

MEDCL

5 December 1955

Mr. W. F. Tompkins
Comptroller
Medical College of Virginia
Richmond, Virginia

ARM2.950124.026

RE: Contract No. DA-49-007-MD-506
Modification No. 3

Dear Mr. Tompkins:

Inclosed herewith for your records are two copies of Modification No. 3 to the subject contract.

Sincerely yours,

Incl:
2 cpy
Mod. #3

W. F. LAWRENCE
Lt. Colonel, MSC
Contracting Officer

Chas AN
ALEXANDER NAIMON
Assistant to the Chief
Legal Office

CONTRACTING OFFICER 1709

MODIFICATION TO CONTRACT

Contract No. DA-49-007-MD-506
O. I. No. 77-54
Modification No. 3

DEPARTMENT OF THE ARMY
Office of The Surgeon General

CONTRACTOR: **MEDICAL COLLEGE OF VIRGINIA**
Richmond, Virginia

TERM OF CONTRACT: **1 December 1953 - 30 November 1956**

Amount provided by this Modification: **Seven Thousand, Five Hundred Ninety-Three Dollars (\$7,593)**

Total amount provided by Contract: **Twenty Thousand, Six Hundred Six Dollars (\$20,606)**

Payment will be made under this contract by the Finance Officer, U. S. Army, Washington 25, D. C. (See Article 3 hereof).

The supplies and services to be obtained by this instrument are authorized by, are for the purposes set forth in, and are chargeable to the following allotments, the available balances of which are sufficient to cover the cost thereof:

606-6034 P5730-07 A21X2040 S49-007

This contract is negotiated under the authority of Section 2(c) (1) of the Armed Services Procurement Act of 1947, as amended (41 U.S.C. 151, et seq.) and Presidential Proclamation 2914.

G. A. O. FINANCE OFFICE
12/6/55 2 A. A. A.
Date

MODIFICATION TO CONTRACT

DEPARTMENT OF THE ARMY
Office of The Surgeon General
Washington 25, D. C.

THIS SUPPLEMENTAL AGREEMENT, entered into this 30th day of
November, 19 55, between the UNITED STATES OF
AMERICA (hereinafter referred to as "the Government"), represented by the
Contracting Officer executing this Supplemental Agreement, and

MEDICAL COLLEGE OF VIRGINIA

Richmond, Virginia

(hereinafter referred to as "the Contractor").

W I T N E S S E T H:

WHEREAS, the parties entered into Contract No. DA-49-007-MD-506
(hereinafter referred to as "said contract") which requires the Contractor to
conduct certain studies and experimental investigations as therein specified
during the period commencing 1 December 1953 and ending
30 November 1955, on an actual cost basis in an amount not
to exceed Thirteen Thousand, Thirteen Dollars (\$13,013) and

MODIFICATION TO CONTRACT

WHEREAS the parties hereto are desirous of extending the term of said contract from the present expiration date of 30 November 1955 to 30 November 1956; and

WHEREAS the actual costs incurred or obligated to date under said contract indicate that additional funds in the sum of Seven Thousand, Five Hundred ~~Ninety-Three Dollars (\$7,593)~~ will be required in order to continue the studies and experimental investigations until 30 November 1956; and

WHEREAS the parties hereto are desirous of modifying Articles **12, 15, 16, 17, 18, and 19; and**

WHEREAS the parties hereto are desirous of adding a new Article, **36**; and

WHEREAS this supplemental agreement is authorized by the authority of Section 2 (c) (1) of the Armed Services Procurement Act of 1947, as amended (41 U. S. C. 151, et seq.) and Presidential Proclamation 2914;

NOW, THEREFORE, the contract is hereby modified in the following particulars, but in no others:

1. Subparagraph (a) of Article 2 is modified and changed so that, as modified and changed, it reads as follows:

"(a). Term of Contract. The Contractor shall commence the Subject Work on 1 December 1953 and carry on the Subject Work to and including 30 November 1956 unless this contract shall be terminated by the Government before that date in accordance with the provisions of this Article."

2. The second and last paragraph of Article 1 of said contract is modified and changed so that, as modified and changed, it reads as follows:

"The Subject Work shall be carried on with the utmost dispatch and in accordance with such instructions of the Scientific Officer as may be given from time to time as the subject work proceeds, but which may not require or authorize the expenditure of any amount in excess of the maximum authorized amount, to wit:

Twenty Thousand, Six Hundred Six Dollars (\$20,606) 6

SUBJECT WORK

To study the effect of local irritants on oral tissues, generally along scientific lines set forth in Contractor's Application for Research Contract.

WHEREAS this supplemental agreement is authorized by the authority of Section 2 (c) (1) of the Armed Services Procurement Act of 1947, as amended (41 U. S. C. 151, et seq.) and Presidential Proclamation 2911;

NOW, THEREFORE, the contract is hereby modified in the following particulars, but in no others:

1. Subparagraph (a) of Article 2 is modified and changed so that, as modified and changed, it reads as follows:

"(a). Term of Contract. The Contractor shall commence the Subject Work on _____ and carry on the Subject Work to and including _____ unless this contract shall be terminated by the Government before that date in accordance with the provisions of this Article."

2. The maximum authorized amount appearing in the second paragraph of Article 1 is increased by the amount stated above in the second "Whereas" clause so that the maximum amount authorized to be expended under this contract is now _____.

3. Article 12 is modified and changed so that, as modified and changed, it reads as follows:

"ARTICLE 12. GOVERNMENT PROPERTY.

"(a) The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the property described in the Schedule or specifications, 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 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, upon timely written request made by the Contractor, make a determination of the delay occasioned the Contractor and shall equitably adjust the estimated cost, fixed fee, or delivery or performance dates, or all of them, and any other contractual provisions affected by such delay, in accordance with the procedures provided for in the clause of this contract entitled "Changes." 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 written request of the Contractor shall equitably adjust the estimated cost, fixed fee, or delivery or performance dates, or all of them, and any other contractual provision affected by the return or disposition, or the repair or modification, in accordance with the procedures provided for in the clause of this contract entitled "Changes." 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 the Schedule or specifications. At the time of such delivery the Contract may be amended, if appropriate, to accomplish an equitable adjustment in the terms and provisions thereof.

"(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, 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) The Contractor shall not be liable for any loss of or damage to the Government Property, or for expenses incidental to such loss or damage, except that the Contractor shall be responsible for any such loss or damage (including expenses incidental thereto):

"(A) 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; or

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

"(C) For which the Contractor is otherwise responsible under the express terms of the clause designated in the schedule; or

(D) Which results from a risk expressly required to be insured under some other provision of this contract, or of the schedules or task orders thereunder, 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

(E) 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.

(ii) 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.

(iii) 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:

(A) the lost, destroyed and damaged Government property,

(B) the time and origin of the loss, destruction or damage,

(C) all known interests in commingled property of which the Government property is a part, and

(D) 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.

(iv) 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 requires removal of such property. In such case the Contractor shall promptly take such action as the Contracting Officer may direct with respect to the removal and shipping of Government property. In any such instance, the contract may be amended to accomplish an equitable adjustment in the terms and provisions thereof.

"(k) Upon completion or expiration of this contract, any Government property which has not been consumed in the performance of this contract, or 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 (b) 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 credited 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 hereunder.

"(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.

"(o) Records to be Furnished by the Contractor to the Property Administrator.

(i) The designated Property Administrator to maintain the Government control records under this contract is the Research Property Administrator, Supply Division, Office of The Surgeon General, Department of the Army, Washington 25, D. C.

(ii) The Contractor shall furnish the Property Administrator reports, in duplicate, of Government equipment received (either that furnished by the Government or acquired by the Contractor for the account of the Government), in addition to the requirements for maintenance of property records as outlined in Part III, Appendix C, Armed Services Procurement Regulations, "Manual for Control of Government Property in Possession of Non-profit Research and Development Contractors" incorporated herein by reference."

Article 16 is modified and changed, so that as modified and changed, it reads as follows:

ARTICLE 16. 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 or 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 paragraphs (g), (h), and (i) of this clause) 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 subcontractor or subcontractor under this contract.

"(b) 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; provided, however, that 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 paragraph (a)(i) above, and (iii) the practice of any Subject Invention in foreign countries, the obligation of the Contractor to grant the aforesaid license and the other rights hereinafter provided in this clause 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. 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. Nothing contained in this paragraph shall be deemed to grant any license under any invention other than a Subject Invention.

"(c) The Contractor shall: (i) Make a written disclosure to the Contracting Officer promptly after conception or first actual reduction to practice of each Subject Invention which reasonably appears to be patentable;

"(ii) Certify to the Contracting Officer not less often than every twelve months, commencing with the date of this contract, whether or not any Subject Inventions were conceived or first actually reduced to practice during the preceding twelve months; and

"(iii) Prior to final settlement of this contract, make a summary report of all those Subject Inventions previously disclosed and of those Subject Inventions conceived or first actually reduced to practice after the last certification but prior to the summary report.

"(d) The Contractor shall also, in connection with each Subject Invention referred to in paragraph (c)(i) above;

"(i) Specify, at the time of making written disclosure, whether or not a United States patent application claiming such Invention has been or will be filed by or on behalf of the Contractor. If the Contractor specifies that a United States patent application will be filed claiming such Invention, the Contractor shall file or cause to be filed such application in due form and time. If the Contractor decides not to file or cause to be filed said application after having specified that it would file, 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) In the event the Contractor specifies that it has not filed and will not file (or having specified that it will file, thereafter notifies the Contracting Officer to the contrary), (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, application and 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 reserved to the Contractor in paragraph (e) to file foreign applications; and subject further to the reservation of a nonexclusive 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 the Subject Invention pertains;

"(iii) 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 Subject Invention.

"(iv) In the event the Contractor, or those 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, so notify the Contracting Officer not less than sixty (60) 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 the Subject Invention and the application, subject to the reservations as specified in (ii) above; and

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

"(e) The Contractor, or those deriving rights from the Contractor, has the option of filing patent applications in foreign countries on Subject Inventions. If this option is not exercised in the time and manner set forth below, the Government shall have the right to file applications in each foreign country in which the Contractor has not exercised its option.

"(i) In the event that the Contractor specifies under the provisions of paragraph (d) that it has not filed and will not file a United States patent application (or having specified that it will file, thereafter notifies the Contracting Officer to the contrary) the Contractor shall have six months from the date of making the written disclosure required by paragraph (c) (i) to file foreign patent applications.

"(ii) In the event that a United States patent application is filed by or on behalf of the Contractor under the provisions of paragraph (d), the Contractor shall have six months from the date of the United States application, or six months from the date permission is granted to file foreign applications where such filing had been prohibited for security reasons, within which to file foreign patent applications. With respect to each Subject Invention on which it has specified that a United States patent application has been or will be filed by or on behalf of the Contractor, the Contractor shall (A) inform the Contracting Officer in writing of each foreign patent application for such Invention filed by or on behalf of the Contractor within six months after the filing by the Contractor of the corresponding United States application, and, if practicable, prior to the publication of the Subject Invention in any country, (B) inform the Contracting Officer in writing at the earliest practicable date of any publication of the Subject 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, (C) upon written request of the Contracting Officer, convey to the Government the Contractor's entire right, title, and interest in such Invention in those countries in which the Contractor has not, within six months after the filing of the corresponding United States application, filed foreign patent applications, and deliver to the Contracting Officer, upon written request, such duly executed instruments (prepared by the Government) of assignment, application, and other papers as are deemed necessary to vest in the Government the Contractor's right, title, and interest as aforesaid and the right to apply for and maintain patents covering such invention, subject, however, to the reservation of a nonexclusive 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 Contractor's business to which the

Subject Invention pertains, and (D) in the event that the Contractor, or those deriving rights from the Contractor, elects not to continue the prosecution of any foreign application which has been filed by or on behalf of the Contractor, or elects not to maintain any patent granted on such application, so notify the Contracting Officer not less than ninety (90) days before the expiration of the response period or patent lapse date and, upon written request, deliver to the Contracting Officer such duly executed instruments (prepared by the Government) as will convey to the Government the Contractor's entire right, title, and interest in the application or patent, subject to a reservation as specified in (C) above.

"(f) If the Contractor fails to deliver to the Contracting Officer the certificates required by paragraph (c)(ii) of this clause or fails to furnish the written disclosures for all Subject Inventions required by paragraph (c)(i) of this clause shown to be due in accordance with any certificate delivered under paragraph (c)(ii), there shall be withheld from payment until the Contractor shall have corrected such failures either (i) ten percent (10%) of the amount of this contract, as from time to time amended, or (ii) \$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 (i) ten percent (10%) of such amount, or (ii) \$5,000, whichever amount is less, shall have been set aside, such reserve or balance thereof to be retained until the Contractor shall have furnished to the Contracting Officer (A) the summary report required by paragraph (c)(iii) of this clause, (B) written disclosures for all Subject Inventions required by paragraph (c)(i) of this clause which are shown to be due in accordance with certificates delivered under paragraph (c)(ii) or in accordance with such summary report, and (C) the information as to any subcontractor required by paragraph (h) of this clause. The maximum amount which may be withheld under this paragraph shall not exceed ten percent (10%) of the amount of this contract, or \$5,000, whichever is less, and 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 rights accruing to the Government under 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.

"(g) The Contractor shall exert all reasonable effort to negotiate for the inclusion of this Patent Rights clause in any subcontract (hereunder) of \$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 agree 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 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 paragraph (g) 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 entitled "Termination for the Convenience of the Government."

MODIFICATION TO CONTRACT

5. A new Article, designated Article 36, is incorporated into the contract, which new Article reads as follows:

"ARTICLE 36. 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.

6. Article 17 is modified and changed so that as modified and changed it reads as follows:

"ARTICLE 17: 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)."

7. Article 18 is modified and changed so that as modified and changed it reads as follows:

"ARTICLE 18: 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.

(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.

MODIFICATION TO CONTRACT

"ARTICLE 18. COPYRIGHT -- (Continued)

"(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."

Article 15 is modified and changed so that as modified and changed it reads as follows:

"ARTICLE 15. NOTICE AND ASSISTANCE REGARDING PATENT INFRINGEMENT.

"(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.

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

Article 19 is modified and changed so that as modified and changed it reads as follows:

"ARTICLE 19. 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 thirty (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."

EXCEPT AS MODIFIED HEREIN said contract shall remain in full force and effect and the terms and conditions thereof shall apply to this agreement.

MODIFICATION TO CONTRACT

IN WITNESS WHEREOF, the parties hereto have executed this Supplemental Agreement as of the day and year hereinabove written.

THE UNITED STATES OF AMERICA

W. F. Lawrence
W. F. LAWRENCE
BY Lt Colonel, MSC
Contracting Officer
Office of The Surgeon General
Department of the Army

MEDICAL COLLEGE OF VIRGINIA

CONTRACTOR

BY W. T. Sanger, President
Title:

I, George W. Bakeman, certify that I am the
Secretary of the corporation named as Contractor herein;
that W. T. Sanger who signed this supplemental
agreement on behalf of the Contractor, was then President
of said corporation; that said supplemental agreement was duly signed for and
on behalf of said corporation by authority of its governing body and is within
the scope of its corporate powers.

George W. Bakeman

(SEAL)

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