

# Sample Contractor's Contract

## CONTRACTING COMPANY

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Owner's name

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Project name

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Owner's address

**A. Description of the Work:** Contractor will furnish all labor and materials to construct and complete in a good, workman-like and substantial manner.

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*(Describe the work to be done. Look on 'Scope of Work' page for more details and scope of work)*

Upon the following described property (hereafter called "the project"):

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*(Insert legal description and street address if known)*

A substantial commencement of the above-described work shall be deemed to be physical performance at job site. (Per Sec. 7159(c) of the California Business and Professions Code, a plan and scale drawing showing the shape, size, dimensions and description of materials and equipment must be attached to this contract.)

**B. Property Lines:** Owner shall locate and point out property lines to contractor. Contractor may, at his option, require owner to provide a licensed land surveyor's map of property.

**C. Arbitration of Disputes:** Any dispute arising out of or related to this contract or the interpretation or performance thereof shall be decided by arbitration under the Construction Industry Rules of the American Arbitration Association and judgment shall be entered on the award. The arbitrator shall award reasonable attorneys' fees and expenses to the prevailing party. If any party after due notice fails to appear at or participate in arbitration proceedings, the arbitrator shall make an award based upon evidence presented by the party or parties who do

appear and participate. In the event that there are court proceedings arising out of or related to the performance or interpretation of this contract, the court shall award reasonable attorneys' fees to the prevailing party.

**D. Payment:**

\_\_\_\_\_ Total contract price to be \_\_\_\_\_ Down payment\* (if any)

*\*By California law, cannot exceed two hundred dollars (\$200) or 2 percent of the contract price of swimming pools, or one thousand dollars (\$1,000) or 10 percent of the contract price for other home improvements, excluding finance charges, whichever is the lesser.*

Schedule of Payments shall be per Sec. 7159(e) and (f) of the California Business and Professions Code

WHEN	AMOUNT
1. _____	\$ _____
2. _____	\$ _____
3. _____	\$ _____
4. _____	\$ _____
5. _____	\$ _____
6. _____	\$ _____

*Shall be specifically referenced to the amount of work or services to be performed and to any materials and equipment to be supplied.*

**E. Commencement/Completion of Work:** Owner shall have job site ready for commencement of the work of improvement no later than 30 days from the date of this contract – and so notify the contractor in writing.

**F. Commencement/Completion of Work:** The terms and conditions on the reverse side are expressly incorporated into this contract.

**G.** Upon satisfactory payment being made for any portion of the work performed, the contractor shall, prior to any further payment being made, furnish a full unconditional release\*\* from any claim or mechanic's lien pursuant to Section 3114 of the Civil Code, for that portion of the work for which payment has been made.

*\*\*BNI Form 110-UP, "Unconditional Waiver and Release Upon Progress Payment," meets this requirement.*

**NOTICE:** By initialing in the space below, you are agreeing to have any dispute arising out of the matter included in the "arbitration of disputes" provision decided by neutral arbitration as provided by California law, and you are giving up any rights you might possess to have the dispute litigated in a court or jury trial. By initialing in the space below, you are giving up your judicial rights to discovery and appeal, unless those rights are specifically included in the "arbitration of disputes" provision. If you refuse to submit to arbitration after agreeing to this provision, you may be compelled to arbitrate under the authority of the Business and Professions Code or other applicable laws. Your agreement to this arbitration provision is voluntary. We have read and understand the foregoing and agree to submit disputes arising out of the matters included in the "arbitration of disputes" provision to neutral arbitration.

**I agree to arbitration** \_\_\_\_\_  
*Initial Owner/Owners*

**I agree to arbitration** \_\_\_\_\_  
*Initial Contractor*

You, the owner (buyer), have the right to require that your contractor have a performance and payment bond, and the expense of the bond may be borne by the owner. You, the buyer, may cancel this transaction at any time prior to midnight of the third business day (in the case of disaster repairs, seventh business day) after the date of this transaction. See the attached Notice of Cancellation form for an explanation of this right.

\_\_\_\_\_  
*Date\*\*\**

\_\_\_\_\_  
*Owner sign here*  
*(See and read 'Notice to Owner' before signing)*

\_\_\_\_\_  
*Owner sign here*  
*(If more than one owner)*

\_\_\_\_\_  
*Contractor license number*

\_\_\_\_\_  
*Contracting company representative signature*

*\*\*\*Contractor shall make a substantial commencement of the work no more than 50 days from the foregoing date.*

**Time.** The approximate dates of commencement and completion are filled in on the first page of this proposal. Delivery of building materials to the site or the issuance of a building permit constitutes substantial commencement of work under this contract. Failure to substantially commence work within 20 days from the approximate date of commencement will violate Contractors' State License Law.

Failure to complete by the approximate completion date shall not entitle Owner to any damages for delay or consequential damages of any kind. Owner's sole remedy shall be to withhold progress payments and retention amounts until completion. The time for completion shall be extended or reduced by such time as Owner and Contractor agree in a written change order or extra work order. The time for completion shall be extended by the number of working days equal to the number of days between the oral issuance of a change order or extra work order and the delivery to Contractor of an approved and signed written change order or extra work order. The time for commencement and completion shall be extended by the number of working days equal to the number of days between the date Owner executes this contract and the date all required

governmental permits and approvals are obtained.

Should the Owner, Owner's architect/design professionals, or any public agency direct or request that additional work not shown on the present plans and specifications for the project be done by Contractor, the cost of the additional work shall be added to the contract price and paid by the Owner on completion of such additional work. Contractor is entitled to be paid for all such additional work requested or directed, whether requested or directed in writing or orally, and any expenses incurred by Contractor because of unusual conditions shall be paid for by Owner as additional work done by Contractor.

The term "unusual conditions" includes, but is not limited to, the presence or suspected presence of asbestos, asbestos products, hazardous materials, hazardous wastes, pest infestation, dry rot, subsurface rocks which cannot be removed by a one-half-cubic-yard power shovel without continuous drilling or explosives, hardpan (any material which cannot be removed with hand pick or hand shovel), subsurface water (whether standing, seeping, or flowing), buried or hidden pipes, wires, cables, conduit or the like not visible without excavation or destructive inspection, utility lines, and easements.

The term "cost" means the amount agreed to between Contractor and Owner or Owner's architect/design professional, if the extra work is performed pursuant to a written change order signed by Owner or Owner's architect/design professional. The term "cost" as used in this paragraph means the actual cost to the Contractor of the labor, materials, or subcontracts required for such additional work increased by 30 percent, if the extra work is performed and no written change order was signed by Owner or Owner's architect/design professional.

Unless otherwise specifically provided herein, Contractor shall not be responsible for any patch or repair work to Contractor's work or the work of others on the premises to the extent such is caused by the presence of Owner, other contractors, subcontractors, their employees, agents, invitees and the like during Contractor's performance. Any such patch or repair work shall be extra work. Payment for extra work is due immediately upon completion of the extra work. No retention shall be withheld from said amount.

**Permits and Approvals.** Unless otherwise provided herein, it shall be the obligation of Owner to obtain any and all necessary permits and government approvals of the work contemplated herein. This obligation includes any fees charged by the governmental entity. Should Contractor pay any fees, Owner shall reimburse same with no markup. Should Contractor's time be required to seek any permits and approvals, Contractor shall be paid at the rate of \$100.00/hour.

**Correlation Between Plans, Specifications, and Contract.** The plans and specifications for the project, if any, and this Contract are intended to supplement each other. Should a conflict arise between the instruments, the specifications shall control over the plans, and this Contract shall control over both the plans and the specifications.

**Fire Insurance.** Owner, at Owner's own cost and expense, shall procure promptly after execution of this Contract and maintain during the continuance of this Contract a policy of fire insurance with course of

construction, vandalism, and malicious mischief clauses attached, insuring the project and all materials delivered to the site of the project for their full insurable value with loss thereunder payable to Owner, any beneficiary of a deed of trust encumbering the property on which the project is located, and Contractor as their interest may appear.

**Destruction of Project.** Should the project or any part thereof be destroyed by fire, theft, vandalism, accident, act of God, or other cause not the fault of Contractor, any work done or materials furnished by Contractor in restoring or rebuilding the project shall be paid for by Owner as extra work performed by Contractor pursuant to the provisions regarding "Extra Work and Change Orders."

**Owner's Power to Terminate Contract.** Should Contractor commit any of the acts specified in this paragraph, the Owner may, by giving ten days' notice in writing thereof to Contractor, without prejudice to any other rights or remedies given Owner by law or by this Contract, terminate the services of Contractor under this Contract; take possession of the project and the premises on which it is located; and complete the project by whatever method Owner may deem expedient. Contractor shall be deemed to have committed an act specified in this paragraph if Contractor shall:

- a. File a voluntary bankruptcy under Chapter 7 of Title 11 U.S.C. or have an involuntary bankruptcy imposed upon Contractor;
- b. Make a general assignment for the benefit of Contractor's creditors;
- c. Persistently disregard any law or ordinance relating to the project or the completion thereof; or
- d. Otherwise commit a substantial violation of any provision of this Contract.

**Rights on Termination by Owner.**

- a. Should Owner terminate the services of Contractor under this Contract for any reason other than delay, and complete the project, Owner may only withhold amounts reasonably necessary to complete the project. Owner must pay Contractor the balance of the contract price, less such reasonably withheld amounts, within fourteen days of the termination. On completion of the project by Owner, if the unpaid balance of the contract price is less than Owner's cost of completion, such excess shall be promptly paid by Owner to Contractor. On completion of the project by Owner, if Owner's cost of completion exceeds the unpaid balance of the contract price, such excess shall be promptly paid by Contractor to Owner.
- b. Should Owner terminate the services of Contractor under this Contract for delay and complete the project, Owner must pay Contractor the balance of the contract price within fourteen days of the termination. After completion by the Owner, Contractor shall pay to Owner the reasonable cost of completion within thirty days of the recording of a Notice of Completion.