



## Instructions for Using 2023 - 2025 Texas Residential Construction Contracts Package

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### **IMPORTANT DOWNLOADING AND USAGE INSTRUCTIONS:**

To download the TAB Contracts online, simply go to the TAB Contracts webpage, click on the document, wait for it to load and select "save as" from the file menu. Save it to a selected location on your computer. **Once saved**, you may begin filling it out. If you do not save the document to your computer **BEFORE** you begin filling it out, you will **LOSE** all data. The Word forms were created using Microsoft 365 Word (.docx). If you are using an older version of Microsoft Word, you may experience issues when filling out the documents.

**Using the PDF Documents:** Download and save the documents using the instructions above. In order to use the PDF documents, you will need to have the latest version of the free Adobe Acrobat Reader Software installed on your computer. If you do not already have it installed, [link to the Adobe website to download Adobe Acrobat Reader](#). (Please note that if you are trying to use an older version, it may not allow you to save the PDF documents correctly. Contact TAB with questions.)

### **\*\* Note regarding the use of Texas Real Estate Commission (TREC) contract forms by a licensed real estate agent/broker:**

Under Texas state law and TREC rules and regulations, a TREC licensee is required to use the TREC promulgated contracts. HOWEVER, there are exceptions to this regulation. Under Sec. 1101.155(b) of the Texas Occupations Code and Sec. 537.11(a)(3) of the TREC rules as found in the Texas Administrative Code, another contract form may be used if it has been prepared by a property owner (or it has been prepared by an attorney and required by a property owner). *In short, the TAB contracts may be used in transactions involving a licensed real estate agent/broker, as long as a principal to the transaction requires it.* It should also be noted that unlike some construction contracts, the TAB contracts contain the standard one, two, six year warranties and building performance standards (see the *Express Limited Home Warranty* found in the TAB contracts package).

### **A. TAB 1.1 - Residential Construction Contract – Fixed Price (For Use with Homes Constructed on the Owner’s Property)**

This is a mechanic’s lien contract for use with construction of a home on your customer’s property. It provides for a fixed price for the construction. It is extremely important that this contract be notarized at the time the Owner signs it so that it can be filed in the property records to protect your rights in the event that you have to foreclose. The contract should be filed as soon as possible to protect the priority of your lien rights.

You will also find an Assignment at the end of the contract. The “Assignee” blank is for the name of the lender. The assignment allows the lender to have a first lien position for all funds paid to the builder from the construction loan.

**B. TAB 2.1 - Residential Construction Contract – Cost Plus (For Use with Homes Constructed on the Owner’s Property)**

This is a mechanic’s lien contract for use with construction of a home on your customer’s property. It provides for the price for the construction to be a set Builder’s Fee and the costs of the construction (cost-plus). It is extremely important that this contract be notarized at the time the Owner signs it so that it can be filed in the property records to protect your rights in the event that you have to foreclose. The contract should be filed as soon as possible to protect the priority of your lien rights.

You will also find an Assignment at the end of the contract. The “Assignee” blank is for the name of the lender. The assignment allows the lender to have a first lien position for all funds paid to the builder from the construction loan.

**C. TAB 3.1 - Residential Construction Contract-Fixed Price (For Use with Homes Constructed on the Builder’s Property)**

This contract should be used when the Builder owns the lot and will be constructing a home for a customer who will buy both the home and the lot upon completion of the improvements. It provides for a fixed price for the construction. Please note that if the home is partially completed or completed at the time you are signing a contract with a customer, *you should use TAB 11.1 or TAB 4.1 instead of this contract.*

**D. TAB 3.2 - Residential Construction Contract-Cost Plus (For Use with Homes Constructed on the Builder’s Property)**

This contract should be used when the Builder owns the lot and will be constructing a home for a customer who will buy both the home and the lot upon completion of the improvements. It provides for the price for the construction to be a Builder’s Fee and the costs of the construction (cost-plus). Please note that if the home is partially completed or completed at the time you are signing a contract with a customer, *you should use TAB 11.1 or TAB 4.1 instead of this contract.* This is a new form for 2023.

**E. TAB 4.1 - Residential Completed Home Contract (For Use with Completed Homes Constructed on the Builder’s Property)**

This contract should be used if the home is fully completed at the time you sign a contract with your customer, commonly referred to as a “spec” home.

**F. TAB 5.1 - Residential Remodeling Contract – Fixed Price**

This is a mechanic’s lien contract for use with a remodeling project. It provides for a fixed price for the construction. It is extremely important that this contract be notarized at the time the owner signs it so that it can be filed in the property records in the event that you have to foreclose.

You will also find an Assignment at the end of the remodeling mechanic’s lien contracts. The “Assignee” blank is for the name of the lender. The assignment allows the lender to have a first lien position for all funds paid to the builder from the construction loan.

The EPA “Lead-Safe Certified Guide to Renovate Right” Pamphlet (TAB D-10.4) should be given to the Owner with TAB D-10.1 (Lead-Based Paint Pre-Renovation Form) and TAB D-10.2 (Certified Renovator’s Pre-Renovation Form). TAB D-10.3 (Certified Renovator’s Post-Renovation Form) should be completed and given to the Owner upon completion of the remodeling project.

**G. TAB 6.1 - Residential Remodeling Contract – Cost Plus**

This is a mechanic’s lien contract for use with a remodeling project. It provides for the price for the construction to be a set Builder’s Fee and the costs of the construction (cost-plus). It is extremely important that this contract be notarized at the time the owner signs it so that it can be filed in the property records in the event that you have to foreclose.

You will also find an Assignment at the end of the remodeling mechanic’s lien contracts. The “Assignee” blank is for the name of the lender. The assignment allows the lender to have a first lien position for all funds paid to the builder from the construction loan.

The EPA “Lead-Safe Certified Guide to Renovate Right” Pamphlet (TAB D-10.4) should be given to the Owner with TAB D-10.1 (Lead-Based Paint Pre-Renovation Form) and TAB D-10.2 (Certified Renovator’s Pre-Renovation Form). TAB D-10.3 (Certified Renovator’s Post-Renovation Form) should be completed and given to the Owner upon completion of the remodeling project.

**H. TAB 7.1 – Residential Remodeling Contract (Short Form) – Fixed Price  
TAB 7.2 – Residential Modified Short Form Remodeling Contract**

TAB 7.1 is a shorter mechanic’s lien contract for use with a remodeling project. TAB 7.2 is a modified short form contract. They both provide for a fixed price for the construction. It is extremely important that the contract be notarized at the time the owner signs it so that it can be filed in the property records in the event that you have to foreclose.

You will also find an Assignment at the end of the remodeling mechanic's lien contracts. The "Assignee" blank is for the name of the lender. The assignment allows the lender to have a first lien position for all funds paid to the builder from the construction loan.

The EPA "Lead-Safe Certified Guide to Renovate Right" Pamphlet (TAB D-10.4) should be given to the Owner with TAB D-10.1 (Lead-Based Paint Pre-Renovation Form) and TAB D-10.2 (Certified Renovator's Pre-Renovation Form). TAB D-10.3 (Certified Renovator's Post-Renovation Form) should be completed and given to the Owner upon completion of the remodeling project.

**I. TAB 8.1 through 8.23 – Independent Contractor, Supplier & Design Professional Agreements and Related Documents**

**TAB 8.1, 8.2 and 8.3 – Independent Contractor, Supplier & Design Professional Agreements**

TAB 8.1-Independent Contractor Base Agreement, TAB 8.2-Supplier Base Agreement and TAB 8.3-Independent Design Professional Base Agreement and are for use as a contract between the builder and a contractor, subcontractor, supplier or design professional who will be supplying labor, materials or the design for a job.

**TAB 8.4 - Authorization to Obtain Department of Public Safety Criminal History Record**

Texas law provides that an in-home service company or residential delivery company within the meaning of Chapter 145 of the Texas Civil Practice and Remedies Code ("TCPRC") can obtain a criminal history record on any employee or agent that will be sent to deliver, place, assemble, repair or install an item at a residence. If an action is brought against the company alleging negligent hiring of an employee or agent, the company will have the legal defense of being presumed to have not acted negligently if the criminal history record information does NOT show the following: (1) a felony conviction in the 20 years preceding the date the information was obtained or (2) a misdemeanor conviction in the 10 years preceding the date the information was obtained for (a) an offense in this state classified as: (i) an offense against the person or the family; (ii) an offense against property; or (iii) public indecency; or (b) an offense in another jurisdiction that would be classified in a category described in (a) above if the offense had occurred in this state.

Therefore, if the builder or remodeler has a contract with a customer who is living in the residence where work will be performed or materials such as appliances, HVAC equipment, or plumbing or electrical fixtures will be installed, a criminal history record should be obtained by the builder or remodeler on all employees, agents, prospective employees, and subcontractors who will be entering another person's residence. The builder or remodeler should also request that their subcontractors obtain criminal history records on all of their employees, agents, prospective employees and subcontractors prior to entering a person's residence.

This form can be used to obtain the criminal history record from ALL STATES from the Texas Department of Public Safety or a private vendor approved by the Department of Public Safety.

**TAB 8.5 – Job Rules Addendum to Independent Contractor Base Agreement**

The Job Rules Addendum is an optional form that can be signed and distributed to your trades. While it is not a legal necessity for use, it may serve the function to support your independent contractor status with the trades, provide evidence to OSHA that you have an expectation of safety and an orderly jobsite for the protection of workers, and have the practical effect to encourage jobsite control by supervisors. Additionally, it sends a clear reminder that there is an ongoing master trade agreement with the independent contractors and that your jobsites are held to a higher standard of care.

**TAB 8.6 – Injury Incident Reporting Form**

This form may be used for an on-site injury to document persons that have witnessed the incident or has knowledge of the incident. Attorney for the Builder should be consulted before completing this form. This is a new form for 2023.

**TAB 8.22 – Addendum to Independent Contractor Agreement – Pricing Terms**

This form may be used to confirm agreed-to terms for pricing with subcontractors or vendors. The base form of Independent Contractor Agreement is designed to have written legal terms and not to confirm pricing or other business terms, which such terms vary over time. This form can be used to update pricing over time while maintaining the base terms under the Independent Contractor Agreement. This is a new form for 2023.

**TAB 8.23 – Addendum to Independent Contractor Agreement – Non-Solicitation**

This form provides for the prohibition of Builder’s subcontractors and vendors from dealing directly with owners withing the scope of work of the Builder or other work that would necessarily fall within the scope of work of the Builder through a Change Order on the project. This is a new form for 2023.

**J. TAB 9.1 - Indemnity and Affidavit as to Payment of Bills and Release of Liens**

This affidavit is for use when all subcontractors and suppliers have been paid. It states that the Contractor (Builder) has paid each person in full for all labor and materials used in the construction of improvements on the property. It should be signed either at closing or upon substantial completion of the project and notarized so that it can be filed with the County Clerk of the county where the property is located. This form has been updated in 2023 to reflect current business practices, lender issues, and invoices received after Final Payment.

**K. TAB 10.1 and TAB 10.2 - Services Agreements**

**TAB 10.1–Agreement Between Owner and Builder Consultant**

This is an agreement between an Owner and a Consultant for professional services such as administering a construction contract and assuring the proper performance of work that is within the Consultant's area of expertise.

**TAB 10.2-Agreement Between Owner and Builder Consultant-Design Agreement**

This is an agreement between an Owner and a Builder Consultant for designing a project (i.e. construction design plans and construction budget).

**L. TAB 11.1 - Residential Partially Completed Home Contract (For Use with Partially Completed Homes Constructed on the Builder’s Property)**

This contract should be used if the home is partially completed at the time you sign a contract with your customer.

**M. TAB 12.1 – Agreement for Termination of Contract and Release**

This document can be used when the builder or customer want to terminate a contract and provides for a release by both parties as well as a release of escrowed funds (earnest money), if any. This form is not appropriate for use if any construction or Work has commenced on the subject Property. The Builder should contact counsel for an appropriate release document. Builder should consult its attorney before using this form.

**N. TAB 13.1 through 13.4 – Lien Waivers and Releases**

TAB 13.1 – Conditional Waiver and Release on Progress Payment  
TAB 13.2 – Unconditional Waiver and Release on Progress Payment  
TAB 13.3 – Conditional Waiver and Release on Final Payment  
TAB 13.4 – Unconditional Waiver and Release on Final Payment

Although these forms contain a notary block, such notarization is no longer required for the release to be effective.

**O. TAB 14.1 through 14.3 – Lot Sale Addendum and Contracts**

**TAB 14.1 – Lot Sale Addendum** - This is an Addendum that can be used in conjunction with a TREC standard form Unimproved Property Contract when you have a customer that wants to buy a lot from you and sign a construction contract. This Addendum gives you

the ability to sell the unimproved lot to a customer before construction of the home begins and commits the customer to sign a mechanic's lien contract with you. If, for some reason, the customer does not sign the mechanic's lien construction contract after the sale of the lot, you retain the right to repurchase the lot. The sequence of the execution of all of the forms associated with this type of transaction is complicated and must be done correctly to have an enforceable mechanic's lien on the Property. You should contact counsel for instructions on how to do this properly to secure your interests.

**TAB 14.2 – Lot Reservation Agreement** – This form may be used to temporarily hold a lot for a potential buyer while business terms, design, and financial considerations are being discussed. This form is not a contract to purchase. This is a new form for 2023.

**TAB 14.3 – Residential Lot Contract with Option to Purchase** – This form is for the purchase and sale of a lot or property with terms and conditions that provide for the limited availability to re-purchase the lot or property. This is a new form for 2023.

**P. TAB 15.1 – Architect/Design Professional Addendum**

This is an Addendum that can be used in conjunction with Custom Construction Jobs On the Owner's Property when the Owner (rather than the Builder) has engaged or hired a licensed architect (“Architect”) or design professional (“DP”) to provide some or all of the Construction Documents for the Property. It sets forth the rights, liabilities, and responsibilities for the Architect’s or DP’s work.

**Q. TAB 16.1 – Take Over Special Provision Addendum**

This form is to be used if the Builder is taking over an under construction project for another builder. It provides for certain protections for the Builder for the work performed by the prior builder. This is a new form for 2023.

**R. TAB 17.1 – Restrictive Covenant and Confirmation of Arbitration Agreement**

This form may be used to file in the deed records of the county where the property is located an instrument giving evidence that the contracting parties agreed to arbitration of disputes between them and to assist in compelling arbitration as between claims made by a subsequent owner of the property against the Builder. This is a new form for 2023.

**S. TAB A-15, TAB B-15, B-19.1, TAB C-14, D-17 and E-15 – Homeowners Maintenance Guidelines**

This Addendum is designed to address some of the more common home maintenance guidelines and does not encompass the entirety of items that a homeowner must maintain

for the proper use, maintenance and enjoyment of a home. Following or ignoring these guidelines does not create any liability on the part of a builder/contractor for any home defects or standards of performance. Always follow the manufacturer's recommendations for maintenance schedules.