

# Jindee Inspiration Bonus Deed

Dated 2020

## Parties

1. **Westminster Estates Pty Ltd ACN 008 675 081** of 49 Hampden Road, Nedlands, Western Australia 6009 (**Seller**).
2. \_\_\_\_\_  
of \_\_\_\_\_ (**Buyer**).

## Background

- A. The Buyer has entered into the Contract to purchase the Property.
- B. The Seller agrees to pay the Jindee Inspiration Bonus to the Builder subject to the terms of this document.

## Operative provisions

### 1. Definitions and interpretation

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#### 1.1 Definitions

The following definitions apply unless the context requires otherwise:

**Builder** means the Buyer's builder engaged under the Building Contract to building the dwelling on the Property.

**Builder's Tax Invoice** means the invoice referred to in clause 4(d).

**Building Contract** means the contract between the Builder and the Buyer in respect of the dwelling to be constructed on the Property.

**Business Day** means a day that is not a Saturday, Sunday, public holiday or bank holiday in Western Australia.

**Conditions** means the conditions set out in clause 4 of this document.

**Contract** means the Contract for the Sale of Land by Offer and Acceptance to purchase the Property between the Seller and the Buyer.

**GST** has the meaning given by section 195-1 of the GST Act or any replacement or other relevant legislation and regulations.

**GST Act** means *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (as amended).

**Jindee Inspiration Bonus** means \$\_\_\_\_\_.

**Property** means the property purchased by the Buyer from the Seller pursuant to the Contract.

## **1.2 Interpretation**

In this document, unless the context requires otherwise:

- (a) the singular includes its plural and vice versa;
- (b) headings are for convenience only and do not affect interpretation;
- (c) a reference to a person includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity;
- (d) a reference to a party to this document includes its successors and permitted assigns;
- (e) a reference to any agreement (including this document) or document is to the agreement or document as amended, supplemented, novated or replaced from time to time;
- (f) an obligation or liability assumed by, or a right conferred on, two or more parties binds or benefits all of them jointly and each of them severally; and
- (g) nothing in this document is to be interpreted against a party solely on the ground that the party or its advisers drafted it.

## **1.3 Consents or approvals**

Unless expressed to the contrary in this document, if the doing of any act, matter or thing under this document is dependent on the consent or approval of a party or is within the discretion of a party, the consent or approval may be given or the discretion may be exercised conditionally or unconditionally or withheld by the party in its absolute discretion.

## **1.4 Precedence**

The Contract prevails to the extent of any inconsistency between this document and the Contract.

## **2. Acknowledgements by Buyer**

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The Buyer acknowledges and agrees that payment of the Jindee Inspiration Bonus is subject to the Buyer strictly complying with this document and satisfying the Conditions.

## **3. Jindee Inspiration Bonus**

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Subject to the terms and conditions of this document and satisfaction of the Conditions, the Seller agrees to pay to the Builder the Jindee Inspiration Bonus on the terms and conditions of this document.

#### **4. Conditions**

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The Seller will pay the Jindee Inspiration Bonus to the Builder if:

- (a) the Buyer has entered into the Building Contract;
- (b) settlement of the Contract occurs on the settlement date stipulated in the Contract and otherwise on the terms and the conditions of the Contract;
- (c) the Buyer provides the Seller with a complete copy of the fully signed Building Contract;
- (d) the Seller receives a valid tax invoice issued by the Builder addressed to the Seller in respect of the Jindee Inspiration Bonus;
- (e) the slab contemplated by the Building Contract has been laid within 12 months from the settlement date stipulated in the Contract; and
- (f) as at the date the Jindee Inspiration Bonus is paid, construction of the dwelling contemplated by the Building Contract is otherwise continuing in accordance with, and to the timeframe specified in, the Building Contract.

#### **5. Terms**

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- (a) The Buyer acknowledges and agrees:
  - (i) subject to the Conditions being satisfied, the Jindee Inspiration Bonus will be paid by the Seller to the Builder within 30 days of receipt by the Seller of the Builder's Tax Invoice;
  - (ii) the Jindee Inspiration Bonus is offered on a per lot basis, irrespective of the number of Buyers in respect of each lot;
  - (iii) the Jindee Inspiration Bonus cannot be exchanged for any other monetary payment;
  - (iv) the Jindee Inspiration Bonus is inclusive of GST;
  - (v) the Jindee Inspiration Bonus is not transferrable or assignable; and
  - (vi) the Seller and its related entities will not be liable for any loss or damage suffered or incurred by any person who relies upon the information in any advertisement relating to the Jindee Inspiration Bonus except for any liability that cannot be excluded by the law.
- (b) Without exception the Jindee Inspiration Bonus will only be paid by the Seller to the Builder if the terms and conditions of this document are strictly complied with and the Buyer has no claim or other rights against the Seller as a consequence of non-compliance with, or non-satisfaction of, the above conditions that result in non-fulfilment of the Jindee Inspiration Bonus.

## **6. GST**

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### **6.1 Prices are exclusive of GST**

Unless expressed to the contrary in this document, all prices and amounts (including any monetary or non-monetary consideration required to be provided under this document) are exclusive of GST.

### **6.2 Gross up of consideration**

If GST is payable in respect of a supply made under or in relation to this document, the recipient must pay to the supplier an amount (**GST Amount**) equal to the GST payable on the supply. The GST Amount is payable by the recipient in addition to and at the same time as any consideration for the supply, provided the supplier has given the recipient a tax invoice.

### **6.3 Indemnity and reimbursement payments**

Without limiting clause 6.2, if a party (**payer**) is required to reimburse another party (**payee**) for a cost (eg, if the payer is obliged to pay the payee's legal costs), or a payer is obliged to make a payment to a payee under an indemnity, the reimbursement or indemnity is for the payee's cost inclusive of GST but excludes any GST component of the cost for which the payee is entitled to claim an input tax credit.

### **6.4 Adjustment events**

If an adjustment event arises in respect of a taxable supply, the GST Amount payable by a recipient under clause 6.2 will be recalculated to reflect the adjustment event and a payment will be made by the recipient to the supplier, or by the supplier to the recipient, as the case requires.

### **6.5 GST interpretation**

The following provisions apply solely to this clause 6:

- (a) unless otherwise provided in this document, terms used in this clause 6 have the meanings given to those terms by the GST Act;
- (b) a reference in this clause 6 to a liability of a party to pay GST or an entitlement of a party to input tax credits includes a reference to GST payable by, or an input tax credit entitlement of, the representative member of a GST group to which that party is a member;
- (c) where required to give practical effect to this clause 6 (and despite clause 6.5(a)), a recipient includes any party to this document that is required to provide consideration and a supplier includes any party to whom consideration must be provided (even if there is never any supply);
- (d) any part of a supply that is treated as a separate supply for GST purposes (including attributing GST payable to tax periods) is treated as if it were a separate supply; and
- (e) this clause 6 is subject to any other specific agreement regarding the payment of GST on supplies.

### **6.6 Survival**

This clause 6 survives completion or termination of this document.

## **7. General provisions**

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### **7.1 Entire agreement**

This document constitutes the entire agreement between the parties and supersedes any prior conduct, arrangement, agreement or understanding in relation to its subject matter.

### **7.2 Further assurances**

Each party must promptly do all things necessary in order to give effect to this document, including executing and delivering documents.

### **7.3 Severability**

If a provision in this document is unenforceable or invalid in any jurisdiction, it will be ineffective in that jurisdiction to the extent that it is unenforceable or invalid. No provision in this document will otherwise be affected in any jurisdiction.

### **7.4 Costs**

Unless provided to the contrary in this document, each party must pay its own costs in relation to the negotiation, preparation, execution and performance of this document.

### **7.5 Counterparts**

This document may be executed in counterparts. Such counterparts, taken together, will be deemed to constitute the one agreement.

### **7.6 Consent to use of electronic communications**

The parties to this document consent to the use of electronic communications as a means of communicating about this document and the matters contained within it.

### **7.7 Notices**

A notice or other communication to or by a party under this document:

- (a) must be in writing;
- (b) may be delivered in person, by email or by post to an address of the recipient specified in this document or any new address of the recipient known to the sender;
- (c) subject to paragraph (d), is deemed to be effective:
  - (i) if delivered in person, upon delivery to the recipient;
  - (ii) if sent by email, one Business Day after the date shown on the email of the sender, unless:
    - (A) the sender receives an automated notification that the email has not been received by the intended recipient, in which case the notice is deemed to not have been served at the time of sending; or
    - (B) receipt is acknowledged by the recipient sooner than one Business Day, in which case the notice is deemed to have been served at the time the receipt is acknowledged;

- (iii) if posted, three Business Days (or six Business Days, if posted outside Australia) after the date of posting to the addressee; and
- (d) if delivered or received on a day which is not a Business Day, it is taken to have been delivered or received on the following Business Day and, if delivered or received after 4:00pm (addressee's time), then notice is taken to have occurred at 9:00am on the following Business Day.

#### **7.8 No assignment**

Unless provided to the contrary in this document, a party is not capable of assigning, novating or encumbering any right or liability under this document without the prior written consent of each other party.

#### **7.9 No merger**

Unless provided to the contrary in this document, the rights and obligations of the parties under this document do not merge on completion and will survive after completion.

#### **7.10 Relationship of parties**

Unless provided to the contrary in this document, no party is authorised to bind another party and nothing in this document is to be construed as creating an employment, agency, partnership, fiduciary or joint venture relationship between any of the parties.

#### **7.11 Remedies**

Unless provided to the contrary in this document, the rights and powers under this document are in addition to, and do not exclude or limit, any right or power provided by law or equity.

#### **7.12 Successors and assigns**

This document binds and benefits the parties to this document, their successors and permitted assigns.

#### **7.13 Variations**

This document may only be amended or replaced with the written agreement of all parties.

#### **7.14 Waivers**

A waiver of a right, power or remedy must be in writing and signed by the party giving the waiver. Any failure or delay by any party to exercise any power or right or rely on a remedy under this document does not operate as a waiver of that power, right or remedy.

#### **7.15 Governing law**

The laws of Western Australia govern this document.

#### **7.16 Jurisdiction**

Each party submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in Western Australia and waives any right to claim that those courts are an inconvenient forum.

# Signing page

Executed as a deed.

## By the Seller:

The Common Seal of **Westminster Estates Pty Ltd ACN 008 675 081** was hereby affixed in the presence of:

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of company secretary/director

\_\_\_\_\_  
Full name of director

\_\_\_\_\_  
Full name of company secretary/director

## By the Buyer(s):

**By signing this document the Buyer(s) acknowledges and agrees that it has read and understood this document.**

**The Buyer(s) understand that to be binding on the parties, all parties to the Contract must validly execute this document.**

Signed, sealed and delivered by

\_\_\_\_\_ in the  
presence of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name of witness  
(block letters)

\_\_\_\_\_  
Address of witness:

Signed, sealed and delivered by

\_\_\_\_\_ in the  
presence of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name of witness  
(block letters)

\_\_\_\_\_  
Address of witness:

Executed by \_\_\_\_\_  
ACN \_\_\_\_\_ in accordance with  
section 127 of the *Corporations Act 2001*:

\_\_\_\_\_  
Director / company secretary

\_\_\_\_\_  
Director

\_\_\_\_\_  
Name of director / company secretary  
(block letters)

\_\_\_\_\_  
Name of director