

ASSIGNMENTS BY VENDORS AND CONSTRUCTION CONTRACTORS

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## ASSIGNMENTS BY VENDORS AND CONSTRUCTION CONTRACTORS

"A properly executed assignment, for our purposes, should be considered to be any written document by the owner of the right manifesting to the University his present intention to transfer, without further action, the right to another."

--General Counsel of The Regents

I. INTRODUCTION

This chapter establishes the guidelines and procedures for approving purchase order contract and construction contract assignments.<sup>1</sup> These guidelines and procedures apply to all campuses and activities of the University, except the three Department of Energy Laboratories.

II. DEFINITIONS

**Assignment** - the transfer to a third party ("Assignee") by a contracting party ("Assignor") of its obligations and/or rights under a contract.

**Purchase Order Contracts** - a contract for which a University purchasing unit or a campus purchasing department uses the University standard purchase order form<sup>2</sup> for the purchase of goods or services from a given vendor or supplier.

**Construction Contracts** - a binding and legally enforceable agreement entered into by the University, without a purchase order form, for the planning, development, fabrication, or construction of a building or other physical structure intended for use by the University.

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<sup>1</sup>It is not the intent of this chapter to mandate procedures and guidelines for contract assignment by the University of its obligations or rights.

<sup>2</sup> Although the design of each campus purchase order is unique, certain items must be included on the form. Refer to [Business and Finance Bulletin BUS-43](#), Exhibit C, Instructions for Use of University Terms and Conditions for more information. Appendix A contains the University of California Terms and Conditions of Purchase.

III. PROCEDURES FOR RESPONDING TO ASSIGNMENTS

A. ASSIGNMENT OF PURCHASE ORDER CONTRACTS

In the case of purchase order contracts, the vendor may assign to another either its **obligations** to perform its contract responsibilities or its **rights**.

1. Vendor's Assignment of Its Obligations

It is the policy of the University not to accept a vendor's assignment of its **obligations** under a contract with the University unless prior written University approval for such assignment has been obtained, as provided in the University of California Terms and Conditions of Purchase, as follows: "Except as to any payment hereunder, this order may not be assigned or subcontracted by Seller without written approval of University" (see University Terms and Conditions of Purchase, Article 13 in Appendix A).

2. Vendor's Assignment of Its Rights

It is the policy of the University to accept a vendor's assignment of its **rights** under a contract with the University provided that the vendor-assignor serves the University with written notice of such assignment.

B. ASSIGNMENT OF CONSTRUCTION CONTRACTS

A construction contractor may assign to another either its **obligations** to perform under a construction contract with the University or its **rights** under the contract. The University will not accept an assignment of obligations or rights arising out of such contract unless the approval procedure described in section III.D.2 below has been satisfied.

C. NOTICE OF ASSIGNMENT

For the purposes of this chapter, an assignment, where permissible, will not be accepted by the University unless the University has received the assignor's written notice of the assignment, signed by the assignor or by the assignor's duly authorized representative. For the notification to be valid, it should conform to the following requirements:

- 1) The University will **not** accept rubber stamp or form letter notices of assignment;

III. PROCEDURES FOR RESPONDING TO ASSIGNMENTS (Cont.)C. NOTICE OF ASSIGNMENT (Cont.)

- 2) If the University receives a notice of assignment from an **assignee**, the assignment will not be accepted unless proper written notice is also obtained from the **assignor**; and
- 3) If the assignor does not properly confirm an assignment, legal assistance should be requested from the General Counsel of The Regents (General Counsel).

D. ACCEPTANCE OF AN ASSIGNMENT

Until University approval has been granted, an assignment should not be honored or treated as in any way binding to the University unless the General Counsel advises to the contrary.

University approval will be granted only if the assignment serves the interests of the University as well as or better than its interests are served by the original contract with the assignor.

1. Purchase Order Contracts

The acceptance of a vendor's assignment of its contract **obligations** requires prior University approval, and should be referred to the campus materiel manager and/or, as appropriate, to the unit or activity administrator who executed the contract for the University. Approval should not be granted unless it has been determined that such approval is in the best interest of the University.

The acceptance of the vendor's assignment of its contract **rights** may be made at the local campus level, provided the procedures described in section III.A.2 above are satisfied.

2. Construction Contracts

- a) The assignment of a construction contract **obligation** or **right** can only be accepted at the Office of the President level, not at the local campus level.
- b) The assignment, or proposed assignment, must be reviewed and approved by the appropriate University officials before it can be

accepted. For example, the campus chief architect and/or engineer is the appropriate official to determine whether the assignee can, in terms of quality, perform a service as well as or better than the original contracting party. This review should determine whether acceptance of the assignment is consistent with sound business practice standards and in the best interest of the University.

- c) The assignment, or proposed assignment, must then be reviewed and approved by the General Counsel before it can be accepted. This review will focus on legality and form. To request the General Counsel's approval of the assignment of the contractor's **obligations** and/or **rights**, an Accounting Officer's Report must be submitted to the General Counsel by the accounting officer, with a copy furnished to the Office of the Vice President-- Financial Management for coordination (see Appendix B for the recommended format). The report must include the following:
- 1) A summary of the current status of the contract;
  - 2) The amount payable under the contract (balance, if payments have already been made);
  - 3) Itemization of--
    - (a) The amounts of all stop notice claims, if any, against the contractor (the amount is 125% of the total claimed);
    - (b) The amounts of all tax liens, if any; and
    - (c) Any offsets for improperly performed work and/or obligations or for liquidated damages assessed against the contractor; and
  - 4) A statement as to whether the itemized stop notices and/or improperly performed work or any damages assessed have priority over the assignment.

IV. RESPONSIBILITIES

## A. ACCOUNTING OFFICERS

- 1) Accounting officers are responsible for the initial review of all assignments from vendors and construction contractors. The review must also ensure that the interest of the University is protected. Accounting officers may approve the assignment of purchase order contract **rights** for their respective campuses.
- 2) Accounting officers are also responsible for obtaining the review and approval of other offices where required, including review and approval by the General Counsel's Office.
- 3) Accounting officers must ensure that the required reports are prepared and submitted, and that supporting documents are annotated. Such annotation must include the assignee's proper identification.

## B. GENERAL COUNSEL OF THE REGENTS

Where Office of the President approval is required, the General Counsel of The Regents will review and approve, if necessary, the legality and form of assignments of contract **obligations** and/or **rights**.

V. REFERENCES

Vice President Kettler, Letter to Chief Campus Officers and the President's Cabinet, on Assignments from Vendors or Contractors, February 15, 1962.

Accounting Manual Chapter:

**P-415-6** Plant Accounting: Stop Notices, Assignments, and Tax Liens.

Business and Finance Bulletin:

**BUS-43** Materiel Management

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Historical note: Accounting Manual chapter first published 6/15/83. Revised 3/31/99; analyst--Dave Haskins.

APPENDIX A

## University of California

**Terms and Conditions of Purchase**

ARTICLE 1 - The materials, supplies or services covered by this order shall be furnished by Seller subject to all the terms and conditions set forth in this order including the following, which Seller, in accepting this order, agrees to be bound by and to comply with in all particulars and no other terms or conditions shall be binding upon the parties unless hereafter accepted by them in writing.

Written acceptance or shipment of all or any portion of the materials or supplies, or the performance of all or any portion of the services, covered by this order shall constitute unqualified acceptance of all its terms and conditions. The terms of any proposal referred to in this order are included and made a part of the order only to the extent it specifies the materials, supplies, or services ordered, the price therefor, and the delivery thereof, and then only to the extent that such terms are consistent with the terms and conditions of this order.

ARTICLE 2 - INSPECTION. The services, materials and supplies furnished shall be exactly as specified in this order free from all defects in Seller's performance, design, workmanship and materials, and, except as otherwise provided in this order, shall be subject to inspection and test by University at all times and places. If, prior to final acceptance, any services and any materials and supplies furnished therewith are found to be incomplete, or not as specified, University may reject them, require Seller to correct them without charge, or require delivery of such materials, supplies, or services at a reduction in price which is equitable under the circumstances. If Seller is unable or refuses to correct such items within a time deemed reasonable by University, University may terminate the order in whole or in part. Seller shall bear all risks as to rejected services and, in addition to any costs for which Seller may become liable to University under other provisions of this order, shall reimburse University for all transportation costs, other related costs incurred, or payments to Seller in accordance with the terms of this order for unaccepted services and materials and supplies incidental thereto. Notwithstanding final acceptance and payment, Seller shall be liable for latent defects, fraud or such gross mistakes as amount to fraud.

ARTICLE 3 - CHANGES. University may make changes within the general scope of this order in drawings and specifications for specially manufactured supplies, place of delivery, method of shipment or packing of the order by giving notice to Seller and subsequently confirming such changes in writing. If such changes affect the cost of or the time required for performance of this order, an equitable adjustment in the price or delivery or both shall be made. No change by Seller shall be allowed without written approval of University. Any claim of Seller for an adjustment under this Article must be made in writing within thirty (30) days from the date of receipt by Seller of notification of such change unless University waives this condition in writing. Nothing in this Article shall excuse Seller from proceeding with performance of the order as changed hereunder.

## ARTICLE 4 - TERMINATION

A. University may, by written notice stating the extent and effective date, cancel and/or terminate this order for convenience in whole or in part, at any time. University shall pay Seller as full compensation for performance until such termination:

(1) the unit or pro rata order price for the performed and accepted portion; and

(2) a reasonable amount, not otherwise recoverable from other sources by Seller as approved by University, with respect to the unperformed or unaccepted portion of this order, provided compensation hereunder shall in no event exceed the total order price.

B. University may by written notice terminate this order for Seller's default, in whole or in part, at any time, if Seller refuses or fails to comply with the provisions of this order, or so fails to make progress as to endanger performance and does not cure such failure within a reasonable period of time, or fails to perform the services within the time specified or any written extension thereof. In such event, University may purchase or otherwise secure services and, except as otherwise provided herein, Seller shall be liable to University for any excess costs occasioned University thereby. If, after notice of termination for default, University determines that the Seller was not in default or that the failure to perform this order was due to causes beyond the control and without the fault or negligence of Seller (including, but not restricted to, acts of God or of the public enemy, acts of University, acts of Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, and delays of a subcontractor or supplier due to such causes and without the fault or negligence of the subcontractor or supplier), termination shall be deemed for the convenience of University, unless University shall determine that the services covered by this order were obtainable by Seller from other sources in sufficient time to meet the required performance schedule.

C. If University determines that Seller has been delayed in the work due to causes beyond the control and without the fault or negligence of Seller, University may extend the time for completion of the work called for by this order, when promptly applied for in writing by Seller; any extension granted shall be effective only if given in writing. If such delay is due to failure of University, not caused or contributed to by Seller, to perform services or deliver property in accordance with the terms of the order, the time and price of the order shall be subject to change under the Changes Article. Sole remedy of Seller in event of delay by failure of University to perform shall, however, be limited to any money actually and necessarily expended in the work during the period of delay, solely by reason of the delay. No allowance will be made for anticipated profits.

D. The rights and remedies of University provided in this Article shall not be exclusive and are in addition to any other rights and remedies provided by law or under this order.

E. As used in this Article, the word "Seller" includes Seller and its subsuppliers at any tier.

ARTICLE 5 - LIABILITY FOR UNIVERSITY - FURNISHED PROPERTY. Seller assumes complete liability for any tooling, articles or material furnished by University to Seller in connection with this order and Seller agrees to pay for all such tooling, articles or material damaged or spoiled by it or not otherwise accounted for to University's satisfaction. The furnishing to Seller of any tooling, articles, or material in connection with this order shall not, unless otherwise expressly provided, be construed to vest title thereto in Seller.

ARTICLE 6 - TITLE. Title to the material and supplies purchased hereunder shall pass directly from Seller to University at the f.o.b. point shown, or as otherwise specified in this order, subject to the right of University to reject upon inspection.

ARTICLE 7 - PAYMENT, EXTRA CHARGES, DRAFTS. Seller shall be paid, upon submission of acceptable invoices, for materials and supplies delivered and accepted or services rendered and accepted. University will not pay cartage, shipping, packaging or boxing expenses, unless specified in this order. Drafts will not be honored. Invoices must be accompanied by shipping documents or photocopies of such, if transportation is payable and charged as a separate item.

APPENDIX A (Cont.)

ARTICLE 8 - CHARACTER OF SERVICES. Seller, as an independent contractor, shall furnish all equipment, personnel and material sufficient to provide the services expeditiously and efficiently during as many hours per shift and shifts per week and at such locations as the University may so require and designate.

ARTICLE 9 - FORCED, CONVICT, AND INDENTURED LABOR A. By accepting this order, Seller hereby certifies that no foreign-made equipment, materials, or supplies furnished to the University pursuant to this order will be produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction.

B. Any Seller contracting with the University who knew or should have known that the foreign-made equipment, materials, or supplies furnished to the University were produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction, when entering into a contract pursuant to the above, may have any or all of the following sanctions imposed:  
 (1.) The contract under which the prohibited equipment, materials, or supplies were provided may be voided at the option of the University.  
 (2.) Seller may be removed from consideration for University contracts for a period not to exceed 360 days.

ARTICLE 10 - INDEMNITY.

A. General. Seller shall defend, indemnify, and hold harmless University, its officers, employees, and agents, from and against all losses, expenses (including attorneys' fees), damages, and liabilities of any kind resulting from or arising out of this agreement and/or Seller's performance hereunder, provided such losses, expenses, damages and liabilities are due or claimed to be due to the negligent or willful acts or omissions of Seller, its officers, employees, agents, subcontractors, or anyone directly or indirectly employed by them, or any person or persons under Seller's direction and control.

B. Proprietary Rights. Seller shall indemnify, defend, and hold harmless University, its officers, agents, and employees against all losses, damages, liabilities, costs, and expenses (including but not limited to attorneys' fees) resulting from any judgment or proceeding in which it is determined, or any settlement agreement arising out of the allegation, that Seller's furnishing or supplying University with parts, goods, components, programs, practices, or methods under this order or University's use of such parts, goods, components, programs, practices, or methods supplied by Seller under this order constitutes an infringement of any patent, copyright, trademark, trade name, trade secret, or other proprietary or contractual right of any third party. The foregoing shall not apply unless University has informed Seller as soon as practicable of the suit or action alleging such infringement. Seller shall not settle such suit or action without the consent of University. University retains the right to participate in the defense against any such suit or action.

C. Products. Seller shall fully indemnify, defend, and hold harmless University from and against any and all claim, action, and liability, for injury, death, and property damage, arising out of the dispensing or use of any of Seller's product provided under authorized University orders. In addition to the liability imposed by law on the Seller for damage or injury (including death) to persons or property by reason of the negligence, willful acts or omissions, or strict liability of the Seller or his agents, which liability is not impaired or otherwise affected hereby, the Seller hereby assumes liability for and agrees to save University harmless and indemnify it from every expense, liability or payment by reason of any damage or injury (including death) to persons or property suffered or claimed to have been suffered through any act or omission of the Seller.

The University agrees to provide Seller with prompt notice of any such claims and to permit Seller to defend any claim or suit, and that it will cooperate fully in such defense.

ARTICLE 11 - DECLARED VALUATION OF SHIPMENTS. Except as otherwise provided on the face of this order, all shipments by Seller under this order for University's account shall be made at the maximum declared value applicable to the lowest transportation rate or classification and the bill of lading shall so note

ARTICLE 12 - WARRANTY. Seller agrees that the supplies or services furnished under this order shall be covered by the most favorable commercial warranties the Seller gives to any customer for the same or substantially similar supplies or services, or such other more favorable warranties as specified in this order. The rights and remedies so provided are in addition to and do not limit any rights afforded to University by any other article of this order. Such warranties will be effective notwithstanding prior inspection and/or acceptance of the services or supplies by the University.

ARTICLE 13 - ASSIGNMENT AND SUBCONTRACTING. This order is assignable by University. Except as to any payment due hereunder, this order may not be assigned or subcontracted by Seller without written approval of University. In case such consent is given, it shall not relieve Seller from any of the obligations of this Agreement and any transferee or subcontractor shall be considered the agent of Seller and, as between the parties hereto, Seller shall be and remain liable as if no such transfer or subcontracting had been made.

ARTICLE 14 - EQUAL OPPORTUNITY AFFIRMATIVE ACTION. Seller shall not maintain or provide racially segregated facilities for employees at any establishment under its control. Seller agrees to adhere to the requirements set forth in Executive Orders 11246 and 11375, and with respect to activities occurring in the State of California, to the California Fair Employment and Housing Act (Government Code section 12900 et seq.). Expressly, Seller shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, medical condition (as defined by California Code section 12925f), marital status, age, physical and mental handicap in regard to any position for which the employee or applicant for employment is qualified, or because he or she is a disabled veteran or veteran of the Vietnam era. Seller shall further specifically undertake affirmative action regarding the hiring, promotion and treatment of minority group persons, women, the handicapped, and disabled veterans and veterans of the Vietnam era. Seller shall communicate this policy in both English and Spanish to all persons concerned within its company, with outside recruiting services, and the minority community at large. Seller shall provide the University on request a breakdown of its labor force by groups, specifying the above characteristics within job categories, and shall discuss with the University its policies and practices relating to its affirmative action programs.

ARTICLE 15 - The clauses contained in the following paragraphs of the Federal Acquisition Regulations are incorporated by reference. The full text is available upon request:

- FAR 52.222-04 Contract Work Hours and Safety Standards Act
- FAR 52.222-26 Equal Opportunity
- FAR 52.223-02 Clean Air and Water (If order exceeds \$100,000)

ARTICLE 16 - WORK ON UNIVERSITY OR GOVERNMENT PREMISES. If Seller's work under this order involves performance by Seller at University or United States Government owned sites or facilities, the following provisions shall apply:

A. Liens. Seller agrees that at any time upon request of University he will submit a sworn statement setting forth the work performed or material furnished by subcontractors, suppliers and materialmen, and the amount due and to become due to each, and that before the final payment called for hereunder, will if requested, submit to University a complete set of vouchers showing what payments have been made for materials and labor used in connection with the work called for hereunder.



(Seller shall:

1) Indemnify and hold harmless University from all claims, demands, causes of action or suits, of whatever nature, arising out of the services, labor and materials furnished by Seller or its subcontractors under this order, and from all laborers', materialmen's and mechanics' liens upon the real property upon which the work is located or any other property of University;

(2) Promptly notify University in writing, of any such claims, demands, causes of action, or suits brought to its attention. Seller shall forward with such notification copies of all pertinent papers received by Seller with respect to any such claims, demands, causes of action or suits and, at the request of University shall do all things and execute and deliver all appropriate documents and assignments in favor of University of all Seller's rights and claims growing out of such asserted claims as will enable University to protect its interest by litigation or otherwise. The final payment shall not be made until Seller, if required, shall deliver to University a complete release of all liens arising out of this order, or receipts in full in lieu thereof, as University may require, and if required in either case, an affidavit that as far as it has knowledge or information, the receipts include all the labor and materials for which a lien could be filed; but Seller may, if any subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to University to indemnify it against any claim by lien or otherwise. If any lien or claim remains unsatisfied after all payments are made, Seller shall refund to University all monies that the latter may be compelled to pay in discharging such lien or claim, including all costs and reasonable attorneys' fees.

B. Cleaning Up. Seller shall at all times keep University premises where tile work is performed and adjoining premises free from accumulations of waste material or rubbish caused by its employees or work of any of its subcontractors, and, at the completion of the work; shall remove all rubbish from and about the building and all its and its subcontractors' tools, scaffolding, and surplus materials, and shall leave the work "broom clean" or its equivalent, unless more exactly specified. In case of dispute between Seller and the subcontractors employed on or about the structure or structures upon which the work is to be done, as herein provided, as to responsibility for the removal of the rubbish, or in case die same be not Promptly removed as herein required, University may remove the rubbish and charge the cost to Seller.

C. Employees. Seller shall not employ on the work any unfit person or anyone not skilled in the work assigned to him or her, and shall devote only its best-qualified personnel to work under this order. Should University deem anyone employed on the work incompetent or unfit for his or her duties and so inform Seller, Seller shall immediately remove such person from work under this order and he or she shall not again, without written permission of University, be assigned to work under this order.

It is understood that if employees of University shall perform any acts for the purpose of discharging the responsibility undertaken by the Seller in this Article 15, whether requested to perform such acts by the Seller or not, such employees of the University while performing such acts shall be considered the agents and servants of the Seller subject to the exclusive control of the Seller.

D. Safety, Health and Fire Protection. Seller shall take all reasonable precautions in the performance of the work under this order to protect the health and safety of employees and members of the public and to minimize danger from all hazards to life and property, and shall comply with all health, safety, and fire protection regulations and requirements (including reporting requirements) of University. In the event that Seller fails to comply with said regulations or requirements of University, University may, without prejudice to any other legal or contractual rights of University, issue an order stopping all or any part of tire work; thereafter a start order for resumption of work may be issued at the discretion of the University. Seller shall make no claim for extension of time or for compensation or damages by reason of or in connection with such work stoppage.

The safety of all persons employed by Seller and its subcontractors on University premises, or any other person who enters upon University premises for reasons relating to this order, shall be the sole responsibility of Seller.

Seller shall at all times maintain good order among its employees and shall not employ on the work any unfit person or anyone not skilled in the work assigned to him or her. Seller shall confine its employees and all other persons who come onto University's premises at Seller's request or for reasons relating to this order and its equipment to that portion of University's premises where the work under this order is to be performed or to roads leading to and from such work sites, and to any other area which University may permit Seller to use. Seller shall take all reasonable measures and precautions at all times to prevent injuries to or the death of any of its employees or any other person who enters upon University premises. Such measures and precautions shall include, but shall not be limited to, all safeguards and warnings necessary to protect workers and others against any conditions on Owner's premises which could be dangerous and to prevent accidents of any kind whenever work is being performed in proximity to any moving or operating machinery, equipment or facilities, whether such machinery, equipment or facilities are the property of or are being operated by, the Seller, its subcontractors, the University or other persons.

To the extent compliance is required, Seller shall comply with all University safety rules and regulations when on University premises.

ARTICLE 17 - INSURANCE

Seller shall defend, indemnify, and hold the University, its officers, employees, and agents harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages that are caused by or result from the negligent or intentional acts or omissions of Seller, its officers, agents, or employees.

Seller, at its sole cost and expense, shall insure its activities in connection with the work under this order and obtain, keep in force, and maintain insurance as follows:

A- (comprehensive or Commercial Form General Liability Insurance (contractual liability included) with limits as follows:

Each Occurrence	\$ _____
Products/Completed Operations Aggregate	\$ _____
Personal and Advertising Injury	\$ _____
General Aggregate (Not applicable to the Comprehensive Form)	\$ _____

If the above insurance is written on a claims-made form, it shall continue for three years following termination of this Agreement. The insurance shall have a retroactive date of placement prior to or coinciding with the effective date of this Agreement. B. Business Automobile Liability Insurance for owned, scheduled, non-owned, or hired automobiles with a combined single limit not less than dollars (\$ \_\_\_\_\_) per occurrence.

(REQUIRED ONLY IF SELLER DRIVES ON UNIVERSITY PREMISES IN THE COURSE OF PERFORMING WORK FOR UNIVERSITY.)

C. Professional Liability Insurance with a limit of \_\_\_\_\_ dollars per occurrence with an aggregate of not less than dollars (\$ \_\_\_\_\_). If this insurance is written on a claims-made form, it shall continue for three years following termination of this Agreement. The insurance shall have a retroactive date of placement prior to or coinciding with the effective date of this Agreement.

D. Workers' Compensation as required by California State law.

APPENDIX A (Cont.)

It is understood that the coverage and limits referred to under a., b., and c. above shall not in any way limit the liability of Seller. Seller shall furnish the University with certificates of insurance evidencing compliance with all requirements prior to commencing work under this Agreement. Such certificates shall:

(1) Provide for thirty (30)-days advance written notice to the University of any modification, change, or cancellation of any of the above insurance coverage.

(2) Indicate that The Regents of the University of California has been endorsed as an additional insured under the coverage referred to under a. and b.

3) Include a provision that the coverage will be primary and will not participate with nor be excess over any valid and collectible insurance or program of self-insurance carried or maintained by the University.

It should be further understood that the provisions under 2. and 3. above shall only apply in proportion to and to the extent of the negligent acts or omissions of Seller, its officers, agents, or employees.

ARTICLE 18 - PERMITS. Seller agrees to procure all necessary permits or licenses and abide by all applicable laws, regulations and ordinances of the United States and of the state, territory and political subdivision in which the work under this order is performed. Seller shall be liable for all damages and shall indemnify and save University harmless from and against all damages and liability which may arise out of failure of Seller to secure and pay for any such licenses or permits or to comply fully with any and all applicable laws, ordinances and regulations.

ARTICLE 19 - COOPERATION. Seller and its subcontractors, if any, shall cooperate with University and other vendors and contractors on the premises and shall so carry on their work that other cooperating vendors and contractors shall not be hindered, delayed or interfered with in the progress of their work, and so that all of such work shall be a finished and complete job of its kind.

ARTICLE 20 - WAIVER OF DEFAULT. Any failure of University at any time, or from time to time, to enforce or require the strict keeping and performance by Seller of any of the terms or conditions of this order shall not constitute a waiver by University of a breach of any such terms or conditions and shall not affect or impair such terms or conditions in any way, or the right of University at any time to avail itself of such remedies as it may have for any such breach or breaches of such terms or conditions.

ARTICLE 21 - TAXES. Seller shall pay all contributions, taxes and premiums payable under federal, state and local laws measured upon the payroll of employees engaged in the performance of work under this order, and all applicable sales, use, excise, transportation, privilege, occupational and other taxes applicable to materials and supplies furnished or work performed hereunder and shall save University harmless from liability for any such contributions, premiums, and taxes.

ARTICLE 22 - OTHER APPLICABLE LAWS. Any provision required to be included in a contract of this type by any applicable and valid federal, state or local law, ordinance, rule or regulations shall be deemed to be incorporated herein.

ARTICLE 23 - GOVERNING LAW. The law of the State of California shall control this Appendix and any document to which it is appended.

APPENDIX B

ACCOUNTING OFFICER'S REPORT

ASSIGNMENT

Prepared by \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

1. Prime Contractor's Name \_\_\_\_\_

Address \_\_\_\_\_

2. Project Name \_\_\_\_\_

3. Contract Date \_\_\_\_\_

4. Date of Actual/Anticipated Completion \_\_\_\_\_

5. Acceptance Date \_\_\_\_\_

6. Notice of Completion filed in \_\_\_\_\_ County.

7. Date of filing Notice of Completion \_\_\_\_\_

8. Labor and Materials Bond No. \_\_\_\_\_

Name and Address of Surety \_\_\_\_\_

9. Performance Bond No. \_\_\_\_\_

Name and Address of Surety \_\_\_\_\_

Adjusted Contract Price \_\_\_\_\_

Payments to the contractor against the adjusted contract price to date \_\_\_\_\_

10. Total unpaid contract balance \_\_\_\_\_

11. Amount claimed by University as deduction for deficient work (if any) \_\_\_\_\_

APPENDIX B (Cont.)

12. If more than one type of deficiency, describe nature of and amount claimed for each kind of deficient work: (Attach any relevant documentation which provides the basis for the deduction.)  
 \_\_\_\_\_  
 \_\_\_\_\_

13. Amount "earned" by the contractor but not payable because of security retention \_\_\_\_\_

14. Amount currently payable to the contractor as of the date on which the claim, lien, assignment, or stop order in question was received  
 \_\_\_\_\_

15. Amount claimed by the University as liquidated damages (if any) \_\_\_\_\_

16. Claimant's name \_\_\_\_\_

Address \_\_\_\_\_

(If more than one claimant, please answer questions 16 through 22 for each claimant; attach answer to this form.)

17. Is claimant a subcontractor or sub-subcontractor? \_\_\_\_\_

18. If claimant is a sub-subcontractor, list date on which preliminary Notice was received \_\_\_\_\_

19. Date Stop Notice/Tax Lien received by campus (Please attach copy of Stop Notice/Tax Lien) \_\_\_\_\_

20. Amount claimed in Stop Notice/Tax Lien \_\_\_\_\_

21. Amount withheld because of Stop Notice/Tax Lien \_\_\_\_\_

22. Assignments of the contractor's right to payment have been received from \_\_\_\_\_ on (date) \_\_\_\_\_ in the amount of \$\_\_\_\_\_. The total amount withheld pursuant to the above is \$\_\_\_\_\_.

23. Has a Release Bond been filed on claim? Yes\_\_\_\_\_ No\_\_\_\_\_ (Please attach copy of Release Bond. If more than one bond has been filed, please forward copy of each bond.)

Was bond accepted and withheld funds released? Yes\_\_\_ No\_\_\_

The amount released based on the bond was \$ \_\_\_\_\_ (Answer separately for each bond.)

APPENDIX B (Cont.)

24. Are there any other competing claims against the project, such as stop orders, tax liens, etc? Yes\_\_\_\_\_ No\_\_\_\_\_ If yes, the amount of such claims \_ \_\_\_\_\_

Claimant's name \_\_\_\_\_

Date Claim received \_\_\_\_\_  
(Attach copies of all claims.)

25. If answer is yes, please forward copy of each Stop Notice/Tax Lien and list claimant's name and state amount withheld:

<u>Name</u>	<u>Amount Withheld</u>
_____	_____
_____	_____
_____	_____

26. Have you received a notice that the contractor has assigned or proposed to assign his right to receive payment under this contract to a third party? Yes\_\_\_\_\_ No\_\_\_\_\_ (Please attach a copy of any assignment or assignments or proposed assignment or assignments.)

27. Date of Beneficial Occupancy, if any \_\_\_\_\_

Was Beneficial Occupancy total or partial? \_\_\_\_\_