

1. Interpretation

This Agreement is governed by the laws of Victoria and the parties submit to the nonexclusive jurisdiction of the courts of that State.

In the interpretation of this Agreement:

a. Definitions

“**Building Contract**” means an unconditional Major Domestic Building Contract, between the Grantee as the customer and a Registered Building Practitioner as the builder, for a dwelling on the Land which is compliant with all relevant building codes and any restrictions on the title for the Land.

“**Registered Building Practitioner**” means a practitioner with a current registration status as a registered building practitioner with the Victorian Building Authority.

- b. References to legislation or provisions of legislation include changes or reenactments of the legislation and statutory instruments and regulations issued under the legislation;
- c. Words denoting the singular include the plural and vice versa, words denoting individuals or persons include bodies corporate and vice versa, words denoting one gender include all genders and references to documents or agreements also mean those documents or agreements as changed, novated or replaced;
- d. Grammatical forms of defined words or phrases have corresponding meanings; Parties must perform their obligations on the dates and times fixed by reference to the capital city of Victoria;
- e. Reference to an amount of money is a reference to the amount in the lawful currency of the Commonwealth of Australia;
- f. If the day on or by which anything is to be done is a Saturday, a Sunday or a public holiday in the place in which it is to be done, then it must be done on the next business day;
- g. References to a party are intended to bind their heirs, executors, administrators, successors and assigns; and
- h. Obligations under this Agreement affecting more than one party bind them jointly and each of them severally.

2. Purpose

- a. The purpose of the Building Grant is to provide assistance to the Grantee to construct a dwelling on the Land and support local trades.
- b. The Building Grant details form part of the Agreement between the Grantor and the Grantee.
- c. The Building Grant is being provided as part of the Grantors ability to support building infrastructure, encouraging construction of dwellings on the Land and supporting local construction businesses.

3. Payment of the Grant Amount

- a. Within 120 days after settlement of the Contract of Sale, the Grantee will supply the Grantor with:
 - (i) a copy of the signed Building Contract; and
 - (ii) a tax invoice from the Registered Building Practitioner under the Building Contract for the Grant Amount with the tax invoice addressed to Emberwood Estate Pty Ltd; by emailing, posting or hand delivering the documentation to the Grantor as listed in the Item 2 of the Schedule herein. Hand delivery must be effected in usual business hours.
- b. Within 14 days after satisfaction of clause 3(a), the Grantor will make payment of the Grant Amount to the Registered Building Practitioner under the Building Contract.

4. Withholding of Payment

- a. Notwithstanding any other provision herein, the Grantor may withhold payment of the Grant Amount if it reasonably believes that:
 - (i) The Grantee has not complied with this Agreement;
 - (ii) The Grantee is acting in bad faith, or contrary to the Purpose of this Agreement; or
 - (iii) There is a serious concern relating to the Grantee, the Registered Building Practitioner, the Building Contract, or this Agreement that requires investigation.
- b. The Grantor will supply the Grantee with a notice containing the reasons for any action taken under clause 4(a) and, where relevant, invite the Grantee to respond to those reasons and/or take steps to address those reasons. Such notice is to provide a reasonable time frame for the Grantee’s response.
- c. Should the Grantee fail to respond to the notice or should the response not meet the Grantor’s reasonable satisfaction, the Grantor may end the Agreement and will no longer be obliged to pay the Grant Amount.

5. End of Agreement

This Agreement ends when any one or more of the following events occur:

- a. Where a Contract of Sale is not duly executed;
- b. Where the Contract of Sale ends in accordance with its own conditions;
- c. Where settlement of the Contract of Sale is not successfully completed within 14 days after the date settlement is due in the Contract of Sale as a result of a default by the Grantee;
- d. Where the Grantee has not complied with clause 3(a) within 120 days after settlement under the Contract of Sale;
- e. Where the Grantor has complied with clause 3(b);
- f. Where the Grantor exercises its rights under clause 4; or
- g. By mutual agreement between the parties in writing.

6. Nomination

- a. Where the Grantee nominates a substitute or additional purchaser (“the nominee”) in accordance with General Condition 4 in the Contract of Sale, the Grantee must also nominate the same nominee to be the Nominated Grantee in this agreement.
- b. The Grantee may, no later than 14 days before the due date for settlement under the Contract of Sale and in compliance with the preceding subclause herein, nominate a substitute or additional person to receive the benefits of this agreement, but the named Grantee remains personally liable for the due performance of all the purchaser’s obligations under this agreement.

7. Confidentiality

The parties must keep the terms of this Agreement confidential, save for any necessary disclosure to their respective legal and financial advisers, or otherwise as required by law.

8. Entire agreement

This Agreement is the entire agreement and understanding between the parties on everything connected with the subject matter of this Agreement, and supersedes any prior understanding, arrangement, representation or agreements between the parties as to the subject matter contained in this Agreement.

9. Amendment

An amendment or variation to this Agreement is not effective unless it is in writing and signed by all the parties.

10. Dispute resolution

If a dispute arises between the parties, the complainant must not commence any court or arbitration proceedings, except where that party seeks urgent interlocutory relief, unless it has first complied with this clause:

a. Notification

The complainant must inform the respondent in writing of the following:

- (i) The nature of the dispute;
- (ii) The outcome the complainant desires, and
- (iii) The action the complainant believes will settle the dispute.

b. Endeavour to resolve dispute

On receipt of the complaint by the respondent, both parties will make every effort to resolve the dispute by mutual negotiation within 14 business days.

c. Mediation

Any unresolved dispute or difference whatsoever arising out of or in connection with this contract shall be submitted to mediation under the Mediation Rules of the Resolution Institute.

d. Survival of this clause

This clause survives termination of this Agreement.

11. Waiver

Any waiver by any party to a breach of this Agreement shall not be deemed to be a waiver of a subsequent breach of the same or of a different kind.

12. Events beyond control

Neither party shall be liable to the other party for any loss caused by any failure to observe the terms and conditions of this Agreement, where such failure is occasioned by causes beyond its reasonable control including but not limited to by fire, flood, riot, strike, war, restrictions and prohibitions or any other actions by any government or semi government authorities.

13. Severance

If anything in this Agreement is unenforceable, illegal or void, it is severed and the rest of the Agreement remains in force.

14. Notices

A notice or other communication to a party must be in writing and delivered to that party or that party’s practitioner in one of the following ways:

- a. Delivered personally; or
- b. Posted to their address when it will be treated as having been received on the second business day after posting; or
- c. Sent by email to their legal practitioner’s email address contained in the Schedule, when it will be treated as received when it enters the recipient’s information system.
- d. A notice received after 5:00pm, or on a day that is a Saturday, Sunday or public holiday, in the place of receipt, is deemed to be effected on the next day that is not a Saturday, Sunday or public holiday in that place.

15. Counterparts

This Agreement may be executed in any number of counterparts each of which will be an original but such counterparts together will constitute one and the same instrument and the date of the Agreement will be the date on which it is executed by the last party.

16. Costs

Each party will pay their own costs in relation to this Agreement.

Please refer to the full Contract of sale and Section 32 for full Terms, Conditions, Recitals and schedule of information. This is an overview and for marketing purposes