

Plain English Contract for Supply and Installation of a Vergola Opening Roof System

This contract is between:

Vergola (Vic) Pty Ltd ACN 088 482 928 of 101 Port Road Thebarton SA 5031 Phone 8150 6888 and Facsimile 81506868.
Directors Registration Number: DBL33799 - ("we, our, us").

And

The Owner (" ")

Mobile Phone:

Your address:

Vergola contract #: PRV313

Design consultant: Jitendra Ragunath

The site:

The Vergola dimension:	16'5 X 6'6 / 13'0 X 6'6	Number of Bays:	2
Type of Vergola:	Double Bay VR3	Beam Type:	Perimeter C Beam 10
Column Type:	Post 3 1/2" x 3 1/2" - 11 gauge Galv	Gutter Type:	Colourbond
Flashing Type:	Colourbond		

Structure

☐ Attached to home

☐ Freestanding

Column fixing

☐ Footing

☐ Bracket

Finish

☐ Standard

☐ Non Standard (specify):

Exclusions:

A standard building permit only is included. All other permits such as Town Planning, Build over easements permits, fire mod's, siting dispensations and the like are NOT included. We will make application on your behalf if required. A 20% surcharge is applied to cover preparation of plans and application costs

Non Standard Inclusions:

Special Conditions:

Design wind category

☐ N1

☐ N2

☐ N3

Council approval required?

☐ Yes

☐ No

Strata or other consents required?

☐ Yes

☐ No

WARNING: Changes to the price

The price is fixed but may be altered by:

- The cost of obtaining planning permission if required (see clause 29)
- Variations, including those required by the engineer or a building surveyor or any authorised person under the Building Act 1993 (see clause 23)
- Interest on overdue payments (see clause 17)
- The cost of surveying the land if required (see clause 6)
- **Us** having to do work that **you** are supposed to do (see clauses 3, 8 and 25)
- Any order made by the Victorian Civil and Administrative Tribunal or other Court or Tribunal
- GST

The price: | \$17 883.51

GST: | \$1 788.35

Total price: | \$19 671.86

Progress claims and payments:

Deposit & Disbursements:	\$1 000.00	(to be paid on signing Contract)
Progress Claim	\$12 786.71	(to be paid on signing Contract)
Final Payment	\$5 885.15	(to be paid on signing Contract)

Construction Period:

Doing the works

1. We will do the works for you at the site.
2. The following warranties apply to the works to be done under this contract:
 - 2.1 that the works will be carried out in a proper and workmanlike manner and in accordance with the plans and specifications
 - 2.2 that all materials to be supplied by us for use in the works will be good and suitable for the purpose for which they are used and, unless otherwise stated in this contract, those materials will be new;
 - 2.3 that the works will be carried out in accordance with, and will comply with, all laws and legal requirements including, without limiting the generality of this warranty, the Building Act 1993 and the regulations made under that Act;
 - 2.4 that the works will be carried out with reasonable care and skill and will be completed by the date (or within the period) specified on page 1.

Some things you must do

3. At all times so that we can do the works you must provide to us and our employees, agents or subcontractors:
 - 3.1 a clear site;
 - 3.2 exclusive, free and uninterrupted access to all areas of the site where work is to be carried out; and
 - 3.3 electrical power to all areas of the site where work is to be carried out.
4. If you do not, we may do the things necessary to get these things and charge you extra for that.
5. You must not:
 - 5.1 a clear site;
 - 5.2 exclusive, free and uninterrupted access to all areas of the site where work is to be carried out; and
6. If we ask, you must show us the correct location of the site boundaries. If there is doubt, you must pay for a surveyor to peg the site and the position of the work.
7. You must tell us now of any easements or encumbrances. You must tell us now anything else we should know about the site or its boundaries. You are responsible for the correctness of everything you tell us. (This includes any documents you provide to us.)
8. You are responsible (and you must pay) for:
 - 8.1 storm water disposal;
 - 8.2 relocation of any services;
 - 8.3 removal of rock;
 - 8.4 repairs to any underground servicesunless it says otherwise in this contract.
9. You must tell us now of any easements or encumbrances. You must tell us now anything else we should know about the site or its boundaries. You are responsible for the correctness of everything you tell us. (This includes any documents you provide to us.)

Materials

10. We own the materials used in connection with the works until you have paid all amounts due to us in full.
 11. Until that time you only have possession of the materials as bailee for us.
 12. Your right to possession of the materials ends if payment for the materials is due but is not paid.
 13. In that case, we may enter any premises where the materials are, or are reasonably thought to be, and repossess them.
 14. We may substitute different materials if the original materials are difficult or impossible to get.
 15. We own surplus materials supplied by us.
- We will remove them from the site prior to practical completion.

Payment

16. You must pay us the deposit and the rest of the price in the instalments, and at the stages of the works, specified above.
17. You have 1 business day to pay us from when a claim is given to you. If you do not pay in that time, you must pay us interest on any amount outstanding at a rate of one percent (1%) more than the then current rate charged by the National Australia Bank for overdrafts of \$10,000 or more. Also, in that case, you must pay all legal or other collection costs we incur to collect any amount you owe us.
18. When the works are practically complete we will give you a final account and you must then pay the final account in full (that is, with no set-off or reduction) by cash or bank cheque. Then we will hand over the works to you.
19. You should give us a written notice of any defective or incomplete parts of the works about 3 months after practical completion. Provided you have paid the final account (and any other accounts) in full, we will then fix them within a reasonable time.

Approvals

20. If approval for the works is required from any statutory authority you and we must use our best efforts to obtain that approval. If that approval is refused you must pay us all of our costs incurred up to the date of refusal plus 20% for our profit and overheads. After that, we have no further claim against you and you have no claim against us.

Timing

21. We will start doing the works as soon as reasonable after we receive approval for the works under clause 20.
22. Where there is no specific start date on page 1, we will do everything that it is reasonably possible for us to do to ensure that

the works will start as soon as possible and we must use reasonable effort to finish the works quickly subject to any delays caused by things that are beyond our control.

Variations

23. You and we must both agree to any variation, apart from those under Clause 4.

Except for them, this Clause 23 applies.

- 23.1 storm water disposal;
- 23.2 relocation of any services;
- 23.3 removal of rock;
- 23.4 repairs to any underground services
- 23.5 storm water disposal;
- 23.6 storm water disposal;
- 23.7 relocation of any services;
- 23.8 removal of rock;
- 23.9 repairs to any underground services

24. If the engineer requires extra work we will tell you and we will charge extra for that work.

Work or materials by you

25. This clause applies if you are supplying materials or doing any of the works. In that case, you must do that work and/or supply those materials free of defects at the right time and, in any case, within 7 days of our request.

If you do not, we may supply the materials or do the work as a variation, and you will be charged the actual cost to us (excluding GST) to do that plus another 15% (which includes overheads). GST will be added to the total.

Our liability and insurance

26. We are not responsible for damage to existing structures or fittings. We will however take reasonable care not to cause such damage when doing the works.

27. We will insure the works until practical completion. You are responsible for the works after practical completion. You should get insurance from that time.

28. The Vergola system is guaranteed against defects in materials or workmanship for five (5) years from the date of installation except that motors and controllers are guaranteed against defects in materials and workmanship for two (2) years from the date of installation.

29. We will obtain the required insurance under the Building Act 1993.

Breaches, stopping work and termination

30. We may stop the works by written notice if you breach (disobey) this contract.

31. If Clause 33 allows it, we can still terminate this contract because of the breach. Stopping the works does not affect this right.

32. If you correct the breach before we terminate, we will re-start the works within a reasonable time.

33. We may terminate this contract by written notice if:

- 33.1 you fail to make any payment due
- 33.2 you take possession of the work without our consent
- 33.3 you disobey Clause 5 or
- 33.4 there is any other substantial breach of this contract by you.

34. If we do that, we may remove any unfixed materials from the site.

35. You may terminate this contract by written notice if there is a substantial breach of this contract by us.

36. Termination does not affect rights rising from a breach of contract.

37. Either you, or we, may terminate this contract by written notice if the other -

- 37.1 commits a substantial breach of this contract; or
- 37.2 does an act of bankruptcy (see the Bankruptcy Act); or
- 37.3 comes under external administration, if a company (see the Corporations Law). However, you cannot terminate this

contract when you are in substantial breach of it. Subject to that if the contract is terminated by you (except under clause 35) you must pay us either:

- 37.4 all of our costs incurred up to the date of termination plus our profit; or<
- 37.5 20% of the price whichever is the greater.

After that, we have no further claim against you and you have no claim against us

Miscellaneous

38. We may sub-contract the works or any part of them.

39. Any example given in this contract is not meant to show all possible cases.

40. Using a right given in this contract does not affect any other right.

41. If there are more than one of you then

- 41.1 All your obligations are joint and several
- 41.2 We only have to give payment claims or notices to one of you and
- 41.3 Only one of you need sign a quote or notice and then all are bound.

42. All notices must be in writing (unless you and we agree otherwise).

43. All notices must be given to the other party.

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- 44. Notices can be given in person.
 - 45. Notices can also be left at the other party's last known address.
 - 46. Notices can also be sent there by post, but they must be correctly addressed and posted.
 - 47. If posted, the notice is treated as given 2 business days after posting.

Definitions

- 48. In this contract, the following words have the following meanings:
 - 48.1 we, our, us means Vergola (Vic) Pty Ltd ACN 088 482 928
 - 48.2 you, your means the Owner on page 1
 - 48.3 the works means the Vergola and other works on page 1
 - 48.4 the site means the site on page 1
 - 48.5 the price means the total price on page 1
 - 48.6 the plans and specifications means the plans attached to this contract and the specifications on page 1

Before you sign this contract you should note that:

We do not receive any commission or other benefit for arranging building indemnity insurance (under the Building Act, 1993).
The premium payable for that insurance is \$686.00.

Signed as a contract made on the latest date stated below

_____	_____	_____
Owner	Witness	Date
_____	_____	_____
Owner	Witness	Date
_____	_____	_____
Owner	Witness	Date

By signing, you also acknowledge receiving a copy of this signed contract and the attached Cooling Off Rights Notice.

WARNING

THIS NOTICE SHOULD ONLY BE COMPLETED BY THE OWNER IF THE OWNER WISHES TO WITHDRAW FROM THE CONTRACT WITHIN THE COOLING OFF PERIOD

THIS IS A STATUTORY NOTICE AS REQUIRED BY SECTION 31 (1) OF THE DOMESTIC BUILDING CONTRACTS ACT (VIC) 1995

COOLING OFF

The owner may end this contract within five clear business* days after receiving a signed copy of this contract by filling in the notice below and giving it to the builder in one of the following ways:

1. Personally;
2. Leaving it at the builder's address (set out in the contract); or
3. Serving it on the builder in a way required by the contract.

* the notice must be received by the builder within this time.

IMPORTANT NOTES

If the owner withdraws from this contract in this way:

a) the builder may retain out of any money already paid to the builder:

- i. \$100; plus
 - ii. the cost of any other out-of-pocket expenses the builder incurred (with the approval of the building owner) before that withdrawal; and
- b) the builder must refund all other money paid to it under the contract by (or on behalf of) the owner on or since the time the contract was made; and
- c) the owner is not liable to the builder in any way for withdrawing from the contract.

The owner cannot withdraw from the contract if:

- the owner and the builder have previously entered into a major domestic building contract that is in substantially the same terms for the carrying out of work in relation to the same home or land; or
- the owner received independent advice concerning the contract from an Australian legal practitioner before entering into the contract.

NOTICE THAT CONTRACT IS ENDED

To: Vergola (Vic) Pty Ltd

I/We _____ give you notice under our contract with you that the contract is ended. Please refund the deposit less \$100 and any out of pocket expenses that you have incurred with my/our approval.

Signed _____

Print full name _____

Date ____/____/____