

64. Performance rebate – Construction Obligations and Landscaping Obligations

64.1 Definitions

In this clause 64:

Construction Obligations means the purchaser's obligations to construct a dwelling house on the Land in accordance with the Design Essentials and the terms of this contract.

Landscaping Obligations means the purchaser's obligations to landscape the areas of the Land surrounding the dwelling house in accordance with the Design Essentials and the terms of this contract.

Rebate means \$5,000.

Rebate Expiry Date means the date that is two months after the Construction Completion Date.

64.2 Purchaser's obligations

- (1) The purchaser must comply with the Construction Obligations and the Landscaping Obligations on or before the Construction Completion Date.
- (2) The purchaser acknowledges and agrees that time is of the essence under this clause 64.2 and clause 64.2 is an essential term of this contract.

64.3 Completion of works

- (1) The purchaser must serve written notice on the vendor that the purchaser has satisfied its Landscaping Obligations and Construction Obligations as soon as practicable after the purchaser has satisfied those obligations but not later than one month before the Rebate Expiry Date (Compliance Notice). Time is of the essence under this clause 64.3(1).
- (2) The purchaser grants the vendor (including any employees, officers, contractors and consultants of the vendor) a licence to access the Land after service of the Compliance Notice for the purpose of determining whether the purchaser has satisfied its Landscaping Obligations and Construction Obligations.

64.4 Entitlement to rebate

The purchaser will be entitled to the Rebate if:

- (1) the purchaser complies with the terms of this contract at all times without default from the date of this contract and until completion;
- (2) the purchaser completes this contract on:
 - (a) the Date for Completion without extension or delay; or
 - (b) such earlier date as agreed between the parties; and
- (3) the purchaser has:
 - (a) served the Compliance Notice on the vendor by the time specified in clause 64.3(1); and
 - (b) complied with its Construction Obligations and Landscaping Obligations by the time specified in clause 64.2 to the vendor's reasonable satisfaction.

64.5 Rebate payment

Subject to the provisions of this clause 64, the vendor will pay the purchaser the Rebate within 20 business days after the vendor has inspected the property under clause 64.3(2) and is reasonably satisfied that the purchaser has complied with its Construction Obligations and Landscaping Obligations.

64.6 Rebate expiry

(1) If the purchaser has not complied with its obligations under clause 64.4 on or before the Rebate Expiry Date then the vendor's obligation to pay the purchaser the Rebate under this clause 64 will cease to apply on the Rebate Expiry Date.

(2) If the purchaser has complied with its obligations under clause 64.4 on or before the Rebate Expiry Date then the vendor will be obliged to pay the purchaser the Rebate notwithstanding that the Rebate Expiry Date may have passed.

64.7 Undertakings by the purchaser

The purchaser:

(1) agrees that it will fully disclose the terms of this clause 64 to any lender who may finance the purchaser's purchase of the property promptly following entry into this contract; and

(2) unconditionally and irrevocably indemnifies the vendor against all Claims which the vendor may incur or suffer in connection with any default under clause 64.7(1) of this clause 64.

64.8 Acknowledgement by the purchaser

(1) The purchaser acknowledges and agrees that the Office of State Revenue may not take into account the Rebate as a reduction in the price and may assess stamp duty on this contract based on the full price.

(2) The purchaser must not Object or make any Claim if stamp duty is assessed on the full price.

64.9 Rebate not transferable

(1) The purchaser acknowledges and agrees that the Rebate is not transferable to any third party.

(2) In the event that the purchaser sells, transfers or otherwise disposes of the property before the purchaser has satisfied the requirements in clause 64.4(3), then the purchaser's entitlement to the Rebate is extinguished.

(3) At the request of the purchaser, the vendor may in its absolute discretion pay the Rebate to the incoming purchaser, provided that the incoming purchaser satisfies the vendor's requirements in respect of the Rebate.

64.10 No merger

This clause 64 does not merge on completion of this contract.