

TERMS AND CONDITIONS

§1. Plans, Specifications, and Permits. The project will be constructed according to plans and specifications which have been examined by the owner and which have been or may be signed by the parties hereto. Contractor will obtain and pay for all required building permits, but owner will pay assessments and charges required by public bodies and utilities for financing or repaying the cost of sewers, storm drains, water service and other utilities, including sewer and storm drain reimbursement charges, revolving fund charges, hook-up charges and the like.

§2. Labor and Material. Contractor shall pay all valid charges for labor and material incurred by contractor and used in the construction of the project, but is excused by owner from this obligation for bills received in any period during which owner is in arrears in making progress payments to contractor.

Should contractor fail to make any payments required under this paragraph, owner may make such payments on behalf of contractor; and contractor shall reimburse owner for the amount actually paid on demand; but owner shall not, by means of assignment or otherwise, be entitled to collect any greater amount from contractor than the amount actually paid for labor or material under this paragraph.

No waiver or release of mechanic's lien given by contractor shall be binding until all payments due to contractor when the release was executed have actually been made.

§3. Contract, Plans and Specifications. The contract, plans and specifications are intended to supplement each other. In case of conflict, however, the plans shall control over the specifications, and the provisions of this contract shall control both.

§4. Extra Work. Should owner, construction lender or any public body or inspector direct any modification or addition to the work covered by this contract, the cost shall be added to the contract price. For the purpose of this paragraph, "cost" is defined as the cost of extra subcontracts, labor and materials, plus 10% of "cost" for overhead, plus 10% of the sum of "cost and overhead" for profit. Changes in the contract shall be evidenced by a writing signed by both parties. Expense incurred because of unusual or unanticipated ground conditions (such as fill, hard soil, rock or ground water) shall be paid for by owner as extra work.

§5. Allowances. If the contract price includes allowances, and the cost of performing the work covered by the allowance is greater or less than the allowance, then the contract price shall be increased or decreased accordingly. Unless otherwise requested by owner in writing, contractor shall use his own judgment in accomplishing work covered by an allowance. If owner requests that work covered by an allowance be accomplished in such a way that the cost will exceed the allowance, contractor shall comply with owner's request, provided that owner pays the additional cost in advance.

§6. Delay. Contractor shall be excused for any delay in completion of the contract caused by acts of God, acts of owner or owner's agent, stormy weather, labor trouble, acts of public utilities, public bodies or inspectors, extra work, failure of owner to make progress payments promptly, or other contingencies unforeseen by contractor and beyond the reasonable control of contractor.

§7. Completion and Occupancy. Owner agrees to sign and record a Notice of Completion within five days after completion of the project. If the project passes final inspection by the public body but the owner fails to record Notice of Completion, then owner hereby appoints contractor as owner's agent to sign and record a Notice of Completion on behalf of owner. This agency is irrevocable and is an agency coupled with an interest. Contractor may use such force as is necessary to deny occupancy of the project by owner or anyone else until contractor has received all payments, excluding the retention payment, due under this contract, and until Notice of Completion has been recorded.

§8. Damage to Project and Insurance. Owner will procure at his own expense and before the commencement of any work hereunder, fire insurance with course of construction, vandalism and malicious mischief clauses attached; such insurance to be in a sum at least equal to the contract price with loss, if any, payable to any beneficiary under any deed of trust covering the project, such insurance to name contractor as an additional insured, and to protect owner, contractor and construction lender as their interests may appear; should owner fail so to do, contractor may procure such insurance as agent for and at expense of owner, but is not required to do so. If project is destroyed or damaged by an accident, disaster or calamity, such as fire, storm, flood, landslide, subsidence or earthquake, or by theft or vandalism, any work done by contractor in rebuilding or restoring the project shall be paid for by owner as extra work under section four.

Contractor will maintain in full force and effect a workers' compensation insurance policy and a commercial general liability insurance policy in amounts not less than required by the specifications, and shall furnish certificates of insurance to owner before commencing work. The failure of owner to demand delivery of certificates hereunder shall not relieve contractor of any obligation under this paragraph.

§9. Right to Stop Work. Contractor shall have the right to stop work if any payment shall not be made to contractor under this agreement; contractor may keep the job idle until all payments due are received.

§10. Limitations. No action arising from or related to the contract, or the performance thereof, shall be commenced by either party against the other more than two years after the completion or cessation of work under this contract. This limitation applies to all actions of any character, whether at law or in equity, and whether sounding in contract, tort or otherwise. This limitation shall not be extended by any negligent misrepresentation or unintentional concealment, but shall be extended as provided by law for willful fraud, concealment or misrepresentation.

§11. Attorney Fees. If either party becomes involved in litigation arising out of this contract or the performance thereof, the court in such litigation, or in a separate suit, shall award reasonable costs and expenses, including attorney fees, to the prevailing party. In awarding attorney fees, the court will not be bound by any court fee schedule; but shall, if it is in the interest of justice to do so, award the full amount of costs, expenses and attorney fees paid or incurred in good faith.

§12. Clean-Up. Upon completion of the work, contractor will remove debris and surplus material from owner's property and leave it in a neat and broom-clean condition.

§13. Taxes and Assessments. Taxes and special assessments of all descriptions will be paid by owner.

§14. Notice. Any notice required or permitted under this contract may be given by ordinary mail at the address contained in this contract; but such address may be changed by written notice given by one party to the other from time to time. After a notice is deposited in the mail, postage prepaid, it shall be deemed received in the ordinary course of the mails.

§15. Prohibition of Assignments. Contractor may not assign this contract or payment due under this contract to any other party without the written consent of owner.

§16. Bankruptcy. If either party becomes bankrupt, or makes an assignment for the benefit of creditors, the other party has the right to cancel this contract.

§17. NOTICES. 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, CALIF. 95826.

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.