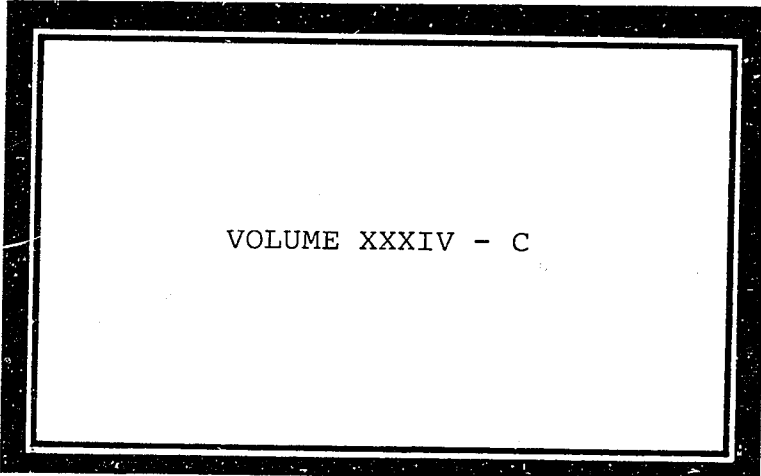


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THE MINUTES OF THE BOARD OF REGENTS  
OF  
THE UNIVERSITY OF TEXAS SYSTEM



Meeting No. 823

January 14, 1987

Austin, Texas

Meeting No. 824

January 24, 1987

Austin, Texas

and

Meeting No. 825

February 12, 1987

Austin, Texas

Meeting No. 825

THE MINUTES OF THE BOARD OF REGENTS  
OF  
THE UNIVERSITY OF TEXAS SYSTEM

Pages 1 - 117

February 12, 1987

Austin, Texas

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MEETING NO. 825

THURSDAY, FEBRUARY 12, 1987.--The members of the Board of Regents of The University of Texas System convened in regular session at 1:05 p.m. on Thursday, February 12, 1987, in the Regents' Meeting Room on the ninth floor of Ashbel Smith Hall in Austin, Texas, with the following in attendance:

ATTENDANCE.--

<u>Present</u>	<u>Absent</u>
Chairman Hay, presiding	*Vice-Chairman Baldwin
Regent Blanton	**Vice-Chairman Ratliff
Regent (Mrs.) Briscoe	
Regent (Mrs.) Milburn	
Regent Rhodes	
Regent Roden	
Regent Yzaguirre	

Executive Secretary Dilly

Chancellor Mark  
Executive Vice Chancellor Duncan  
Executive Vice Chancellor Mullins  
Executive Vice Chancellor Patrick

Chairman Hay announced a quorum present and called the meeting to order.

U. T. BOARD OF REGENTS: APPROVAL OF MINUTES OF REGULAR MEETING HELD ON DECEMBER 4, 1986, AND SPECIAL MEETINGS HELD ON JANUARY 14 AND JANUARY 24, 1987.--Upon motion of Regent Blanton, seconded by Regents Yzaguirre and Briscoe, the Minutes of the regular meeting of the Board of Regents of The University of Texas System held on December 4, 1986, in San Antonio, Texas, and the Minutes of the special meetings held on January 14 and January 24, 1987, in Austin, Texas, were approved as distributed by the Executive Secretary. The official copies of these Minutes are recorded in the Permanent Minutes, Volume XXXIV, Pages 753 - 1593.

INTRODUCTION OF FACULTY AND STUDENT REPRESENTATIVES.--Chairman Hay called on the chief administrative officers of the component institutions to introduce their respective faculty and student representatives and other guests:

U. T. Arlington

President Nedderman introduced:

Student Representative:	Mr. James Kunke General Reporter, Student Publications
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\*Vice-Chairman Baldwin was excused to attend a funeral service.

\*\*Vice-Chairman Ratliff was excused because of a previous commitment.

U. T. Austin

President Cunningham introduced:

Faculty Representative: Dr. Reuben McDaniel  
Chairman, Faculty  
Senate

Student Representatives: Mr. Blair Schlossberg  
President, Students'  
Association  
Ms. Stacey Freedenthal  
General Reporter  
The Daily Texan  
Mr. Lum Twilligear  
General Reporter  
The Daily Texan

U. T. El Paso

President Monroe introduced:

Faculty Representative: Ms. Dorothy F. Corona  
Vice Chairman, Fac-  
ulty Senate and  
Associate Profes-  
sor, College of  
Nursing and Allied  
Health

U. T. Permian Basin

President Leach introduced:

Faculty Representative: Dr. J. Edwin Kurtz, Presi-  
dent, Faculty Senate

U. T. San Antonio

President Wagener introduced:

Faculty Representatives: Dr. James M. Gallas  
Assistant Professor,  
Division of Earth  
and Physical Sci-  
ences  
Dr. James H. Tracey, Dean,  
College of Sciences  
and Engineering

U. T. Tyler

President Hamm introduced:

Student Representative: Mr. Rick Chaffin, Presi-  
dent, Student  
Association



U. T. Health Science Center - Dallas

President Wildenthal introduced:

Faculty Representative: Dr. William B. Neaves  
Interim Dean, U. T.  
Southwestern Medical  
School - Dallas;  
Dean, U. T. South-  
western G.S.B.S. -  
Dallas; Professor  
of Cell Biology and  
Anatomy

U. T. Medical Branch - Galveston

President Levin introduced:

Faculty Representative: Dr. Darrell H. Carney  
Associate Professor,  
Department of Human  
Biological Chemistry  
and Genetics

Student Representative: Mr. Eric Gordon, Fourth  
Year Graduate Student

U. T. Health Science Center - Houston

President Bulger introduced:

Faculty Representative: Richard Bebermeyer, D.D.S.  
Associate Professor,  
General Practice,  
U. T. Dental Branch -  
Houston and Chair,  
1986-87 Interfaculty  
Council

Student Representative: Ms. Liz Putnam, Doctoral  
Student, Virology  
U. T. G.S.B.S. -  
Houston and Presi-  
dent, 1986-87  
Student Intercouncil

U. T. Health Science Center - San Antonio

President Howe introduced:

Faculty Representative: Elaine Graveley, R.N.  
Assistant Professor,  
U. T. Nursing School -  
San Antonio

Student Representative: Ms. Karen Cochran  
President, Graduate  
Student Association

U. T. Cancer Center

President LeMaistre introduced:

Mr. H. O. McKenzie, a close friend of the U. T. Cancer  
Center, who has worked in radiation therapy and as a  
consultant to community radiation therapy centers for  
a number of years.

RECESS FOR COMMITTEE MEETINGS AND COMMITTEE REPORTS TO THE BOARD.--At 1:13 p.m., the Board recessed for the meetings of the Standing Committees and Chairman Hay announced that at the conclusion of each committee meeting, the Board would reconvene to approve the report and recommendations of that committee.

The meetings of the Standing Committees were conducted in open session and the reports and recommendations thereof are set forth on the following pages.

REPORTS AND RECOMMENDATIONS OF STANDING COMMITTEES

REPORT OF EXECUTIVE COMMITTEE (Pages 5 - 68).--In compliance with Section 7.14 of Chapter I of Part One of the Regents' Rules and Regulations, Chairman Hay reported to the Board for ratification and approval all actions taken by the Executive Committee since the last meeting. Unless otherwise indicated, the recommendations of the Executive Committee were in all things approved as set forth below:

1. Permanent University Fund - Investment Advisory Committee: Appointment of Mr. Edward Randall III, Houston, Texas, and Mr. John T. Stuart III, Dallas, Texas, to Three-Year Terms Through August 31, 1989 (Exec. Com. Letter 87-8).--Upon recommendation of the Executive Committee, the Board appointed Mr. Edward Randall III, Director and Partner in Duncan, Cook & Co., Houston, Texas, and Mr. John T. Stuart III, President of RepublicBank of Dallas and Managing Director of General Banking Group, RepublicBank Corporation, Dallas, Texas, to replace Mr. J. Donald Squibb, Jr., Houston, Texas, and Mr. Orson C. Clay, Galveston, Texas, to the Investment Advisory Committee for the Permanent University Fund for three-year terms to expire August 31, 1989.

With these appointments, the membership of the Investment Advisory Committee is as follows:

	<u>Term Expires</u>
Harold W. Hartley	8/31/87
Dee S. Osborne	8/31/87
Andrew Delaney	8/31/88
John T. Trotter	8/31/88
Edward Randall III	8/31/89
John T. Stuart III	8/31/89

2. U. T. Austin - Expansion of Physical Plant Facilities, Phase I (Project No. 102-454): Award of Construction Contract to Clearwater Constructors, Inc., Austin, Texas, and Approval of Plaque Inscription (Exec. Com. Letter 87-8).--The Board, upon recommendation of the Executive Committee:
  - a. Awarded a construction contract for the Expansion of Physical Plant Facilities, Phase I at The University of Texas at Austin to the lowest responsible bidder, Clearwater Constructors, Inc., Austin, Texas, for the Base Bid and Additive Alternates One through Six in the amount of \$10,300,000  
  
Regent Milburn abstained from voting due to a possible conflict of interest.
  - b. Approved the inscription set out on Page 6 for a plaque to be placed on the building. The inscription follows the standard pattern approved by the U. T. Board of Regents in June 1979.

PHYSICAL PLANT COMPLEX  
1986

BOARD OF REGENTS

Jess Hay, Chairman	Hans Mark
Robert B. Baldwin III, Vice-Chairman	Chancellor, The
Shannon H. Ratliff, Vice-Chairman	University of Texas System
Jack S. Blanton	William H. Cunningham
Janey Slaughter Briscoe	President, The University
(Mrs. Dolph)	of Texas at Austin
Beryl Buckley Milburn	
Tom B. Rhodes	Wilson, Stoeltje, Martin
Bill Roden	Project Architect
Mario Yzaguirre	Clearwater Constructors, Inc.
	Contractor

Funds for this project have been appropriated from Permanent University Fund Bond Proceeds (\$12,392,000) and Pooled Interest on Bond and Other Construction Funds (\$128,000). This project is within the scope of the Capital Improvement Program approved by the U. T. Board of Regents in October 1985.

3. U. T. San Antonio: Lutcher Center - Authorization to Plat, Subdivide and Sell 7.727 Acres of the 13.727 Acre Tract in Terrell Hills, San Antonio, Bexar County, Texas, and Authorization for the Office of the Chancellor to Take Steps Necessary to Complete Renovation of the Main House to a Marketable Condition (Exec. Com. Letter 87-7).--  
The Executive Committee recommended and the Board:
- a. Authorized the Office of Asset Management and Office of General Counsel to take all steps necessary on behalf of The University of Texas at San Antonio to plat and subdivide into single-family residential lots, and thereafter to negotiate the sale of approximately 7.727 acres of the 13.727 acre tract in Terrell Hills, San Antonio, Bexar County, Texas, known locally as the Lutcher Center, preserving for future renovation a core estate of approximately six acres containing the main house and auxiliary buildings
  - b. Authorized the Office of the Chancellor, subject to required prior approvals and availability of funds from subdivision sales, to take those steps necessary to complete renovation of the main house to a marketable condition.

Subdivision of the grounds will result in a core estate of approximately six acres which will include the main house, the pool and all auxiliary buildings on the site. The remaining 7.727 acres will be divided into single-family residential lots and required roadways. Net proceeds from the sale of the subdivided grounds will be added to the Lutcher Brown Endowment for Academic Excellence at U. T. San Antonio.

4. U. T. Tyler - Space Completion and Renovation - Phase I, School of Education Renovation (Project No. 802-607): Award of Contracts for Furniture and Furnishings to Business Interiors, A Division of Miller Business Systems, Inc., Arlington, Texas; Ables-Land, Inc., Tyler, Texas; and Dallas Drapery, Dallas, Texas; and Authorization for the Chancellor to Sign the Contracts (Exec. Com. Letter 87-6).--The Board, upon recommendation of the Executive Committee, awarded contracts for furniture and furnishings for Space Completion and Renovation - Phase I, School of Education Renovation at The University of Texas at Tyler to the following lowest responsible bidders:

Business Interiors, A Division  
of Miller Business Systems, Inc.  
Arlington, Texas

Base Proposal "A" (Steel Office Furniture)	\$44,859.13
Base Proposal "C" (Faculty Office Chairs)	5,482.20
Base Proposal "D" (Study Lounge Chairs)	27,704.21
Base Proposal "E" (Miscellaneous Items)	55,373.15
Base Proposal "G" (Acoustic Wall Panels)	1,175.33

Total Contract Award to Business Interiors	\$134,594.02
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Ables-Land, Inc.  
Tyler, Texas

Base Proposal "B" (Secretarial and Classroom Chairs)	8,499.08
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Dallas Drapery  
Dallas, Texas

Base Proposal "I" (Window Blinds)	<u>1,500.00</u>
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GRAND TOTAL CONTRACT AWARDS	\$144,593.10
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Further, the Chancellor was authorized to sign the contracts awarding these bids based on the results of the Executive Committee circularization.

5. U. T. Health Science Center - Houston: Authorization to Purchase a 16.52 Acre Tract of Land, More or Less, Being All of Reserves C, D, and E in Section II of South Point Business Park, 1851 Cross Point Avenue, Houston, Harris County, Texas, from Packaged Food & Beverage Co., Inc., Clayton, Missouri; Authorization of Funds Required to Purchase; Authorization for the Executive Vice Chancellor for Health Affairs to Execute All Documents Pertaining to the Purchase; and Authorization for Submission to the Coordinating Board (Exec. Com. Letter 87-7).--Upon recommendation of the Executive Committee, the Board:
- a. Subject to approval by the Coordinating Board, Texas College and University System, authorized The University of Texas Health Science Center at Houston to purchase a 16.52 acre tract of land being all of Reserves C, D, and E, Section II, South Point Business Park, 1851 Cross Point Avenue, Houston, Harris County, Texas, (along with all permanent improvements, office equipment, fork lifts, and vehicle maintenance equipment located thereon) from Packaged Food & Beverage Co., Inc., Clayton, Missouri, for \$3,850,000
  - b. Authorized \$3,850,000 to be placed in escrow, the written conditions of which provide for payment to Packaged Food & Beverage Co., Inc., after approval of the purchase of the land by the Coordinating Board, Texas College and University System or, failing such approval, such funds to be returned to the U. T. System
  - c. Authorized the Executive Vice Chancellor for Health Affairs to execute all documents related thereto after approval of such documents as to content by the Executive Vice President for Administration and Finance of the U. T. Health Science Center - Houston and as to form by the Office of General Counsel
  - d. Authorized submission of the purchase to the Coordinating Board, Texas College and University System
  - e. Appropriated \$1,200,000 from MSRDP funds and \$2,670,000 from Unexpended Plant funds to cover the purchase price, title insurance, surveying, escrow fees, and closing costs.

It was reported that a General Services Building near the main campus is a top priority building need and has been a part of the long-range plan for the U. T. Health Science Center - Houston for the past seven years. If acquired, this facility would house and consolidate, in a location approximately three miles from campus, all physical plant, general support, and storage activities which are presently located in leased space some seven miles from the campus.

6. U. T. Cancer Center: Transfer of Funds Requiring Advance Regental Approval Under Budget Rules and Procedures No. 2 (Exec. Com. Letter 87-6).--The Board, upon recommendation of the Executive Committee, approved the following transfer of funds at The University of Texas System Cancer Center:

Educational and General Funds

Amount of Transfer - \$3,500,000

From: Unappropriated Balance (via Estimated Income) -  
1986-87

To: Patient Care Integrated Information Management  
System

(RBC #13)

7. U. T. Cancer Center: Approval to Enter Into an Exclusive License Agreement for the Commercial Development of Human Monocyte or Murine Macrophage-Derived Cytotoxins with The Macrophage Company, Inc., The Woodlands, Texas, a Delaware Corporation and Designation of Executive Vice Chancellor for Asset Management as Regental Representative on the Board of Directors of The Macrophage Company, Inc. (Exec. Com. Letter 87-7).--The Executive Committee recommended and the Board:

- a. Approved the exclusive license agreement set out on Pages 10 - 68 by and between The University of Texas System Cancer Center and The Macrophage Company, Inc., The Woodlands, Texas, a Delaware corporation formed by The Woodlands Venture Capital Company (a Mitchell Energy and Development Corporation subsidiary) for the licensing of certain patent rights and technical information
- b. Designated the Executive Vice Chancellor for Asset Management as the U. T. Board of Regents' representative on the Board of Directors of The Macrophage Company, Inc., until the closing of the first public offering of equity securities by The Macrophage Company, Inc.

The patent rights and technical information licensed under this agreement relate to a process for developing human monocyte or murine macrophage-derived cytotoxins which either kill or inhibit the proliferation of tumor cells. Under the agreement, The Macrophage Company, Inc., will acquire a royalty-bearing, exclusive, worldwide license from the U. T. Board of Regents with the right to sublicense. Under a related sponsored research and development agreement (Exhibit D to the Exclusive License Agreement), The Macrophage Company, Inc., will also provide \$600,000 to fund the associated developmental research.

EXCLUSIVE LICENSE AGREEMENT

This Agreement, dated as of September 24, 1986, is entered into by and between THE BOARD OF REGENTS of THE UNIVERSITY OF TEXAS SYSTEM (hereinafter "BOARD"), a governing board established under the laws of the State of Texas, THE UNIVERSITY OF TEXAS SYSTEM CANCER CENTER (hereinafter "UTSCC"), a component institution of The University of Texas System (hereinafter "System") and THE MACROPHAGE COMPANY, INC. (hereinafter "LICENSEE"), a Delaware corporation, whose address is 2201 Timberloch Place, The Woodlands, Texas 77380.

WITNESSETH:

WHEREAS, BOARD is the owner of the BOARD Patent Rights and BOARD Technical Information, as hereinafter defined, developed by UTSCC; and

WHEREAS, LICENSEE is desirous of obtaining a world-wide, non-assignable (except as expressly provided herein), royalty-bearing exclusive license, with the right to grant sublicenses, under the BOARD Patent Rights and BOARD Technical Information; and

WHEREAS, LICENSEE desires the right to use the names Board of Regents, The University of Texas System and The University of Texas System Cancer Center to the extent necessary to enforce and protect LICENSEE's rights hereunder; and

WHEREAS, BOARD desires to grant LICENSEE such a world-wide, exclusive license under the following terms and conditions;



NOW, THEREFORE, in consideration of the foregoing, and the covenants and promises contained herein, the sufficiency of which are hereby acknowledged by the parties, BOARD, UTSCC and LICENSEE hereby agree as follows:

I.

DEFINITIONS

A. The term "BOARD Patent Rights", when used herein, shall mean those United States and foreign patents and patent applications or prospective patent applications, including any division, continuation, continuation-in-part or reissue thereof, or substitute therefor, and the letters patent that may be issued thereon, which relate to the Licensed Subject Matter; together with all other Patents and Patent Applications which claim any invention or discovery useful in connection with the Licensed Subject Matter developed or invented by Robert Kilbourn, M.D., Ph.D., Jim Klostergaard, Ph.D and Gabriel Lopez-Berestein, M.D., in the case of the murine macrophage described in the definition of Licensed Subject Matter set out in Section I.E., and by Jim Klostergaard, Ph.D., Jim Turpin, M.S., and Gabriel Lopez-Berestein, M.D., in the case of the human monocyte described in the definition of Licensed Subject Matter set out in Section I.E, or any of them, during the life of any patents or patent applications included within the BOARD Patent Rights, in which BOARD now has or in the future acquires any interest. Without limiting the generality of the preceding sentence, the term "BOARD Patent Rights" shall include, but not be limited to, the patents and patent applications listed on Schedule I which is attached to this Agreement and incorporated herein by reference for all purposes.

B. The term "BOARD Technical Information", when used herein, shall mean (i) any technical information disclosed or claimed in connection with any patent or patent application included within the BOARD Patent Rights; and (ii) any invention, discovery, know-how, process, procedure, method, protocol, formula, technique, software, design, drawing, data, devices, specifications, sketches or other technical information relating to the Licensed Subject Matter.

C. The term "Licensed Patented Product or Process", when used herein, shall mean any product, apparatus or process made, used, marketed or sold in any country where such product, apparatus or process is covered by the claims of an issued patent or a pending patent application included within the BOARD Patent Rights, together with any product made by the use of any process in a country in which such process or apparatus is covered by the claims of an issued patent or a pending patent application included within the BOARD Patent Rights.

D. The term "Licensed Non-Patented Product or Process", when used herein, shall mean any product, apparatus or process utilizing or relating to the Licensed Subject Matter which is manufactured, used, marketed or sold with the use of any BOARD Technical Information (but which are not covered by BOARD Patent Rights), together with any product utilizing the Licensed Subject Matter which is manufactured by a process or apparatus which uses any BOARD Technical Information.

E. The term "Licensed Subject Matter" shall mean the process (as defined below) to develop human monocyte or murine mac-

rophage - derived cytotoxins which either kill or inhibit the proliferation of tumor cells as developed by the researchers/inventors named in the definition of BOARD Patent Rights set out in Section I.A., and all compositions, products and uses resulting therefrom, together with any change or modification to any such process, composition, products or uses which is developed pursuant to the research and development agreement contemplated by Article VI.A. hereof. The term "process" shall mean and include the isolation, purification, manufacturing, gene expression, synthesis, and utilization of cytotoxins for therapeutic purposes.

F. The term "Net Sales", when used herein, shall mean the amount received or collected by LICENSEE from commercial sales or other use or disposition for value (including any marketing fees paid to LICENSEE in connection with sales of Licensed Patented Products or Processes and Licensed Non-Patented Products or Processes, but not including proceeds received from the sale of marketing rights as described in Section IV.A.3 hereof), of Licensed Patented Products or Processes and Licensed Non-Patented Products or Processes in bona fide arms-length transactions, f.o.b. place of manufacture or point of storage, less (i) cash, trade and/or quantity discounts, (ii) amounts repaid or credited by reason of rejections, defects or returns or because of retroactive price reductions, (iii) freight, transportation and insurance (iv) taxes and (v) other charges which, under generally accepted accounting principles, are deemed to be incidental to the sale.

G. The term "Subsidiary" shall mean a corporation, partnership, association, trust or other legal entity which owns, controls, is owned or controlled by, or is under common ownership or control of, a party to this Agreement. For purposes of this definition, "control" shall mean the ownership of such number of outstanding shares or other interests aggregating more than 50% of the ordinary voting power for the election of directors or the exercise of control of such entity.

II.

GRANT OF RIGHTS

A. BOARD hereby grants to LICENSEE an exclusive, world-wide license, including the right to grant sublicenses, under the BOARD Patent Rights and the BOARD Technical Information to manufacture, use, market and sell any Licensed Patented Product or Process and any Licensed Non-Patented Product or Process throughout the United States of America, its territories and possessions and in all foreign countries.

B. BOARD and UTSCC hereby grant to LICENSEE the right to use the name "Board of Regents, The University of Texas System" and "The University of Texas System Cancer Center" to the extent necessary to enforce and protect LICENSEE's rights hereunder; provided however, that LICENSEE shall not be obligated to use the name "Board of Regents, The University of Texas System" or "The University of Texas System Cancer Center" in any manner.

C. BOARD and UTSCC hereby grant to LICENSEE the right of access to, during normal business hours, and the use of, all experimental or other data which relate in any manner to the

BOARD Patent Rights or the BOARD Technical Information, including without limitation, all data which BOARD has provided to the United States Patent Office, the Food and Drug Administration (FDA) or any other state, federal, foreign or local regulatory authority which relate in any manner to the BOARD Patent Rights or the BOARD Technical Information, and BOARD and UTSCC agree that they will not use, or permit the use of, such information and data, nor do anything else which will adversely affect LICENSEE's rights under this Agreement in any manner. BOARD and UTSCC shall cooperate fully with LICENSEE, at LICENSEE's expense, in order to obtain the regulatory approval of any state, federal, foreign or local authority which now is or later becomes necessary to develop, manufacture, use, market or sell any Licensed Patented Product or Process or Licensed Non-Patented Product or Process. Such cooperation shall include, but not be limited to, obtaining all necessary regulatory approvals which are now required, or may in the future be required, to manufacture, use, market or sell any Licensed Patented Product or Process or Licensed Non-Patented Product or Process for use in any application thereof. BOARD and UTSCC shall execute any and all documents reasonably necessary to obtain such approvals upon request by LICENSEE. LICENSEE shall reimburse BOARD and UTSCC for any reasonable out-of-pocket costs, plus overhead not to exceed 50% of out-of-pocket costs, including attorneys' fees, incurred by BOARD and UTSCC in connection with such cooperation. At such time as clinical trials are commenced, LICENSEE agrees that it will enter into an appropriate agreement with UTSCC regarding the conduct of such trials.

D. UTSCC shall promptly provide LICENSEE and shall continue to provide LICENSEE, during the term of this Agreement, with all information relating to (i) pharmacological, toxicological or clinical data, (ii) synthetic, formulative, manufacturing or analytical data, and (iii) such other chemical, physical or biological data which UTSCC may now or in the future possess or control which relates in any manner to the Licensed Subject Matter, except for that information made confidential by law or prior agreement.

E. The parties recognize that LICENSEE may encounter patents held by third parties which dominate activities covered by the BOARD Patent Rights and that cross-licenses between the BOARD (or LICENSEE) and such third parties may be necessary in order to enable LICENSEE to make or market Licensed Patented Products or Processes or Licensed Non-Patented Products or Processes. In that event, LICENSEE has the right to enter into cross-licensing agreements with third parties and to grant cross-licenses under any or all of the BOARD Patent Rights, provided:

1. BOARD, through UTSCC, is consulted beforehand and is reasonably satisfied that the third party does in fact hold a patent that limits LICENSEE's competitiveness in making or marketing Licensed Patented Products or Processes or Licensed Non-Patented Products or Processes;

2. In BOARD's reasonable judgment, the rights received by LICENSEE under such cross-licensing agreement cover only Licensed Patented Products or Processes

or Licensed Non-Patented Products or Processes and are not directed to other products;

3. BOARD incurs no financial or legal liabilities under the cross-licensing;

4. Any money or the value of any equipment, including license issue fees (and not including proceeds from sale of marketing rights as described in Section IV.A.3.), received by LICENSEE in exchange for such cross-licensing is treated as Net Sales for Licensed Patented Products or Processes or Licensed Non-Patented Products or Processes.

### III.

#### ISSUANCE OF COMMON STOCK AND PREFERRED STOCK

A. In consideration of the right to use the names set forth in Section II.B. above in connection with the grant by BOARD to LICENSEE of this license, LICENSEE agrees that, upon execution of this Agreement by BOARD, it shall issue BOARD 400,000 shares of its Common Stock, \$.001 par value, which shares of Common Stock shall be subject to cancellation in accordance with the terms of Sections III.B. and III.C. below. In addition, LICENSEE agrees to reserve a seat on its Board of Directors for a designee selected by BOARD, until the closing of the first public offering of equity securities by LICENSEE. In accordance with LICENSEE'S customary practice with respect to offerings of any securities of the LICENSEE, BOARD hereby makes the representations, warranties and covenants to LICENSEE contained in Exhibit A hereto, which Exhibit A is incorporated herein for all intents and purposes.

B. In addition, LICENSEE hereby grants BOARD an option, exercisable in its sole discretion, to elect to purchase a total of 600,000 shares of the Series A Preferred Stock (the "Shares") of LICENSEE, at a purchase price of \$.50 per share, on the same general terms and conditions as are applicable to the initial purchasers of such Series A Preferred Stock, such purchase option to be subject to and conditioned upon the following:

1. The BOARD shall have the option to purchase all of the Shares, or a lesser amount in accordance with the schedule attached hereto as Exhibit B and incorporated herein for all purposes, by providing written notice to LICENSEE to such effect no later than May 1, 1987, which notice shall specify the number of Shares which BOARD desires to purchase and the date of purchase, which date shall not be later than May 30, 1987. Effective at 12:01 a.m., May 2, 1987, the option hereinabove provided shall expire for any and all Shares as to which the LICENSEE has not received such written notice, and BOARD shall have no further right to purchase any such Shares, unless otherwise extended by agreement of the parties.

2. In the event that BOARD does properly elect to exercise its right to purchase any of the Shares, and completes the purchase of such Shares as required, a proportionate amount of the Common Stock issued to Board in connection with the execution of this License Agreement shall, concurrent with the closing of such purchase of the Shares, thereupon be returned to LICENSEE by BOARD, in accordance



with the schedule attached as Exhibit B hereto, whereupon such shares of Common Stock shall be cancelled and BOARD shall no longer have any right, title or interest therein.

3. Effective upon the purchase by BOARD of any or all of the Shares, the royalty obligations of LICENSEE provided for in Section IV.A.1. and IV.A.2. shall increase to the applicable percentage amount as provided in the Schedule attached hereto as Exhibit B.

C. As an alternative to the election by BOARD to purchase the Shares, BOARD may elect to make a contribution to LICENSEE, in an aggregate amount not exceeding \$300,000, said sum to be applied to research and development activities in accordance with the R & D Agreement (as defined hereinafter). In exchange for such contributions, LICENSEE shall issue BOARD up to 600,000 shares of Series A Preferred Stock of LICENSEE, such election option to be exercised in accordance with and subject to the following conditions:

1. BOARD shall have the right to contribute funds, in accordance with the schedule set out on Exhibit B hereto, for research and development activities of LICENSEE, by providing written notice to LICENSEE no later than May 1, 1987, which notice shall specify the amount of funds which BOARD desires to contribute and the date of such contribution, which date shall not be later than May 30, 1987. Effective at 12:01 a.m. on May 2, 1987, BOARD's option to acquire Series A Preferred Stock shall expire for the corresponding amount of shares for which LICENSEE has not

received written notice of BOARD's election to fund, and BOARD shall have no further right to acquire such shares of Series A Preferred Stock, unless otherwise extended by agreement of the parties.

2. In the event that BOARD does properly elect to contribute funds to the LICENSEE's research and development activities, and makes the contribution as required, a proportionate amount of Common Stock issued in connection with the execution of this License Agreement shall, concurrent with such funding, be returned to LICENSEE by BOARD in accordance with the schedule set out on Exhibit B hereto, whereupon such shares of Common Stock shall be cancelled and BOARD shall no longer have any right, title or interest therein.

3. Effective upon the contribution by BOARD of some or all of the funds for research and development, as provided herein, the royalty obligations of LICENSEE provided for in Sections IV.A.1. and 2. would increase to the applicable percentage amount as provided in the schedule attached hereto as Exhibit B.

D. The option to purchase Series A Preferred Stock under Section III.B. and to acquire shares of Series A Preferred Stock under Section III.C. are mutually exclusive and can not be jointly exercised in any form or fashion.

E. In consideration of the granting of the mutually exclusive options by LICENSEE to BOARD as set forth in Sections III.B. and III.C., BOARD hereby consents to the issuance of, and, upon

issuance of the Common Stock to it as provided in Section III.A. above, agrees to vote such shares, if required, in order to authorize and issue, the following securities to the initial round of venture capital firms:

1. 8% Convertible Notes (the "Notes"), in the amount of \$300,000, such Notes to accrue interest at the rate of 8% per year until the Notes are converted to Series A Preferred Stock or redeemed by LICENSEE, whichever first occurs, interest to be payable at the closing of the second round of venture capital financing. Such Notes may, at LICENSEE'S option, be redeemed by LICENSEE at any time prior to May 30, 1987, in the principal amount of all outstanding Notes, or a portion thereof, plus accrued interest. In the event such Notes are not redeemed in whole by LICENSEE, the Notes shall automatically be converted into shares of Series A Preferred Stock, equal to twice the unredeemed amount of Notes then outstanding, not exceeding 600,000 shares (see Exhibit C attached hereto.) Such Notes shall contain such other terms and conditions as are customary for such transactions.

2. Warrants to Purchase Common Stock, at a purchase price of \$.10 share, in a total amount of 150,000 shares of Common Stock of LICENSEE, to be issued to the holders of the LICENSEE'S 8% Convertible Notes, pro rata, which warrants shall only be exercisable in an amount equal to one-half of the principal amount of 8% Convertible Notes of the LICENSEE which are redeemed by LICENSEE (see Exhibit C attached hereto).

F. BOARD acknowledges that The Woodlands Venture Capital Company has been issued 10,000 shares of Common Stock of LICENSEE in consideration of the payment of \$10.00 by it and of the efforts of its employees in establishing LICENSEE, managing it, and negotiating this Agreement. BOARD further acknowledges that LICENSEE has, prior to the effective date hereof, issued 300,000 shares of Class A Common Stock to each of Gabriel Lopez-Berestein, M.D., and Jim Klostergaard, Ph.D., in exchange for payment by them of \$300.00 each, and their services in inventing the Licensed Subject Matter.

IV.

ROYALTIES

A. In consideration of the grant by BOARD to LICENSEE of this license, LICENSEE shall pay to BOARD as follows:

1. An earned royalty of three percent (3%) of the Net Sales of a Licensed Patented Product or Process by LICENSEE or its Subsidiaries in each country where a patent included within the BOARD Patent Rights issues, or a patent application has been filed and is pending, with claims covering such Licensed Patented Product or Process, until the expiration, termination or invalidation of the patent in that country by a Court of final jurisdiction or the determination that a patent will not issue in that country.

2. An earned royalty of two percent (2%) of the Net Sales of a Licensed Non-Patented Product or Process by LICENSEE or its Subsidiaries during the term of this Agreement.

3. An earned royalty of forty percent (40%) of the royalty received by the LICENSEE from Net Sales of a Licensed Patented Product or Process and Licensed Non-Patented Product or Process by sublicensees of LICENSEE or its Subsidiaries, such royalty to be measured upon and based on the actual proceeds received by LICENSEE or its Subsidiaries under the Sublicense Agreement and not the total net sales generated by the marketing or distribution of the Licensed Patented Products or Processes and the Licensed Non-Patented Products or Processes by the sublicensee. Such earned royalty shall be due for as long as LICENSEE or its Subsidiary is receiving proceeds from the sublicensee, but not in excess of the duration of this Agreement.

In addition, in the event LICENSEE transfers or sells any of the marketing rights to any Licensed Patented Product or Process or Licensed Non-Patented Product or Process to a non-related corporation, firm, association, partnership, or other entity, the proceeds from such sale of marketing rights is hereby expressly excluded from the terms of this Article IV, and no royalty payments shall be due thereon, provided, however, that the sales of any Licensed Patented Products or Processes or Licensed Non-Patented Products or Processes by said entity, association, firm, partnership or corporation shall be subject to the royalty provided in this Section IV.A.3; and provided further, that the total royalty under Sections IV.A.1, IV.A.2., and IV.A.3. shall not in any event exceed that amount which would otherwise be due and payable under Section IV.A.1. or IV.A.2., as the case may be,

had such royalties been paid on the ultimate sale on such Licensed Patented Product or Process or Licensed Non-Patented Product or Process in the marketplace.

4. In no event will LICENSEE be obligated to pay royalties under Sections IV.A.1., IV.A.2. and IV.A.3. simultaneously for Net Sales of any particular product or process in any given country (except as may arise in connection with sales to a marketing entity and resales by said entity, in accordance with Section IV.A.3. above). A single royalty will be due on each sale of Licensed Patented Products or Processes no matter how many items in the BOARD Patent Rights cover such Licensed Patented Products or Processes. No royalty shall be paid on a Licensed Patented Product or Process after the BOARD Patent Rights covering said Licensed Patented Product or Process have expired.

5. Earned royalties in the amount set out in Section IV.A.2. shall accrue in each country only for the period that the LICENSEE is the exclusive commercial source in that country of a Licensed Non-Patented Product or Process. The term "exclusive commercial source" as used above shall mean that the LICENSEE is the sole commercial source of the Licensed Non-Patented Product or Process in that country and that there is no commercial product available in that country that is substantially equivalent in market acceptance. If the LICENSEE believes that it is not the exclusive commercial source of a Licensed Non-Patented Product or Process in any designated country, then it shall so notify BOARD and provide reasonable evidence thereto. Within 45

days of receipt of said notice and evidence, BOARD shall notify the LICENSEE in writing of its acceptance or rejection of the evidence as to the existence of another commercial source. Upon acceptance by BOARD, the LICENSEE shall, as of said date of acceptance, no longer have any obligation to pay royalties on Net Sales in that country based on the amount set out in Section IV.A.2. herein. In such event, the amount set out in Section IV.A.2. shall be reduced to an amount equal to one-third (1/3) of the applicable amount, and LICENSEE shall pay such reduced royalty amount.

6. BOARD agrees that in order to successfully market products and processes covered by this Agreement, LICENSEE must have complete freedom in marketing. Thus, BOARD understands that LICENSEE makes no warranty that it will market the products or processes covered by this Agreement or, if LICENSEE does market any of such products or processes, that they will be the exclusive means by which LICENSEE will participate in this field. All business decisions relating to use, manufacture, sale or marketing of products covered under this Agreement will be within the sole discretion of LICENSEE.

7. In the event that LICENSEE enters into a joint venture with another entity and utilizes BOARD Technical Information in combination with the technology of such entity, then Net Sales for purposes of calculating royalties shall be deemed to be LICENSEE's income received from such joint venture. Subject to the foregoing sentence, where a Licensed Patented Product or Process or a Licensed Non-Patented Product or Process is not

sold separately but is sold in combination with or as part of other products, the Net Sales of the Licensed Patented Product or Process or the Licensed Non-Patented Product or Process so sold shall be calculated, for the purpose of computing royalties due, by applying to the total selling price of the combination or composite product a fractional multiplier having as its denominator the total selling price of the combined or composite product (determined by generally accepted accounting principles) and as its numerator the selling price of the included Licensed Patented Product or Process or Licensed Non-Patented Product or Process (similarly determined).

B. Notwithstanding anything contained in Section IV.A. to the contrary, if, by May 1, 1987, BOARD elects to exercise its rights under Section III.B. or III.C. hereof, to acquire Series A Preferred Stock and does in fact purchase or acquire any such shares of Series A Preferred Stock, the royalties provided in Section IV.A.1. and IV.A.2. will increase in accordance with the terms set forth in Sections III.B. or III.C., as the case may be, immediately upon the closing of the applicable investment. In such event, the BOARD shall return the certificate(s) for Common Stock issued under Article III.A. hereof to the LICENSEE, and such certificate(s) shall be thereupon cancelled and of no further effect. In the event BOARD has elected to acquire some but not all of the Series A Preferred Stock available to it, LICENSEE shall issue BOARD a new certificate for that amount of shares of Common Stock which BOARD has not forfeited.



V.

REPORTING, PAYMENT AND MARKING

A. LICENSEE agrees to keep proper records and books of account in accordance with generally accepted accounting principles, showing the sales upon which the royalty payments of LICENSEE are based, and all other information necessary for the accurate determination of payment to be made hereunder and to deliver to UTSCC, within forty-five (45) days after each calendar quarter ending on March 31, June 30, September 30 and December 31, a report showing the information on which the payments herein provided are calculated and to accompany each such report with the payments shown to be due thereby.

B. On reasonable written notice, UTSCC at its own expense, shall have the right, exercisable only once in any calendar year, to have an independent certified public accountant or an appropriate representative of UTSCC, reasonably satisfactory to LICENSEE, inspect and audit the books and records of LICENSEE, its Subsidiaries and its sublicensees during usual business hours of LICENSEE, its Subsidiaries and its sublicensees for the sole purpose of, and only to the extent necessary for, determining the correctness of payments due under this Agreement. Such examination with respect to any fiscal year shall not take place later than three years following the expiration of such period. If such inspection and audit results in a discrepancy in the correctness of the payments due under this Agreement in an amount in excess of five percent (5%), LICENSEE shall pay any and all costs or fees associated with said audit and charged to UTSCC by said

independent accounting firm, together with the corrected amount of royalty payments due hereunder, within thirty (30) days of receipt of the audit results.

C. Royalties based on Net Sales in any foreign country shall be payable to BOARD in the United States in United States Dollars. Dollar amounts shall be calculated using the foreign exchange rate, as published by the Wall Street Journal, in effect for such foreign currency on the last business day of each calendar quarter for which a report is required. Where royalties are due for Net Sales in a country where, for reasons of currency, tax or other regulations, transfer of foreign currency out of such country is prohibited, LICENSEE has the right to place BOARD's royalties in a bank account in such country in the name of and under the sole control of BOARD; provided, however, that the bank selected be reasonably acceptable to BOARD and that LICENSEE inform BOARD of the location, account number, amount and currency of money deposited therein. After BOARD has been so notified, those monies shall be considered as royalties duly paid to BOARD, will be completely controlled by BOARD, and LICENSEE will have no further responsibility with respect thereto.

D. All foreign taxes on royalty payments hereunder, imposed upon or required to be withheld by LICENSEE, its Subsidiaries or its sublicensees, shall be deducted from such payments (but not in excess of BOARD royalties), and evidence of such foreign taxes shall be delivered to BOARD at the time of the reports with respect to such royalty payments. LICENSEE agrees, however, to assist BOARD in recovering or preventing the levy or

withholding of any such taxes, provided that LICENSEE shall be reimbursed for its out-of-pocket expenses incurred in rendering any such assistance.

E. LICENSEE agrees to mark all Licensed Patented Products or Processes sold by it or its sublicensees covered by the BOARD Patent Rights with appropriate patent marking, such marking to be agreed upon between the parties hereto, together with notice of copyright sufficient to maintain legal claim to copyright in the country of origin of such Licensed Patented Product or Process, as well as for Licensed Non-Patented Product or Process.

VI.

RESEARCH AND DEVELOPMENT

A. In addition to the above agreements on its part, LICENSEE has established an operating budget for the next two years equal to \$600,000.00, which shall be allocated and expended in the following manner: (i) the sum of \$413,000.00 to be paid to UTSCC over the next two years for research and development of the Licensed Subject Matter and to be expended by UTSCC for salaries and fringe benefits, supplies, animals and institutional overhead; (ii) the sum of \$131,775.00 to be used by LICENSEE for direct purchases made by it for certain equipment, supplies and animals for the research and development project; and (iii) the sum of \$55,000.00 to be used as working capital by LICENSEE, in its sole discretion; all in accordance with the terms of that certain Research and Development Contract attached hereto as Exhibit D and incorporated herein for all purposes ("R & D Agreement"). In consideration thereof, BOARD and UTSCC hereby

grant to LICENSEE an exclusive, world-wide license, including the right to grant sublicenses, in and to the Base Technology, the Products, the Improvements, and all Proprietary Property (as said terms are defined in the R & D Agreement) conceived or developed pursuant to such R & D Agreement and or work done in connection with such Agreement, to manufacture, use, market and sell any Products and Improvements (as defined therein) throughout the United States of America, its territories and possessions, and in all foreign countries, on the same terms and conditions, with the identical rights and obligations, and governed in all respects by this License Agreement.

B. UTSCC and its personnel shall have the right to publish papers disclosing the general scientific findings related to the BOARD Patent Rights and BOARD Technical Information, including results of the work conducted by them on behalf of LICENSEE under the R & D Agreement, in accordance with the terms hereof and of the R & D Agreement. A copy of each proposed publication shall be provided to LICENSEE at least ninety (90) days in advance of submission for publication thereof to permit LICENSEE time to comment thereon and to allow UTSCC and its personnel to make corrections or revisions, where appropriate, and to permit LICENSEE or BOARD time in which to prepare application(s) for Letters Patent treating the subject matter of such publication or to take other steps necessary to protect such proprietary rights. UTSCC shall refrain from submitting such manuscript or information for publication until the expiration of such review period. Any proposed publication provided to LICENSEE shall be considered as acceptable for the submission for publication unless LICENSEE

notifies UTSCC within said ninety (90) day period that in LICENSEE's judgment, such publication discloses developments which are potentially patentable and may be necessary or useful to the commercial exploitation of any Products, Improvements, the Base Technology, or Proprietary Property (as defined in said R & D Agreement). If LICENSEE notifies UTSCC in writing that such publication does disclose potentially patentable developments, UTSCC shall refrain from submitting such manuscript or publication for the duration of the above-referenced ninety (90) day period following delivery to LICENSEE of such notice, in order for BOARD or LICENSEE to take steps to prepare and file patent applications.

C. Notwithstanding any other provision of this Agreement, BOARD shall specifically retain, for itself, SYSTEM, and its component institutions, the right to use the Licensed Subject Matter, the BOARD Patent Rights, and the BOARD Technical Information for research, teaching, and other related non-commercial purposes.

D. UTSCC hereby agrees that it shall engage in good faith negotiations with LICENSEE on an exclusive basis, for a period of up to ninety (90) days, concerning the terms and conditions under which UTSCC and BOARD shall agree to license, on an exclusive basis, to LICENSEE any and all New Technology (as defined in the R & D Agreement) conceived or developed by UTSCC, prior to UTSCC or BOARD discussing such New Technology with any other potential licensee or sponsor. LICENSEE agrees, however, that any technology which is developed as a result of a research and development program sponsored by another firm as of the date hereof is

excluded from this right of first refusal if such firm has rights to acquire such technology. UTSCC agrees that it shall (1) refrain from disclosing such patentable technology to third parties or entering into negotiations or agreements with third parties with regard to the disposition of a development except as otherwise expressly permitted by this Section VI.D.; and (2) give LICENSEE prompt written notice of any such development, which notice shall specify all relevant technical and scientific information pertaining to the technology in sufficient detail to permit LICENSEE to reasonably assess its interest in the technology and UTSCC's projected research funding requirements, if any (the "Development Notice"). If LICENSEE delivers notice to UTSCC of its interest in a development ("Notice of Interest") within 90 days of delivery of the Development Notice, LICENSEE and UTSCC shall undertake negotiations for the acquisition by LICENSEE of rights to the development. If LICENSEE fails to deliver a timely Notice of Interest, or if UTSCC, BOARD and LICENSEE fail to enter into a written agreement within 90 days of delivery of the Development Notice or such additional time as may be agreed to by the parties, BOARD and UTSCC shall be free to consult with and license said technology to any other firm on the same terms and conditions as were last offered to LICENSEE, provided, however, that if the proposed terms of said license agreement to a third party vary from those offered to LICENSEE, BOARD and UTSCC shall first offer the new terms to LICENSEE, which shall have 10 days to accept or reject. In the event BOARD and UTSCC do not successfully license such technology to a third

party within 360 days of the expiration of the offer period to LICENSEE, then BOARD and UTSCC shall no longer be free to offer said technology to a third party without first offering it to LICENSEE.

This first right of refusal by LICENSEE shall exist so long as this License Agreement between LICENSEE and the BOARD is in effect, and in no event beyond the termination of this License Agreement. LICENSEE and UTSCC agree that they will use their respective best efforts to comply in all material respects with the terms of this section.

#### VII.

##### ADDITIONAL PATENT APPLICATIONS AND RIGHT TO FILE SUIT

A. 1. BOARD shall file additional patent applications in the United States and in any foreign countries in which LICENSEE notifies BOARD that LICENSEE desires applications relating to the Licensed Subject Matter to be filed, and such additional patent applications, and all patents issuing thereon, shall be included within the BOARD Patent Rights, or, with prior approval of BOARD, LICENSEE may file any particular patent application. LICENSEE shall reimburse BOARD for its reasonable out-of-pocket costs, plus overhead not to exceed fifty percent (50%) of BOARD's out-of-pocket costs, including attorneys' fees, of filing and prosecuting such additional patent applications. BOARD, at its expense, shall be free to file in any foreign country not elected by LICENSEE, provided that BOARD provides LICENSEE with thirty (30) days advance written notice of its desire to file for any such patent. If LICENSEE does not notify BOARD within such time

period of its desire to have BOARD file for a patent on LICENSEE's behalf, then the patent rights associated with such filing shall not be subject to this Agreement.

2. BOARD shall have the full and complete control over the prosecution of such domestic and foreign patent applications, but shall keep LICENSEE advised as to such patent prosecution by supplying to LICENSEE copies of any official Actions, amendments, responses and other correspondence, including copies of patents or other material referred to or cited therein, within a reasonable period of time after receipt or filing thereof by BOARD.

B. 1. LICENSEE shall have the right, exercisable at LICENSEE's sole discretion, to file and control the prosecution of any and all suits seeking to enjoin or recover damages from any and all infringers of any patent which is then included within the BOARD Patent Rights, and shall have the right to join BOARD as a party in any such suit filed by LICENSEE. LICENSEE shall bear the expense of any such suit, and any amounts recovered, whether by final judgment, settlement or otherwise, as a result of such suit shall be the sole property of LICENSEE, subject to the royalty provisions of Article IV.

2. In the event that LICENSEE shall not institute or prosecute any suit to enjoin or recover damages from any infringer, BOARD may do so at its sole expense, provided BOARD has first given LICENSEE 60 days' advance notice of its intention to take such action and, provided further, that LICENSEE has not itself taken appropriate action during such 60-day period. Any amounts recovered in an action brought by BOARD, whether by final



judgment, settlement or otherwise in any such suit shall be the sole property of BOARD.

3. LICENSEE and BOARD agree that neither will settle any action commenced by it in a manner that is prejudicial to any BOARD Patent Rights without the other party's prior written approval. BOARD and LICENSEE each agree that it will promptly notify the other of any infringement or potential infringement of any BOARD Patent Rights which comes to its attention.

4. In any suit or dispute involving any infringement, BOARD and LICENSEE shall cooperate fully, and upon the request of the party bringing suit, the other party shall make available all relevant records, papers, information, samples, specimens, and the like which may be relevant and in its possession. In the event a court of competent, final jurisdiction determines that one or more of the BOARD Patent Rights are invalid or unenforceable, no further royalty payments on operations covered by such BOARD Patent Rights shall be due or owing hereunder with respect thereto.

In the event the making, using or selling of the Licensed Patented Products or Processes or Licensed Non-Patented Products or Processes is determined, by a court of final competent jurisdiction, to infringe one or more claims of a valid, subsisting patent owned by a third party, no royalty payments shall be due BOARD with respect to such product or process from such infringing activities in that jurisdiction from the time such determination is made until such patent expires. In the

event that either party is able to negotiate a license with royalties based on a good faith assessment of the strength and enforceability of said third party's patent, royalty payments due hereunder will be paid only to the extent that such payments exceed any royalty payments made by LICENSEE to such third party as a result of such negotiated license but in no event shall such payments be reduced below fifty percent (50%) of that otherwise due.

VIII.

DURATION AND TERMINATION

A. Unless otherwise provided herein, this Agreement shall remain in force and effect until the expiration of the last patent relating to the Licensed Subject Matter and, at the option of LICENSEE, from year to year thereafter; however, it is understood that no royalties shall be due on any sales of Licensed Patented Products or Processes and Licensed Non-Patented Product or Processes in any country where the applicable BOARD Patent Rights have previously expired or where, pursuant to other provisions of this Agreement, no further royalty payments are due for other reasons.

B. This Agreement may be terminated by either party, if the other party substantially fails to perform or otherwise materially breaches any of the material terms, covenants or provisions of this Agreement, such termination to be effected in accordance with the provisions hereof. In such event, the non-breaching party shall give written notice of intent to terminate to the breaching party stating the grounds therefor. The party

receiving the notice shall have sixty (60) days thereafter to correct such breach. If such breach is not corrected within said sixty (60) days after notice as aforesaid, then the party sending the notice of intent to terminate, at its option, may terminate this Agreement by further written notice thereof to the party in breach, provided however, that if such breaching party notifies the terminating party that it is in good faith attempting to cure such breach, describing the manner thereof, or if the breach is incurable and the breaching party is willing to compensate in damages, such termination may not occur during the period of such cure or negotiation of damages.

C. After three (3) years from the effective date of this Agreement, BOARD shall have the right, upon ninety (90) days' written notice, to terminate this Agreement if LICENSEE has failed to commercialize the Licensed Subject Matter. If, as of said date, LICENSEE has commercialized some but not all aspects of the Licensed Subject Matter, then the BOARD's right to terminate this Agreement shall not apply. Furthermore, if the LICENSEE shall demonstrate to the reasonable satisfaction of the BOARD that it has an ongoing and active research, developmental, manufacturing, marketing, clinical testing, or licensing program, directed toward production and sale of products, then LICENSEE shall be deemed to have satisfied the requirements herein to commercialize the Licensed Subject Matter.

D. In the event of termination of the Agreement in whole or in part for any reason whatsoever, the following shall apply, limited, however, to those BOARD Patent Rights being terminated

and applicable Licensed Patented Products or Processes and Licensed Non-Patented Products or Processes:

1. LICENSEE shall not thereby be discharged from any liability or obligation to BOARD which became due or payable prior to the effective date of such termination;

2. If LICENSEE, its Subsidiaries or its sublicensees then possess Licensed Patented Products or Processes or Licensed Non-Patented Products or Processes, have started the manufacture thereof or have accepted orders therefor, LICENSEE, its Subsidiaries or sublicensees shall have the right to sell their inventories thereof, complete the manufacture thereof and market such fully manufactured Licensed Patented Products or Processes or Licensed Non-Patented Products or Processes, and/or manufacture and sell Licensed Patented Products or Processes or Licensed Non-Patented Products or Processes, in order to fulfill such accepted orders, subject to the obligation of LICENSEE to pay BOARD the earned royalty payments therefor as provided in Section IV of this Agreement;

3. Subject to Section VIII.D.2., LICENSEE shall discontinue, and shall cause its Subsidiaries and sublicensees to discontinue, the manufacture, use, marketing and sale of Licensed Patented Products or Processes or Licensed Non-Patented Products or Processes, and shall assign any sublicenses granted hereunder to BOARD, and LICENSEE shall immediately discontinue use of the words "Board of Regents, The University of Texas System", "University of Texas System Cancer Center", or any language which would connect sales of products by LICENSEE with or imply the

sponsorship of BOARD, except that packaging and advertising material may be used for products permitted to be sold under Section VIII.D.2. above; and

4. All rights sold, assigned or transferred by BOARD to LICENSEE hereunder and then subject to termination shall revert to BOARD, and LICENSEE agrees to execute all instruments necessary and desirable to revest said rights in BOARD.

IX.

ADDRESSES

A. Any notice, communication, request, instruction, payment or other document required or permitted herein shall be deemed delivered upon mailing by regular mail (except in the case of notice provided for herein, in which case certified mail, return receipt requested, shall be required), postage prepaid, or by prepaid telegram, or upon personal delivery, to the parties at the following addresses:

If to the LICENSEE: The Macrophage Company, Inc.  
2201 Timberloch Place  
The Woodlands, Texas 77380  
Attention: President

If to UTSCC: Mr. Steven C. Schultz  
Executive Vice President  
for Administration  
The University of Texas System  
Cancer Center  
6723 Bertner  
Houston, Texas 77030

If to BOARD,  
or SYSTEM: Office of General Counsel  
The University of Texas System  
201 West 7th Street  
Austin, Texas 78701

(or at such other address in care of such other person as hereafter shall be designated in writing by any party). With respect to any notices to the BOARD, SYSTEM, or UTSCC involving intellectual property right matters, a copy shall be sent to:

System Intellectual Property  
Officer  
Office of General Counsel  
The University of Texas System  
201 West 7th Street  
Austin, Texas 78701

X.

CONFIDENTIAL INFORMATION

A. BOARD, UTSCC and LICENSEE each agree that all information relating to the research and development project referred to in Article VI hereof and the Licensed Subject Matter and contained in documents marked "Confidential" which are forwarded to one by the other shall be received in strict confidence, used only for the purposes of this Agreement or said R & D Agreement, and not disclosed by the recipient party (except as required by the Texas Open Records Act), its agents or employees without the prior written consent of the other party, unless such information (i) was in the public domain at the time of disclosure, (ii) later became part of the public domain through no act or omission of the recipient party, its employees, agents, successors, or assigns, (iii) was lawfully disclosed to the recipient party by a third party having the right to disclose it, (iv) was already known by the recipient party at the time of disclosure or (v) was independently developed or is required to be submitted to a government agency pursuant to any obligation imposed or right granted hereunder.

Each party's obligation of confidence hereunder shall be fulfilled by using the same degree of care with the other party's confidential information it uses to protect its own confidential information. Nothing contained herein shall prevent BOARD, UTSCC or LICENSEE, its Subsidiaries or its sublicensees from disclosing information to the extent such information is required to be disclosed, and after securing or making a good faith effort to secure, confidentiality limitations comparable to the foregoing, (i) in connection with the securing of necessary governmental authorization for LICENSEE's, its Subsidiaries' or sublicensees' manufacture, use or sale of a Licensed Patented Product or Process or Licensed Non-Patented Product or Process, (ii) for the purpose of BOARD's, UTSCC's, LICENSEE's, or any of their Subsidiaries' or sublicensees' compliance with governmental regulations, (iii) for the purpose of sublicensing or distribution and sale as provided for herein, or (iv) in connection with the development, manufacture, use or sale of any Licensed Patented Product or Process or Licensed Non-Patented Product or Process as provided for herein.

Except as herein expressly provided or in the R & D Agreement, UTSCC further agrees that it will not use the Base Technology, Products, Improvements or Proprietary Property (as defined in said R & D Agreement) for its own benefit or for the benefit of any party other than LICENSEE, and that any such use (except as provided for non-commercial academic purposes) shall be solely for the performance of its obligations under such Agreements. It shall obtain appropriate written agreements in

form satisfactory to LICENSEE from all persons other than employees that may have access to the Base Technology, Products, Improvements or Proprietary Property pursuant to which such party agrees to so maintain in strict confidence all such material and not to use such material except for the benefit of LICENSEE, and shall ensure that all employees shall likewise maintain the confidentiality of all such information and shall not use such material except as permitted in such Agreements. The obligations imposed by this section shall exist for so long as this License Agreement is in force and for a period of three (3) years thereafter.

XI.

ENTIRE AGREEMENT

A. This Agreement, together with the R & D Agreement attached hereto as Exhibit D, contains the entire agreement and understanding between the parties with respect to the subject matter hereof, and merges all prior discussions, representations and negotiations with respect to the subject matter of this Agreement and is to be interpreted in accordance with the Laws of the State of Texas.

XII.

ASSIGNMENT

A. This Agreement may not be assigned by either party, without the prior written consent of the other, which consent shall not be unreasonably withheld, provided that LICENSEE may assign this Agreement to any purchaser or transferee of all or substantially all of LICENSEE's business upon prior written



notice to BOARD, and provided further, that nothing shall prevent LICENSEE from entering into sublicensing agreements with other parties. This Agreement shall be binding upon and inure to the benefit of BOARD, LICENSEE and their respective permitted assigns and successors in interest.

LICENSEE agrees that it shall use its best efforts to provide copies of all sublicenses and assignments to UTSCC.

XIII.

REPRESENTATIONS AND WARRANTIES

BOARD, and where applicable, UTSCC, make the following representations and warranties, as of the effective date hereof:

A. BOARD represents and warrants that it is the owner of the entire right, title and interest in and to the BOARD Patent Rights, including without limitation the patents and patent applications listed on Schedule I., and the BOARD Technical Information and that there are no outstanding liens, encumbrances, agreements or understandings of any kind, either written, oral or implied which are inconsistent with any provision of this Agreement, except to the extent that research funded by Federal Government grants may be subject to a reserved non-exclusive license to the Government. Except for the foregoing, BOARD represents and warrants that it has the sole right to grant licenses under the BOARD Patent Rights and BOARD Technical Information and that it has not granted licenses to any other person.

B. BOARD represents and warrants that no individual or entity has asserted that BOARD, or any employee, agent, representative or other person affiliated with BOARD is infringing or has

infringed any foreign or domestic patent or has misappropriated or improperly used or disclosed any trade secret, confidential information or know-how which relates in any manner to the subject matter of this Agreement.

C. BOARD represents and warrants that it has no knowledge that any person or individual is infringing or has infringed any foreign or domestic patent included within the BOARD Patent Rights, or has misappropriated or improperly used or disclosed any trade secret, confidential information, or know-how included within the BOARD Technical Information.

D. BOARD represents and warrants that no patent or patent application listed on Schedule I. is the subject of any re-examination proceeding or any pending interference, opposition, cancellation or other protest proceeding.

E. BOARD represents and warrants that it has no knowledge of any foreign or domestic patent or patent application which is reasonably expected by BOARD to restrict LICENSEE from manufacturing, using or selling any Licensed Patented Product or Process any Licensed Non-Patented Product or Process or any portion of the BOARD Technical Information.

F. BOARD and UTSCC represent and warrant that neither of them is aware of any sponsored research and development program between either of them or any other component of System and a party other than LICENSEE which relates to or in any way affects the Licensed Subject Matter.

XIV.

INDEMNIFICATION

A. LICENSEE agrees to indemnify and hold harmless UTSCC, SYSTEM, BOARD and their Regents, officers, agents and employees ("Indemnified Person") from any liability, loss or damage they may suffer as a result of claims, demands, costs or judgments against them arising out of the activities conducted pursuant to this Agreement, provided, however, that any such liability, loss or damage resulting from, arising out of, or incident to, directly or indirectly, the following subsections a. or b. is excluded from this indemnification:

a. Any negligent or willful failure to comply with any applicable FDA or other governmental requirements; or

b. The negligence or willful malfeasance of an Indemnified Person.

Each Indemnified Person agrees to endeavor to provide LICENSEE with a copy of a notice of claim or action which is a matter subject to indemnification in accordance with the terms hereof, in order for LICENSEE to defend such claim or action. LICENSEE shall have the right to control the defense of any such claim or action, at its own expense. The Indemnified Person or Persons agree to cooperate with LICENSEE in the defense of such claim or action. Failure of the Indemnified Person to notify LICENSEE as required above or to cooperate with LICENSEE, which failure materially adversely affects LICENSEE's ability to defend such claim or action or directly results in LICENSEE incurring liability hereunder, shall relieve LICENSEE from any obligation of indemnification hereunder.

XV.

PUBLICITY AND NEWS RELEASES

BOARD, UTSCC and LICENSEE acknowledge that any party hereto may wish to distribute periodically informational releases and announcements to the news media regarding this Agreement. No party shall release such materials containing the name of another party or any of its employees without the prior approval by an authorized representative of such party, which said approval shall not be unreasonably withheld. Should a party reject a proposed news release, the parties agree to discuss the reasons for such rejection, and every effort shall be made to develop an appropriate informational news release.

XVI.

MISCELLANEOUS

A. CAPTIONS. The captions in this Agreement are for convenience only and shall not be considered a part of or affect the construction or interpretation of any provision of this Agreement.

B. SEVERABILITY. If any term or other provision of this Agreement is held to be invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith

to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

C. EFFECTIVE DATE. This Agreement shall be effective as of the date of execution hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the 15<sup>th</sup> day of OCTOBER, 1986.

ATTEST:

THE MACROPHAGE COMPANY, INC.

Jeffrey R. Hamlin  
Secretary

BY:

Michael P. Smith

TITLE: President

ATTEST:

THE UNIVERSITY OF TEXAS SYSTEM  
CANCER CENTER

Carmen B. Stalling

BY:

Steven C. Schultz  
Steven C. Schultz

TITLE: Executive Vice President  
for Administration



FORM APPROVED:

[Signature]  
Office of General Counsel  
The University of Texas System

CONTENT APPROVED:  
(FOR U.T. SYSTEM)

BOARD OF REGENTS OF THE  
UNIVERSITY OF TEXAS SYSTEM

BY: \_\_\_\_\_

BY:

Charlotte Mathis

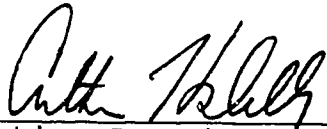
TITLE: \_\_\_\_\_

TITLE:

Executive Vice Chancellor

CERTIFICATE OF APPROVAL

I hereby certify that pursuant to procedures authorized by the Board of Regents of The University of Texas System the foregoing Agreement was approved on the 19<sup>th</sup> day of January, 1987, and that the person whose signature appears above is authorized to execute such agreement on behalf of the Board.



Arthur H. Kelly  
Executive Secretary, Board of Regents  
The University of Texas System

Exhibit A  
to  
Exclusive License Agreement

To induce the LICENSEE to deliver the above-specified Common Stock to the BOARD, BOARD hereby represents and warrants to the LICENSEE as follows:

1. BOARD is acquiring the Common Stock for its own account as principal, for investment purposes only, and not with a view to, or for, resale or distribution, and no other person has a direct or indirect beneficial interest in the Common Stock;

2. The BOARD has not offered any of the Common Stock for resale and has no present intention of dividing its interest with others or of reselling or otherwise disposing of the Common Stock;

3. The BOARD further represents, warrants and agrees that it will not sell or otherwise dispose of the Common Stock without registration under the Securities Act of 1933, as amended (the "Act"), or an exemption therefrom, and fully understands and agrees that it must bear the economic risk of its investment for an indefinite period of time because, among other reasons, the Common Stock has not been registered under the Act or under the securities laws of any state and, therefore, cannot be resold, pledged, assigned or otherwise disposed of unless they are subsequently registered under the Act and under the applicable securities laws of such states or an exemption from such registration is available. BOARD also understands that the LICENSEE is under no obligation to register the Common Stock on its behalf or to assist it in complying with any exemption from registration under the Act. BOARD further understands that any certificate evidencing the Common Stock will bear a legend restricting the transfer thereof consistent with the foregoing and that a notation may be made in the records of the LICENSEE restricting the transfer of any Common Stock in a manner consistent with the foregoing.

C. The BOARD acknowledges that it is aware that:

(1) No federal or state agency has passed upon the Common Stock or made any finding or determination as to fairness of this investment;

(2) There are substantial risks of loss of investment incident to an investment in the Common Stock and such an investment is highly speculative;

(3) The LICENSEE is only recently organized, has not conducted any substantial business to date and does not have any substantial working capital or financial resources. The business in which the LICENSEE proposes to engage is highly speculative and success in the LICENSEE's business may depend on, among other things, the LICENSEE's ability to obtain financing, to complete product development, to

attract qualified employees and to obtain patent protection and governmental approvals, market acceptance of products and numerous other facts over which the LICENSEE does not have control.

Exhibit "A"  
Page 2 of 2



Exhibit B  
to  
Exclusive License Agreement

Schedule of Funding by Board of Regents

Amount of Funds Contributed by Board	Amount of Series A Preferred Stock to be Issued	Amount of Common Stock to be Forfeited	New Royalty Amount IV.A.1	New Royalty Amount IV.A.2
- 0 -	- 0 -	- 0 -	No Change	No Change
\$ 50,000	100,000	67,000	3.5%	2.33%
\$100,000	200,000	133,000	4.0%	2.67%
\$150,000	300,000	200,000	4.5%	3.00%
\$200,000	400,000	267,000	5.0%	3.33%
\$250,000	500,000	333,000	5.5%	3.67%
\$300,000	600,000	400,000	6.0%	4.00%

Exhibit C  
to  
Exclusive License Agreement

<u>Principal Amount of 8% Convertible Notes Redeemed by LICENSEE</u>	<u>Amount of Series A Preferred Stock Issued Upon Con- version of 8% Convertible Notes</u>	<u>Amount of Shares to be Exercisable under Stock Pur- chase Warrants at \$.10/share</u>
-0-	600,000	-0-
50,000	500,000	25,000
100,000	400,000	50,000
150,000	300,000	75,000
200,000	200,000	100,000
250,000	100,000	125,000
300,000	-0-	150,000

Exhibit D  
to  
Exclusive License Agreement

**C O P Y**

RESEARCH AND DEVELOPMENT CONTRACT

THIS RESEARCH AND DEVELOPMENT CONTRACT ("Agreement") by and between The Macrophage Company, Inc., a Delaware corporation ("Macrophage"), having its principal place of business at 2201 Timberloch Place, The Woodlands, Texas 77380, and The University of Texas System Cancer Center ("UTSCC"), a component institution of The University of Texas System ("System"), which is governed by a Board of Regents ("Board"), said institution having its principal place of business at 6723 Bertner Avenue, Houston, Texas 77030, shall be effective as hereinafter provided.

**WITNESSETH:**

WHEREAS, Macrophage has separately entered into an Exclusive License Agreement ("License Agreement") with the Board, effective as of the date hereof, whereby the Board has granted Macrophage an exclusive, worldwide license with respect to certain patents, patent applications, and technical information, all as described in said License Agreement;

WHEREAS, Macrophage has agreed in said License to contribute funds to UTSCC for further research and development of the Licensed Subject Matter (as defined therein), in accordance with the agreement of the parties; and

WHEREAS, Macrophage and UTSCC are desirous of entering into this Agreement in order to further provide for the rights and obligations of the parties with respect to the research and development activities conducted by UTSCC.

NOW, THEREFORE, in consideration of the mutual premises and covenants contained herein, the parties hereby agree as follows:

1. **DEFINITIONS.** The following defined terms will have the following meanings for purposes of this Agreement:

1.1 **"Actual Costs"** means all direct and indirect costs reasonably incurred by UTSCC in performing its obligations under this Agreement as determined in accordance with generally accepted accounting principles, plus overhead at a rate of 25% of all direct costs incurred hereunder, excluding capital expenditures, which such costs will include without limitation: (i) salaries and wages; (ii) development and prototype materials; (iii) data processing costs; (iv) travel expenses; (v) outside purchased services; (vi) facilities and equipment related expenses; (vii) payroll taxes; (viii) fringe benefits; (ix) contract labor; (x) communications expense; (xi) supplies; (xii) freight and transportation; (xiii) insurance; (xiv) depreciation and amortization of capital acquisitions; (xv) professional services; (xvi) sales and use taxes; (xvii) periodic lease payments;

and (xviii) equipment rentals, but will exclude capital expenditures.

1.2 "**Base Technology**" means the design means, methods and techniques in existence as of the effective date of this Agreement and which, whether patentable or not, are the proprietary information, technology, and know-how of the Board, or UTSCC, and which relate to the development of the Licensed Subject Matter, as defined in the License Agreement. In addition to all related confidential information not generally known to the public, together with associated documentation and materials, the Base Technology includes, but is not limited to, the following: the Board Patent Rights, Board Technical Information, Licensed Patented Products or Processes, Licensed Non-Patented Products or Processes, and Licensed Subject Matter, as said terms are defined in the License Agreement, and as in existence as of the effective date hereof.

1.3 "**Products**" means any Licensed Patented Product or Process, or any Licensed Non-Patented Product or Process, as said terms are defined in the License Agreement.

1.4 "**Proprietary Property**" means all technical information, know-how, trade secrets and all documents and materials reflecting the same, including, without limitation, patents, patent applications, inventor's certificates, utility models, copyrights, and other proprietary rights related thereto, relating to the Products or Improvements and conceived or developed during the term of this Agreement. "Proprietary Property" also includes, without limitation, the following materials: specifications for Products and Improvements; test results and data; notebooks, notes and memos; software; manuals; and drawings.

1.5 "**Improvement**" or "**Improvements**", where used in this Agreement, means any change, improvement or modification to the Base Technology which is developed by UTSCC as a result of the activities under this Agreement, and any compositions, products and uses resulting therefrom.

1.6 "**New Technology**" means, (i) during the term of this Agreement, any invention, discovery, know-how, trade secrets, and technical information developed by UTSCC as a result of the activities under this Agreement but which is totally unrelated to the Base Technology and therefore is not included as an Improvement, and (ii) after the expiration of this Agreement, any invention, discovery, know-how, trade secrets, and technical information developed by UTSCC which relates to or improves the Base Technology, the Products, the Improvements or the Proprietary Property.

1.7 "**Project**" means the research and development work to be conducted hereunder to develop the Base Technology. The anticipated scope of such work is defined by the Scope of Work, attached hereto as Exhibit A, and as may be subsequently modified

upon the agreement of the parties hereto as provided in Section 2.2 hereof.

1.8 "Project Completion Date" means the earlier of (i) the date of completion of the design and development tasks within the scope of the Project, or (ii) two years from the effective date of this Agreement, unless extended by agreement of the parties.

## 2. RESEARCH AND DEVELOPMENT SERVICES.

2.1 **UTSCC's Efforts.** UTSCC hereby agrees to use its best efforts to utilize the Base Technology to develop and reduce to practice the Proprietary Property, the Improvements, and the Products, and to perform all research and development reasonably necessary pertaining to the Project. UTSCC will not be obligated to perform research and development hereunder to the extent MacroPhage does not have available sufficient funds to make prompt and timely payment of the fees set forth in Section 3 hereof.

2.2 **Modifications in Scope of Work.** UTSCC will keep MacroPhage advised in writing of developments known to UTSCC in technologies which it reasonably believes to have potential application to development of the Products, the Improvements, and Proprietary Property, and from time to time will consult with MacroPhage regarding possible modifications to the Scope of Work. In the event of a proposed modification to the Scope of Work, UTSCC may, and will if requested to do so by MacroPhage in writing, prepare budgets in accordance with UTSCC's applicable accounting policies applied on a consistent basis indicating (a) remaining projected Actual Costs to be incurred to complete the Project under the Scope of Work as then in effect, and (b) remaining projected Actual Costs to be incurred to complete the Project under the Scope of Work if modified as proposed. Any modifications to the Scope of Work will require the written agreement of MacroPhage and UTSCC, provided that UTSCC will not withhold its agreement to any such modification if MacroPhage establishes to the reasonable satisfaction of UTSCC that MacroPhage will have funds available to pay in full when due all projected payments to be made to the UTSCC on account of Actual Costs incurred in performing under the Scope of Work as so modified.

2.3 **Additional Research.** In the event that MacroPhage desires UTSCC to engage in research and development activities which are in addition to and different than the Project and the Scope of Work attached hereto as Exhibit A (other than those modifications to the Scope of Work which may occur in connection with Section 2.2 above), MacroPhage and UTSCC shall endeavor in good faith to enter into a research or development agreement which is similar to this Agreement.

2.4 **Activities by UTSCC.** MacroPhage and UTSCC recognize and acknowledge that the activities to be conducted by the

employees of UTSCC shall be subject in all events, to the Rules and Regulations of the Board of Regents for the Government of the University of Texas System (the "Rules and Regulations") and to the Code of Ethics adopted by the Texas Legislature (V.C.S. 6252-9b) (the "Code of Ethics"), and it is the intent of Macrophage and UTSCC that the obligations of UTSCC hereunder be consistent with, and if found to conflict with, be subject and subordinate to, the Rules and Regulations and the Code of Ethics, or such similar rules and statutes of any alternate or successor academic institution.

### 3. FUNDING COMMITMENT.

3.1 **Commitment Breakdown.** The total funding commitment by Macrophage to the Project is Six Hundred Thousand Dollars (\$600,000.00), and shall be applied in the following three methods: (i) the sum of \$413,000.00 shall be paid to UTSCC over the term of this Agreement, on a quarterly basis, commencing October 1, 1986, and shall be used for the items detailed as "Paid to UTSCC" on Exhibit B hereto: the quarterly amount during year one shall be equal to \$39,161.00, and in year two shall be equal to \$46,807.25, provided however, that the sum of \$69,127.00 for institutional overhead shall also be due with the payment for the fourth quarter of year two; (ii) the sum of \$131,775.00 shall be used by Macrophage in the direct purchase of animals, supplies and equipment for the Project, generally in the amounts set out on Exhibit B hereto; and (iii) the sum of \$55,000.00 shall be used by Macrophage as working capital and applied as Macrophage deems appropriate in its sole discretion to the development of the company and/or the furtherance of the Project. The parties agree that the Budget attached as Exhibit B may be modified by mutual agreement, should the parties so desire.

UTSCC agrees to use the payments made to it for Actual Costs of the Project, in accordance with the Budget attached as Exhibit B. If any sum paid by Macrophage to UTSCC remains at the Project Completion Date, such amount shall be refunded to Macrophage within sixty (60) days unless otherwise agreed to by the parties in writing.

3.2 **Budget Adjustments.** Macrophage shall make additional payments to UTSCC for all Actual Costs reasonably incurred and previously approved in writing by Macrophage that exceed the budgeted Actual Costs, but Macrophage shall not otherwise be responsible for any other costs, expenses or services incurred or rendered by UTSCC.

3.3 **Maximum Cost.** In no event will Macrophage be liable for work done or expenditures incurred pursuant to this Agreement in an amount greater than the funding commitment set out in Section 3.1 above, without prior written consent of Macrophage.

#### 4. CONFIDENTIALITY AND PUBLICATION.

4.1 **Non-Commercial Use.** The parties hereto acknowledge that, while BOARD owns the Base Technology and has licensed such technology on an exclusive basis to Macrophage, UTSCC may continue to use the Base Technology during and after the term of this Agreement for non-commercial, academic purposes, including research and development, but, in doing so, UTSCC shall, except in accordance with the terms of the License Agreement and this Agreement, make no publications or other disclosures thereof or license or otherwise transfer any such technology.

4.2 **Confidentiality Obligations.** Board, UTSCC and Macrophage each agree that all information relating to the research and development project referred to herein and the Licensed Subject Matter and contained in documents marked "Confidential" which are forwarded to one by the other shall be received in strict confidence, used only for the purposes of this Agreement, or the License Agreement, and not disclosed by the recipient party (except as required by the Texas Open Records Act), its agents or employees without the prior written consent of the other party, unless such information (i) was in the public domain at the time of disclosure, (ii) later became part of the public domain through no act or omission of the recipient party, its employees, agents, successors, or assigns, (iii) was lawfully disclosed to the recipient party by a third party having the right to disclose it, (iv) was already known by the recipient party at the time of disclosure or (v) was independently developed or is required to be submitted to a government agency pursuant to any obligation imposed or right granted hereunder or under the License Agreement.

Each party's obligation of confidence hereunder shall be fulfilled by using the same degree of care with the other party's confidential information it uses to protect its own confidential information. Nothing contained herein shall prevent Board, UTSCC or Macrophage, its subsidiaries or its sublicensees, from disclosing information to the extent such information is required to be disclosed, and after securing or making a good faith effort to secure, confidentiality limitations comparable to the foregoing, (i) in connection with the securing of necessary governmental authorization for Macrophage's, its subsidiaries' or sublicensees' manufacture, use, or sale of a Licensed Patented Product or Process or Licensed Non-Patented Product or Process, (ii) for the purpose of Board's, UTSCC's, Macrophage's or any of their subsidiaries' or sublicensees' compliance with governmental regulations, (iii) for the purpose of sublicensing or distribution and sale as provided for herein, or (iv) in connection with the development, manufacture, use or sale of any Licensed Patented Product or Process or Licensed Non-Patented Product or Process as provided for in the License Agreement.

Except as expressly provided herein or in the License Agreement, UTSCC further agrees that it will not use such Base Tech-

nology, Products, Improvements, or Proprietary Property for its own benefit or for the benefit of any party other than Macrophage, and that any such use (except as provided for in Section 4.1 for non-commercial academic purposes) shall be solely for the performance of its obligations under such Agreements. It shall obtain appropriate written agreements in form satisfactory to Macrophage from all persons other than employees that may have access to the Base Technology, Products, Improvements, or Proprietary Property pursuant to which such party agrees to so maintain in strict confidence all such material and not to use such material except for the benefit of Macrophage, and shall ensure that all employees shall likewise maintain the confidentiality of all such information and shall not use such material except as permitted in such Agreements. The obligations imposed by this section shall survive termination of this Agreement and continue for so long as the License Agreement is in force and for a period of three (3) years thereafter.

**4.3 Publication Procedures.** UTSCC and its personnel shall have the right to publish results of the work conducted by them on behalf of Macrophage under this Agreement, in accordance with the terms hereof. A copy of each proposed publication shall be provided to Macrophage at least ninety (90) days in advance of submission for publication thereof to permit Macrophage to comment thereon and to allow UTSCC and its personnel to make corrections or revisions, where appropriate, and to permit Macrophage or Board time in which to prepare application(s) for Letters Patent treating the subject matter of such publication or to take other steps necessary to protect such proprietary rights. UTSCC shall refrain from submitting such manuscript or information for publication until the expiration of such review period. Any proposed publication provided to Macrophage shall be considered as acceptable for the submission for publication unless Macrophage notifies UTSCC within said ninety (90) days period that in Macrophage's judgment, such publication discloses developments which are potentially patentable and may be necessary or useful to the commercial exploitation of any Products, Improvements, the Base Technology, or Proprietary Property. If Macrophage notifies UTSCC in writing that such publication does disclose potentially patentable developments, UTSCC shall refrain from submitting such manuscript or publication for the duration of the above-referenced ninety (90) day period following delivery to Macrophage of such notice, in order for Board or Macrophage to take steps to prepare and file patent applications.

**4.4 Publicity and News Releases.** Board, UTSCC and Macrophage acknowledge that any party hereto may wish to distribute periodically informational releases and announcements to the news media regarding this Agreement. No party shall release such materials containing the name of another party or any of its employees without the prior approval by an authorized representative of such party, which said approval shall not be unreasonably withheld. Should a party reject a proposed new release, the parties agree to discuss the reasons for such rejection, and



every effort shall be made to develop an appropriate informational news release.

**5. OWNERSHIP, LICENSE, AND RIGHT OF FIRST REFUSAL.**

**5.1 Ownership of Technology.** Subject to Section 5.2 below, Board will have the sole and exclusive right, title and ownership in and to the Base Technology, the Products, all Improvements, all New Technology, and all Proprietary Property conceived or developed pursuant to this Agreement and/or the work done in connection with this Agreement, and all confidential information not generally known to the public, including knowledge, techniques, processes, patents and inventions developed by UTSCC hereunder and used in developing, improving, modifying or enhancing the Base Technology, the Products and the Proprietary Property, or otherwise, provided however, that in the event funds provided by Macrophage hereunder were used to purchase any equipment to support the research activities of UTSCC, such equipment shall be owned exclusively by Macrophage.

**5.2 License of Technology.** Board and UTSCC hereby grant to Macrophage an exclusive, world-wide license, including the right to grant sublicenses, in and to the Base Technology, the Products, the Improvements, and all Proprietary Property conceived or developed pursuant to this Agreement and or work done in connection with this Agreement, to manufacture, use, market and sell any Products and Improvements, throughout the United States of America, its territories and possessions, and in all foreign countries, on the same terms and conditions, with the identical rights and obligations, and governed in all respects by the License Agreement.

**5.3 Right of First Refusal.** UTSCC hereby agrees that it shall engage in good faith negotiations with Macrophage on an exclusive basis, for a period of up to ninety (90) days, concerning the terms and conditions under which UTSCC and Board shall agree to license, on an exclusive basis, to Macrophage any and all New Technology conceived or developed by UTSCC, prior to UTSCC or Board discussing such New Technology with any other potential licensee or sponsor. Macrophage agrees, however, that any technology which is developed as a result of a research and development program sponsored by another firm as of the date hereof is excluded from this right of first refusal if such firm has rights to such technology. UTSCC agrees that it shall (1) refrain from disclosing such patentable technology to third parties or entering into negotiations or agreements with third parties with regard to the disposition of a development except as otherwise expressly permitted by this Section; and (2) give Macrophage prompt written notice of any such development, which notice shall specify all relevant technical and scientific information pertaining to the technology in sufficient detail to permit Macrophage to reasonably assess its interest in the technology and UTSCC's projected research funding requirements, if any (the "Development Notice"). If Macrophage delivers notice to

UTSCC of its interest in a development ("Notice of Interest") within 90 days of delivery of the Development Notice, Macrophage and UTSCC shall undertake negotiations for the acquisition by Macrophage of rights to the development. If Macrophage fails to deliver a timely Notice of Interest, or if UTSCC, Board and Macrophage fail to enter into a written agreement within 90 days of delivery of the Notice of Interest or such additional time as may be agreed to by the parties, Board and UTSCC shall be free to consult with and license said technology to any other firm on the same terms and conditions as were last offered to Macrophage, provided, however, that if the proposed terms of said license agreement to a third party vary from those offered to Macrophage, Board and UTSCC shall first offer the new terms to Macrophage, which shall have 10 days to accept or reject. In the event Board and UTSCC do not successfully license such technology to a third party within 360 days of the expiration of the offer period to Macrophage, then Board and UTSCC shall no longer be free to offer said technology to a third party without first offering it to Macrophage.

This right of first refusal by Macrophage shall exist so long as the License Agreement between Macrophage and the Board is in effect, and in no event beyond the termination of said License Agreement. Macrophage and UTSCC agree that they will use their respective best efforts to comply in all material respects with the terms of this Section 5.3.

**5.4 Patents.** UTSCC will cooperate with Macrophage in taking such actions as Macrophage reasonably requests for the purposes of filing and obtaining copyright registrations, patents and other suitable forms of protection on the machines, processes, manufactures, designs and works of authorship of the Base Technology, Products, Improvements, and Proprietary Property, and securing title to such forms of protection in the Board and enforcing the Board's and Macrophage's rights therein, if any, all in accordance with the terms of Article VII of the License Agreement.

**5.5 Survival after Termination.** The provisions of this Article 5 shall survive termination of this Agreement.

## **6. REPORTS AND RECORDS.**

**6.1 Progress Reports.** UTSCC will provide to Macrophage on a semi-annual basis a written report on the progress of the Project, in such detail as Macrophage may reasonably request, apprising Macrophage of progress to date in the development of the Base Technology, the Products, the Improvements, the New Technology, and the Proprietary Property, including, but not limited to, any delays or difficulties experienced or anticipated which may materially delay completion of the Project, increase the cost of the Project to Macrophage, or adversely affect the likelihood of successful completion of the Products, the Improvements, or the Proprietary Property. Such reports will be due

on July 30 and January 30 of each year and shall be in such form as the parties shall agree. UTSCC grants Macrophage the right under UTSCC's copyright to make a limited number of copies for internal purposes only.

**6.2 UTSCC's Financial Records and Reports.** UTSCC will keep and maintain, in accordance with generally accepted accounting principles and accounting policies of UTSCC applied on a consistent basis, proper and complete records and books of account documenting all Actual Costs incurred. UTSCC agrees to permit independent certified public accountants retained by Macrophage reasonable access to such records to verify the Actual Costs incurred and billed to Macrophage, if requested. UTSCC will permit Macrophage to have conducted at the expense of Macrophage, by a firm of independent certified public accountants, an audit of UTSCC's activities, charges and expenditures charged or incurred by UTSCC with respect to the Project during each fiscal year.

**6.3 Financial and Confidentiality Obligations.** Macrophage will keep confidential and will not disclose to any third party without the prior written consent of UTSCC all financial information provided to Macrophage in statements delivered to Macrophage or obtained by Macrophage through access of its independent certified public accountants to the books and records of UTSCC, except to the extent Macrophage is of the opinion that information with respect thereto should be disclosed to its shareholders for the purpose of providing to its shareholders adequate and complete disclosure with respect to its ongoing activities and obligations. UTSCC agrees to such full and complete disclosure of any and all information developed or otherwise provided by UTSCC. UTSCC will keep confidential and will not disclose to any third party without the prior written consent of Macrophage all financial information of Macrophage provided in financial statements delivered to or by UTSCC. The obligations of this Section 6.3 will not extend to information (a) to the extent necessary for the receiving party to prosecute any claim arising under this Agreement or (b) that is available for disclosure as provided in Section 4.3 hereof.

## **7. DISCLAIMERS, LIMITATIONS OF LIABILITY, AND INDEMNITY.**

**7.1 UTSCC's Disclaimers.** Except for its covenant to use its best efforts as set forth in Section 2.1, UTSCC HEREBY DISCLAIMS ANY AND ALL WARRANTIES AND REPRESENTATIONS, EXPRESS OR IMPLIED, WITH RESPECT TO ITS RESEARCH AND DEVELOPMENT EFFORTS HEREUNDER, INCLUDING WITHOUT LIMITATION (a) WHETHER THE BASE TECHNOLOGY, PROPRIETARY PROPERTY, PRODUCTS, OR IMPROVEMENTS CAN BE SUCCESSFULLY DEVELOPED BY UTSCC, (b) WHETHER THE PRODUCTS, IMPROVEMENTS OR PROPRIETARY PROPERTY AS DEVELOPED BY UTSCC CAN BE COMMERCIALY MARKETED OR EXPLOITED, AND (c) THE PERFORMANCE, UTILITY, RELIABILITY, SUITABILITY FOR ANY PARTICULAR PURPOSE OR

ACCURACY OF THE BASE TECHNOLOGY, PRODUCTS, IMPROVEMENTS, OR PROPRIETARY PROPERTY AS CONCEIVED OR DEVELOPED BY UTSCC HEREUNDER.

**7.2 Macrophage Disclaimers.** MACROPHAGE DISCLAIMS ANY AND ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THOSE SET FORTH IN PARAGRAPHS (a), (b) AND (c) OF SECTION 7.1 ABOVE. THE SOLE LIABILITY OF MACROPHAGE HEREUNDER WILL BE FOR PAYMENT OF THE ACTUAL COSTS AND THE BUDGET ADJUSTMENTS PROVIDED FOR IN SECTION 3.2 ABOVE.

**7.3 Limitations on Liability.** Neither party hereunder will have any liability to the other party hereto for any incidental, consequential or special damages, or under any claims of strict liability, infringement of patent, copyright or other proprietary rights, breach of warranty or negligence or other nonintentional tort.

**7.4 Indemnification of License.** Macrophage agrees to indemnify and hold harmless UTSCC, System, Board and their Regents, officers, agents and employees ("Indemnified Persons") from any liability, loss or damage they may suffer as a result of claims, demands, costs or judgments against them arising out of the activities conducted pursuant to the License Agreement or this Agreement, provided however, that any such liability, loss or damage resulting from, arising out of, or incident to, directly or indirectly, the following subsections a. or b. is excluded from this indemnification:

a. Any negligent or willful failure to comply with any applicable FDA or other governmental requirements; or

b. The negligence or willful malfeasance of an Indemnified Person.

Each Indemnified Person agrees to endeavor to provide Macrophage with a copy of a notice of claim or action which is a matter subject to indemnification in accordance with the terms hereof or of the License Agreement, in order for Macrophage to defend such claim or action. Macrophage shall have the right to control the defense of any such claim or action, at its own expense. The Indemnified Person or Persons agree to cooperate with Macrophage in the defense of such claim or action. Failure of the Indemnified Person to notify Macrophage as required above or to cooperate with Macrophage, which failure materially adversely affects Macrophage's ability to defend such claim or action or directly results in Macrophage incurring liability hereunder, shall relieve Macrophage from any obligation of indemnification hereunder.

## **8. TERM, DEFAULT, AND TERMINATION.**

**8.1 Term.** The term of this Agreement will commence on the effective date hereof and end on the Project Completion Date.

**8.2 Macrophage Noncompliance.** In the event Macrophage is late in the payment of any amounts due UTSCC hereunder, UTSCC may (a) suspend its research and development efforts hereunder until all such past due amounts are paid in full, and/or (b) on not less than sixty (60) days prior written notice to Macrophage terminate this Agreement and all the rights and obligations of the parties hereunder (other than the obligations described in Section 8.6 hereof and the obligation to pay any amounts past due and owing) shall terminate, unless all such past due amounts are paid in full within such notice period.

**8.3 UTSCC Noncompliance.** In the event of any failure to perform or comply with any of UTSCC's obligations hereunder, Macrophage may, on not less than sixty (60) days prior written notice to UTSCC specifying such nonperformance or noncompliance, may terminate this Agreement and all the rights and obligations hereunder (other than the obligations described in Section 8.6 hereof and the obligation to pay any amounts past due and owing) of the parties shall terminate, unless such nonperformance or noncompliance is corrected within such notice period; provided that if such nonperformance or noncompliance cannot be corrected within such notice period, this Agreement will continue if and for so long as UTSCC commences within such notice period and continues its best efforts to correct such nonperformance or non-compliance.

**8.4 Discontinuance of Business, Bankruptcy.** In the event either Macrophage or UTSCC (a) discontinues business, (b) applies for or consents to appointment of a receiver, trustee or liquidator for it or all or a substantial portion of its assets, (c) has filed against it an involuntary petition in bankruptcy which is not dismissed or stayed within one hundred twenty (120) days of filing, or (d) files a voluntary petition in bankruptcy or a petition or answer seeking reorganization or an arrangement with creditors or seeking to take advantage of any other law (whether federal or state) relating to relief of debtors, then at any time thereafter for so long as such event continues in effect, UTSCC, with respect to any such action by or against Macrophage, and Macrophage, with respect to any such action by or against UTSCC, may terminate this Agreement with respect to such defaulting party upon written notice thereof to the defaulting party.

**8.5 Project Failure.** In the event that Macrophage determines in its reasonable business judgment after consultation with UTSCC that the Project cannot be successfully completed, or that the Proprietary Property, the Improvements and Products as completed will have insufficient commercial value (due, for example, to anticipated costs of completion of development or market factors) to warrant further investment by Macrophage, or that Macrophage cannot obtain sufficient acceptable financing required for further development efforts, or for any other reason, Macrophage may terminate this Agreement on sixty (60) days prior written notice to UTSCC and all the rights and obligations of the parties hereunder (other than the obligations described in

Section 8.6 hereof and the obligation to pay any amounts past due and owing) shall terminate.

**8.6 Survival of Obligations.** The obligations of Macrophage under Article 3 for Actual Costs incurred prior to expiration or termination of this Agreement, the confidentiality obligations of Article 4 and Section 6.3, the provisions of Articles 5 and 7 and any other provisions of this Agreement which by their terms extend beyond termination or expiration of this Agreement will survive termination or expiration of this Agreement.

**9. MISCELLANEOUS**

**9.1 Assignability.** The rights, duties, benefits, privileges and obligations of this Agreement may not be assigned by either the UTSCC or Macrophage.

**9.2 Entire Agreement.** Together with the License Agreement, this Agreement sets forth the entire agreement of the parties with respect to the subject matter hereof, and this Agreement may not be modified except by a writing signed by authorized representatives of the parties hereto.

**9.3 Validity of Provisions, Severability.** If any provision of this Agreement is, becomes or is deemed invalid, illegal, or unenforceable in any jurisdiction, (a) such provision will be deemed amended to conform to applicable laws of such jurisdiction so as to be valid and enforceable or, if it cannot be so amended without materially altering the intention of the parties, it will be stricken, (b) the validity, legality and enforceability of such provision will not in any way be affected or impaired thereby in any other jurisdiction, and (c) the remainder of this Agreement will remain in full force and effect.

**9.4 Governing Law.** This Agreement and the rights of the parties hereunder shall be governed by and interpreted in accordance with the laws of the State of Texas.

**9.5 Counterparts.** This Agreement may be executed in any number of counterparts, each of which will be deemed an original and all of which will constitute together but one and the same document.

**9.6 Effective Date.** This Agreement shall be effective as of the date of execution hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the 1<sup>st</sup> day of October, 1986.

THE MACROPHAGE COMPANY, INC.

By: [Signature]

THE UNIVERSITY OF TEXAS SYSTEM  
CANCER CENTER

"UTSCC"

By: Stanley C. Speltz  
Name: \_\_\_\_\_  
Title: KXCC Vice President



EXHIBIT A

SCOPE OF WORK

The general scope of this research and development contract will be to purify and isolate the genes encoding cytotoxins derived monocytes and macrophages by cloning and standard purification techniques. This will include attempts to purify a murine-derived-macrophage-mitochondrial-respiration-inhibitory-factor (RIF), and to identify it in human monocytes and monocytic cell lines.

The molecular and chromatographic approach will involve: (a) isolation of RIF in mRNA, (b) construction of cDNA and genomic library, (c) subtraction cDNA cloning, and (d) alternatively, to use cosmid vectors for the isolation, expression, and rescue of RIF gene(s).

A similar strategy will be used for the isolation of a human monocyte cytotoxin (human B-HMT).

The factors are embodied in the patent applications listed on Schedule 1 to the Exclusive License Agreement. Throughout the 2-year period, the Scope of Work will include efforts to identify improvements in the processes to isolate these factors.

These efforts may also result in the isolation and characterization of other factors not as yet described.



EXHIBIT B

BUDGET

<u>Paid to UTSCC</u>	<u>Year 1</u>	<u>Year 2</u>	<u>Subtotal</u>
Salaries and Fringe			
Benefits	\$133,894	\$162,204	\$296,098
Supplies	15,000	16,500	31,500
Animals	7,750	8,525	16,275
Institutional Overhead	-0-	<u>69,127</u>	<u>69,127</u>
	<u>\$156,644</u>	<u>\$256,356</u>	<u>\$413,000</u>
<u>Direct Purchases Pro-</u>			
<u>vided by Macrophage:</u>			
Supplies			\$ 31,500
Animals			16,275
Equipment			<u>84,000</u>
			\$131,775
Contingency			<u>\$ 55,225</u>
TOTAL FUNDING COMMITMENT			\$600,000
<u>Annual Budgeted Amounts</u>			
\$156,644	Year 1		
187,229	Year 2		
69,127	4th Payment, Year 2		

SCHEDULE I  
to  
EXCLUSIVE LICENSE AGREEMENT

1. "Methods and Compositions for the Inhibition of Tumor Cell Proliferation", U.S. Serial No. 794,348. Filed November 1, 1985.
2. "Human Monocyte Derived Soluble Factors with Tumoricidal Properties". Patent Application Recommended by UTSCC Patent Committee on August 11, 1986.

REPORT AND RECOMMENDATIONS OF THE FINANCE AND AUDIT COMMITTEE (Pages 69 - 70).--Committee Chairman Yzaguirre reported that the Finance and Audit Committee had met in open session to consider those matters on its agenda and to formulate recommendations for the U. T. Board of Regents. Unless otherwise indicated, the actions set forth in the Minute Orders which follow were recommended by the Finance and Audit Committee and approved in open session and without objection by the U. T. Board of Regents:

1. U. T. System: Approval of Docket No. 32 of the Office of the Chancellor (Catalog Change).--Upon recommendation of the Finance and Audit Committee, the Board approved Docket No. 32 of the Office of the Chancellor in the form distributed by the Executive Secretary. It is attached following Page 117 in the official copies of the Minutes and is made a part of the record of this meeting.

It was expressly authorized that any contracts or other documents or instruments approved therein had been or shall be executed by the appropriate officials of the respective institution involved.

It was ordered that any item included in the Docket that normally is published in the institutional catalog be reflected in the next appropriate catalog published by the respective institution.

Regent Hay abstained from voting on items within the Docket related to Exxon Corporation due to a possible conflict of interest.

2. U. T. Board of Regents - Regents' Rules and Regulations, Part Two: Amendments to Chapter V, Section 2.3, Subsection 2.32 (Overtime).--In order to comply with federal law and the State Appropriations Bill, the Board amended the Regents' Rules and Regulations, Part Two, Chapter V, Section 2.3, Subsection 2.32 related to overtime compensation to read as follows:

2.3 Overtime.

2.31 The schedule of activities shall be so organized that employees are not required to work in excess of established work periods except when operating necessities demand it. Any overtime services actually required must have the advance written approval of the chief administrative officer or the chief business officer, or both.

2.32 With the exception of professional medical personnel and bona fide executive, administrative, and professional positions, all employees required or permitted to work in excess of forty hours per week shall be compensated for such overtime either:

2.321 By receiving compensatory time off at the rate of one and one-half (1½) hours off for each hour of overtime, subject to the accrual limitation of 480 hours in the case of personnel engaged in public safety or emergency

response activities; or 240 hours for other categories of employees. Such compensatory time off shall be granted at a mutually convenient date anytime during the twelve month period following the end of the workweek in which such compensatory time is accrued, or during a shorter time period as specified by the component institution; or

2.322 In cases where granting compensatory time is impracticable, by receiving pay equivalent to one and one-half times the regular rate of pay.

2.33 Compensatory time for those employees excepted from this provision shall be determined by the chief administrative officer of the institution involved.

2.34 Institutions paying overtime shall maintain a monthly record of overtime paid indicating the number of employees so compensated and the total amount paid.

3. U. T. System: Appropriation of Funds for the 74th Board for Lease Oil and Gas Lease Sale on Permanent University Fund Lands.--At the request of the Board for Lease of University Lands, approval was given to appropriate \$30,000 for expenses in connection with its 74th Oil and Gas Lease Sale on Permanent University Fund Lands which was held in Midland, Texas, on January 29, 1987.

Article 66.65(c) of the Texas Education Code authorizes allocation of a special fee equal to one percent of the total sum of each successful bid on oil and gas leases to be used to defray the expenses of oil and gas lease sales. Monies from prior sales are available to pay these expenses.

4. U. T. System: Report by Chancellor Hans Mark on General Revenue Savings Program in Response to Senate Bill 1, Third Called Session, 69th Legislature.--Committee Chairman Yzaguirre called on Chancellor Mark for a status report on the General Revenue savings program for The University of Texas System which was originally adopted in response to Governor White's Executive Order MW-36 and later incorporated into the provisions of Senate Bill 1, Third Called Session, 69th Legislature.

Chancellor Mark distributed to the Board a Summary of General Revenue Spending Reductions as of February 28, 1987, a copy of which is on file in the Office of the Board of Regents.

REPORT AND RECOMMENDATIONS OF THE ACADEMIC AFFAIRS COMMITTEE (Pages 71 - 78).--In the absence of Committee Chairman Baldwin, Committee Vice-Chairman Milburn reported that the Academic Affairs Committee had met in open session to consider those matters on its agenda and to formulate recommendations for the U. T. Board of Regents. Unless otherwise indicated, the actions set forth in the Minute Orders which follow were recommended by the Academic Affairs Committee and approved in open session and without objection by the U. T. Board of Regents:

1. U. T. Austin: Appointment of (a) Dr. Daniel Acosta, Jr. as Initial Holder of the Alcon Centennial Professorship in Pharmacy in the College of Pharmacy Effective Immediately, (b) Dr. Steven W. Leslie to the Coulter R. Sublett Professorship in Pharmacy in the College of Pharmacy Effective Immediately, (c) Dr. Robert S. Boyer as Initial Holder of the Mike A. Myers Centennial Professorship in Computer Sciences in the College of Natural Sciences Effective September 1, 1987, and (d) Dr. Sheila M. Fitzpatrick as Initial Holder of the Oliver H. Radkey Regents Professorship in History in the College of Liberal Arts Effective September 1, 1987.-- The Board approved the following appointments to endowed academic positions at The University of Texas at Austin effective as indicated:
  - a. College of Pharmacy effective immediately
    - (1) Dr. Daniel Acosta, Jr., Professor, College of Pharmacy, as initial holder of the Alcon Centennial Professorship in Pharmacy
    - (2) Dr. Steven W. Leslie, Professor, College of Pharmacy, to the Coulter R. Sublett Professorship in Pharmacy
  - b. College of Natural Sciences effective September 1, 1987  

Dr. Robert S. Boyer, Professor of Computer Sciences, as initial holder of the Mike A. Myers Centennial Professorship in Computer Sciences
  - c. College of Liberal Arts effective September 1, 1987  

Dr. Sheila M. Fitzpatrick, Professor of History, as initial holder of the Oliver H. Radkey Regents Professorship in History.
2. U. T. El Paso - College of Engineering Industrial Advisory Council: (a) Acceptance of Membership and (b) Approval of Nominees Thereto.--At the October 1984 U. T. Board of Regents' meeting, nominees were approved for initial membership on the College of Engineering Industrial Advisory Council at The University of Texas at El Paso. The acceptance of membership by those listed on Page 72 is herewith reported for the record.

Term Expires

Mr. Federico Barrio T., Ciudad Juarez, Mexico	1987
Mr. Tony G. Conde, El Paso	1987
Mr. Kenneth Farah, El Paso	1989
Mr. Hector Holguin, El Paso	1987
Mr. Richard Michel, El Paso	1988
Mr. Frederick H. Mitchell, El Paso	1987
Mr. Henry Neil, El Paso	1989
Mr. Edward D. Nelson, El Paso	1989
Mr. Michael A. Tantimonaco, El Paso	1988
Mr. Hector Barrio Terrazas, El Paso	1988
Mr. Ignacio R. Troncosco, El Paso	1988
Mr. James A. Wise, White Sands Missile Range, NM	1987
Mr. Tony Woo, El Paso	1987

Additional nominees for membership to the College of Engineering Industrial Advisory Council at The University of Texas at El Paso were approved as set forth below:

- a. One nominee for term to expire in 1987
- b. Six nominees for terms to expire in 1988
- c. Three nominees for terms to expire in 1989
- d. Seven unfilled terms (to be determined).

The names of the nominees will be reported for the record after they have been contacted and have accepted the appointments.

3. U. T. San Antonio: Approval of Teaming Agreement with the Systems Research Laboratories, Inc. (SRL), Dayton, Ohio.--Approval was given to the Teaming Agreement set out on Pages 73 - 78 by and between The University of Texas at San Antonio and the Systems Research Laboratories, Inc. (SRL), Dayton, Ohio.

This agreement, executed by the appropriate officials of the institution and facility to be effective upon approval by the U. T. Board of Regents, is to establish a working team relationship between the parties to join their skills to prepare proposals in the area of life sciences for submission to the U. S. Government and to obtain the award of contracts to SRL for projects for which U. T. San Antonio will act as a subcontractor. In effect, U. T. San Antonio is to participate in the preparation of research proposals by SRL and then bid on subcontract research work with SRL. All U. T. San Antonio costs, direct and indirect, are to be covered.

TEAMING AGREEMENT

THIS AGREEMENT is effective this 12th day of February, 1987,  
between:

SYSTEMS RESEARCH LABORATORIES, INC.  
(hereinafter called "SRL"), a corporation  
organized and existing under the laws of  
the State of Ohio, with Offices in Dayton,  
Ohio,

and

THE UNIVERSITY OF TEXAS AT SAN ANTONIO  
(hereinafter referred to as "UTSA"), a  
state supported institution of higher  
education located in Bexar County, Texas.

1. The intent and purpose of this Agreement, which constitutes the entire agreement between the parties and supercedes any previous understandings, commitments, or agreements, oral or written, which includes all phases of the project (hereinafter called "Project"), is to establish a working team relationship between the parties to join their skills to prepare proposals for submission to the U.S. Government and to obtain the award of contract for the Project. This is a teaming agreement as contemplated by and subject to limitations in FAR 9.6.
2. SRL is and will be preparing a proposal(s) in response to the requirements of the Project. It is understood that each party will, in its sole judgment, exert reasonable effort to prepare a proposal(s) which will result in selection by the Government of SRL as prime contractor and of UTSA as the subcontractor for the Project. Each party agrees to continue to exert such reasonable effort, in its sole judgement, toward this objective throughout any briefings, presentations, and negotiations concerning a proposed contract which may follow the submission of the proposal(s).

It is therefore agreed that UTSA will team with SRL in all proposal efforts for the Project, and will assist and cooperate with SRL in SRL's effort to bring about an award of the contract to the team (prime and subcontract).

3. It is agreed that SRL will have responsibility for the preparation of the proposal(s) to the Government as the prime contractor and with UTSA as subcontractor. During the term of this Agreement, SRL shall endeavor to secure the prime contract for the Project, and UTSA shall use its efforts to assist SRL in achieving this result.
4. UTSA also agrees to furnish reasonable information, data, and support which the parties agree will assist SRL in integrating the work to be performed by UTSA into the proposal for each phase of the Project.
5. UTSA will furnish SRL with a proposal for the technical, analytic, and engineering services to be provided in support of performance of the Project. This shall include technical data, program management, and pricing information as may be required by the Government Solicitation, in sufficient detail to permit accurate costing of a prime contract and negotiation of the subcontract. It is understood that SRL in coordination with UTSA will decide on the exact form and content of the final document to be submitted to the Government.
6. During proposal preparation and contract negotiations, or prior to award for the Project, SRL may require additions, deletions, or modifications to the SRL or UTSA portion. UTSA will be notified by SRL of the additions, deletions, or modifications desired to the UTSA effort and subject to agreement thereon by the parties, UTSA will participate in the revisions thereto, including price revisions.
7. In the event of an award to SRL of a contract for the Project, SRL will offer and UTSA will accept a subcontract to perform work and render services required by the prime contractor in accordance with the description of UTSA's responsibilities as were defined by mutual agreement prior to proposal submission. The subcontract will be a basic agreement, embodying provisions consistent with the prime



contract and those provisions mutually agreed upon. SRL will then issue specific work requirements to UTSA in the form of task assignments, as they may arise, against the basic subcontract and contain Statement of Work, Price, and Schedule.

8. All news releases, public announcements, advertising or publicity released related to this Project by either SRL or UTSA shall be done in accordance with the terms and approval procedures of the ensuing prime contract with the U.S. Government.
9. This Agreement is not intended to constitute, create, give effect to, or otherwise recognize a joint venture, partnership, or formal business entity of any kind and the rights and obligations of the parties shall be limited to those expressly set forth herein. Nothing herein shall be construed as providing for the sharing of profits or losses arising out of the efforts of either or both parties.

Neither SRL or UTSA will be liable to the other for any of the costs, expenses, risks, or liabilities arising out of the other company's effort in connection with preparation of its portion of the proposal, nor for the expenses incurred in any precontract presentations required by the Government. Each party shall act as an independent contractor and not as an agent of the other for any purpose whatsoever, and neither party shall have any authority to bind the other except as specifically set forth herein.

10. This Agreement may not be assigned or otherwise transferred by either party in whole or in part without the expressed prior written consent of the other party.

11. Except as otherwise stated, this agreement will terminate upon the occurrence of any of the following events:

- (a) If the Government notifies SRL that it has been eliminated from consideration for award as prime contractor on any phase of the Project; or
- (b) If SRL does not receive award of a contract within two years of the proposal for any phase; or
- (c) If a prime contract for the Project shall be awarded to any company other than SRL; or
- (d) Cancellation or withdrawal by the Government of the requirements of the project; or
- (e) If either UTSA or SRL becomes insolvent or makes a general assignment for the benefit of creditors or if either UTSA or SRL is adjudged bankrupt, under the bankruptcy Act.

12. UTSA and SRL agree that as to all inventions which are or may be patentable, made in the performance of any phase of the Project, by one or more employees of one of the parties, the respective employer shall have, subject to any rights of the employee and subject to the rights of the Government, exclusive right to file for a patent thereon, and no rights whatsoever under any resulting issued patent shall accrue to the other party. Rights as to inventions jointly conceived by employees of UTSA and SRL shall be as mutually agreed upon. No license whatsoever, expressed or implied, under any inventions or patents, shall pass hereunder between the parties.

13. Any notice expressly provided for under the Agreement shall be in writing, shall be given either manually or by mail, telegram, radiogram, or cable, and shall be deemed sufficiently given if and when received by the party to be notified at its address set forth below or if and when mailed by registered or certified mail, postage paid, addressed to such party at such address. Either party may, by notice to the other, change its address for receiving such notice.

If to SRL:       Systems Research Laboratories, Inc.  
                  2800 Indian Ripple Road  
                  Dayton, Ohio 45440-3696  
                  Attn:

If to UTSA:       The University of Texas at San Antonio  
                  Office of Sponsored Projects  
                  San Antonio, Texas 78285  
                  Attn: Carol Hollingsworth

14. This Agreement and any contracts executed pursuant to the provisions contained herein are subject to the laws of the State of Texas and The Rules and Regulations of the Board of Regents of The University of Texas System. ;

15. This Agreement shall become effective upon the approval and execution by the Board of Regents of The University of Texas System and an appropriate officer of System Research Laboratories, Inc. who has been delegated the authority to approve such agreements on behalf of the corporation. If so executed, this Agreement shall continue in effect for an initial term of five (5) years after the date and year first above written, and after such initial term shall continue in effect from year to year unless one party shall have given one hundred and eighty (180) days' prior written notice to the other party of intention to terminate this Agreement. This Agreement and

any specific project or grant contracts executed pursuant thereto shall terminate for all purposes one hundred and eighty (180) days after such notice is given.

EXECUTED by the Board of Regents of The University of Texas System and System Research Laboratories, Inc. on the day and year first above written, in duplicate copies, each of which shall be deemed an original.

THE UNIVERSITY OF TEXAS AT  
SAN ANTONIO

ATTEST: \_\_\_\_\_

BY: James A. Hagerman  
TITLE: President

ATTEST: Thomas A. Hagerman

SYSTEMS RESEARCH LABORATORIES, INC.  
BY: William R. Smith  
TITLE: VICE PRESIDENT

FORM APPROVED:

John L. Danovist

BOARD OF REGENTS OF THE UNIVERSITY  
OF TEXAS SYSTEM

BY: James P. Duncan James P. Duncan  
Executive Vice Chancellor

CERTIFICATE OF APPROVAL for Academic Affairs

I hereby certify that the foregoing Agreement was approved by the Board of Regents of The University of Texas System on the 12th day of February, 1986? and that the person whose signature appears above is authorized to execute such agreement on behalf of the Board.

Arthur H. Kelly  
Executive Secretary, Board of Regents  
The University of Texas System

REPORT AND RECOMMENDATIONS OF THE HEALTH AFFAIRS COMMITTEE (Pages 79 - 94).--Committee Chairman Briscoe reported that the Health Affairs Committee had met in open session to consider those items on its agenda and to formulate recommendations for the U. T. Board of Regents. Unless otherwise indicated, the actions set forth in the Minute Orders which follow were recommended by the Health Affairs Committee and approved in open session and without objection by the U. T. Board of Regents:

1. U. T. System: Approval to Increase Institutional Premium Rates for The University of Texas System Professional Medical Malpractice Self-Insurance Plan Effective September 1, 1987.--Upon recommendation of the Health Affairs Committee, approval was given to increase the institutional premium rates for The University of Texas System Professional Medical Malpractice Self-Insurance Plan effective September 1, 1987, as follows:

<u>Risk Class</u>	<u>Premium Rates</u>	
	<u>Effective September 1, 1987</u>	
	<u>Staff</u>	<u>Resident</u>
1	\$1,080	\$ 720
2	1,770	1,170
3	3,030	2,010
4	4,920	3,270
5	8,160	5,430

This 150% increase in Self-Insurance Plan premiums will still leave the annual premiums contributed by each University of Texas System physician's department far below what is charged by commercial carriers.

2. U. T. Austin, U. T. Health Science Center - San Antonio, and U. T. Cancer Center: Approval of General Operating Policy for the Texas AntiCancer Drug Development Consortium (TADDC).--The Board, upon recommendation of the Health Affairs Committee, approved a General Operating Policy for the Texas AntiCancer Drug Development Consortium (TADDC) as set out on Pages 80 - 84 for and on behalf of The University of Texas at Austin, The University of Texas Health Science Center at San Antonio, and The University of Texas System Cancer Center.

The Texas AntiCancer Drug Development Consortium will operate under the direction and control of the U. T. Board of Regents. The General Operating Policy provides that TADDC will consist initially of U. T. Austin, U. T. Health Science Center - San Antonio, and the U. T. Cancer Center. Other component institutions of the U. T. System may join TADDC upon request of the president of such institution, subject to approval by the U. T. Board of Regents.

Member institutions (including all faculty and employees who participate in the TADDC activities) will comply with the Regents' Rules and Regulations; with the Regents' policies and guidelines for sponsored research agreements, patent license agreements, and for marketing intellectual property; and with the rules, regulations and procedures of the respective members.

TADDC will cooperate with the Office of Asset Management and the Office of General Counsel in transferring the resultant products and technology to the marketplace for the betterment of patients requiring medical care.

General Operating Policy For The  
Texas AntiCancer Drug Development Consortium

The Texas AntiCancer Drug Development Consortium ("Consortium") is established for the purposes of discovering, developing, synthesizing and testing anticancer drug compounds, and for transferring the resultant technology to the marketplace for the betterment of patients requiring medical care. The Consortium will comprise The University of Texas at Austin, The University of Texas Health Science Center at San Antonio and The University of Texas System Cancer Center, and such other component institutions of The University of Texas System (Members) as may later desire to join and participate in this drug development effort.

In achieving the objectives of the Consortium, the Members will adhere to the following organizational, administrative and operational guidelines and procedures:

I. Organization and Administration

- A. The Consortium shall be a voluntary, cooperative effort among its constituent Members for the purposes herein described and shall operate under the direction and control of the Board of Regents of The University of Texas System.
- B. The Members and their faculty and employees participating in the activities of the Consortium shall comply with the rules, regulations and procedures of their respective component institutions and with the Regents' Rules and Regulations and the Regents' Policy and Guidelines for the Negotiation, Review and Approval of Sponsored Research Projects with Nonprofit and for Profit Non-Governmental Entities; Policy and Guidelines Relating to Intellectual Property License Agreements with Private Entities, including those Formed Primarily for the Development and/or Commercialization of Intellectual Property Created at a Component Institution of the U.T. System; Policy and Guidelines for Management and Marketing of Intellectual Property.
- C. The Consortium shall be managed by an Executive Committee which shall be comprised of two (2) representatives from each Member institution. The Executive Committee shall be empowered to establish internal policies and procedures, to prepare plans and strategies, and to conduct operations as are permitted herein for the Consortium.
- D. Members of the Executive Committee shall be appointed by the President of each respective Member institution. Such appointments shall be made no later than August 1 of each year, to be effective for the fiscal year beginning September 1 thereafter. Without intending to limit the discretion of the administration of each Member to appoint representatives of its choosing, it is envisioned that the President of each Member shall appoint one management representative and one scientific representative to serve on the Executive Committee.

- E. The Executive Committee shall meet not less frequently than once each six-month period at a location of its choosing, and shall maintain a written record of its proceedings and actions. Not less often than once each year, appropriate executive officers of the Member institutions and of The University of Texas System Administration shall be invited to an Executive Committee meeting for the purpose of being informed about the Consortium's progress and activities.
- F. The Executive Committee shall appoint a Scientific Advisory Committee of not fewer than three (3) nor more than twelve (12) members to assist in reviewing matters of scientific relevance to the Consortium. Employees of component institutions who are appointed by the Executive Committee to the Scientific Advisory Committee shall serve subject to approval by the President of such institution. The Scientific Advisory Committee shall have an equal number of representatives from each Member and shall meet at the call of the Executive Committee or at such time and at such location as it may deem necessary.
- G. The Executive Committee shall appoint a Financial Advisory Committee of not fewer than three (3) nor more than twelve (12) members to assist in reviewing matters of financial or administrative relevance to the Consortium. Employees of component institutions who are appointed by the Executive Committee to the Financial Advisory Committee shall serve subject to approval by the President of such institution. The Financial Advisory Committee shall have an equal number of representatives from each Member and shall meet at the call of the Executive Committee or at such time and at such location as it may deem necessary.
- H. The Executive Committee may appoint from its membership such other standing or ad hoc committees or subcommittees as it considers necessary for achieving the objectives of the Consortium.
- I. The Administrative Coordinator of the Consortium shall have responsibility for maintaining and disbursing sponsored research funds received in the name of the Consortium, for preparing accounting reports, and for coordinating the dissemination of information to Consortium Members. The University of Texas System Cancer Center shall serve initially as the Administrative Coordinator of the Consortium. Subject to approval of the Office of the Chancellor of The University of Texas System, the Executive Committee shall have the right to designate a different Administrative Coordinator if such designation is later found to be desirable or necessary for better achieving the objectives of the Consortium.

## II. Accounting

- A. The Executive Committee shall prepare a Consortium budget describing estimated income and expenditures for each fiscal year. Policies and procedures for the administration of such budget shall also be prepared, and shall be consistent with this General Operating Policy. The annual budget, policies and procedures of the Consortium shall be submitted for approval by the Board of Regents.
- B. The Administrative Coordinator of the Consortium shall be authorized to make payment from Consortium funds for research support and for other out-of-pocket expenses of the Consortium which may be approved by the Executive Committee.
- C. The Consortium shall have no authorization to borrow funds, and it shall not allocate funds to exceed available cash amounts.

## III. Solicitation of Funds

- A. The University of Texas System Cancer Center shall serve as a coordinator for the solicitation of funds on behalf of the Consortium, though each Member shall be free to make such inquiries and contacts with third parties as it deems beneficial for the Consortium.

## IV. Allocation of Consortium Funds for the Support of Sponsored Research

- A. Member institutions of the Consortium, not individual staff members, may make application to the Executive Committee for funds to support specific projects. In so doing, individual staff members will comply with policies and procedures established at such Member institutions for prior review and submission of research grants to third-party sources. In this role, the Consortium shall serve as a third-party funding source, and each Member's application for funding may include an amount for institutional overhead at a negotiated rate between the Member organization and the Consortium, but not to exceed that charged by the member for federal grants and contracts. In no instance shall the Consortium levy an additional overhead charge on such research projects.
- B. As monies are available to support research activities of the Consortium, the Executive Committee shall conduct such evaluations and seek such advice as it considers necessary to determine the proper allocation of funds.



V. Patents and Licensing

- A. Inventions, discoveries and other technology arising out of research sponsored by the Consortium shall be referred to the Patent Committee of the appropriate Member institution for handling in accordance with the Regents' Rules and Regulations. The Consortium will actively involve and cooperate with the administrations of its Member institutions, the Office of Asset Management and the Office of General Counsel in negotiating research agreements and licensing agreements on behalf of the Consortium between the Board of Regents of The University of Texas System and third parties.

VI. Withdrawal or Addition of Members

- A. Other component institutions of The University of Texas System shall be added as Members to the Consortium upon request made by the president, subject to approval by the U. T. Board of Regents. In the event that a member organization should wish to withdraw from the Consortium, the Executive Committee shall work with the appropriate officials of such Member institution to effect a timely and proper withdrawal from the Consortium.

VII. Distribution of Earnings

- A. It is anticipated that earnings, royalties, fees and other income shall accrue to the Board of Regents of The University of Texas System from the licensing of discoveries and inventions made through research funded by the Consortium. After deductions from such income for appropriate costs and expenses as may be permitted under the Regents' Rules and Regulations and the Handbook of Operating Procedures for the respective Member institutions, the resulting income from each individual licensed matter shall be allocated as follows:
1. The inventor(s) will receive that portion of such income as is prescribed by the Handbook of Operating Procedures for that inventor's Member institution.
  2. The remainder of such income after payments to the inventor(s) under A.1. above shall be applied as follows, subject to the approval of the President of each Member institution whose staff and/or employees participated in making the invention, and with the concurrence of the Office of the Chancellor:
    - a. At least 20% to be paid to the Member institution(s) whose staff and/or employees participated in making the invention. Where multiple Member institutions are involved, the amount of earnings shall be divided equally among such Members without regard to the number of participating inventors at each.

- b. Up to 75% to be retained by the Consortium for its use in funding future projects and/or Consortium operations.
  - c. Up to 5% to be paid to the Administrative Coordinator for its management and administrative support of the Consortium.
- B. The Consortium shall keep such records of its earnings and expenses as to enable The University of Texas System Administration to make proper distribution for the above, and such distribution shall be made not more than thirty (30) days following the receipt of funds from a licensee.

VIII. Term and Dissolution

- A. The Consortium shall operate until such time as it is dissolved by the agreement of its Members, by an executive decision of the Office of the Chancellor, or by action of the Board of Regents of The University of Texas System.
- B. Upon dissolution of the Consortium, it shall first be obligated to pay all outstanding proper expenses incurred by it and shall then dispose of its remaining assets by distributing substantially equal portions thereof to its Members.

3. U. T. Health Science Center - Dallas: Appointment of (a) John C. Vanatta, M.D., as Initial Holder of the Robert W. Lackey Professorship in Physiology and (b) Alfred G. Gilman, M.D., as Initial Holder of the Raymond and Ellen Willie Chair in Molecular Neuropharmacology Effective Immediately.--Approval was given to appoint the following individuals to endowed academic positions at The University of Texas Health Science Center at Dallas effective immediately:
- a. John C. Vanatta, M.D., Professor of Physiology, initial holder of the Robert W. Lackey Professorship in Physiology
- See Page 112 related to the redesignation of this Professorship.
- b. Alfred G. Gilman, M.D., Professor and Chairman, Department of Pharmacology, initial holder of the Raymond and Ellen Willie Chair in Molecular Neuropharmacology
- See Page 112 related to the establishment of this Chair.
4. U. T. Medical Branch - Galveston: Appointment of Derek M. Prinsley, M.D., as Initial Holder of the George and Cynthia Mitchell Distinguished Professorship in Geriatrics Effective September 1, 1986.--Authorization was granted to appoint Derek M. Prinsley, M.D., Visiting Professor of Clinical Medicine/Director of Geriatrics, as initial holder of the George and Cynthia Mitchell Distinguished Professorship in Geriatrics at The University of Texas Medical Branch at Galveston effective September 1, 1986.
5. U. T. Health Science Center - Houston: Appointment of (a) Harvey S. Rosenberg, M.D., as Initial Holder of the Chair in Pediatric Pathology and (b) Richard J. Andrassy, M.D., as Initial Holder of the A. G. McNeese Chair in Pediatric Surgery Effective Immediately.--Upon recommendation of the Health Affairs Committee, the Board approved the following appointments to endowed academic positions at The University of Texas Health Science Center at Houston effective immediately:
- a. Harvey S. Rosenberg, M.D., Professor of Pathology and Pediatrics, initial holder of the Chair in Pediatric Pathology
- See Page 113 related to the establishment of this Chair.
- b. Richard J. Andrassy, M.D., Professor and Director, Division of Pediatric Surgery, initial holder of the A. G. McNeese Chair in Pediatric Surgery.

6. U. T. Cancer Center: Appointment of (a) Jordan U. Gutterman, M.D., as Initial Holder of the Virginia H. Cockrell Professorship in Immunology Effective January 1, 1987, and (b) Benoit de Crombrughe, M.D., as Initial Holder of the Paul and Mary Haas Chair in Genetics in Honor of Amanda Marie Whittle Effective February 1, 1987.--The Board appointed the following individuals to endowed academic positions at The University of Texas System Cancer Center effective as indicated:

- a. Jordan U. Gutterman, M.D., Chairman, Department of Clinical Immunology, initial holder of the Virginia H. Cockrell Professorship in Immunology effective January 1, 1987
- b. Benoit de Crombrughe, M.D., Professor and Chairman, Department of Genetics, initial holder of the Paul and Mary Haas Chair in Genetics in Honor of Amanda Marie Whittle effective February 1, 1987.

See Page 114 related to the redesignation of this Chair.

7. U. T. Cancer Center: Approval of Standard Affiliation Agreement and Standard Community Clinical Oncology Program Agreement for Use Related to the National Cancer Institute's Community Clinical Oncology Program and Authorization for the President to Execute on Behalf of the U. T. Board of Regents.--Upon recommendation of the Health Affairs Committee, the Board:

- a. Approved the Standard Affiliation Agreement set out on Pages 87 - 89 and Standard Community Clinical Oncology Program Agreement set out on Pages 90 - 94 for use by The University of Texas System Cancer Center related to the National Cancer Institute's Community Clinical Oncology Program
- b. Authorized the President of the U. T. Cancer Center to execute substantially equivalent instruments on behalf of the Board and to report these via the Docket.

All agreements are expressly conditioned on approval by the National Cancer Institute and its grant support for U. T. Cancer Center as a research base.

The affiliation agreements provide for collaboration concerning protocols, for specific program agreements, for nonassumption of the other's liabilities, for express denial of indemnification, and for amendments, notices, and other standard provisions.

The community clinical oncology program agreements provide for collaboration, for quality assurance measures, for separate budgets and adherence to financial requirements of the National Cancer Institute, for confidentiality of patient information, and set out express responsibilities for the affiliating entity as well as for the U. T. Cancer Center. The program agreements are all subject to the related affiliation agreements.

The U. T. Cancer Center Docket for the April 1987 meeting will report the approval of affiliation agreements and program agreements with 26 clinical oncology groups conditioned upon the Regental approval of these standard forms and delegated authority to execute.

STANDARD FORM

AFFILIATION AGREEMENT

This AGREEMENT made the \_\_\_\_\_ day of \_\_\_\_\_, 1986 by and between THE UNIVERSITY OF TEXAS SYSTEM CANCER CENTER ("CANCER CENTER"), a component institution of The University of Texas System, ("SYSTEM"), and \_\_\_\_\_ COMMUNITY CLINICAL ONCOLOGY PROGRAM ("CCOP"), located at \_\_\_\_\_

WITNESSETH:

WHEREAS, Cancer Center is recognized as a comprehensive cancer center with world-renowned expertise in the diagnosis, treatment and research of cancer diseases; and

WHEREAS, Cancer Center has extensive research expertise in the field of cancer diseases and cancer control, and by reason thereof has available a number of approved clinical protocols with applicability and use in community physician groups; and

WHEREAS, CCOP has formed as a consortium to aid in the delivery of modern research advances in the field of cancer to its patients; and

WHEREAS, Cancer Center and CCOP agree on the desirability of establishing collaborative activities between their organizations under the Community Clinical Oncology Program of the National Cancer Institute.

NOW, THEREFORE, with these objectives in mind Cancer Center and CCOP agree as follows:

1. Each party to this Agreement shall prepare a specific program proposal under the Community Clinical Oncology Program and apply for funding thereof to the National Cancer Institute. Failure by either party to this agreement to obtain such funding and to have available thereunder sufficient funds to meet the financial requirements for collaboration shall immediately negate this Agreement.
2. Cancer Center shall collaborate with CCOP by making approved clinical trial protocols and cancer control research protocols available for its use, and participate with CCOP in the community oncology program as is necessary. This participation shall include, but not be limited to, assisting in the development and review of new and existing protocols, enforcing appropriate quality control measures for clinical research under the program, aiding in the formulation and delivery of training and educational activities, and other related activities.

3. For the conduct of specific activities hereunder, Cancer Center and \_\_\_\_\_ CCOP shall prepare various Program Agreements describing such activities and the responsibilities of each party in the conduct thereof. The Program Agreements shall be reduced to writing and approved by authorized signatories of each party hereto. In the event of conflict between the text of Program Agreements and the text of this Agreement, this Agreement shall govern.
4. The parties each agree to assume individual responsibility for the actions and omissions of their respective employees, agents and assigns in conjunction with this agreement. Neither CCOP nor CANCER CENTER agrees to indemnify the other party to this Agreement from any liability, loss or damage either may suffer as a result of claims, demands, costs or judgments against either of them arising out of the activities carried out pursuant to this Agreement or the Program Agreement(s) between the parties.
5. All the agreements between the parties on the subject matter shall be reduced to writing. No amendments to this Agreement shall be valid unless in writing and signed by the duly authorized representatives of the parties, and approved by the Board of Regents of The University of Texas System.
6. No oral representations of any officer, agent, or employee of \_\_\_\_\_ CCOP or SYSTEM, or any of its component institutions, (including, but not limited to CANCER CENTER), either before or after the effective date of this Agreement, shall affect or modify any obligations of either party hereunder or under any Program Agreement.
7. Any notices, statements, payments, or reports required by this Agreement shall be considered given if sent postage prepaid and addressed as follows:

If to CANCER CENTER:

Executive Vice President for Administration  
The University of Texas System Cancer Center  
6723 Bertner, Box 193  
Houston, Texas 77030

If to \_\_\_\_\_ CCOP:  
NAME  
TITLE  
\_\_\_\_\_ CCOP  
ADDRESS

8. This Agreement shall not become effective until it has been executed by the duly authorized representatives of Cancer Center and CCOP and approved by the Board of Regents of The University of Texas System, and shall continue in force thereafter from year to year unless terminated by either party upon giving ninety (90) days written notice to the other party. This Agreement will terminate immediately, as indicated in Paragraph 1, if either party to the Agreement does not obtain NCI Community Clinical Oncology Program funding, or either party's funding is cancelled during the term of this Agreement. The Program Agreements related to this Affiliation Agreement shall automatically terminate upon termination of this Agreement, except that the parties' responsibilities under these Agreements will continue after the termination as they pertain to patients who have been enrolled in clinical trial protocols prior to the termination of the Agreements but have not completed these trials at the time of this termination.

EXECUTED this the \_\_\_\_\_ day of \_\_\_\_\_, 1986.

THE UNIVERSITY OF TEXAS SYSTEM  
CANCER CENTER

By: \_\_\_\_\_  
President

ATTEST:

COMMUNITY CLINICAL ONCOLOGY PROGRAM

\_\_\_\_\_

By: \_\_\_\_\_

FORM APPROVED:

CONTENT APPROVED:

\_\_\_\_\_  
Office of General Counsel  
The University of Texas System

\_\_\_\_\_  
Executive Vice Chancellor for Health Affairs  
The University of Texas System

COMMUNITY CLINICAL  
ONCOLOGY PROGRAM  
AGREEMENT

STANDARD FORM

This AGREEMENT is made on the \_\_\_\_\_ day of \_\_\_\_\_, 1986, between THE UNIVERSITY OF TEXAS SYSTEM CANCER CENTER (hereinafter referred to as "CANCER CENTER"), located in Houston, Texas, a component institution of The University of Texas System (hereinafter referred to as "SYSTEM"), and \_\_\_\_\_ Community Clinical Oncology Program (hereinafter referred to as "\_\_\_\_CCOP").

WHEREAS, it is agreed by the parties that the purpose of this agreement is to establish and describe the collaborative activities between \_\_\_\_CCOP and CANCER CENTER, which will operate as a Research Base in the National Cancer Institute's Community Clinical Oncology Program.

NOW, THEREFORE, the parties agree as follows:

1. They will collaborate to provide quality clinical research and involvement in cancer control research activities, to maintain a high level of scientific collaboration and to participate in the overall evaluation of the Community Clinical Oncology Program.
2. Assurance of quality control is the joint responsibility of \_\_\_\_CCOP and CANCER CENTER. The following quality control measures will be utilized:
  - A) All pathology slides from protocol patients will be made available by \_\_\_\_CCOP for review at the CANCER CENTER Division of Pathology. If specified in protocols, slides will be submitted to Cancer Center for review, and CANCER CENTER pathology reports will be submitted to the appropriate \_\_\_\_CCOP physicians. Pathology review sessions, including CANCER CENTER and \_\_\_\_CCOP pathologists, will be convened as deemed necessary.
  - B) Chemotherapy, radiation therapy, immunotherapy, and surgical operative reports will be made available to the CCOP Medical Director at CANCER CENTER upon request to ensure protocol compliance.
  - C) Medical data entry sheets and all forms will be reviewed by Data Managers at \_\_\_\_CCOP, before being forwarded to CANCER CENTER. Accrual to protocols, adherence to protocols, patient eligibility, patient evaluability, and timeliness and quality of data reporting will be reviewed by CANCER CENTER.
  - D) \_\_\_\_CCOP will participate in appropriate quality assurance and performance review activities developed by the CANCER CENTER.
3. \_\_\_\_CCOP and CANCER CENTER will maintain separate budgets and adhere to NCI financial requirements.



4. CCOP and CANCER CENTER will have joint responsibility for maintaining patient confidentiality except where release of patient information is duly authorized by the patient or his legal representative.

5. It is further agreed that CCOP shall:

A. Be responsible for the following functions:

- 1) A steering or executive function to plan, direct, participate in and evaluate its performance in the CCOP program.
- 2) A protocol or scientific function to review and select all protocols for clinical trials. Performance of this function should be done in conjunction with CCOP staff from surgical oncology, medical oncology, radiation oncology, supportive care, nursing and pharmacy.
- 3) A data evaluation function to oversee all aspects of data management and evaluation, to review all forms before transmittal to the research base and to communicate feedback to the participating physicians. This function will be performed by the principal investigator, co-principal investigator, protocol nurse, and data managers.
- 4) A pharmacy system that complies with all National Cancer Institute (NCI) and the Food and Drug Administration (FDA) guidelines. CCOP may request support from CANCER CENTER Department of Pharmacy as needed.

B. Follow NCI and FDA guidelines for reporting adverse drug reactions. Adverse drug reactions include (1) any unsuspected side effect of an anti-cancer agent, (2) any unsuspected interaction of an anti-cancer agent with any other drug, (3) a severe life-threatening Grade IV or fatal toxicity even if previously reported with that particular drug.

When an adverse drug reaction is observed or it is suspected, it will be called into the CCOP Medical Director at CANCER CENTER as soon as possible. Written reports to be submitted to CANCER CENTER will follow in a timely fashion. Policies for report and evaluation and implementation of changes related to adverse drug reactions will take place via the established CANCER CENTER channels, as well as the usual NCI and FDA channels.

- C. Agree to place at least ten evaluable patients annually on CANCER CENTER clinical trial protocols and at least ten evaluable patients annually on CANCER CENTER cancer control research protocols and to provide all specified data forms to the CCOP Medical Director at CANCER CENTER on a schedule to be defined by CANCER CENTER. \_\_\_\_\_ CCOP will ensure that any protocols competing for the same patients (disease and stage) will be evaluated and a selection made to avoid participation in competing protocols.
- D. Have reviewed and approved by its Institutional Review Board each protocol initiated and used by \_\_\_\_\_ CCOP. \_\_\_\_\_ CCOP is responsible for adherence to NCI guidelines as well as all other federal guidelines, including, but not limited to, those requirements set forth in Title 45, Part 46 of the Code of Federal Regulations (45 CFR 46), as these pertain to Institutional Review Board decisions, conditions and compliance. A copy of the DHHS Form 596, Protection of Human Subjects Assurance Certification Declaration, will be filed with the CANCER CENTER Institutional Review Board prior to CANCER CENTER's making any individual protocol available to \_\_\_\_\_ CCOP.
- E. Be responsible for obtaining informed consent in accordance with 45 CFR 46.116 and for ensuring that no human subject will be involved in research prior to obtaining the consent. Informed consent documents and elements of obtaining consent will strictly follow NCI guidelines. \_\_\_\_\_ CCOP will allow for periodic review of patient records in conjunction with protocols. All informed consents will include patient permission for original hospital records, as well as study forms, to be reviewed by the CANCER CENTER CCOP Statistical Center, by NCI, by site visits from NCI or CANCER CENTER, and by the FDA as necessary. A copy of a signed informed consent will be forwarded to the CANCER CENTER CCOP Statistical Center with the initial patient entry forms.
- F. Supply routine documentation regarding treatment adjustments as specified in the protocols, informed consent, drug records, reports of unanticipated problems involving risks, adverse drug reactions or injury reports and any other requested materials to the CCOP Medical Director at CANCER CENTER.
- G. Be responsible for calibration and inspection of its radiologic and radiotherapy equipment by the Radiological Physics Center (RPC).

- H. If requested by NCI, maintain a Patient Log on all patients eligible for protocols, which will include such information as numbers, age, sex, primary site of cancer, stage of disease, treatment and survival.
  - I. Provide assurance of efforts for short and long term follow-up of patients registered on protocols.
  - J. Attend and participate in regular meetings held by CANCER CENTER to review ongoing research activities, to participate with the CANCER CENTER CCOP Scientific Committees in writing and developing new protocols and reviewing ongoing studies, to plan ongoing collaborative clinical investigations and cancer control research activities, to participate in training and educational activities for support personnel (data managers, oncology nurses, pharmacists, etc.) and other appropriate meetings. CCOP will collaborate in all appropriate ways with all other CCOP's using CANCER CENTER as a Research Base.
  - K. Agree that the CCOP Principal Investigator will be a member of the CANCER CENTER's CCOP Steering Committee.
  - L. Agree to accept periodic on-site monitoring by representatives of CANCER CENTER or NCI or an NCI designee.
  - M. Agree to an annual review of its progress by the CANCER CENTER's CCOP Steering Committee and NCI or NCI designee staff.
6. It is further agreed that CANCER CENTER shall:
- A. Provide CCOP with access to current NCI-approved CCOP protocols, a list of which is attached (Exhibit I).
  - B. Establish a CCOP Statistical Center to:
    - 1) Maintain registration records for all protocols;
    - 2) Provide statistical review and assistance in analysis of data collection by CCOP;
    - 3) Supply appropriate documents for on-study, pre-study flow sheets, off-study forms and all other forms necessary for participation in CCOP and CANCER CENTER clinical trial protocols;
    - 4) Conduct performance review and quality assurance programs;

- 5) Conduct training sessions for data managers and other personnel related to \_\_\_ CCOP at the beginning of the program and at appropriate intervals. The cost of travel and lodging is to be at \_\_\_ CCOP expense;
  - 6) Conduct annual site visits to \_\_\_ CCOP for review of records, information transfer and general evaluation and consultation. The cost of travel and lodging is to be at CANCER CENTER expense.
- C. Form scientific committees to develop and monitor research activities and a CCOP Steering Committee which will be the guiding committee for all CCOP activities of CANCER CENTER. Principal Investigators or their representatives from \_\_\_ CCOP will participate in this Steering Committee.
  - D. Host regular meetings for \_\_\_ CCOP staff members to review ongoing research activities, encourage the participation in the writing and development of new protocols; plan ongoing collaborative clinical investigations in cancer control research activities; and participate in training and educational activities for support personnel and any other meetings felt to be appropriate.
  - E. Notify \_\_\_ CCOP in writing and by telephone, if appropriate, of subsequent modifications in the protocols listed.
  - F. Provide a toxicity monitoring system for adverse drug reactions and report same to the CCOP Steering Committee and the investigational drug branch at NCI in Bethesda, Maryland at (301) 496-1196 after notification by \_\_\_ CCOP of an adverse drug reaction.
  - G. Conduct annual performance reviews of \_\_\_ CCOP and, based on this review, institute any remedial actions that are deemed necessary, including, but not limited to, dissolution of the Affiliation Agreement between CANCER CENTER and \_\_\_ CCOP.

This Agreement shall become effective upon the execution and approval of the Affiliation Agreement between these parties dated \_\_\_\_\_, and shall continue in effect according to the terms of same.

ATTEST:

COMMUNITY CLINICAL ONCOLOGY PROGRAM (CCOP)

By: \_\_\_\_\_

THE UNIVERSITY OF TEXAS SYSTEM  
CANCER CENTER

By: \_\_\_\_\_  
Charles A. LeMaistre, M.D.  
President

CONTENT APPROVED:

By: \_\_\_\_\_

The University of Texas System

REPORT AND RECOMMENDATIONS OF THE BUILDINGS AND GROUNDS COMMITTEE (Pages 95 - 101).--Committee Chairman Rhodes reported that the Buildings and Grounds Committee had met in open session to consider those items on its agenda and to formulate recommendations for the U. T. Board of Regents. Unless otherwise indicated, all actions set forth in the Minute Orders which follow were recommended by the Buildings and Grounds Committee and approved in open session and without objection by the U. T. Board of Regents:

1. U. T. Board of Regents - Regents' Rules and Regulations, Part Two: Amendments to Chapter VIII (Physical Plant Improvements), Section 1 (Major New Building Construction Exceeding the Amount of \$300,000 Per Project) and Section 6 (Modification of Bids) and Authorization for the Executive Secretary to the Board to Make Appropriate Editorial Changes Therein.--Approval was given to amend Subdivision 1.31 of Section 1 (Major New Building Construction Exceeding the Amount of \$300,000 Per Project) and Subsection 6.1 of Section 6 (Modification of Bids) of Chapter VIII (Physical Plant Improvements) of Part Two of the Regents' Rules and Regulations as set forth below:

a. Subdivision 1.31 of Section 1 was amended to read as follows:

1.31 After the Board approves the final plans and specifications, the Board shall authorize the Office of Facilities Planning and Construction to advertise for bids. Advertisements for bids for buildings shall be in accordance with State law.

b. Subsection 6.1 of Section 6 was amended to read as follows:

6.1 No bid shall be changed, amended, or modified by telegram or otherwise after the deadline for bid filing set out in the advertisement for bids in connection with the construction or erection of permanent improvements at any of the component institutions of the System under Section 51.907, Texas Education Code, V.T.C.S.

Further, authorization was given for the Executive Secretary to the U. T. Board of Regents, in consultation with the Office of General Counsel, to make appropriate editorial changes in the remainder of the Regents' Rules and Regulations that may be necessary in order to conform to the foregoing changes related to construction projects and to ensure that the entire chapter is not gender specific.

These amendments will eliminate the requirement that bids be advertised only by general newspaper publication and will permit bidders to amend their bids up to the filing deadline for the purpose of updating price quotes from subcontractors and suppliers. This is a generally accepted practice in the construction industry and may result in direct cost savings.

2. U. T. Arlington - Science Building Humidity Control: Appointment of Friberg Associates, Inc., Fort Worth, Texas, Project Engineer to Prepare Final Plans; Authorization for Submission to the Coordinating Board; and Appropriation Therefor.--The Board, upon recommendation of the Buildings and Grounds Committee:

- a. Appointed the firm of Friberg Associates, Inc., Fort Worth, Texas, as Project Engineer to prepare final plans and specifications for the correction of humidity control problems in the Science Building at The University of Texas at Arlington at an estimated project cost of \$750,000. Final plans will be presented to the U. T. Board of Regents for consideration at a future meeting.
- b. Authorized submission of the project to the Coordinating Board, Texas College and University System
- c. Appropriated \$75,000 from Permanent University Fund Bond Proceeds for fees and related expenses through completion of final plans.

At its special meeting on January 14, 1987, the U. T. Board of Regents authorized within the parameters of the Capital Improvement Program an emergency building renovation project to correct a serious humidity control problem in the U. T. Arlington Science Building and allocated \$575,000 from Permanent University Fund Bond Proceeds for partial project funding. It is anticipated that the additional funding (estimated \$175,000) for the project will be appropriated from FY 1987-88 Capital Improvement Program reserves for repairs and rehabilitation.

3. U. T. Austin: Approval to Waive the Regents' Rules and Regulations, Part One, Chapter VIII, Section 1, Subsection 1.1, and to Name the Little Campus Building in the Little Campus Complex as John W. Hargis Hall.--Upon recommendation of the Buildings and Grounds Committee, Subsection 1.1 of Section 1 of Chapter VIII of Part One of the Regents' Rules and Regulations, which requires that persons in whose honor a building is to be named "shall have been deceased at least five years," was waived and the Little Campus Building in the Little Campus complex on The University of Texas at Austin campus was named John W. Hargis Hall.

This building currently houses the Admissions and Employment Centers.

The naming of this building is to honor Mr. John W. Hargis who was the first Black undergraduate student admitted to U. T. Austin and also the first Black to receive an undergraduate degree from that institution.

President Cunningham recognized Dr. Ed Sharpe, Vice President for Administration at U. T. Austin, who read the following remarks which were made at a memorial service for Mr. Hargis on November 21, 1986:

John Hargis was born and raised in Austin. He attended the old Anderson High School and graduated as its valedictorian in 1953. Encouraged and supported by members of the local Black community, John left Texas for Atlanta, Georgia, to attend Morehouse College in the Fall of 1953.

Although he did well at Morehouse, John felt that he belonged in Texas and that he should pursue his education in his home state.

On returning to Austin, he was informed that he would not be admitted to the public university in his home town because he was Black. He was instructed that he could attend the state's public institution for Blacks, Prairie View A&M.

Under protest, John studied at Prairie View during the 1954-55 school year. He remained firm, however, in his determination to attend the major public institution in his state.

He applied for admission to U. T. again and, in the Summer of 1955, entered the institution with academic standing as a Junior. In so doing, he became the first Black undergraduate in the history of the University.

A few other Black students joined him at U. T. in the Fall of 1955. All faced difficulties and hardships in their quest for formal education. John worked diligently despite the circumstances and earned the degree of Bachelor of Science in Chemical Engineering in January 1959. He was the first Black to graduate with a Bachelor's degree from The University of Texas at Austin.

John's career following his graduation was a distinguished one. In a very short time and at a young age, John Hargis achieved distinction in business, in politics, and in volunteer and community service in the states of Connecticut and California. He also raised a family. And he did all of this despite major health problems which followed a massive heart attack he suffered at age 40.

Forced to retire from corporate life because of his health in 1982, John's thoughts returned to his home and to Texas. He felt drawn back to Austin. There were things to be done.

On returning home, John was concerned when he found that the relationship between his alma mater and the majority of the Black community was not a close one. He believed things should be different, so, in characteristic style, he set about to change them. He took his first action in volunteering to work with the U. T. Ex-Students' Association and became chairman of its Black Alumni Task Force. In short order he was working not only with alumni but also with students, faculty, staff and administrators.

John made things happen. In his work, he initiated dialogue; he sponsored receptions; he listened to peoples' concerns and complaints; he nudged, suggested, advised, cautioned and encouraged.

He was gentle in his manner but always steadfast in his intent ... his intent and determination to bring the Black community and the University community together in a united effort for the advancement of all.

John Hargis was a remarkable person. He was a man of insight, of compassion, of humor and action. He was, in the finest tradition, a native son of Texas in whom we all can take profound and great pride.

Following several Regental expressions of pride and satisfaction with this honor to Mr. Hargis, the Board by unanimous vote, separate from the approval of the Buildings and Grounds Committee report, approved the recommendation of the U. T. Austin Administration.

4. U. T. El Paso: Approval of Increased Purchase Price to Acquire Property Consisting of Eight Parcels and Comprising 13 Lots in El Paso, El Paso County, Texas, from the Hotel Dieu Hospital, El Paso, Texas, for Use as Unimproved Parking by College of Nursing and Allied Health.--The Academic Affairs and Buildings and Grounds Committees recommended and the Board approved acquisition of the following property from the Hotel Dieu Hospital, El Paso, Texas, for \$180,000 for use as unimproved parking for the College of Nursing and Allied Health at The University of Texas at El Paso:

Parcel #1: 1103-1111 N. Florence Street and 511 Arizona Avenue being the West 56' of Lots 1 and 2, and all of Lots 3 through 10, Block 7, Alexander Addition

Parcel #2: 1110-1114 Campbell Street being the West 82' of Lots 11 and 12, and all of Lots 13, 14, and 15, Block 7, Alexander Addition.

The source of funds for this acquisition is the Parking Services Account Balance.

At its April 1985 meeting, the U. T. Board of Regents approved the purchase of the Hotel Dieu property at a price of \$150,000 and the purchase was subsequently approved by the Coordinating Board at its meeting on July 19, 1985. After a significant delay in scheduling a closing on this transaction, U. T. El Paso was notified that the offer to sell the property had not been authorized by the board of directors for the Hotel Dieu Medical Center. New negotiations resulted in the current offer on March 13, 1986, which was later accepted by the board of directors of the Hotel Dieu. A contract was signed on January 7, 1987.

The referenced property is located across from the College of Nursing and Allied Health and represents the only off-street parking for students enrolled in the College.



5. U. T. Medical Branch - Galveston - Keiller Building Renovation and Reroofing: Authorization for Project; Appointment of Oliver & Beerman, Galveston, Texas, Project Architect to Prepare Preliminary Plans; and Appropriation Therefor.-- Upon recommendation of the Finance and Audit, Health Affairs and Buildings and Grounds Committees, the Board:

- a. Authorized a project for the renovation and reroofing of the Keiller Building at The University of Texas Medical Branch at Galveston at an estimated total project cost of \$11,000,000
- b. Appointed the firm of Oliver & Beerman, Galveston, Texas, Project Architect to prepare preliminary plans and a detailed cost estimate to be presented to the U. T. Board of Regents at a future meeting
- c. Appropriated \$1,150,000 from Educational and General Funds Unappropriated Balance previously allocated for the Keiller Building roof replacement and mechanical room equipment by Executive Committee Letter 86-21, some of which will now be used for fees and related project expenses through the preparation of preliminary plans.

Since its completion in 1925, the Keiller Building has taken on an increasingly important role as a research building and, simultaneously, the nature of research has become far more complex and dependent upon toxic chemical compounds. The Keiller Building's mechanical system is inadequate to meet the requirements of a modern medical school research facility and total replacement of the original clay tile roofing and flat built-up roof is required. The effect of continued development of research in the Keiller Building without mechanical and laboratory renovations would subject the inhabitants of the building to undue contact with chemical compounds in the air circulated throughout the building, according to environmental safety studies conducted over the last few years.

Funding for this project will be from U. T. Medical Branch - Galveston funds and thus places this project outside the scope of the Capital Improvement Program.

6. U. T. Medical Branch - Galveston - Medical Sciences and Education Building: Authorization for Project; Appointment of 3D/International, Houston, Texas, Project Architect to Prepare Preliminary Plans; and Appropriation Therefor.--The Board, upon recommendation of the Buildings and Grounds Committee:

- a. Authorized a project for the construction of a Medical Sciences and Education Building at The University of Texas Medical Branch at Galveston at an estimated total project cost of \$25,000,000
- b. Appointed the firm of 3D/International, Houston, Texas, Project Architect to prepare preliminary plans and a detailed cost estimate to be presented to the U. T. Board of Regents at a future meeting.

- c. Appropriated \$5,000,000 from The Sealy & Smith Foundation grant funds, part of which will be used for fees and related project expenses through the preparation of preliminary plans.

The U. T. Medical Branch - Galveston has identified and documented, through its strategic planning process, the need for a new medical sciences and education facility to house the Department of Microbiology, laboratories and offices for the Marine Biomedical Institute, a satellite animal care facility to support the needs of the basic sciences departments, and portions of the Departments of Internal Medicine, Surgery, Neurology and Otolaryngology.

This project is within the scope of the Capital Improvement Program approved by the U. T. Board of Regents in October 1985 and is included in the 1987-1988 authorized funding plan.

7. U. T. Medical Branch - Galveston - Remodeling of John Sealy Hospital (Old Building) - Remodeling of Sixth, Seventh and Eighth Floors (Project No. 601-655): Authorization to Prepare Final Plans and Appropriation Therefor.--As part of a continuing effort to renovate the older sections of the John Sealy Hospital, the Board:

- a. Authorized the Project Architect to prepare final plans and specifications for the Remodeling of the Sixth, Seventh and Eighth Floors of John Sealy Hospital (Old Building) at The University of Texas Medical Branch at Galveston at an estimated total project cost of \$8,350,000.

Upon completion, the plans will be presented to the U. T. Board of Regents for consideration at a future meeting.

- b. Appropriated \$8,350,000 from The Sealy & Smith Foundation grant funds for total project funding.

This project will provide research laboratories and faculty offices for the Divisions of Cardiothoracic Surgery, Oral and Maxillofacial Surgery, and General Surgery, as well as the Departments of Otolaryngology, Physical Therapy and Occupational Therapy and the EEG and Evoked Potential Laboratory.

This project is dependent upon a grant from The Sealy & Smith Foundation and is considered to be outside the scope of the Capital Improvement Program.

8. U. T. Cancer Center (U. T. Science Park): Approval to Waive the Regents' Rules and Regulations, Part One, Chapter VIII, Section 1, Subsection 1.1, and to Name the Conference Center at the Research Division of the Science Park as the J. J. "Jake" Pickle Conference Center.--Upon recommendation of the Buildings and Grounds Committee, Subsection 1.1 of Section 1, Chapter VIII, Part One of the Regents' Rules and Regulations, which requires that persons in whose honor a building is to be named "shall have been deceased at least five years," was waived and the conference center at the Research Division of the U. T. Science Park at The University of Texas System Cancer Center was named the J. J. "Jake" Pickle Conference Center.

It is most appropriate to name this conference center in honor of Congressman Pickle who was instrumental in obtaining the federal funding which provided the impetus for the development of this facility, and who, over the years, has evidenced great interest in and support for this innovative approach to cancer research and treatment.

REPORT AND RECOMMENDATIONS OF THE LAND AND INVESTMENT COMMITTEE (Pages 101 - 115).--Committee Chairman Milburn reported that the Land and Investment Committee had met in open session to consider those matters on its agenda and to formulate recommendations for the U. T. Board of Regents. Unless otherwise indicated, all actions set forth in the Minute Orders which follow were recommended by the Land and Investment Committee and approved in open session and without objection by the U. T. Board of Regents.

The execution of documents authorized in this report will be in accordance with the Regents' Rules and Regulations, Part Two, Chapter IX, Section 1.3 as set forth below:

- 1.3 Authority to Execute Instruments Relating to Land and Mineral Interests.--The Chairman of the Board, the Vice-Chairmen, the Chancellor, or his delegate, and the Executive Vice Chancellor for Asset Management are each authorized to execute conveyances, deeds, surface and/or mineral leases, easements, rights-of-way, oil and gas division orders, and transfer orders, geophysical and material source permits, water contracts, pooling and unitization agreements, and any other instruments as may be necessary or appropriate from time to time, relating to the handling, management, control, and disposition of any real estate or mineral interest held or controlled by the Board as a part of the PUF or as a part of any trust or special fund.

I. PERMANENT UNIVERSITY FUND

Report on Clearance of Monies to Permanent University Fund for November and December 1986, and Report on Oil and Gas Development as of December 31, 1986.--The following reports with respect to (a) certain monies cleared to the Permanent University Fund for November and December 1986, and (b) Oil and Gas Development as of December 31, 1986, were submitted by the Executive Vice Chancellor for Asset Management:

<u>Permanent University Fund</u>	<u>November 1986</u>	<u>December 1986</u>	<u>Cumulative Through December of this Fiscal Year (1986-1987)</u>	<u>Cumulative Through December of Preceding Fiscal Year (1985-1986)</u>	<u>Per Cent Change</u>
<u>Royalty</u>					
Oil	\$ 3,277,595.39	\$ 5,029,507.15	\$15,414,531.50	\$ 32,395,854.46	-52.42%
Gas	2,241,169.46	1,451,110.01	7,994,610.53	10,443,052.45	-23.45%
Sulphur	10,000.00	10,000.00	40,000.00	128,183.55	
Water	48,007.53	33,591.92	199,933.58	217,238.96	
Brine	3,130.56	1,066.86	12,223.89	40,185.90	
Trace Minerals	0.00	0.00	0.00	0.00	
<u>Rental</u>					
Oil and Gas Leases	31,805.24	15,800.09	375,012.51	376,427.40	
Other	0.00	0.00	3,163.64	1,000.00	
Sale of Sand, Gravel, Etc.	0.00	0.00	0.00	10,793.00	
Gain or (Loss) on Sale of Securities	11,751,981.82	12,206,504.86	37,944,372.43	76,415,843.39	
Subtotal	17,363,690.00	18,747,580.89	61,983,848.08	120,028,579.11	-48.36%
<u>Bonuses</u>					
Oil and Gas Lease Sales	(32,035.00)	0.00	(32,035.00)	5,913,600.00	
Amendments and Extensions to Mineral Leases	14,218.57	14,419.50	23,021.44	176,187.39	
Total Bonuses	(17,816.43)	14,419.50	(9,013.56)	6,089,787.39	
<u>TOTAL CLEARANCES</u>	<u>\$17,345,873.57</u>	<u>\$18,762,000.39</u>	<u>\$61,974,834.52</u>	<u>\$126,118,366.50</u>	<u>-50.86%</u>

Oil and Gas Development - December 31, 1986

Acreage Under Lease - 724,118

Number of Producing Acres - 564,047

Number of Producing Leases - 2,262

II. TRUST AND SPECIAL FUNDS

A. GIFTS, BEQUESTS AND ESTATES

1. U. T. Arlington: Approval to Accept Transfer of Funds and Pledges and Establish the Accounting Alumni Professorship and Eligibility for Matching Funds Under the Texas Eminent Scholars Program.--Approval was given to accept a \$100,000 transfer of previously reported gifts from current restricted funds and pledges and to establish the Accounting Alumni Professorship at The University of Texas at Arlington.

Further, the actual income which will be earned on the transfer of \$100,000 will be certified for matching under the Texas Eminent Scholars Program as set out in Chapter 51, Subchapter I of the Texas Education Code.

This Professorship is being funded to recognize outstanding performance by a faculty member in the Department of Accounting at U. T. Arlington.

2. U. T. Arlington: Acceptance of Gift and Pledge from Freese and Nichols, Inc., Arlington, Texas, and Establishment of The Freese and Nichols Scholarship.--Upon recommendation of the Land and Investment Committee, the Board accepted a \$15,000 gift and a \$20,000 pledge, payable prior to December 31, 1988, for a total endowment of \$35,000 from Freese and Nichols, Inc., Arlington, Texas, and established The Freese and Nichols Scholarship at The University of Texas at Arlington.

Income earned from the endowment will be used to award an annual scholarship to a qualified high school student to attend U. T. Arlington as a civil engineering major meeting the criteria of the Civil Engineering Scholars Program.

3. U. T. Arlington: Acceptance of Gift from Albert H. Halff Associates, Inc., Dallas, Texas, and Establishment of The Albert H. Halff Associates Scholarship.--The Board accepted a \$15,000 gift from Albert H. Halff Associates, Inc., Dallas, Texas, and established The Albert H. Halff Associates Scholarship at The University of Texas at Arlington.

Income earned from the endowment will be used to award an annual scholarship of \$2,000 for four years to a qualified high school student to attend U. T. Arlington as a civil engineering major meeting the criteria of the Civil Engineering Scholars Program.

4. U. T. Arlington: Acceptance of Gift of Real Property Being 20 Undivided Acres of a 181.185 Acre Tract in Baylor County, Texas, from Mr. Ted B. Court, Arlington, Texas.--Approval was given to accept a gift of real property being 20 undivided acres out of a 181.185 acre tract in Baylor County, Texas, from Mr. Ted B. Court of Arlington, Texas. Mr. Court has placed a value of \$500 per acre or \$10,000 on this gift. Proceeds from the sale of the property are for the unrestricted use of the President of The University of Texas at Arlington.

It was noted that Mr. Court intends to donate a portion of his interest in the 181.185 acre tract of land to U. T. Arlington each year over a period of 10 years.

5. U. T. Austin: The Regents Professorship in Pharmacy in the College of Pharmacy - Authorization to Redesignate as the Romeo T. Bachand, Jr. Regents Professorship in Pharmacy.--At the request of the Pharmaceutical Foundation Advisory Council, authorization was granted to redesignate The Regents Professorship in Pharmacy in the College of Pharmacy at The University of Texas at Austin as the Romeo T. Bachand, Jr. Regents Professorship in Pharmacy.

6. U. T. Austin: David Bruton, Jr. Regents Professorship in Liberal Arts in the College of Liberal Arts - Acceptance of Gift and Pledge from the David Bruton, Jr. Charitable Trust, Dallas, Texas, and Eligibility for Matching Funds Under The Regents' Endowed Teachers and Scholars Program and Redesignation as the David Bruton, Jr. Regents Chair in Liberal Arts.--The Land and Investment Committee recommended and the Board accepted a gift of \$200,000 and a pledge of \$200,000, payable by December 1988, for a total of \$400,000 from the David Bruton, Jr. Charitable Trust, Dallas, Texas, for addition to the David Bruton, Jr. Regents Professorship in Liberal Arts in the College of Liberal Arts at The University of Texas at Austin and redesignated this Professorship as the David Bruton, Jr. Regents Chair in Liberal Arts.

The gift and pledge, as received, will be matched under The Regents' Endowed Teachers and Scholars Program and used to increase the endowment to a total of \$1,000,000.

7. U. T. Austin: Approval to Accept Transfer of Funds and to Establish the Eloise Helbig Chalmers Endowed Scholarship in Music Therapy and Special Education in the College of Fine Arts.--Approval was given to accept a \$13,852.59 transfer of previously reported gifts from current restricted funds and to establish the Eloise Helbig Chalmers Endowed Scholarship in Music Therapy and Special Education in the Department of Music, College of Fine Arts, at The University of Texas at Austin.

Income earned from the endowment will be used to award scholarships to undergraduate and graduate students in the Department of Music who have special interest in the application of music in therapy and special education.

8. U. T. Austin: Acceptance of Gift from an Anonymous Donor and Establishment of Ten Endowed Faculty Fellowships in the College of Natural Sciences, Addition to the Department of Computer Sciences Administrative Endowment, and Eligibility for Matching Funds Under The Regents' Endowed Teachers and Scholars Program.--Upon recommendation of the Land and Investment Committee, the Board accepted a \$1,000,000 gift from an anonymous donor for the benefit of the Department of Computer Sciences, College of Natural Sciences, at The University of Texas at Austin and established ten (10) endowed faculty fellowships at \$66,700 each with \$667,000 of the gift and added \$333,000 to the Department of Computer Sciences Administrative Endowment. Titles for the ten endowments will be designated at a later date.

Further, \$333,000 of the gift allocated for the endowed faculty fellowships will be matched under The Regents' Endowed Teachers and Scholars Program and used to increase the ten endowments to \$100,000 each.

9. U. T. Austin: Joe B. Cook Professorship in Business Administration in the College of Business Administration and the Graduate School of Business - Acceptance of Gift from Mr. Joe B. Cook, Houston, Texas, and Eligibility for Matching Funds Under The Regents' Endowed Teachers and Scholars Program and Addition to the Joe B. and Louise Cook Professorship in Mathematics in the College of Natural Sciences.--The Board accepted a \$50,000 gift from Mr. Joe B. Cook, Houston, Texas, for addition to the Joe B. Cook Professorship in Business Administration in the College of Business Administration and the Graduate School of Business at The University of Texas at Austin for a total endowment of \$150,000.

Further, \$25,000 of the gift will be matched under The Regents' Endowed Teachers and Scholars Program with funds used to increase the Joe B. and Louise Cook Professorship in Mathematics in the College of Natural Sciences for a total endowment of \$125,000.

10. U. T. Austin: Acceptance of Gifts from the Family of Ms. Sarah C. Dodson and Establishment of the Sarah Dodson Endowed Scholarship in English in the College of Liberal Arts.--The Board, upon recommendation of the Land and Investment Committee, accepted gifts totaling \$10,000 from the family of Ms. Sarah C. Dodson and established the Sarah Dodson Endowed Scholarship in English in the Department of English, College of Liberal Arts, at The University of Texas at Austin.

Income earned from the endowment will be used to award scholarships to deserving students in the Department of English.

11. U. T. Austin: Report of Acceptance of Gift Annuity Via The University of Texas Foundation, Inc. from Mr. and Mrs. Aubrey Fariss, Houston, Texas, for the Future Establishment of the Aubrey Fariss Professorship in Accounting in the College of Business Administration and the Graduate School of Business.--It was reported that The University of Texas Foundation, Inc. (an external foundation) has accepted a gift annuity in excess of \$100,000 from Mr. and Mrs. Aubrey Fariss, Houston, Texas, for the benefit of The University of Texas at Austin. Upon the death of Mr. and Mrs. Fariss, the principal will be distributed to the U. T. Board of Regents to endow and establish the Aubrey Fariss Professorship in Accounting in the College of Business Administration and the Graduate School of Business. An agenda item at that time will formalize the acceptance of the gift and the establishment of the Professorship.

12. U. T. Austin: Richard J. Gonzalez Regents Chair in Economic Development Based on Freedom and Private Enterprise in the College of Liberal Arts - Approval to Redesignate as the Richard J. Gonzalez Regents Chair in Economic Progress Based on Freedom and Private Enterprise.--Approval was given to redesignate the Richard J. Gonzalez Regents Chair in Economic Development Based on Freedom and Private Enterprise in the Department of Economics, College of Liberal Arts, at The University of Texas at Austin as the Richard J. Gonzalez Regents Chair in Economic Progress Based on Freedom and Private Enterprise.

This redesignation was made in accordance with the donor's request.

13. U. T. Austin: Norman Hackerman Professorship in Chemistry in the College of Natural Sciences - Acceptance of Gift from an Anonymous Donor and Eligibility for Matching Funds Under The Regents' Endowed Teachers and Scholars Program.--The Land and Investment Committee recommended and the Board accepted a \$63,000 gift from an anonymous donor for addition to the Norman Hackerman Professorship in Chemistry in the College of Natural Sciences at The University of Texas at Austin for a total endowment in excess of \$263,000.

Further, \$31,500 of the gift will be matched under The Regents' Endowed Teachers and Scholars Program with the purpose of the funds to be designated at a later date.

14. U. T. Austin: Acceptance of Gift from Ms. Harriet Halsell, Dallas, Texas, and Establishment of the Bettie Johnson Halsell Endowed Scholarship in Liberal Arts in the College of Liberal Arts.--Upon recommendation of the Land and Investment Committee, the Board accepted a \$10,000 gift from Ms. Harriet Halsell, Dallas, Texas, and established the Bettie Johnson Halsell Endowed Scholarship in Liberal Arts in the College of Liberal Arts at The University of Texas at Austin.

Income earned from the endowment will be used to award scholarships to deserving students in the College of Liberal Arts.

15. U. T. Austin: Approval to Accept Transfer of Funds and Establish the John W. Hargis Endowed Presidential Scholarship in the College of Engineering.--Approval was given to accept a \$25,000 transfer of previously reported gifts from current restricted funds and to establish the John W. Hargis Endowed Presidential Scholarship in the College of Engineering at The University of Texas at Austin.

Income earned from the endowment will be used to award scholarships to undergraduate students in the College of Engineering.

16. U. T. Austin: Acceptance of Gift from Ms. Bobbie Caviness, Austin, Texas, and Establishment of the Barbara C. Jordan Endowed Scholarship in Women's Athletics in the Division of Intercollegiate Athletics for Women.--The Board accepted a \$10,025 gift from Ms. Bobbie Caviness, Austin, Texas, and established the Barbara C. Jordan Endowed Scholarship in Women's Athletics in the Division of Intercollegiate Athletics for Women at The University of Texas at Austin.

Income earned from the endowment will be used to award scholarships to women athletes on the basis of financial need and academic competence.



17. U. T. Austin: Acceptance of Gift and Pledge from Mrs. Lorene Morrow Kelley, Edinburg, Texas, and Establishment of the Lorene Morrow Kelley Professorship in Microbiology in the College of Natural Sciences and Eligibility for Matching Funds Under The Regents' Endowed Teachers and Scholars Program.--The Board, upon recommendation of the Land and Investment Committee, accepted a \$125,000 gift and \$75,000 pledge, payable prior to December 1987, for a total of \$200,000 from Mrs. Lorene Morrow Kelley, Edinburg, Texas, and established the Lorene Morrow Kelley Professorship in Microbiology in the Department of Microbiology, College of Natural Sciences, at The University of Texas at Austin.

Further, \$100,000 of the gift will be matched under The Regents' Endowed Teachers and Scholars Program and used to increase the endowment.

18. U. T. Austin: The Mesa Petroleum Company Fund in Sedimentary Geology in the College of Natural Sciences - Authorization to Redesignate as the Jack K. Larsen-Mesa Petroleum Company Fund in Sedimentary Geology.--Authorization was granted to redesignate The Mesa Petroleum Company Fund in Sedimentary Geology in the College of Natural Sciences at The University of Texas at Austin as the Jack K. Larsen-Mesa Petroleum Company Fund in Sedimentary Geology.

This redesignation was made in accordance with the request of the donor's family.

19. U. T. Austin: Acceptance of Gift from Mr. David D. Lybarger, Rancho Santa Fe, California, and Corporate Matching Funds from Standard Oil Company, Cleveland, Ohio, and Establishment of the David and Doris Lybarger Endowed Scholarship in Engineering in the College of Engineering.--Upon recommendation of the Land and Investment Committee, the Board accepted a \$10,000 gift from Mr. David D. Lybarger, Rancho Santa Fe, California, and \$10,000 in corporate matching funds from Standard Oil Company, Cleveland, Ohio, for a total of \$20,000 and established the David and Doris Lybarger Endowed Scholarship in Engineering in the College of Engineering at The University of Texas at Austin.

Income earned from the endowment will be used to award scholarships to undergraduate students of all levels in the College of Engineering.

20. U. T. Austin: Will E. Orgain Lectureship Fund in the School of Law - Approval to Allocate Matching Funds from the Sheffield Challenge Fund Endowment Program.--It was reported that The University of Texas Law School Foundation (an external foundation) has received additional funding of \$15,000 for the Will E. Orgain Lectureship Fund in the School of Law at The University of Texas at Austin.

Approval was given to allocate \$15,000 in matching funds from the Sheffield Challenge Fund Endowment Program for addition to the endowment which will be held and administered by the U. T. Board of Regents.

21. U. T. Austin: Acceptance of Gifts from Mrs. Erna H. Pearson, Austin, Texas, and an Anonymous Donor and Establishment of the Angus G. and Erna H. Pearson Undergraduate Scholarship in Computer Sciences in the College of Natural Sciences.--The Land and Investment Committee recommended and the Board accepted a \$15,000 gift from Mrs. Erna H. Pearson, Austin, Texas, and a \$15,000 gift from an anonymous donor for a total of \$30,000 and established the Angus G. and Erna H. Pearson Undergraduate Scholarship in Computer Sciences in the Department of Computer Sciences, College of Natural Sciences, at The University of Texas at Austin.

Income earned from the endowment will be used to award scholarships to undergraduate students majoring in computer science based on academic ability and financial need.

22. U. T. Austin: Acceptance of Gift from Dr. John S. Alexander, Fort Worth, Texas, to be Added to The University of Texas System Pooled Income Fund.--The Board accepted a \$25,000 gift from Dr. John S. Alexander, Fort Worth, Texas, to be added to The University of Texas System Pooled Income Fund.

Dr. Alexander will receive the income generated by this gift during his lifetime and upon his death, the funds are to be used for the benefit of the College of Liberal Arts at The University of Texas at Austin.

23. U. T. Austin: Acceptance of Gift from Mrs. Shirley P. Rabke, Houston, Texas, and Corporate Matching Funds from Pennzoil Company, Houston, Texas, and Establishment of the Raymond F. Rabke, Jr. Scholarship in the College of Engineering.--The Board accepted a \$1,950 gift from Mrs. Shirley P. Rabke, Houston, Texas, a gift of \$5,850 in corporate matching funds from Pennzoil Company, Houston, Texas, and gifts from various donors for a total in excess of \$10,000 and established the Raymond F. Rabke, Jr. Scholarship in the Department of Chemical Engineering, College of Engineering, at The University of Texas at Austin.

Income earned from the endowment will be used to award scholarships to students in the Department of Chemical Engineering with preference being given to U. S. citizens and Texas residents.

24. U. T. Austin: Acceptance of Gift from The Scherck Trust, Houston, Texas, and Establishment of the Louis and Elizabeth Scherck Geology Scholarship in the College of Natural Sciences (No Publicity).--The Board, upon recommendation of the Land and Investment Committee, accepted a \$100,000 gift from The Scherck Trust, Houston, Texas, and established the Louis and Elizabeth Scherck Geology Scholarship in the Department of Geological Sciences, College of Natural Sciences, at The University of Texas at Austin.

Income earned from the endowment will be used to award scholarships based on financial need and academic ability to junior, senior, and graduate students majoring in geology.

It was requested that no publicity be given to this matter.

25. U. T. Austin: Acceptance of Gift from the Seminar on the Acquisition of Latin American Library Materials, Inc. (SALALM), Madison, Wisconsin, and Establishment of the Marietta Daniels Shepard Memorial Scholarship Fund in the Graduate School of Library and Information Science.--Upon recommendation of the Land and Investment Committee, the Board accepted a \$15,000 gift from the Seminar on the Acquisition of Latin American Library Materials, Inc. (SALALM), Madison, Wisconsin, and established the Marietta Daniels Shepard Memorial Scholarship Fund in the Graduate School of Library and Information Science at The University of Texas at Austin.

Income earned from the endowment will be used to provide scholarship support for a Latin American student through their course of professional study in Library and Information Science.

26. U. T. Austin: Acceptance of Gift from the Trustees of the Ella F. Fondren Trust for the Benefit of Sue Trammell Whitfield, Houston, Texas, and Establishment of the Elizabeth Tarpley Regents Lectureship in Textiles and Clothing in the College of Natural Sciences and Eligibility for Matching Funds Under The Regents' Endowed Teachers and Scholars Program.--Approval was given to accept a \$20,000 gift from the Trustees of the Ella F. Fondren Trust for the benefit of Sue Trammell Whitfield, Houston, Texas, and \$7,311 from various donors for a total of \$27,311 and to establish the Elizabeth Tarpley Regents Lectureship in Textiles and Clothing in the Department of Home Economics, College of Natural Sciences, at The University of Texas at Austin.

Further, \$13,655.50 of the gifts will be matched under The Regents' Endowed Teachers and Scholars Program with the purpose of the funds to be designated at a later date.

27. U. T. Austin: Acceptance of Gift from The Daughters of the Republic of Texas, Austin, Texas, and Establishment of the Texas Sesquicentennial Endowed Fellowship in History in the College of Liberal Arts.--The Board accepted a \$10,811.04 gift from The Daughters of the Republic of Texas, Austin, Texas, and established the Texas Sesquicentennial Endowed Fellowship in History in the Department of History, College of Liberal Arts, at The University of Texas at Austin.

Income earned from the endowment will be used to give awards to deserving graduate students studying Texas history in the Department of History.

28. U. T. Dallas: Acceptance of Gift from an Anonymous Donor and Establishment of the Distinguished Chair in Microelectronics and the Distinguished Chair in Telecommunications and Eligibility for Matching Funds Under the Texas Eminent Scholars Program (No Publicity).--The Land and Investment Committee recommended and the Board accepted a \$1,000,000 gift from an anonymous donor and established the Distinguished Chair in Microelectronics and the Distinguished Chair in Telecommunications in the School of Engineering and Computer Science at The University of Texas at Dallas with \$500,000 each.

The actual income which will be earned on the gift of \$1,000,000 will be certified for matching under the Texas Eminent Scholars Program as set out in Chapter 51, Subchapter I of the Texas Education Code.

It was requested that no publicity be given to this matter.

29. U. T. El Paso: Authorization to Accept Gift of Real Property Located in Blocks 2 and 3, Fairway Park Addition and Block 22, Fairmont Park Addition, in Midland, Midland County, Texas, from Mr. Fred Hervey, El Paso, Texas; Authorization for Office of Asset Management to Negotiate the Sale; and Authorization for the Executive Vice Chancellor for Asset Management to Execute All Documents Pertaining to the Sale.--Authorization was granted to accept a gift of real property being Lots 9-13, Block 2, and Lots 3, 4, 6, 7, 15-20, 24-28, 30, 38, Block 3, Fairway Park Addition, and Lots 24-33, Block 22, Fairmont Park Addition, Section Two, in Midland, Midland County, Texas, from Mr. Fred Hervey, El Paso, Texas. The donor's estimated value of the 32 lots is approximately \$354,000. Proceeds from the sale of the property will be made available for the unrestricted use of the President of The University of Texas at El Paso.

Further, the Office of Asset Management was authorized to negotiate the sale of the property at fair market value and the Executive Vice Chancellor for Asset Management was authorized to execute all documents pertaining to the sale.

30. U. T. El Paso: Acceptance of Gift from Mrs. Bette Hervey, El Paso, Texas, and Establishment of the George Hervey Memorial Scholarship Fund.--The Board, upon recommendation of the Land and Investment Committee, accepted a \$10,000 gift from Mrs. Bette Hervey, El Paso, Texas, and established the George Hervey Memorial Scholarship Fund at The University of Texas at El Paso.

Income earned from the endowment will be used to provide an annual scholarship of \$750 or more, renewable for four years, to a worthy and qualified student from the College of Business Administration meeting the criteria of the U. T. El Paso Presidential Scholarship Program.

31. U. T. El Paso: Approval to Accept Gift of Real Property Being Lots 24 and 25, Block 7, Horizon City Estates, Unit No. 84, El Paso County, Texas, from Mr. Thomas A. Jackson, Glen Arm, Maryland; Authorization for Office of Asset Management to Negotiate the Sale; and Authorization for the Executive Vice Chancellor for Asset Management to Execute All Documents Pertaining to the Sale.--Approval was given to accept a gift of real property being Lots 24 and 25, Block 7, Horizon City Estates, Unit No. 84, El Paso County, Texas, from Mr. Thomas A. Jackson, Glen Arm, Maryland. Proceeds from the sale of the property will be made available for the unrestricted use of the President of The University of Texas at El Paso.

Further, the Office of Asset Management was authorized to negotiate the sale of the property at fair market value and the Executive Vice Chancellor for Asset Management was authorized to execute all documents pertaining to the sale.

32. U. T. El Paso: Acceptance of Gift from Mrs. Louise B. Murchison, El Paso, Texas, and Establishment of a Third and Fourth Mr. and Mrs. MacIntosh Murchison Chair in Engineering and Eligibility for Matching Funds Under the Texas Eminent Scholars Program (No Publicity).--Upon recommendation of the Land and Investment Committee, the Board accepted a \$1,000,000 gift from Mrs. Louise B. Murchison, El Paso, Texas, and established a third and fourth Mr. and Mrs. MacIntosh Murchison Chair in Engineering funded at \$500,000 each at The University of Texas at El Paso.

The actual income which will be earned on the gifts of \$500,000 each will be certified for matching under the Texas Eminent Scholars Program as set out in Chapter 51, Subchapter I of the Texas Education Code.

It was requested that no publicity be given to this matter.

33. U. T. Health Science Center - Dallas: Acceptance of Challenge Gift from an Anonymous Donor and Establishment of a Chair (No Publicity).--The Board accepted a \$500,000 challenge gift from an anonymous donor and established a Chair, the title of which will be designated at a later date, at The University of Texas Health Science Center at Dallas. The terms of the letter agreement require that the institution match the \$500,000 gift from private sources prior to January 31, 1988. Appointment to the Chair will be reserved for the President of the U. T. Health Science Center - Dallas.

It was requested that no publicity be given to this matter.

34. U. T. Health Science Center - Dallas: Acceptance of Gift from an Anonymous Donor and Establishment of the Clinical Nutrition Research Scholars Endowment Fund in the Center for Human Nutrition (No Publicity).--The Land and Investment Committee recommended and the Board accepted a \$500,000 gift from an anonymous donor and established the Clinical Nutrition Research Scholars Endowment Fund in the Center for Human Nutrition at The University of Texas Health Science Center at Dallas.

Income earned from the endowment will be used to provide stipends for the research scholars.

It was requested that no publicity be given to this matter.

35. U. T. Health Science Center - Dallas: Acceptance of Gift from Mrs. Patsy Louise Goforth, Dallas, Texas, and Establishment of the John Lawrence and Patsy Louise Goforth Fund in Pathology.--The Board accepted a \$50,000 gift from Mrs. Patsy Louise Goforth, Dallas, Texas, and established the John Lawrence and Patsy Louise Goforth Fund in Pathology at The University of Texas Health Science Center at Dallas.

Income earned from the endowment will be used for research in the Department of Pathology at the U. T. Health Science Center - Dallas.

36. U. T. Health Science Center - Dallas: Robert W. Lackey Visiting Professorship - Authorization to Redesignate as the Robert W. Lackey Professorship in Physiology.-- Authorization was given to redesignate the Robert W. Lackey Visiting Professorship as the Robert W. Lackey Professorship in Physiology at The University of Texas Health Science Center at Dallas.

See Page 85 for initial appointment to this Professorship.

37. U. T. Health Science Center - Dallas: Acceptance of Gift from Raymond and Ellen Willie, Jr., Dallas, Texas, and Establishment of the Raymond and Ellen Willie Chair in Molecular Neuropharmacology and Eligibility for Matching Funds Under the Texas Eminent Scholars Program.--The Board accepted a \$500,000 gift from Raymond and Ellen Willie, Jr., Dallas, Texas, and established the Raymond and Ellen Willie Chair in Molecular Neuropharmacology at The University of Texas Health Science Center at Dallas. The Chair was established to honor Dr. Harold B. Crasilneck, a long-time supporter of this component institution.

The actual income which will be earned on the \$500,000 cash gift will be certified for matching under the Texas Eminent Scholars Program as set out in Chapter 51, Subchapter I of the Texas Education Code.

See Page 85 for initial appointment to this Chair.

38. U. T. Medical Branch - Galveston: Acceptance of Gift of Securities from Mrs. Marcel Patterson, Galveston, Texas, and Establishment of the Marcel Patterson Memorial Lectureship in the Medical Humanities.--Upon recommendation of the Land and Investment Committee, the Board accepted a gift of 800 shares of AT&T common stock valued at \$21,719.27 from Mrs. Marcel Patterson, Galveston, Texas, and established the Marcel Patterson Memorial Lectureship in the Medical Humanities at The University of Texas Medical Branch at Galveston.

Income earned from the endowment will be used to support the lectureship.

39. U. T. Health Science Center - Houston: Acceptance of Gift from Mrs. Florence Cooper, Houston, Texas, and Transfer of Funds and Establishment of The Harold Cooper Lectureship for the Department of Psychiatry and Behavioral Sciences.--The Land and Investment Committee recommended and the Board accepted an \$18,000 gift from Mrs. Florence Cooper, Houston, Texas, and a \$2,000 transfer from the Department of Psychiatry and Behavioral Sciences departmental MSRDP funds for a total endowment of \$20,000 and established The Harold Cooper Lectureship for the Department of Psychiatry and Behavioral Sciences at The University of Texas Health Science Center at Houston.

Income earned from the endowment will be used to support the lectureship.

40. U. T. Health Science Center - Houston: Approval to Accept Transfer of Funds and to Establish the Chair in Pediatric Pathology.--Approval was given to accept a \$500,000 transfer from the Department of Pathology and Laboratory Medicine MSRDP funds and to establish the Chair in Pediatric Pathology at The University of Texas Health Science Center at Houston.

The Chair will be named at a later date in honor of a donor who will have made a significant contribution of no less than \$250,000.

See Page 85 for initial appointment to this Chair.

41. U. T. Health Science Center - Houston: Acceptance of Gift Annuity from the Family of Mr. Joseph C. Valley, Sr., Houston, Texas, and Establishment of the Joseph C. Valley, Sr. Memorial Trust Fund for Gerontological Nursing.--The Board accepted a gift of an annuity, purchased from the Allstate Life Insurance Company, to be paid in twenty-five annual installments of \$20,000 each, beginning on or before September 1, 1987, for a total of \$500,000. This annuity is a gift from the wife and children of Mr. Joseph C. Valley, Sr. to establish a restricted funds account entitled the Joseph C. Valley, Sr. Memorial Trust Fund for Gerontological Nursing at The University of Texas Health Science Center at Houston.

42. U. T. Health Science Center - Houston: Approval to Accept Undivided Interest in 58 Acres in Three Tracts of Land Out of the John McDonald Survey, Abstract No. 291, Mission Bend Subdivision, Fort Bend County, Texas, from Mr. William M. Wheless III, Houston, Texas, and to Establish the William M. Wheless, III Professorship in Orthopedic Surgery.--Approval was given to accept a \$50,000 transfer of previously reported gifts from current restricted funds and a pledge to transfer additional funds of \$50,000 prior to December 31, 1989, for a total of \$100,000 and to establish the William M. Wheless, III Professorship in Orthopedic Surgery at The University of Texas Health Science Center at Houston.

Further, an undivided 0.5834% interest in 58 acres in three tracts of land out of the John McDonald Survey, Abstract No. 291, Mission Bend Subdivision, Fort Bend County, Texas, was accepted and upon sale of all or any part of the property the net proceeds will be used to increase the endowment of the William M. Wheless, III Professorship in Orthopedic Surgery. This 0.5834% interest is out of and a part of an undivided 12.5% interest beneficially owned by Mr. Wheless, pursuant to Nominee Agreement between P/W Properties, Inc., Houston, Texas, and Mr. Wheless. According to an appraisal provided by the donor, the estimated value of the interest is \$19,998.26.

43. U. T. Health Science Center - San Antonio: Acceptance of Gift from The Cullen Foundation, Houston, Texas, and Establishment of the Hugh Roy Cullen Professorship in Nursing and the Lillie Cranz Cullen Professorship in Nursing and Eligibility for Matching Funds Under the Texas Eminent Scholars Program.--The Land and Investment Committee recommended and the Board accepted a \$200,000 gift from The Cullen Foundation, Houston, Texas, and established the Hugh Roy Cullen Professorship in Nursing and the Lillie Cranz Cullen Professorship in Nursing at The University of Texas Health Science Center at San Antonio with separate endowments of \$100,000 each.

The actual income earned on the gift of \$200,000 will be certified for matching under the Texas Eminent Scholars Program as set out in Chapter 51, Subchapter I of the Texas Education Code.

44. U. T. Cancer Center: Paul and Mary Haas Chair in Honor of Amanda Marie Whittle - Authorization to Redesignate as the Paul and Mary Haas Chair in Genetics in Honor of Amanda Marie Whittle.--Authorization was given to redesignate the Paul and Mary Haas Chair in Honor of Amanda Marie Whittle as the Paul and Mary Haas Chair in Genetics in Honor of Amanda Marie Whittle at The University of Texas System Cancer Center.

See Page 86 for initial appointment to this Chair.

45. U. T. Cancer Center: Acceptance of Gift from Radiation & Medical Research Foundation of the Southwest, Fort Worth, Texas, and Establishment of the H. O. McKenzie Lecture Fund in Diagnostic Imaging.--The Board, upon recommendation of the Land and Investment Committee, accepted a \$10,000 gift from the Radiation & Medical Research Foundation of the Southwest, Fort Worth, Texas, and established the H. O. McKenzie Lecture Fund in Diagnostic Imaging at The University of Texas System Cancer Center.

Income earned from the endowment will be used to support the lectureship.

46. U. T. Cancer Center: Acceptance of a Pledge from Mr. and Mrs. Ralph Meadows, Columbus, Texas, for the U. T. Science Park Research Division for the Funding of a Major Construction Project.--Upon recommendation of the Land and Investment Committee, the Board accepted a \$1,000,000 pledge from Mr. and Mrs. Ralph Meadows, Columbus, Texas, as provided in the Ralph and Lillian Meadows Trust Agreement for the funding of an additional research laboratory at the U. T. Science Park Research Division at The University of Texas System Cancer Center.

This contribution is to be used as a challenge gift to encourage the Friends of the Science Park to secure matching funds.



B. REAL ESTATE MATTERS

1. U. T. Arlington: Gift from Dr. E. Lowell Whitley and Dr. R. Kent Cherry, Arlington, Texas - Report of Sale of Real Property Being 1300 West Mitchell Street (Lot 5, Block 1) and 1304 West Mitchell Street (Lot 7, Block 1), Swift Addition, Arlington, Tarrant County, Texas, to Tarrant Investment Properties, Arlington, Texas.--It was reported that the gift of real property being 1300 West Mitchell Street (Lot 5, Block 1) and 1304 West Mitchell Street (Lot 7, Block 1), Swift Addition, Arlington, Tarrant County, Texas, had been sold to Tarrant Investment Properties, Arlington, Texas, for \$28,000 less closing costs of \$551.69 for a net amount of \$27,448.31.

The net proceeds from the sale of the lots, which were a gift from Dr. E. Lowell Whitley and Dr. R. Kent Cherry of Arlington, Texas, will be used for general purposes of The University of Texas at Arlington.

2. U. T. Cancer Center (U. T. M.D. Anderson Hospital - Houston): Estate of Doloras Baumgard, Deceased, Nederland, Texas - Report of Sale of Real Estate Being Lots 2 and 3, Block 81, Alvord, Wise County, Texas, to Mr. and Mrs. Jesse Jones, Jr., Alvord, Texas.--The Office of the Chancellor reported that the gift of real property being Lots 2 and 3, Block 81, Alvord, Wise County, Texas (Estate of Doloras Baumgard, Deceased, Nederland, Texas), had been sold to Mr. and Mrs. Jesse Jones, Jr., Alvord, Texas, for \$4,000 less closing costs of \$377.73 for a net amount of \$3,622.27.

The net proceeds from the sale will be used in support of cancer research at U. T. M.D. Anderson Hospital and Tumor Institute of The University of Texas System Cancer Center.

Following an inquiry by Regent Rhodes, several component presidents described a variety of ways in which donors were recognized for their support and understanding of the institution. These included social events of various types, progress reports on programs, reports on the status of scholarship holders and invitations to campus programs and symposia. Chairman Hay indicated that each donor to an endowment account (those accepted via the agenda process) also received an acknowledgement on behalf of the U. T. Board of Regents. The Board emphasized the importance of such recognitions to the continued support and understanding of these special friends.

ITEM FOR THE RECORD

U. T. Austin - College of Fine Arts Foundation Advisory Council: Acceptance of Membership.--At the December 1986 U. T. Board of Regents' meeting, Mrs. Tom B. Rhodes, Dallas, Texas, was approved for membership on The University of Texas at Austin College of Fine Arts Foundation Advisory Council for a term to expire August 31, 1988. Mrs. Rhodes' acceptance of membership is herewith reported for the record.

REPORT OF BOARD FOR LEASE OF UNIVERSITY LANDS

Regent Rhodes, Vice-Chairman of the Board for Lease of University Lands, submitted the following report on behalf of that Board:

Report

The Board for Lease of University Lands met on Thursday, January 29, 1987, in Midland, Texas, and offered 83 tracts for oil and gas lease on 23,840 acres. This was the first regular sealed bid sale that the University has had since 1935. All University oil and gas lease sales from that date have been auction bids.

The acreage offered for lease was primarily located in Andrews County and 10,887 acres were awarded to high bidders and 12,953 acres received no bids. Although 38 tracts of the 83 offered received bids, the bids received were excellent in light of the current recession in the oil and gas industry.

The average bonus per acre was \$276. The highest bonus per acre was \$726. Phillips Petroleum bought fourteen tracts and paid a total bonus of \$2,128,000. Phillips' average for the 4,573 acres which it leased was \$465 per acre.

Total high bonuses received from the sale were \$3,007,941.58. All the tracts carried a one-fourth royalty and a five-year term.

The Board has a call for nominations of University Lands in Crockett, Irion, Reagan, Schleicher and Upton Counties. A lease sale is anticipated for June 1987, and all nominations must be received by February 24, 1987.

Chairman Hay noted that this sale was a very encouraging development and was perceived by many to be the end of the oil crisis.

SCHEDULED MEETING.--Chairman Hay announced that the next meeting of the U. T. Board of Regents would be held on April 9-10, 1987, with the April 9 meeting at the U. T. Science Park in Smithville and the April 10 session in Austin.

RECESS.--At 2:20 p.m., Chairman Hay announced that the Board would recess to convene in executive session to discuss matters pursuant to Vernon's Texas Civil Statutes, Article 6252-17, Sections 2(e), (f) and (g) and that the Board would reconvene in open session this afternoon (February 12) to consider formally actions on those items.


RECONVENE.--At 4:15 p.m., the Board reconvened in open session for the purpose of acting on items discussed in Executive Session.

#### EXECUTIVE SESSION OF THE BOARD OF REGENTS

Chairman Hay reported that the Board had met in Executive Session in the Regents' Conference Room to discuss matters in accordance with Article 6252-17, Sections 2(e), (f) and (g) of Vernon's Texas Civil Statutes. In response to Chairman Hay's inquiry regarding the wishes of the Board, the following action was taken:

U. T. System: Consideration of the Negotiation of Certain Lease Arrangements Related to the Commercial Vineyards and Winery on Permanent University Fund Lands in West Texas.-- Chairman Hay announced that the Board heard an extensive report from the Executive Vice Chancellor for Asset Management and the Office of General Counsel on certain lease arrangements related to the commercial vineyards and winery on Permanent University Fund Lands in West Texas and that it was determined that no formal action by the Board was appropriate or required at this time.

ADJOURNMENT.--There being no further business, the meeting was adjourned at 4:17 p.m.

  
Arthur H. Dilly  
Executive Secretary

February 16, 1987