

Terms of Agreement

A Consumer Guide to
Home Improvement Contracts

**CONTRACTORS STATE
LICENSE BOARD**

California Department of Consumer Affairs



Example Contract

XYZ CONSTRUCTION, INC.

1234 Address – Santa Sierra, CA 90000 – License #012345 (C-12 Earthwork and Paving)

CONSTRUCTION CONTRACT (Home Improvement)

This Construction Contract (“Contract”) is entered into by and between XYZ Construction, Inc. (“Contractor”) and _____ (“Owner”), whose residence address is _____, and project address is _____.

1. DESCRIPTION OF WORK (Full detail of project)
2. DESCRIPTION OF MATERIALS AND EQUIPMENT (Include raw material descriptions, quantities, etc., and equipment or appliances)
3. CONTRACT PRICE (Detailed breakdown of all costs and compensation)
4. PAYMENT SCHEDULE (Identifies payments to be made at specific segments or intervals of the project)
5. START AND COMPLETION OF WORK (Identifies start and end dates)
6. PERMITS AND TESTS (States who will pull building department permits and/or schedule operational tests)
7. PERMISSIBLE DELAYS (Identifies potential delays that are acceptable)
8. EXTRA WORK (Additional work requires change orders that must be written and signed by all parties.)
9. NOTICE OF MECHANICS LIEN
10. RELEASE OF MECHANICS LIENS (Conditional and unconditional release forms available on CSLB website)
11. ATTORNEY FEES (Outlines expectations in the event of a dispute)
12. CONTRACTORS REQUIRED TO BE LICENSED (Identifies state law requirement for contracting)
13. COMPLETE AGREEMENT (Describes the overall contract obligations of each party)
14. OWNER’S RIGHT OF CANCELLATION (Explains parameters of cancelling the contract)

By: _____, _____
Arnold W. Mason, President [Property Owner’s Name]
XYZ CONSTRUCTION, INC.

DATED: _____ DATED: _____

In California, the terms of all home improvement projects over \$500 (combined material and labor costs) must be in a contract and include specific information about your consumer rights and responsibilities.

What is “Home Improvement?”

“Home improvement” essentially is any change you make to the interior or exterior of your residence or property. It includes:

“...the repairing, remodeling, altering, converting, or modernizing of, or adding to, real or residential property and shall include, but not be limited to, the construction, erection, replacement, or improvement of driveways, swimming pools, including spas and hot tubs, terraces, patios, awnings, storm windows, landscaping, fences, porches, garages, fallout shelters, basements, and other improvements of the structures or land which is adjacent to a dwelling house. Home improvement shall also mean the installation of home improvement goods or the furnishing of home improvement services. (*Business and Professions Code section 7151*)

What is a Home Improvement Contract and When Do I Need One?

A home improvement contract is an agreement between a contractor and a property owner or between a contractor and a tenant, and includes in its description all labor, services, and materials to be furnished and performed. A home improvement contract also can mean an agreement between a salesperson (home improvement salesperson) and property/home owner or tenant. (*Business and Professions Code section 7151.2*)

This contract is the most important communication tool between you and your contractor; it should identify all project expectations to help avoid misunderstandings.

A thorough contract details who will do the work, what materials will be used, where the work will be done, when it will be done, and how much it will cost.

Your home improvement contract always should be **in writing**, legible, easy to understand, and inform you of the right to cancel or rescind the contract. If you are promised something verbally, make sure that it also is included in writing. Any changes to the contract need to be in writing, as well. These “change orders” should be kept with your other project paperwork.

Anatomy of a Contract

A contract should contain all project details agreed upon by you and your contractor. Among the details should be a description of the work, price, payment schedule, who will pull necessary building department permits, and when the job will begin and end. The contractor’s state license number, address, and phone number(s) also should be listed.



Don’t sign any thing until you understand the contract and agree to the terms.

The Sign of a Well-Built Contract – Describe *Everything*

The best way to avoid disputes over what is or isn’t expected from a home improvement job is to include all of the details into a written, signed contract.

The contract should be as specific as possible regarding all materials to be used, such as the style, brand, model, quality, quantity, weight, color, size, or any other description that may apply.

For example: “Install upper and lower maple kitchen cabinets, manufactured by Company XYZ, model 01381A, style/color 0123, hinge and hardware selection, as per the plan dimensions and diagram,” not just “install kitchen cabinets.”

WILL YOUR PROJECT DESCRIPTION GIVE YOU THE RIGHT RESULTS?		
GOOD EXPECTATIONS	TROUBLE AHEAD	GOOD LUCK
Install xx (quantity) Company XYZ upper/lower maple kitchen cabinets, model ABC, style/color 0123, European hinges, hardware model 1000, per plan dimensions and diagram.	Install maple kitchen cabinets.	Install some cabinets.
Paint indoor entry (per plan) using Brand X paint, color 567, two coats, with preparation and taping described in next paragraph.	Prep and paint entryway with blue paint.	Paint the entry.
Install Brand X kitchen faucet in style ABC and color BCS.	Replace kitchen faucet, if necessary.	Replace kitchen fixtures.

Swimming pool contracts must include a plan and scale drawing showing the shape, size/dimensions, and construction and equipment specifications.

Make sure the contract includes everything that is agreed to, up to and including complete cleanup and removal of debris and materials, and special requests like saving lumber for firewood or saving certain materials or appliances.

Complaints and Warranties

If the contractor offers a warranty for labor and/or materials, be sure to get that in writing. It should specify which parts of the work are covered and the duration of the warranty. You also should request any written warranties offered by the manufacturers of materials or appliances that are installed by the contractor.

Consumers have four (4) years to file a complaint with the Contractors State License Board (CSLB) about a faulty project. That deadline can be extended if additional warranties are written into the contract.



Money – The Bottom Line

Price – All contracts must include the agreed-to price. Any job costing \$500 or more (combined material and labor) needs a written home improvement contract. By law, the job must be completed for the agreed-upon contract price.

If the contract price needs to be changed, it **MUST** be done with a written change order that becomes a part of the contract.

Down Payment – If the contract calls for a down payment before work starts, the down payment cannot be more than \$1,000 or 10 percent of the contract price, whichever is less, for a home improvement job or swimming pool, excluding finance charges. **There are no exceptions for special order materials.** There is a down payment exception for about two dozen licensees who carry special bonds to protect consumers, known as blanket performance and payment bonds. These exceptions are noted on CSLB's website.

Schedule of Payments – A home improvement contract must include a payment schedule. It should show the amount of each payment and explain what work, materials or services are to be performed for that particular payment. Payments to the contractor cannot exceed the value of the performed work.

Swimming Pools – A final swimming pool contract payment may be made at the completion of the final plastering phase of construction (provided that any installation of equipment, decking, or fencing required by the contract also is completed).

Finance Charges – If applicable, finance charges must be calculated and laid out in detail, separate from the contract amount.

Sales Commission – If the contract provides for payment of a salesperson's commission as part of the contract price, that payment must be made on a pro rata basis in proportion to the schedule of payments made to the contractor.

Salespersons – A salesperson cannot legally sign a home improvement contract for the contractor unless he or she is a valid, CSLB-registered home improvement salesperson (HIS).

Mechanics Liens

Consumers are required to receive a “Notice to Owner” warning about property liens. Anyone who helps improve property, but is not paid, may place what is called a mechanics lien on the property. A mechanics lien is a claim made against the property by the person who was not paid, and is recorded with the county.

Even if the contractor is paid in full, unpaid subcontractors, suppliers, and laborers involved in the project may record a mechanics lien and sue the property owner in court to foreclose the lien. A property owner could be forced to pay twice or have the court sell the home to pay the lien. Liens also can affect a consumer’s personal credit rating, and affect his or her ability to borrow and refinance.

Consumers can protect themselves from liens by getting a list from the contractor of all subcontractors and material suppliers who will work on the project, along with the dates they will start and finish the work. Material suppliers and subcontractors are required to give the property owner a “Preliminary Notice” of their right to file a lien within 20 days of delivering products/materials or 20 days of beginning the work. Have subcontractors sign lien releases when their portion of the work is completed.

Another option for consumers is to pay with a joint check that is payable to both the contractor and the subcontractor or material supplier.



For more information on this subject, go to www.cslb.ca.gov and search for “mechanics liens.”

Canceling the Contract

Three-Day Right to Cancel

The Home Solicitation Sales Act requires a seller of home goods or services to give the buyer **three (3) business days** to think about whether to buy the offered goods or services.

To cancel, the buyer need only give the contractor written notice of his or her intent *not* to be bound by the contract—there is no penalty or obligation on the part of the buyer. Under state law, when the contract is canceled, the seller is required to return any money that was paid within 10 days of receiving the cancellation request. The consumer/buyer must return any materials to the contractor that were applied to the contract.

The purpose of the three-day right to cancel is to protect consumers from the pressure they often feel from in-home solicitors.

If the contract is negotiated at the contractor’s place of business, the three-day right to cancel does not apply.

The Contract Exception

Service and Repair Contracts

One major exception to the three-day right to cancel is a “service and repair” contract that covers emergency repairs or services that are **requested by the consumer** on short notice. The right to a three-day notice is automatically canceled the moment the contract is signed and the contractor begins working on a service and repair contract.

Building Permits

A construction or building permit is a required document in most jurisdictions for a large range of project types, including new construction or adding to pre-existing structures, major renovations, heating and air-conditioning repairs, and installation of water heaters and swimming pools. Permits are issued by the local building department. Generally, the new construction must be inspected during construction and after completion to ensure compliance with national, regional, and local building codes. Failure to obtain a permit can result in significant fines and penalties, and even demolition of unauthorized construction if it does not meet code requirements.

A Word About Insurance

Does your contractor have employees? Workers' compensation insurance is required by law if the contractor has employees or workers. Check the CSLB website, www.cslb.ca.gov or www.CheckTheLicenseFirst.com to make sure the workers' comp policy is current.

Although not required, it's also a good idea to ask whether the contractor carries general liability insurance in case your property accidentally is damaged during the project. You might consider contacting your homeowner insurance carrier to find out if it would be advisable to take out a temporary "rider" to your insurance policy, which is extended coverage for a determined period of time or for a particular use.



HOMEOWNER CHECKLIST

CHECK OUT YOUR CONTRACTOR

- Did you contact the Contractors State License Board (CSLB) to check the status of the contractor's license? Connect with CSLB at 800.321.CSLB (2752), www.cslb.ca.gov or www.CheckTheLicenseFirst.com.
- Did you get at least three local references from the contractors you are considering?
- Did you call the references and personally view the contractor's completed work?
- Does the contractor carry general liability insurance?

BUILDING PERMITS

- Does your contract state whether you or your contractor will pull necessary building permits before the work starts?
- Are the permit fees included in the contract price?

DOUBLE-CHECK THE CONTRACT

- Did you read and understand your contract?
- Does the three-day right to cancel a contract apply to you?
- Does the contract identify when work will begin and end?
- Does the contract include a detailed description of the work to be done, the materials to be used, and/or equipment to be installed?
- Are you required to make a down payment? (The down payment should never be more than 10 percent of the contract price or \$1,000, whichever is less, unless there is a valid blanket performance and payment bond on file with CSLB.)
- Is there a schedule of payments? (Only pay as work is completed, not before).
- Did your contractor give you a "Notice to Owner" warning notice that describes mechanics liens and how to prevent them?
- Do you have changes or additions to your contract? (Remember that all changes must be in writing and signed by both parties to avoid disagreements.)

NOTES



CONTRACTORS STATE LICENSE BOARD

P.O. Box 26000

Sacramento, CA 95826-0026

800.321.CSLB (2752)

www.cslb.ca.gov • CheckTheLicenseFirst.com • SeniorScamStopper.com

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