



THE UNIVERSITY OF CHICAGO

DATE

December 11, 1952

To

Mr. W. L. Thaggard

DEPARTMENT

Assistant Comptroller

FROM

W. B. Harrell

DEPARTMENT

Business Manager

IN RE:

Continuation of "Navy Bacterial Virus Research"  
under new contract - Nonr-1059(00)

Transmitted herewith are:

- 1) Conformed copy of Contract Nonr-1059(00), and
- 2) Conformed copy of Amendment No. 1 to Contract N6ori-02038.

The above-entitled research is to be continued under the direction of Dr. Leo Szilard during the period January 1 to December 31, 1953, but will be carried under fixed-price contract Nonr-1059(00). The amount to be received in payment of this research is \$8,834.00.

Will you have a new account designated to the project and budget the available funds as follows:

Salaries

Dr. Leo Szilard (22.5%)	\$2,363.00
Asst. Prof. (6/13 time)	3,000.00
Secretary - part-time	600.00
Research Asst. (9/16 time)	<u>1,800.00</u>
<b>Total Salaries</b>	<b>\$7,763.00</b>

Annuity (5% Salary items 1 and 2 above)	268.00
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Expendable Supplies (glassware, chemicals, etc.)	503.00
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<u>Travel</u>	<u>300.00</u>
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<b>Total Budget</b>	<b><u><u>\$8,834.00</u></u></b>
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As your records will indicate, there have been no purchases of non-expendable equipment nor are any such purchases anticipated.

Encs.

- cc: Dr. Leo Szilard w/enc. ✓  
 Dr. G. V. LeRoy w/enc.  
 Mr. C. E. Short w/enc.  
 Mr. D. F. Watson: Purchases under this contract are exempt from the Illinois State Sales Tax.



INVENTORY OF PLANT EQUIPMENT - EQUIPMENT OF A CAPITAL NATURE  
(\$100 AND OVER) - ACQUIRED UNDER CONTRACT N6ori-02038 AND RE-  
MAINING ON HAND AT TERMINATION OF CONTRACT, DECEMBER 31, 1952.

NONE

INVENTORY OF MINOR EQUIPMENT - EQUIPMENT OF A CAPITAL NATURE  
(UNDER \$100) ACQUIRED UNDER CONTRACT N6ori-92038 AND REMAINING  
ON HAND AT TERMINATION OF CONTRACT, DECEMBER 31, 1952.

**NONE**

INVENTORY OF MATERIAL AND SUPPLIES ACQUIRED UNDER CON-  
TRACT N6eri-02038 AND REMAINING ON HAND AT TERMINATION  
OF CONTRACT, DECEMBER 31, 1952

**NONE**

INVENTORY OF SPECIAL TOOLING ACQUIRED UNDER CONTRACT  
N6ori-02038 AND REMAINING ON HAND AT TERMINATION OF  
CONTRACT, DECEMBER 31, 1952

NONE

CERTIFICATE

The undersigned contractor, having completed the work called for by Task Order 38, Contract Number N6ori-20, hereby certifies that all materials, supplies, and equipment which were furnished to the contractor by the Government for use on the task order, or for which the contractor has been or will be reimbursed by the Government under the terms of the task order, if not specifically included in the foregoing inventories, were expended in performing the work called for by the task order.

THE UNIVERSITY OF CHICAGO

By W. B. Harrell, Business Manager



CERTIFICATE OF COMPLIANCE WITH SECTION L,

CONTRACT N6ori-02038

The undersigned contractor hereby certifies that in accordance with the provisions of Section L, Contract N6ori-02038, the services of the Project Director (Dr. Leo Szilard) were provided by the University without charge to subject contract.

THE UNIVERSITY OF CHICAGO

By \_\_\_\_\_  
W. B. Harrell  
Business Manager

CERTIFICATE OF COMPLIANCE WITH CONTRACT PATENT PROVISIONS

Date **March 6, 1953**

Under: Contract No.: **N6ori-20**  
 Task Order No.: **38**  
 Contractor: **The University of Chicago**

The undersigned contractor hereby certifies that a complete written disclosure of any and all inventions made under Contract No. **N6ori-20**, Task Order **38**, has been delivered to the Contracting Officer or his designee as required by the terms of the contract and that all records, including notebooks and reports, maintained or prepared in the performance thereof have been examined for any inventions that should be reported.

The following schedule identifies, by the inventor, title and date of submission, all invention disclosures, if any, that have been submitted or are being submitted herewith in compliance with the terms of the above contract. This schedule further designates those inventions concerning which the contractor elects or has elected to file patent application. Other than those inventions reported in the disclosures listed in the following schedule, there are no inventions to report.

SCHEDULE OF INVENTION DISCLOSURES

<u>Inventor</u>	<u>Title of Invention</u>	<u>Date of Submission</u>	<u>Does Contractor elect to file Patent Application?</u>	
			<u>Yes</u>	<u>No</u>
Aaron Novick and Leo Szilard	"Caffeine containing products and method for their preparation".	11/15/52		No *

THE UNIVERSITY OF CHICAGO  
 (Contractor)

By W B Harrell  
 W. B. Harrell  
 Business Manager

APPROVED: \_\_\_\_\_  
 (ONR Branch Office Patent Counsel)

APPROVED: \_\_\_\_\_  
 (ONR Branch Office Contract Administrator or Chief Scientist)

\*See attached copy of letter dated March 6, 1953 to Mr. Kent W. Wonnell.



NAVY CONTRACTS

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old number : N6ori - 02038

new number : Nonr - 1059(00)

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AN/11t - March 5, 1953

DEPARTMENT OF DEFENSE  
NEGOTIATED CONTRACT

Department of the  
NAVY

Contract No.  
Nonr-1059(00)

Name Issuing Office  
**OFFICE OF NAVAL RESEARCH**  
Address Department of the Navy, Bldg. T-3  
Washington 25, D. C.

Name Contractor  
**The University of Chicago**  
Address **Chicago, Illinois**

Contract for **research on a biophysical approach to the  
problems of bacterial growth and bacterial genetics.** Amount  
**8,834.00**  
Appropriation and Other Administrative Data

APPROPRIATION: 17X1317.30 Research Navy (Expenditure Account 46000)  
(Object Classification 079) Program Number 41000

AUTHORITY: NR 119-221/9-15-52 (Biological Sciences Division)

~~DC RATING~~  
~~Certified under NFA~~  
~~Regulation 201 DC~~

This negotiated contract is entered into pursuant to the provisions of Section 2 (c) ( 1 ) of the Armed Services Procurement Act of 1947 (Public Law 413, 80th Congress), and any required determination and findings have been made.

THIS CONTRACT is entered into as of 1 January, 1953, by and between the United States of America, hereinafter called the Government, represented by the Contracting Officer executing this contract, and The University of Chicago  
(name of contractor)

- (i) a corporation organized and existing under the laws of the State of Illinois
- (ii) a partnership consisting of \_\_\_\_\_
- (iii) an individual trading as \_\_\_\_\_

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.

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## GENERAL PROVISIONS

### 1. 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 "subcontracts" includes purchase orders under this contract.

### 2. INSPECTION

The Contractor agrees that the Contracting Officer shall at all reasonable times have the right to inspect the work being performed under this contract.

### 3. PAYMENTS

The Contractor shall be paid, upon the submission of properly certified invoices or vouchers, the prices stipulated herein for supplies delivered and accepted or services rendered and accepted, less deductions, if any, as herein provided. Unless otherwise specified, payment will be made on partial deliveries accepted by the Government when the amount due on such deliveries so warrants; or, when requested by the Contractor, payment for accepted partial deliveries shall be made whenever such payment would equal or exceed either \$1,000 or 50 per cent of the total amount of this contract.

### 4. LIENS AND INSURANCE

(a) Any and all partial payments made hereunder shall be secured, when made, by a lien in favor of the Government upon the articles and things contracted for on account of all payments so made and on all material and other property acquired for or allocated to the performance of this contract, except to the extent that the Government, by virtue of any other provision of this contract, or otherwise, shall have valid title to such articles,

things, materials, or other property as against other creditors of the Contractor. If such property is not identified by marking or segregation, the Government shall be deemed to have a lien upon a proportionate part of any mass of property with which such property is commingled. Any lien provided for by virtue of this section is paramount to all other liens under the provisions of an act approved August 22, 1911 (Public No. 41, 62nd Cong.; 37 Stat. 32; 34 U. S. C. sec. 582).

(b) The Contractor, to the extent determined necessary and practicable by the Contracting Officer or his authorized representative, shall identify by marking or segregation all property which is subject to a lien in favor of the Government by virtue of any provision of this contract in such a way as to indicate that it is subject to such lien and that it has been acquired for or allocated to the performance of this contract. In any event, the Contractor shall maintain adequate accounting control over such property on its books and records.

(c) In the event that the Contractor shall procure or maintain insurance upon any materials or other property upon which a lien exists in favor of the Government pursuant to the terms of this contract, loss, if any, under any policy or policies of such insurance shall be adjusted with the Contractor and the proceeds, at the election of the Government, shall be payable to the Contractor; any proceeds not paid to the Contractor shall be payable to the Treasurer of the United States. The foregoing provisions shall not be deemed to require that the Contractor procure or maintain any such insurance.

## 5. ASSIGNMENT OF CLAIMS

~~Neither this contract nor any claim hereunder shall be assigned without the prior written approval of the Contracting Officer.~~

- (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 any 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," "Confidential," or "Restricted," 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.

6. FEDERAL, STATE AND LOCAL TAXES

(a) DEFINITIONS. -- As used throughout this clause, the following terms shall have the meanings set forth below:

(i) The term "direct tax" means any tax or duty directly applicable to the completed supplies or services covered by this contract, or any other tax or duty from which the Contractor or this transaction is exempt. It includes any tax or duty directly applicable to the importation, production, processing, manufacture, construction, sale, or use of such supplies or services; it also includes any tax levied on, with respect to, or measured by sales, receipts from sales, or use of the supplies or services covered by this contract. The term does not include transportation taxes, unemployment compensation taxes, social security taxes, income taxes, excess-profits taxes, capital stock taxes, property taxes, and such other taxes as are not within the definition of the term "direct tax" as set forth above in this paragraph.

(ii) The term "contract date" means the effective date of this contract if it is a negotiated contract, or the date set for the opening of bids if it is a contract entered into as a result of formal advertising.

(b) FEDERAL TAXES. -- Except as may be otherwise provided in this contract, the contract price includes all applicable Federal taxes in effect on the contract date.

(c) STATE OR LOCAL TAXES. -- Except as may be otherwise provided in this contract, the contract price does not include any State or local direct tax in effect on the contract date.

(d) EVIDENCE OF EXEMPTION. -- The Government agrees, upon request of the Contractor, to furnish a tax exemption certificate or other similar evidence of exemption with respect to any direct tax not included in the contract price pursuant to this clause; and the Contractor agrees, in the event of the refusal of the applicable taxing authority to accept such evidence of exemption, (i) promptly to notify the Contracting Officer of such refusal, (ii) to cause the tax in question to be paid in such manner as to preserve all rights to refund thereof, and (iii) if so directed by the Contracting Officer, to take all necessary action, in cooperation with and for the benefit of the Government, to secure a refund of such tax (in which event the Government agrees to reimburse the Contractor for any and all reasonable expenses incurred at its direction).

(e) PRICE ADJUSTMENT. -- If, after the contract date, the Federal Government or any State or local government either (i) imposes or increases (or



removes an exemption with respect to) any direct tax, or any tax directly applicable to the materials or components used in the manufacture or furnishing of the completed supplies or services covered by this contract, or (ii) refuses to accept the evidence of exemption, furnished under paragraph (d) hereof, with respect to any direct tax excluded from the contract price, and if under either (i) or (ii) the Contractor is obliged to and does pay or bear the burden of any such tax (and does not secure a refund thereof), the contract price shall be correspondingly increased. If, after the contract date, the Contractor is relieved in whole or in part from the payment or the burden of any direct tax included in the contract price, or any tax directly applicable to the materials or components used in the manufacture or furnishing of the completed supplies or services covered by this contract, the Contractor agrees promptly to notify the Contracting Officer of such relief, and the contract price shall be correspondingly decreased or the amount of such relief paid over to the Government. Invoices or vouchers covering any increase or decrease in contract price pursuant to the provisions of this paragraph shall state the amount thereof, as a separate added or deducted item, and shall identify the particular tax imposed, increased, eliminated, or decreased.

(f) REFUND OR DRAWBACK. -- If any tax or duty has been included in the contract price or the price as adjusted under paragraph (e) of this clause, and if the Contractor is entitled to a refund or drawback by reason of the export or re-export of supplies covered by this contract, or of materials or components used in the manufacture or furnishing of the completed supplies or services covered by this contract, the Contractor agrees that he will promptly notify the Contracting Officer thereof and that the amount of any such refund or drawback obtained will be paid over to the Government or credited against amounts due from the Government under this contract; provided, however, that the Contractor shall not be required to apply for such refund or drawback unless so requested by the Contracting Officer.

#### 7. GOVERNMENT-FURNISHED PROPERTY

(a) The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the property which the schedule or the specifications state the Government will furnish (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 of a type suitable for use will be delivered to the Contractor at the times stated in the schedule 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, if requested by the Contractor, make a determination of the delay occasioned the Contractor thereby, and shall grant to the Contractor a reasonable extension of time in respect of such delivery or performance dates. The Government shall not be liable to the Contractor for damages or loss of profit by reason of any delay in delivery of or failure

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to deliver any or all of the Government-furnished property, except that in case of such delay or failure, upon the written request of the Contractor, an equitable adjustment shall be made in the delivery or performance dates, or price, or both, and in any other contractual provision affected thereby, in accordance with the procedures provided for in the clause of this contract entitled ~~"Changes"~~ "Disputes".

(b) By notice in writing the Contracting Officer may decrease the property furnished or to be furnished by the Government under this contract. In any such case, upon the written request of the Contractor, an equitable adjustment shall be made in the delivery or performance dates, or price, or both, and in any other contractual provisions affected by such decrease, ~~in accordance with the procedures provided for in the clause of this contract entitled "Changes."~~

(c) Title to the Government-furnished property shall remain in the Government. Title to Government-furnished property shall not be affected by the incorporation or attachment thereof to any property not owned by the Government, nor shall such Government-furnished property, or any part thereof, be or become a fixture or lose its identity as personalty by reason of affixation to any realty. The Contractor shall maintain adequate property control records of Government-furnished property in accordance with the provisions of the "Manual for the Control of Government Property in the Possession of Contractors" dated March, 1951.

(d) The Government-furnished property shall, unless otherwise provided herein, be used only for the performance of this contract.

(e) The Contractor shall maintain and administer, in accordance with sound industrial practice, a program for the maintenance, repair, protection and preservation of Government-furnished property, until disposed of by the Contractor in accordance with this clause. In the event that damaged or defective Government-furnished property is delivered to the Contractor, or any other damage occurs to Government-furnished property the risk of which has been assumed by the Government under this contract, the Government shall replace such items or the Contractor shall make such repair of the property as the Government directs; provided, however, that if the Contractor cannot effect such repair within the time required, the Contractor may reject such property. The Contract price includes no compensation to the Contractor for the performance of any repair or replacement for which the Government is responsible, and an equitable adjustment will be made in the contract price for any such repair or replacement of Government-furnished property made at the direction of the Government. Any repair or replacement for which the Contractor is responsible under the provisions of this contract shall be accomplished by the Contractor at its own expense.

(f) (i) Except for loss, destruction or damage resulting from a failure of the Contractor, due to willful misconduct or lack of good faith of any of the Contractor's managerial personnel as defined herein, to maintain and administer

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the program for the maintenance, repair, protection and preservation of the Government-furnished property, as required by paragraph (e), hereof, and except as specifically provided in the clause or clauses, if any, designated in the Schedule, the Contractor shall not be liable for loss or destruction of or damage to the Government-furnished property (A) caused by any peril while the property is in transit off the Contractor's premises, or (B) caused by any of the following perils while the property is on the Contractor's or subcontractor's premises, or on any other premises where such property may properly be located, or by removal therefrom because of any of the following perils:

(I) Fire; lightning; windstorm, cyclone, tornado, hail; explosion; riot, riot attending a strike, civil commotion; vandalism and malicious mischief; sabotage; aircraft or objects falling therefrom; vehicles running on land or tracks, excluding vehicles owned or operated by the Contractor or any agent or employee of the Contractor; smoke; sprinkler leakage; earthquake or volcanic eruption; flood, meaning thereby rising of a body of water; hostile or warlike action, including action in hindering, combating, or defending against an actual, impending or expected attack by any government or sovereign power (de jure or de facto), or by any authority using military, naval, or air forces, or by an agent of any such government, power, authority, or forces; or

(II) Other peril, of a type not listed above, if such other peril is customarily covered by insurance (or by a reserve for self-insurance) in accordance with the normal practice of the Contractor, or the prevailing practice in the industry in which the Contractor is engaged with respect to similar property in the same general locale.

The perils as set forth in (A) and (B) above are hereinafter called "excepted perils."

The term "Contractor's managerial personnel" as used herein means the Contractor's directors, officers and any of its managers, superintendents, or other equivalent representatives who have supervision or direction of (I) all or substantially all of the Contractor's business; (II) all or substantially all of the Contractor's operation at any one plant or separate location at which the contract is being performed; (III) a separate and complete major industrial operation in connection with the performance of this contract.

(ii) The Contractor represents that it is not including in the price hereunder, and agrees that it will not hereafter include in any price to the Government, any charge or reserve for insurance (including self-insurance funds or reserves) covering loss or destruction of or damage to the Government-furnished property caused by any excepted peril.

(iii) Upon the happening of loss or destruction of or damage to any Government-furnished property caused by an excepted peril, the Contractor shall notify the Contracting Officer thereof, and shall communicate with the

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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 directed that no such organization be employed), shall take all reasonable steps to protect the Government-furnished property from further damage, separate the damaged and undamaged Government-furnished property, put all the Government-furnished property in the best possible order, and furnish to the Contracting Officer a statement of: (A) the lost, destroyed and damaged Government-furnished property (B) the time and origin of the loss, destruction or damage, (C) all known interests in commingled property of which the Government-furnished property is a part, and (D) the insurance, if any, covering any part of or interest in such commingled property. The Contractor shall be reimbursed for the expenditures made by it in performing its obligations under this subparagraph (iii) (including charges made to the Contractor by the Loss and Salvage Organization, except any of such charges the payment of which the Government has, at its option, assumed directly), to the extent approved by the Contracting Officer and set forth in a Supplemental Agreement.

(iv) With the approval of the Contracting Officer after loss or destruction of or damage to Government-furnished property, and subject to such conditions and limitations as may be imposed by the Contracting Officer, the Contractor may, in order to minimize the loss to the Government or in order to permit resumption of business or the like, sell for the account of the Government any item of Government-furnished property which has been damaged beyond practicable repair, or which is so commingled or combined with property of others, including the Contractor, that separation is impracticable.

(v) Except to the extent of any loss or destruction of or damage to Government-furnished property for which the Contractor is relieved of liability under the foregoing provisions of this clause, and except for reasonable wear and tear or depreciation, or the utilization of the Government-furnished property in accordance with the provisions of this contract, the Government-furnished property (other than property permitted to be sold) shall be returned to the Government in as good condition as when received by the Contractor in connection with this contract, or as repaired under paragraph (e) above.

(vi) In the event the Contractor is reimbursed or compensated for any loss or destruction of or damage to the Government-furnished property, caused by an excepted peril, it shall equitably reimburse the Government. The Contractor shall do nothing to prejudice the Government's rights 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 the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery.

(g) The Government shall at all reasonable times have access to the premises wherein any Government-furnished property is located.

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(h) Upon the completion of this contract, or at such earlier date as may be fixed by the Contracting Officer, the Contractor shall submit, in a form acceptable to the Contracting Officer, inventory schedules covering all items of Government-furnished property not consumed in the performance of this contract (including any resulting scrap), or not theretofore delivered to the Government, and shall deliver or make such other disposal of such Government-furnished property, as may be directed or authorized by the Contracting Officer. Recoverable scrap from Government-furnished property shall be reported in accordance with a procedure and in such form as the Contracting Officer may direct. The net proceeds of any such disposal shall be credited to the contract price or shall be paid in such other manner as the Contracting Officer may direct.

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

## 6. 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 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.

## 9 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 10 a-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

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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.

#### 10. 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.

#### 11. 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 8 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 8 hours per day; and work in excess of 8 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 8 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 \$5 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 8 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.

#### 12. NONDISCRIMINATION IN EMPLOYMENT

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, creed, color, or national origin; and further agrees to insert the foregoing provision in all subcontracts hereunder except subcontracts for standard commercial supplies or for raw materials.

13. 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.

14. 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.

15. TERMINATION FOR THE CONVENIENCE OF THE GOVERNMENT

(a) The performance of work under this contract may be terminated by the Government in accordance with this clause in whole, or from time to time in part, whenever the Contracting Officer shall determine that such termination is in the best interests of the Government. Any such termination 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 a Notice of Termination, and except as otherwise directed by the Contracting Officer, the Contractor shall (1) stop work under the contract on the date and to the extent specified in the Notice of Termination; (2) place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract as is not terminated; (3) terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination; (4) assign to the Government, in the manner, at the times, 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; (5) settle all claims arising out of such termination of orders and subcontracts, subject to the approval or ratification of the Contracting Officer, which approval or ratification shall be final for all the purposes of this clause; (6) transfer title and deliver to the Government, in the manner, at the times, and to the extent, if any, directed by the Contracting Officer, (i) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of, the work terminated by the Notice of Termination, and

(ii) the completed or partially completed plans, drawings, information, and other property which, if the contract had been completed, would have been required to be furnished to the Government; (7) use his best efforts to sell, in the manner, at the times, to the extent, and at the price or prices directed or authorized by the Contracting Officer, any property of the types referred to in provision (6) of this paragraph; provided, however, that the Contractor (i) shall not be required to extend credit to any purchaser, and (ii) may retain any such property at a price or prices approved by the Contracting Officer; (8) complete performance of such part of the work as shall not have been terminated by the Notice of Termination; and (9) take such action as may be necessary, or as the Contracting Officer may direct, for the protection 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.

(c) After receipt of a Notice of Termination, the Contractor shall submit to the Contracting Officer its termination claim. Such claim shall be submitted not later than 1 year from the effective date of termination, unless one or more extensions in writing are granted by the Contracting Officer upon request of the Contractor made within such 1-year period or authorized extension thereof. Upon failure of the Contractor to submit its termination claim within the time allowed the Contracting Officer shall determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination.

(d) Subject to the provisions of paragraph (c), 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 total or partial termination of work pursuant to this clause, which amount or amounts may include a reasonable allowance for profit on work done in connection with the terminated portion of the contract, and the contract shall be amended accordingly. Such amendment shall be final and conclusive upon the Contractor and the Government. Nothing in paragraph (e) of this clause, prescribing the amount to be paid to the Contractor in the event of failure of the Contractor and the Contracting Officer to agree upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this clause, shall be deemed to limit, restrict, or otherwise determine or affect the amount or amounts which may be agreed upon to be paid to the Contractor pursuant to this paragraph (d).

(e) In the event of the failure of the Contractor and the Contracting Officer to agree as provided in paragraph (d) upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this clause, the Government, but without duplication of any amounts agreed upon in accordance with paragraph (d), shall pay to the Contractor the amounts determined as follows:

(1) For completed supplies accepted by the Government and not theretofore paid for, a sum equivalent to the aggregate price for such supplies computed in accordance with the price or prices specified in the contract;



(2) The total of (i) the costs incurred in the performance of the work terminated, exclusive of any costs attributable to supplies paid or to be paid for under paragraph (e) (1) hereof; (ii) the cost (which may include a reasonable allowance for profit to the subcontractors or vendors on work done in connection with the terminated portion of any subcontract or order) of settling and paying claims arising out of the termination of work under subcontracts or orders as provided in paragraph (b) (5) above, exclusive of the amounts paid or payable on account of supplies or materials delivered or services furnished by subcontractors or vendors prior to the effective date of the Notice of Termination, which amounts shall be included in the costs payable under (i) above; and (iii) a sum equal to 2 per cent of that part of the amount determined under (i) which represents the cost of articles and materials not processed by the Contractor, plus a sum equal to 8 per cent of the remainder of such amount, but the aggregate of such sums shall not exceed 6 per cent of the whole amount determined under (i) above, which amount, for all purposes of this subdivision (iii), shall exclude any charges for interest on borrowings; and

(3) The reasonable cost of the protection and preservation of property incurred pursuant to paragraph (b) (9) hereof; and any other reasonable cost incident to termination of work hereunder, including expense incident to the determination of the amounts due to the Contractor as the result of such termination.

The total sum to be paid to the Contractor under (1) and (2) of this paragraph (e) shall not exceed the total contract price reduced by the amount of payments otherwise made and also reduced by the contract price of work not terminated. Except for normal spoilage, and to the extent that the Government shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor as provided in paragraph (3) (1) and paragraph (e) (2) (i), any amounts allocable to or payable in connection with property which is destroyed, lost, stolen, or damaged so as to become undeliverable to the Government, or to a buyer pursuant to paragraph (b) (7).

(f) The Contractor shall have the right of <sup>to</sup> appeal, under the clause of this contract entitled "Disputes," from any determination of the amount due to the Contractor made by the Contracting Officer under paragraphs (c) or (e) above, except that if the Contractor has failed to submit its claim within the time provided in paragraph (c) above, and has failed to request extension of such time, he shall have no such right of appeal. In any case where the Contracting Officer has made a determination of the amount due under paragraph (c) or (e) above, the Government shall pay to the Contractor the following: (i) if no appeal has been taken, the amount so determined by the Contracting Officer, or (ii) if an appeal has been taken, the amount finally determined on such appeal, such determination being final and conclusive upon the Contractor and the Government.

(g) The obligation of the Government to make any payments under this clause shall be subject to deductions for (1) all unliquidated advance or other unliquidated payments on account theretofore made to the Contractor, (2) any claim

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which the Government may have against the Contractor, and (3) the agreed price for, or the proceeds of sale of, any materials, supplies or other things retained by the Contractor or sold, pursuant to the provisions of this clause, and not otherwise recovered by or credited to the Government.

(h) Prior to the settlement of the terminated portion of this contract, the Contractor may file with the Contracting Officer a request in writing for an equitable adjustment of the price or prices specified in the contract relating to that portion of the contract not terminated by the Notice of Termination, and such equitable adjustment as may be agreed upon shall be made in such price or prices.

(i) The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account 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 shall be within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally determined to be due under this clause, such excess shall be payable by the Contractor to the Government upon demand, together with interest computed at the rate of 6 percent per annum, for the period from the date such excess payment is received by the Contractor to the date on which such excess is repaid to the Government.

(j) The Contractor, for a period of 3 years after final settlement under this contract, shall make available to the Government at all reasonable times at the office of the Contractor all its books, records, documents, or other evidence bearing on the costs and expenses of the Contractor under this contract and relating to the work terminated hereunder.

## 16. MILITARY SECURITY REQUIREMENTS

- (a) The provisions of the following paragraphs of this clause shall apply only if and to the extent that this contract involves access to security information or other matter classified "Top Secret," "Secret," "Confidential," or "Restricted."
- (b) Except as otherwise provided in this clause, the Contractor agrees to provide and maintain a system of security controls within its or his own organization in accordance with (i) the requirements of the Department of Defense Industrial Security Manual for Safeguarding Classified Matter, dated 13 December 1951, as in effect on 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.
- (c) The Government agrees that it shall indicate, when necessary by a security information classification ("Top Secret," "Secret," "Confidential," or "Restricted"), the degree of importance to the national defense of information pertaining to supplies, services, and other matter to be furnished by the Contractor to the Government or the Government to the Contractor, and the Government shall give written notice of such classification to the Contractor and of any subsequent changes thereof. The Contractor is authorized to rely on any letter or other written instrument signed by the Contracting Officer changing the classification of security information or other matter.
- (d) Designated representatives of the Government responsible for inspection pertaining to industrial plant 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's security methods, procedures, or facilities do not conform to such requirements, it shall submit a written report to the Contractor advising him of the proper actions to be taken in order to effect compliance with such requirements.
- (e) In the event the Contracting Officer notifies the Contractor of (i) a change in the classification of this contract or any part thereof from a non-classified status to a classified status or from a lower classification to a higher classification or (ii) a change in military security requirements which results 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 classification or in military security 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 classification or in military security 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 classification or in military security 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 classification or in military security requirements has not been withdrawn and (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) Any disagreement concerning a question of fact arising under this clause shall be considered a dispute within the meaning of the clause of this contract entitled "Disputes."

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

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#### 17. NOTICE AND ASSISTANCE REGARDING PATENT INFRINGEMENT

(a) The Contractor agrees to report to the Contracting Officer, promptly and in reasonable written detail, each claim of patent infringement based on the performance of this contract and asserted against it, or against any of its subcontractors if it has notice thereof.

(b) In the event of litigation against the Government on account of any claim of infringement arising out of the performance of this contract or out of the use of any supplies furnished or construction work performed hereunder, the Contractor agrees that it will furnish to the Government, upon request, all evidence and information in its possession pertaining to the defense of such litigation. Such 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.

#### 18. FILING OF PATENT APPLICATIONS

(a) While and so long as the subject matter of this contract is classified "Secret" or higher, the Contractor agrees that, before filing or causing to be filed a patent application disclosing any of said subject matter, it will refer the proposed application to the Contracting Officer for determination whether, for reasons of national security, such application should be kept secret or the issuance of a patent thereunder otherwise delayed, under pertinent statutes or regulations; and the Contractor agrees to observe any instructions given by the Contracting Officer in this regard, which instructions may include a direction not to file such application so long as the Contracting Officer considers that such filing would jeopardize national security. If the Contracting Officer directs the Contractor not to file such application, the Contractor may submit to the Contracting Officer a written request, addressed to the Secretary, for reconsideration of such direction, but pending action by the Secretary, the Contractor shall observe such instruction.

(b) While and so long as the subject matter of this contract is classified "Confidential" or higher, and if the Contracting Officer determines that there is no other practical means for maintaining the security of said subject matter, the Contractor agrees to assign and convey to the Government upon request the entire right, title, and interest in and to each United States patent application disclosing said subject matter and filed by or on behalf of the Contractor, the title to the assigned patent application to be held in trust by the Government, subject to reversion of the entire right, title, and interest therein to the Contractor (i) upon allowance of the said application and payment of the final fee, or (ii) upon the mailing of notice by the Contracting Officer to the Contractor that disclosure of the subject matter of the application will no longer jeopardize security. Nothing contained in this paragraph shall (A) apply to any patent application assigned to the Government under any other provision of this contract, or (B) enlarge or diminish the rights granted to or reserved by the Government or the Contractor with respect to said application or the invention covered thereby, except to the extent expressly provided in this clause.

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(c) While and so long as the subject matter of this contract is classified "Confidential," the Contractor agrees to furnish to the Contracting Officer, at the time of or prior to filing or causing to be filed a patent application disclosing any of said subject matter, a copy of such application for determination whether, for reasons of national security, such application should be kept secret or the issuance of a patent thereunder otherwise delayed, under pertinent statutes or regulations; and the Contractor agrees to observe any instructions of the Contracting Officer in this regard.

(d) While and so long as the subject matter of this contract is classified "Restricted," the Contractor shall be governed by the provisions of the clause of this contract entitled "Military Security Requirements."

#### 19. REPORTING OF ROYALTIES

If this contract is in an amount which exceeds \$10,000, the Contractor agrees to report in writing to the Contracting Officer, during the performance of this contract and prior to its completion or final settlement, the amount of any royalties or royalty rates paid or to be paid by it directly to others in connection with the performance of this contract, together with the names and addresses of licensors to whom such payments are made and either the patent numbers involved or such other information as will permit identification of the patents or other basis on which royalties are to be paid. Where the Contractor's compliance with the foregoing reporting requirement is found by the Contracting Officer to be impracticable because of the size of the Contractor's business or because of the nature of its accounting procedures, the Contractor may furnish one or more reports, based on its established accounting periods and covering the entire contract period, of royalties in excess of \$1,000 (if computed on an annual basis) paid or to be paid to each licensor on the Contractor's over-all business, together with such other information as will permit identification of the patents or other basis on which royalties are to be paid, in which event the Contractor shall furnish the Contracting Officer, upon his request and at Government expense, an allocation of such royalty payments to Government business or to the work or supplies covered by this contract reference to any such periodic royalty reports, previously furnished to any Government agency and covering the period of performance of this contract, shall constitute compliance with the reporting requirement of this clause.

If this contract is in an amount which exceeds \$10,000, and no royalties or royalty rates are paid or to be paid directly to others under the circumstances set forth above, the Contractor agrees so to report in writing to the Contracting Officer prior to completion or final settlement of this contract.

#### 20. PATENT RIGHTS

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

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(i) The term "Subject Invention" means any invention, improvement, or discovery (whether or not patentable) conceived or first actually reduced to practice (unless disclosed in a patent application filed prior to beginning the performances hereinafter set forth) either (A) in the performance of the experimental, developmental, or research work called for 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 the understanding that a contract would be awarded.

(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 paragraphs (f), (g) and (h) of this clause); provided, that such person, 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" mean any subcontract or subcontractor of the Contractor, and any lower-tier subcontract or subcontractor under this contract.

(b) The Contractor agrees to and does hereby grant to the Government all right, title, and interest in and to each Subject Invention subject to the reservation of a nonexclusive and royalty-free license to the Contractor to practice any such invention; provided, however, that with respect to any Subject Invention made by other than Technical Personnel and with respect to the practice of any Subject Invention in foreign countries, said grant and other rights hereinafter provided shall be limited to the Contractor's right to assign or grant the same without incurring any obligation to pay royalties or other compensation to others solely on account of said grant. The Contractor further agrees to and does hereby grant to the Government with respect to any invention disclosed in a patent application of the Contractor filed prior to beginning the performances set forth above and first actually reduced to practice by the Contractor in any such performance, an irrevocable, nonexclusive, nontransferable, and royalty-free license to practice, and cause to be practiced for the Government throughout the world, each such invention in the manufacture, use, and disposition according to law, of any article or material, and in the use of any method; provided, however, that with respect to (i) any such invention made by other than Technical Personnel and (ii) the practice of any such invention in foreign countries, the said license shall be 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.

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(c) The Contractor agrees as follows: (i) to make written disclosure promptly to the Contracting Officer of each Subject Invention, and of each invention under which a license is acquired pursuant to paragraph (b) above, which reasonably appears to be patentable, and to exert all reasonable effort to make such disclosure not later than 6 months after first publication, public use or sale; (ii) to deliver to the Contracting Officer such duly executed instruments (prepared by the Government) of assignment, application papers and rightful oaths relating to each Subject Invention, title to which vests in the Government pursuant to this clause, as the Contracting Officer may require to enable the Government to file and prosecute patent applications therefor in any country, and to assign and record title to such applications; (iii) to disclose to the Contracting Officer (either by giving the patent number or a copy of the patent application), prior to completion or final settlement of this contract, each invention under which the Government has been granted a license pursuant to the second sentence of paragraph (b) above, and to deliver to the Contracting Officer duly executed instruments fully confirmatory of such license rights. If, to the best of the Contractor's knowledge and belief, no inventions have been conceived or first actually reduced to practice under this contract, the Contractor shall so certify to the Contracting Officer.

(d) 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.

(e) Until the Contractor has delivered to the Government the disclosures required by paragraph (c) (i) of this clause and the information as to any subcontractor required by paragraph (g) of this clause, there shall be withheld from final payment under this contract ten percent (10%) of the contract price, or \$5,000, whichever is smaller; provided, however, that the withholding of the aforesaid 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: And provided further, That any amount so withheld under this paragraph shall not be in addition to any amounts withheld under other provisions of this contract. This paragraph 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.

(f) The Contractor agrees to exert all reasonable effort to negotiate for the inclusion in any subcontract hereunder of \$3,000 or more, in which payment is to be made for experimental, developmental, or research work, of this patent rights clause or one approved by the Contracting Officer. In the event of refusal by a subcontractor to accept such patent rights clause, the Contractor shall obtain the written authorization of the Contracting Officer (which authorization may be granted with respect to a particular subcontract)

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to proceed with the subcontract, and shall cooperate with the Government in the negotiation with such subcontractor of a mutually 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.

(g) The Contractor agrees to notify the Contracting Officer in writing of any subcontract containing a patent rights clause, to furnish to the Contracting Officer a copy of such clause, and promptly to 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 obligations of the subcontractor with respect to Subject Inventions. The Contractor shall not be obligated to enforce the agreements of any subcontractor hereunder relating to a patent rights clause in any subcontract.

(h) When the Contractor shows that it has been delayed in the performance of this contract by reason of its inability to obtain, under reasonable terms that include a suitable patent rights clause, a qualified subcontractor for any particular part, item, or function of 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 price based upon additional costs incurred, 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 efforts 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 grant 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 entitled "Termination for the Convenience of the Government" just as if a notice of termination had been delivered to the Contractor specifying that the contract was terminated for the convenience of the Government.

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21. 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 others 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 material; 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. Licenses granted pursuant to provision (ii) of this paragraph (a) shall be for governmental purposes only and not for sales or disposition of such work to the general public, provided the work to which this limitation applies is identified by the Contractor at, or within 60 days after, the time of delivery under the contract; and provided, further, that nothing contained in this sentence shall limit any right in said work heretofore acquired by the Government.

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

## 22. 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.

## 23. EXAMINATION OF RECORDS

(a) The Contractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment under this contract, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor involving transactions related to this contract.

(b) The Contractor further agrees to include in all his subcontracts hereunder a provision to the effect that the subcontractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment under this contract with the Government, 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 clause 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.

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

WITNESSES

By /s/ R. H. Hefler  
R. H. Hefler

Lieut. Comdr., SC, USN  
(Contracting Officer)

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

THE UNIVERSITY OF CHICAGO  
(Contractor)

By /s/ W. B. Harrell  
W. B. Harrell  
Business Manager  
(Title)

5801 Ellis Avenue, Chicago 37, Ill.  
(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, H. H. Moore, certify that I am the Secretary  
of the Board of Trustees of the corporation named as Contractor herein;  
that W. B. Harrell, who signed this contract on behalf of the  
Contractor, was then Business Manager 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.

H. H. Moore  
(Signature)

(CORPORATE SEAL)

BILLING INSTRUCTIONS FOR FIXED PRICE RESEARCH CONTRACTS

Strict compliance with the Billing Instructions will facilitate early payment of invoices. No payment can be made, however, until the contract is returned, properly executed, to the Office of Naval Research, Navy Department, Washington 25, D. C .

1. GENERAL: In case of conflict between the provisions of the Billing Instructions and the express terms of the contract, the express terms of the contract shall control.

2. PREPARATION OF INVOICES:

(a) CONCERNING THE GENERAL FORM OF INVOICES: Invoices are to be prepared by contractors on their regular billing forms. There is required to be stamped, printed or typewritten upon the original copy of each invoice the following certificate:

I certify that the above bill is correct and just; that payment therefor has not been received; that all statutory requirements as to American production and labor standards and all conditions of purchase applicable to the transactions have been complied with; and that State or local sales taxes are not included in the amounts billed.

I further certify that the research described in the contract mentioned in this public voucher has been conducted in accordance with the terms thereof during the period covered by this invoice.

\_\_\_\_\_  
Contractor

By \_\_\_\_\_  
Authorized Representative

Such certificate must actually appear on the original copy of the invoice -- an accompanying, annexed or separate certificate will not be acceptable -- and must be signed in the name and on behalf of the contractor by an authorized representative.

(b) CONCERNING ASSIGNMENTS: Notwithstanding an assignment of money claims pursuant to authority contained in the contract, the contractor -- not the assignee -- is required to prepare invoices. Where such an assignment has been made, the original copy of the invoice must refer to the assignment and must show that payment of the invoice is to be made directly to the assignee, as follows:

Pursuant to the instrument of assignment, dated \_\_\_\_\_,  
make payment of this invoice to (name and address of assignee).

\_\_\_\_\_  
Contractor

By \_\_\_\_\_  
Title

3. MARKING OF SHIPPING CONTAINERS:

The following information must plainly appear on all shipping boxes or containers:

- |  |  |
|--|--|
| (1) Name of Contractor                       | (4) Contents (only if contract is unclassified):         |
| (2) Name and Address of Consignee            | (a) Item or Items  |
| (3) Contract Number Preceded by N_onr Symbol | (b) Identification or Model Designation of Item or Items |
|  | (c) Quantity of Each Item or Items                       |

4. SUBMISSION OF INVOICES AND PLACE OF PAYMENT:

Invoices under Contract Nonr-1059(00) will be submitted by you, in sextuplet, to the Office of Naval Research Branch Office, Tenth Floor, The John Crerar Library Building, 86 East Randolph Street, Chicago 1, Illinois, for certification as to receipt and acceptance and transmittal (except final invoice) to the U. S. Navy Regional Accounts Office, Ninth Naval District, Building 2700, Naval Training Center, Great Lakes, Illinois, where public vouchers will be prepared and payment will be made.

The final certified invoice will be transmitted by the aforementioned Branch Office to the aforementioned Regional Accounts Office VIA THE CONTRACT ADMINISTRATION BRANCH, OFFICE OF NAVAL RESEARCH, DEPARTMENT OF THE NAVY, WASHINGTON 25, D. C.



SCHEDULE

CONTRACT NUMBER:  
Nonr-1059(00)

SECTION A - SPECIFICATION OF WORK

The Contractor shall furnish the necessary personnel and facilities for and, in accordance with any instructions issued by the Scientific Officer or his authorized representative, shall conduct research on a biophysical approach to the problems of bacterial growth and bacterial genetics. Such research shall include, but not necessarily be limited to, an investigation of the growth, adaptation, and mutation of bacteria and bacterial viruses carried out with new biophysical methods involving the use of an apparatus called the "chemostat."

SECTION B - PERIOD OF PERFORMANCE

The work to be performed hereunder shall commence on 1 January 1953, and shall be completed on 31 December 1953.

SECTION C - PRICE AND PAYMENTS

(1) The Government shall pay to the Contractor as full compensation for the performance of this contract, the total price of eight thousand eight hundred thirty four dollars (\$8,834.00). Notwithstanding any provisions of Section 3 of the contract to the contrary, payment shall be made, upon submission of properly certified invoices in three (3) quarterly installments of two thousand dollars (\$2,000.00) each, commencing on 1 April 1953; and a final payment in the amount of two thousand eight hundred thirty four dollars (\$2,834.00) shall be paid upon receipt and acceptance of the final report; provided, that in respect to this final payment, the Contractor shall furnish a certificate of compliance with the conditions set forth in paragraph (2), below.

(2) The contract price, specified in paragraph (1), above, is based upon the understanding that the Contractor shall have in its employ and working hereon part time; Professor Leo Szilard, as Principal Investigator; one (1) Assistant Professor; one (1) Research Assistant; and one (1) Secretary; or other personnel whose services are substantially equivalent. Substitutions of the above named personnel shall be subject to the approval of the Scientific Officer.

(3) It is understood that if the conditions set forth in paragraph (2), above, are not fully met, in the performance of this contract, the Contractor and the Contracting Officer shall negotiate concerning an appropriate amendment hereto; either (i) decreasing the total price therefor, or (ii) extending the period of performance, without increase in price, to permit completion of the work originally contemplated, or (iii) any appropriate combination of (i) and (ii).

SECTION D - DELIVERY OF REPORTS

The Contractor shall submit fifteen (15) copies of a final report upon completion of work hereunder, making full disclosure of all research conducted, and shall submit such other reports as are reasonably required by the Scientific Officer, all such reports to be delivered, transportation charges prepaid, to the Scientific Officer hereunder. Upon completion of the work required under Task Order N6ori-02038,

CONTRACT NUMBER:  
Nonr-1059(00)

the work under said Task Order shall be included as a part of the final report required under this Contract (Nonr-1059(00)).

SECTION E - SCIENTIFIC OFFICER

The Scientific Officer under this contract is the Head, Physiology Branch, Biological Sciences Division, Office of Naval Research.

SECTION F - SUBMISSION OF COST BREAKDOWN

After completion or termination of this contract and prior to or simultaneously with the submission by the Contractor of its final invoice, at the request of the Contracting Officer, the Contractor shall furnish to the Contracting Officer a breakdown of costs incurred in the performance of this contract. Such cost breakdown shall be in the same form and detail as contained in the Contractor's proposal for this contract.

SECTION G - DOMESTIC FOOD, CLOTHING, COTTON OR WOOL

The Contractor agrees that there will be delivered under this contract only such articles of food, clothing, cotton or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles) as have been grown, reprocessed, reused, or produced in the United States or its possessions.

SECTION H - TRAINING OF NAVAL PERSONNEL

The Contractor agrees to provide instruction with respect to work to be performed under this contract to Naval Personnel assigned by the Department of the Navy and acceptable to the Contractor. Details and costs of such instruction shall be the subject of further negotiation at the time arrangements are made for said instruction.

SECTION I - TRANSFER OF PATENT RIGHTS

It is understood and agreed, notwithstanding any provision of Contract N6ori-20 to the contrary, that all rights and obligations of the parties arising under Task Order N6ori-02038 with respect to inventions, improvements, discoveries, patents, copyrights, and other matters covered by Section 20 of Contract N6ori-20, including the obligation to take the action required by Section 20(c) shall, from and after 1 January 1953, be regarded as though they had arisen under this Contract Nonr-1059(00) and shall be governed by Section 20 of this Contract Nonr-1059(00) to the same extent as similar rights and obligations arising under this Contract Nonr-1059(00).

SECTION J - DISPUTES

Clause 8 of the contract, entitled "Disputes," is amended as follows:

SCHEDULE

Page No.

No. of Pages

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CONTRACT NUMBER:  
Nonr-1059(00)

In line 9, immediately following the word "shall" and preceding the word "be", add a comma and insert the following:

"unless determined by a court of competent jurisdiction to have been fraudulent, arbitrary, capricious, or so grossly erroneous as necessarily to imply bad faith."

ADMINISTRATION AND INSPECTION

(Assignment of Administration Duties)

DATE January 1, 1953

Contract No. Nonr-1059(00)

In order to facilitate the administration of the above referenced contract, the administration thereof is hereby assigned to the Director, Office of Naval Research Branch Office,

86 East Randolph Street, Chicago, Illinois

effective upon formal execution of the contract. The administration duties hereby assigned include appointment as the authorized representative and/or designee of the Contracting Officer, Office of Naval Research.

In the performance of these administration duties, and in acting as authorized representative and/or designee of the Contracting Officer, the Director of the above ONR Branch Office, through his representatives as authorized by him, will maintain close contact with the Contractor in the administration of this contract. \*A copy of the ONR Contractors' Manual, NAVEXOS P-454, Office of Naval Research, Department of the Navy, is forwarded herewith to the Contractor for information and guidance.

/s/ R. H. Hefler  
Contracting Officer

\*Forwarded to your Office on former contracts.

THE UNIVERSITY OF CHICAGO

CHICAGO 37 · ILLINOIS

OFFICE OF THE COMPTROLLER

5750 ELLIS AVENUE

TELEPHONE: MIDWAY 3-0800

June 23, 1953

Department of the Navy  
Office of Naval Research  
Branch Office  
The John Crerar Library Building  
Tenth Floor, 86 E. Randolph Street  
Chicago 1, Illinois

Re: Contract No. Nonr-1059

Gentlemen:

Enclosed in sextuplicate is signed and certified University of Chicago Invoice Number 1 in the amount of \$4,000.00. This invoice represents amount due the University under the above referenced contract for performance under the contract during the period of January 1, 1953 thru June 30, 1953.

Will you please have the enclosed invoice certified as to receipt and acceptance and transmit it to the U. S. Navy Regional Accounts Office, Ninth Naval District, Building 1B, Naval Training Center, Great Lakes, Illinois, for payment.

Check in payment should be issued to The University of Chicago and sent to Mr. A. F. Cotton, Bursar, 5801 S. Ellis Avenue, Chicago 37, Illinois.

Very truly yours,  
*/s/ W. L. Thaggard*

W. L. Thaggard  
Assistant Comptroller

WFM:cm  
Encl.

CC-Mr. Leo Szilard  
Mr. A.F. Cotton

Deposit check to Bank Account No. 1  
~~XX~~  
a/c 0-0271-73-1695  
Credit: Navy Bacterial Virus Research No. 2

Department of the Navy  
Office of Naval Research  
Branch Office  
The John Crerar Library Building  
Tenth Floor, 86 E. Randolph Street  
Chicago 1, Illinois

Navy Bacterial Virus Res. No. 2  
a/c 3-3250-00-1695  
1st. Periodic Billing  
July 1, 1953  
June 23, 1953

Account No. 3-3250-00-1695

Invoice No. 81

Contract Nonr-1059(00)  
Quarterly Installment due July 1, 1953  
for performance under contract

\$4,000.00

I certify that the above bill is correct and just; that payment therefor has not been received; that all statutory requirements as to American production and labor standards and all conditions of purchase applicable to the transactions have been complied with; and that State or local sales taxes are not included in the amounts billed.

I further certify that the research described in the contract mentioned in this public voucher has been conducted in accordance with the terms thereof during the period covered by this invoice.

THE UNIVERSITY OF CHICAGO

By /s/ W. L. Thaggard  
Assistant Comptroller