

(b) The term "Contracting Officer" means the person executing this contract on behalf of the Government, and any other officer or civilian employee who is a properly designated Contracting Officer; and the term includes, except as otherwise provided in this contract, the authorized representative of a Contracting Officer acting within the limits of his authority.

(c) Except as otherwise provided in this contract, the term "sub-contracts" includes purchase orders under this contract.

ASPR 7-203.1 - 3 Jan 55

2. Changes in Work or Services

The Contracting Officer may at any time, by written order, issue additional instructions regarding the work or services covered by this contract. If such instructions cause a material increase or decrease in the amount or character of the work or services to be performed under this contract, an adjustment will be made in the maximum amount authorized for payment to the Contractor as set forth in the paragraph of the Schedule of this contract entitled "Estimated Costs."

RECOM PI 21-54-7
4 Nov 53

3. Limitation of Cost

(a) It is estimated that the total cost to the Government, exclusive of any fixed fee, for the performance of this contract will not exceed the estimated cost set forth in the Schedule, and the Contractor agrees to use its best efforts to perform the work specified in the

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C.R.
T - 1 Sep 55

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Limitation of Cost (continued)

cost. If at any time the Contractor has reason to believe that the costs which it expects to incur in the performance of this contract in the next succeeding thirty (30) days, when added to all costs previously incurred, will exceed eighty-five percent (85%) of the estimated cost then set forth in the Schedule, or if at any time, the Contractor has reason to believe that the total cost to the Government, exclusive of any fixed fee, for the performance of this contract will be substantially greater or less than the then estimated cost thereof, the Contractor shall notify the Contracting Officer in writing to that effect, giving its revised estimate of such total cost for the performance of this contract.

(b) The Government shall not be obligated to reimburse the Contractor for costs incurred in excess of the estimated cost set forth in the Schedule, and the Contractor shall not be obligated to continue performance under the contract or to incur costs in excess of the estimated cost set forth in the Schedule, unless and until the Contracting Officer shall have notified the Contractor in writing that such estimated cost has been increased and shall have specified in such notice a revised estimated cost which shall thereupon constitute the estimated cost of performance of this contract. When and to the extent that the estimated cost set forth in the Schedule has been increased, any costs incurred by the Contractor in excess of such estimated cost prior to the increase in estimated cost shall be allowable to the same extent as if such costs had been incurred after such increase in estimated cost.

ASPR 7-203.3 - 3 Jan 55

4. Allowable Cost, Fixed Fee, and Payment

(a) For the performance of this contract, the Government shall pay to the Contractor the cost thereof determined by the Contracting Officer to be allowable in accordance with Part 3 of Section XV of the Armed Services Procurement Regulation as in effect on the date of this contract and the Schedule (hereinafter referred to as "Allowable Cost"), plus such fixed fee, if any, as may be provided for in the Schedule.

(b) Once each month (or at more frequent intervals, if approved by the Contracting Officer) the Contractor may submit to an authorized representative of the Contracting Officer, in such form and reasonable detail as such representative may require, an invoice or public voucher supported by a statement of cost incurred by the Contractor in the performance of this contract and claimed to constitute Allowable Cost. Each statement of cost shall be certified by an officer or other responsible official of the Contractor authorized by it to certify such statements.

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7720011 17 MAR 1978

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Allowable Cost, Fixed Fee, and Payment (continued)

(c) As promptly as may be practicable after receipt of each invoice or voucher and statement of cost, the Government shall, except as hereinafter provided and subject to the provisions of paragraph (d) below, make payment thereon as approved by the Contracting Officer. After payment of eighty percent (80%) of the total estimated cost of performance of this contract, as from time to time amended, further payment on account of Allowable Cost shall be withheld until a reserve of either (i) one percent (1%) of such total estimated cost or (ii) \$100,000, whichever amount is less, shall have been set aside, such reserve or the balance thereof to be retained until the execution and delivery of a release by the Contractor as provided in paragraph (e) hereof.

(d) At any time or times prior to final payment under this contract the Contracting Officer may cause to be made such audit of the invoices or vouchers and statements of cost as shall be deemed necessary. Each payment theretofore made shall be subject to reduction to the extent of amounts included in the related invoice or voucher and statement of cost which are found by the Contracting Officer on the basis of such audit not to constitute Allowable Cost, and shall also be subject to reduction for overpayments or to increase for underpayments on preceding invoices or vouchers. On receipt of the voucher or invoice designated by the Contractor as the "completion voucher" or "completion invoice" and statement of cost, which shall be submitted by the Contractor as promptly as may be practicable following completion of the work under this contract but in no event later than one (1) year (or such longer period as the Contracting Officer may, in his discretion, approve in writing) from the date of such completion, and following compliance by the Contractor with all provisions of this contract (including, without limitation, provisions relating to patents and the provisions of paragraphs (e) and (f) of this clause), the Government shall as promptly as may be practicable pay any balance of Allowable Cost.

(e) The Contractor and each assignee under an assignment entered into under this contract and in effect at the time of final payment under this contract shall execute and deliver at the time of and as a condition precedent to final payment under this contract, a release discharging the Government, its officers, agents and employees of and from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions:

(1) Specified claims in stated amounts or in estimated amounts where the amounts are not susceptible of exact statement by the Contractor.

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C.R.
T - 1 Sep 55

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Allowable Cost, Fixed Fee, and Payment (continued)

(2) Claims, together with reasonable expenses incidental thereto, based upon the liabilities of the Contractor to third parties arising out of the performance of the contract, which are not known to the Contractor on the date of the execution of the release, and of which the Contractor gives notice in writing to the Contracting Officer not more than six (6) years after the date of the release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier.

(3) Claims for reimbursement of costs (other than expenses of the Contractor by reason of its indemnification of the Government against patent liability), including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of the contract relating to patents.

(f) The Contractor agrees that any refunds, rebates or credits (including any interest thereon) accruing to or received by the Contractor or any assignee which arise out of the performance of this contract and on account of which the Contractor has received reimbursement shall be paid by the Contractor to the Government. The Contractor and each assignee under an assignment entered into under this contract and in effect at the time of final payment under this contract shall execute and deliver at the time of and as a condition precedent to final payment under this contract, an assignment to the Government of refunds, rebates or credits (including any interest thereon) arising out of the performance of this contract, in form and substance satisfactory to the Contracting Officer. Reasonable expenses incurred by the Contractor for the purpose of securing any such refunds, rebates or credits shall constitute Allowable Cost when approved by the Contracting Officer.

(g) Any cost incurred by the Contractor under the terms of this contract which would constitute allowable Cost under the provisions of this clause shall be included in determining the amount payable under this contract, notwithstanding any provisions contained in the specifications or other documents incorporated in this contract by reference, designating services to be performed or materials to be furnished by the Contractor at its expense or without cost to the Government.

ASPR 7-203.4 - 3 Jan 55

C.R.
T - 1 Sep 55

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5. Inspection

The Contracting Officer or any Government personnel designated by him may inspect the work hereunder at all reasonable times. The Contractor agrees to insert this provision in all subcontracts executed hereunder other than those for standard commercial supplies.

RECOM PI 21-54-7

4 Nov 53

6. Assignment of Claims

(a) Pursuant to the provisions of the Assignment of Claims Act of 1940 as amended (31 U. S. Code 203, 41 U. S. Code 15), if this contract provides for payments aggregating \$1,000 or more, claims for moneys due or to become due the Contractor from the Government under this contract may be assigned to a bank, trust company, or other financing institution, including and Federal lending agency, and may thereafter be further assigned and reassigned to any such institution. Any such assignment or reassignment shall cover all amounts payable under this contract and not already paid, and shall not be made to more than one party, except that any such assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in such financing. Notwithstanding any other provision of this contract, payments to an assignee of any moneys due or to become due under this contract shall not, to the extent provided in said Act as amended, be subject to reduction or set-off.

(b) In no event shall copies of this contract or of any plans, specifications, or other similar documents relating to work under this contract, if marked "Top Secret," "Secret," or "Confidential," be furnished to any assignee of any claim arising under this contract or to any other person not entitled to receive the same; provided, that a copy of any part or all of this contract so marked may be furnished, or any information contained therein may be disclosed, to such assignee upon the prior written authorization of the Contracting Officer.

ASPR 7-203.6 - 3 Jan 55

7. Records

(a) (1) The Contractor agrees to maintain books, records, documents and other evidence pertaining to the costs and expenses of this contract (hereinafter collectively called the "records") to the extent and in such detail as will properly reflect all net costs, direct and

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C.R.

NP-Educa

T - 1 Sep 55

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Records (continued)

indirect, of labor, materials, equipment, supplies and services, and other costs and expenses of whatever nature for which reimbursement is claimed under the provisions of this contract. The Contractor's accounting procedures and practices shall be subject to the approval of the Contracting Officer; provided, however, that no material change will be required to be made in the Contractor's accounting procedures and practices if they conform to generally accepted accounting practices and if the costs properly applicable to this contract are readily ascertainable therefrom.

(2) The Contractor agrees to make available at the office of the Contractor at all reasonable times during the period set forth in subparagraph (4) below any of the records for inspection, audit or reproduction by any authorized representative of the Department or of the Comptroller General.

(3) In the event the Comptroller General or any of his duly authorized representatives determines that his audit of the amounts reimbursed under this contract as transportation charges will be made at a place other than the office of the Contractor, the Contractor agrees to deliver, with the reimbursement voucher covering such charges or as may be otherwise specified within two years after reimbursement of charges covered by any such voucher, to such representative as may be designated for that purpose through the Contracting Officer such documentary evidence in support of transportation costs as may be required by the Comptroller General or any of his duly authorized representatives.

(4) Except for documentary evidence delivered to the Government pursuant to subparagraph (3) above, the Contractor shall preserve and make available its records for a period of six years (unless a longer period of time is provided by applicable statute) from the date of the voucher or invoice submitted by the Contractor after the completion of the work under the contract and designated by the Contractor as the "completion voucher" or "completion invoice" or, in the event this contract has been completely terminated, from the date of the termination settlement agreement; provided, however, that records which relate to (A) appeals under the clause of this contract entitled "Disputes," (B) litigation or the settlement of claims arising out of the performance of this contract, or (C) costs or expenses of the contract as to which exception has been taken by the Comptroller General or any of his duly authorized representatives, shall be retained by the Contractor until such appeals, litigation, claims, or exceptions have been disposed of, but in no event for less than the six-year period mentioned above.

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Records (continued)

(5) Except for documentary evidence delivered pursuant to subparagraph (3) above, and the records described in the proviso of subparagraph (4) above, the Contractor may in fulfillment of its obligation to retain its records as required by this clause substitute photographs, microphotographs or other authentic reproductions of such records, after the expiration of two years following the last day of the month of reimbursement to the Contractor of the invoice or voucher to which such records relate, unless a shorter period is authorized by the Contracting Officer with the concurrence of the Comptroller General or his duly authorized representative.

(6) The provisions of this paragraph (a), including this subparagraph (6), shall be applicable to and included in each subcontract hereunder which is on a cost, cost-plus-a-fixed-fee, time-and-material or labor-hour basis.

(b) The Contractor further agrees to include in each of his subcontracts hereunder, other than those set forth in subparagraph (a) (6) above, a provision to the effect that the subcontractor agrees that the Comptroller General or the Department, or any of their duly authorized representatives, shall, until the expiration of three years after final payment under the subcontract, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor involving transactions related to the subcontract. The term "subcontract," as used in this paragraph (b) only, excludes (i) purchase orders not exceeding \$1,000 and (ii) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

ASPR 7-203.7 - 3 Jan 55

8. Subcontracts

(a) The Contractor shall give advance notification to the Contracting Officer of any proposed subcontract hereunder which (i) is on a cost or cost-plus-a-fixed-fee basis, or (ii) is on a fixed-price basis exceeding in dollar amount either \$25,000 or five percent (5%) of the total estimated cost of this contract.

(b) The Contractor shall not, without the prior written consent of the Contracting Officer, place any subcontract which (i) is on a cost or cost-plus-a-fixed-fee basis, or (ii) is on a fixed-price basis exceeding in dollar amount either \$25,000 or five percent (5%) of the total estimated cost of this contract, or (iii) provides for the fabrication, purchase, rental, installation or other acquisition, of any

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Subcontracts (continued)

item of industrial facilities, or of special tooling having a value in excess of \$1,000, or (iv) is on a time-and-material or labor-hour basis. The Contracting Officer may, in his discretion, ratify in writing any such subcontract; such action shall constitute the consent of the Contracting Officer as required by this paragraph (b).

(c) The Contractor agrees that no subcontract placed under this contract shall provide for payments on a cost-plus-a-percentage-of-cost basis.

(d) The Contracting Officer may, in his discretion, specifically approve in writing any of the provisions of a subcontract. However, such approval or the consent of the Contracting Officer obtained as required by this clause shall not be construed to constitute a determination of the allowability of any cost under this contract, unless such approval specifically provides that it constitutes a determination of the allowability of such cost.

(e) The Contractor shall give the Contracting Officer immediate notice in writing of any action or suit filed, and prompt notice of any claim made against the Contractor by any subcontractor or vendor which, in the opinion of the Contractor, may result in litigation, related in any way to this contract with respect to which the Contractor may be entitled to reimbursement from the Government.

ASPR 7-203.8 - 3 Jan 55

9. Utilization of Small Business Concerns

(a) It is the policy of the Government as declared by the Congress to bring about the greatest utilization of small business concerns which is consistent with efficient production.

(b) The Contractor agrees to accomplish the maximum amount of subcontracting to small business concerns that the Contractor finds to be consistent with the efficient performance of this contract.

ASPR 7-203.9 - 3 Jan 55

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10. Termination for the Convenience of the Government

(a) The performance of work under this contract may be terminated, in whole or from time to time in part, by the Government whenever for any reason the Contracting Officer shall determine that such termination is in the best interests of the Government. Termination of work hereunder shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of work under the contract is terminated and the date upon which such termination becomes effective.

(b) After receipt of the Notice of Termination the Contractor shall cancel its outstanding commitments hereunder covering the procurement of materials, supplies, equipment and miscellaneous items. In addition the Contractor shall exercise all reasonable diligence to accomplish the cancellation or diversion of its outstanding commitments covering personal services and extending beyond the date of such termination to the extent that they relate to the performance of any work terminated by the notice. With respect to such cancelled commitments the Contractor agrees to (i) settle all outstanding liabilities and all claims arising out of such cancellation of commitments, with the approval or ratification of the Contracting Officer, to the extent he may require, which approval or ratification shall be final for all purposes of this clause, and (ii) assign to the Government, in the manner, at the time, and to the extent directed by the Contracting Officer, all of the right, title and interest of the Contractor under the Orders and Subcontracts so terminated, in which case the Government shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.

(c) The Contractor shall submit its termination claim to the Contracting Officer promptly after receipt of a Notice of Termination, but in no event later than two years from the effective date thereof, unless one or more extensions in writing are granted by the Contracting Officer upon written request of the Contractor within such two year period or authorized extension thereof. Upon failure of the Contractor to submit its termination claim within the time allowed, the Contracting Officer may determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the Termination and shall thereupon pay to the Contractor the amount so determined.

(d) Any determination of costs under paragraph (c) shall be governed by the cost principles set forth in paragraph 8-406 of Section VIII of the Armed Services Procurement Regulation, as in effect on the date of this contract.

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Termination for the Convenience of the Government (continued)

(e) Subject to the provisions of paragraph (c) above, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the termination under this clause, which amount or amounts may include any reasonable cancellation charges thereby incurred by the Contractor and any reasonable loss upon outstanding commitments for personal services which it is unable to cancel; provided, however, that in connection with any outstanding commitments for personal services which the Contractor is unable to cancel, the Contractor shall have exercised reasonable diligence to divert such commitments to its other activities and operations. Any such agreement shall be embodied in an amendment to this contract and the Contractor shall be paid the agreed amount.

(f) The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments against costs incurred by the Contractor in connection with the terminated portion of this contract whenever, in the opinion of the Contracting Officer, the aggregate of such payments is within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally agreed or determined to be due under this clause, such excess shall be payable by the Contractor to the Government upon demand, provided that if such excess is not so paid upon demand, interest thereon shall be payable by the Contractor to the Government, at the rate of 6% per annum, beginning 30 days from the date of such demand.

(g) The Contractor agrees to transfer title and deliver to the Government, in the manner, at the time and to the extent, if any, directed by the Contracting Officer, such information and items which, if the contract had been completed, would have been required to be furnished to the Government, including (i) completed or partially completed plans, drawings and information, and (ii) materials or equipment produced or in process or acquired in connection with the performance of the work terminated by the notice. Other than the above any termination inventory resulting from the termination of the contract may, with the written approval of the Contracting Officer, be sold or acquired by the Contractor under the conditions prescribed by and at a price or prices approved by the Contracting Officer. The proceeds of any such disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under this contract or shall otherwise be credited to the price or cost of work covered by this contract or paid in such other manner as the Contracting Officer may direct. Pending final disposition of property arising from the termination, the Contractor agrees to take such action as may be necessary, or as the Contracting Officer may direct, for the protection

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Termination for the Convenience of the Government (continued)

and preservation of the property related to this contract which is in the possession of the Contractor and in which the Government has or may acquire an interest.

(h) Any disputes as to questions of fact which may arise hereunder shall be subject to the "Disputes" clause of this contract.

ASPR 7-203.10 - 3 Jan 55
(ASPR 8-704)

11. Disputes

Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. Within 30 days from the date of receipt of such copy, the Contractor may appeal by mailing or otherwise furnishing to the Contracting Officer a written appeal addressed to the Secretary, and the decision of the Secretary or his duly authorized representative for the hearing of such appeals shall, unless determined by a court of competent jurisdiction to have been fraudulent or capricious or arbitrary or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence, be final and conclusive; provided that, if no such appeal is taken, the decision of the Contracting Officer shall be final and conclusive. In connection with any appeal proceeding under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

ASPR 7-203.12 - 3 Jan 55

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12. Buy American Act

The Contractor agrees that there will be delivered under this contract only such unmanufactured articles, materials and supplies (which term "articles, materials and supplies" is hereinafter referred to in this clause as "supplies") as have been mined or produced in the United States, and only such manufactured supplies as have been manufactured in the United States substantially all from supplies mined, produced, or manufactured, as the case may be, in the United States. Pursuant to the Buy American Act (41 U.S. Code 10a-d), the foregoing provision shall not apply (i) with respect to supplies excepted by the Secretary from the application of that Act, (ii) with respect to supplies for use outside the United States, or (iii) with respect to the supplies to be delivered under this contract which are of a class or kind determined by the Secretary or his duly authorized representative not to be mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality, or (iv) with respect to such supplies, from which the supplies to be delivered under this Contract are manufactured, as are of a class or kind determined by the Secretary or his duly authorized representative not to be mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality: Provided, That this exception (iv) shall not permit delivery of supplies manufactured outside the United States if such supplies are manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

ASPR 7-203.14 - 3 Jan 55

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13. Convict Labor

In connection with the performance of work under this contract, the Contractor agrees not to employ any person undergoing sentence of imprisonment at hard labor.

ASPR 7-203.15 - 3 Jan 55

14. Eight-Hour Law of 1912

This contract, to the extent that it is of a character specified in the Eight-Hour Law of 1912 as amended (40 U. S. Code 324-326) and is not covered by the Walsh-Healey Public Contracts Act (41 U. S. Code 35-45), is subject to the following provisions and exceptions of said Eight-Hour Law of 1912 as amended, and to all other provisions and exceptions of said Law:

No laborer or mechanic doing any part of the work contemplated by this contract, in the employ of the Contractor or any subcontractor contracting for any part of the said work, shall be required or permitted to work more than eight hours in any one calendar day upon such work, except upon the condition that compensation is paid to such laborer or mechanic in accordance with the provisions of this clause. The wages of every such laborer and mechanic employed by the Contractor or any subcontractor engaged in the performance of this contract shall be computed on a basic day rate of eight hours per day; and work in excess of eight hours per day is permitted only upon the condition that every such laborer and mechanic shall be compensated for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay. For each violation of the requirements of this clause a penalty of five dollars shall be imposed upon the Contractor for each such laborer or mechanic for every calendar day in which such employee is required or permitted to labor more than eight hours upon said work without receiving compensation computed in accordance with this clause; and all penalties thus imposed shall be withheld for the use and benefit of the Government.

ASPR 7-203.16 - 3 Jan 55

15. Nondiscrimination in Employment

(a) In connection with the performance of work under this contract, the Contractor agrees not to discriminate against any employee or applicant for employment because of race, religion, color, or national origin. The aforesaid provision shall include, but not be

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Nondiscrimination in Employment (continued)

limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post hereafter in conspicuous places, available for employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of the nondiscrimination clause.

(b) The Contractor further agrees to insert the foregoing provision in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials.

ASPR 7-203.18 - 3 Jan 55

16. Officials Not to Benefit

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

ASPR 7-203.19 - 3 Jan 55

17. Covenant Against Contingent Fees

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage or contingent fee.

ASPR 7-203.20 - 3 Jan 55

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18. Government Property

(a) The Government shall delivery to the Contractor, for use in connection with and under the terms of this contract, the property described in this contract, together with such related data and information as the Contractor may request and as may reasonably be required for the intended use of such property (hereinafter referred to as "Government-furnished Property"). The delivery or performance dates for the supplies or services to be furnished by the Contractor under this contract are based upon the expectation that Government-furnished Property suitable for use will be delivered to the Contractor at the times states in the Schedule of this contract or, if not so stated, in sufficient time to enable the Contractor to meet such delivery or performance dates. In the event that Government-furnished Property is not delivered to the Contractor by such time or times, the Contracting Officer shall, upon timely written request made by the Contractor, make a determination of the delay occasioned the Contractor and shall equitably adjust the estimated cost, or delivery or performance dates, or both, and any other contractual provisions affected by such delay. In the event that the Government-furnished Property is received by the Contractor in a condition not suitable for the intended use, the Contractor shall, upon receipt thereof, notify the Contracting Officer of such fact and, as directed by the Contracting Officer, either (i) return such property at the Government's expense or otherwise dispose of such property, or (ii) effect repairs or modifications. Upon completion of (i) or (ii) above, the Contracting Officer upon timely written request of the Contractor shall equitably adjust the estimated cost, or delivery or performance dates, or both, and any other contractual provision affected by the return, disposition, repair or modification. The foregoing provisions for adjustment are exclusive and the Government shall not be liable to suit for breach of contract by reason of any delay in delivery of Government-furnished Property or delivery of such property in a condition not suitable for its intended use.

(b) The Government may deliver to the Contractor Government-furnished Property in addition to that set forth in this contract. Upon such delivery this contract may be amended, if appropriate, to accomplish an equitable adjustment in its terms and provisions.

(c) Title to all property furnished by the Government shall remain in the Government. Title to all property purchased by the Contractor, for the cost of which the Contractor is to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the Government upon delivery of such property by the vendor. Title to other property, the cost of which is to be reimbursed to the Contractor under this contract, shall pass to and vest in the Government upon (i) issuance for use of such property in the performance of this contract,

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Government Property (Continued)

or (ii) commencement of processing or use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by the Government, whichever first occurs. All Government-furnished Property, together with all property acquired by the Contractor, title to which vests in the Government under this paragraph, are subject to the provisions of this clause and are hereinafter collectively referred to as "Government Property."

(d) Title to the Government Property shall not be affected by the incorporation or attachment thereof to any property not owned by the Government, nor shall such Government Property, or any part thereof, be or become a fixture or lose its identity as personalty by reason of affixation to any realty.

(e) The Government Property provided or furnished pursuant to the terms of this contract shall, unless otherwise provided herein and except as may be otherwise approved by the Contracting Officer, be used only for the performance of this contract.

(f) The Contractor shall maintain and administer in accordance with sound business practice a program for the maintenance, repair, protection and preservation of Government Property so as to assure its full availability and usefulness for the performance of this contract. The Contractor shall take all reasonable steps to comply with all appropriate directions or instructions which the Contracting Officer may prescribe as reasonably necessary for the protection of the Government Property.

(g) The provisions of Part III, Appendix C, Armed Services Procurement Regulation, Manual for Control of Government Property in Possession of Non-Profit Research and Development Contractors, as in effect on the date of this contract, are herein incorporated by reference and made a part of this contract. The Contractor agrees to comply with the provisions thereof relating to the keeping of property control records, identification and marking, segregation and commingling, taking of inventories, and control of salvage and scrap, and the Contractor also accepts the responsibilities set forth in said Part III with respect to Government Property.

(h) The Contractor agrees to make available to authorized representatives of the Contracting Officer at all reasonable times at the office of the Contractor all of its property records under this contract, and access to any premises where any of the Government Property is located.

(i) (1) The Contractor shall not be liable for any loss of or damage to the Government Property, or for expenses incidental to such

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Government Property (Continued)

loss or damage, except that the Contractor shall be responsible for any such loss or damage (including expenses incidental thereto)

(1) which results from willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, or on the part of any of its managers, superintendents, or other equivalent representatives, who has supervision or direction of all or substantially all of the Contractor's business, or all or substantially all of the Contractor's operations at any one plant, laboratory, or separate location in which this contract is being performed;

(ii) which results from a failure on the part of the Contractor, due to willful misconduct or lack of good faith on the part of any of its directors, officers, or other representatives mentioned in (i) above, (A) to maintain and administer, in accordance with sound business practice, the program for maintenance, repair, protection and preservation of Government Property as required by (f) above, or (B) to take all reasonable steps to comply with any appropriate written directions of the Contracting Officer under (f) above;

(iii) for which the Contractor is otherwise responsible under the express terms of the clause or clauses designated in the schedule;

(iv) which results from a risk expressly required to be insured under some other provision of this contract, but only to the extent of the insurance so required to be procured and maintained, or to the extent of insurance actually procured and maintained, whichever is greater; or

(v) which results from a risk which is in fact covered by insurance or for which the Contractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement; provided, that, if more than one of the above exceptions shall be applicable in any case, the Contractor's liability under any one exception shall not be limited by any other exception.

(2) The Contractor shall not be reimbursed for, and shall not include as an item of overhead, the cost of insurance, or any provision for a reserve, covering the risk of loss of or damage to the Government Property, except to the extent that the Government may have required the Contractor to carry such insurance under any other provision of this contract.

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Government Property (Continued)

(3) Upon the happening of loss or destruction of or damage to the Government Property, the Contractor shall notify the Contracting Officer thereof, and shall communicate with the Loss and Salvage Organization, if any, now or hereafter designated by the Contracting Officer, and with the assistance of the Loss and Salvage Organization so designated (unless the Contracting Officer has designated that no such organization be employed), shall take all reasonable steps to protect the Government Property from further damage, separate the damaged and undamaged Government Property, put all the Government Property in the best possible order, and furnish to the Contracting Officer a statement of:

- (i) the lost, destroyed and damaged Government Property;
- (ii) the time and origin of the loss, destruction or damage;
- (iii) all known interests in commingled property of which the Government Property is a part; and
- (iv) the insurance, if any, covering any part of or interest in such commingled property.

The Contractor shall make repairs and renovations of the damaged Government Property or take such other action as the Contracting Officer directs.

(4) In the event the Contractor is indemnified, reimbursed, or otherwise compensated for any loss or destruction of or damage to the Government property, it shall use the proceeds to repair, renovate or replace the Government property involved, or shall credit such proceeds against the cost of the work covered by the contract, or shall otherwise reimburse the Government, as directed by the Contracting Officer. The Contractor shall do nothing to prejudice the Government's right to recover against third parties for any such loss, destruction or damage and, upon the request of the Contracting Officer, shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including assistance in the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery.

(j) The Government Property shall remain in the possession of the Contractor for such period of time as is required for the performance of this contract unless the Contracting Officer determines that the interests of the Government require removal of such property. In such case the Contractor shall promptly take such action as the Contracting

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Government Property (Continued)

Officer may direct with respect to the removal and shipping of Government Property. In any such instance, this contract may be amended to accomplish an equitable adjustment in its terms and provisions.

(k) Upon completion or expiration of this contract, any Government Property which has not been consumed in the performance of this contract which has not been disposed of as hereinafter provided in subparagraph (l) of this clause, or for which the Contractor has not otherwise been relieved of responsibility, shall be disposed of in the same manner, and subject to the same procedures, as is provided in subparagraph (g) of the clause of this contract entitled "Termination for the Convenience of the Government" with respect to termination inventory. The proceeds of any such disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under this contract, or shall otherwise be credit to the cost of the work covered by this contract, or shall be paid in such other manner as the Contracting Officer may direct. Pending final disposition of such property, the Contractor agrees to take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation thereof.

(l) If the Contracting Officer determines that the interests of the Government require removal of any Government Property, or if the Contractor determines any Government Property to be in excess of its needs under this contract, such Government Property shall be disposed of in the same manner as provided by subparagraph (k) above. In the event that the Contracting Officer requires the removal of any Government Property under this subparagraph (l) or subparagraph (k) above, the direct cost to the Contractor of such removal and of any property damage occasioned thereby shall constitute an allowable cost thereunder.

(m) Unless otherwise provided herein, the Government shall not be under any duty or obligation to restore or rehabilitate, or to pay the costs of the restoration or rehabilitation of the Contractor's plant or any portion thereof which is affected by the removal of any Government Property.

(n) Directions of the Contracting Officer and communications of the Contractor issued pursuant to this clause shall be in writing.

ASPR 7-203.21 - 23 Dec 55
(ASPR 13-506)

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19. Insurance - Liability to Third Persons

(a) The Contractor shall procure and thereafter maintain workmen's compensation, employer's liability, comprehensive general liability (bodily injury) and comprehensive automobile liability (bodily injury and property damage) insurance, with respect to performance under this contract, and such other insurance as the Contracting Officer may from time to time require with respect to performance under this contract; provided, that the Contractor in fulfillment of its obligation to procure workmen's compensation insurance may, with the approval of the Contracting Officer and pursuant to statutory authority, maintain a self-insurance program. All insurance required pursuant to the provisions of this paragraph shall be in such form, in such amounts, and for such periods of time, as the Contracting Officer may from time to time require or approve, and with insurers approved by the Contracting Officer.

(b) The Contractor agrees, to the extent and in the manner required by the Contracting Officer, to submit for the approval of the Contracting Officer any other insurance maintained by the Contractor in connection with the performance of this contract and for which the Contractor seeks reimbursement hereunder.

(c) The Contractor shall be reimbursed: (i) for the portion allocable to this contract of the reasonable cost of insurance as required or approved pursuant to the provisions of this clause, and (ii) for liabilities to third persons for loss of or damage to property (other than property (A) owned, occupied or used by the Contractor or rented to the Contractor or (B) in the care, custody, or control of the Contractor), or for death or bodily injury, not compensated by insurance or otherwise, arising out of the performance of this contract, whether or not caused by the negligence of the Contractor, its agents, servants or employees, provided such liabilities are represented by final judgments or by settlements approved in writing by the Government,

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Insurance - Liability to Third Persons (continued)

and expenses incidental to such liabilities, except liabilities (I) for which the Contractor is otherwise responsible under the express terms of the clause or clauses, if any, specified in the Schedule, or (II) with respect to which the Contractor has failed to insure as required or maintain insurance as approved by the Contracting Officer or (III) which results from willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, or on the part of any of its managers, superintendents, or other equivalent representatives, who has supervision or direction of (1) all or substantially all of the Contractor's business, or (2) all or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed or (3) a separate and complete major industrial operation in connection with the performance of this contract. The foregoing shall not restrict the right of the Contractor to be reimbursed for the cost of insurance maintained by the Contractor in connection with the performance of this contract, other than insurance required to be submitted for approval or required to be procured and maintained pursuant to the provisions of this clause, provided such cost would constitute Allowable Cost, under the clause of this contract entitled "Allowable Cost, Fixed Fee and Payment."

(d) The Contractor shall give the Government or its representatives immediate notice of any suit or action filed, or prompt notice of any claim made, against the Contractor arising out of the performance of this contract, the cost and expense of which may be reimbursable to the Contractor under the provisions of this contract, and the risk of which is then uninsured or in which the amount claimed exceeds the amount of coverage. The Contractor shall furnish immediately to the Government copies of all pertinent papers received by the Contractor. If the amount of the liability claimed exceeds the amount of coverage, the Contractor shall authorize representatives of the Government to collaborate with counsel for the insurance carrier, if any, in settling or defending such claim. If the liability is not insured or covered by bond, the Contractor shall, if required by the Government, authorize representatives of the Government to settle or defend any such claim and to represent the Contractor in or take charge of any litigation in connection therewith. Provided, however, That the Contractor may, at its own expense, be associated with the representatives of the Government in the settlement or defense of any such claim or litigation.

ASPR 7-203.22 - 3 Jan 55

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20. Authorization and Consent

The Government hereby gives its authorization and consent for all use and manufacture of any patented invention in the performance of this contract or any part hereof or any amendment hereto or any subcontract hereunder (including any lower-tier subcontract).

ASPR 7-203.23 - 4 Jan 55

21. Notice and Assistance Regarding Patent Infringement

The provisions of this clause shall be applicable only if the amount of this contract is in excess of \$5,000.

(a) The Contractor shall report to the Contracting Officer, promptly and in reasonable written detail, each notice or claim of patent infringement based on the performance of this contract of which the Contractor has knowledge.

(b) In the event of litigation against the Government on account of any claim of patent infringement arising out of the performance of this contract or out of the use of any supplies furnished or work or services performed hereunder, the Contractor shall furnish to the Government, upon request, all evidence and information in possession of the Contractor pertaining to such litigation. Such evidence and information shall be furnished at the expense of the Government except in those cases in which the Contractor has agreed to indemnify the Government against the claim being asserted.

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22. Filing of Patent Applications

(a) Before filing or causing to be filed a patent application disclosing any subject matter of this contract, which subject matter is classified "Secret" or higher, the Contractor shall, citing the thirty (30) day provision below, transmit the proposed application to the Contracting Officer for determination whether, for reasons of national security, such application should be placed under an order of secrecy or sealed in accordance with the provisions of 35 U. S. Code 181-188 or the issuance of a patent should be otherwise delayed under pertinent statutes or regulations; and the Contractor shall observe any instructions of the Contracting Officer with respect to the manner of delivery of the patent application to the U. S. Patent Office for filing, but the Contractor shall not be denied the right to file such patent application. If the Contracting Officer shall not have given any such instructions within thirty (30) days from the date of mailing or other transmittal of the proposed application, the Contractor may file the application.

(b) The Contractor shall furnish to the Contracting Officer, at the time of or prior to the time when the Contractor files or causes to be filed a patent application disclosing any subject matter of this contract, which subject matter is classified "Confidential," a copy of such application for determination whether, for reasons of national security, such application should be placed under an order of secrecy or the issuance of a patent should be otherwise delayed under pertinent statutes or regulations.

(c) In filing any patent application coming within the scope of this clause, the Contractor shall observe all applicable security regulations covering the transmission of classified subject matter.

ASPR 7-204.6 - 4 Jan 55

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23.

PATENT RIGHTS

(a) As used in this clause, the following terms shall have the meanings set forth below:

(i) The term "Subject Invention" means any invention, improvement or discovery (whether or not patentable) conceived of first actually reduced to practice either-

(A) In the performance of the experimental, developmental, or research work called for or required under this contract; or

(B) in the performance of any experimental, developmental, or research work relating to the subject matter of this contract which was done upon an understanding in writing that a contract would be awarded;

provided that the term "Subject Invention" shall not include any invention which is specifically identified and listed in the Schedule for the purpose of excluding it from the license granted by this clause.

(ii) The term "Technical Personnel" means any person employed by or working under contract with the Contractor (other than a subcontractor whose responsibilities with respect to rights accruing to the Government in inventions arising under subcontracts are set forth in (g), (h), and (i) below who, by reason of the nature of his duties in connection with the performance of this contract, would reasonably be expected to make inventions.

(iii) The terms "subcontract" and "Subcontractor" means any subcontract or subcontractor of the Contractor, and any lower-tier subcontract or subcontractor under this contract.

(b) (1) The Contractor agrees to and does hereby grant to the Government an irrevocable, nonexclusive, nontransferable, and royalty-free license to practice, and cause to be practiced by or for the United States Government, throughout the world, each Subject Invention in the manufacture, use and disposition according to law, of any article or material, and in the use of any method. No license granted herein shall convey any right to the Government to manufacture, have manufactured, or use any Subject Invention for the purpose of providing services or supplies to the general public in competition with the Contractor or the Contractor's commercial licensees in the licensed fields.

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Patent Rights(Cont'd)

(2) With respect to:

(i) Any Subject Invention made by other than Technical Personnel:

(ii) any Subject Invention conceived prior to, but first actually reduced to practice in the course of, any of the experimental, developmental, or research work specified in (a)(i) above; and

(iii) the practice of any Subject Invention in foreign countries; the obligation of the Contractor to grant a license as provided in (b) (1) above, to convey title as provided in (d)(ii)(B) or (d)(iv) below, and to convey foreign rights as provided in (e) below, shall be limited to the extent of the Contractor's right to grant the same without incurring any obligation to pay royalties or other compensation to others solely on account of said grant. Nothing contained in this Patent Rights clause shall be deemed to grant any license under any invention other than a Subject Invention.

(c) The Contractor shall furnish to the Contracting Officer the following information and reports concerning Subject Inventions which reasonably appear to be patentable:

(i) a written disclosure promptly after conception or first actual reduction to practice of each such Invention together with a written statement specifying whether or not a United States patent application claiming the Invention has been or will be filed by or on behalf of the Contractor;

(ii) interim reports, at least every twelve months, commencing with the date of this contract, each listing all such Inventions conceived or first actually reduced to practice more than three months prior to the date of the report, and not listed on a prior interim report, or certifying that there are no such unreported Inventions; and

(iii) prior to final settlement of this contract, a final report listing all such Inventions including all those previously listed in interim reports.

(d) In connection with each Subject Invention referred to in (c)(i) above, the Contractor shall do the following:

(i) if the Contractor specified that a United States patent application claiming such Invention will be filed, the

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Patent Rights (Cont'd)

Contractor shall file or cause to be filed such application in due form and time; however, if the Contractor, after having specified that such an application would be filed, decides not to file or cause to be filed said application, the Contractor shall so notify the Contracting Officer at the earliest practicable date and in any event not later than eight months after first publication, public use or sale.

(ii) if the Contractor specifies that a United States patent application claiming such Invention has not been filed and will not be filed (or having specified that such an application will be filed thereafter notifies the Contracting Officer to the contrary), the Contractor shall:

(A) inform the Contracting Officer in writing at the earliest practicable date of any publication of such Invention made by or known to the Contractor or, where applicable, of any contemplated publication by the Contractor, stating the date and identity of such publication or contemplated publication; and

(B) convey to the Government the Contractor's entire right, title, and interest in such Invention by delivering to the Contracting Officer upon written request such duly executed instruments (prepared by the Government) of assignment and application, and such other papers as are deemed necessary to vest in the Government the Contractor's right, title, and interest aforesaid, and the right to apply for and prosecute patent applications covering such Invention throughout the world, subject, however, to the right of the Contractor specified in (e) below to file foreign applications, and subject further to the reservation of non-exclusive and royalty-free license to the Contractor (and to its existing and future associated and affiliated companies, if any, within the corporate structure of which the Contractor is a part which license shall be assignable to the successor of that part of the Contractor's business to which such Invention pertains;

(iii) the Contractor shall furnish promptly to the Contracting Officer on request an irrevocable power of attorney to inspect and make copies of each United States patent application filed by or on behalf of the Contractor covering any such Invention;

(iv) in the event the Contractor, or those other than the Government deriving rights from the Contractor, elects not to continue prosecution of any such United States patent application filed by or on behalf of the Contractor shall so notify the

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Patent Rights (Cont'd)

Contracting Officer not less than sixty days before the expiration of the response period and, upon written request, deliver to the Contracting Officer such duly executed instruments (prepared by the Government) as are deemed necessary to vest in the Government the Contractor's entire right, title, and interest in such Invention and the application, subject to the reservation as specified in (d)(ii) above; and

(v) the Contractor shall deliver to the Contracting Officer duly executed instruments fully confirmatory of any license rights herein agreed to be granted to the Government.

(c) The Contractor, or those other than the Government deriving rights from the Contractor, shall have the exclusive rights to file applications on Subject Inventions in each foreign country within:

(i) nine months from the date a corresponding United States application is filed;

(ii) six months from the date permission is granted to file foreign applications where such filing had been prohibited for security reasons; or

(iii) such longer period as may be approved by the Contracting Officer. The Contractor shall, upon written request of the Contracting Officer, convey to the Government the Contractor's entire right, title, and interest in each Subject Invention in each foreign country in which an application has not been filed within the time above specified, subject to the reservation of a non-exclusive and royalty-free license to the Contractor together with the right of the Contractor to grant sublicenses, which license and right shall be assignable to the successor of that part of the Contractor's business to which the Subject Invention pertains.

(f) If the Contractor fails to deliver to the Contracting Officer the interim reports required by (c)(ii) above, or fails to furnish the written disclosures for all Subject Inventions required by (c)(i) above shown to be due in accordance with any interim report delivered under (c)(ii) or otherwise known to be unreported, there shall be withheld from payment until the Contractor shall have corrected such failures either ten percent (10%) of the amount of this Contract, as from time to time amended, or five thousand dollars (\$5,000), whichever is less. After payment of eighty percent (80%) of the amount of this contract, as from time to time amended, payment shall be withheld until a reserve of either ten percent (10%) of such amount, or five thousand dollars (\$5,000), whichever is less, shall have been

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Patent Rights (Cont'd)

set aside, such reserve or balance thereof to be retained until the Contractor shall have furnished to the Contracting Officer:

(i) the final report required by (c)(iii) above;

(ii) written disclosures for all Subject Inventions required by (c)(i) above which are shown to be due in accordance with interim reports delivered under (c)(ii) above or in accordance with such final reports or are otherwise known to be unreported; and

(iii) the information as to any subcontractor required by (h) below. The maximum amount which may be withheld under this paragraph (f) shall not exceed ten percent (10%) of the amount of this contract or five thousand dollars (\$5,000), whichever is less, and no amount shall be withheld under this paragraph (f) when the amount specified by this paragraph (f) is being withheld under other provisions of this contract. The withholding of any amount or subsequent payment thereof to the Contractor shall not be construed as a waiver of any rights accruing to the Government under this Contract. This paragraph (f) shall not be construed as requiring the Contractor to withhold any amounts from a subcontractor to enforce compliance with the patent provisions of a subcontract.

(g) The Contractor shall exert all reasonable effort in negotiating for the inclusion of this Patent Rights clause in any subcontract hereunder of three thousand dollars (\$3,000) or more having experimental, developmental, or research work as one of its purposes. In the event of refusal by a subcontractor to accept the Patent Rights clause, the Contractor shall not proceed with the subcontract without written authorization of the Contracting Officer, and upon obtaining such authorization, shall cooperate with the Government in the negotiation with such subcontractor of an acceptable patent rights clause; provided, however, that the Contractor shall in any event require the subcontractor to grant to the Government patent rights under Subject Inventions of no less scope and on no less favorable terms than those which the Contractor has under such subcontracts, except that in no event shall the subcontractor be required to grant to the Government patent rights in excess of those herein agreed to be granted to the Government by the Contractor.

(h) The Contractor shall, at the earliest practicable date, notify the Contracting Officer in writing of any subcontract containing a patent rights clause, furnish the Contracting Officer a copy of

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Patent Rights (Cont'd)

such clause, and notify the Contracting Officer when such subcontract is completed. It is understood that with respect to such subcontract clause, the Government is a third party beneficiary; and the Contractor hereby assigns to the Government all the rights that the Contractor would have to enforce the subcontractor's obligations for the benefit of the Government with respect to Subject Inventions. The Contractor shall not be obligated to enforce the agreements of any subcontractor hereunder relating to Subject Inventions.

(i) When the Contractor shows that it has been delayed in the performance of this contract by reason of its inability to obtain in accordance with (g) above a suitable patent rights clause from a qualified subcontractor for any item or service required under this contract for which the Contractor itself does not have available facilities or qualified personnel, the Contractor's delivery dates shall be extended for a period of time equal to the duration of such delay; and, upon request of the Contractor, the Contracting Officer shall determine to what extent, if any, an additional extension of the delivery dates and an increase in contract prices based upon additional costs incurred by such delay are proper under the circumstances; and the contract shall be modified accordingly. If the Contractor, after exerting all reasonable effort, is unable to obtain a qualified subcontractor as set forth above, the Contractor may submit to the Contracting Officer a written request for waiver or modification of the requirement that a suitable patent rights clause be included in the subcontract. Such request shall specifically state that the Contractor has used all reasonable effort to obtain such qualified subcontractor, and shall cite the waiver or termination provision hereinafter set forth. If, within thirty-five (35) days after the date of receipt of such request for a waiver or modification of said requirement, the Contracting Officer shall fail to deny in writing such request, the requirement shall be deemed to have been waived by the Government. If within such period the Contractor shall receive a written denial of such request by the Contracting Officer, this contract shall thereupon automatically terminate and the rights and obligations of the parties shall be governed by the provisions of the clause of this contract providing for termination for the convenience of the Government.

ASPR 9-107.1 - 23 Dec 55

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24. Reproduction and Use of Technical Data

The Contractor agrees to and does hereby grant to the Government, to the full extent of the Contractor's right to do so without payment of compensation to others, the right to reproduce, use, and disclose for governmental purposes (including the right to give to foreign governments for their use as the national interest of the United States may demand) all or any part of the reports, drawings, blueprints, data, and technical information specified to be delivered by the Contractor to the Government under this contract; provided, however, that nothing contained in this paragraph shall be deemed, directly or by implication, to grant any license under any patent now or hereafter issued or to grant any right to reproduce anything else called for by this contract.

ASPR 9-112 - 4 Jan 55

25. Reporting of Royalties

The provisions of this clause shall be applicable only if the amount of the contract is in excess of \$10,000.

(a) The Contractor shall report in writing (in quadruplicate) to the Contracting Officer as soon as practicable after execution of this contract whether or not any royalties in excess of \$250 have been paid or are to be paid by the Contractor directly to any person or firm in connection with the performance of this contract. If royalties in excess of \$250 have been paid or are to be paid to any person or firm, the report shall include the following items of information with respect to such royalties (including the initial \$250):

(1) The name and address of each licensor to whom royalties in excess of \$250 have been paid or are to be paid,

(2) The patent numbers, patent application serial numbers (with filing dates), or other identification of the basis for such royalties,

(3) The manner of computing the royalties consisting of (i) a brief identification of each royalty-bearing unit or process, (ii) the total amount of royalties, and (iii) the percentage rate or dollars and cents amount of royalties on each such unit or process; provided that if the royalties cannot be computed in terms of units or dollars and cents value, then other data showing the manner in which the Contractor computes the royalties.

(b) In lieu of furnishing a report under paragraph (a), the Contractor may furnish a single, consolidated report for each accounting

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Reporting of Royalties (continued)

period of the Contractor during which the Contractor has contracts with the Government, provided the Contractor has requested and obtained the prior written approval of the Chief, Patents Division, Office of The Judge Advocate General. Such consolidated report shall be furnished, when the furnishing thereof has been approved, in the number of copies as approved, as soon as practicable after the close of the accounting period covered by the report. Such consolidated report shall be made in accordance with Contractor's established accounting practice and shall include, for the accounting period, the total amount of royalties accruing to each licensor at a rate in excess of \$1,000 per annum on the Contractor's over-all business, together with (i) the name and address of each such licensor, (ii) the patent numbers, patent application serial numbers (with filing dates), or other identification of the basis for such royalties, (iii) a brief description of the subject matter of the license under which royalties are charged, (iv) the percentage rate or unit amount, or if the royalties do not accrue by rate or unit amount, such other data showing the manner by which the royalties accrue to licensor, and (v) an estimate or approximation (without detailed accounting) of the portion of such royalties that may be attributable to Government contracts. The Contractor shall, if requested by the Government, furnish at Government expense a more detailed allocation of such royalty payments attributable to Government contracts.

(c) In the event that the Contractor requests written approval to furnish consolidated reports under paragraph (b) above, the Chief, Patents Division, Office of The Judge Advocate General, shall promptly consider the request and furnish to the Contractor a letter stating whether or not the request is approved and, notwithstanding any such approval, the Contracting Officer shall have the right to question any such subsequently furnished report as to accuracy or completeness of data and to ask for additional information. The Contractor shall furnish a copy of such letter of approval to the Contracting Officer administering this contract.

(d) After payment of eighty percent (80%) of the amount of this contract, as from time to time amended, further payment shall be withheld until a reserve of either (i) ten percent (10%) of such amount or (ii) \$5,000, whichever is less, shall have been set aside, such reserve or the balance thereof to be retained until the Contractor shall have furnished to the Contracting Officer the report called for by paragraph (a) hereof or the copy of the letter approving the Contractor's request to furnish the report under paragraph (b); provided that no amount shall continue to be withheld from payment for the causes specified in this paragraph (d) if the Contracting Officer shall find that the Contractor has not been furnished a letter as required by

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Reporting of Royalties (continued)

paragraph (c) within a reasonable time after making written request to submit a single, consolidated report under the provisions of paragraph (b) of this clause; and provided further that the Contracting Officer, may, in his discretion, order payment to be withheld in the amount and manner above provided if the report called for by paragraph (a) is unsatisfactory or if the Chief, Patents Division, Office of The Judge Advocate General notifies the Contracting Officer that the report called for by paragraph (b) is due but has not been received, or if received, is found to be unsatisfactory. No amount shall be withheld under this paragraph when the minimum amount specified by this paragraph is being withheld under other provisions of this contract. The withholding of any amount or subsequent payment thereof to the Contractor shall not be construed as a waiver of any right accruing to the Government under this contract.

ASPR 7-204.8 - 4 Jan 55

26. Copyright

(a) The Contractor agrees to and does hereby grant to the Government, and to its officers, agents and employees acting within the scope of their official duties, (i) a royalty-free, nonexclusive and irrevocable license to reproduce, translate, publish, use, and dispose of, and to authorize other so to do, all copyrightable material first produced or composed and delivered to the Government under this contract by the Contractor, its employees or any individual or concern specifically employed or assigned to originate and prepare such materials; and (ii) a license as aforesaid under any and all copyrighted or copyrightable work not first produced or composed by the Contractor in the performance of this contract but which is incorporated in the material furnished under the contract, provided that such license shall be only to the extent the Contractor now has, or prior to completion or final settlement of the contract may acquire, the right to grant such license without becoming liable to pay compensation to others solely because of such grant.

(b) The Contractor agrees that it will exert all reasonable effort to advise the Contracting Officer, at the time of delivering any copyrightable or copyrighted work furnished under this contract, of any adversely held copyrighted or copyrightable material incorporated in any such work and of any invasion of the right of privacy therein contained.

(c) The Contractor agrees to report to the Contracting Officer, promptly and in reasonable written detail, any notice or claim of

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Copyright (continued)

copyright infringement received by the Contractor with respect to any material delivered under this contract.

ASPR 7-204.9 - 3 Jan 55

27. Military Security Requirements - Research and Development Contracts

(a) The provisions of this clause shall apply to the extent that this contract involves access to information classified "Confidential" including "Confidential-Modified Handling Authorized" or higher.

(b) The Government shall notify the Contractor of the security classification of this contract and the elements thereof, and of any subsequent revisions in such security classification, by the use of a Security Requirements Check List (DD Form 254) and Appendage to Security Requirements Check List (DD Form 254-1).

(c) To the extent the Government has indicated as of the date of this contract, or thereafter indicates, security classification under this contract as provided in paragraph (b) above, the Contractor, except as otherwise provided in this clause, shall safeguard all classified elements of this contract and shall provide and maintain a system of security controls within its own organization in accordance with the requirements of (i) the Department of Defense Industrial Security Manual for Safeguarding Classified Security Information as in effect on the date of this contract, which Manual is hereby incorporated by reference and made a part of this contract; and (ii) any amendments to said Manual required by the demands of national security as determined by the Government and made after the date of this contract, notice of which has been furnished to the Contractor by the Contracting Officer.

(d) Designated representatives of the Government responsible for inspection pertaining to industrial security shall have the right to inspect at reasonable intervals the procedures, methods, and facilities utilized by the Contractor in complying with the requirements of the terms and conditions of this clause. Should the Government, through its authorized representative, determine that the Contractor has not complied with such requirements, the Government shall inform the Contractor in writing of the proper actions to be taken in order to effect compliance with such requirements.

(e) In the event a change in security requirements, as provided in paragraphs (b) and (c), results (i) in a change in the security classification of this contract or any element thereof from a nonclassified status to a classified status or from a lower classification to a higher

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Military Security Requirements - Research and Development Contracts
(continued)

classification, or (ii) in more restrictive area controls than previously required, the Contractor shall exert every reasonable effort compatible with its established policies to continue the performance of work under the contract in compliance with such change in security classification or requirements. If, despite such reasonable efforts, the Contractor determines that the continuation of work under this contract is not practicable because of such change in security classification or requirements it shall so notify the Contracting Officer in writing.

(f) After receiving such written notification, the Contracting Officer shall explore the circumstances surrounding the proposed change in security classification or requirements and shall endeavor to work out a mutually satisfactory method whereby the Contractor can continue performance of the work under this contract.

(g) If, upon the expiration of fifteen (15) days after receipt of the notification by the Contracting Officer of the Contractor's stated inability to proceed, (i) the application to this contract of such change in security classification or requirements has not been withdrawn or (ii) a mutually satisfactory method for continuing performance of work under this contract has not been agreed upon, the Contractor may request the Contracting Officer to terminate the contract in whole or in part. Thereupon, the Contracting Officer shall terminate the contract in whole or part, as may be appropriate, and such termination shall be deemed a termination under the provisions of the clause of this contract entitled "Termination for the Convenience of the Government."

(h) The Contractor agrees to insert, in all subcontracts hereunder which involve access to classified security information, provisions which shall conform substantially to the language of this clause, including this paragraph (h) but excluding paragraphs (e), (f), and (g) of this clause.

(i) The Contractor also agrees that it shall determine that any subcontractor proposed by it for the furnishing of supplies and services which will involve access to classified security information in the Contractor's custody has been granted an appropriate facility security clearance which is still in effect, prior to being accorded access to such classified security information.

APP 7-104.12A - 20 Dec 56

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28. Gratuities

(a) The Government may, by written notice to the Contractor, terminate the right of the Contractor to proceed under this contract if it is found, after notice and hearing, by the Secretary or his duly authorized representative, that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the Government with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such contract; provided, that the existence of the facts upon which the Secretary or his duly authorized representative makes such findings shall be in issue and may be reviewed in any competent court.

(b) In the event this contract is terminated as provided in paragraph (a) hereof, the Government shall be entitled (i) to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor, and (ii) as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the Secretary or his duly authorized representative) which shall be not less than three nor more than ten times the costs incurred by the Contractor in providing any such gratuities to any such officer or employee.

(c) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

ASPR 7-204.14 - 4 Jan 55

29. Priorities, Allocations and Allotments

The Contractor agrees, in the procurement and use of materials required for the performance of this contract, to comply with the provisions of all applicable rules and regulations of the Business and Defense Services Administration, including Defense Materials System regulations.

ASPR 7-204.15 - 7 Jan 55

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30. Unauthorized Statements with Respect to Contracts

(a) The Contractor will not accept any instructions issued by any person employed by the U. S. Government or otherwise, other than the Contracting Officer, or the Contracting Officer's representative and/or Project Officer acting within the limits of their authority. The Contracting Officer's representative and/or Project Officer will be so designated in writing to the Contractor, and the scope of their authority will be set forth therein.

(b) No information, other than that which may be contained in an authorized amendment to this Purchase Instrument duly issued by the Contracting Officer, which may be received from any person employed by the U. S. Government or otherwise, will be considered as grounds for deviation from any stipulations of this Purchase Instrument or referenced drawings and/or specifications.

RECCM PI 21-54-7
4 Nov 53

31. Clearance for Publication

No information developed in the performance of this contract shall be published or divulged in any thesis, writing, public lecture, patent application and the like without the prior submission of the manuscript or material to the Project Officer for reference to the Commanding Officer of the requisitioning agency, or that officer's duly authorized representative for clearance. The Contractor agrees to be bound by the decision of said official.

RECOM PI 21-54-7
4 Nov 53

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32. Project Officer

The Contracting Officer may designate a representative to act as Project Officer under this contract. Such representative as may be appointed will be specifically designated in a letter from the Contracting Officer to the Contractor. The Project Officer will receive for the Government all reports, samples, and other materials called for in the Schedule of this contract and will represent the Contracting Officer in the technical phases of the work. The Project Officer will not be authorized to change any of the terms and conditions of this contract.

RECOM PI 21-54-7
4 Nov 53

33. Notice to the Government of Labor Disputes

Whenever the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately give notice thereof, including all relevant information with respect thereto, to the Contracting Officer.

ASPR 7-205.3 - 3 Jan 55

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34. Negotiated Overhead Rates

(a) Notwithstanding the provisions of the clause of this contract entitled "Allowable Cost, Fixed Fee, and Payment," the allowable indirect costs under this contract shall be obtained by applying negotiated overhead rates to bases agreed upon by the parties, as specified below.

(b) The Contractor, as soon as possible but not later than six (6) months after the expiration of each period specified in the Schedule, shall submit to the Contracting Officer or his authorized representative, with a copy to the cognizant audit activity, a proposed final overhead rate or rates for that period based on the Contractor's cost experience during that period, together with supporting cost data. Negotiation of final overhead rates by the Contractor and the Contracting Officer shall be undertaken as promptly as practicable after receipt of the Contractor's proposal.

(c) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with ASPR, Section XV, Part 3, as in effect on the date of this contract.

(d) The results of each negotiation shall be set forth in an amendment to this contract, which shall specify (i) the agreed final rates, (ii) the bases to which the rates apply, (iii) the periods for which the rates apply, and (iv) the specific items treated as direct costs or any changes in the items previously agreed to be direct costs.

(e) Pending establishment of final overhead rates for any period, the Contractor shall be reimbursed either at negotiated provisional rates as provided in the Schedule or at billing rates acceptable to the Contracting Officer or his authorized representative, subject to appropriate adjustment when the final rates for that period are established. To prevent substantial over or under payment, the provisional or billing rates may, at the request of either party, be revised by mutual agreement, either retroactively or prospectively. Any such revision of negotiated provisional rates provided in the Schedule shall be set forth in an amendment to this contract.

(f) Any failure by the parties to agree on any final rate or rates under this clause shall be considered a dispute concerning a question of fact for decision by the Contracting Officer within the meaning of the clause of this contract entitled "Disputes."

ASPR 7-204.16 (3-704.2 - Nonprofit & Educational Institutions)
12 Dec 56

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35. Alterations in Contract

The following alterations have been made in the provisions of this contract:

(a) Paragraph (g) of General Provision entitled "Government Property" is deleted and the following paragraph substituted therefor:

(g) The Government shall maintain official property control records of Government property and the Contractor is relieved from responsibility of maintaining such records as required by the provisions of paragraph 207.1, Appendix C, "Manual for Control of Government Property in Possession of Non-Profit Research and Development Contractors" as in effect on the date of this contract, which is incorporated by reference; nor shall any property records maintained by the Contractor be designated or used as the official contract records. The Contractor agrees to comply with the provisions of said manual relating to the identification and marking, segregating and commingling, taking of inventories, and control of salvage and scrap, and the Contractor also accepts the responsibilities set forth in Part III of said Appendix C.

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The rights and obligations of the parties to this contract shall be subject to and governed by the Schedule and the General Provisions. To the extent of any inconsistency between the Schedule or the General Provisions, and any specifications or other provisions which are made a part of this contract by reference or otherwise, the Schedule and the General Provisions shall control. To the extent of any inconsistency between the Schedule and the General Provisions, the Schedule shall control.

The Contractor represents that the aggregate number of employees of the Contractor and its affiliates is: 500 or more, less than 500.

IN WITNESS WHEREOF, the parties hereto have executed this contract as of the day and year first above written:

THE UNITED STATES OF AMERICA

By _____

E. W. BANKERT

(CONTRACTING OFFICER)

WITNESSES

(CONTRACTOR)

By _____

NOTE.—In case of corporation, witnesses not required but certificate below must be completed. Type or print names under all signatures.

CONTRACT EXECUTED

(TITLE)

(ADDRESS)

NOTE.—Contractor, if a corporation, should cause the following certificate to be executed under its corporate seal, provided that the same officer shall not execute both the contract and the certificate.

CERTIFICATE

I, _____, certify that I am the _____ of the corporation named as Contractor herein; that _____, who signed this contract on behalf of the Contractor, was then _____ of said corporation; that said contract was duly signed for and in behalf of said corporation by authority of its governing body, and is within the scope of its corporate powers.

(CORPORATE SEAL)
(SIGNATURE)

7720011 17 MAR 1978

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