

UNIVERSITY OF MAINE SYSTEM

Small Construction Contract Agreement

(Use when contract value is less than \$50,000)

THIS AGREEMENT is made and entered into the 25th day of January, 2017, by and between the Contractor **Burr Signs 40A Manson Libby Road, Scarborough, ME 04074** and the University of Maine System acting by and through the University of **Southern Maine, 25 Bedford Street, Portland, ME 04104**, henceforth the Owner.

For the following Project: USM Entrance Kiosk at the corner of Forest Ave and Bedford Street.

The Owner and the Contractor for the considerations hereinafter named agree as follows:

ARTICLE 1. SCOPE OF THE WORK

§ 1.1 The Contractor shall furnish all of the labor, materials, equipment, tools, and other services necessary to perform all of the work described in Attachment A.

ARTICLE 2: START AND TIME OF COMPLETION

§ 2.1 The date of the commencement of work shall be the date of this Agreement or the following date - and shall be substantially completed on or before May 31, 2017 subject to adjustments as provided in the Contract Documents.

§ 2.2 The Contractor shall be liable for and shall pay the Owner the following stipulated liquidated damages for each calendar day of delay after the date established for Substantial Completion until the Work is substantially complete: Dollars (\$0) per calendar day.

ARTICLE 3: THE CONTRACT SUM AND PAYMENTS TO THE CONTRACTOR

§ 3.1 The Owner shall pay the Contractor for the performance of the Contract as follows Twenty five thousand, nine hundred eighty Dollars (\$25,980) subject to adjustments as provided in the Contract Documents

The Contract Sum is based upon the following alternatives and Unit Prices, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

Alternate (1) _____ Alternate (2) _____ Alternate (3) _____

Unit Prices

Item: _____ Price: _____

Item: _____ Price: _____

§ 3.2 Payments for work performed shall be made monthly for completed work based on the Contractor's submitted Application for Payment (Attachment B). The Contractor shall promptly pay each subcontractor and supplier upon receipt of payment from the Owner. Final payment shall be made after completion and acceptance of the work and receipt of Waiver of Lien (Attachment C) as provided in the Contract Documents.

ARTICLE 4: THE CONTRACT DOCUMENTS

§ 4.1 The Contract Documents for this project, except for modifications issued after execution of this agreement, consist of:

- .1 This agreement.

- .2 Attachment A Scope of Work.
- .3 The Drawings as listed in the Scope of Work.
- .4 The Addenda (List the addenda and dates issued).
- .5 Attachment B – Application for Payment
- .6 Attachment C – Waiver of Lien
- .7 Attachment D – Change Order Form
- .8 Other documents if any (**List any other documents that are intended to be part of the Contract**)

ARTICLE 5: OWNER’S REPRESENTATIVES

§ 5.1 The Owner’s Representative on this project will be Joseph Gallant, who is authorized to sign contracts and other legal documents related to this project on behalf of the Owner.

The Owner’s Project Manager on this project will be Joseph Gallant.

ARTICLE 6 OWNER'S RESPONSIBILITIES

§ 6.1 The Owner shall provide full information about the objectives, schedule, constraints and existing conditions of the project.

ARTICLE 7 CONTRACTOR'S RESPONSIBILITIES

§ 7.1 The Contractor shall supervise and direct the Work to complete the Work in a good and workmanlike manner. The Contractor shall be solely responsible for construction means, methods, scheduling and coordinating all portions of the Work unless otherwise specified.

§ 7.2 The Contractor shall prepare and furnish the Owner a construction schedule of work and keep it current.

§ 7.3 The Contractor shall acquire all permits applicable for the work not specifically identified as provided by the Owner. Costs for Contractor-provided permits shall be included in the Contract Sum identified in Article 3 above.

§ 7.4 The Contractor shall comply with all laws applicable to this work.

§ 7.5 The Contractor warrants to the Owner that : (1) the materials and equipment furnished will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects; and (3) the Work will conform to the requirements of the Contract Documents. Within one year after the date of Substantial Completion, the Contractor shall correct any of the Work is found not to be in accordance with the requirements of the Contract Documents.

ARTICLE 8 TERMINATION

§ 8.1 This Contract may be terminated by either party upon not less than seven days' written notice to the other party should such other party fail to perform in accordance with the terms of this Contract. This Contract may be terminated by the Owner upon not less than seven days written notice to the Contractor for the Owner's convenience and without cause.

ARTICLE 9 PROTECTION OF PERSONS AND PROPERTY

§ 9.1 The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and

programs including all those required by law and the Owner in connection with performance of the Contract. The Contractor shall take reasonable precautions to prevent injury to employees on the Work, damage or loss to the Work, material and equipment to be incorporated therein, and other property at or adjacent to the site. The Contractor shall promptly remedy damage and loss to the property caused in whole or in part by the Contractor.

§ 9.1.1 If this Contract involves renovation, repair, or preparation of surfaces for painting in pre-1978 apartments, houses, or spaces used by child care facilities, Contractor shall use certified workers who follow the lead-safe work practices as required by the US Environmental Protection Agency's Renovation, Repair and Remolding rule described in 40 CFR § 745.85. Notification of the tenants or users under this rule will be the responsibility of the University.

§ 9.2 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner.

§ 9.3 If the Contractor encounters a suspected hazardous material or substance not addressed in the contract documents, including, but not limited to, asbestos, polychlorinated biphenyl (PCB), or lead paint and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from this material or substance, the Contractor shall, upon recognizing the conditions, immediately stop work in the affected area and report the condition to the Owner in writing.

§ 9.3.1 Upon receipt of the Contractor's written notice concerning the suspected material or substance, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of a hazardous material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. When the material or substance has been rendered harmless, Work in the affected area shall resume upon notice from the Owner.

§ 9.4 The Owner shall not be responsible under this Section for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

ARTICLE 10 CHANGES

§ 10.1 Changes in the work must be approved by the Owner and Contractor prior to proceeding with the work. Change orders shall be recorded on a form approved by the University of Maine System (Attachment D).

ARTICLE 11 CONCEALED OR UNKNOWN CONDITIONS.

§ 11.1 If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner before conditions are disturbed.

ARTICLE 12 CUTTING AND PATCHING

§ 12.1 The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting and patching shall be restored to the condition existing prior to the cutting, fitting and patching, unless otherwise required by the Contract Documents.

ARTICLE 13 WASTE MANAGEMENT

§ 13.1 The University is committed to a resource management strategy which reduces to a minimum the production of waste material while reusing, recycling or composting as much as possible of the remaining materials. Contractor should strive to identify opportunities to reduce, reuse, or recycle waste from renovations or new construction.

ARTICLE 14 MISCELLANEOUS PROVISIONS

§ 14.1 This Contract shall be governed by the laws of the State of Maine.

§ 14.2 The Owner and Contractor, respectively, bind themselves, their partners, successors, assigns and legal representatives to this Contract. Neither party to this Contract shall assign the Contract as a whole without written consent of the other party, which consent the Owner may withhold without cause.

ARTICLE 15 INDEMNIFICATION

§ 15.1 The Contractor shall indemnify and hold harmless the Owner and its trustee officers, agents and employees from and against any and all claims, liabilities and costs, including reasonable attorney's fees, for any or all injuries to persons or property, arising from the negligent acts or omissions of the Contractor, its employees, agents, officers or subcontractors in the performance of work under this Contract. The Contractor shall not be liable for claims arising out of the negligent acts or omissions of the Owner or for actions taken in reasonable reliance on written instructions of the Owner. In the event that both parties are negligent and responsible, the Contractor is responsible for their portion of the negligence.

§ 15.2 The Contractor shall notify the Owner promptly of all claims arising out of the performance of work under this Contract by the Contractor its employees or agents, officers or subcontractors.

§ 15.3 This indemnity provision shall survive the termination of the Contract, completion of the project or the expiration of the term of the Contract.

ARTICLE 16 INSURANCE REQUIREMENTS

§ 16.1 CONTRACTOR'S LIABILITY INSURANCE

§ 16.1.1 The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations and completed operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- .1 Claims under workers' compensation, disability benefit and other similar employee benefit acts that are applicable to the Work to be performed;
- .2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
- .3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- .4 Claims for damages insured by usual personal injury liability coverage;
- .5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
- .7 Claims for bodily injury or property damage arising out of completed operations; and
- .8 Claims involving contractual liability insurance applicable to the Contractor's obligations under Section 15.1.

§16.1.2 The insurance required by Section 16.1.1 shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to the Contractor's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage as specified in the Contract Documents.

§ 16.1.3 Certificates of insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance. These certificates and the insurance policies required by this Section 16.1 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section 16.1.2. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor with reasonable promptness.

Certificates of Insurance filed with the University of Maine System shall indicate the Certificate Holder as University of Maine System, 16 Central Street, Bangor, Maine 04401. The Project name, campus, and general liability insurance required policy form and two required endorsements noted in Paragraph 16.1.5.1 below shall be included on the Certificate. Contractor must provide renewal certificates at least 15 days prior to expiration.

§ 16.1.4 The Contractor shall cause the commercial liability coverage required by the Contract Documents to include (1) the Owner, the Architect and the Architect's Consultants as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's completed operations.

Neither the Contractor nor any Subcontractors or Suppliers shall commence work at the project site under this contract until the Contractor has provided the University with a standard ACORD certificate listing all insurance coverages and limits required under this section. All required insurance shall be maintained throughout the term of this contract (including correction period) and be on a primary basis, noncontributory with any other insurance carried by the University. All required insurance shall be provided by companies that have a current A.M. Best insurance rating of A- or better and that are licensed or approved to do business in the State of Maine.

§ 16.1.5 COVERAGE LIMITS - The required insurance and coverage limits are as follows:

§ 16.1.5.1 General Liability -Contractor shall provide General Liability insurance with coverage for premises and operations, products and completed operations, explosion, collapse and underground hazards, broad form property damage, contractual, personal and advertising injury liabilities. Insurance shall be provided on a standard Insurance Services Office (ISO) Commercial General Liability Form CG 00 01 12 04 or equivalent and shall include the following three endorsements or their equivalent: 1) Additional Insured—Owners, Lessees or Contractors—Scheduled Person or Organization (CG20 10 07 04) with the University of Maine System, 16 Central Street, Bangor, ME 04401 listed as additional insured; 2) Additional Insured—Owners, Lessees or Contractors—Completed Operations (CG 20 37 07 04) with the University of Maine System, 16 Central Street, Bangor, ME 04401 listed as additional insured; and 3) Designated Construction Project General Aggregate Limit (CG 25 03 03 97)) as the Aggregate limits shall apply on a per location or job basis. The policy form and endorsements must be included on the certificate of insurance. The below required minimum insurance limits shall not be construed as a limitation of the University's rights under any insurance with higher limits and no insurance shall be endorsed to include such a limitation. General Liability insurance required minimum limits:

.1 General Aggregate	\$2,000,000
.2 Products & Completed Operations Aggregate	\$2,000,000
.3 Personal Injury Aggregate	\$1,000,000
.4 Each Occurrence for Contracts Under \$1 million	\$1,000,000
.5 Each Occurrence for Contracts \$1 million and above	\$2,000,000
.6 Personal/Advertising Injury	\$1,000,000
.7 Medical Payments (Any One Person)	\$5,000

§ 16.1.5.2 Workers' Compensation - Contractor including Independent Contractors shall provide Worker's Compensation insurance with coverage on a statutory basis according to Maine Law and apply to all personnel on the job site. Workers' Compensation insurance required minimum limits:

.1 Coverage A (Workers' Compensation)	Statutory Limits
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§ 16.1.5.3 Vehicle Liability Insurance - Contractor shall provide Vehicle Liability insurance with coverage for all owned, hired/rented and non-owned vehicles. Vehicle Liability insurance required minimum limit:

.1 Combined Single Limit	\$1,000,000 each accident
	or
.2 Split Limits	\$1,000,000 bodily injury \$1,000,000 property damage

§ 16.2 OWNER'S LIABILITY INSURANCE

The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

§ 16.3 PROPERTY INSURANCE

§ 16.3.1 For this project, Property Insurance coverage, up to the total amount of the Project, will be provided by the Owner by adding the Project to the Owner's existing master property insurance. Coverage shall be included for the Contractor and all Subcontractors, as their interests may appear, while involved in the Project and until the work is completed or the contractor is otherwise advised in writing. This insurance is limited to the "all risk" type coverage provided under the Owner's master property insurance for direct physical loss or damage to the building or building materials related to the project, subject to standard policy limitations and exclusions. The contractor is responsible for a \$10,000 per claim deductible. Any other insurance desired by the Contractor beyond that covered by the University's insurance, or to cover the \$10,000 deductible, is the financial responsibility of the Contractor. The Owner shall have primary authority to adjust and settle losses and shall act as fiduciary for all insureds as needed. This contract stands as verification of the Owner's property insurance coverage on the project and no further verification will be provided.

ARTICLE 17 EQUAL EMPLOYMENT OPPORTUNITY

§176.1 During the performance of this contract, the contractor agrees as follows:

§ 17.1.1 The contractor will not discriminate against any employee or applicant for employment because of race, color, religious creed, sex, sexual orientation, national origin, ancestry, age, physical handicap or mental handicap. Such action shall include, but not be limited to, the following: employment, upgrading, demotions, transfers, recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

§ 17.1.2 The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the

contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religious creed, sex, sexual orientation national origin, ancestry, age, physical handicap or mental handicap.

§ 17.1.3 The contractor will send to each labor union or representative of the workers with which there is a collective or bargaining agreement in place, or other contract or understanding, whereby labor is being furnished for the performances of his contract, a notice, as set forth in Exhibit A attached hereto, to be provided by the contracting department or agency, advising the said labor union or workers' representative of the contractor's commitment under the provisions of the contract, and shall post copies of the notice in conspicuous places available to employees and to applicants for employment.

§ 17.1.4 The contractor will cause the foregoing provisions to be inserted in all contracts for any work covered by this agreement so that such provisions will be binding upon each subcontractor.

ARTICLE 18 DISPUTE RESOLUTION

§ 18.1 If there arises a claim or a dispute between the Owner and the Contractor which cannot be settled, the claim or dispute shall be submitted to Arbitration, and both the Owner and the Contractor shall be bound by the decision of the arbitrator.

§ 18.1.1 Either the Owner or the Contractor shall notify the other in writing that the claim or dispute is to be submitted to Arbitration. Within three (3) days of receipt of the notice of arbitration, the parties will exchange the names and addresses of three (3) proposed arbitrators which will be either an architect, engineer, or attorney, or three of the same. If any name on both lists matches, that person will be appointed the arbitrator. If none of the names match, the individuals named first on each list will be asked to name an arbitrator. None of the arbitrators on the lists will be eligible to be named as an arbitrator to be selected by this process.

§ 18.1.2 Within three (3) days of the selection of the arbitrator, each party shall submit a position paper concerning the dispute to the arbitrator. The arbitration will take place within three (3) days of the submission of the position papers.

§ 18.1.3 The fees of the arbitrator and the costs of the arbitration will be divided equally between the parties. There will be no discovery permitted in the arbitration process.

§ 18.1.4 Except as herein provided, the procedures and rules governing the arbitration shall be the Construction Industry Arbitration Rules of the American Arbitration Association.

ARTICLE 19 TAXES

§19.1 The University of Maine System is exempt from payment of taxes under the Maine Sales and Use Tax Law Title 36 Section 1760 for taxes on materials that are permanently incorporated into the real property belonging to the University of Maine System. The University of Maine System is also exempt from the payment of Federal Excise Taxes on articles not for resale and from the Federal Transportation Tax on all shipments; exemption certificates for these taxes will be furnished when required. All quotations shall be less these taxes. The contractor shall pay all other taxes that have been or are legally enacted.

ARTICLE 20 OTHER PROVISIONS

(Insert any additional provisions to this Contract below. Any such provisions or other revisions to the standard Contract form are subject to approval by the University of Maine System.)

The Owner and the Contractor hereby agree to the full performance of the covenants herein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in triplicate on the day and year first above written.

UNIVERSITY OF MAINE SYSTEM

Company

Company

By:

CFO's Name

William Conk
Director of Facilities Management
University of Maine Portland Campus of
USM

By:

Title

Witness

Witness

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SCOPE of WORK

(Attachment A)

Provide a detailed description of the Scope of work including commencement and completion of work dates

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**UNIVERSITY OF MAINE SYSTEM
Small Construction Contract
APPLICATION FOR PAYMENT**

Contractor: [Contractor company name]
[location]
[address]
[city state zip]

Req. Number:

Date: _____

Project: [Project name]

Project Number: _____

Period: [start date] to [end date]

Description of Work	Scheduled Value	Work Completed		Total Work Completed	Percent Complete	Balance to Finish
		Previously	This Period			
1 item	\$0	\$0	\$0	\$0	####	\$0
2 item	\$0	\$0	\$0	\$0	####	\$0
3 item	\$0	\$0	\$0	\$0	####	\$0
4 item	\$0	\$0	\$0	\$0	####	\$0
5 item	\$0	\$0	\$0	\$0	####	\$0
6 item	\$0	\$0	\$0	\$0	####	\$0
7 item	\$0	\$0	\$0	\$0	####	\$0
8 item	\$0	\$0	\$0	\$0	####	\$0
9 item	\$0	\$0	\$0	\$0	####	\$0
10 item	\$0	\$0	\$0	\$0	####	\$0
11 item	\$0	\$0	\$0	\$0	####	\$0
12 item	\$0	\$0	\$0	\$0	####	\$0
13 item	\$0	\$0	\$0	\$0	####	\$0
14 item	\$0	\$0	\$0	\$0	####	\$0
15 item	\$0	\$0	\$0	\$0	####	\$0
16 item	\$0	\$0	\$0	\$0	####	\$0
17 item	\$0	\$0	\$0	\$0	####	\$0
18 item	\$0	\$0	\$0	\$0	####	\$0
19 item	\$0	\$0	\$0	\$0	####	\$0
20 item	\$0	\$0	\$0	\$0	####	\$0
21 Change Order No. 1	\$0	\$0	\$0	\$0	####	\$0
22	\$0	\$0	\$0	\$0	####	\$0
23	\$0	\$0	\$0	\$0	####	\$0
24	\$0	\$0	\$0	\$0	####	\$0
25	\$0	\$0	\$0	\$0	####	\$0
Totals	\$0	\$0	\$0	\$0	####	\$0
5% Retainage		\$0	\$0			
Total Paid to Date		\$0				
Current Payment Due			\$0			

Architect/Engineer
[Firm name]
[address]
[city state zip]

Contractor
[Company name]
[address]
[city state zip]

Owner
[Campus name]
[address]
[city state zip]

[signature above this typed name]
date: _____

[signature above this typed name]
date: _____

[signature above this typed name]
date: _____

Attachment B - Application for Payment

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WAIVER OF LIEN

Date:
State of Maine
County of

TO: Office of Facilities
University of Maine System
16 Central Street
Bangor, ME 04401

SUBJECT _____
Project Name _____
Project Location _____

Upon receipt of the sum of _____(being the balance due us under the existing contract or subcontract agreement for work on the Subject Project) the undersigned agrees that it will waive and release the University of Maine System from any and all lien or claim or right to lien on the Subject Project under the Statutes of the State of Maine relating to liens for labor, materials and/or subcontracts furnished for the Subject Project on premises belonging to the University of Maine System.

Signed: _____
Authorized Signature

Title _____

Firm Name: _____

NOTARY

Subscribed and sworn to before me this _____ day of _____, 20_____.

Signature Notary Public

Attachment C - Waiver of Lien

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**UNIVERSITY OF MAINE SYSTEM
Small Construction Contract
CHANGE ORDER**

Project: [Project name] _____
 [location] _____
 [address] _____
 [city state zip] _____

C. O. Number: _____

Date: _____

To: [Contractor company name] _____

Project Number: _____

- > Number and briefly summarize each Change Order item below. Include description of and reason for work, and cost.
- > Attach appropriate supporting documentation including drawings and specifications.
- > Change Order is not valid until signed by all parties.

No.	Description	Cost
1	[Replace this text. Please keep the description brief so the text is completely visible when printed. Indicate item number at left and cost at right.]	
Total:		\$0

Print on Green Paper

	Add	Deduct	Total
Amount of This Change Order	\$0	\$0	\$0
Amount of Previous Change Orders	\$0	\$0	\$0
Net Change Orders to Date	\$0	\$0	\$0
Original Contract Amount	\$0	\$0	\$0
Contract Total to Date	\$0	\$0	\$0

Completion Date: _____

Extend Completion Date by _____

This Number of Days: _____

New Completion Date: _____

Architect/Engineer	Contractor	Owner
[Firm name] _____	[Company name] _____	[Agency name] _____
[address] _____	[address] _____	[address] _____
[city state zip] _____	[city state zip] _____	[city state zip] _____

[signature above this typed name] _____	[signature above this typed name] _____	[signature above this typed name] _____
date: _____	date: _____	date: _____