

PETER SAYERS PLUMBING PL

Peter Sayers Plumbing Pty Ltd

ABN 97 434 695 389

ACN 003 039 129

Licence No. 24152C

PO Box 1080,

Brookvale NSW 2100

Ph (02) 9975 5674 - Fax (02) 9402 0174

Email info@petersayersplumbing.com.au

RESIDENTIAL PLUMBING CONTRACT

(Suitable for Works between \$1,000 and \$12,000)

IMPORTANT: Under the Home Building Act 1989 a signed copy of this contract must be given to the Owner within 5 clear business days of the contract being executed by the parties.

REF No: _____

A. Owner's Details

Name/s: _____

Address: _____

Post Code: _____

Home Phone: _____ Work Phone: _____

Fax: _____ Mobile: _____

Email: _____

B. Contractor's Details

Name/s (As shown on Contractor's Licence): Peter Sayers Plumbing Pty Ltd _____

Address (As shown on Contractor's Licence): 54 Inglebar Ave, Allambie Heights _____

Post Code: 2100 _____ ABN: 97 434 695 389 _____

Home Phone: 02 9975-5674 _____ Work Phone: _____

Fax: 02 9402-0174 _____ Mobile: 0412-240-496 _____

Email: info@petersayersplumbing.com.au _____

Contractor's Licence Details

Licence No: 24152C _____ Expiry Date: 30/08/2009 _____

Category shown on licence: Plumber / Drainer / Gasfitter _____

C. Site details

Site Address: _____

Post Code: _____

Lot: _____ on RP/SP Number: _____

D. Description of the Works

Note: If there is insufficient space a full description of the Works must be attached as a separate Schedule. Plans, specifications and quotes need to be attached to this contract and signed and dated by both parties. All plans and specifications that are for Works to be actioned under this contract (including any variations) are taken to form part of the contract.

E. Price

Deposit (By law this cannot exceed 10% of the Contract Price) \$ _____

Contract Price (GST inclusive) \$ _____

Warning: The contract Price may change as the above Price is subject to variation under clauses 2, 3, 6, 9, 10, 13, 15 and appendix (where attached) box B

F. Checklist for Owners entering into this contract.

YES or NO
(delete one)

If you answer 'no' to any of questions 1-11 then you may not be ready to sign the contract:

- | | | | |
|----|---|-----|----|
| 1 | Does the Contractor hold a current Contractor's licence? | YES | No |
| 2 | Does the licence cover the type of Works included in the contract? | YES | No |
| 3 | Is the name and number on the Contractor's licence the same as on the contract? | YES | No |
| 4 | Is the Works to be undertaken covered in the contract, drawings or specifications? | YES | No |
| 5 | Is the Contract Price clearly stated? | YES | No |
| 6 | If not, is there a warning that the Contract Price is not known? | YES | No |
| 7 | If the Contract Price may be varied, is there a warning and an explanation about how it may be varied? | YES | No |
| 8 | Is the deposit within the legal limit? The limit is 10% for Works costing \$20,000 or less or 5% for Works costing more than \$20,000. | YES | No |
| 9 | Is the procedure for variations understood? | YES | No |
| 10 | Are you aware of who is to obtain any council or other approval for the Works? | YES | No |
| 11 | Has the Contractor given you a document that explains the operation of the Home Building Act 1989 and the procedures for the resolution of contract and insurance disputes? | YES | No |

TERMS AND CONDITIONS

- 1. Definitions**
 - 1.1 "Contractor" shall mean Peter Sayers Plumbing Pty Ltd.
 - 1.2 "Owner" shall mean the Owner or any person acting on behalf of and with the authority of the Owner.
 - 1.3 "Works" shall mean the Works as described in the Description of Works in this contract.
 - 1.4 "Materials" shall mean Materials required in order to complete the Works.
 - 1.5 "Prime Cost Item" shall mean an item that either has not been selected, or whose price is not known, at the time this contract is entered into and for the cost of supply and delivery of which the Contractor must make a reasonable allowance in the contract. (Applicable only if appendix attached).
 - 1.6 "Provisional Sum" shall mean an estimate of the cost of carrying out particular Works under this contract for which the Contractor, after making all reasonable inquiries, cannot give a definite price at the time this contract is entered into. (Applicable only if appendix attached).
 - 1.7 "Contract Price" shall mean the price of the Works as agreed between the Contractor and the Owner.
- 2. Variations**
 - 2.1 In the event that the Owner requests a variation the Contractor will give the Owner a written variation document detailing the Works, the amended Contract Price, the estimated time to undertake the variation, the likely delay to the completion date if any, and require written acceptance by the Owner of the variation before commencing Works on the variation.
 - 2.2 In the event that the Contractor requests a variation, the Contractor will, in writing state the reason for the variation, provide a full description of the variation, state any effect the variation will have on the contract, including but not limited to, the Contract Price, completion date and whether further permits or authorisations are required, and shall require written acceptance by the Owner of the variation before commencing Works on the variation.
 - 2.3 All variations to this contract (including those to the plans and specifications) must be in writing, dated and signed by both parties to the contract.
 - 2.4 All variations under this clause shall include an allowance for contractor's overheads and profit.
- 3. Contract Price And Payment**
 - 3.1 Time for payment for the Works shall be of the essence and will be stated on the invoice. If no time is stated then payment shall be due seven (7) days following the date of the invoice.
 - 3.2 Any deposit shall be payable on the day that this contract is signed by the Owner.
 - 3.3 The Owner shall make progress payments (within 5 days of receipt from the Contractor in writing of a progress claim) for each completed stage of the Works as stated in this contract. Such payments shall include any amounts payable for Contract Price adjustments or variations claimed and not paid prior to each progress payment. (Applicable only if appendix attached).
 - 3.4 Payment will be made by cash, or by cheque, or by bank cheque, or by direct credit, or by any other method as agreed to between the Owner and the Contractor.
 - 3.5 The Contract Price shall be increased by the amount of any GST and other taxes and duties which may be applicable, except to the extent that such taxes are expressly included in this contract.
- 4. Delivery Of Works**
 - 4.1 The Contractor will endeavour to complete the Works within the completion period stated in this contract and commence on the start date specified in this contract subject to clause 4.2.
 - 4.2 At the sole discretion of the Contractor the Works commencement date will be put back and/or the building period extended by whatever time is reasonable in the event that the Contractor claims an extension of time by giving the Owner notice, where completion is delayed by an event beyond the Contractor's control.
 - 4.3 Unless the Owner notifies the Contractor in writing within 5 business days of the date of the Contractor's notice that it objects to the delay, the contract shall be extended by the time notified by the Contractor.
 - 4.4 The Works shall be deemed to be practically completed when the Works carried out under this contract have been completed in accordance with the plans and specifications set out in this contract.
 - 4.5 The Contractor shall not be liable for any costs incurred by the Owner due to any unforeseen delays in completing the Works.
- 5. Defects**
 - 5.1 The Contractor shall rectify (at the Contractor's own expense) any defects or omissions that become apparent within the period of four (4) weeks commencing from the Completion Date (the "Completion Period") provided that the Owner notifies the Contractor in writing of any such defects no later than five (5) business days after the end of the Completion Period.
 - 5.2 The Contractor shall remedy any defects brought to the Contractor's attention under clause 5.1 within thirty (30) days of receiving such notification in writing unless the rectification work(s) required deem thirty (30) days to be an unreasonable period of time to complete the rectification work(s).
- 6. Owner's Responsibilities**
 - 6.1 It is the intention of the Contractor and agreed by the Owner that:
 - (a) any building/construction sites will comply with all New South Wales occupational health and safety laws relating to building/construction sites and any other relevant safety standards or legislation; and
 - (b) the Owner shall obtain and pay for all planning and building approvals required for the Works prior to commencement of the Works by the Contractor unless otherwise agreed in writing between the Owner and the Contractor. In the event the Contractor agrees to obtain the approvals then the cost of those approvals shall be the Owner's responsibility and shall be in addition to the Contract Price; and
 - (c) the Owner shall remove from the work area any furniture, personal effects or other property likely to impede the Contractor in order to minimise the risk of injury or any damage; and
 - (d) the Owner shall provide the Contractor with clear and free access to the worksite to enable the Contractor to complete the Works.
- 7. Contractor's Responsibilities**
 - 7.1 The Contractor shall make good (at the Contractor's own expense) any loss or damage to the Works or property of the Owner caused by the negligence of the Contractor.
- 8. Risk**
 - 8.1 If the Contractor retains ownership of the Materials nonetheless, all risk for the Materials passes to the Owner on practical completion.
- 9. Underground Locations**
 - 9.1 Prior to the Contractor commencing the Works the Owner must advise the Contractor of the precise location of all underground services on the site and clearly mark the same. The underground mains & services the Owner must identify include, but are not limited to, electrical services, gas services, sewer services, pumping services, sewer connections, sewer sludge mains, water mains, irrigation pipes, Telstra cables, fibre optic cables, oil pumping mains, and any other services that may be on site.
 - 9.2 Whilst the Contractor will take all care to avoid damage to any underground services the Owner agrees to indemnify the Contractor in respect of all and any liability claims, loss, damage, costs and fines as a result of damage to services not precisely located and notified as per clause 13.1.
- 10. Blocked Drain**
 - 10.1 The Owner acknowledges and agrees that the presence of plant/tree root growth and/or blockages generally indicates damaged pipes. Accordingly the Owner agrees that these pipes cannot be fixed by simply removing plant/tree root growth or cleaning the drain, therefore no warranty is provided against this situation arising again in the future and in respect of any Works carried out in relation hereto.
 - 10.2 In the event that any of the Contractor's equipment becomes lodged in the Owner's faulty drain the Owner will be liable for all costs incurred by the Contractor in retrieving and/or repairing the equipment.
- 11. Title**
 - 11.1 It is the intention of the Contractor and agreed by the Owner that ownership of Materials shall not pass until:
 - (a) the Owner has paid all amounts owing for the particular Materials; and
 - (b) the Owner has met all other obligations due by the Owner to the Contractor in respect of all contracts between the Contractor and the Owner.
- 11.2 Receipt by the Contractor of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised and until then the Contractor's ownership or rights in respect of Materials shall continue.
- 11.3 It is further agreed that:
 - (a) until such time as ownership of the Materials shall pass from the Contractor to the Owner the Contractor may give notice in writing to the Owner to return the Materials or any of them to the Contractor. Upon such notice the rights of the Owner to obtain ownership or any other interest in the Materials shall cease; and
 - (b) the Contractor shall have the right of stopping the Materials in transit whether or not delivery has been made; and
 - (c) if the Owner fails to return the Materials to the Contractor then the Contractor or the Contractor's agent may enter upon and into land and premises owned, occupied or used by the Owner, or any premises as the invitee of the Owner, where the Materials are situated and take possession of the Materials.
- 12. Intellectual Property**
 - 12.1 Where the Contractor has designed, drawn or written plans or a schedule of Works for the Owner, then the copyright in those plans, schedules, designs and drawings shall remain vested in the Contractor, and shall only be used by the Owner at the Contractor's discretion.
 - 12.2 The Owner warrants that all designs or instructions provided to the Contractor will not cause the Contractor to infringe any patent, registered design or trademark in the execution of the Owner's order.
- 13. Default & Consequences of Default**
 - 13.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and one half percent (2.5%) per calendar month (and at the Contractor's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
 - 13.2 In the event that the Owner's payment is dishonoured for any reason the Owner shall be liable for any dishonour fees incurred by the Contractor.
 - 13.3 If the Owner defaults in payment of any invoice when due, the Owner shall indemnify the Contractor from and against all costs and disbursements incurred by the Contractor in pursuing the debt including legal costs on a solicitor and own client basis and the Contractor's collection agency costs.
 - 13.4 Without prejudice to any other remedies the Contractor may have, if at any time the Owner is in breach of any obligation (including those relating to payment) the Contractor may suspend or terminate the supply of Works to the Owner. The Contractor will not be liable to the Owner for any loss or damage the Owner suffers because the Contractor exercised its rights under this clause.
 - 13.5 If any account remains overdue after thirty (30) days then an amount of the greater of \$20.00 or 10.00% of the amount overdue (up to a maximum of \$200) shall be levied for administration fees which sum shall become immediately due and payable.
- 14. Privacy Act 1988**
 - 14.1 The Owner agrees for the Contractor to obtain from a credit reporting agency a credit report containing personal credit information about the Owner in relation to credit provided by the Contractor.
 - 14.2 The Owner agrees that the Contractor may exchange information about the Owner with those credit providers either named as trade referees by the Owner or named in a consumer credit report issued by a credit reporting agency.
 - 14.3 The Owner consents to the Contractor being given a consumer credit report to collect overdue payment on commercial credit (Section 18K(1)(h) Privacy Act 1988).
 - 14.4 The Owner agrees that personal credit information provided may be used and retained by the Contractor for the purpose of protecting the Contractor's interests under this contract.
 - 14.5 The Contractor may give information about the Owner to a credit reporting agency for the following purposes:
 - (a) to obtain a consumer credit report about the Owner; and/or
 - (b) allow the credit reporting agency to create or maintain a credit information file containing information about the Owner.
- 15. Cancellation**
 - 15.1 The Contractor may cancel this contract (Subject to clause 15.2) if the Owner:
 - (a) fails to make payment due under this contract; or
 - (b) denies the Contractor access to the worksite to complete or undertake any Works; or
 - (c) become insolvent, goes into liquidation or administration.
 - 15.2 Where the Contractor believes that the defaults in clause 15.1 can be rectified then the Contractor shall advise the Owner in writing that they have five (5) working days (from the date of the letter) in which to do so. If the Owner fails to rectify any default within that period then the Contractor shall advise the Owner in writing that they are cancelling the contract.
 - 15.3 If the contract is ended under this clause, the Contractor shall be entitled to a reasonable price for the Works carried out under this contract to the date the contract is ended (including the cost of any Materials delivered to the worksite or already ordered from suppliers but not yet paid for by the Owner).
- 16. Surplus Materials**
 - 16.1 Unless otherwise stated elsewhere in this contract:
 - (a) demolished Materials remain the Owner's property; and
 - (b) Materials which the Contractor brings to the site which are surplus remain the property of the Contractor.
- 17. Disputes**
 - 17.1 If the Owner or Contractor believes a dispute has arisen in relation to any matter under this contract, then that party must promptly give the other party written notice setting out the matter in dispute.
 - 17.2 Both parties shall meet within 14 days of the giving of such notice to attempt to resolve the dispute.
 - 17.3 In the event that the dispute cannot be resolved then the matter shall be referred to the Office of Fair Trading for assistance in the resolution of the dispute.
- 18. General**
 - 18.1 If any provision of this contract shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
 - 18.2 These terms and conditions and any contract to which they apply shall be governed by the laws of New South Wales and are subject to the jurisdiction of the courts of New South Wales.
 - 18.3 The Contractor shall be under no liability whatever to the Owner for any indirect loss and/or expense (including loss of profit) suffered by the Owner arising out of a breach by the Contractor of this contract.
 - 18.4 In the event of any breach of this contract by the Contractor, the remedies of the Owner shall be limited to damages. Under no circumstances shall the liability of the Contractor exceed the Contract Price.
 - 18.5 Unless otherwise provided in writing the Owner shall not be entitled to set off against or deduct from the Contract Price any sums owed or claimed to be owed to the Owner by the Contractor.
 - 18.6 Where more than one Owner has entered into this agreement, the Owners shall be jointly and severally liable for all payments of the Contract Price and any other obligations of the Owner under this contract.
 - 18.7 None of the Contractor's agents or representatives are authorised to make any representations, statements, conditions or agreements not expressed by the manager of the Contractor in writing nor is the Contractor bound by any such unauthorised statements.
 - 18.8 The Contractor may license or sub-contract all or any part of its rights and obligations without the Owner's consent. The Owner agrees and understands that they have no authority to give any instruction to any of the Contractor's sub-contractors without the authority of the Contractor.
 - 18.9 Neither party shall be liable for any default due to any act of God, war, terrorism, fire, flood, drought, storm or other event beyond the reasonable control of either party.
 - 18.10 The failure by the Contractor to enforce any provision of this contract shall not be treated as a waiver of that provision, nor shall it affect the Contractor's right to subsequently enforce that provision.
 - 18.11 This contract, the plans and specifications have precedence in that order if there is any inconsistency between them.

I/we certify that the above information is true and correct and that I/we have received, read and understand this RESIDENTIAL PLUMBING CONTRACT. I authorise the use of my personal information as detailed in the Privacy Act clause above. I/we have been supplied with a copy of the Consumer Building Guide and have read and understand its contents. I/we have completed the above Checklist for Owners entering into this contract and answered "Yes" to all items on it.

Owner's
 Signed: _____ Capacity: _____ Date: _____

Signed: _____ Capacity: _____ Date: _____

Contractor
 Signed: _____ Capacity: _____ Date: _____

Note: Where the Owner or Contractor is a company or partnership or the contract is to be signed by an authorised agent of the Owner, the capacity of the person signing the contract, e.g. director, must be inserted.

A. Progress Payment Schedule

	Stage of the Works Completed		
1 st Progress Payment		\$	
2 nd Progress Payment		\$	
3 rd Progress Payment		\$	
	Final Payment	\$	

B. Provisional Sum Items & Prime Cost Items (See definitions)

The Contractor warrants that any *Provisional Sum* has been calculated with reasonable care and skill taking account of all the information reasonably available at the date the contract is made, including the nature and location of the building site.

Note: The installation of Prime Cost Items and connection to services, unless otherwise specified, is included in the Contract Price.

Detailed description of Works, item or sum	Estimated Quantity	Estimated Rate	Allowance \$	Contractor's Margin (if nothing stated 10%)

(to be continued on a separate page if necessary)

If the cost of a Provisional Sum Item or Prime Cost Item is less than the above estimated cost the Contract Price will be reduced to take the difference into account. If the cost of a Provisional Sum Item or Prime Cost Item is more than the above estimated cost the Contract Price will be increased to take the difference into account and an additional amount equal to the percentage of the difference indicated as the Contractor's Margin shall be added to cover the Contractor's profit, and additional services and overheads.

Any variations to the Contract Price as a result of the cost of any Provisional Sum Item or Prime Cost Item shall be taken into account in the calculation of the Progress Payment due after completion of the relevant Provisional Sum Item or installation of the relevant Prime Cost Item.

C. Dates

Start date: _____ Completion Date: _____
 Completion Period (Days): _____

NB: The Start Date is approximate only and is subject to all necessary approvals from relevant statutory authorities being obtained in writing and/or written consent from any lending authority being obtained in writing. Completion period may be subject to change. (Refer clause 4.2)

D. Special Conditions

Any special conditions (e.g. any work to be completed by the Owner) are to be added to the contract here or this section should be deleted.

(to be continued on a separate page if necessary)