

**CLAUSES REQUIRED ON CONTRACTS WHERE THE PRIMARY PURPOSE OF
CONSTRUCTION IS THE CONSTRUCTION OF A SWIMMING POOL**

1. The name, address and license number of the contractor, and the name and registration number of any salesperson who solicited or negotiated the contract (Bus. & Prof. Code, § 7159(a).)

2. Statement required by § 7030 in at least 10-point type:

"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 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."

3. NOTICE OF CANCELLATION: In addition to separate Notice, and if the contract is in a foreign language, e.g., Spanish, the clause must be in that language as well (Civil Code, § 1689.7(a)(1)):

a. At bottom of main contract, in close proximity to the signature line, the following language must be printed in at least 10 point **bold** type:

"You, the buyer, may cancel this transaction at any time prior to midnight of the 3rd business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right."
(Civil Code, § 1689.7(a)(1).)

b. If the agreement is following the Declaration of a Disaster, the language must read in least 10 point **bold** type:

"You, the buyer, may cancel this transaction at any time prior to midnight of the seventh business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right."
(Civil Code, § 1689.7(a)(3).)

c. Alternate language:

"YOU, THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. OR IF THIS IS A CONTRACT FOR THE REPAIR OF DAMAGES RESULTING FROM AN EARTHQUAKE, FLOOD, FIRE, HURRICANE, RIOT, STORM, TIDAL WAVE, OR OTHER SIMILAR CATASTROPHIC OCCURRENCE FOR WHICH A STATE OF EMERGENCY HAS BEEN DECLARED, YOU THE BUYER MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE SEVENTH BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT."

4. A plan and scale drawing showing the shape, size, dimensions, and construction and equipment specifications for the swimming pool as well as a description of the work to be done and description of the materials to be used or installed and the agreed consideration for the work. (Bus. & Prof. Code, § 7159(c).)

5. A schedule of payments showing the amount to be paid in dollars and cents (not just percentages). The schedule of payments must be referenced to work performed and any material or equipment supplied (Bus. & Prof. Code, § 7159(e).) In no case can the initial down payment exceed **the lesser of two percent (2%) of the total contract price or \$200.**

AMOUNT	EVENT EXAMPLE
\$ _____	Beginning of Excavation (1)
\$ _____	
\$ _____	
\$ _____	Completion of project

6. The contract shall also state language regarding lien releases (Bus. & Prof. Code, § 7159(f)), such as:

"Upon satisfactory payment being made for any portion of the work performed, the contractor shall, prior to any further payment being made, furnish to the person contracting for the home improvement or swimming pool a full and 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.";

7. A contractor must also place a notice in at least 10-point Roman style bold face type, within close proximity of the signature line, telling the tenant or owner that it has the right to require a performance and payment bond (Bus. & Prof. Code, § 7159(g).) That language may read as follows:

YOU, THE HOMEOWNER (BUYER) OR TENANT HAVE THE RIGHT TO REQUIRE THE CONTRACTOR TO FURNISH YOU WITH A PERFORMANCE AND PAYMENT BOND, HOWEVER THE CONTRACTOR CAN REQUIRE YOU TO PAY FOR THAT BOND.";

8. A contractor must give the notice ("Notice to Owner") required by Business and Professions Code section 7018.5 (**which is printed below**) (Bus. & Prof. Code, § 7159(j));

9. The approximate dates when the work will begin and be substantially completed (Bus. & Prof. Code, § 7159(b).) and the contract must contain a statement defining what constitutes substantial commencement (Bus. & Prof. Code, § 7159(k)), and must contain a notice that failure by the contractor without lawful excuse to substantially commence work within twenty (20) days from the approximate date specified in the contract when work will begin is a violation of the Contractors License law (Bus. & Prof. Code, § 7159(l).) Sample language may state as follows:

"Time For Starting & Completion: The work to be performed by Contractor pursuant to this Agreement shall be commenced within _____ () days from this date or approximately on _____ (Date) and shall be substantially completed within _____ () days or approximately on _____ (Date).

Commencement of work shall be defined as _____ (Briefly describe type of work representing commencement)

Contractors failure to substantially commence work without lawful excuse, within twenty (20) days from the date specified above is a violation of the Contractors License Law".

SEPARATE NOTICES REQUIRED

10. NOTICE TO OWNER

"Notice to Owner

Under the California Mechanics' Lien Law, any contractor, subcontractor, laborer, supplier, or other person or entity who helps to improve your property, but is not paid for his or her work or supplies, has a right to place a lien on your home, land, or property where the work was performed and to sue you in court to obtain payment.

This means that after a court hearing, your home, land, and property could be sold by a court officer and the proceeds of the sale used to satisfy what you owe. This can happen even if you have paid your contractor in full if the contractor's subcontractors, laborers, or suppliers remain unpaid.

To preserve their rights to file a claim or lien against your property, certain claimants such as subcontractors or material suppliers are each required to provide you with a document called a "Preliminary Notice." Contractors and laborers who contract with owners directly do not have to provide such notice since you are aware of their existence as an owner. A preliminary notice is not a lien against your property. Its purpose is to notify you of persons or entities that may have a right to file a lien against your property if they are not paid. In order to perfect their lien rights, a contractor, subcontractor, supplier, or laborer must file a mechanics' lien with the county recorder which then becomes a recorded lien against your property. Generally, the maximum time allowed for filing a mechanics' lien against your property is 90 days after substantial completion of your project.

TO INSURE EXTRA PROTECTION FOR YOURSELF AND YOUR PROPERTY, YOU MAY WISH TO TAKE ONE OR MORE OF THE FOLLOWING STEPS:

(1) Require that your contractor supply you with a payment and performance bond (not a license bond), which provides that the bonding company will either complete the project or pay damages up to the amount of the bond. This payment and performance bond as well as a copy of the construction contract should be filed with the county recorder for your further protection. The payment and performance bond will usually cost from 1 to 5 percent of the contract amount depending on the contractor's bonding ability. If a contractor cannot obtain such bonding, it may indicate his or her financial incapacity.

(2) Require that payments be made directly to subcontractors and material suppliers through a joint control. Funding services may be available, for a fee, in your area which will establish voucher or other means of payment to your contractor. These services may also provide you with lien waivers and other forms of protection. Any joint control agreement should include the addendum approved by the registrar.

(3) Issue joint checks for payment, made out to both your contractor and subcontractors or material suppliers involved in the project. The joint checks should be made payable to the persons or entities which send preliminary notices to you. Those persons or entities have indicated

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that they may have lien rights on your property, therefore you need to protect yourself. This will help to insure that all persons due payment are actually paid.

(4) Upon making payment on any completed phase of the project, and before making any further payments, require your contractor to provide you with unconditional "Waiver and Release" forms signed by each material supplier, subcontractor, and laborer involved in that portion of the work for which payment was made. The statutory lien releases are set forth in exact language in Section 3262 of the Civil Code. Most stationery stores will sell the "Waiver and Release" forms if your contractor does not have them. The material suppliers, subcontractors, and laborers that you obtain releases from are those persons or entities who have filed preliminary notices with you. If you are not certain of the material suppliers, subcontractors, and laborers working on your project, you may obtain a list from your contractor. On projects involving improvements to a single-family residence or a duplex owned by individuals, the persons signing these releases lose the right to file a mechanics' lien claim against your property. In other types of construction, this protection may still be important, but may not be as complete.

To protect yourself under this option, you must be certain that all material suppliers, subcontractors, and laborers have signed the "Waiver and Release" form. If a mechanics' lien has been filed against your property, it can only be voluntarily released by a recorded "Release of Mechanics' Lien" signed by the person or entity that filed the mechanics' lien against your property unless the lawsuit to enforce the lien was not timely filed. You should not make any final payments until any and all such liens are removed. You should consult an attorney if a lien is filed against your property." (Bus. & Prof. Code, § 7018.5.)

11. Separate Statement required by § 7030 on separate document prior to entering into agreement:

This notice must be in either capital letters in 10-point roman boldface type or in contrasting red print in at least 8-point roman boldface type. (Bus. & Prof. Code, §7030.)

"STATE LAW REQUIRES ANYONE WHO CONTRACTS TO DO CONSTRUCTION WORK TO BE LICENSED BY THE CONTRACTORS' STATE LICENSE BOARD IN THE LICENSE CATEGORY IN WHICH THE CONTRACTOR IS GOING TO BE WORKING--IF THE TOTAL PRICE OF THE JOB IS \$500 OR MORE (INCLUDING LABOR AND MATERIALS).

LICENSED CONTRACTORS ARE REGULATED BY LAWS DESIGNED TO PROTECT THE PUBLIC. IF YOU CONTRACT WITH SOMEONE WHO DOES NOT HAVE A LICENSE, THE CONTRACTORS' STATE LICENSE BOARD MAY BE UNABLE TO ASSIST YOU WITH A COMPLAINT. YOUR ONLY REMEDY AGAINST AN UNLICENSED CONTRACTOR MAY BE IN CIVIL COURT, AND YOU MAY BE LIABLE FOR DAMAGES ARISING OUT OF ANY INJURIES TO THE CONTRACTOR OR HIS OR HER EMPLOYEES.

YOU MAY CONTACT THE CONTRACTORS' STATE LICENSE BOARD TO FIND OUT IF THIS CONTRACTOR HAS A VALID LICENSE. THE BOARD HAS COMPLETE INFORMATION ON THE HISTORY OF LICENSED CONTRACTORS, INCLUDING ANY POSSIBLE SUSPENSIONS, REVOCATIONS, JUDGMENTS, AND CITATIONS. THE BOARD HAS OFFICES THROUGHOUT CALIFORNIA. PLEASE CHECK THE GOVERNMENT PAGES OF THE WHITE PAGES FOR THE OFFICE NEAREST YOU OR CALL 1-800-321-CSLB FOR MORE INFORMATION."

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12. Notice of Cancellation. Note that for disasters, change three days to seven

"Notice of Cancellation

Date _____

You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram to:

Name of Seller

Address of Seller's place of business

not later than midnight of: _____ Date

I hereby cancel this transaction

Date: _____

Buyers signature: _____
(Civil Code, § 1689.7(c).)

13. Insurance disclosure: Contractors are required to provide their client with a disclosure of whether or not they have insurance, and if they do, who their broker is. The form, ["Information about Commercial General Liability – Home Improvement" can be downloaded here.](#)

14. [Checklist for Homeowners – Home Improvement](#) – This is a checklist that the Contractor's Board requires which provides a thumbnail sketch of the required clauses. This must be provided to your homeowner.

15. [Checklist for Homeowners – Swimming Pool \(Required for Swimming Pool Contracts\)](#) – This is a checklist that the Contractor's Board requires which provides a thumbnail sketch of the required clauses. This must be provided to your homeowner.

16. NOTICE OF DISCIPLINARY ACTION (ONLY IF APPLICABLE): A contractor, who has his or her license suspended or revoked two or more times within an eight-year period, shall disclose either in capital letters in 10-point roman boldface type or in contrasting red print in at least 8-point roman boldface type, in writing provided prior to entering into a contract to perform work on residential property with four or fewer units, any disciplinary license suspension, or license revocation during the last eight years resulting from any violation

Optional Clause: To be used if you want an Arbitration Provision

IF YOU ARE GOING TO HAVE AN ARBITRATION PROVISION IN HOME IMPROVEMENT CONTRACTS:

While you can change the "Arbitration of Disputes" portion of the clause, all language after the word "NOTICE" must be word-for-word as written below:

17. 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.

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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 (WE) AGREE TO ARBITRATION

initial

initial

The language of the foregoing provision, including and after the word "NOTICE" must be capitalized in at least 10 pt. Roman style bold face type.

Note again that these are only the required clauses, and you may desire other clauses, such as those concerning attorney fees, the right to stop work for non payment, change orders, etc.