PRIME/DIRECT BUILDING CONTRACT

(Not to be used for Residential Remodeling or Swimming Pools)

THIS AGREEMENT IS BETWEEN:

_____
(Direct Contractor's Name)

_____
(Direct Contractor's License Number)

_____
(Direct Contractor's Address)

_____
(City, State & Zip)

_____
(Direct Contractor's Telephone - FAX)

Email _____
(Direct Contractor's)

AND

RE PROJECT:

_____
(Owner's Name)

_____
(Owner's Home Address)

_____
(Owner's Telephone - FAX)

_____
(Project Address)

_____
(City, State & Zip)

Email _____
(Property Owner's)

CONSTRUCTION LENDER: Name and address of construction fund holder is: _____

_____
(Name And Branch Address of Bank, Savings And Loan Assn., Escrow Agent, Joint Control Or Other)

DESCRIPTION OF PROJECT: Direct Contractor shall furnish all labor, work, materials and equipment to perform in a good workmanlike and substantial manner, in accordance to the plans and specifications, including materials to be used or installed: _____
(Describe Labor, Work, Materials And Equipment To Be Furnished Under This Contract)

Work will **commence** approximately on or about _____
(Approximate Start Date)

TIME FOR COMPLETION: The work to be performed by Direct Contractor pursuant to this Agreement shall be substantially completed within _____ days or approximately on _____.
(Date)

PAYMENT: Owner agrees to pay Direct Contractor a total cash price of $ _____.
(Total Contract Price)

Downpayment (if any) $ _____. Payment Installments As Follows:

1. $ _____ _____ (Work or Services to be Performed) _____ (Date)
2. $ _____ _____ (Work or Services to be Performed) _____ (Date)
3. $ _____ _____ (Work or Services to be Performed) _____ (Date)
4. $ _____ _____ (Work or Services to be Performed) _____ (Date)

INTEREST: Overdue payments will bear interest at the rate of 1½% per month.

Contractors are required by law to be licensed and regulated by the Contractors' State License Board which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to any structural defects must be filed within 10 years of the date of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board, P.O. Box 26000, Sacramento, California 95826, or call 1-800-321-CSLB (2752) or visit the CSLB internet website at www.cslb.ca.gov.

You, the buyer, have the right to require the contractor to have a payment and performance bond. However, the contractor can require you to pay for that bond.

☐ **NOTICE TO OWNER: IF YOU AGREE TO ARBITRATION, REVIEW THE "ARBITRATION OF DISPUTES" SECTION ON THE REVERSE SIDE OF THIS PAGE (PROVISION 13) AND PLACE YOUR INITIALS ON EACH COPY OF THIS CONTRACT.**

X _____ _____ _____
(Owner's Signature) (Date) (Direct Contractor's Firm Name)

X _____ _____ **X** _____ _____
(If More than One Owner, Please Sign Here) (Date) (Direct Contractor's or Agent's Signature) (Date)

TERMS AND CONDITIONS: The terms and conditions on the reverse side are expressly incorporated into this Agreement.

SAMPLE

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TERMS AND CONDITIONS

1. Changes in the Work. Should the Owner, construction lender, or any public body or inspector direct any modification or addition to the work covered by this contract, the contract price shall be adjusted accordingly.

Modification or addition to the work shall be executed only when a Contract Change Order has been signed by both the Owner and the Contractor. The change in the Contract Price caused by such Contract Change Order shall be as agreed to in writing, or if the parties are not in agreement as to the change in Contract Price, the Contractor's actual cost of all labor, equipment, subcontracts and materials, plus a contractor's fee of _____% shall be the change in Contract Price. The Change Order may also increase the time within which the contract is to be completed.

Contractor shall promptly notify the Owner of (a) latent physical conditions at the site differing materially from those indicated in the contract, or (b) unknown physical conditions differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this contract. Any expense incurred due to such conditions shall be paid for by the Owner as added work.

2. Owner's Responsibilities. Owner agrees to allow and provide Contractor and his/her equipment access to the property.

3. Delays. Contractor agrees to start and diligently pursue work through to completion, but shall not be responsible for delays for any of the following reasons: failure of the issuance of all necessary building permits within a reasonable length of time, funding of loans, disbursement of funds into control or escrow, acts of neglect or omission of Owner or Owner's employees or Owner's agent, acts of God, stormy or inclement weather, strikes, lockouts, boycotts or other labor union activities, extra work ordered by Owner, acts of public enemy, riots or civil commotion, inability to secure material through regular recognized channels, imposition of Government priority or allocation of materials, failure of Owner to make payments when due, or delays caused by inspection or changes ordered by the inspectors of authorized Governmental bodies, or for acts of other contractors, or holidays, or other causes beyond Contractor's reasonable control.

4. Subcontracts. The Contractor may subcontract portions of this work to properly licensed and qualified subcontractors.

5. Taxes and Assessments. Taxes and assessments of all descriptions will be paid for by Owner.

6. Insurance and Deposits. Contractor shall carry Worker's Compensation Insurance for the protection of Contractor's employees during the progress of the work. Contractor shall carry liability insurance to cover any damages to Owner's property resulting out of the acts of Contractor. Owner shall obtain and pay for insurance against injury to his own employees and persons under Owner's direction and person on the job site at Owner's invitation. Owner shall also procure at own expense and before the commencement of work hereunder "all risk" insurance with course of construction, theft, vandalism and malicious mischief endorsements attached, the insurance to be in a sum at least equal to the contract price. The insurance will name the Contractor and its Subcontractors as additional insureds and will be written to protect Owner, Contractor and Subcontractors as their interests may appear. Should Owner fail to procure such insurance, Contractor may do so at the expense of Owner, but is not required to do so. Owner and Contractor waive rights of subrogation against each other to the extent that any loss is covered by valid and collectible insurance. If the project is destroyed or damaged by accident, disaster, or calamity, such as fire, storm, flood, landslide, subsidence or earthquake, work done by Contractor in rebuilding or restoring the project shall be paid for by the Owner as extra work.

7. Rights to Stop Work. Contractor shall have the right to stop work if any payment shall not be made, when due, to Contractor under this Agreement; Contractor may keep the job idle until all payments due are received. Failure to make payment, within five (5) days of the date due, is a material breach of this Agreement and will entitle Contractor to cease any further work.

8. Clean Up. Contractor will remove from Owner's property debris and surplus material created by his operation and leave it in a neat and broom clean condition.

9. Compliance with Laws. In connection with the performance by Contractor of his/her duties pursuant to this Agreement, Contractor shall obtain and pay for all permits and comply with all federal, state, county and local laws, ordinances and regulations.

10. Asbestos and Hazardous Waste. Unless the contract specifically calls for the removal, disturbance, or transportation of asbestos or other hazardous substances, the parties acknowledge that such work requires special procedures, precautions and/or licenses. Therefore, unless the contract specifically calls for same, if Contractor encounters such substances, Contractor shall immediately stop work and allow the Owner to obtain a duly qualified asbestos and/or hazardous material contractor to perform the work or do the work himself at Contractor's option. Said work will be treated as an extra under this contract.

11. Limited Warranty. Contractor hereby warrants its work for a period of ____ years after completion against any defects in workmanship or material. This limited warranty is in lieu of any other warranty express or implied.

12. Asbestos, Lead, Mold, and other Hazardous Materials. Owner hereby represents that Owner has no knowledge of the existence on or in any portion of the premises affected by the Project of any asbestos, lead paint, mold (including all types of microbial matter or microbiological contamination, mildew or fungus), or other hazardous materials. Testing for the existence of mold and other hazardous materials shall only be performed as expressly stated in writing. Contractor shall not be testing or performing any work whatsoever in an area that is not identified in the Scope of Work.

Unless the contract specifically calls for the removal, disturbance, or transportation of asbestos, polychlorinated biphenyl (PCB), mold, lead paint, or other hazardous substances or materials, the parties acknowledge that such work requires special procedures, precautions, and/or licenses. Therefore, unless the contract specifically calls for same, if Contractor encounters such substances, Contractor shall immediately stop work and allow the Owner to obtain a duly qualified asbestos and/or hazardous material contractor to perform the work or Contractor may perform the work itself at Contractor's option. Said work will be treated as an extra under this contract, and the Contract Term setting forth the time for completion of the project may be delayed.

In the event that mold microbial contamination is removed by Contractor, Owner understands and agrees that due to the unpredictable characteristics of mold and microbial contamination, Contractor shall not be responsible for any recurring incidents of mold or microbial contamination appearing in the same or any adjacent location, subsequent to the completion of the work performed by Contractor. Owner agrees to hold Contractor harmless, and shall indemnify Contractor harmless for any recurrence of mold or microbial contamination. Owner also agrees that Contractor shall not be responsible, and agrees to hold Contractor harmless and indemnify Contractor, for the existence of mold or microbial contamination in any area that Contractor was not contracted to test and/or remediate. Further, Owner is hereby informed, and hereby acknowledges, that most insurers expressly disclaim coverage for any actual or alleged damages arising from mold or microbial contamination. Contractor makes no representations whatsoever as to coverage for mold contamination, though at Owner's additional expense, if requested in writing, Contractor will inquire as to the availability of additional coverage for such contamination or remediation, and if available, will obtain such coverage if the additional premium is paid for by Owner.

13. ARBITRATION OF DISPUTES: ANY CONTROVERSY OR CLAIM ARISING OUT OF OR RELATED TO THIS CONTRACT, OR THE BREACH THEREOF, SHALL BE SETTLED BY BINDING ARBITRATION IN ACCORDANCE WITH THE CONSTRUCTION INDUSTRY ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION, AND JUDGMENT UPON THE AWARD RENDERED BY THE ARBITRATOR(S) MAY BE ENTERED IN ANY COURT HAVING JURISDICTION THEREOF. CLAIMS WITHIN THE MONETARY LIMIT OF THE SMALL CLAIMS COURT SHALL BE LITIGATED IN SUCH COURT AT THE REQUEST OF EITHER PARTY, SO LONG AS BOTH PARTIES LIMIT THEIR RIGHT TO RECOVERY TO THE JURISDICTION OF THE SMALL CLAIMS COURT.

ANY CLAIM FILED IN SMALL CLAIMS COURT SHALL NOT BE DEEMED TO BE A WAIVER OF THE RIGHT TO ARBITRATE, AND IF A COUNTER CLAIM IN EXCESS OF THE JURISDICTION OF THE SMALL CLAIMS COURT IS FILED IN THE MUNICIPAL OR SUPERIOR COURT, THEN THE PARTY FILING IN SMALL CLAIMS COURT MAY DEMAND ARBITRATION PURSUANT TO THIS PARAGRAPH.

NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS 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 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. _____
(Owner's Initials)

I AGREE TO ARBITRATION. _____
(Direct Contractor's Initials)

14. Special Provisions:

_____

_____

_____

Consult a lawyer if you doubt the form's fitness for your purpose and use.

SAMPLE

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