

SAMPLE ONLY

Property MILA – Lot #

Statement of Critical Dates  
Delayed Closing Warranty

This Statement of Critical Dates forms part of the Addendum to which it is attached, which in turn forms part of the agreement of purchase and sale between the Vendor and the Purchaser relating to the Property. **The Vendor must complete all blanks set out below. Both the Vendor and Purchaser must sign this page.**

**NOTE TO HOME BUYERS:** Home buyers are encouraged to refer to the Home Construction Regulatory Authority’s website [www.hcraontario.ca](http://www.hcraontario.ca) to confirm a vendor’s licence status prior to purchase as well as to review advice about buying a new home. Please visit Tarion’s website: [www.tarion.com](http://www.tarion.com) for important information about all of Tarion’s warranties including the Delayed Occupancy Warranty, the Pre-Delivery Inspection and other matters of interest to new home buyers. The Warranty Information Sheet, which accompanies your purchase agreement and has important information, is strongly recommended as essential reading for all home buyers. The website features a calculator which will assist you in confirming the various Critical Dates related to the occupancy of your home.

VENDOR	MADISON MIDLAND LIMITED
PURCHASER	
Full Name(s)	

1. Critical Dates

The **First Tentative Closing Date**, which is the date that the Vendor anticipates the home will be completed and ready to move in, is: the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

A **Second Tentative Closing Date** can subsequently be set by the Vendor by giving proper written notice at least 90 days before the First Tentative Closing Date. The Second Tentative Closing Date can be up to 120 days after the First Tentative Closing Date, and so could be as late as: the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

The Vendor must set a **Firm Closing Date** by giving proper written notice at least 90 days before the Second Tentative Closing Date. The Firm Closing Date can be up to 120 days after the Second Tentative Closing Date, and so could be as late as: the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

*If the Vendor cannot close by the Firm Closing Date, then the Purchaser is entitled to delayed closing compensation (see section 7 of the Addendum) and the Vendor must set a Delayed Closing Date.*

The Vendor can set a Delayed Closing Date that is up to 365 days after the earlier of the Second Tentative Closing Date and the Firm Closing Date: This **Outside Closing Date** could be as late as: the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

2. Notice Period for a Delay of Closing

Changing a Closing date requires proper written notice. The Vendor, without the Purchaser’s consent, may delay Closing twice by up to 120 days each time by setting a Second Tentative Closing Date and then a Firm Closing Date in accordance with section 1 of the Addendum but no later than the Outside Closing Date.

Notice of a delay beyond the First Tentative Closing Date must be given no later than: the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
(i.e., at least **90 days** before the First Tentative Closing Date), or else the First Tentative Closing Date automatically becomes the Firm Closing Date.

Notice of a second delay in Closing must be given no later than: the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
(i.e., at least **90 days** before the Second Tentative Closing Date), or else the Second Tentative Closing Date becomes the Firm Closing Date.

3. Purchaser’s Termination Period

If the purchase of the home is not completed by the Outside Closing Date, then the Purchaser can terminate the transaction during a period of **30 days** thereafter (the “**Purchaser’s Termination Period**”), which period, unless extended by mutual agreement, will end on: the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

If the Purchaser terminates the transaction during the Purchaser’s Termination Period, then the Purchaser is entitled to delayed closing compensation and to a full refund of all monies paid plus interest (see sections 7, 10 and 11 of the Addendum).

**Note:** Any time a Critical Date is set or changed as permitted in the Addendum, other Critical Dates may change as well. At any given time the parties must refer to: the most recent revised Statement of Critical Dates; or agreement or written notice that sets a Critical Date, and calculate revised Critical Dates using the formulas contained in the Addendum. Critical Dates can also change if there are unavoidable delays (see section 5 of the Addendum).

Acknowledged this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

VENDOR: \_\_\_\_\_

PURCHASER: \_\_\_\_\_

**Freehold Form**  
**(Tentative Closing Date)**

**Addendum to Agreement of Purchase and Sale**  
**Delayed Closing Warranty**

This addendum, including the accompanying Statement of Critical Dates (the “**Addendum**”), forms part of the agreement of purchase and sale (the “**Purchase Agreement**”) between the Vendor and the Purchaser relating to the Property. This Addendum is to be used for a transaction where the home purchase is in substance a purchase of freehold land and residential dwelling. This Addendum contains important provisions that are part of the delayed closing warranty provided by the Vendor in accordance with the *Ontario New Home Warranties Plan Act* (the “ONHWP Act”). If there are any differences between the provisions in the Addendum and the Purchase Agreement, then the Addendum provisions shall prevail. **PRIOR TO SIGNING THE PURCHASE AGREEMENT OR ANY AMENDMENT TO IT, THE PURCHASER SHOULD SEEK ADVICE FROM A LAWYER WITH RESPECT TO THE PURCHASE AGREEMENT OR AMENDING AGREEMENT, THE ADDENDUM AND THE DELAYED CLOSING WARRANTY.**

Tarion recommends that Purchasers register on Tarion’s **MyHome** on-line portal and visit Tarion’s website – **tarion.com**, to better understand their rights and obligations under the statutory warranties.

The Vendor shall complete all blanks set out below.

<b>VENDOR</b>	<b>Madison Midland Limited</b>			
	Full Name(s) <b>60256</b>			
	HCRA Licence Number	Address 369 Rimrock Road		
	Phone 416-661-4000	City Toronto	Province Ontario	Postal Code M3J 3G2
	Fax	Email*: Legal@Madisongroup.ca		
<b>PURCHASER</b>				
	Full Name(s)			
	Address	City	Province	Postal Code
	Phone			
	Fax	Email*		

**PROPERTY DESCRIPTION**

To be determined

Municipal Address		
Toronto	Ontario	T.B.D.
City		
Lot No. _____,	Province	Postal Code
Short Legal Description		
Part of Lot 26, Concession 1, designated as Part 1, Plan 66R-31253, City of Toronto Pt. PIN06296-0247 (LT)		

Number of Homes in the Freehold Project 110 (if applicable – see Schedule A)

**INFORMATION REGARDING THE PROPERTY**

The Vendor confirms that:

- (a) The Property is within a plan of subdivision or a proposed plan of subdivision. ☒ Yes   ☐ No  
If yes, the plan of subdivision is registered. ☐ Yes   ☒ No  
If the plan of subdivision is not registered, approval of the draft plan of subdivision has been given. ☒ Yes   ☐ No
- (b) The Vendor has received confirmation from the relevant government authorities that there is sufficient: ☒ Yes   ☐ No  
(i) water capacity; and (ii) sewage capacity to service the Property.

If yes, the nature of the confirmation is as follows: City of Toronto has approved servicing works which have already commenced.  
If the availability of water and sewage capacity is uncertain, the issues to be resolved are as follows: \_\_\_\_\_

- (c) A building permit has been issued for the Property. ☐ Yes   ☒ No  
(d) Commencement of Construction: ☐ has occurred; or ☒ is expected to occur by the 1st day of May, 2022.

The Vendor shall give written notice to the Purchaser within 10 days after the actual date of Commencement of Construction.

**\*Note:** Since important notices will be sent to this address, it is essential that you ensure that a reliable email address is provided and that your computer settings permit receipt of notices from the other party.

## **Freehold Form (Tentative Closing Date)**

### **SETTING AND CHANGING CRITICAL DATES**

#### **1. Setting Tentative Closing Dates and the Firm Closing Date**

- (a) **Completing Construction Without Delay:** The Vendor shall take all reasonable steps to complete construction of the home on the Property and to Close without delay.
- (b) **First Tentative Closing Date:** The Vendor shall identify the First Tentative Closing Date in the Statement of Critical Dates attached to the Addendum at the time the Purchase Agreement is signed.
- (c) **Second Tentative Closing Date:** The Vendor may choose to set a Second Tentative Closing Date that is no later than 120 days after the First Tentative Closing Date. The Vendor shall give written notice of the Second Tentative Closing Date to the Purchaser at least 90 days before the First Tentative Closing Date, or else the First Tentative Closing Date shall for all purposes be the Firm Closing Date.
- (d) **Firm Closing Date:** The Vendor shall set a Firm Closing Date, which can be no later than 120 days after the Second Tentative Closing Date or, if a Second Tentative Closing Date is not set, no later than 120 days after the First Tentative Closing Date. If the Vendor elects not to set a Second Tentative Closing Date, the Vendor shall give written notice of the Firm Closing Date to the Purchaser at least 90 days before the First Tentative Closing Date, or else the First Tentative Closing Date shall for all purposes be the Firm Closing Date. If the Vendor elects to set a Second Tentative Closing Date, the Vendor shall give written notice of the Firm Closing Date to the Purchaser at least 90 days before the Second Tentative Closing Date, or else the Second Tentative Closing Date shall for all purposes be the Firm Closing Date.
- (e) **Notice:** Any notice given by the Vendor under paragraphs (c) and (d) above, must set out the stipulated Critical Date, as applicable.

#### **2. Changing the Firm Closing Date – Three Ways**

- (a) The Firm Closing Date, once set or deemed to be set in accordance with section 1, can be changed only:
  - (i) by the Vendor setting a Delayed Closing Date in accordance with section 3;
  - (ii) by the mutual written agreement of the Vendor and Purchaser in accordance with section 4; or
  - (iii) as the result of an Unavoidable Delay of which proper written notice is given in accordance with section 5.
- (b) If a new Firm Closing Date is set in accordance with section 4 or 5, then the new date is the “Firm Closing Date” for all purposes in this Addendum.

#### **3. Changing the Firm Closing Date – By Setting a Delayed Closing Date**

- (a) If the Vendor cannot Close on the Firm Closing Date and sections 4 and 5 do not apply, the Vendor shall select and give written notice to the Purchaser of a Delayed Closing Date in accordance with this section, and delayed closing compensation is payable in accordance with section 7.
- (b) The Delayed Closing Date may be any Business Day after the date the Purchaser receives written notice of the Delayed Closing Date but not later than the Outside Closing Date.
- (c) The Vendor shall give written notice to the Purchaser of the Delayed Closing Date as soon as the Vendor knows that it will be unable to Close on the Firm Closing Date, and in any event at least 10 days before the Firm Closing Date, failing which delayed closing compensation is payable from the date that is 10 days before the Firm Closing Date, in accordance with paragraph 7(c). If notice of a new Delayed Closing Date is not given by the Vendor before the Firm Closing Date, then the new Delayed Closing Date shall be deemed to be the date which is 90 days after the Firm Closing Date.
- (d) After the Delayed Closing Date is set, if the Vendor cannot Close on the Delayed Closing Date, the Vendor shall select and give written notice to the Purchaser of a new Delayed Closing Date, unless the delay arises due to Unavoidable Delay under section 5 or is mutually agreed upon under section 4, in which case the requirements of those sections must be met. Paragraphs (b) and (c) above apply with respect to the setting of the new Delayed Closing Date.
- (e) Nothing in this section affects the right of the Purchaser or Vendor to terminate the Purchase Agreement on the bases set out in section 10.

#### **4. Changing Critical Dates – By Mutual Agreement**

- (a) This Addendum sets out a framework for setting, extending and/or accelerating Critical dates, which cannot be altered contractually except as set out in this section 4. Any amendment not in accordance with this section is voidable at the option of the Purchaser.
- (b) The Vendor and Purchaser may at any time, after signing the Purchase Agreement, mutually agree in writing to accelerate or extend any of the Critical Dates. Any amendment which accelerates or extends any of the Critical Dates must include the following provisions:
  - (i) the Purchaser and Vendor agree that the amendment is entirely voluntary – the Purchaser has no obligation to sign the amendment and each understands that this purchase transaction will still be valid if the Purchaser does not sign this amendment;
  - (ii) the amendment includes a revised Statement of Critical Dates which replaces the previous Statement of Critical Dates;
  - (iii) the Purchaser acknowledges that the amendment may affect delayed closing compensation payable; and

## **Freehold Form (Tentative Closing Date)**

- (iv) if the change involves extending either the Firm Closing Date or the Delayed Closing Date, then the amending agreement shall:
- i. disclose to the Purchaser that the signing of the amendment may result in the loss of delayed closing compensation as described in section 7;
  - ii. unless there is an express waiver of compensation, describe in reasonable detail the cash amount, goods, services, or other consideration which the Purchaser accepts as compensation; and
  - iii. contain a statement by the Purchaser that the Purchaser waives compensation or accepts the compensation referred to in clause ii above, in either case, in full satisfaction of any delayed closing compensation payable by the Vendor for the period up to the new Firm Closing Date or Delayed Closing Date.

If the Purchaser for his or her own purposes requests a change of the Firm Closing Date or the Delayed Closing Date, then subparagraphs (b)(i), (iii) and (iv) above shall not apply.

- (c) A Vendor is permitted to include a provision in the Purchase Agreement allowing the Vendor a one-time unilateral right to extend a Firm Closing Date or Delayed Closing Date, as the case may be, for one (1) Business Day to avoid the necessity of tender where a Purchaser is not ready to complete the transaction on the Firm Closing Date or Delayed Closing Date, as the case may be. Delayed closing compensation will not be payable for such period and the Vendor may not impose any penalty or interest charge upon the Purchaser with respect to such extension.
- (d) The Vendor and Purchaser may agree in the Purchase Agreement to any unilateral extension or acceleration rights that are for the benefit of the Purchaser.

### **5. Extending Dates – Due to Unavoidable Delay**

- (a) If Unavoidable Delay occurs, the Vendor may extend Critical Dates by no more than the length of the Unavoidable Delay Period, without the approval of the Purchaser and without the requirement to pay delayed closing compensation in connection with the Unavoidable Delay, provided the requirements of this section are met.
- (b) If the Vendor wishes to extend Critical Dates on account of Unavoidable Delay, the Vendor shall provide written notice to the Purchaser setting out a brief description of the Unavoidable Delay, and an estimate of the duration of the delay. Once the Vendor knows or ought reasonably to know that an Unavoidable Delay has commenced, the Vendor shall provide written notice to the Purchaser by the earlier of: 20 days thereafter; and the next Critical Date.
- (c) As soon as reasonably possible, and no later than 20 days after the Vendor knows or ought reasonably to know that an Unavoidable Delay has concluded, the Vendor shall provide written notice to the Purchaser setting out a brief description of the Unavoidable Delay, identifying the date of its conclusion, and setting new Critical Dates. The new Critical Dates are calculated by adding to the then next Critical Date the number of days of the Unavoidable Delay Period (the other Critical Dates changing accordingly), provided that the Firm Closing Date or Delayed Closing Date, as the case may be, must be at least 10 days after the day of giving notice unless the parties agree otherwise. Either the Vendor or the Purchaser may request in writing an earlier Firm Closing Date or Delayed Closing Date, and the other party's consent to the earlier date shall not be unreasonably withheld.
- (d) If the Vendor fails to give written notice of the conclusion of the Unavoidable Delay in the manner required by paragraph (c) above, then the notice is ineffective, the existing Critical Dates are unchanged, and any delayed closing compensation payable under section 7 is payable from the existing Firm Closing Date.
- (e) Any notice setting new Critical Dates given by the Vendor under this section shall include an updated revised Statement of Critical Dates.

## **EARLY TERMINATION CONDITIONS**

### **6. Early Termination Conditions**

- (a) The Vendor and Purchaser may include conditions in the Purchase Agreement that, if not satisfied, give rise to early termination of the Purchase Agreement, but only in the limited way described in this section.
- (b) The Vendor is not permitted to include any conditions in the Purchase Agreement other than: the types of Early Termination Conditions listed in Schedule A; and/or the conditions referred to in paragraphs (j), (k) and (l) below. Any other condition included in a Purchase Agreement for the benefit of the Vendor that is not expressly permitted under Schedule A or paragraphs (j), (k) and (l) below is deemed null and void and is not enforceable by the Vendor, but does not affect the validity of the balance of the Purchase Agreement.
- (c) The Vendor confirms that this Purchase Agreement is subject to Early Termination Conditions that, if not satisfied (or waived, if applicable), may result in the termination of the Purchase Agreement. ☒ Yes ☐ No
- (d) If the answer in (c) above is "Yes", then the Early Termination Conditions are as follows. The obligation of each of the Purchaser and Vendor to complete this purchase and sale transaction is subject to satisfaction (or waiver, if applicable) of the following conditions and any such conditions set out in an appendix headed "Early Termination Conditions":

**Freehold Form**  
**(Tentative Closing Date)**

**Condition #1 (if applicable)**

Description of the Early Termination Condition:

**The Vendor is satisfied that the Purchaser has the financial resources to complete the purchase transaction. There is no approving authority for this Condition. This Condition is waivable by the Vendor. The date for the satisfaction of this Condition is 60 days after the date that the Purchaser has entered into the agreement of purchase and sale.**

The Approving Authority (as that term is defined in Schedule A) is: \_\_\_\_\_

The date by which Condition #1 is to be satisfied is the \_\_\_ day of \_\_, 20\_\_.

**Condition #2 (if applicable)**

Description of the Early Termination Condition:

Not applicable.

The Approving Authority (as that term is defined in Schedule A) is: \_\_\_\_\_

The date by which Condition #2 is to be satisfied is the \_\_\_ day of \_\_, 20\_\_.

The date for satisfaction of any Early Termination Condition may be changed by mutual agreement provided in all cases it is set at least 90 days before the First Tentative Closing Date, and will be deemed to be 90 days before the First Tentative Closing Date if no date is specified or if the date specified is later than 90 days before the First Tentative Closing Date. This time limitation does not apply to the condition in subparagraph 1(b)(iv) of Schedule A which must be satisfied or waived by the Vendor within 60 days following the later of: (A) the signing of the Purchase Agreement; and (B) the satisfaction or waiver by the Purchaser of a Purchaser financing condition permitted under paragraph (l) below.

*Note: The parties must add additional pages as an appendix to this Addendum if there are additional Early Termination Conditions.*

- (e) There are no Early Termination Conditions applicable to this Purchase Agreement other than those identified in subparagraph (d) above and any appendix listing additional Early Termination Conditions.
- (f) The Vendor agrees to take all commercially reasonable steps within its power to satisfy the Early Termination Conditions identified in subparagraph (d) above.
- (g) For conditions under paragraph 1(a) of Schedule A the following applies:
  - (i) conditions in paragraph 1(a) of Schedule A may not be waived by either party;
  - (ii) the Vendor shall provide written notice not later than five (5) Business Days after the date specified for satisfaction of a condition that: (A) the condition has been satisfied; or (B) the condition has not been satisfied (together with reasonable details and backup materials) and that as a result the Purchase Agreement is terminated; and
  - (iii) if notice is not provided as required by subparagraph (ii) above then the condition is deemed not satisfied and the Purchase Agreement is terminated.
- (h) For conditions under paragraph 1(b) of Schedule A the following applies:
  - (i) conditions in paragraph 1(b) of Schedule A may be waived by the Vendor;
  - (ii) the Vendor shall provide written notice on or before the date specified for satisfaction of the condition that: (A) the condition has been satisfied or waived; or (B) the condition has not been satisfied nor waived, and that as a result the Purchase Agreement is terminated; and
  - (iii) if notice is not provided as required by subparagraph (ii) above then the condition is deemed satisfied or waived and the Purchase Agreement will continue to be binding on both parties.
- (i) If a Purchase Agreement or proposed Purchase Agreement contains Early Termination Conditions, the Purchaser has three (3) Business Days after the day of receipt of a true and complete copy of the Purchase Agreement or proposed Purchase Agreement to review the nature of the conditions (preferably with legal counsel). If the Purchaser is not satisfied, in the Purchaser's sole discretion, with the Early Termination Conditions, the Purchaser may revoke the Purchaser's offer as set out in the proposed Purchase Agreement, or terminate the Purchase Agreement, as the case may be, by giving written notice to the Vendor within those three Business Days.
- (j) The Purchase Agreement may be conditional until Closing (transfer to the Purchaser of title to the home), upon compliance with the subdivision control provisions (section 50) of the *Planning Act*, which compliance shall be obtained by the Vendor at its sole expense, on or before Closing.
- (k) The Purchaser is cautioned that there may be other conditions in the Purchase Agreement that allow the Vendor to terminate the Purchase Agreement due to the fault of the Purchaser.
- (l) The Purchase Agreement may include any condition that is for the sole benefit of the Purchaser and that is agreed to by the Vendor (e.g., the sale of an existing dwelling, Purchaser financing or a basement walkout). The Purchase Agreement may specify that the Purchaser has a right to terminate the Purchase Agreement if any such condition is not met, and may set out the terms on which termination by the Purchaser may be effected.

## **Freehold Form (Tentative Closing Date)**

### **MAKING A COMPENSATION CLAIM**

#### **7. Delayed Closing Compensation**

- (a) The Vendor warrants to the Purchaser that, if Closing is delayed beyond the Firm Closing Date (other than by mutual agreement or as a result of Unavoidable Delay as permitted under sections 4 and 5), then the Vendor shall compensate the Purchaser up to a total amount of \$7,500, which amount includes: (i) payment to the Purchaser of a set amount of \$150 a day for living expenses for each day of delay until the date of Closing; or the date of termination of the Purchase Agreement, as applicable under paragraph (b) below; and (ii) any other expenses (supported by receipts) incurred by the Purchaser due to the delay.
- (b) Delayed closing compensation is payable only if: (i) Closing occurs; or (ii) the Purchase Agreement is terminated or deemed to have been terminated under paragraph 10(b) of this Addendum. Delayed closing compensation is payable only if the Purchaser's claim is made to Tarion in writing within one (1) year after Closing, or after termination of the Purchase Agreement, as the case may be, and otherwise in accordance with this Addendum. Compensation claims are subject to any further conditions set out in the ONHWP Act.
- (c) If the Vendor gives written notice of a Delayed Closing Date to the Purchaser less than 10 days before the Firm Closing Date, contrary to the requirements of paragraph 3(c), then delayed closing compensation is payable from the date that is 10 days before the Firm Closing Date.
- (d) Living expenses are direct living costs such as for accommodation and meals. Receipts are not required in support of a claim for living expenses, as a set daily amount of \$150 per day is payable. The Purchaser must provide receipts in support of any claim for other delayed closing compensation, such as for moving and storage costs. Submission of false receipts disentitles the Purchaser to any delayed closing compensation in connection with a claim.
- (e) If delayed closing compensation is payable, the Purchaser may make a claim to the Vendor for that compensation after Closing or after termination of the Purchase Agreement, as the case may be, and shall include all receipts (apart from living expenses) which evidence any part of the Purchaser's claim. The Vendor shall assess the Purchaser's claim by determining the amount of delayed closing compensation payable based on the rules set out in section 7 and the receipts provided by the Purchaser, and the Vendor shall promptly provide that assessment information to the Purchaser. The Purchaser and the Vendor shall use reasonable efforts to settle the claim and when the claim is settled, the Vendor shall prepare an acknowledgement signed by both parties which:
  - (i) includes the Vendor's assessment of the delayed closing compensation payable;
  - (ii) describes in reasonable detail the cash amount, goods, services, or other consideration which the Purchaser accepts as compensation (the "Compensation"), if any; and
  - (iii) contains a statement by the Purchaser that the Purchaser accepts the Compensation in full satisfaction of any delay compensation payable by the Vendor.
- (f) If the Vendor and Purchaser cannot agree as contemplated in paragraph 7(e), then to make a claim to Tarion the Purchaser must file a claim with Tarion in writing within one (1) year after Closing. A claim may also be made and the same rules apply if the sale transaction is terminated under paragraph 10(b), in which case, the deadline for a claim is one (1) year after termination.

#### **8. Adjustments to Purchase Price**

Only the items set out in Schedule B (or an amendment to Schedule B), shall be the subject of adjustment or change to the purchase price or the balance due on Closing. The Vendor agrees that it shall not charge as an adjustment or readjustment to the purchase price of the home, any reimbursement for a sum paid or payable by the Vendor to a third party unless the sum is ultimately paid to the third party either before or after Closing. If the Vendor charges an amount in contravention of the preceding sentence, the Vendor shall forthwith readjust with the Purchaser. This section shall not: restrict or prohibit payments for items disclosed in Part I of Schedule B which have a fixed fee; nor shall it restrict or prohibit the parties from agreeing on how to allocate as between them, any rebates, refunds or incentives provided by the federal government, a provincial or municipal government or an agency of any such government, before or after Closing.

### **MISCELLANEOUS**

#### **9. Ontario Building Code – Conditions of Closing**

- (a) On or before Closing, the Vendor shall deliver to the Purchaser:
  - (i) an Occupancy Permit (as defined in paragraph (d)) for the home; or
  - (ii) if an Occupancy Permit is not required under the Building Code, a signed written confirmation by the Vendor that all conditions of occupancy under the Building Code have been fulfilled and occupancy is permitted under the Building Code.
- (b) Notwithstanding the requirements of paragraph (a), to the extent that the Purchaser and the Vendor agree that the Purchaser shall be responsible for one or more prerequisites to obtaining permission for occupancy under the Building Code, (the "Purchaser Occupancy Obligations"):

## **Freehold Form (Tentative Closing Date)**

- (i) the Purchaser shall not be entitled to delayed closing compensation if the reason for the delay is that the Purchaser Occupancy Obligations have not been completed;
  - (ii) the Vendor shall deliver to the Purchaser, upon fulfilling all prerequisites to obtaining permission for occupancy under the Building Code (other than the Purchaser Occupancy Obligations), a signed written confirmation that the Vendor has fulfilled such prerequisites; and
  - (iii) if the Purchaser and Vendor have agreed that such prerequisites (other than the Purchaser Occupancy Obligations) are to be fulfilled prior to Closing, then the Vendor shall provide the signed written confirmation required by subparagraph (ii) on or before the date of Closing.
- (c) If the Vendor cannot satisfy the requirements of paragraph (a) or subparagraph (b)(ii), the Vendor shall set a Delayed Closing Date (or new Delayed Closing Date) on a date that the Vendor reasonably expects to have satisfied the requirements of paragraph (a) or subparagraph (b)(ii), as the case may be. In setting the Delayed Closing Date (or new Delayed Closing Date), the Vendor shall comply with the requirements of section 3, and delayed closing compensation shall be payable in accordance with section 7. Despite the foregoing, delayed closing compensation shall not be payable for a delay under this paragraph (c) if the inability to satisfy the requirements of subparagraph (b)(ii) above is because the Purchaser has failed to satisfy the Purchaser Occupancy Obligations.
- (d) For the purposes of this section, an "Occupancy Permit" means any written or electronic document, however styled, whether final, provisional or temporary, provided by the chief building official (as defined in the *Building Code Act*) or a person designated by the chief building official, that evidences that permission to occupy the home under the Building Code has been granted.

### **10. Termination of the Purchase Agreement**

- (a) The Vendor and the Purchaser may terminate the Purchase Agreement by mutual written agreement. Such written mutual agreement may specify how monies paid by the Purchaser, including deposit(s) and monies for upgrades and extras are to be allocated if not repaid in full.
- (b) If for any reason (other than breach of contract by the Purchaser) Closing has not occurred by the Outside Closing Date, then the Purchaser has 30 days to terminate the Purchase Agreement by written notice to the Vendor. If the Purchaser does not provide written notice of termination within such 30-day period then the Purchase Agreement shall continue to be binding on both parties and the Delayed Closing Date shall be the date set under paragraph 3(c), regardless of whether such date is beyond the Outside Closing Date.
- (c) If: calendar dates for the applicable Critical Dates are not inserted in the Statement of Critical Dates; or if any date for Closing is expressed in the Purchase Agreement or in any other document to be subject to change depending upon the happening of an event (other than as permitted in this Addendum), then the Purchaser may terminate the Purchase Agreement by written notice to the Vendor.
- (d) The Purchase Agreement may be terminated in accordance with the provisions of section 6.
- (e) Nothing in this Addendum derogates from any right of termination that either the Purchaser or the Vendor may have at law or in equity on the basis of, for example, frustration of contract or fundamental breach of contract.
- (f) Except as permitted in this section, the Purchase Agreement may not be terminated by reason of the Vendor's delay in Closing alone.

### **11. Refund of Monies Paid on Termination**

- (a) If the Purchase Agreement is terminated (other than as a result of breach of contract by the Purchaser), then unless there is agreement to the contrary under paragraph 10(a), the Vendor shall refund all monies paid by the Purchaser including deposit(s) and monies for upgrades and extras, within 10 days of such termination, with interest from the date each amount was paid to the Vendor to the date of refund to the Purchaser. The Purchaser cannot be compelled by the Vendor to execute a release of the Vendor as a prerequisite to obtaining the refund of monies payable as a result of termination of the Purchase Agreement under this paragraph, although the Purchaser may be required to sign a written acknowledgement confirming the amount of monies refunded and termination of the purchase transaction. Nothing in this Addendum prevents the Vendor and Purchaser from entering into such other termination agreement and/or release as may be agreed to by the parties.
- (b) The rate of interest payable on the Purchaser's monies is 2% less than the minimum rate at which the Bank of Canada makes short-term advances to members of Canada Payments Association, as of the date of termination of the Purchase Agreement.
- (c) Notwithstanding paragraphs (a) and (b) above, if either party initiates legal proceedings to contest termination of the Purchase Agreement or the refund of monies paid by the Purchaser, and obtains a legal determination, such amounts and interest shall be payable as determined in those proceedings.

### **12. Definitions**

**"Business Day"** means any day other than: Saturday; Sunday; New Year's Day; Family Day; Good Friday; Easter Monday; Victoria Day; Canada Day; Civic Holiday; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day; Boxing Day; and any special holiday proclaimed by the Governor General or the Lieutenant Governor; and where New Year's Day, Canada Day or Remembrance Day falls on a Saturday or Sunday, the following Monday is not a Business Day, and where Christmas Day falls on a Saturday or Sunday, the following Monday and Tuesday are not Business Days; and where Christmas Day falls on a Friday, the following Monday is not a Business Day.

**"Closing"** means the completion of the sale of the home including transfer of title to the home to the Purchaser, and **"Close"** has a corresponding meaning.

**"Commencement of Construction"** means the commencement of construction of foundation components or elements (such as footings, rafts or piles) for the home.

## **Freehold Form (Tentative Closing Date)**

**“Critical Dates”** means the First Tentative Closing Date, the Second Tentative Closing Date, the Firm Closing Date, the Delayed Closing Date, the Outside Closing Date and the last day of the Purchaser’s Termination Period.

**“Delayed Closing Date”** means the date, set in accordance with section 3, on which the Vendor agrees to Close, in the event the Vendor cannot Close on the Firm Closing Date.

**“Early Termination Conditions”** means the types of conditions listed in Schedule A.

**“Firm Closing Date”** means the firm date on which the Vendor agrees to Close as set in accordance with this Addendum.

**“First Tentative Closing Date”** means the date on which the Vendor, at the time of signing the Purchase Agreement, anticipates that it will be able to close, as set out in the Statement of Critical Dates.

**“Outside Closing Date”** means the date which is 365 days after the earlier of the Firm Closing Date; or Second Tentative Closing Date; or such other date as may be mutually agreed upon in accordance with section 4.

**“Property” or “home”** means the home including lands being acquired by the Purchaser from the Vendor.

**“Purchaser’s Termination Period”** means the 30-day period during which the Purchaser may terminate the Purchase Agreement for delay, in accordance with paragraph 10(b).

**“Second Tentative Closing Date”** has the meaning given to it in paragraph 1(c).

**“Statement of Critical Dates”** means the Statement of Critical Dates attached to and forming part of this Addendum (in form to be determined by Tarion from time to time), and, if applicable, as amended in accordance with this Addendum.

**“The ONHWP Act”** means the *Ontario New Home Warranties Plan Act* including regulations, as amended from time to time.

**“Unavoidable Delay”** means an event which delays Closing which is a strike, fire, explosion, flood, act of God, civil insurrection, act of war, act of terrorism or pandemic, plus any period of delay directly caused by the event, which are beyond the reasonable control of the Vendor and are not caused or contributed to by the fault of the Vendor.

**“Unavoidable Delay Period”** means the number of days between the Purchaser’s receipt of written notice of the commencement of the Unavoidable Delay, as required by paragraph 5(b), and the date on which the Unavoidable Delay concludes.

### **13. Addendum Prevails**

The Addendum forms part of the Purchase Agreement. The Vendor and Purchaser agree that they shall not include any provision in the Purchase Agreement or any amendment to the Purchase Agreement or any other document (or indirectly do so through replacement of the Purchase Agreement) that derogates from, conflicts with or is inconsistent with the provisions of this Addendum, except where this Addendum expressly permits the parties to agree or consent to an alternative arrangement. The provisions of this Addendum prevail over any such provision.

### **14. Time Periods, and How Notice Must Be Sent**

- (a) Any written notice required under this Addendum may be given personally or sent by email, fax, courier or registered mail to the Purchaser or the Vendor at the address/contact numbers identified on page 2 or replacement address/contact numbers as provided in paragraph (c) below. Notices may also be sent to the solicitor for each party if necessary contact information is provided, but notices in all events must be sent to the Purchaser and Vendor, as applicable. If email addresses are set out on page 2 of this Addendum, then the parties agree that notices may be sent by email to such addresses, subject to paragraph (c) below.
- (b) Written notice given by one of the means identified in paragraph (a) is deemed to be given and received: on the date of delivery or transmission, if given personally or sent by email or fax (or the next Business Day if the date of delivery or transmission is not a Business Day); on the second Business Day following the date of sending by courier; or on the fifth Business Day following the date of sending, if sent by registered mail. If a postal stoppage or interruption occurs, notices shall not be sent by registered mail, and any notice sent by registered mail within 5 Business Days prior to the commencement of the postal stoppage or interruption must be re-sent by another means in order to be effective. For purposes of this section 14, Business Day includes Remembrance Day, if it falls on a day other than Saturday or Sunday, and Easter Monday.
- (c) If either party wishes to receive written notice under this Addendum at an address/contact number other than those identified on page 2 of this Addendum, then the party shall send written notice of the change of address, fax number, or email address to the other party in accordance with paragraph (b) above.
- (d) Time periods within which or following which any act is to be done shall be calculated by excluding the day of delivery or transmission and including the day on which the period ends.
- (e) Time periods shall be calculated using calendar days including Business Days but subject to paragraphs (f), (g) and (h) below.
- (f) Where the time for making a claim under this Addendum expires on a day that is not a Business Day, the claim may be made on the next Business Day.
- (g) Prior notice periods that begin on a day that is not a Business Day shall begin on the next earlier Business Day, except that notices may be sent and/or received on Remembrance Day, if it falls on a day other than Saturday or Sunday, or Easter Monday.
- (h) Every Critical Date must occur on a Business Day. If the Vendor sets a Critical Date that occurs on a date other than a Business Day, the Critical Date is deemed to be the next Business Day.
- (i) Words in the singular include the plural and words in the plural include the singular.
- (j) Gender-specific terms include both sexes and include corporations.



**Freehold Form**  
**(Tentative Closing Date)**

**15. Disputes Regarding Termination**

- (a) The Vendor and Purchaser agree that disputes arising between them relating to termination of the Purchase Agreement under section 11 shall be submitted to arbitration in accordance with the *Arbitration Act, 1991* (Ontario) and subsection 17(4) of the ONHWP Act.
- (b) The parties agree that the arbitrator shall have the power and discretion on motion by the Vendor or Purchaser or any other interested party, or of the arbitrator's own motion, to consolidate multiple arbitration proceedings on the basis that they raise one or more common issues of fact or law that can more efficiently be addressed in a single proceeding. The arbitrator has the power and discretion to prescribe whatever procedures are useful or necessary to adjudicate the common issues in the consolidated proceedings in the most just and expeditious manner possible. The *Arbitration Act, 1991* (Ontario) applies to any consolidation of multiple arbitration proceedings.
- (c) The Vendor shall pay the costs of the arbitration proceedings and the Purchaser's reasonable legal expenses in connection with the proceedings unless the arbitrator for just cause orders otherwise.
- (d) The parties agree to cooperate so that the arbitration proceedings are conducted as expeditiously as possible, and agree that the arbitrator may impose such time limits or other procedural requirements, consistent with the requirements of the *Arbitration Act, 1991* (Ontario), as may be required to complete the proceedings as quickly as reasonably possible.
- (e) The arbitrator may grant any form of relief permitted by the *Arbitration Act, 1991* (Ontario), whether or not the arbitrator concludes that the Purchase Agreement may properly be terminated.

For more information please visit [www.tarion.com](http://www.tarion.com)

**Freehold Form  
(Tentative Closing Date)**

**SCHEDULE A**

**Types of Permitted Early Termination Conditions**

**1. The Vendor of a home is permitted to make the Purchase Agreement conditional as follows:**

- (a) upon receipt of Approval from an Approving Authority for:
- (i) a change to the official plan, other governmental development plan or zoning by-law (including a minor variance);
  - (ii) a consent to creation of a lot(s) or part-lot(s);
  - (iii) a certificate of water potability or other measure relating to domestic water supply to the home;
  - (iv) a certificate of approval of septic system or other measure relating to waste disposal from the home;
  - (v) completion of hard services for the property or surrounding area (i.e., roads, rail crossings, water lines, sewage lines, other utilities);
  - (vi) allocation of domestic water or storm or sanitary sewage capacity;
  - (vii) easements or similar rights serving the property or surrounding area;
  - (viii) site plan agreements, density agreements, shared facilities agreements or other development agreements with Approving Authorities or nearby landowners, and/or any development Approvals required from an Approving Authority; and/or
  - (ix) site plans, plans, elevations and/or specifications under architectural controls imposed by an Approving Authority.

The above-noted conditions are for the benefit of both the Vendor and the Purchaser and cannot be waived by either party.

- (b) upon:
- (i) subject to paragraph 1(c), receipt by the Vendor of confirmation that sales of homes in the Freehold Project have exceeded a specified threshold by a specified date;
  - (ii) subject to paragraph 1(c), receipt by the Vendor of confirmation that financing for the Freehold Project on terms satisfactory to the Vendor has been arranged by a specified date;
  - (iii) receipt of Approval from an Approving Authority for a basement walkout; and/or
  - (iv) confirmation by the Vendor that it is satisfied the Purchaser has the financial resources to complete the transaction.

The above-noted conditions are for the benefit of the Vendor and may be waived by the Vendor in its sole discretion.

- (c) the following requirements apply with respect to the conditions set out in subparagraph 1(b)(i) or 1(b)(ii):
- (i) the 3 Business Day period in section 6(i) of the Addendum shall be extended to 10 calendar days for a Purchase Agreement which contains a condition set out in subparagraphs 1(b)(i) and/or 1(b)(ii);
  - (ii) the Vendor shall complete the Property Description on page 2 of this Addendum;
  - (iii) the date for satisfaction of the condition cannot be later than 9 months following signing of the purchase Agreement; and
  - (iv) until the condition is satisfied or waived, all monies paid by the Purchaser to the Vendor, including deposit(s) and monies for upgrades and extras: (A) shall be held in trust by the Vendor's lawyer pursuant to a deposit trust agreement (executed in advance in the form specified by Tarion Warranty Corporation, which form is available for inspection at the offices of Tarion Warranty Corporation during normal business hours), or secured by other security acceptable to Tarion and arranged in writing with Tarion, or (B) failing compliance with the requirement set out in clause (A) above, shall be deemed to be held in trust by the Vendor for the Purchaser on the same terms as are set out in the form of deposit trust agreement described in clause (A) above.

**2. The following definitions apply in this Schedule:**

**"Approval"** means an approval, consent or permission (in final form not subject to appeal) from an Approving Authority and may include completion of necessary agreements (i.e., site plan agreement) to allow lawful access to and use and Closing of the property for its intended residential purpose.

**"Approving Authority"** means a government (federal, provincial or municipal), governmental agency, Crown corporation, or quasi-governmental authority (a privately operated organization exercising authority delegated by legislation or a government).

**"Freehold Project"** means the construction or proposed construction of three or more freehold homes (including the Purchaser's home) by the same Vendor in a single location, either at the same time or consecutively, as a single coordinated undertaking.

**3. Each condition must:**

- (a) be set out separately;
- (b) be reasonably specific as to the type of Approval which is needed for the transaction; and
- (c) identify the Approving Authority by reference to the level of government and/or the identity of the governmental agency, Crown corporation or quasi-governmental authority.

**4. For greater certainty, the Vendor is not permitted to make the Purchase Agreement conditional upon:**

- (a) receipt of a building permit;
- (b) receipt of a Closing permit; and/or
- (c) completion of the home.

**Freehold Form**  
**(Tentative Closing Date)**

**SCHEDULE B**  
**Adjustments to Purchase Price or Balance Due on Closing**

**PART I                    Stipulated Amounts/Adjustments**

These are additional charges, fees or other anticipated adjustments to the final purchase price or balance due on Closing, the dollar value of which is stipulated in the Purchase Agreement and set out below.

**[Draft Note: List items with any necessary cross-reference to text in the Purchase Agreement.]**

**Schedule A- Schedule of General Terms and Conditions**

1. Paragraph 2 (c): each purchaser shall pay the Vendor a non-refundable security fee in the amount of \$750.00 plus HST for a townhouse dwelling and \$950.00 plus HST for semi-detached dwelling or single detached dwelling for the grading of the Property and/or Lands as security to ensure the Purchaser's compliance with any Development Agreement affecting the title to the Property, including without limitation encroachments installed by a Purchaser into other lands abutting the Property or which the Vendor may be held liable in the event of any non-compliance by the Purchaser. The Vendor will be entitled to draw on the deposit for the payment of any and all inspections costs levied by the Municipality and/or its consultants and/or any costs or expenses incurred in affecting the said compliance by the Purchaser hereinbefore or hereinafter set out, including any amount secured by a vendor's lien which may be set off against and paid from the deposit. The remaining security deposit shall be retained by the Vendor until one hundred and twenty (120) days after the date that the Municipality has released all security being held by it in respect of the Property and/or Subdivision;
2. Paragraph 2(e): the amount of \$300.00 plus HST for a foundation survey to be provided to the Purchaser on or before Closing;
3. Paragraph 2(f): the amount of \$600.00 plus HST towards the installation of any street or boulevard planting, including trees
4. Paragraph 2(h): an amount on account of (and as full or partial reimbursement to the Vendor) for the development charge(s) or levies and/or education development charge(s) or levies and/or any sewer impost charges and/or any fees, levies (including parks, cash-in-lieu, and public art levies), parkland levies, transportation levies, as well as the entire amount of all other levies, charges, obligations or assessments assessed against or attributable to the Property or assessed against the Property, Subdivision or any portion thereof pursuant to the Development Charges Act 1997, S.O. 1997, C.27 as amended, the Education Act R.S.O. 1990 C.E 2 as amended, the Planning Act, c.P. 13, R.S.O., 1990 as amended (including any Section 37 thereof), the City of Toronto Act, 2006 as amended and/or pursuant to any other relevant legislation, regulation, policy or authority (collectively referred to as the "Levies" or individually as a "Levy") assessed against the Vendor and/or the Subdivision (or any portion thereof) in connection with the development of the Subdivision thereon, determined as follows:
  - (i) the sum of \$8,000.00 plus HST for any townhome dwelling;
  - (ii) the sum of \$10,000.00 plus HST for any single detached dwelling or semi-detached dwelling;

and which amount shall correspondingly be charged to the Purchaser in the statement of adjustments on the Closing Date, on the express understanding and agreement that in the event that the City of Toronto (or any governmental or quasi-governmental authority or agency, or any other public or private authority or agency) has established (or hereafter establishes) a program to encourage the development and construction of energy-efficient or environmentally-friendly buildings or structures that exceed minimum performance or threshold standards, in terms of energy efficiency, renewable energy consumption characteristics, environmentally-friendly attributes, or other similar or related factors, then regardless of whether the incentive payment is characterized as a rebate of development charges or otherwise, the Vendor shall be entitled to keep and retain all rebates, refunds, and/or performance incentives that may be granted or awarded by the City of Toronto or any such agency or authority, either before or after the final closing of this transaction, without any duty or obligation whatsoever on the part of the Vendor to account for same, or to refund any portion of same, to or with the Purchaser, and without any requirement or obligation to readjust any item or component in the final statement of adjustments, either before or after the final closing of this transaction, as a consequence thereof. Without limiting the generality of the foregoing, in the event that this Subdivision, when constructed and completed, satisfies all applicable criteria imposed by (or pursuant to) the Toronto Green Standard Program, such that this Subdivision qualifies for development charge credits, then it is expressly understood and agreed that the Vendor shall be exclusively entitled to receive and retain the benefit of all such credits, without having to provide the Purchaser with any credit or compensation, nor any abatement in the Purchase Price (nor any reduction in the amount of any development charges or the amount of any increase in the development charges ultimately charged to the Purchaser in the statement of adjustments at final closing) whatsoever in connection therewith;

5. Paragraph 2(i): the costs of any look-out deck, deck or walk-out basement as shown on the final plans for this Property as determined by the Vendor and in the event that the Vendor is required to construct a deck, walk-out basement and/or look-out deck and same is not specified in this Agreement, then the Vendor shall be entitled to charge the Purchaser the costs of providing such walk-out basement and/or look-out deck on closing, with such costs to be verified by the Vendor and in any such event, such costs shall not exceed \$6,000.00 for a deck, \$35,000.00 for a walk-out basement or \$15,000.00 for a look-out deck. In the event that this Agreement provides for a deck, walk-out basement and/or look-out deck and the Vendor is not able to provide such, then the Vendor shall be entitled to complete the transaction upon the Vendor providing the Purchaser with a credit on closing, equal to the amount of the cost savings enjoyed by the Vendor in not providing such walk-out basement, look-out deck and/or deck, which may be less than the amounts set out herein;
6. Paragraph 2(j): an administration fee of \$250.00 plus HST shall be charged to the Purchaser for any cheque delivered to the Vendor's Solicitors or to the Vendor and not accepted/dishonoured by the Purchaser's and/or Vendor's Solicitors' and/or the Vendor's bank for any reason;

**Freehold Form**  
**(Tentative Closing Date)**

- 7. Paragraph 2(k): the sum on \$200.00 plus HST, per discharge, towards the cost of preparing and registering a (partial) discharge of any blanket mortgages;
- 8. Paragraph 2(l): in the event the Vendor delivers or tenders closing documents required in connection with this transaction on the Closing Date by posting same on the world wide web and uses any inter or intra-net system and/or Teranet, then the Purchaser shall pay the Vendor on the Closing Date the amount of \$125.00 plus HST for electronic communication and registration;
- 9. Paragraph 2(m): Vendor's administration fee of \$400.00 plus HST ... for amendments and/or changes to and/or assignments of this Agreement, amendments thereto and/or any closing documents or facilitating any purchaser originated extension of the Closing Date and/or amendment to the Purchase Agreement and/or as any of the foregoing may be occasioned by any act, omission or request of the Purchaser. For greater certainty, the Purchaser acknowledges and agrees that the Vendor shall have no obligation to approve any amendment requests;
- 10. Paragraph 2(u): the Purchaser agrees to pay a driveway paving charge as an adjustment on the Closing Date in the amount of \$2,000.00 plus HST for a singles driveway and \$4,000.00 plus HST for a double driveway;
- 11. Paragraph 2(v): each townhouse dwelling in Block 12 (8 dwellings) will be charged \$3,200.00 plus HST for rear yard privacy fencing (approximately 1.8m high).
- 12. Paragraph 22: The Purchaser hereby agrees to submit to the Vendor or the Vendor's Solicitors thirty (30) days prior to the Closing Date with (i) a written direction as to how the Purchaser intends to take title to the Property, including, the date(s) of birth and marital status and the Purchaser shall be required to close the transaction in the manner so advised unless the Vendor otherwise consents in writing, which consent may be arbitrarily withheld; and (ii) the name and contact information of the solicitor retained to act on the Purchaser's behalf with respect to this purchase transaction. If the Purchaser does not submit such confirmation within the required time as aforesaid the Vendor shall be entitled to tender a Transfer/Deed on the Closing Date engrossed in the name of the Purchaser as shown on the face of this Agreement. Provided however the Vendor shall not be obliged to endorse the transfer/deed with respect to the Property in any name other than a Purchaser. Should the Purchaser wish to amend the manner in which title to the Property is to be engrossed and/or retain an alternative solicitor to act on their behalf following thirty (30) days prior to the Closing Date, the Purchaser hereby agrees to pay the Vendor's solicitors' administrative fees in this regard in the amount of \$400.00 plus HST per occurrence. This amount may be increased by the Vendor's solicitors in their sole and unfettered discretion.

\*\*\*\*\*

**Freehold Form**  
**(Tentative Closing Date)**

**PART II All Other Adjustments – to be determined in accordance with the terms of the Purchase Agreement**

These are additional charges, fees or other anticipated adjustments to the final purchase price or balance due on Closing which will be determined after signing the Purchase Agreement, all in accordance with the terms of the Purchase Agreement.

**[Draft Note: List items with any necessary cross-reference to text in the Purchase Agreement.]**

**Schedule A - Schedule of General Terms and Conditions**

1. Paragraph 2(a): Realty taxes and local improvement charges attributable to the Property, including any pre-paid or secured property taxes which shall be apportioned and adjusted on the Closing Date, with the Closing Date to be apportioned and the responsibility of the Purchaser. Realty taxes may be adjusted, at the Vendor's discretion, either for the land component only, or as if the Property had been fully completed, separately assessed (including any supplementary assessment with respect thereto), and fully paid by the Vendor for the entire year in which the Closing Date occurs and the year following, notwithstanding that same may not have been assessed, levied and/or paid (in whole or in part) by the Closing Date, on the express understanding that if, in fact, any assessed realty taxes attributable to the Property have not been paid in accordance with the manner that same have been adjusted for in the statement of adjustments, then the Vendor shall provide the Purchaser on the Closing Date with its written undertaking to pay same, in accordance with the statement of adjustments, forthwith upon receipt of the omit/supplemental tax invoice for the Residential Dwelling by the Vendor and/or the Purchaser after Closing, and the Purchaser shall accept said undertaking and complete the transaction in accordance therewith. If the Vendor has not paid all of the taxes credited to it on the statement of adjustments then it shall cause its solicitors to retain the difference between the amounts paid by it and amounts credited to it to be applied to any future supplementary or omit bill for the Property in accordance with its solicitor's undertaking and with the residue, if any after such payment, to be returned to the Purchaser. The aforementioned realty tax adjustment shall be subject to re-adjustment as and when the actual final assessment for the Property is available. The Purchaser shall reimburse to the Vendor any amount of taxes pre-paid or security provided by the Vendor to any Governmental Authorities;
2. Paragraph 2(b): the Purchaser shall reimburse the Vendor on the Closing Date for the cost of the Tarrion enrolment fee for the Dwelling (or any portion thereof if permitted by the Act and/or its regulations), including applicable taxes, for the Dwelling and Property (which enrolment fee is subject to increase depending on the Extras ordered by the Purchaser) as well as any fee levied by the HCRA with respect to the enrolment of the Dwelling;
3. Paragraph 2(d): any new taxes or any increase in any existing taxes imposed on the Property or this transaction by the federal, provincial, or municipal government, as well as the levy and its applicable HST imposed on the Vendor or its solicitor by the Law Society of Ontario;
4. Paragraph 2(g): the costs of water, gas and/or electricity meters and/or check or consumption meter installations if any, with respect to the Property, as well as the costs of electricity, gas and water service installation costs, energization charges and the costs of any transformer installation, if any, for the Property, as well as their Proportionate Share of the costs of the connection costs for the Subdivision, Property and/or Lands of the electricity, gas and water services and sanitary and storm sewers (hereinafter collectively referred to as the "Charges"). A letter from the Vendor confirming the said Charges shall be final and binding on the Purchaser;
5. Paragraph 2(m): ...all legal fees, disbursements and taxes charged by the Vendor's solicitor for amendments and/or changes to and/or assignments of this Agreement, amendments thereto and/or any closing documents or facilitating any purchaser originated extension of the Closing Date and/or amendment to the Purchase Agreement and/or as any of the foregoing may be occasioned by any act, omission or request of the Purchaser;
6. Paragraph 2(n): the costs of Extras (if not pre-paid), costs incurred by the Vendor in permitting and/or facilitating any third party installations of finishes not supplied by the Vendor, the costs of re-decorating, repairing and/or renovating the Property where the Purchaser defaults under this Agreement, the Vendor's administration fees and costs and legal fees and costs incurred with respect to permitting the assignment, variations and/or amendment to this Agreement as requested by the Purchaser and all costs incurred by the Vendor in rectifying and/or mitigating any default by the Purchaser under this Agreement; all legal fees, disbursements and taxes charged by the Vendor's solicitor for amendments and/or changes to this Agreement, amendments thereto and/or any closing documents, occasioned by any act, omission or request of the Purchaser;
7. Paragraph 2(o): any and all costs incurred by the Vendor in rectifying and/or mitigating any default by the Purchaser under this Agreement and interest on any balance owing from the date of demand for payment at the rate of twelve percent (12%) per annum;
8. Paragraph 2(p): the charges, fees, costs, etc., imposed by the Municipality for the issuance of any building permit or other permit required for the occupancy of the Dwellings or any one of them; the charges, fees, costs, etc., imposed by the Municipality for the issuance of any permit required authorizing and/or approving the occupancy of the Subdivision, Property, Lands and/or Dwellings. In addition, the Purchaser shall reimburse the Vendor for all costs, fees and expenses imposed by Canada Post (if any) in connection with establishing postal addresses for the Subdivision and/or Dwellings and/or installing any postal facilities serving the Subdivision, Lands, Dwelling and and/or Property;
9. Paragraph 2(q): in the event that there are any changes in the Ontario Building Code Act 1992, S.O. 1992, c. 23 as amended, the Building Code, the Fire Code, Electrical Code or any other building or construction code, legislation, regulation or requirement that affects the design and/or construction of the Dwelling and increases the cost of same to the Vendor, then the Purchaser agrees to reimburse the Vendor for such increased costs. A declaration from an officer of the Vendor shall be final and binding with respect to such increased costs;

**Freehold Form**  
**(Tentative Closing Date)**

10. Paragraph 2(r): any charges or fees payable to the Vendor and its solicitors as a condition of any consent for re-sale, assignment, advertisement etc., although such consent is not guaranteed and is at the complete discretion of the Vendor;
11. Paragraph 2(s): any de-watering and/or waste water charges, ground water discharge charges and/or sanitary discharge charges incurred by the Vendor with respect to the Property prior to closing and/or security or monies required to be paid or posted by the Vendor with respect to the Property with respect to any such charges arising both before and and/or after closing;
12. Paragraph 2(t): any and all taxes applicable to any adjustments and/or reimbursements as well as the HST payable with respect to any compensation paid to the Purchaser named in this agreement with respect to any assignment of this agreement (provided that this shall not be deemed to comprise a consent to any such assignment). The Purchaser named in this agreement shall provide a statutory declaration of the amount of the compensation and this amount must be included in the value of consideration in the transfer/deed of title to the Property by the Purchaser's solicitor.
13. Paragraphs 4, 5, 6, 7, 8 and 9 of the Purchase Agreement: HST Rebate assigned to the Purchaser. If the Purchaser does not qualify for the full amount of any HST Rebate or any HST Credit (as those terms are defined In the Purchase Agreement), which the Purchaser is obliged to assign to the Vendor then the Purchaser shall pay the Vendor an amount(s) equivalent to the HST Rebates or HST Credits to which the Purchaser becomes disentitled;
14. Paragraph 7: the Purchaser may be required to pay an additional deposit of twenty percent (20%) of the purchase price, should the Vendor determine the Purchaser is not entitled to the HST Rebate any time prior to the Closing Date;
15. Paragraph 2: In the event that the Vendor receives any rebate, credit, recovery, adjustment, discount or similar benefit from any party or parties in respect of any item that the Vendor is entitled to charge the Purchaser for in accordance with this agreement, then the Vendor shall be entitled to retain such any rebate, credit, recovery, adjustment, discount or similar benefit for its own use and as its own property absolutely and shall not be obliged to credit or adjust with the Purchaser for any such rebate, credit, recovery, adjustment, discount or similar benefit.
16. Paragraph 23: The rental costs of the hot water tank/equipment are not included in the Purchase Price.
17. Paragraphs 36/37: ...without prejudice to the Vendor's rights set out above, the Purchaser acknowledges and agrees that if any amount, payment and/or adjustment which are due and payable by the Purchaser to the Vendor pursuant to this Agreement are not made and/or paid on the date due, then the Vendor shall be entitled, but not obligated, to accept same provided that such amount, payment and/or adjustment shall, until paid, bear interest at the rate equal to twelve percent (12%) per annum.
18. Paragraph 16(k): Compensation in an amount to be determined by the Vendor in its sole discretion for the removal and/or repair of the Unauthorized Work.

August 20, 2021

**MADISON MIDLAND LIMITED**  
**SCHEDULE "A" - GENERAL TERMS AND PROVISIONS**

**DEFINITIONS**

1. The following terms shall have the following meaning for the purposes of this Agreement:
- (a) "Agreement" and/or "Purchase Agreement" shall mean this agreement and all schedules thereto as amended from time to time.
  - (b) "Closing", "Closing Date", "Date of Closing", "closing", "closing date" or "date of closing" shall have the meaning given to it hereinbefore.
  - (c) "Deposits" shall mean the deposits or any one of them as set out on hereinbefore, to be credited towards the Purchase Price on the completion of the transaction that is the subject of this Agreement;
  - (d) "Development Agreements" or "Subdivision Agreements" means any subdivision agreement, site plan agreement, servicing agreement, utility agreement, cost sharing agreement, tree preservation agreement, development agreement, heritage agreement, front ending agreement, Section 37 Planning Act (Ontario), as amended, agreement, financial agreement, engineering agreement, and/or any other agreement entered into by the Vendor, predecessor in title, Subdivider, etc. with the Municipality and/or any other governmental authority, land owner group, or with any public or private utility commission, including any restrictions, covenants, obligations or liabilities contained therein;
  - (e) "Extras" or "extras" means those finishes, wall coverings, floor coverings, fixtures, appliances and/or upgrades or any of the foregoing not specified in any schedule of standard suite finishes or schedule of upgrades;
  - (f) "Equipment Provider" shall mean the provider of the HW Equipment as such terms are hereinafter defined, as selected by the Vendor in its discretion;
  - (g) "Financial Information" shall have the meaning as hereinafter set out and shall generally mean the financial information to be provided by the Purchaser in accordance with this Agreement;
  - (h) "Governmental Authorities", "governmental authorities", "Governmental Authority" or "governmental authority" means the Municipality (as hereinafter defined), together with any county, regional, provincial, federal and/or other governmental authority or agency and/or any utility or service provider (private or public) providing services or utilities to the Property, Lands and/or Subdivision and/or having jurisdiction over the Subdivision;
  - (i) "HCRA" shall mean the Home Construction Regulatory Authority of Ontario;
  - (j) "HWT" or "HW Equipment" shall mean the rental hot water tanks and/or hot water on demand systems servicing the Dwelling;
  - (k) "HW Equipment Lease" shall mean the lease or assumption of lease with respect to the HWT serving and benefitting the Dwelling, to be entered into by the Purchaser with the Vendor and/or the Equipment Provider;
  - (l) "Invoices" shall mean any invoices for Services (as hereinafter defined) relating to consumption of same within the Property;
  - (m) "Lands" or "Real Property" shall mean those lands and premises described hereinbefore;
  - (n) "Lot" shall mean the lot or proposed lot or townhouse parcel as the case may be as hereinbefore described;
  - (o) "Municipality" means the local municipality in which the Property is situate, and if such entity is not the designated authority for the purposes of granting approvals pursuant to Section 51 of the Planning Act, R.S.O. 1990 as amended (the "Planning Act"), then the term "Municipality" shall include such approval authority to the extent that it has power and authority to the matters ascribed to a "Municipality" hereunder;
  - (p) "ONHWPA" shall mean the Ontario New Home Warranties Plan Act, R.S.O., 1990 as amended and all its regulations and bulletins;
  - (q) "Property" shall mean the Lot and Dwelling collectively;
  - (r) "Proportionate Share" shall mean the share where the numerator is one and the denominator is the number of homes in the Subdivision;
  - (s) "Purchaser" means the purchaser(s) as defined hereinbefore;
  - (t) "Purchase Price" means the purchase price of the Property as defined hereinbefore, as increased by any amount(s) as set out herein reimbursable and/or payable by the Purchaser to the Vendor (hereinafter defined as "Additional

INITIALS \_\_\_\_\_

Charges”) for the purposes of calculating the total value of consideration for the purposes of HST and Land Transfer Tax, and as amended or adjusted in accordance with the terms and provisions of this Agreement;

- (u) “Rebate” or “Rebates” shall mean any provincial and/or federal new housing purchase rebate and/or transitional rebate applicable to this purchase transaction (regardless of whether such transitional rebate is initially claimable by the Purchaser or the Vendor), and shall include any refund, credit, rebate of any form or nature of such HST applicable to this purchase transaction but specifically shall not include any new housing residential rental or leasing rebate whatsoever, and such Rebates shall be fully assignable, transferable and/or payable to the Vendor as hereinafter set out;
- (v) “Residential Dwelling” or “Dwelling” shall mean the home to be constructed upon the Lot by the Vendor, in accordance with this Agreement;
- (w) “Schedule” shall mean any schedule attached or annexed to this Agreement, which shall form part of this Agreement, and the term “Schedules” shall mean any two or more of same;
- (x) “Services” or “Property Services” shall mean any electricity, water, sanitary or storm sewers, natural gas, CATV, telephone and/or internet services benefitting the Property, the Subdivision, and/or adjacent lands owned or developed by the Vendor;
- (y) “service provider” or “Service Provider” shall mean any party, utility providers and/or private corporations providing any Service or other utility or service to the Property, Lands and/or Subdivision;
- (z) “Subdivision” and “Subdivider” shall have the meaning given to such terms in Section 10 of this Schedule and shall include the Vendor (if applicable) or any predecessor in title to the Property who has entered into obligations with the Municipality for the Subdivision or servicing of the Lands and/or Property or who was the registered owner (the “Owner”) of the Property as of the date that the Subdivision was or will be registered;
- (aa) “Tarion” or “Warranty Corporation” shall mean Tarion Warranty Corporation;
- (bb) “Teraview Electronic Registration System” or “TERS” shall mean the electronic real estate gateway and document production system available to authorized solicitors in the Province of Ontario, used in the creation and delivery of the Transfer/Deed of Land conveying title to the Property;
- (cc) “Utility Agreements” shall mean any agreement to be entered into or assumed by the Purchaser with respect to Services to the Property as determined by the Vendor; and
- (dd) “Vendor” shall mean the party or corporation hereinbefore defined as same.
- (ee) “Vendor’s Solicitors” shall mean the law firm hereinbefore defined as same.
- (ff) “Warranty Information” shall mean the Tarion Warranty Information for Freehold Homes sheet attached hereto.

## **ADJUSTMENTS AND REIMBURSEMENTS TO THE PURCHASE PRICE**

2. The Purchase Price shall include all chattels as specifically identified as being included in the Purchase Price in any schedule attached to and forming part of this Agreement. In the event that the Vendor receives any rebate, credit, recovery, adjustment, discount or similar benefit from any party or parties in respect of any item that the Vendor is entitled to charge the Purchaser for in accordance with this Agreement, then the Vendor shall be entitled to retain any such rebate, credit, recovery, adjustment, discount or similar benefit for its own use and as its own property absolutely and shall not be obliged to credit or adjust with the Purchaser for any such rebate, credit, recovery, adjustment, discount or similar benefit. All adjustable items (as opposed to reimbursable items or specific charges payable by the Purchaser as hereinafter set out) shall be apportioned and allowed to the Closing Date, with that day itself apportioned to the Purchaser. The Purchaser covenants and agrees to reimburse and/or adjust (as the case may be) with the Vendor on the Closing Date with respect to the following items:

- (a) Realty taxes and local improvement charges attributable to the Property, including any pre-paid or secured property taxes, which shall be apportioned and adjusted on the Closing Date, with the Closing Date to be apportioned and the responsibility of the Purchaser. Realty taxes may be adjusted, at the Vendor's discretion, either for the land component only, or as if the Property had been fully completed, separately assessed (including any supplementary assessment with respect thereto), and fully paid by the Vendor for the entire year in which the Closing Date occurs and the year following, notwithstanding that same may not have been assessed, levied and/or paid (in whole or in part) by the Closing Date, on the express understanding that if, in fact, any assessed realty taxes attributable to the Property have not been paid in accordance with the manner that same have been adjusted for in the statement of adjustments, then the Vendor shall provide the Purchaser on the Closing Date with its written undertaking to pay same, in accordance with the statement of adjustments, forthwith upon receipt of the omitted/supplemental tax invoice for the Residential Dwelling by the Vendor and/or the Purchaser after Closing, and the Purchaser shall accept said undertaking and complete the transaction in accordance therewith. If the Vendor has not paid all of the taxes credited to it on the statement of adjustments then it shall cause its solicitors to retain the difference between the amounts paid by it and amounts credited to it to be applied to any future supplementary or omit bill for the Property in accordance with its solicitor's undertaking and with the residue, if any after such payment, to be returned to the

INITIALS \_\_\_\_\_



Purchaser. The aforementioned realty tax adjustment shall be subject to re-adjustment as and when the actual final assessment for the Property is available. The Purchaser shall reimburse to the Vendor any amount of taxes pre-paid or security provided by the Vendor to any Governmental Authorities;

- (b) the Purchaser shall reimburse the Vendor on the Closing Date for the cost of the Taron enrolment fee for the Dwelling (or any portion thereof if permitted by the Act and/or its regulations), including applicable taxes, for the Dwelling and Property (which enrolment fee is subject to increase depending on the Extras ordered by the Purchaser) as well as any fee levied by the HCRA with respect the enrolment of the Dwelling;
- (c) each purchaser shall pay the Vendor a non-refundable security fee in the amount of \$750.00 plus HST for a townhouse dwelling and \$950.00 plus HST for semi-detached dwelling or single detached dwelling for the grading of the Property and/or Lands as security to ensure the Purchaser's compliance with any Development Agreement affecting the title to the Property, including without limitation encroachments installed by a Purchaser into other lands abutting the Property or which the Vendor may be held liable in the event of any non-compliance by the Purchaser. The Vendor will be entitled to draw on the deposit for the payment of any and all inspections costs levied by the Municipality and/or its consultants and/or any costs or expenses incurred in affecting the said compliance by the Purchaser hereinbefore or hereinafter set out, including any amount secured by a vendor's lien which may be set off against and paid from the deposit. The remaining security deposit shall be retained by the Vendor until one hundred and twenty (120) days after the date that the Municipality has released all security being held by it in respect of the Property and/or Subdivision;
- (d) any new taxes or any increase in any existing taxes imposed on the Property or this transaction by the federal, provincial, or municipal government, as well as the levy and its applicable HST imposed on the Vendor or its solicitor by the Law Society of Ontario;
- (e) the amount of \$300.00 plus HST for a foundation survey to be provided to the Purchaser on or before Closing;
- (f) the amount of \$600.00 plus HST towards the installation of any street or boulevard planting, including trees;
- (g) the costs of water, gas and/or electricity meters and/or check or consumption meter installations, if any, with respect to the Property, as well as the costs of electricity, gas and water service installation costs, energization charges and the costs of any transformer installation, if any, for the Property, as well as their Proportionate Share of the connection costs for the Subdivision, the Lands and/or Property of the electricity, gas and water services and sanitary and storm sewers (hereinafter collectively referred to as the "Charges"). A letter from the Vendor confirming the said Charges shall be final and binding on the Purchaser;
- (h) an amount on account of (and as full or partial reimbursement to the Vendor) for the development charge(s) or levies and/or education development charge(s) or levies and/or any sewer impost charges and/or any fees, levies (including parks, cash-in-lieu, and public art levies), parkland levies, transportation levies, as well as the entire amount of all other levies, charges, obligations or assessments assessed against or attributable to the Property or assessed against the Property, Subdivision or any portion thereof pursuant to the Development Charges Act 1997, S.O. 1997, C.27 as amended, the Education Act R.S.O. 1990 C.E 2 as amended, the Planning Act, c.P. 13, R.S.O., 1990 as amended (including any Section 37 thereof), the City of Toronto Act, 2006 as amended and/or pursuant to any other relevant legislation, regulation, policy or authority (collectively referred to as the "Levies" or individually as a "Levy") assessed against the Vendor and/or the Subdivision (or any portion thereof) in connection with the development of the Subdivision thereon, determined as follows:
  - (i) the sum of \$8,000.00 plus HST for any townhome dwelling;
  - (ii) the sum of \$10,000.00 plus HST for any single detached dwelling or semi-detached dwelling;

and which amount shall correspondingly be charged to the Purchaser in the statement of adjustments on the Closing Date, on the express understanding and agreement that in the event that the City of Toronto (or any governmental or quasi-governmental authority or agency, or any other public or private authority or agency) has established (or hereafter establishes) a program to encourage the development and construction of energy-efficient or environmentally-friendly buildings or structures that exceed minimum performance or threshold standards, in terms of energy efficiency, renewable energy consumption characteristics, environmentally-friendly attributes, or other similar or related factors, then regardless of whether the incentive payment is characterized as a rebate of development charges or otherwise, the Vendor shall be entitled to keep and retain all rebates, refunds, and/or performance incentives that may be granted or awarded by the City of Toronto or any such agency or authority, either before or after the final closing of this transaction, without any duty or obligation whatsoever on the part of the Vendor to account for same, or to refund any portion of same, to or with the Purchaser, and without any requirement or obligation to readjust any item or component in the final statement of adjustments, either before or after the final closing of this transaction, as a consequence thereof. Without limiting the generality of the foregoing, in the event that this Subdivision, when constructed and completed, satisfies all applicable criteria imposed by (or pursuant to) the Toronto Green Standard Program, such that this Subdivision qualifies for development charge credits, then it is expressly understood and agreed that the Vendor shall be exclusively entitled to receive and retain the benefit of all such credits, without having to provide the Purchaser with any credit or compensation, nor any abatement in the Purchase Price (nor any reduction in the amount of any development charges or the amount of any increase in the

INITIALS \_\_\_\_\_

development charges ultimately charged to the Purchaser in the statement of adjustments at final closing) whatsoever in connection therewith;

- (i) the costs of any look-out deck, deck and/or walk out basement as shown on the final plans for this Property as determined by the Vendor and in the event that the Vendor is required to construct a deck, walk-out basement and/or look-out deck and same is not specified in this Agreement, then the Vendor shall be entitled to charge the Purchaser the costs of providing such walk-out basement and/or look-out deck on closing, with such costs to be verified by the Vendor and in any such event, such costs shall not exceed \$6,000.00 for a deck, \$35,000.00 for a walk-out basement or \$15,000.00 for a look-out deck. In the event that this Agreement provides for a deck, walk-out basement and/or look-out deck and the Vendor is not able to provide such, then the Vendor shall be entitled to complete the transaction upon the Vendor providing the Purchaser with a credit on closing, equal to the amount of the cost savings enjoyed by the Vendor in not providing such walk-out basement, look-out deck and/or deck, which may be less than the amounts set out herein;
- (j) an administration fee of \$250.00 plus HST shall be charged to the Purchaser for any cheque delivered to the Vendor's Solicitors or to the Vendor and not accepted/dishonoured by the Purchaser's and/or Vendor's Solicitors' and/or the Vendor's bank for any reason;
- (k) the sum on \$200.00 plus HST, per discharge, towards the cost of preparing and registering a (partial) discharge of any blanket mortgages;
- (l) in the event the Vendor delivers or tenders closing documents required in connection with this transaction on the Closing Date by posting same on the world wide web and uses any inter or intra-net system and/or Teranet, then the Purchaser shall pay the Vendor on the Closing Date the amount of \$125.00 plus HST for electronic communication and registration costs;
- (m) Vendor's administration fee of \$400.00 plus HST and all legal fees, disbursements and taxes charged by the Vendor's solicitor for amendments and/or changes to and/or assignments of this Agreement, amendments thereto and/or any closing documents or facilitating any purchaser originated extension of the Closing Date and/or amendment to the Purchase Agreement and/or as any of the foregoing may be occasioned by any act, omission or request of the Purchaser. For greater certainty, the Purchaser acknowledges and agrees that the Vendor shall have no obligation to approve any amendment requests;
- (n) the costs of Extras (if not pre-paid), costs incurred by the Vendor in permitting and/or facilitating any third party installations of finishes not supplied by the Vendor, the costs of re-decorating, repairing and/or renovating the Property where the Purchaser defaults under this Agreement, the Vendor's administration fees and costs and legal fees and costs incurred with respect to permitting the assignment, variations and/or amendment to this Agreement as requested by the Purchaser and all costs incurred by the Vendor in rectifying and/or mitigating any default by the Purchaser under this Agreement; all legal fees, disbursements and taxes charged by the Vendor's solicitor for amendments and/or changes to this Agreement, amendments thereto and/or any closing documents, occasioned by any act, omission or request of the Purchaser;
- (o) any and all costs incurred by the Vendor in rectifying and/or mitigating any default by the Purchaser under this Agreement, including Vendor's solicitors fees, and interest on any balance owing from the date of demand for payment at the rate of twelve percent (12%) per annum;
- (p) the charges, fees, costs, etc., imposed by the Municipality for the issuance of any building permit or other permit required for the occupancy of the Dwellings or any one of them; the charges, fees, costs, etc., imposed by the Municipality for the issuance of any permit required authorizing and/or approving the occupancy of the Property, Lands and/or Dwellings. In addition, the Purchaser shall reimburse the Vendor for all costs, fees and expenses imposed by Canada Post (if any) in connection with establishing postal addresses for the Subdivision and/or Dwellings and/or installing any postal facilities serving the Lands, Dwelling and/or Property;
- (q) in the event that there are any changes in the Ontario Building Code Act 1992, S.O. 1992, c. 23 as amended, the Building Code, the Fire Code, Electrical Code or any other building or construction code, legislation, regulation or requirement that affects the design and/or construction of the Dwelling and increases the cost of same to the Vendor, then the Purchaser agrees to reimburse the Vendor for such increased costs. A declaration from an officer of the Vendor shall be final and binding with respect to such increased costs;
- (r) any charges or fees payable to the Vendor and its solicitors as a condition of any consent for re-sale, assignment, advertisement etc., although such consent is not guaranteed and is at the complete discretion of the Vendor; and
- (s) any de-watering and/or waste water charges, ground water discharge charges and/or sanitary discharge charges incurred by the Vendor with respect to the Property prior to closing and/or security or monies required to be paid or posted by the Vendor with respect to the Property with respect to any such charges arising both before and and/or after closing;
- (t) any and all taxes applicable to any adjustments and/or reimbursements as well as the HST payable with respect to any compensation paid to the Purchaser named in this Agreement with respect to any assignment of this Agreement (provided that this shall not be deemed to comprise a consent to any such assignment). The Purchaser named in this

INITIALS \_\_\_\_\_

Agreement shall provide a statutory declaration of the amount of the compensation and this amount must be included in the value of consideration in the transfer/deed of title to the Property by the Purchaser's solicitor;

- (u) the Purchaser agrees to pay a driveway paving charge as an adjustment on the Closing Date in the amount of \$2,000.00 plus HST for a singles driveway and \$4,000.00 plus HST for a double driveway. Purchasers are advised that permeable pavers are required for water management on site as per the City. No asphalt on driveway or parking pad will be allowed; and
  - (v) each townhouse dwelling in Block 12 (8 dwellings) will be charged \$3,200.00 plus HST for rear yard privacy fencing (approximately 1.8m high).
3. All proper readjustments shall be made after the Closing Date, if necessary, forthwith upon request. Any limits on the costs of adjustments or reimbursement shall be deemed to be exclusive of applicable taxes and the Vendor shall be entitled to add the cost of applicable taxes to such adjustments, including any HST that may be added to the Levies or other adjustments, if required by the Canada Revenue Agency. The Vendor shall provide a statutory declaration of the costs for which it is requesting re-adjustment after closing, and such adjustments as owed to the Vendor shall be a charge on the Property and bear an interest from the date of written demand from the Vendor at a rate of twelve percent (12%) per annum, calculated daily and not in advance, and the Vendor shall be entitled to a vendor's lien in respect of same and shall be entitled to enforce such payment in the same manner as a mortgage in default.

### HARMONIZED SALES TAXES

4. (a) The Purchase Price set out above includes the HST net of Rebates as assigned, transferred, credited and/or paid to the Vendor, and the Purchase Price has been established on the basis that the Purchaser will qualify for the full amount of the Rebates, and that the Rebates will be assigned or an equivalent amount transferred or credited to the Vendor, in addition to such Purchase Price. The current rate of HST is thirteen percent (13%) and this is the rate that is applicable to this contract before netting out the Rebates from such HST. Purchasers are advised that the Purchase Price offered to the Purchaser includes the HST net of Rebates and has been calculated on the basis that the Purchaser shall qualify for and assign to, transfer, credit, pay and/or reimburse the Vendor the maximum Rebate based on the Purchase Price set out herein as adjusted, save and except as hereinafter set out to the contrary. The Vendor shall credit the Purchaser on Closing Date with all Rebates to which the Purchaser is entitled, subject to the Purchaser assigning and/or transferring or crediting the Rebates (or an equivalent amount) to the Vendor and/or reimbursing the Vendor for such Rebates as hereinafter set out subject to the assignment/transfer/crediting of the Rebates to the Vendor. In the event that the Vendor is a nominee for a joint venture and/or a limited partnership or is the general partner of a limited partnership then the Vendor shall have the right to require that the Purchaser assign the Rebate to the joint venture or limited partnership as the Vendor may direct. In the event that there is any legislation of any Governmental Authority that does not permit the assignment of the Rebate then the Purchaser shall transfer, credit and/or pay an equivalent amount of the Rebate to the Vendor on Closing (or thereafter as applicable) and the Vendor shall be entitled to vendor's lien for such amount and the Purchaser acknowledges that this amount form part of the consideration due to the Vendor.
- (b) If the rate of HST is increased or decreased or the percentage of calculation of the Rebate is amended/reduced, or the rate or thresholds in respect of the HST exemptions or rebate entitlement are changed between the date of this Agreement and the Closing Date, with the result that the net amount of the HST to be remitted by the Vendor increases, then the Purchaser shall pay the Vendor an amount on the Closing Date equal to such additional HST payable by the Vendor. A statutory declaration of any officer of the Vendor as to the alteration, increase amendment, etc., as hereinbefore set out shall be determinative in this regard.
- (c) If the rate of the HST is reduced between the date of this Agreement and the Closing Date but such reduction is for the benefit of the Purchaser and not the Vendor (the "HST Credit"), then the Purchaser hereby assigns all right, benefit and entitlement to such HST Credit and shall execute any and all forms, documents, assignments, etc., as required by the Vendor in this regard in the Vendor's absolute discretion. The Purchaser hereby irrevocably assigns to the Vendor all of the Purchaser's rights, interests and entitlements to the HST Credit (and concomitantly releases all of the Purchaser's claims to or interests in the HST Credit, to and in favour of the Vendor), and hereby irrevocably authorizes and directs the Canada Revenue Agency to pay or credit the HST Credit directly to the Vendor.
5. The Purchaser hereby irrevocably assigns and/or transfers and/or credits to the Vendor or as it may direct all of the Purchaser's rights, interests and entitlements to the Rebate or agrees to pay the Vendor an equivalent amount (and concomitantly releases all of the Purchaser's claims to or interests in the Rebate, to and in favour of the Vendor), and hereby irrevocably authorizes and directs CRA to pay or credit the Rebate directly to the Vendor or as it may further direct and the Purchaser shall execute all Rebate forms provided by the Vendor in this regard regardless whether such forms indicate the Vendor or any other party as the recipient of the assignment and/or credit for the Rebate. In the event that there are separate assignments and rebates of the provincial and/or federal portion of the HST with respect to this transaction, the Purchaser shall execute and deliver all applications, assignments, declarations, documents and/or other assurances (in the form required by the Vendor or the Government of Canada and/or the Province of Ontario) to the Vendor required to establish and assign all of their right, title and interest in the Rebates or any portion thereof. The Purchaser covenants and agrees that the Vendor shall have the right in its complete discretion to determine whether the Purchaser qualifies for any Rebates and the Vendor's determination of such entitlement shall be final and binding. The Purchaser hereby covenants, warrants and/or represents to the Vendor (which covenants, warranties and representations shall survive the completion of this Agreement), with respect to this transaction, that:

INITIALS \_\_\_\_\_

- (a) the Purchaser is a natural person who is acquiring the Property with the intention of being the sole beneficial owner thereof on the Closing Date (and not as the agent or trustee for or on behalf of any other party or parties),
- (b) upon the Closing Date and continuing up to and including the Closing Date, and continuing thereafter, the Purchaser or one or more of the Purchaser's blood relations, as determined in accordance with the Excise Tax Act (Canada) and Income Tax Act (Canada), shall personally occupy the Property as their primary place of residence, for such period of time as shall be required by the applicable legislation in order to entitle the Purchaser to the Rebate (and the ultimate assignment thereof to and in favour of the Vendor) in respect of the Purchaser's acquisition of the Property;
- (c) they have not claimed (and hereby covenants not to hereafter claim), for the Purchaser's own account, any part of the Rebate and/or HST credit in connection with the Purchaser's acquisition of the Property, save as otherwise hereinafter expressly provided or contemplated or permitted; and
- (d) they qualify for the full amount of the Rebate possible with respect to this purchase transaction.

6. The Purchaser acknowledges and agrees that:

- (a) the total consideration for the calculation of HST includes not only the Purchase Price but all other taxable supplies charged to the Purchaser pursuant to this Agreement or otherwise including without limitation, Extras, upgrades, applicable adjustments and/or reimbursements charged by the Vendor under this Agreement such as Tarion Enrolment fees, connections fees, as well as any charge for development charge levies and education levies or other levies and charges, etc. (with such additional amounts hereinafter referred to as the "Additional Charges"), the costs of which the Vendor may charge to the Purchaser. The Additional Charges and applicable HST shall constitute part of the taxable supply with respect to the said transaction and shall be added to the Purchase Price to determine the total consideration upon which HST and the Rebate are calculated;
- (b) any Extras and/or Additional Charges are part of the single supply of the home and for HST purposes constitutes a change in the price being paid for the Dwelling and for the purposes of HST shall be deemed to form part of the Purchase Price; and
- (c) the HST payable in respect of adjustments and/or Extras and/or upgrades shall be at the rate of HST otherwise applicable to this Agreement.

7. If it is determined by the Vendor that the Purchaser is not entitled to the maximum permitted Rebate or any portion thereof (including any portion of same the Purchaser becomes disentitled to as a result of an increase in the total consideration payable hereunder as a result of any Additional Charges, Extras, etc., purchased or payable by the Purchaser), the Purchaser agrees to pay to the Vendor, in addition to any other amounts stipulated in this Agreement, the amount of the Rebate to which the Purchaser becomes disentitled, (which shall be paid on the Closing Date as a requirement of closing), and until so paid, such amount shall form a charge/vendor's lien against the Property, which charge shall be recoverable by the Vendor in the same manner as a mortgage in default. The Purchaser covenants and agrees to indemnify and save the Vendor harmless from and against any loss, cost, damage and/or liability (including without limitation, legal fees and disbursements, and an amount equivalent to the Rebate, plus penalties and interest thereon) which the Vendor may suffer, incur or be charged with, as a result of the Purchaser's failure to qualify for the maximum permitted Rebate, or as a result of the Purchaser having qualified initially but being subsequently disentitled to the Rebate, or as a result of the inability to assign the benefit of the Rebate to the Vendor (or the ineffectiveness of the documents purporting to assign the benefit of the Rebate to the Vendor) and such amounts shall be deemed to comprise a vendor's lien registerable on title to the Property. If the Vendor determines that the Purchaser is not entitled to the Rebate at any time prior to the Closing Date then it shall be entitled to demand and the Purchaser shall pay, an additional deposit equal to an amount that is twenty percent (20%) of the Purchase Price as set out on hereinbefore.

8. The Purchaser covenants and agrees that in the event of any amendment, revival, novation, re-instatement of this Agreement, acquisition of Extras or upgrades, or any other action of the Purchaser results in the Rebate or HST Credit not being assignable, in whole or in part, then the Purchaser shall pay to the Vendor on the Closing Date the amount of the Rebate or HST Credit which the Vendor does not receive or become entitled to.

9. The Purchaser covenants and agrees that any breach by it of the provisions as set out in these foregoing sections dealing with HST shall be deemed to be a fundamental breach by the Purchaser and the Vendor, in addition to (and without prejudice to) any other rights or remedies available to the Vendor (at law or in equity) may, at its sole option, unilaterally suspend all of the Purchaser's rights, benefits and privileges contained herein (including without limitation, the right to make colour and finish selections with respect to the Property as hereinbefore provided or contemplated), and/or may unilaterally declare this Agreement to be terminated and of no further force or effect, whereupon all deposit monies theretofore paid, together with all monies paid for any extras or changes to the Property, may be retained by the Vendor as its liquidated damages, and not as a penalty, in addition to (and without prejudice to) any other rights or remedies available to the Vendor at contract, law or in equity.

**SUBDIVISION DRAFT PLAN APPROVAL**

10. The Purchaser acknowledges and agrees that if the Property is part of an existing or proposed Subdivision (the "Subdivision") then it may be subject to without limitation, conditions of draft approval (hereinafter "Draft Conditions"), one or more

INITIALS \_\_\_\_\_

Development Agreements, site plan agreements and/or subdivision agreements between the registrant developer of the Subdivision (the "Subdivider") and Governmental Authorities and/or the Municipality, notice of which is hereby expressly acknowledged by the Purchaser, and pursuant to which the Subdivider or the Municipality is responsible for constructing and installing all services within the Subdivision subject to any objection by the Purchaser to readjust or reimburse for as set out herein, which services may include paved roads, sidewalks, curbs, storm and sanitary sewers, retaining and/or architectural walls, street lights, parks, conservation areas, playgrounds, etc. and if the Subdivider is other than the Vendor, the Vendor shall not be liable in any way to the Purchaser for the manner in which said services are installed or constructed. The Purchaser acknowledges and agrees that it shall be their sole responsibility to review without limitation, the Draft Conditions, any Development Agreements, cost-sharing agreements, site plan agreements or subdivision agreements as hereinbefore described, prior to closing, which the Purchaser hereby agrees to take title subject to. The Vendor shall not be obligated to obtain or register a full or partial release of the Property from or in respect of such agreements, nor shall the Vendor be obliged to have said agreements deleted from title, and the Purchaser shall satisfy themselves as to compliance therewith.

#### **ACKNOWLEDGMENT REGARDING WARNING CLAUSES**

11. The Purchaser acknowledges that the Draft Conditions and existing and/or future Development Agreements between the Vendor and the Municipality may require the Vendor to provide the Purchaser with certain notices or warnings including, without limiting the generality of the foregoing, notices or warnings regarding: the use of the Property, Lands and/or Subdivision, environmental issues, noise levels from adjacent roadways or otherwise, maintenance of municipal fencing, school transportation and related educational issues, installation of pools, aesthetic restrictions, care of landscaping on the Property and the status of services and works in the Subdivision/development. The Purchaser acknowledges and agrees that the Vendor may be unable, at this time, to provide the Purchaser with all such notices and warnings and same shall be provided in the future and shall be deemed to form part of this Agreement. The Purchaser shall execute all documents, amendments, assurances as required by the Vendor in this regard and such further warnings or acknowledgments shall not affect nor diminish the Purchaser's obligation to complete their obligations under this Agreement. The Purchaser acknowledges and agrees that the Vendor and/or Subdivider may be unable to sell the Property to the Purchaser or obtain the release of securities unless the Purchaser executes such acknowledgments, amendments or assurances, etc., as aforesaid. In the event that the Purchaser fails to execute such acknowledgments, amendments and/or assurances, etc., forthwith upon being requested to do so, such failure or refusal shall be considered a fundamental breach of this Agreement by the Purchaser and the Vendor shall be entitled to its remedies hereunder, including, at its sole option, to terminate this Agreement and upon such termination, all monies paid to the Vendor hereunder shall be forfeited to the Vendor as liquidated damages, not as a penalty, without prejudice to the exercise of any other remedy available to the Vendor, and this Agreement shall be at an end, and the Purchaser shall not have any further rights hereunder. This covenant shall specifically survive closing and the Purchaser shall execute such acknowledgments or documents as the Vendor may require in this regard until the Subdivision and/or Property is assumed or 20 years, whichever is earlier and if the Vendor is unable to recover cash or securities in respect of the Subdivision and/or Property due to the Purchaser's default in this regard then the Vendor shall have a vendor's lien for such damages.

#### **COMPLETION OF GRADING AND MUNICIPAL SERVICES**

12. (a) The Vendor, its successors, assigns and all persons authorized by the Vendor, including, without limitation, the Municipality or any other governmental authorities having jurisdiction, shall have free access to the Dwelling and Property at all reasonable hours in order to make inspections and do such work or repairs as they may deem necessary. The Vendor, and all persons authorized by the Vendor, shall have a licence for a period of eight (8) years from the date of closing to enter into, over, along or upon any part of the Property, without being deemed to have committed a trespass, for the purpose of enabling, without limitation, the completion or correction of sodding and grading, the installation, maintenance and/or repair of any municipal services or utility services, and/or for the purpose of effecting any remedial and/or corrective measures to the Property as may be required by the Municipality, any utility, or any other governmental authority or bonding company, or other relevant authority having jurisdiction in this regard.
- (b) The Purchaser hereby acknowledges and agrees that the final grading of the Property may not be completed, nor a lot grading certificate in respect of same issued by the closing date. The Purchaser agrees to nevertheless complete this transaction on the closing date, upon the Vendor's undertaking hereinafter set out, to complete the grading of the Property in accordance with municipal requirements as soon as reasonably possible after the closing date, weather and soil conditions and the availability of labor, equipment and materials permitting. The Vendor, by this Agreement, hereby undertakes to complete (if not already completed), the grading of the Property in accordance with the provisions of the preceding sentence, and the Purchaser shall not request or call for any further documentation or assurances pertaining to this undertaking in respect of grading, from the Vendor, the Subdivider or the Vendor's solicitors. The Purchaser acknowledges and agrees that the engineering data and/or final approved grade in respect of the Property may not be finalized as of the date of execution of this Agreement, and accordingly the Vendor may be required to construct the Dwelling with a walk-out basement and/or deck or in the alternative may not be able to provide a walk-out basement and/or deck if specified in this Agreement, but the Purchaser shall be nonetheless obliged to complete this Agreement. The Purchaser covenants and agrees that they will not alter the slope or grading of the Property contrary to the Municipally approved drainage pattern and, provided that lot grading has been completed in accordance with the Municipally approved grading control plan, the Purchaser is estopped both from objecting thereto and from requiring any amendments thereto. In the event that any additions and/or improvements are made to the Property or abutting road allowances by the Purchaser and/or their agents or contractors after closing such as, but not limited to, the installation of porches, decks, pools, spas, patios, plants, shrubs, trees, paved

INITIALS \_\_\_\_\_

driveways or fences are so located so as to alter or affect the grading and/or drainage patterns of the Property, street sight lines, any easement granted or contemplated being granted to third parties or the Vendor and/or affects the final inspection and/or assumption of the Subdivision and/or Lands by the Municipality and/or the return or reduction of any security to the Subdivider or Vendor, then the Purchaser agrees to remove such additions and/or improvements at their own expense, forthwith upon the Vendor's request, failing which the Vendor may remove same at the Purchaser's sole expense and the Vendor shall be permitted to register and maintain a vendor's lien for such costs against the Property. The undersigned hereby acknowledges that complete engineering data in respect of the final grading of the Property as approved by the Municipality may not, as yet, be complete, and accordingly, the Purchaser agrees to accept the Property subject to any grading requirements or other requirements imposed by the Municipality.

- (c) Notwithstanding the foregoing to the contrary, the Vendor or anyone delegated by it shall have the right to enter upon the Property during the rectification period as set out above in order to, without limitation, change or rectify grades or drainage patterns, and/or carry out any sodding and/or restoration and/or re-grading work required by the Development Agreements and/or Governmental Authorities and may remove any fences, installations, landscaping, obstructions or signs situate on the Property, without liability of any kind, if the foregoing provisions of this paragraph are not observed by the Purchaser. The Purchaser acknowledges that the Municipality, and any governmental authorities having jurisdiction, shall have the right to enter upon the Property for such purpose in the event the Vendor and/or Subdivider fails to satisfy its obligations in respect of the foregoing provisions of this paragraph. The Purchaser further acknowledges that the transfer of title to the Property may contain a right of re-entry in favor of the Vendor, and/or the Municipality, and/or any other governmental authority having jurisdiction as aforesaid.
- (d) Title to the Property may be subject to Development Agreements as well as restrictions, and/or covenants may be required to be given by the Purchaser on closing, preventing any changes being subsequently made to any exterior colour, materials, windows, treatment and/or cladding material of any exterior component of the Dwelling for any period of time after closing and as well as preventing the alteration or removal of any trees, vegetation, fencing, berm, retaining wall and/or other exterior element and the parties acknowledge that such items may be controlled by the Vendor, Subdivider, third party and/or any other governmental authority having jurisdiction for any period of time after closing. The Development Agreements may also contain important warning clauses affecting the use and enjoyment of the Property and the Purchaser is strongly advised to review same. The Purchaser covenants and agrees to abide by and comply with the terms and conditions of the Development Agreements, architectural controls, restrictions and covenants and agrees to indemnify and save the Vendor and Subdivider harmless from and against any losses and all damages, suits costs, expenses or liabilities incurred by the Vendor and/or Subdivider as a result of the Purchaser not complying with or defaulting under (in any way and with negligence not being required) with the terms and provisions of the such Development Agreements. In addition, the Purchaser covenants and agrees not to dump any materials, sod or other debris, garbage and/or landscaping or construction materials upon any other lands owned by the Vendor, Subdivider and/or the Municipality and the Purchaser shall reimburse the Vendor on closing or thereafter, for the costs of removing such materials and dumping same, including *inter alia*, haulage costs, labour costs and/or any other costs, expenses or fines incurred by the Vendor or Subdivider as a result of the Purchaser breaching this covenant, and the Vendor shall be entitled to register and maintain a vendor's lien for such costs.
- (e) The Purchaser acknowledges and agrees that the filing of the consulting engineers' certificate(s) with the Municipality, or the issuance by the Municipality of an occupancy certificate or such other confirmation that the Property may be occupied shall, subject to the provisions of the Addendum, constitute complete and absolute acceptance by the Purchaser of all construction matters, and the quality and sufficiency thereof including, without limitation, all mechanical, structural and architectural matters. Acceptance of construction and siting of the Dwelling and/or grading of the Lot by the Municipality or governmental authorities shall conclusively constitute acceptance by the Purchaser. The Purchaser acknowledges that the road allowance or private road fronting or flanking the Property may have one or more postal boxes, CATV boxes, telephone boxes, fire hydrants and/or hydro-electric transformers, hydro poles, sidewalks, landscape furniture, etc., as required by the Municipality and the Purchaser agrees to accept same where located, notwithstanding that same may not be shown on any sales material, site plan, community property plan or brochures.

#### **MAINTENANCE OF SOD AND LANDSCAPING**

- 13. The Purchaser shall be solely responsible for the watering and general maintenance of the sod, tree, shrubs any other landscape plantings placed on the Property from and after the closing date, or from the date that the sod is laid or the trees or shrubs or any other landscape plantings are planted, whichever date is later, and the Vendor and/or Subdivider shall have no obligation in that regard. In the event that the Vendor is required to water and/or replace laid sod, trees, shrubs or any other landscape plantings as a result of the Purchaser's default of the aforesaid obligation, the Purchaser shall be required to pay the Vendor's reasonable costs of doing so, which amount shall, until paid, bear interest at the rate equal to twelve percent (12%) per annum, calculated daily, not in advance.

#### **DRIVEWAY PAVING**

- 14. If a paved driveway is included in this Agreement, then the Purchaser acknowledges that settlement of the driveway will occur and, as a result, the driveway may not be paved until after the Closing Date as the case may be. The Vendor covenants and agrees to pave the driveway of the Property within twenty-four (24) months after the Closing Date. The Vendor will notify the Purchaser prior to the date on which paving is to be completed and the Purchaser agrees to ensure that the driveway is free and clear of all vehicles and other obstructions to facilitate completion of such work. After paving has been completed, the

INITIALS \_\_\_\_\_

Purchaser acknowledges that settlement of the driveway may still occur. The Vendor shall have no obligation to complete any further work on the driveway after paving has been completed notwithstanding further settlement. The Purchaser acknowledges and agrees that the Vendor shall not be required to give a separate undertaking to the Purchaser on the Closing Date to complete the driveway and the Purchaser shall not be entitled to a holdback of any amount due and payable to the Vendor on the Closing Date as security for the Vendor's obligations in this regard. The Purchaser agrees that they will not alter the width of the driveway.

#### **LANDSCAPING, RETAINING WALLS, FENCES, BERMS AND STRUCTURES OR FEATURES**

15. As of the date of this Agreement, the final grading plan relating to the Land may not have been completed by the Vendor or approved by the Governmental Authority or approving authority having jurisdiction. Consequently, the Purchaser acknowledges and agrees that the grading of the Land may require the use of retaining walls on the Land or on adjoining properties. The Purchaser acknowledges and agrees that the Vendor shall have the right to construct such retaining walls without notice to the Purchaser and without compensation or abatement to the Purchase Price. In furtherance thereof, the Purchaser agrees that in the event that any retaining wall, fence, berm and/or similar or other structure are built on the Property, the Purchaser shall be solely responsible for the repair and maintenance of same. Where the Purchaser is obliged to make such repairs and undertake such maintenance, the Purchaser shall indemnify and save harmless the Vendor, Subdivider and any governmental authorities from all damages or costs associated with same and the Purchaser agrees, at the request of the Vendor, to execute such additional assurances in this regard as may be required by the Vendor and to have same registered on title by the Vendor if required by Vendor at the Vendor's option.

Where any portion of any fence is within twenty-four (24) inches of the Property line, such fence shall be deemed not to be an encroachment at that point (the "Permitted Encroachment") and the Purchaser agrees to accept title to the Property and to complete the sale contemplated herein, without abatement of the Purchase Price. If any portion of any fence is not deemed to be a Permitted Encroachment (an "Unpermitted Encroachment") then the Purchaser shall complete the transaction herein upon the Vendor's undertaking to take all commercially reasonable lawful steps to remove the Unpermitted Encroachment without any abatement of the Purchase Price whatsoever.

#### **TARION WARRANTY AND MODIFICATION OF PLANS, SPECIFICATIONS AND FINISHES**

16. The Vendor agrees to erect the Dwelling upon the Property generally in accordance with plans and specifications already examined by the Purchaser and as attached to this Agreement (the "Plans"). Provided however that the Purchaser acknowledges and agrees that decor, finishes, furniture, improvements, mirrors, wall coverings, floor coverings, and window coverings of the model home are for display purposes only, are not included in the Vendor's standard finishes and are not included in the Purchase Price. The Purchaser acknowledges that the net area of the Dwelling purchased hereunder, as represented or referred to by the Vendor or any sales agent, is approximate only, and is measured in accordance with the applicable HCRA directives for homes of this classification. Note: actual useable floor space may vary from the stated floor area. Accordingly, the Purchaser hereby confirms and agrees that all details and dimensions of the Dwelling purchased hereunder are approximate only, and that the Purchase Price shall not be subject to any adjustment based upon square footage, net floor area or otherwise. In addition, the Purchaser acknowledges and agrees that the ceilings may be dropped below standard heights and walls may be modified or bulk heads or mechanical spaces installed to accommodate mechanical systems thereby affecting the useable space in the Dwelling. Therefore, the Vendor and the Purchaser agree as follows:
- (a) The parties confirm and acknowledge that this Agreement contains the Warranty Information and the Purchaser agrees to sign a Confirmation of Receipt for the same on receipt of the Warranty Information. The Purchaser is advised to read the Warranty Information carefully so that they understand what is included and/or excluded from such warranty. The Warranty Information is also available by contacting Tarion or obtaining same from their website at [www.Tarion.com](http://www.Tarion.com).
  - (b) The Purchaser shall have the right to designate a representative to undertake the pre-delivery inspection (the "PDI") on his/her behalf without detracting from the Purchaser's right to conduct or be present when the PDI is being undertaken. The Purchaser and/or his or her designate, shall meet the Vendor's representative at the time designated by the Vendor prior to the Closing Date, to undertake the PDI of the Dwelling and to list all items remaining uncompleted at the time of such inspection together with all mutually agreed deficiencies with respect to the Dwelling, on the Tarion Certificate of Completion and Possession and/or such form as may be prescribed by Tarion (the "PDI Form"). The said Tarion certificate and/or PDI Form shall be executed by both the Purchaser and the Vendor's representative forthwith after such inspection
  - (c) The Purchaser agrees that in no event shall the Purchaser be entitled to obtain possession of the Dwelling and Property unless and until the Purchaser and/or their designated representative has completed the PDI and executed the said PDI Form. In the event that the Purchaser and/or their designated representative has omitted or refused to execute the said PDI Form prior to the Closing Date, and the Vendor has duly attended at the Dwelling for the purposes of completing the said PDI Form and to inspect the Dwelling, the Vendor shall have the unilateral right and option of either completing this transaction and refusing to allow possession of the Dwelling by the Purchaser until such PDI Form has been duly executed, or of terminating this Agreement, whereupon all Deposits and monies paid or payable in respect of Extras, together with all interest accrued thereon at the prescribed rate, shall be retained by the Vendor as its liquidated damages, and not as a penalty, in addition to (and without prejudice to) any other rights or remedies available to the Vendor at law or in equity.

INITIALS \_\_\_\_\_



- (d) The Purchaser further acknowledges and agrees that any warranties of workmanship or materials, in respect of any aspect of the construction of the Dwelling, whether implied by this Agreement or imposed by law or in equity, or by any statute or otherwise, shall be restricted to only those warranties deemed to be given by the Vendor pursuant to the ONHWPA, and shall extend only for the time period (and in respect of those items) stipulated or covered by ONHWPA. Without limiting the generality of the foregoing, the Purchaser hereby releases the Vendor from any liability whatsoever in respect of water damage caused to improvements of, and chattels stored in, the Dwelling, and acknowledges and agrees that the Vendor shall not be liable or responsible for the repair or rectification of any damages to any exterior areas resulting from ordinary settlement, including the settlement of patio stones or sodded areas, nor for any damage to interior household improvements, chattels or decor caused by material shrinkage, twisting or warpage, nor for any secondary or consequential damages whatsoever resulting from any defects in materials, design or workmanship related to the Dwelling, and that the Vendor's only obligation shall be to rectify any defects pursuant to the terms of this Agreement and Tarion's warranty. The Purchaser acknowledges that any Third Party Work (as hereinafter defined) whether or not carried out by trades or subtrades employed by the Vendor shall be deemed to be work contracted directly by the Purchaser with the Vendor acting as agent for the Purchaser and as such, the Third Party Work shall not be covered by the Tarion warranty. The Purchaser covenants and agrees not to enter into any agreement or arrangement with any trade or subtrade employed by or under contract with the Vendor and/or any of its contractors, subcontractors and/or agents in respect of any work on the Dwelling. The Purchaser covenants and agrees not to undertake any renovation of finishing work in respect of the basement of the Dwelling for a period of thirty (30) months after closing and in the event that the Purchaser does undertake such work, then the Vendor shall be relieved of any and all responsibility to restore such work or finishes in the event that the Vendor has to remove same in order to complete any warranty work and the Purchaser shall indemnify and save the Vendor harmless from and against any and all costs incurred by the Vendor in removing such finishes in order for the Vendor or its agents to be able to complete such warranty work.
- (e) The Vendor shall complete the exterior landscaping or exterior building elements of the Property and Dwelling as soon as reasonably practicable, but the failure of the Vendor to complete the exterior landscaping or building elements, on or before the Closing Date, or the failure of the Subdivider to complete any element of the Subdivision, shall in no event entitle the Purchaser to refuse to take possession of the Dwelling and/or to close the within transaction on the Closing Date, or to fail to remit to the Vendor the entire amount of the Purchase Price and any other monies required to be paid by the Purchaser hereunder, or to maintain any holdback of any part of the Purchase Price or any other monies due to the Vendor, provided that the Vendor has complied with the occupancy requirements of the Addendum. The Vendor hereby undertakes to complete the Dwelling and all unfinished work or improvements thereto in accordance with this Agreement, unless same affects the occupiability of the Dwelling and in such event the terms and provisions of the Addendum shall prevail. The Vendor shall provide the Purchaser, on or before closing, with such evidence that the Dwelling may be legally occupied in accordance with the terms and provisions of the Addendum. The Purchaser agrees in such event to close the transaction, notwithstanding that there remains, without limitation, grading, landscaping or other exterior work or interior work to be completed, without any hold back of any part of the Purchase Price, on the Vendor's undertaking given to complete the Dwelling and all improvements to the Property. The Purchaser shall not hold the Vendor or the Municipality and/or any other governmental authorities and/or any of their respective agents liable for any damages, charges or inconvenience arising from, or in connection with the completion (or non-completion) of any item, including but not limited to boulevard sodding, sidewalks, driveway approach, paving, fencing, final lot grading and/or lot sodding.
- (f) The Purchaser acknowledges and agrees that the Vendor may, from time to time, as required by any governmental authority having jurisdiction or any other rights with respect to the Property or as required by the Vendor from time to time, change, vary or modify the plans and specifications pertaining to the Dwelling and Property, (including architectural, structural, engineering, landscaping, grading, mechanical, site service or other plans) from the plans and specifications existing at the inception of the project, or as they exist at the time the Purchaser has entered into this Agreement, or as same may be illustrated in any sales brochure(s), model(s) in the sales office or otherwise, including reversing the layouts of the Dwelling or changing the elevation/facade of the Dwelling. The Purchaser shall have absolutely no claim or cause of action whatsoever against the Vendor or its agent(s) for any such changes, variances or modifications. The Vendor shall advise the Purchaser of the changes as soon as reasonably possible about the amendments and alterations. The Purchaser also acknowledges and agrees that architectural and/or engineering control of exterior elevations, driveway construction, boulevard tree planting, landscaping, corner lot fencing (including the location, type and quality of such corner lot fencing), exterior colour schemes, or any other matter external to the Dwelling or Property designed to enhance the aesthetics of the area in which the Property is situate (the "Requirements"), may be imposed and/or altered from existing plans and specifications at the time the Purchaser entered into this Agreement by the Municipality or any other Governmental Authority and the Purchaser agrees to take occupancy and title to the Property subject to the Requirements. In the event the Vendor by any Governmental Authority to construct, alter, amend or change, pursuant to such Requirements, the exterior elevation for the Property and/or Dwelling other than as shown on the schedules to this Agreement or specified herein or is required to alter or modify the driveway, building façade or elevation, internal road or other hardscape installation, construction or location, boulevard tree planting or landscaping plan for the Dwelling or Property (all of which is hereinafter referred to as the "Amended Plans"), the Purchaser hereby irrevocably authorizes the Vendor to complete and construct the Dwelling and Property in accordance with the Amended Plans and the Amended Plans shall be the approved plans for the purposes of the Purchaser's obligation to complete this Agreement. The Vendor shall have the right to construct the Dwelling on a reverse mirror image plan, including reversal of the interior floor layout and other minor modifications and the Purchaser agrees to accept such reversal and/or modification absolutely without any right of abatement of, or set-off against, the Purchase Price, in full satisfaction of the Vendor's obligations herein.

INITIALS \_\_\_\_\_



Further, in the event the Vendor determines that it needs to alter the grade of the Dwelling for any reason, than as depicted in the Plans, and as a result of such change in the elevation, the Vendor needs to install a step or series of steps to any entrance to the Dwelling or garage and this affects the interior dimensions of the Dwelling or garage (if any) then the Purchaser agrees to accept such change in grade and the change in the usable interior space in the garage (if any). and/or Dwelling caused by the installation of steps and shall complete this transaction without any abatement in the Purchase Price. With respect to any aspect of construction, finishing or equipment, the Vendor shall have the right subject to the requirements or TARION or the provisions of the ONHWP, without the Purchaser's consent, to substitute materials and/or designs and/or installations, for those described in this Agreement, any schedule of finishes or in the plans or specifications, provided the substituted materials, designs and/or installations are in the judgment of the Vendor, whose determination shall be final and binding, of equal or better quality or as may be required as a matter of law or any applicable building, fire, plumbing and/or electrical code or regulation. References to model types or model numbers in any schedule of finishes or Extras addendum or agreement refer to current manufacturer's models as of the date of this Agreement and may change without notice and the Vendor shall be entitled to replace with the manufacturer's or alternate manufacture models that are of a similar size, style, design and quality. The Purchaser acknowledges and agrees that finishing materials contained in any model suites or sales office displays including but not limited to substrates, floor and wall coverings, broadloom, furniture, electrical fixtures, window coverings, flooring, upgrade cabinetry, staircases, railings, appliances etc. may be for display purposes and may not be of the same grade or type or may not necessarily be included in the Dwelling purchased herein. Purchasers are advised that any ceiling height set out in this Agreement will be measured approximately from the upper surface of the floor to the underside of the ceiling structure, provided however that various areas of the Dwelling may contain (or be subject to) ceiling bulkheads and/or dropped ceilings, in order to facilitate the installation of structural components, mechanical and HVAC systems and/or ductwork, and accordingly in those areas of the Dwelling that are subject to said bulkheads and/or dropped ceilings the Vendor shall be entitled to reduce the overall ceiling height accordingly and the Purchaser covenants and agrees to accept such situations and/or alterations. The Purchaser acknowledges that any room dimensions as shown on any plans attached to this Agreement or otherwise are approximate and may vary based on the construction requirements of the development in which the Property is situate and the Purchaser covenants and agrees to accept such variations and/or alterations. The Purchaser acknowledges, confirms and agrees that the extent of the actual or useable living space or net floor area within the confines of the Dwelling may vary from any represented square footage or floor area measurement(s) made by or on behalf of the Vendor based on the permitted Tarion method of area calculation. The Purchaser shall have no claim against the Vendor for any changes, variances, alterations, amendments and/or modifications as permitted in this Agreement, nor shall the Vendor be required to give notice thereof. The Purchaser hereby consents to any such alterations, variances, amendments and/or modifications and agrees to complete the sale notwithstanding same. The Purchaser shall have no claim against the Vendor for any such changes, variances, alterations, amendments or modifications, etc., nor shall the Vendor be required to give notice thereof. The Purchaser hereby consents to any such alterations and agrees to complete the sale notwithstanding any of the foregoing.

- (g) Notwithstanding anything contained in this Agreement to the contrary, it is understood and agreed by the parties hereto that in the event that construction of the Dwelling is not completed on or before the Closing Date or any extension thereof as hereinbefore contemplated, for any reason except for the Vendor's willful neglect, or in the event the Purchaser cannot take possession of the Dwelling on Closing by reason of any fire damage or other hazards or damages whatsoever occasioned thereto, constituting an event of Unavoidable Delay (as defined in the Addendum), then subject to the terms of the Addendum to the contrary, Vendor shall not be responsible or liable for reimbursing the Purchaser for any costs, expenses, or damages suffered or incurred by the Purchaser as a result of such delay or damage, and specifically shall not be responsible for any costs and expenses incurred by the Purchaser in obtaining alternate accommodation pending the completion of construction of the Dwelling or the rectification of the damage, nor for any costs incurred in having to store or move the Purchaser's furniture or other belongings pending such completion or rectification work.
- (h) Notwithstanding anything set out herein to the contrary, the Vendor shall have the right to enter upon the Dwelling for a period of eight (8) years after the completion of the transaction set out in this Agreement, as required by the Vendor in its complete discretion, in order to complete and/or rectify outstanding items identified in the PDI Form or any other list prescribed by Tarion and the Vendor agrees to complete and/or rectify same within a reasonable time after Closing (or some other date as prescribed by Tarion), having regard to the availability of equipment, materials and labour. The failure or refusal by the Purchaser to provide access to the Property and/or the Dwelling situate thereon by the Vendor or its workmen, servants, agents or contractors following reasonable notice by the Vendor, shall relieve the Vendor of any obligation to complete or rectify any items of work that may be outstanding and otherwise required to be completed by the Vendor pursuant to the provisions of this Agreement.
- (i) It is expressly understood and agreed that the Dwelling will be separately metered for utilities, including electricity, gas and water and waste water services, and accordingly the consumption of electricity, gas and water and waste water services (as well as cable television, internet and telephone charges), shall be borne and paid for by the Purchaser from and after Closing Date. The Purchaser acknowledges that the Municipality may require that the Purchaser enter into a groundwater and/or sanitary discharge agreement whereby the Purchaser shall pay the Municipality for discharging ground and/or storm water into municipal sewers and the Purchaser covenants and agrees to enter into such agreement or assumption of same, without amendment forthwith upon request both before and after Closing.

INITIALS \_\_\_\_\_

- (j) The Purchaser covenants and agrees to pay to the Vendor all amounts to correct and remedy all damage caused by the Purchaser or those for whom they are in law responsible to any services installed within the Property, which services shall, without limitation, include survey stakes, landscaping, trees, planting, curbs, curb cuts, streets, roads, street signs, street lighting, sanitary and storm sewers and any underground services installed by or on behalf of any public or private utilities.
- (k) It is understood and agreed that the Purchaser is not entitled to perform any work on the Property prior to closing ("Unauthorized Work") without the Vendor's written consent and in the event that such consent is obtained, the Purchaser must obtain at its expense, and without restriction, any applicable building permits for the subject work at the Purchaser's sole cost and expense. It is further understood and agreed that such work shall not be warranted by Tarion or the Vendor or any other party related to the Vendor and that the Vendor shall not be responsible for any delay, costs and/or penalties arising as a result of the delay by the Purchaser in completing such permitted work on or before the scheduled closing date. Performance of any Unauthorized Work constitutes a trespass and breach of this Agreement, and shall entitle the Vendor to either: i) complete construction of the Dwelling to the extent possible, as determined by the Vendor in its sole discretion, without regard to possible damage to the Unauthorized Work and without incurring any additional expense as a result of the Unauthorized Work; ii) remove and/or repair the Unauthorized Work, and any other portion of the Dwelling thereby affected, and to receive compensation therefore as an adjustment on Closing in an amount to be determined by the Vendor in its sole discretion; or iii) terminate this Agreement, whereupon all Deposits and monies paid or payable in respect of Extras, together with all interest accrued thereon at the prescribed rate, shall be retained by the Vendor as its liquidated damages, and not as a penalty, in addition to (and without prejudice to) any other rights or remedies available to the Vendor at law or in equity. It is further understood and acknowledged by the Purchaser that the Vendor's warranty of workmanship is rendered invalid insofar as it relates to matters affected by the Unauthorized Work, as applicable.
- (l) The Purchaser acknowledges that notwithstanding anything contained in any brochures, drawings, renderings, plans and specifications, advertisements or other marketing materials, or any statements made by the Vendor or its representatives (the "Marketing Materials"), there is no warranty or representation contained herein or elsewhere on the part of the Vendor as to the area of the lot or Dwelling. The Purchaser acknowledges that the dimensions of the Lot or Dwelling as shown in any Marketing Materials are approximate only and that the Purchaser is not acquiring the Property on a price per square foot basis. Accordingly, the Purchaser shall not be entitled to any abatement or refund of the Purchase Price based on the precise area of the Lot and/or Dwelling. The Purchaser further acknowledges that the Purchase Price is not a direct function of the area of the Lot and/or Dwelling and, consequently, in the event that the final area of the Lot and/or Dwelling as shown on any Marketing Materials is less than the area of the Lot and/or Dwelling as represented to the Purchaser at any time, the Purchaser acknowledges and agrees that they shall not be entitled to any reduction or abatement to the Purchase Price. In the event that the frontage, depth, area or other dimension of the Lot or Dwelling, as the case may be, is varied by up to and including the amount permitted by Tarion Warranty Corporation from the specifications set out in this Agreement or the Marketing Materials, the Purchaser acknowledges and agrees to accept all such variations without notice and without a claim for compensation or abatement of the Purchase Price.
- (m) In the event the Dwelling is constructed at a grade level different than as depicted in any Marketing Materials reviewed by the Purchaser at the time of entering into this Agreement necessitating a step or series of steps to the front door, side door, rear door or any other door of the Dwelling, the Purchaser hereby irrevocably agrees to accept such change without notice, without any right to abatement of the Purchase Price and in full satisfaction of the Vendor's obligations with respect to the construction of the Dwelling.
- (n) In the event that the plans for the Property contemplate direct access from the garage to the Dwelling, the Purchaser acknowledges that such feature is subject to the specific grading requirements of the lot and, at the time of executing this Agreement, the Vendor does not yet know whether it will be necessary to construct stairs from the garage to the dwelling and, if so, the number of steps that will be required. The Purchaser acknowledges that, depending upon the location of the access and the number of steps required to be constructed, the presence of stairs in the garage may reduce the number of cars that can be accommodated in the garage. In the event that access can be constructed with two or fewer steps, the access and stairs shall be constructed by the Vendor without notice to the Purchaser. In the event that access can only be constructed with three or more steps, the Vendor shall advise the Purchaser in writing and the Purchaser shall have seven (7) days from receipt of such notice to advise the Vendor in writing whether or not the Purchaser wants the Vendor to construct such stairs and access. In the event that the Purchaser does not respond to the Vendor in writing within seven (7) days, the Purchaser shall be deemed to have advised the Vendor that it wants the Vendor to construct the access and stairs, regardless of the number of steps required to be constructed and regardless that the number of steps so constructed may reduce the number of cars that can be parked in the garage. In the event the Purchaser instructs the Vendor not to construct the access, the Purchaser shall not be entitled to any compensation or abatement of the Purchase Price.
- (o) In the event that this Agreement calls for the construction of a side door entrance and/or an entrance from the garage into the Dwelling and either of such entrances is not possible pursuant to final approved grading, engineering and/or site plans (in the sole discretion of the Vendor), the Purchaser acknowledges and agrees that the Vendor shall have no obligation; (i) to construct the side door entrance and/or the entrance from the garage; (ii) to provide any credit, compensation or abatement of the Purchase Price in lieu thereof; and (iii) notify the Purchaser of this modification.

INITIALS \_\_\_\_\_

- (p) As of the date of this Agreement, the final site plans relating to the Land showing the actual sites of the Lots and/or Dwellings on the Land may not have been completed by the Vendor or approved by the Governmental Authority or approving authority having jurisdiction. Consequently, the Purchaser acknowledges and agrees that the Vendor shall have the right to construct the Dwelling on the Land in a location or angle different than as depicted in the Marketing Materials.

#### FINISH SELECTION AND EXTRAS

17. (a) The Purchaser covenants and agrees to notify the Vendor, in writing within seven (7) days of the Vendor's request, as to any colours and finishes or other items to be chosen by the Purchaser from the Vendor's samples, and if the Purchaser fails to so notify the Vendor of their colour and finish selection or other selection within such time, the Vendor shall not be held liable for any delays in having the Dwelling substantially completed sufficient to permit occupancy thereof by the closing date, and the Purchaser shall complete the transaction on such date, notwithstanding that the Dwelling may not be substantially completed by such date. The Purchaser acknowledges and agrees that as a result of the Tarion Delayed Closing rules and regulations as set out in the Addendum, that any delay caused by the Purchaser in the selection of the finishes and colours can result in a delay in a construction and delivery of the Dwelling and as a result, a breach of the Purchaser's covenants in this section shall be considered a material breach of contract entitling the Vendor to all of its remedies in contract, law and equity, including without limitation, the right to terminate this Agreement and retain all monies paid thereto by the Purchaser as liquidated damages and not as penalty. Notwithstanding and in addition to the foregoing, in the event the Purchaser fails to make such selections as aforesaid, the Vendor shall be entitled to make such selections on behalf of the Purchaser and the Purchaser shall be obliged to complete this transaction without any holdback or abatement whatsoever.
- (b) Subject to the Vendor's approval, if the Purchaser chooses to order third party upgrades or extras other than those specified and provided by the Vendor or if the Vendor agrees to allow the Purchaser or its agents to complete certain work within the Dwelling (collectively referred to as "Third Party Work"), then, if any delays in the completion of such Third Party Work affects the availability of legal occupancy of the Dwelling, then the Vendor shall not be held liable for any delays in having the Dwelling substantially completed sufficient to permit occupancy thereof by the closing date, and the terms of the Addendum shall apply. If the delay in the delivery and/or installation of the Third Party Work does not prevent the legal occupiability of the Dwelling and the provision of the evidence confirming same as set out in the Addendum, then the Purchaser shall complete the transaction notwithstanding, without any holdbacks in respect of the Purchase Price. In the event that the Purchaser ordered and paid for extras comprising or requiring Third Party Work through the Vendor and such extras are not available on closing, but the lack of installation of same does not prevent the closing of such transaction and/or legal occupancy of the Dwelling, then the Vendor shall have the option of either i) providing its undertaking on closing to install such Third Party Work extras in the Dwelling within a reasonable time of receipt of same after closing; or ii) refunding the cost of the Third Party Work extras upon closing by way of providing the Purchaser with a credit in the statement of adjustments. In such latter event, such credit shall be accepted by the Purchaser as full and final settlement of any claim by the Purchaser with respect to such extras.
- (c) The Purchaser acknowledges and agrees that insofar as the wood finishes, marble, stone, carpeting, tiles, kitchen cabinetry or other manufactured finishing materials installed within the Dwelling are concerned: (i) the colour, texture and/or shading of such wood finishes, carpet, tiles, kitchen cabinetry or other manufactured finishing materials may vary slightly from that of those selected by the Purchaser from the Vendor's samples, due to minor variations or shading in dye-lots produced or manufactured by the suppliers; and (ii) the colour, finish and/or grain of wood and stone products may vary slightly from that of the wood or stone selected by the Purchaser from the Vendor's samples, inasmuch as wood and stone are natural materials which inherently cannot be precisely replicated or matched with other pieces or samples, thereby accounting for variations of colour and/or grain even within the same lot or section of wood or stone. The Purchaser shall accordingly be estopped from claiming any entitlement to an abatement in the Purchase Price, or any replacement (in whole or in part) of the carpet, tiles, kitchen cabinetry, manufactured finishing materials or wood or stone products so installed or any other relief as a result of the variations hereinbefore described or contemplated. The Purchaser acknowledges and agrees that all light-coloured materials, especially flooring, may be subject to fading or yellowing after use or exposure to sunlight and such fading or yellowing will not be covered by any warranty. The Purchaser further acknowledges that light-coloured and white carpeting may be subject to discolouring at walls and sub-floor joints due to the filtering process that occurs with forced air heating, generally caused by pollutants and candles and both exterior and interior air quality and is not covered by any warranty provided for herein.
- (d) The Purchaser covenants and agrees that they shall pay the Vendor in advance, (unless otherwise agreed in writing), for any Extras and the applicable HST and other taxes thereon ordered by the Purchaser and agrees that such payment shall be non-refundable in the event that this transaction is not completed due to any default hereunder by the Purchaser, and the Vendor may deduct the cost of such Extras, (as well as applicable HST and other taxes thereon) if not already paid for, from any deposit monies which may otherwise be refundable. In the event that for any reason the Extras are not installed by the Vendor prior to closing, the Vendor shall be entitled to refund all or part of monies paid as appropriate, and this shall be accepted by the Purchaser as full and final settlement of any claim by the Purchaser with respect to the Extras, upgrades or changes which remain incomplete as aforesaid.

INITIALS \_\_\_\_\_

- (e) The Purchaser agrees that the Vendor, in its sole discretion, may provide samples of colours, finishes, Extras or other items to be selected by the Purchaser in a digital format, by sending samples to the email address provided on the Taron Addendum and/or by scheduling a meeting by live video or conference call.

#### NO ACCESS UNTIL CLOSING

18. The Purchaser hereby acknowledges and confirms that they shall not be allowed without the specific written consent of the Vendor, (which consent may be arbitrarily withheld by the Vendor) access to the Property, for any purpose whatsoever. Once such right of access is exercised by the Purchaser with consent as aforesaid, they agree to comply with all regulations and requirements imposed by any governmental authorities or imposed by the Vendor which may prevent, restrict or regulate such access due to health, safety or other governmental requirements or policies. The Purchaser further acknowledges and agrees that any access to the Property shall be at the Purchaser's sole risk and the Purchaser hereby forever discharges and releases the Vendor, its successors and assigns, agents, employees and contractors from any and all damages, actions and claims whatsoever that the Purchaser may have as a result of personal injury or property damage occasioned by entering onto the Property, whether such entry was with or without the Vendor's express written consent. If permitted onto the Property, the Purchaser shall not enter the Lands, Subdivision and/or Property unless accompanied by a representative of the Vendor and the Purchaser shall be responsible to provide and wear all such protective headwear and footwear and any other equipment or clothing as required pursuant to the Occupational Health and Safety Act and/or any successor or other legislation and its regulations and the Purchaser agrees to indemnify and save the Vendor harmless from and against any and all losses, liabilities, charges, damages or fines that the Vendor or its agents incur as a result of the Purchaser's breach of the foregoing. A breach of this provision shall constitute a trespass and shall entitle Vendor to terminate this Agreement, whereupon all Deposits and monies paid or payable in respect of Extras, together with all interest accrued thereon at the prescribed rate, shall be retained by the Vendor as its liquidated damages, and not as a penalty, in addition to (and without prejudice to) any other rights or remedies available to the Vendor at law or in equity.

#### OCCUPANCY AND COMPLETION

19. The Purchaser agrees that the Dwelling may be occupied when the requirements of the Municipality have been complied with and the Vendor has complied with the terms of the Addendum, notwithstanding that there remains exterior or other work in the Property, Subdivision and/or Lands to be completed as hereinbefore and hereinafter set out, including but not limited to completion of requirements pertaining to the Property or the Subdivision or the Lands, requirements of any Development Agreement, the painting, paving of the driveway (if included in the Agreement), and/or any other grading, sodding and landscaping, all as hereinbefore provided.

#### TITLE

20. The Purchaser agrees to accept title to the Property subject to the following items and the Purchaser covenants and agrees to adhere to the terms and conditions as set out therein. If requested by the Vendor, the Purchaser shall accept title to the Lot and/or Property from any registered owner of same and shall accept that owner's title covenants in lieu of the Vendor. The Purchaser agrees to accept title to, and shall satisfy themselves as to compliance with, any of the following items and the Vendor shall not be obligated on Closing or thereafter to obtain any compliances, releases or discharges with respect to any of the following items:
- (a) any Development Agreements;
  - (b) all municipal by-laws, airport zoning regulations, certificates of property use pursuant to the Environmental Protection Act (Ontario), as amended, covenants, notices, agreements, group land owner agreement, cost sharing agreement, infrastructure agreement, as well as any building or other restrictions and all covenants, licences, agreements, cost sharing agreements, easements, licences, Notices of Interest, Notices of Leases, Notices of Security Interests, including without limitation, restrictions implementing architectural control over the exterior finish, colour and materials of the Dwelling and/or limiting or prohibiting the installation of satellite dishes and installation or alteration of landscaping, fence or items on the Property, whether registered now or at any time prior to Closing and the Purchaser agrees, if required by the Vendor, to sign the transfer/deed of land containing such restrictions and covenants and to extract the same from any subsequent purchasers;
  - (c) the HW Equipment Lease, and any rental contract or lease pertaining to the HW Equipment or any other leased or rented equipment within the Property and any Notice of Security Interest registered in respect of the Personal Property Security Act (Ontario), as amended, in respect of any of the said leases or equipment that is the subject thereof;
  - (d) a right in the nature of an easement or license for the Vendor and its respective successors and assigns and its servants and agents to enter upon the Property at any time following completion for periods of up to eight (8) years to permit the Vendor to carry out the obligations, if any, under the Development Agreements or as imposed by any governmental authority to effect any corrective measures with respect to the Development Agreements applicable to the Property and/or Subdivision and the transfer/deed of land may contain a clause to this effect;
  - (e) all easements of any nature including without limitation, easement for access or egress in favour of any lands, maintenance and encroachment easements in favour of any adjacent lands, rights of way, licenses or leases, permanent or temporary, as exist or may subsequently be granted in favour of the Municipality, any Governmental Authority, the Subdivider, any Service Provider, the Vendor, any owner of adjacent or neighbouring lands and/or or

INITIALS \_\_\_\_\_

any public or private utility, for the provision of utility services or other services to the Property or other neighbouring lands, within or outside the Municipality including without limitation, telephone, electricity, natural gas, television cable, internet, sewers, water, or other services or utilities; and, further, the Purchaser covenants and agrees to assume, accept and permit any such easements, rights of way, licenses or leases and if such easements, rights of way, licenses or leases have not been determined when the Purchaser receives their conveyance, such conveyance may contain a covenant by the Purchaser for themselves, and their heirs, executors, estate trustees, successors and assigns, to grant any additional easements, rights of way, licenses or leases as may be required by the Vendor, Subdivider, any Governmental Authority, Service Provider or utility and the Purchaser further covenants and agrees to execute all documents without charge which may be required to convey or confirm any such easements, right of ways, licenses or leases, etc., and shall exact a similar covenant in any agreement entered into between the Purchaser and any subsequent purchaser from them;

- (f) such easements as may be required for access/egress, construction, servicing, utilities, sewers, maintenance or encroachment purposes and the encroachments permitted thereby, all as determined by the Vendor or Subdivider or as required by any Governmental Authority;
- (g) such easements or rights of way over the Property as may be necessary to permit the Vendor or Subdivider and/or any adjacent land owner to construct, repair and/or maintain any dwellings and/or installations on any part of any lands owned by the Vendor and the Purchaser covenants and agrees that it shall not interfere or impede the Vendor's and/or any adjacent land owner's use and enjoyment of the aforesaid easements;
- (h) a right of re-entry or licence in favour of the Vendor to enter upon the Property at any time or times for the purposes of inspecting, maintaining and/or repairing any municipal works, services and/or facilities, for a period of ten years after closing;
- (i) easements in perpetuity in favour of any public utilities commission or authority and/or private company (the "Commission" or "Commissions") over, under, upon, across and through the Property for the purposes of facilitating the installation, operation, maintenance and/or repair of a Commission's electrical plant, water services and/or hydro-electric services (and all necessary appurtenances thereto) in order to facilitate the supply of hydro-electric service to the Property, Subdivision or any other neighbouring lands (the "Hydro/Water Easement");
- (j) easements in perpetuity in favour of any natural gas service provider (the "Gas Company") over, under, upon, across and through the Property for the purposes of facilitating the installation, operation, maintenance and/or repair of the Gas Company's gas lines (and all necessary appurtenances thereto) in order to facilitate the supply of gas service to the Property, Subdivision and/or neighbouring lands and if so requested by the Gas Company, title shall also be subject to an agreement with the Gas Company (the "Gas Agreement");
- (k) easements in perpetuity in favour of, and/or agreements, with any cable television/satellite television/internet/telephone service providers (the "Telecoms") over, under, upon, across and through the Property or the purposes of facilitating the installation, operation, maintenance and/or repair of the Telecoms' cable television/internet/satellite television/telephone lines and equipment (and all necessary appurtenances thereto) in order to facilitate the supply of cable television, satellite television, internet, telephone service services to the Property, Subdivision and/or neighbouring lands, with the Purchaser being separately billed or invoiced directly by the Telecoms for all services so consumed). The Purchaser also acknowledges that the wires, cables and fittings comprising the Telecoms are (or shall be) owned by the Telecoms;
- (l) all rights accruing to Her Majesty the Queen, any Governmental Authority and/or any third party pursuant to and/or under the patents issued in respect of the Property by the Crown;
- (m) restrictions registered pursuant to the Land Titles Act, R.S.O. 1990, as amended, as well as any one foot reserves restricting access to a public road, open development, building, electrical and/or plumbing permits or approvals that pertain to the Property or Subdivision provided that the local municipality or other regulatory authority has issued all occupancy permissions or permits or approvals as required by the Addendum in respect of the Dwelling and in this regard the Purchaser specifically agrees that any such one foot reserve or open permit shall not comprise a title matter, going to the root of title and/or shall not comprise a notice of violation and/or work order and the issuance of an occupancy permit by the Municipality for the Property shall be deemed to be a licence granted by such Municipality permitting passage over the said reserves pending dedication of same as part of a public road; and/or
- (n) all reservations in the Crown Patent

(and with all the items referred to in these sections (a) to (n) collectively referred to as the "**Permitted Encumbrances**"). The Purchaser covenants and agrees that this Agreement is subordinate to and postponed to any mortgages arranged by the Vendor encumbering the Lot and any advances thereunder from time to time, and to any easement, license or other agreement as well as all Permitted Encumbrances. The Purchaser further agrees to provide, consent to and execute all documentation as may be required by the Vendor in this regard and the Purchaser hereby irrevocably appoints the Vendor as the Purchaser's attorney to execute any consent or other documents required by the Vendor to give effect to this paragraph, which power of attorney shall remain in full force and effect and be exercisable notwithstanding and subsequent incapacity of the Purchaser

- (a) The title to the Property to be good and free from all encumbrances, save and except the Permitted Encumbrances and any other registration as provided for in this Agreement. The title is to be examined by the Purchaser at their own expense and without the Purchaser calling for the production of any deeds or abstracts of title, surveys, proof of evidence of title or to have furnished any copies thereof, other than those in the Vendor's possession. The Purchaser is to be allowed until fifteen (15) days prior to the Closing Date hereof to examine the title at their own expense and if within that time they furnish the Vendor in writing with any valid objections to the title which the Vendor shall be unwilling or unable to remove and which the Purchaser will not waive, this Agreement shall, notwithstanding any intermediate acts or negotiations, be null and void and the portion of the Deposit and Extras paid to the Vendor shall be returned without interest (unless interest is required pursuant to the Addendum) and the Vendor shall not be liable for any damages or costs whatsoever, including, without limiting the generality of the foregoing, loss of bargain, loss of profit, relocation costs, loss of income, professional fees and disbursements and any amount paid to third parties on account of decoration, construction or fixturing costs, unless such compensation is required pursuant to the Addendum and/or ONHWP. Save as to any valid objections so made within such time, the Purchaser shall be conclusively deemed to have accepted the title of the Vendor to the Property. The Vendor shall be allowed to answer requisitions by way of a title advice statement addressed to purchasers of lands in the Subdivision.
- (b) The Purchaser acknowledges that the Property is or will be encumbered by blanket mortgages and/or encumbrances which the Purchaser is not to assume and that the Vendor shall not be obliged to obtain and register (partial) discharges of such mortgages insofar as they affect the Property on the Closing Date. The Purchaser agrees to close the transaction notwithstanding the existence of such charge(s) and accept the Vendor's Solicitors' undertaking to register (partial) discharges of such mortgages in respect of the Property upon receipt, subject to the Vendor or the Vendor's Solicitors providing to the Purchaser or the Purchaser's solicitor the following:
- (i) a mortgage statement or letter from the mortgagee(s) (or from their respective solicitors) confirming the amount, if any, or the terms if an amount is not applicable, required to be paid to the mortgagee(s) to obtain (partial) discharges of the mortgages with respect to the Property;
  - (ii) a direction from the Vendor to the Purchaser to pay such amounts to its solicitors in trust and/or the mortgagee(s) (or to whomever the mortgagees may direct) on the Closing Date to obtain a (partial) discharge of the mortgage(s) with respect to the Property; and
  - (iii) an undertaking from the Vendor's Solicitors to deliver such amounts to the mortgagees and to register the (partial) discharge of the mortgages with respect to the Property upon receipt thereof and to advise the Purchaser or the Purchaser's solicitor concerning registration particulars which notification can be performed by posting same on the world wide web in a location given to the Purchaser or their solicitor.
- (c) The Purchaser shall, both before and after closing, also grant and execute any and all temporary or permanent easement(s) for the installation and/or maintenance of private and/or municipal utility or other services to the Property, or to adjacent or neighbouring properties, in favour of any governmental authorities, private and/or public utilities and/or service providers and/or to adjacent or neighbouring land owners (including without limitation, any easement(s) for maintenance purposes for all lots or parcels of lands within the Subdivision where less than 1.2 meter (4 foot) side yards are being provided), as well as easements for roof overhangs and eaves troughs and easements, forthwith upon the Vendor's request. In addition the Purchaser shall at the request of the Vendor, provide on Closing a transfer or transfers of easements in favour of any adjacent lands for overhead crane swings, facilitating the installation of shoring or foundations, installing and maintaining piles and/or tie-back installations, temporary working easements for construction on adjacent lands and/or the installation of temporary hoarding on the rear yard of the Lot as required in connection with any of the previously set out easements. The Purchaser shall procure any Planning Act consents and postponements from any holders of any mortgage or encumbrance registered on the Property by which such mortgage or encumbrance is postponed to any such easements, and the Purchaser shall be responsible for all costs and expenses in granting, procuring or registering such easements or postponements (including without limitation the cost of obtaining Planning Act consents). The Purchaser acknowledges and agrees that due to the proximity of the Dwelling to adjacent Dwellings, minor encroachments may exist with respect to eaves and/or exterior walls of certain Dwellings and the Purchaser specifically acknowledges and agrees to accept title to the Property subject to any such encroachments.
- (d) Other than as required pursuant to the Addendum, the Vendor shall not be obliged to provide any title deeds, abstract, occupancy permits or certificates, surveys, grading certificates, or any other evidence of title or occupiability of the Dwelling, and the Purchaser shall satisfy themselves that the Dwelling may be occupied in accordance with municipal requirements. The Purchaser agrees to accept a transfer of title to the Property directly from the registered owner thereof, and to accept such owner's title covenants in lieu of the Vendor's title covenants, in the event that the Vendor is not the registered owner of the Property on closing, provided that the Vendor shall be obliged to provide such further and other covenants and undertakings as the Purchaser may be entitled to pursuant to this Agreement.

#### MANNER OF PURCHASER'S TITLE

22. The Purchaser hereby agrees to submit to the Vendor or the Vendor's Solicitors thirty (30) days prior to the Closing Date with (i) a written direction as to how the Purchaser intends to take title to the Property, including, the date(s) of birth and marital status and the Purchaser shall be required to close the transaction in the manner so advised unless the Vendor otherwise consents in writing, which consent may be arbitrarily withheld; and (ii) the name and contact information of the solicitor retained to act on the Purchaser's behalf with respect to this purchase transaction. If the Purchaser does not submit such

INITIALS \_\_\_\_\_

confirmation within the required time as aforesaid the Vendor shall be entitled to tender a Transfer/Deed on the Closing Date engrossed in the name of the Purchaser as shown on the face of this Agreement. Provided however the Vendor shall not be obliged to endorse the transfer/deed with respect to the Property in any name other than a Purchaser. Should the Purchaser wish to amend the manner in which title to the Property is to be engrossed and/or retain an alternative solicitor to act on their behalf following thirty (30) days prior to the Closing Date, the Purchaser hereby agrees to pay the Vendor's solicitors' administrative fees in this regard in the amount of \$400.00 plus HST per occurrence. This amount may be increased by the Vendor's solicitors in their sole and unfettered discretion.

#### UTILITY AND SERVICES, METERING, HOT WATER TANK, CATV, TELEPHONE

23. The Purchaser acknowledges that the Property and Dwelling is serviced by a rental hot water tank (the "HWT") and same is not included in the Purchase Price. The HWT is rental equipment and the Purchaser shall assume the rental and lease of the HWT on Closing and shall pay all appropriate rental charges associated therewith, plus all applicable taxes, and that same will not form part of the purchase and/or the Purchase Price but will remain chattel property of the Equipment Provider and the Purchaser agrees to execute a rental contract for the HWT, if necessary. The Purchaser shall execute, enter into and/or assume any HWT rental agreements as arranged by the Vendor on the Closing Date and shall thereafter pay all appropriate charges associated therewith, plus all applicable taxes, and same will not form part of the purchase and/or the Purchase Price.
24. The Purchaser acknowledges that supply of those Services comprised of water, electricity and/or natural gas services to the Property will be individually metered (the "Meter(s)") for consumption within the Dwelling and the Purchaser will be invoiced for such consumption and all service or administration charges relating to the thereto by one or more Service Providers. The Purchaser shall receive periodic Invoices for the Services which will include the costs of all Services consumed by the Dwelling and Property as well as service charges based on per litre or gallon of water, BTU or joule of energy, cubic metre of gas consumed or per kilowatt per hour electricity consumed and other administration charges applicable to the metering and/or re-selling service. The Purchaser shall be responsible to pay the Invoices in respect of the Services as and when same is due and payable. In addition to the Invoices, the Service Provider may oblige the Purchaser to provide and/or replenish a security deposit, from time to time, in respect of Services and such security deposit may be collected by the Vendor on Closing Date. In the event that the Purchaser fails to pay the Invoices on the due date, the Service Provider shall have the right to use the security deposit to satisfy the Invoices and/or the right to terminate the supply of the Service to the Property, and not to commence supplying such Property Services again unless and until the Purchaser provides or replenishes the security deposit and pays the Property Invoices. The Purchaser covenants and agrees to execute, upon request, any metering/invoicing/leasing/service or utility supply agreement, or assumption of acknowledgment of same, as required by the Service Provider and/or Vendor. The Purchaser shall execute, enter into and/or assume any Utility Agreement relating to the Services as arranged by the Vendor on the Closing Date and shall thereafter pay all appropriate charges associated therewith, plus all applicable taxes, and same will not form part of the purchase and/or the Purchase Price. The Purchaser also agrees to be bound by any arrangements made with local CATV/ internet/telephone suppliers.

#### COSTS OF REGISTRATION AND TAXES

25. The transfer/deed of land shall be prepared at the Vendor's expense and may contain any or all of the provisions set forth in this Agreement and shall be executed by the Purchaser, if required by the Vendor, and the Purchaser shall execute and deliver on Closing a covenant, undertaking or agreement incorporating all or any of the terms contained herein or as may be required by the Vendor. The Purchaser undertakes and agrees to register the transfer/ deed at their expense at the time of Closing and agrees to pay the land transfer tax in connection with the registration of the transfer on Closing.

#### RISK UNTIL CLOSING

26. All buildings and equipment comprising the Dwelling and the Property shall be and remain at the risk of the Vendor until Closing. Subject to the terms of the Addendum to the contrary, in the event of damage to the Dwelling, however caused, prior to Closing, the Vendor shall be entitled to the insurance proceeds payable under any insurance policy coverage and the Vendor may either repair the damage, finish the Dwelling and complete the sale or may terminate this Agreement and have the Deposits and Extras paid by the Purchaser to the Vendor returned to the Purchaser (together with any interest required by law) and the Vendor shall thereupon be released from its obligations hereunder. The Vendor shall not hold any proceeds of any insurance policy in trust for the Purchaser and no insurance policy or proceeds shall be assigned on closing.

#### EXECUTION OF DOCUMENTS

27. (a) The Purchaser hereby irrevocably constitutes and appoints the Vendor to be and act as their lawful attorney, in the Purchaser's name, place and stead, in order to execute the PDI Form, Tarion deposit receipt and new housing application form for the HST Rebate (if applicable) or any other documents comprising prescribed security for deposits, together with any other ancillary documents required to be executed in order to procure any available Rebate(s) of the HST applicable in connection with this transaction, as well as any deposit insurance policy (and related documents) if any. Each of the individuals comprising the Purchaser, if more than one (hereinafter referred to as the "Donor") hereby constitutes and appoints the other (hereinafter referred to as the "Donee") to be and act as the Donor's lawful agent and attorney, in order to receive such notices provided in the Addendum, and/or for the purposes of receiving notices required or desired to be delivered by the Vendor in accordance with this Agreement, acknowledging receipt of warning clause notices or of the inclusion of same within this Agreement, covenanting to indemnities required by the governmental authorities. Provided that this shall not apply in the event that any Purchaser is released from this Agreement prior to closing or termination. In accordance with the provisions of The

INITIALS \_\_\_\_\_



Powers of Attorney Act R.S.O. 1990 as amended and/or The Substitute Decisions Act. S.O. 1992, as amended, the Purchaser hereby irrevocably confirms and agrees that the powers of attorney set out herein may be exercised by the attorney so appointed during any subsequent legal incapacity of the Purchaser and may and shall only be revoked upon the death of the party giving such power of attorney or as aforesaid. Each power of attorney as granted in this Agreement shall be deemed to be coupled with an interest in this Agreement.

- (b) If any documents required to be executed and delivered by the Purchaser to the Vendor are, in fact, executed by a third party appointed as the attorney for the Purchaser, then the power of attorney appointing such person must be registered in the Land Titles office where the Property is registered, and a duplicate registered copy thereof (together with a statutory declaration sworn by the attorney or the Purchaser's solicitor confirming that said power of attorney has not been revoked) shall be delivered to the Vendor along with such documents. Where a third party has been appointed as the attorney for the Purchaser, then any notices required or desired to be delivered to the Purchaser in accordance with the terms and provisions of this Agreement, may be given to the said attorney, in lieu of the Purchaser or the Purchaser's solicitor (and shall be deemed to have been received by the Purchaser when so delivered to their attorney).
- (c) Where the Purchaser herein is a corporation, or where the Purchaser is buying in trust for a corporation to be incorporated, the execution of this Agreement by the principal or principals of such corporation, or by the person named as the Purchaser in trust for a corporation to be incorporated, as the case may be, shall be deemed and construed to constitute the personal guarantee of such person or persons so signing with respect to the obligations of the Purchaser herein. The Vendor's consent allowing a corporate purchaser to purchase a Dwelling shall not derogate from such Purchaser's obligation to reimburse the Vendor for an amount equivalent to the Rebate (as defined herein) in the event that such corporate purchaser does not qualify for the Rebate.

#### EXECUTION BY A SPOUSE

28. If the Purchaser is a married person, their spouse shall co-sign this Agreement to ensure the performance of the covenants hereunder including, *inter alia*, the payment of the Purchase Price, together with any other documents that may be required by the Vendor as ancillary thereto, including without limitation, the execution of a counterpart of this Agreement (adding the said spouse as a party to this Agreement) and the Purchaser agrees to deliver such documentation as and when requested by the Vendor.

#### TENDER AND EXCHANGE OF DOCUMENTS

29. (a) The parties acknowledge that on the Closing Date this transaction shall be completed electronically and accordingly there will be no exchange of documents at the Land Registry Office between the parties or their respective solicitors. Any tender of documents or monies hereunder, including those required to be exchanged on the Closing Date, shall be made respectively upon the Vendor or the Purchaser, or upon their respective solicitors, as hereinafter set out and any money shall be tendered by negotiable cheque certified by a chartered bank or trust company. The Vendor shall be allowed to tender and deliver documentation to the Purchaser by posting the documentation required to be delivered to the Purchaser on the Closing Date on an internet web site on the world wide web, and providing notice to the Purchaser and/or their solicitor of the method of accessing such documents on such internet site and the internet address of such web site, or by electronic mail or telefacsimile and the Vendor shall be entitled to charge the Purchaser the costs of any upload costs for the use of such web site or delivery costs. The Vendor shall not be obliged to provide originals of such documents. In the event the Vendor's documents are posted on such site, said documents may be executed electronically in accordance with the Electronic Commerce Act (Ontario) and the posting of such documentation, electronically signed where required, and the notification to the Purchaser's solicitor or the Purchaser of where on the intra-net and/or world wide web such documents can be accessed, shall be deemed to effective tender of such documents on the Purchaser and/or their solicitor, as hereinbefore set out. Notwithstanding anything set out herein to the contrary, any tender upon the Vendor on the Closing Date must be made at the offices of its solicitor during normal business hours, which shall be deemed to be 9:00 a.m. to 5:00 p.m. on any business day (excluding weekends and statutory holidays).
- (b) The Purchaser shall deliver on the Closing Date such declarations, undertakings, indemnities, forms, documents, certificates and other forms of documents as required by the Vendor in its complete discretion and in its form, including without limitation undertakings to re-adjust, HST Rebate forms assignments or credits of the HST Rebate and indemnities relating thereto, covenants to comply with the terms and conditions of all Permitted Encumbrances, assumption agreements with respect to any Permitted Encumbrances and easement and cost sharing agreements, directions re: title, Utility Agreements (or assumptions thereof), equipment leases including leases with respect to any hot water equipment, covenants, assurances, undertakings, rights of re-entry, etc., as well as all monies and funds as may be required herein (by way of cash or certified cheque, bank draft etc., as provided for in this Agreement). These documents and monies comprising part of all of the "Requisite Deliveries" as defined in the Document Registration Agreement governing closing, shall be delivered to the Vendor or Vendor's solicitor (as determined by the Vendor) by no later than 3:00 p.m. on the Closing Date. In the event that the Purchaser or their solicitor has not delivered the Requisite Deliveries and/or monies as hereinbefore set out at such location and by the later of such time as stipulated in this Agreement, then the Purchaser shall be deemed for all purposes to have irrevocably waived tender by the Vendor, and the Purchaser shall be estopped and forever barred from claiming any defect in the title to the Property, or any deficiency in the construction thereof, or that the Vendor was unable or unwilling to provide occupancy of the Dwelling and/or complete this transaction in accordance with the provisions of this Agreement.

INITIALS \_\_\_\_\_



## ELECTRONIC REGISTRATION

30. (a) The parties hereto agree that if the electronic registration system (the "Teraview Electronic Registration System" or "TERS") is operative in the applicable Land Titles Office, then, at the option of the Vendor's solicitor, the following provisions shall prevail, namely:
- (i) the Purchaser shall be obliged to retain a lawyer, who is both an authorized TERS user and in good standing with the Law Society, to represent the Purchaser in connection with the completion of this transaction and shall provide the Vendor or its solicitors in writing with the name and contact information of the lawyer they have retained no later than thirty (30) days prior to the Closing Date. In the event the Purchaser fails to provide the contact information of their lawyer within the time period set out herein, the Purchaser will be required to pay any of the Vendor's solicitor's legal fees resulting from the delay in the Purchaser providing this information. Purchaser shall authorize such lawyer to enter into an escrow closing agreement with the Vendor's solicitor on the latter's standard form (the "Document Registration Agreement"), establishing the procedures and timing for completing this transaction and to be delivered by the Vendor's solicitor to the Purchaser's lawyers no later than seven (7) days before the Closing Date. This form may provide for the release of purchase funds from the Purchaser without a signature for completeness on the transfer for the Property by the Vendor's solicitor in the event that said solicitor is prevented from signing the transfer for completeness due to the failure by the Purchaser's solicitor to complete all statements as required pursuant to the Land Transfer Tax Act Ch. L. 6, R.S.O., 1990 as amended and/or its regulations.
  - (ii) the delivery and exchange of documents, monies and keys to the Dwelling (and with "exchange" being the delivery of documents, monies and keys by each of the parties hereto as provided for in this Agreement), and the release thereof to the Vendor and the Purchaser, as the case may be:
    - (A) shall not occur at the same time as the registration of the transfer/deed (and other registerable documentation);
    - (B) shall be governed by Document Registration Agreement, pursuant to which the solicitor receiving any documents, keys and/or certified funds will be required to hold same in escrow and will not be entitled to release same except in strict accordance with the provisions of the Documentation Registration Agreement.
- (b) the Purchaser shall be obliged to deliver all documents and funds as may be required to close the transaction to the office of the Vendor's solicitor on or before closing in accordance with the tender provisions of this Agreement.
- (c) the Vendor may deliver all documents required for closing, save and except for the electronic deed, to the Purchaser's solicitor, with the Vendor's documents executed electronically in accordance with the Electronic Commerce Act 2002 Ch. 17, S.O. 2000, as amended.
- (d) if the Purchaser's lawyer is unwilling or unable to complete this transaction via TERS, in accordance with the provision contemplated under the Document Registration Agreement, then said lawyer (or the authorized agent thereof) shall be obliged to personally attend at the office of the Vendor's solicitor, at such time on the scheduled Closing Date as may be directed by the Vendor's solicitor, in order to complete this transaction via TERS utilizing the computer facilities in the Vendor's solicitors office.
- (e) the Purchaser expressly acknowledges and agrees that they will not be entitled to receive a completed electronic transfer/deed to the Dwelling for release and registration until the balance of the funds due on closing (as well as all other documents as may be required by the Vendor), in accordance with the statement of adjustments, are either remitted by certified cheque via personal delivery or by electronic funds transferred to the Vendor's solicitor (or in such other manner as the latter may direct) at its offices, prior to the release of the transfer/deed for registration.
- (f) documents to be registered on title to the Dwelling may be delivered by the Vendor to the Purchaser or its solicitor party hereto by telefax or email (or by a similar system reproducing the original), provided that all documents so transmitted have been duly and properly executed by the appropriate parties/signatories thereto. The Purchaser and/or its solicitor shall be obliged to provide the Vendor with a copy of the registered transfer forthwith after closing.
- (g) Notwithstanding anything contained in this Agreement to the contrary, it is expressly understood and agreed by the parties hereto that an effective tender shall be deemed to have been validly made by the Vendor upon the Purchaser when the Vendor's solicitor has undertaken the following steps: a) delivered all closing documents and/or funds to the Purchaser's solicitor in accordance with the provisions of this Agreement (with delivery of such documents via the electronic mail and/or posting same on a website on the internet); and b) has completed all steps required by TERS in order to complete this transaction that can be performed or undertaken by the Vendor's solicitor without the co-operation or participation of the Purchaser's solicitor without the necessity of personally attending upon the Purchaser or the Purchaser's solicitor with the aforementioned documents and/or funds [and without any requirement to have an independent witness evidencing the foregoing] and the Purchaser specifically acknowledges and agrees that the Vendor's solicitor will be prevented from signing the transfer/deed of land for the Property for "completeness" is the Purchaser's solicitor has failed to complete all of the statements in the Land Transfer Tax affidavit attached to the said transfer/deed that is the specific responsibility of the Purchaser to complete. The Purchaser covenants

INITIALS \_\_\_\_\_

acknowledges and agrees that the Vendor's and its solicitor's documents may be electronically signed in accordance with the Electronic Commerce Act, 2000 Ch. 17, S.O. 2000, as amended, and that such electronic form of execution of the documents shall be satisfactory for the purposes of this Agreement and this tender provision. The Purchaser irrevocably waives any right of tender provided the foregoing has been completed by the Vendor or its solicitor. The parties acknowledge and agree that keys are not included in the deliveries and are to be released at the office or on-site office of the Vendor once the transaction contemplated herein is completed and therefore will not be available with the exchange of documents, deliveries and funds, and are accordingly not required for a tender.

#### RELEASE OF KEYS

31. The Purchaser acknowledges that, on the completion of this transaction, the keys to the Property will be made available for release to the Purchaser at the site or other office of the Vendor, as the Vendor in its absolute discretion determines, and that this constitutes a valid tender of keys on the Purchaser.

#### FORCE MAJEURE

32. Whenever (and to the extent that) the Vendor or Subdivider are prevented, hindered or delayed in the fulfilment of any obligation hereunder, or in the doing of any work by reason of an "act of force majeure" or incident causing "Unavoidable Delay", then, save and except to the extent as provided for or restricted in the Addendum to the contrary, such party's liability to perform such obligation shall be postponed, and such party shall be relieved from any liability in damages or otherwise for breach thereof, for so long as (and to the extent that) such prevention, hindering or delay continues to exist and, if required with a reasonable amount of time to recover from the incident of force majeure. This right is intended to provide for those instances or situations not provided for in the Addendum, if any. An incident of "force majeure" shall have the same meaning as an incident comprising "Unavoidable Delay" as defined in the Addendum.

#### BINDING OFFER AND ENTIRE AGREEMENT

33. The parties re-affirm that this Agreement when accepted shall constitute a binding Purchase Agreement between the Purchaser and the Vendor. In the event more than one party comprises the Purchaser herein, the obligations of such parties under this Agreement shall be joint and several. It is agreed and understood that there is no representation, warranty, collateral term or condition affecting this Agreement or the Property, or for which the Vendor (or any sales representative representing the Vendor) can be held responsible or liable in any way, whether contained, portrayed, illustrated or represented by, or in, any plan, drawing, brochure, display, model or any other sales/marketing material(s), or alleged against any sales representative representing the Vendor, other than as expressed herein in writing. Without limiting the generality of the foregoing, it is understood and agreed by the parties hereto that the Purchaser shall not make or pursue any claim or proceeding against the Vendor, nor hold the Vendor responsible or liable, whether based or founded in contract law or in tort law, for innocent misrepresentation, negligent misrepresentation or otherwise, in respect of, or arising from, any statement, representation, warranty, collateral term or condition alleged to have been made by any sales representative or by any other person alleged to represent the Vendor on behalf of or purporting to be binding upon the Vendor, save and except for those representations of the Vendor herein set forth in writing. **The Purchaser further confirms that in entering into this Agreement, they have not relied on any representation, warranty, collateral agreement or condition affecting this Agreement or the Property, or supported thereby, other than those specifically set out in this Agreement or in any of the schedules hereto, and specifically absolves the Vendor and/or any other party that may seek indemnification or contribution from the Vendor, of any obligation or liability to perform or comply with any promise or comply with any promise or representation that may have been made by any sales representative/agent or alleged against them, unless the same has been reduced to writing and is contained in this Agreement or in the schedules hereto.**

#### NON-REGISTRATION, ASSIGNMENT AND POSTPONEMENT AND SUBORDINATION

34. (a) The Purchaser hereby acknowledges the full priority of any mortgages and ancillary security registered on title to the Property and/or Lands from time to time, including inter alia, any land, bonding, development, equity and/or construction financing mortgages secured by the Property and/or Lands over their interest as Purchaser for the full amount of the said mortgages or financing, notwithstanding any law or statute to the contrary and agrees to execute all acknowledgements or postponements required to give full effect thereto. Without limiting the generality of the foregoing, the Purchaser agrees that this Agreement shall be subordinated to and postponed to all such mortgages as and ancillary security (whether presently registered or to be registered on title to the Property) and any advances made thereunder from time to time, and to any Permitted Encumbrances, easements, Development Agreements or any other agreements referred to herein to which title may be subject. The Purchaser agrees to execute all necessary documents and assurances to give effect to the foregoing as required by the Vendor. Any breach by the Purchaser of this section shall be considered a material breach.
- (b) In no event shall the Purchaser be deemed or construed to have any legal, equitable or proprietary interest whatsoever in the Property or Subdivision (or a portion thereof) prior to the completion of this transaction and the payment of the entire Purchase Price to the Vendor or the Vendor's solicitors as hereinbefore provided. The Purchaser's only interest shall be this Agreement and accordingly the Purchase agrees that they shall not have any claim for specific performance or damages. The Purchaser further covenants and agrees that they will in no way, directly or indirectly, assign, convey, list for sale, sell or transfer their rights under this Agreement prior to the Closing Date to any other person without the consent of the Vendor in writing, which consent may be withheld in the Vendor's

INITIALS \_\_\_\_\_

sole discretion. The Purchaser acknowledges and agrees that once a breach of the preceding covenant occurs, such breach is or shall be incapable of rectification, and accordingly the Purchaser acknowledges, and agrees that in the event of such breach, the Vendor shall have the unilateral right and option of terminating this Agreement, effective upon delivery of notice of termination to the Purchaser or the Purchaser's solicitor, whereupon the provisions of this Agreement dealing with the consequence of termination by reason of the Purchaser's default, shall apply. **In the event the Vendor consents to an assignment or transfer of the Purchaser's interest under this Agreement, the Purchaser shall pay the Vendor any assignment fee as determined by the Vendor in its discretion, plus applicable HST, and shall enter into the Vendor's form of agreement in this regard which can include a conditional termination of this Agreement and a new purchase agreement with the proposed assignee.** Further, the Purchaser will at no time register or attempt to register this Agreement on title to the Property by way of caution, deposit, assignment or in any way whatsoever, or register a certificate of pending litigation and it is expressly agreed by all parties hereto that any such registration or attempt by the Purchaser or anyone acting for or through them shall, at the option of the Vendor, entitle the Vendor to terminate this Agreement and make it absolutely null and void and any monies paid under this Agreement shall immediately become due to the Vendor. In the event that this Agreement, a caution, certificate of pending litigation or any other instrument whatsoever is registered against or dealing with the title in contravention of this provision, then the Purchaser hereby irrevocably appoints the Vendor their true and lawful attorney pursuant to The Powers of Attorney Act R.S.O. 1990, as amended and/or The Substitute Division Act 1992, as amended for the purposes of removing the contract, caution, certificate of pending litigation or any other instrument from title, including the giving of any discharge, the lifting of any caution, the granting of any order or the assignment of any rights pursuant to this Agreement and this power of attorney shall be deemed to be coupled with an interest in this Agreement. The Purchaser shall bear all costs incurred by the Vendor in the exercise of its function pursuant to this power of attorney. Further, the Purchaser hereby covenants and agrees that at any time prior to Closing any default by them in the performance of any of their covenants or obligations contained herein shall entitle the Vendor, at its sole option, to terminate this Agreement and, upon such termination, all monies paid to the Vendor hereunder shall be forfeited to the Vendor and this Agreement shall be at an end and the Purchaser shall not have any further rights hereunder.

- (c) The Purchaser further covenants and agrees that until the Vendor receives the entire Purchase Price, that:
- (i) they will not sell, mortgage, pledge, lien or in any way encumber the Property either directly or indirectly;
  - (ii) if an execution is filed against them and/or the Property, they shall forthwith have the execution removed;
  - (iii) if an execution is registered against person(s) with a similar name(s), they shall execute all documents required by the Vendor in its discretion, to evidence that they are not the same person(s) named in such execution(s), sufficient to enable the Vendor to obtain a clear execution certificate from the local Land Titles Office.

#### TERMINATION WITHOUT DEFAULT

35. In the event this Agreement is terminated through no fault of the Purchaser, all deposit monies paid by the Purchaser towards the Purchase Price, together with any interest required by law to be paid, shall be returned to the Purchaser; provided however, that the Vendor shall not be obligated to return any monies paid by the Purchaser for optional upgrades, changes or extras ordered by the Purchaser, save and except as provided for in the ONHWPA, its regulations or the Addendum to the contrary. In addition, the Purchaser acknowledges that the Vendor shall not be liable for any damages, losses, liabilities or costs whatsoever incurred by the Purchaser resulting from the termination of this Agreement including, without limiting the generality of the foregoing, relocation costs, professional fees and disbursements, opportunity costs, loss of bargain, loss of future profit, or any other damages or costs incurred by the Purchaser, directly or indirectly. The Purchaser acknowledges and agrees that this provision may be pleaded by the Vendor as a complete defence to any claim which may be made by the Purchaser against the Vendor. It is understood and agreed by the parties that if construction of the Unit is not completed in accordance with the provisions of this Agreement on or before the Closing Date, or any extension thereof, the Vendor's responsibility shall only be limited to those delayed compensation costs, damages and expenses (if any) that the Purchaser may claim pursuant to the ONHWPA and/or the Addendum.

#### PURCHASER DEFAULT

36. In the event that the Purchaser is in default with respect to any of their obligations contained in this Agreement, and/or any other agreement of purchase and sale entered into with the Vendor with respect to any other dwelling in the Subdivision or any other property being developed by the Declarant (with this Agreement and/or any other aforesaid agreement(s) being hereinafter collectively referred to as the "Dwelling Agreements") before Closing, and fails to remedy such default immediately after such event of default if such default is a monetary default or described herein as a substantial default, or within five (5) days of the Purchaser being so notified in writing with respect to any other non-monetary default, then the Vendor, in addition to (and without prejudice to) any other rights or remedies available to the Vendor (at law or in equity) may, at its sole option, unilaterally suspend all of the Purchaser's rights, benefits and privileges contained in the Dwelling Agreements (including without limitation, the right to make colour and finish selections with respect to the Dwelling as hereinbefore provided or contemplated), and/or unilaterally declare the Dwelling Agreements to be terminated and of no further force or effect, whereupon all deposit monies theretofore paid, together with all monies paid for any extras or changes to the Dwelling, may be retained by the Vendor as its liquidated damages, and not as a penalty, in addition to (and without prejudice to) any other rights or remedies available to the Vendor at contract, law or in equity. The registration or any lien, execution or encumbrance on title to the Property as a result of the action or default of the Purchaser shall itself be an act of default. The failure of the

INITIALS \_\_\_\_\_

Purchaser to make all arrangements that the Purchaser must make with respect to the Dwelling Services on or before the Closing Date (including the completion and delivery of all documents, identification, applications, payment forms etc., to a Service Provider) that result in the Residential Dwelling not being capable of occupancy in accordance with the Addendum, shall be considered a substantial default under this Agreement. In the event of the termination of this Agreement by reason of the Purchaser's default as aforesaid, then the Purchaser shall be obliged to forthwith vacate the Dwelling (or cause same to be forthwith vacated) if same has been occupied (and shall leave the Dwelling in a clean condition, without any physical or cosmetic damages thereto, and clear of all garbage, debris and any furnishings and/or belongings of the Purchaser), and shall execute such releases and any other documents or assurances as the Vendor may require, in order to confirm that the Purchaser does not have (and the Purchaser hereby covenants and agrees that they do not have) any legal, equitable or proprietary interest whatsoever in the Dwellings and/or the Property (or any portion thereof), and in the event the Purchaser fails or refuses to execute same, the Purchaser hereby appoints the Vendor to be their lawful attorney in order to execute such releases, documents and assurances in the Purchaser's name, place and stead, and in accordance with the provisions of the Powers of Attorney Act R.S.O. 1990, as amended, the Purchaser hereby declares that this power of attorney may be exercised by the Vendor during any subsequent legal incapacity on the part of the Purchaser. In the event the Vendor's Solicitors or an Escrow Agent is/are holding any of the deposits in trust pursuant to this Agreement, then in the event of default as aforesaid, the Purchaser hereby releases the said deposit holders from any obligation to hold the deposit monies, in trust, and shall not make any claim whatsoever against the said solicitors and the Purchaser hereby irrevocably directs and authorizes the said solicitors to deliver the said deposit monies and accrued interest, if any, to the Vendor. In addition to and without prejudice to the Vendor's rights set out above, the Purchaser acknowledges and agrees that if any amount, payment and/or adjustment which are due and payable by the Purchaser to the Vendor pursuant to this Agreement are not made and/or paid on the date due, then the Vendor shall be entitled, but not obligated, to accept same provided that such amount, payment and/or adjustment shall, until paid, bear interest at the rate equal to twelve percent (12%) per annum. The Vendor shall on or after Closing, have a Vendor's Lien on the Dwellings with respect to any unpaid portion of the Purchase Price or any amount payable by the Purchaser to the Vendor hereunder. The Purchaser covenants, acknowledges and agrees that in the event that the Purchaser does not re-attend at the office or the sales office of the Vendor within five (5) days of notice being delivered to the Purchaser that this Purchase Agreement executed by the Vendor is available for pick-up by the Purchaser, then this Agreement, at the option of the Vendor, shall become void and of no further force and effect and the Vendor shall deliver to the Purchaser all deposit monies theretofore paid, with interest as may be required by the Act, but without deduction, and the Vendor shall have no further liability or obligation hereunder and shall not be liable for any costs or damages thereby, and the Purchaser waives any claim against the Vendor in this regard. This waiver shall not merge but shall survive the termination of this Agreement by the Vendor as set out herein and may be pleaded as estopped to any claim of the Purchaser. Any attempted revocation of a power of attorney granted to the Vendor under this Agreement shall be a substantial default on the part of the Purchaser.

#### **PURCHASER DEFAULT – FAILURE TO CLOSE**

37. In the event that the Purchaser defaults under this Agreement by failing to complete the transaction contemplated in this Agreement on the Closing Date, including failing to provide all closing documents or funds, then the Purchaser shall have no right to rectification, nor shall it, at any time, have the right to re-establish time being of the essence or establish a new closing date. The Vendor shall be entitled to provide notice of such default to the Purchaser at any time after such Closing Date and any such notice shall not be deemed to comprise a waiver of time of the essence by the Vendor under this Agreement and the Vendor shall nonetheless be entitled to all remedies available to it at contract, law and equity to the same extent as if it had delivered notice of such default on the date that such default occurred. In addition to (and without prejudice to) any other rights or remedies available to the Vendor (at law or in equity) on the Purchaser's failure to close, the Vendor may, at its sole option, unilaterally declare the Dwelling Agreements to be terminated and of no further force or effect, whereupon all deposit monies theretofore paid, together with all monies paid for any Extras or changes to the Dwelling, may be retained by the Vendor as its liquidated damages, and not as a penalty, in addition to (and without prejudice to) any other rights or remedies available to the Vendor at contract, law or in equity. In the event of the termination of this Agreement by reason of the Purchaser's default as aforesaid, then the Purchaser shall be obliged to forthwith vacate the Dwelling (or cause same to be forthwith vacated) if same has been occupied (and shall leave the Dwelling in a clean condition, without any physical or cosmetic damages thereto, and clear of all garbage, debris and any furnishings and/or belongings of the Purchaser), and shall execute such releases and any other documents or assurances as the Vendor may require, in order to confirm that the Purchaser does not have (and the Purchaser hereby covenants and agrees that they do not have) any legal, equitable or proprietary interest whatsoever in the Dwellings and/or the Property (or any portion thereof), and in the event the Purchaser fails or refuses to execute same, the Purchaser hereby appoints the Vendor to be their lawful attorney in order to execute such releases, documents and assurances in the Purchaser's name, place and stead, and in accordance with the provisions of the Powers of Attorney Act R.S.O. 1990, as amended, the Purchaser hereby declares that this power of attorney may be exercised by the Vendor during any subsequent legal incapacity on the part of the Purchaser. In the event the Vendor's Solicitors or an Escrow Agent is/are holding any of the deposits in trust pursuant to this Agreement, then in the event of default as aforesaid, the Purchaser hereby releases the said solicitors from any obligation to hold the deposit monies, in trust, and shall not make any claim whatsoever against the said solicitors and the Purchaser hereby irrevocably directs and authorizes the said solicitors to deliver the said deposit monies and accrued interest, if any, to the Vendor. In addition to and without prejudice to the Vendor's rights set out above, the Purchaser acknowledges and agrees that if any amount, payment and/or adjustment which are due and payable by the Purchaser to the Vendor pursuant to this Agreement are not made and/or paid on the date due, then the Vendor shall be entitled, but not obligated, to accept same provided that such amount, payment and/or adjustment shall, until paid, bear interest at the rate equal to twelve percent (12%) per annum. The Vendor shall on or after the Closing Date, have a Vendor's Lien on the Dwellings with respect to any unpaid portion of the Purchase Price or any amount payable by the Purchaser to the Vendor hereunder.

INITIALS \_\_\_\_\_

## CAUSE OF ACTION

38. The Purchaser acknowledges and agrees that notwithstanding any rights which they might otherwise have at law or in equity arising out of this Agreement, they shall not assert any of such rights, nor have any claim or cause of action (as a result of any matter or thing arising under or in connection with this Agreement) against any person, firm, corporation or other legal entity, other than the person, firm, corporation or legal entity specifically named or defined as the Vendor herein, even though the Vendor may be found to be a nominee or agent of another person, firm, corporation or other legal entity, and this acknowledgment and agreement may be pleaded as an estoppel and bar against the Purchaser in any action or proceeding brought by the Purchaser to assert any of such rights, claims or causes of action. In the event the Vendor's solicitor is holding any of the Deposits and/or Extras in trust pursuant to this Agreement, then in the event of a default by the Purchaser, the Vendor's solicitor shall be entitled to pay and release the said Deposits and/or Extras together with any interest accrued thereon to the Vendor, provided the Vendor has delivered to its solicitors a statement of an officer of the Vendor, certifying that the Purchaser has committed a default pursuant to this Agreement that has not been remedied and that the Vendor has terminated this Agreement and that the Vendor is therefore entitled to the deposit and accrued interest, if any. Thereupon the Purchaser hereby releases the said solicitors from any obligation to hold the Deposits and/or Extras, if any, in trust, and shall not make any claim whatsoever against the said solicitors and the Purchaser hereby irrevocably authorizes and directs the said solicitors to deliver the said deposit monies and accrued interest, if any, to the Vendor.

## LIMITATION

39. No waiver or forbearance by the Vendor of any breach of covenant or default in the performance of any obligation hereunder or any failure by the Vendor to enforce its rights herein shall constitute any further waiver of the Vendor's rights herein, it being the express intent of the parties that any waiver or forbearance in enforcing its rights by the Vendor shall apply solely to that particular breach or failure. The rights, remedies and recourses of the Purchaser in connection with this Agreement are limited to the Vendor, notwithstanding that the Vendor may be, or be deemed to be by law, acting as an agent or otherwise on behalf of some other person, firm, corporation or other entity and the Purchaser hereby agrees that with respect to this Agreement it shall not have any rights, remedies or recourse against such other person, firm, corporation, or other entity at law or otherwise. The Vendor shall have the right to assign or transfer this Agreement in its sole discretion. The Purchaser shall be obliged to take title from any third party or the Subdivider holding title to the Property.

## PLANNING ACT

40. This Agreement shall be conditional upon and be effective to create an interest in the Lot and/or Property and/or lands the subject of this agreement only if there is, compliance with the subdivision control provisions as set out in the Planning Act, R.S.O. 1990 and any amendments thereto, including without limitation, Section 50(21) thereof on or before the Closing Date.

## CONSTRUCTION LIENS

41. The Purchaser acknowledges and agrees that the monies paid to the Vendor as Deposits or Extras, shall not be recognized and treated for the purposes of The Construction Act R.S.O. 1990, as amended, as monies held in trust pursuant to the provisions of the Act. The Purchaser shall be deemed and construed to be a "home buyer" within the meaning of The Construction Act R.S.O. 1990, as amended (and shall not constitute an "owner" as defined in Section 1(1) thereof), and as such, the Purchaser shall not be entitled to demand that any holdback of the Purchase Price be maintained for construction liens on the Closing Date.

## TIME OF THE ESSENCE

42. Time shall be of the essence of this Agreement in all respects, and any waiver, extension, abridgement or other modification of any time provisions shall not be effective unless made in writing and signed by the parties hereto or by their respective solicitors who are hereby expressly authorized in that regard. The parties agree that in the event of a default, the provision of a notice containing a cure period shall not be deemed to be waiver of any time provision.

## NON-MERGER, VENDOR'S LIEN

43. The Purchaser's covenants and agreements hereinbefore and hereinafter contained shall not merge on the closing of this transaction but shall remain in full force and effect according to their terms and shall be binding upon the Purchaser and its heirs, executors, administrators, successors and assigns, notwithstanding the conveyance of title to the Property to the Purchaser and the payment of the Purchase Price and other monies therefor. The Purchaser agrees to give to the Vendor any further written assurances as to the non-merger of its covenants, on, before and after closing, if so requested by the Vendor. The Purchaser acknowledges and agrees that the Vendor may reserve a Vendor's lien, in accordance with the Vendor's usual form, to secure any unpaid portion of the Purchase Price and/or any other monies owing to the Vendor by the Purchaser in connection with this transaction (including all Rebate, HST and/or remedial rectification costs incurred by the Vendor) and may register a caution or a notice of such Vendor's lien against the Property. The Vendor will however, upon request, deliver to the Purchaser (for registration at the Purchaser's expense) a release of the Vendor's lien or a withdrawal of caution but only after all monies owing to the Vendor by the Purchaser have been duly paid to the Vendor by the Purchaser, including without limitation, the repayment of any adjustments resulting from this transaction.

## CONSUMER REPORTS

INITIALS \_\_\_\_\_

44. The Purchaser is hereby notified that a consumer report containing credit and/or personal information may be referred to at any time in connection with this transaction and the Purchaser hereby consents to such report being obtained by the Vendor. The Purchaser covenants and agrees that this Agreement is subordinate to and postponed to any mortgages arranged by the Vendor and any advances thereunder from time to time, and to any easement, license or other agreement as well as all Permitted Encumbrances. The Purchaser further agrees to provide, consent to and execute all documentation as may be required by the Vendor in this regard and the Purchaser hereby irrevocably appoints the Vendor as the Purchaser's attorney to execute any consent or other documents required by the Vendor to give effect to this paragraph, which power of attorney shall remain in full force and effect and be exercisable notwithstanding and subsequent incapacity of the Purchaser.

#### MISCELLANEOUS

45. The meanings of the words and phrases used in this Agreement and in any schedules annexed hereto shall have the meanings ascribed to them herein, unless this Agreement or the context otherwise requires a different meaning for same. This Agreement shall be read with all changes in gender and number required by the context. Any headings used throughout this Agreement are for ease of reference only and shall not be deemed or construed to form a part of this Agreement. Any reference to any act or regulation shall mean as such act or legislation is amended from time to time or any successor legislation thereto.
46. This Agreement shall enure to the benefit of, and be binding upon, the parties hereto, and their respective heirs, executors, administrators, successors and permitted assigns.
47. Each and every power of attorney as granted in this agreement to the Vendor shall be deemed to be irrevocable and shall be coupled with an interest in this agreement.

#### PRIVACY MATTERS

48. The Purchaser hereby acknowledges that this transaction requires the supply of personal information, and therefore, in order to comply with any and all applicable federal and/or provincial privacy legislation (including without limitation, The Personal Information Protection and Electronic Documents Act S.C. 2000, as amended), the Purchaser hereby consents to the Vendor's collection, dissemination, and use of the Purchaser's personal information, including without limitation, the Purchaser's name, home and business address, personal and business e-mail address, telefax/telephone number, age, date of birth and marital status, residency status, social insurance number (for the purposes described below), the Purchaser's financial information, suite design(s) and colour/finish selections, in connection with the completion of this transaction and for post-closing and after-sales customer care purposes and future marketing purposes, and to the disclosure and/or distribution of any or all of such personal information to the following entities, on the express understanding and agreement that the Vendor shall not sell or otherwise provide such personal information to anyone other than:
- (a) any companies or legal entities that are associated with, related to or affiliated with the Vendor (or with the Vendor's parent/holding company) and are developing one or more other projects or properties that may be of interest to the Purchaser or members of the Purchaser's family, for the limited purposes of marketing, advertising and/or selling various products and/or services to the Purchaser and/or members of the Purchaser's family;
  - (b) one or more third party sales, marketing, advertising and/or data processing companies which handle or process sales and/or marketing campaigns on behalf of the Vendor or other companies that are associated with, related to or affiliated with the Vendor, and who may send (by e-mail or other means) promotional literature/brochures about new projects and/or related services to the Purchaser and/or members of the Purchaser's family;
  - (c) any financial institution(s) providing (or wishing to provide) mortgage financing, banking and/or other financial or related services to the Purchaser and/or members of the Purchaser's family, including without limitation, the Vendor's construction lender(s), the project monitor, the Vendor's designated take-out lender(s), Tarion and/or any warranty bond provider and/or excess deposit insurer, required in connection with the development and/or construction financing and/or the financing of the Purchaser's acquisition of the Property from the Vendor;
  - (d) any insurance companies providing (or wishing to provide) insurance coverage with respect to the Property (or any portion thereof), including without limitation, any title insurance companies providing (or wishing to provide) title insurance to the Purchaser or the Purchaser's mortgage lender(s) in connection with the completion of this transaction;
  - (e) any contractors, subcontractors, trades, subtrades, suppliers and/or sub-suppliers, who have been retained by or on behalf of the Vendor (or who are otherwise dealing with the Vendor), to facilitate the completion and finishing of the home constructed upon the Property and the installation of any extras or upgrades ordered or requested by the Purchaser;
  - (f) one or more providers of cable television, telephone, telecommunication, hydro-electricity, chilled water/hot water, gas and/or other similar or related services to the Property (or any portion thereof) and/or any other companies involved with the provision of metering or sub metering services for utilities supplied to the Property and/or any equipment supplier supplying equipment to the home constructed upon the Property and/or any third party companies, including finance companies, affiliated with the service provider companies;

INITIALS \_\_\_\_\_

- (g) any relevant governmental authorities or agencies, including without limitation, the Land Titles Office, the Ministry of Finance for the Province of Ontario (i.e. with respect to Land Transfer Tax), and Canada Revenue Agency (i.e. with respect to the HST);
- (h) Canada Revenue Agency, with respect to any information required to be provided to them in connection with the residency or non-residency status of the Purchaser and/or as may be required in respect of any goods or services taxes issue; and/or
- (i) the Vendor's Solicitors, for the purposes of completing this transaction and reporting same to the Vendor and/or any requisite Governmental Authority (including the Municipality for the purposes of amending property tax records);
- (j) any real estate agent or real estate broker involved in the Purchaser's purchase of the Property;
- (k) any end-to-end identity verification and authentication service provider and any corporations or entities providing virtual sales facilities and/or remote document execution services; and
- (l) any person, where the Purchaser further consents to such disclosure(s) required by law.

## FINANCIAL TERMS

49. Provided that same does not contravene or is provided for in the Addendum, the Purchaser agrees to deliver to the Vendor or the Vendor's designated lender, within five (5) days of the acceptance of this Agreement by the Vendor, all necessary Financial Information and personal information required by the Vendor in order to evidence the Purchaser's ability to pay the balance of the Purchase Price on the closing of the sale transaction, including without limitation, written confirmation of the Purchaser's income and evidence of the source of the payments required to be made by the Purchaser in accordance with this Agreement. The Purchaser further agrees to execute all mortgage application forms required by the Vendor, together with all documents required to comply with the provisions of The Family Law Act R.S.O. 1990, as amended, and to provide such further evidence for their financial ability and/or net worth within five (5) days of written request for same from time to time. The Purchaser agrees to complete and execute the mortgage application form to be provided by the Vendor truthfully and to the best of their ability, and the Purchaser acknowledges that the information, evidence and documents required to be provided by them pursuant to this subparagraph may be required to be furnished to the Vendor from time to time prior to Closing forthwith upon request. The Purchaser hereby specifically authorizes and directs any mortgagee or financial institution giving the Purchaser purchase financing for the Property, to provide to the Vendor a copy of all mortgage commitments in respect of same and all revisions thereto, together with all other associated documentation. In the event that the Purchaser fails to submit the information, evidence and/or documents for approval within the time periods as hereinbefore set forth, or if the information, evidence and/or documentation submitted pursuant to the provisions of this Agreement or any amendment thereto is, in whole or in part, false or misleading, or if the Purchaser fails to disclose any relevant facts pertaining to their financial circumstances or abilities, then the Purchaser shall be deemed to be in default under this Agreement, and the default provisions of this Agreement shall apply. The Purchaser agrees to complete and execute the mortgage application forms to be provided by the Vendor truthfully and to the best of their ability. The Purchaser hereby specifically authorizes and directs any mortgagee or financial institution giving the Purchaser purchase financing for the Dwellings, to provide to the Vendor a copy of all mortgage commitments and ancillary Financial Information in respect of same and all revisions thereto, together with all other associated documentation. In the event that the Purchaser fails to submit the Financial Information, evidence and/or documents for approval within the time periods as hereinbefore set forth, or if the Financial Information, evidence and/or documentation submitted pursuant to the provisions of this Agreement or any amendment thereto is, in whole or in part, false or misleading, or if the Purchaser fails or refuses to disclose any relevant facts pertaining to their financial circumstances or abilities, then the Purchaser shall be deemed to be in default under this Agreement, and the default provisions of this Agreement shall apply. The Purchaser acknowledges and agrees that they are aware that financial institutions providing development and construction financing to the Vendor may require updating of the Financial Information from time to time as a condition of such financing and therefore agrees that the failure to provide the Financial Information as and when required by the Vendor shall be considered a fundamental breach of the Purchaser's obligations pursuant to this agreement.

## DEVELOPMENT MATTERS AND REZONING OF ADJACENT LANDS

50. The Purchaser acknowledges that the Vendor or the Vendors' assigns or related or affiliated corporation(s), or the Subdivider, may apply to rezone or subdivide or amend the Official Plan and/or obtain site plan approval with respect to lands within, or adjacent to or in the neighboring vicinity of the Property and/or any lands within the Municipality, County or Region in which the Property is situate, and the Purchaser hereby covenants and agrees that it shall not oppose any such rezoning or subdivision application(s), site plan approval applications, or any other applications ancillary thereto, including without limitation, any application(s) made for a minor variance before the relevant Committee of Adjustment or Land Division Committee or any other governmental body or authority having jurisdiction so as to enable the Vendor or its nominee to sever lands, grant easements, change the set-back requirements of such lands, the present use of such lands or any part thereof, or to vary the density coverage, dwelling count, size of lots or yield thereof, or for any other lawful purpose, and the Purchaser further acknowledges and agrees that this covenant may be pleaded as an estoppel or bar to any opposition or objection raised by the Purchaser thereto. The Purchaser further covenants and agrees to extract a covenant similar to the foregoing from its immediate successors in title to the Property, and shall specifically include such a restrictive covenant in any subsequent conveyance, transfer or other disposition of the Property, and shall assign the benefit of such covenant to the Vendor or the Vendor's nominee forthwith upon the Vendor's request.

INITIALS \_\_\_\_\_



51. The Purchaser covenants and agrees not to object to any construction by the Vendor or the registered owner of adjoining or neighbouring lands or claim that such construction and/or the resultant noise, dust or vibration is an inconvenience or nuisance. The Purchaser acknowledges and agrees that this covenant does not merge on closing and may be pleaded by the Vendor as complete defence to any opposition or objection raised by the Purchaser in this regard.

#### NOTICES AND IRREVOCABLE DATES

52. (a) Any notice or document required or desired to be given to the Purchaser in accordance with the terms of the Addendum shall be delivered in accordance with the terms of such Addendum. For all other notices ("Non-Addendum Notices"), if any, notice shall be deemed to have been sufficiently given if same is in writing (electronically or on paper), and either personally delivered to the Purchaser or to their solicitor (at the address of the Purchaser or the Purchaser's solicitor as in this Agreement, or as subsequently confirmed by the Purchaser or the Purchaser's solicitor after the acceptance of this offer), or mailed by prepaid ordinary post or by registered mail, or sent by facsimile transmission, addressed to the Purchaser or to their solicitor (as the case may be) and/or delivered by electronic mail, and any such document or notice shall be deemed to have been given on the date of personal delivery, or on the date of telefacsimile transmission or electronic mailing (provided a confirmation of transmission receipt is produced at the time of telefacsimile transmission and/or a delivery receipt in respect of the electronic mailing is produced confirming the date and time of such electronic mailing), or on the date of registered mailing, or on the second (2nd) day (excluding Sundays and statutory holidays) after the date of ordinary mailing, as the case may be. In addition, any closing document required or desired to be given to the Purchaser by the Vendor on the Closing Date shall be deemed to have been sufficiently given if same is posted on a web site and the Purchaser has been notified of such posting by notice confirming same delivered by personal delivery, telefax, electronic mail, registered and/or ordinary mail in accordance with the terms set out above. Any Non-Addendum Notices sent to the Purchaser and/or their solicitor at the address, telefacsimile number and/or e-mail address provided by the Purchaser and/or their solicitor shall be deemed to have been delivered to all of the Purchasers even if they do not reside at such municipal address or share or have access to such e-mail address, and the Purchaser specifically appoints that Purchaser residing at such address or controlling such e-mail address as their agent for receiving notices under this Agreement.
- (b) Any Non-Addendum Notices or document desired or required to be given to the Vendor shall be deemed to have been sufficiently given if same is in writing and personally delivered or telefaxed to an officer of the Vendor at the address noted below (or at such other address as the Vendor may designate from time to time, upon notice being given to the Purchaser or the Purchaser's solicitor as hereinbefore provided), with a copy of same to be personally delivered or telefaxed to the Vendor's solicitor, and any such document or notice shall be deemed to have been given on the date of such personal delivery, or on the next day (excluding Saturdays, Sundays and statutory holidays) following the date of facsimile transmission (provided a confirmation of transmission receipt is produced at the time of facsimile transmission). Notwithstanding the foregoing, this provision shall not apply to the exchange of electronic documents created in TERS between the respective solicitors for the Vendor and Purchaser, and such exchange of electronic documents shall take place utilizing TERS and the electronic transmission format required herein, and documents messaged or access permitted through the TERS system shall be deemed to have been delivered on the date and time same were messaged and/or released as such date is shown on the TERS system. Any documents messaged after 5:00 p.m. (Toronto time) shall be deemed to be delivered and received on the next day that TERS system is available for the registration.
- (c) This offer by the Purchaser, constituted by their execution of this Agreement, shall be irrevocable by the Purchaser until the 5th day (excluding Saturday, Sunday or any statutory holiday) following the date of their execution of this Agreement as set forth below, after which time, this offer may be withdrawn, and if so, same shall be null and void and the Deposit shall be returned to the Purchaser without interest or deduction.
- (d) If the Purchaser moves from the address set out on the Addendum and/or changes any of the relevant contact information provided on the Addendum and fails to notify the Vendor of the change or new contact information, then delivery of such notices shall be deemed to be effective if made to the address, fax number or email address as set out on the Addendum even if the Purchaser does not receive notice of same.

#### EXECUTION IN COUNTER-PART AND BY ELECTRONIC MAIL TELEFACSIMILE

53. The Vendor and the Purchaser covenant and agree, upon the request of the other, to provide an originally executed copy of this Agreement to the requesting party. Pursuant to subsection 3(1) and any other relevant provisions of the Electronic Commerce Act, 2000 (Ontario), as amended (or any successor or similar legislation): (i) the Purchaser acknowledges and agrees to use and accept any information and/or document to be provided by the Vendor and/or the Vendor's Solicitors in respect of this transaction in an electronic form if, when and in the form provided by the Vendor and/or the Vendor's Solicitors, including documents delivered pursuant to a web site on the world wide web; and (ii) the Purchaser acknowledges and agrees to provide to the Vendor and/or the Vendor's Solicitors any information and/or document required in respect of this transaction in an electronic form as, when and in the form required by the Vendor and/or the Vendor's Solicitors, in the Vendor's sole and unfettered discretion. This Agreement, at the discretion of the Vendor, may be executed by the parties electronically by DocuSign or any other platform or method approved by the Vendor (provided that the Vendor, in its discretion, is satisfied with the purchaser verification protocols in connection with verifying the party utilizing the electronic form of signature) and exchanged in an electronic format pursuant to electronic mail, electronic data room or other form of electronic communication as may be determined by the Vendor. The Purchaser(s) hereby covenant(s) and agree(s) to provide identification, including secondary forms of identification such as a passport and/or copies of utility or property tax bills bearing the Purchaser(s) name and address, for example, and participate in live video web conference calls with the Vendor's sales staff and/or the co-operating broker, if applicable, over web conferencing platforms such as Zoom or any other platform approved by the Vendor, at the Vendor's request. The Purchaser(s) may also be required to provide email verification confirming their identity. All copies of this Agreement executed and/or exchanged electronically may be relied upon to the same extent as if it were an original.
- August 20, 2021

INITIALS \_\_\_\_\_



**SCHEDULE "D" TO THE PURCHASE AGREEMENT**

**WARNING AND ADVISORY CLAUSES, ETC.**

Purchasers are advised that some or all of the following apply with respect to any proposed lots being purchased. The Purchaser nevertheless agrees to complete this transaction in accordance with the terms hereof, notwithstanding the existence of such potential concerns, and the Purchaser further acknowledges and agrees that warning clauses similar to the following clauses (subject to amendment or enlargement by any wording or text recommended by the Vendor's consultants or by any of the Governmental Authorities) may be registered on title to the Lands on the Closing Date, if, in fact, same is required by any of the Governmental Authorities and/or may be incorporated into this agreement and the Purchaser shall execute an acknowledgment incorporating such warning(s) into this agreement upon request. Without limiting the generality of the foregoing, the Purchaser specifically acknowledges being advised of the following warning clauses, namely:

All Lots/Townhouses:

- (a) Purchaser(s) and/or Tenant(s) are hereby advised that where sidewalks are located adjacent to the curbs or where the right-of-way width is less than 18.5 metres, sidewalk snow clearing and driveway windrow clearing will not be carried out by the City of Toronto.
- (b) Purchaser(s) and/or Tenants are hereby advised that there is a City of Toronto By-law that prohibits the use of the public boulevard to satisfy parking space requirements. Casual parking (not required parking) is permitted within the confines of that portion of the boulevard within a private driveway, provided that no motor vehicle may be parking in the driveway less than 0.3 metres from the back edge of the sidewalk, or where no sidewalk exists, not less than 2.0 metres from the face of the curb or edge of the roadway. Additional vehicle parking that might otherwise be available on public streets will be subject to approval and regulations pursuant to the applicable by-laws of the City of Toronto.
- (c) Purchaser(s) and/or Tenant(s) are hereby advised that they may not receive a street tree in front of their property.
- (d) Purchaser(s) and/or Tenant(s) are hereby advised that the Toronto District School Board makes every effort to accommodate students at local schools. However, due to residential growth, sufficient accommodation may not be available for all students. Students may be accommodated in schools outside this area until space in local schools becomes available. For information regarding designated schools, please call (416) 394-7526
- (e) Purchaser(s) and/or Tenant(s) are hereby advised that despite the best efforts of the Toronto District School Board, sufficient accommodation may not be locally available for all students anticipated from this Subdivision and that students may be accommodated in facilities outside the area, and further, that students may later be transferred.
- (f) Purchaser(s) and/or Tenant(s) are hereby advised that for the purpose of transportation to school, if busing is provided by the Toronto District School Board, students will not be bussed home to school and/or from school to home, but will meet the bus at designated locations in or outside of the area.
- (g) Purchaser(s) and/or Tenant(s) are hereby advised that despite the best efforts of the Toronto Catholic District School Board, sufficient accommodation may not be locally available for all students anticipated from this Subdivision and that students may be accommodated in facilities outside the area, and further, that students may later be transferred.
- (h) Purchaser(s) and/or Tenant(s) are hereby advised that the Toronto Catholic District School Board makes every effort to accommodate students at local schools. However, due to residential growth, sufficient accommodation may not be available for all students. Students may be accommodated in schools outside this area until space in local schools becomes available.
- (i) Purchaser(s) and/or Tenant(s) are hereby advised that Mail delivery will be from a designated community mailbox and include the exact locations (list of lot numbers) of each of the community mailbox locations and further advise any affected homeowners of any established easements granted to Canada Post to permit access to the community mailboxes.
- (j) Purchaser(s) and/or Tenant(s) are hereby advised that some dwellings have been fitted with a forced air heating system, and ducting etc., was used to accommodate central air condition. Installation of central air conditioning will allow windows and exterior door to remained closed, thereby ensuring that the indoor sound levels are within Municipal and Ministry of the Environment, Conservation and Parks (MECP) noise criteria. (Note: The location and installation of the outdoor air condition device should be done so as to minimize the noise impacts and comply with criteria of MECP publication NPC-216, Residential Air Conditioning Devices.
- (k) Purchaser(s) and Tenant(s) are hereby advised that due to the proximity of existing business on Midland Avenue, the nearby fire station, high school, park and garden, sounds from these uses may be audible at times. Despite the inclusion of any noise control features in the development and within dwellings, sound levels due to increasing road traffic and the aforementioned uses may occasionally interfere with some activates of the dwelling occupants, as the sound levels may exceed the Municipality's and MECP's noise criteria.

INITIALS \_\_\_\_\_

**SCHEDULE "D" TO THE PURCHASE AGREEMENT**

Lots 6 to 11 and Block 12, inclusive:

- (l) Purchaser(s) and/or Tenant(s) are hereby advised that their property is adjacent to lands that the Toronto District School Board intends to use as a community garden. Noise and/or odour associated with such use may be emitted from the garden.
- (m) Purchaser(s) and/or Tenant(s) are advised that there is an infiltration gallery located approximately along the rear lot line of Lots 6 to 11 and Block 12, inclusive. Each infiltration gallery consists of a stone gallery approximately 1m below ground surface, the purpose of which is to infiltrate stormwater into the ground. Rear downspouts from the house are connected to these infiltration galleries. Purchasers agree not to interfere with, modify, erect structures (for example, sheds, decks, etc) on top of or remove the infiltration gallery. Purchasers/Grantees of all lots/blocks containing an infiltration gallery are advised that they are responsible for the maintenance of any portion of the infiltration gallery that is located on their lot.

All Lots/Townhouses:

- (n) The Purchaser further acknowledges that as a condition of the development of the Property, certain Governmental Authorities or other agencies may require the Vendor provide the Purchaser with certain notices and/or require the Purchaser give certain indemnities regarding service and/or municipal installations or operations, including, but not limited to:
  - i) advising the Purchaser that noise, vibration and emissions from traffic on adjacent arterial roads exceed MECP Guidelines and may inhibit the enjoyment of the Property;
  - ii) any other notices or advisories that regarding land usage, snow removal, garbage collection, maintenance of municipal fencing, mail, school availability or transportation, noise levels from adjacent roadway or industrial uses, and/or in general, notices advising of any other matter that may be deemed by the Municipality to inhibit or affect the enjoyment by the Purchaser of the Property for which a purchaser may try to hold the municipality responsible.

Accordingly, the Purchaser covenants and agrees to execute forthwith upon request, an acknowledgment and/or amendment to this Agreement containing such notice and/or indemnities if and when requested to do so by the Vendor and to be bound by the contents of any such notice as aforesaid. The Purchaser acknowledges and agrees that such additional warning clauses shall deemed to comprise part of this agreement. The Vendor shall be entitled to utilize the attorney granted by the Purchaser hereunder to execute such further amendment or acknowledgment of any additional warning clause and/or indemnity. The Municipality or Governmental Authorities, as part of its/their development approval process, may require further warnings, purchase agreements amendments or addendums and or acknowledgements from the Purchaser (the “**Acknowledgments**”). The Purchaser covenants and agrees to execute all such Acknowledgments forthwith upon request by the Vendor if required by any Governmental Authority, the Purchaser agrees to execute any required noise or other warning acknowledgement in a form prepared by the Vendor’s solicitors.

August 14, 2021

SCHEDULE "E" TO THE PURCHASE AGREEMENT

**PURCHASER’S ACKNOWLEDGMENT REGARDING RESIDENTIAL WATER HEATER RENTAL CONTRACT**

The Purchaser acknowledges and agrees that:

- (i) the water heater to be installed in the dwelling will be rental equipment, rented by the Purchaser from *EnerCare Home and Commercial Services Limited Partnership* ("**EnerCare**") pursuant to a rental contract with EnerCare; and
- (ii) the Purchaser does hereby enter into a rental agreement with EnerCare on the terms and conditions attached hereto.

The undersigned Purchaser hereby acknowledges having read, understood and accept the foregoing.

DATED \_\_\_\_\_.

\_\_\_\_\_  
Witness:

\_\_\_\_\_  
Purchaser1

\_\_\_\_\_  
Witness:

\_\_\_\_\_  
Purchaser2

SCHEDULE "E" TO THE PURCHASE AGREEMENT



RESIDENTIAL WATER HEATER  
RENTAL AGREEMENT

Water Heater Model:  Rinnai RU 199i Tankless Water Heater	Current Calendar Year Rental Rate:  2021: \$44.10/month + HST
---	---

- 1. Commitment.** “Our”, “us” “we” or “Enercare” means Enercare Home and Commercial Services Limited Partnership. Our commitment to you, our rental customer, (“you”, “your” or “customer”), is to provide you with a reliable, trouble-free water heater in accordance with this Residential Water Heater Rental Agreement (the “**Agreement**”). The water heater (“**Water Heater**”) you rent from us, as set out above, is backed by Enercare to the extent provided in this Agreement.
- 2. Term.** The term of this Agreement commences on the date you agreed to this Agreement (which is the same as the date of your agreement of purchase and sale for the home). The term of the Water Heater rental ends if this Agreement is terminated by you or us in accordance with its terms (which, for greater certainty, includes you exercising your buyout option in accordance with the terms of this Agreement) or when the useful life of the Water Heater has ended. The useful life of the Water Heater ends when Enercare or its authorized service provider determines, having regard to the relevant factors, including without limitation, the age of the Water Heater and the cost of any repairs to be made to the Water Heater, that it is no longer commercially reasonable to repair the Water Heater. For greater certainty, you do not have any right to subsequently request a different water heater than the one you rent from us under this Agreement.
- 3. Our Obligation to You.** Our obligation to you is to service and repair the Water Heater with no service charges or parts replacement charges **except** in the following circumstances:
- a) if you (or a third party not authorized by us) alter, modify, adjust, damage, service, repair, move or disconnect, the Water Heater;
  - b) if service or repairs to the Water Heater are necessary because the Water Heater was used for an unintended or unauthorized purpose, including non-residential purposes;
  - c) unless you are paying our hard water rental rate, if the Water Heater requires de-liming, flushing or other repair due to water conditions or the quality of the environment in which the Water Heater is situated. For greater certainty, Enercare determines hard water conditions. In such situations, we cover only diagnostic work;
  - d) where venting, piping, wiring, plumbing, ducting and/or electric services requires cleaning, repair, replacement or installation, including to meet applicable laws or installation requirements;
  - e) where re-setting is required due to FVIR “lock-out” as described below under “Customer Advisory”;
  - f) if you fail to maintain the Water Heater in accordance with the requirements set out below under “Customer Obligations - Safety”;
  - g) for service charges or parts replacement related to the use of load control devices, peak savings, load timers and all other energy saving devices; or
  - h) if you fail to notify us as described below under “Customer Obligations - Duty to Maintain”.

Should you require assistance, our 24-hour per day, 7 days per week emergency phone number is **1-800-266-3939**. Should we update this phone number, the updated number can be found on the Enercare website at [www.enercare.ca](http://www.enercare.ca).

- 4. Customer Obligations.** In return for fulfilling our obligations to you, you agree that:
- a) Rental Charges –** The rate on the date of this Agreement for your monthly rental charge is indicated above. You will be responsible for paying rental charges from the date the Water Heater is installed or, if you purchased the premises after the Water Heater was installed, from the closing date of the purchase. We may increase our rental rates on January 1 of each calendar year by a percentage up to the percentage increase to CPI plus 2%. For the purposes of this Agreement, “CPI” means the All-items Consumer Price Index (not seasonally adjusted) for Ontario or the equivalent thereof, or any comparable successor index thereof, published by Statistics Canada in October in respect of the immediately preceding September to September period, or by any other equivalent or duly authorized department of the Government of Canada (for clarity, the Consumer Price Index in Canada is expressed in terms of 2002 = 100). We will notify you of any such rental rate increases in advance in bill inserts, by letter or by any method permitted by law.
- b) Payment of Charges –** You will pay your charges billed under this Agreement when due. You agree to pay HST and any other taxes payable in connection with this Agreement. Your charges may be included on your utility bill, or we may choose to bill you separately or through our service provider. Acceptable methods of payment, which currently include pre-authorized payment, payment by cheque, by telephone or in person, or online banking, will be set out on the bill you receive. Should any payment be returned for non-sufficient funds (“NSF”), you agree to pay a NSF charge of \$25. A late payment charge will apply to all overdue amounts on your bill, including applicable federal and provincial taxes. The rate for late payment charges is 1.5% per month or 18% per year (for an effective rate of 19.56% per year). Your bill is due on the date indicated on the bill.

- Late Payment Charges on your Enbridge Gas Distribution (“EGD”) Bill** (applicable only if your charges are included on your EGD bill) – A late payment charge will apply to all overdue amounts on your EGD bill, including applicable federal and provincial taxes. The late payment charge will be calculated and applied as approved by the Ontario Energy Board (“OEB”). The current OEB-approved late payment rate is 1.5% per month or 18% per year (for an effective rate of 19.56% per year). Your EGD bill is due when you receive it, which is considered to be three days after the bill date. If you do not pay your bill in full by the late payment effective date on the first page of your EGD bill, a late payment charge equal to the late payment rate multiplied by a total of all unpaid charges will be added to your EGD bill.
- c) Access –** You will provide us with timely access to the Water Heater whenever required by us to perform our obligations or exercise our rights under this Agreement.
- d) Safety –** You will use the Water Heater safely and responsibly. In particular, you will:
- i) maintain effective operation of any plumbing and pumping systems supplying water to the Water Heater;
  - ii) ensure that no combustible, hazardous or flammable materials are used or stored in the same room as, or near, the Water Heater;
  - iii) ensure that the Water Heater is not confined in a location where it is difficult to service or remove or where there is inadequate ventilation;
  - iv) provide us with access to the Water Heater whenever reasonably required for purposes of inspection, repair, maintenance or removal;
  - v) inspect the area around the Water Heater on a regular basis for any sign of water leakage;
  - vi) contact us for service if you see any sign of carbon or rust on the bottom or sides of the Water Heater or any signs of water leakage;
  - vii) ensure that the Water Heater is located in an area with sufficient drainage in the vicinity, and that the drainage is open, unrestricted and effective;
  - viii) if the Water Heater is gas-fired, ensure that the vents and openings for combustion air are kept clear and clean and otherwise well-maintained and there is adequate ventilation; and
  - ix) not permit anyone who has not been authorized by us to service, repair, modify, alter, adjust, move or disconnect the Water Heater.
- e) Duty to Maintain –** If the Water Heater is gas-fired, you are required, as the user of the Water Heater, under law to ensure that it is maintained in a safe operating condition [Ontario regulation 212/01 Section 15]. In the event that a service or repair is required please call **1-800-266-3939**.
- f) Ownership, Credit and Security Interest.** You agree that:
- i) if more than one customer is named on the account, each of you is individually liable, and all of you are collectively liable, for all obligations imposed on you by this Agreement;
  - ii) during the term of this Agreement, the Water Heater remains our property, does not become a fixture, and you will not tamper with any tag(s) or sticker(s) identifying the Water Heater as rented equipment or that it is owned by us;
  - iii) we may inquire about your credit history and, if necessary, use the personal information you have provided to us to do so. For greater certainty, you authorize any credit reporting agency to give us credit or other personal information about you from time to time during the term of this Agreement. You can withdraw this authorization at any time. If you do or we are not satisfied with the results of any credit check, we may end this Agreement and the provisions of “Termination - Termination by Us” will apply;
  - iv) you will promptly inform us of any change in your: (i) mailing address at least 30 days in advance of such change; and/or (ii) if previously provided, bank account or credit card information promptly after such change is made;
  - v) this Agreement is binding upon and will enure to your heirs, personal representatives, successors and permitted assigns; and
  - vi) we may register, at your expense, our interest in the Water Heater against you and/or against title to the premises. To the extent permitted by law, you agree to waive any right to receive a copy of such registration and appoint us as your lawful attorney for the purpose of doing any such registrations. You agree that the Water Heater will remain personal property even though it may become affixed to the premises. You agree to keep the Water Heater free of all liens, security interests, mortgages and other claims.
- 5. Sale of your Home –** If you sell or otherwise transfer the premises, you are required to inform the transferee, at or before the effective date of the sale or transfer, of the existence of this Agreement and the rental Water Heater installed in the premises. We will permit the transferee to assume your rights and obligations under this Agreement, effective from the date of sale or transfer; provided that:
- a) you or your representative notify the transferee in the sale or transfer agreement that the Water Heater is rented and is subject to this Agreement;
  - b) you or your representative advise us in advance of the transferee’s name and the intended date of sale or transfer;

SCHEDULE "E" TO THE PURCHASE AGREEMENT

- c) you or your representative advise us in advance of the address and telephone number where you can be contacted after the date of sale or transfer;
- d) the transferee agrees in writing or by conduct to assume your obligations under this Agreement; and
- e) you have paid us all amounts owing under this Agreement.

Unless and until these conditions are satisfied, or unless Enercare otherwise waives any or all of these conditions, which we are under no obligation to do, you will remain responsible for the Water Heater rental and your obligations under this Agreement, including making all rental payments. You hereby authorize us to respond to information requests relating to your account made by or on behalf of the transferee.

**6. Customer Advisory.** The Water Heater may be equipped with flammable vapour ignition resistant ("FVIR") technology. Enercare encourages you to read the Water Heater Use & Care Manual provided to you upon or after installation of the Water Heater. Certain activities such as, without limitation, painting or using solvents could cause the FVIR technology to "lockout" the Water Heater causing it to no longer function until reset by a qualified service technician. Resetting the Water Heater caused by FVIR "lockout" is not covered by Enercare under this Agreement and, if applicable, you will be charged for both parts and labour at our then current rates.

7. Warranties and Liability.

- a) **Warranties** – We make no representations, warranties or conditions as to the performance of the Water Heater except for those which are given by statute and which you cannot waive and except any express warranties provided by the manufacturer of the Water Heater, except as provided below. Subject to you carrying-out your obligations under this Agreement (including those under "Customer Obligations") and subject to the limitations set out under "Liability", we hereby warrant that the Water Heater will work and provide hot water, and will not leak or rupture, for the term of this Agreement, reasonable wear and tear excepted. We are not the manufacturer of the Water Heater and we are not making any warranty or guarantee in respect of it, the supplier or the manufacturer of the Water Heater, including whether the Water Heater is suitable for you, except as provided above. Any warranties or guarantees provided under applicable legislation are hereby excluded to the extent permitted by law.
- b) **Liability** – Except as otherwise expressly provided in this Agreement, we will not be liable for any loss, damage or injury of any type (including as a result of water leakage or any electrical or natural gas related events) arising out of or related to this Agreement or caused or contributed to in any way by the supply, installation, use and/or operation of the Water Heater. We shall not be responsible for any indirect, incidental, special or consequential damages, even if reasonably foreseeable. If we are unable to perform any of our obligations under this Agreement because of circumstances or events beyond our control, we shall be excused from the performance of such obligations for the duration of such circumstances or events and we shall not be liable to you for such failure to perform.
- c) **Indemnity** – You will indemnify us from all claims, losses and costs that we may suffer or pay or may be required to pay, including legal expenses, in connection with this Agreement, including its termination or enforcement, or the supply, use and/or operation of the Water Heater including any claims against us for any injury or death to individuals or damage to property, including from your negligence or misuse of the Water Heater. This obligation survives the termination of this Agreement for any reason.
- d) **Insurance** – During the term of this Agreement, you are responsible for any loss or damage to the Water Heater from any cause, whether or not insured, until all of your obligations under this Agreement have been fulfilled.

**8. Personal Information About You.** You authorize us to collect and use personal information about you. You authorize us to collect the personal information provided by you and to review information about your Enercare bill payments or, if you are billed by your gas utility, you authorize your gas utility (including EGD) to provide us with any charges and payment information. Other than to our authorized service providers and parties that will provide us with credit information, we will not knowingly share this information with third parties without your permission, other than a party to whom we transfer, assign, encumber or otherwise dispose of this Agreement or the Water Heater.

Your privacy is important to us. As a current customer, we are committed to offering you more value in the future. Every once in a while we, an affiliate or an authorized service provider, may mail or call you about our other products and services that may be of interest to you. If you do not want us, an affiliate or an authorized service provider, to contact you about such products and services or if you would simply like more information about how we use personal information, please contact us using the information set out in the section "How to Contact Us" located at the end of this Agreement. Our privacy policy can be found on our website.

9. Termination

**Termination by Us** – If you fail to meet any of your obligations (including payment obligations) set out in this Agreement, you agree that we may terminate this Agreement and bill you for the applicable buyout price and on the other terms set out below under "Termination – Termination by You". You agree to pay the buyout price when invoiced by us.

**Termination by You** – Your sole method of terminating this Agreement prior to the end of the useful life of the Water Heater is to purchase the Water Heater. You may purchase the Water Heater at any time for a buyout price that reflects, among other things, the unpaid cost of the Water Heater and related installation, finance and servicing costs, which buyout price can be found on our website. You can also confirm the buyout price by calling an Enercare Rental Specialist at **1-877-334-1846**. You may exercise your buyout option by notifying us in writing or by calling an Enercare Rental Specialist at **1-877-334-1846**.

When you exercise your buyout option, you accept the Water Heater in an "as-is" condition, subject to the balance of any transferable manufacturer's warranty, and you assume full responsibility for the Water Heater and its repair and maintenance. You also agree to pay the buyout price when invoiced by us.

Once payment has been received for the buyout price, and no other amounts are outstanding pursuant to this Agreement, this Agreement will end for the Water Heater and, as set out more particularly below in the section called "End of this Agreement", you will have no further obligation to pay rent and we will have no further obligation to you.

10. End of this Agreement. At the end of this Agreement (for whatever reason):

- a) **Rent** – you are not obligated to rent and we are not obligated to supply replacement equipment (including a water heater), unless we mutually agree at the time and enter into a new water heater rental agreement.
- b) **Replacement** – Enercare is not responsible for replacing the Water Heater or re-connecting any ancillary or other equipment including without limitation venting, piping, plumbing, wiring, ducting, and/or electrical services.
- c) **Removal and Disposal** – if the Water Heater has reached the end of its useful life and we are not installing a replacement Water Heater, you shall at such time own the Water Heater, and if you wish for us to disconnect and/or dispose of the Water Heater, you must contact us by calling 1-877-334-1846 to make such arrangements. We will charge you in accordance with our then current fee schedules for removals or disposals.
- d) **No Further Obligations** – you will have no further obligation to pay rent (other than rent owing prior to the end of this Agreement) and, subject to any statutorily mandated requirements, we will have no further obligations of any kind or manner to you.

**11. Assignments.** We may transfer, assign, encumber or otherwise dispose of all or any part of our interest in this Agreement and/or the Water Heater to another party at any time without notice to you and without your permission. To the extent permitted by law, you will not assert against any transferee any claims, defences, set-offs, deductions or counter-claims which you may now or in the future be entitled to assert against us. Except as otherwise provided in this Agreement, you may not transfer, assign or encumber all or part of your interest in this Agreement or the Water Heater without our prior written consent (see the section called "Sale of your Home").

**12. Invalidity of Provision.** If any provision of this Agreement or the application thereof to any person or circumstance is held to be invalid or unenforceable, such provision shall be severed and the remainder of this Agreement shall continue to remain in full force and effect subject to such modifications as may be necessary to carry out the provisions and intent of this Agreement.

**13. Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the Province of Ontario and federal laws of Canada applicable therein.

**14. Entire Agreement and Amendments.** You understand that this Agreement is the entire agreement between you and us and supercedes all prior agreements, understandings or discussions, whether oral or written, and there are no warranties, representations or other agreements except as specifically set out in this Agreement. This Agreement may be amended from time to time by us by notice in bill inserts, by letter or by any method permitted by law in which case you will have the option to not accept such amendment and retain this Agreement unchanged.

**15. How to Contact Us.** You may contact us as follows:

Enercare Home Services  
7400 Birchmount Road  
Markham, Ontario L3R 5V4  
Attention: "Rental Group"  
**1-800-266-3939**

<sup>TM</sup>Enercare, Enercare Home and the design are trademarks of Enercare Inc., used under license.

SCHEDULE "I" TO THE PURCHASE AGREEMENT

Warranty Information for  
New Freehold Homes



This information sheet provides a basic overview of the warranties and protections that come with your new home. This warranty is provided to you by your builder and backed by Tarion. For more detailed Information visit [tarion.com](http://tarion.com) and log into our online learning hub at [www.tarion.com/learning hub](http://www.tarion.com/learning hub)

The Pre-Delivery Inspection (PDI)

Before you take possession of your new home, your builder is required to conduct a pre-delivery inspection (PDI) with you or someone you designate to act on your behalf. If you wish, you may be accompanied by someone who can provide expert assistance. The PDI is important because it is an opportunity to learn about how to operate and maintain parts of your home, such as the ventilation, plumbing, and heating systems. It is also important because it gives you an opportunity to note items in your home that are damaged, missing, incomplete, or not working properly before you take possession of your home. This record is also significant as it may help show what items may have been damaged before you moved in and helps resolve any disputes relating to whether or not an item of damage was caused by the use of the home.

The PDI is only one piece of evidence relating to damaged or incomplete Items, and you should note and document (e.g. via photos or video) any concerns or damaged items as soon as you notice them after taking possession if they were missed on your PDI. If the damaged items are not addressed by your builder, you can include them in your 30-Day Form to Tarion. Damaged items are covered under the warranty if the damage was caused by the builder or their trades. There is more information about the PDI here: [www.tarion.com/learninghub](http://www.tarion.com/learninghub)

Deposit Protection

The deposit you provide to your builder is protected up to certain limits if your builder goes bankrupt, fundamentally breaches your Agreement of Purchase and Sale or you exercise your legal right to terminate it. Deposit coverage limits are \$60,000 if the purchase price is \$600,000 or less and 10% of purchase price to a maximum of \$100,000 if the purchase price is over \$600,000. This protection includes the money you put down towards upgrades and other extras.

Delayed Closing Coverage

Your builder guarantees that your home will be ready for you to move in by a date specified in the Agreement of Purchase and Sale or a date that has been properly extended (if for certain reasons the original closing date cannot be met). You may be able to claim up to \$7,500 from your builder in compensation if they do not meet the conditions for an allowable extension that are outlined in the Addendum to your Agreement of Purchase and Sale.

Warranty Coverage

The warranty on work and materials commences on your date of possession and provides up to a maximum of \$300,000 in coverage. There are limitations on scope and duration as follows. Your builder warrants that your home will, on delivery, have these warranties:

One-Year Warranty

- Your home is constructed in a workmanlike manner, free from defects in material, is fit for habitation and complies with Ontario’s Building Code
- Protects against the unauthorized substitution of items specified in the Agreement of Purchase and Sale or selected by you

Two-Year Warranty

- Protects against water penetration through the basement or foundation walls, windows, and the building envelope
- Covers defects in work or materials in the electrical, plumbing, and heating delivery and distribution systems
- Covers defects in work or materials that result in the detachment, displacement, or deterioration of exterior cladding (such as brick work, aluminum, or vinyl siding)
- Protects against violations of Ontario’s Building Code that affect health and safety

Seven-Year Warranty

- Protects against defects in work or materials that affect a structural load-bearing element of the home resulting in structural failure or that materially and adversely compromise the structural integrity; and/or that materially and adversely affect the use of a significant portion of the home.

Continued...

INITIALS\_\_\_\_\_

**SCHEDULE "I" TO THE PURCHASE AGREEMENT**

**Warranty Exclusions**

Your warranty, provided to you by your builder and backed by Tarion, is a limited warranty - not all deficiencies are covered. And the protection provided by Tarion is also limited. Exclusions to coverage include: normal wear and tear, damage caused by improper maintenance, damage caused by a third party, secondary damage caused by defects that are under warranty, supplementary warranties, deficiencies caused by homeowner actions, elevators, HVAC appliances, specific defects accepted in writing and damage resulting from an Act of God.

**Construction Performance Guidelines**

The Construction Performance Guidelines are a resource to provide advance guidance as to how Tarion may decide disputes between homeowners and builders regarding defects in work or materials. The Construction Performance Guidelines are intended to complement Ontario’s Building Code. They are supplemented by any applicable guidelines or standards produced by industry associations. They do not replace manufacturer warranties. The Construction Performance Guidelines are available in several different formats accessible via [cpg.tarion.com](http://cpg.tarion.com).

**Important Next Steps**

- 1. Visit Tarion’s website to learn more about your warranty coverage and the process for getting warranty assistance, as well as your rights, responsibilities, and obligations as a new homeowner.
- 2. Prepare for your pre-delivery inspection (PDI). Visit Tarion’s website for helpful resources, including a PDI Checklist and educational videos.
- 3. Register for Tarion’s MyHome right after you take possession. MyHome is an online tool you can use from your computer or mobile device that allows you to submit warranty claims and upload supporting documents directly to your builder and Tarion. It also alerts you to important dates and warranty timelines, allows you to receive official correspondence from Tarion electronically, and schedule an inspection with Tarion when you need assistance.

**About Tarion**

Tarion is a not-for-profit organization that administers Ontario’s new home warranty and protection program. Our role is to ensure that purchasers of new homes receive the warranties and protections, provided by their builder and backstopped by Tarion, that they are entitled to by law.

Contact us at 1-877-982-7466 or [customerservice@tarion.com](mailto:customerservice@tarion.com).

**Find more warranty information at [Tarion.com](http://Tarion.com)**