

**SCHEDULE "X"**

**1. ADJUSTMENTS, REIMBURSEMENTS AND OTHER FEES**

The balance due on the Closing Date after credit of the deposits paid by the Purchaser to the Vendor (the "Deposits") shall be adjusted on the Closing Date as to the items required by the terms of this Agreement (plus Applicable Taxes) which shall include, without limiting the generality of the foregoing, the following:

- (a) The Purchaser agrees to take all necessary steps to assume immediately on Closing, charges for electricity, water, gas and other services, and the Vendor may recover any payments made by the Vendor on account of the Property from the Purchaser. The gas meter/water meter/electricity meter is/are not included in the purchase if it/they is/are not the Property of the Vendor. The Purchaser shall pay, or reimburse the Vendor for the cost of the charge made for, or prepayments for, or security performance deposits relating to, any of the water, electricity or gas service, including, without limitation, the cost and/or installation of any meters, and the installation, connection and/or energization fees for any of such services. The Purchaser agrees to accept the utility suppliers designated by the Vendor. Subsequent to the Closing and prior to assumption of the subdivision by the Municipality, if the Purchaser changes any or all of the utility suppliers, the Purchaser shall be responsible for the repair of any damage caused to the Property and neighbouring lands by such alternate utility suppliers and any costs incurred by the Vendor or Subdivider to restore the Property to the original state provided by the Vendor;
- (b) Taxes, fuel, water rates, assessment rates and local improvements to be apportioned and adjusted with the Vendor being responsible for all such charges up to the Closing Date with the Purchaser being responsible for all such charges from and including the Closing Date. Where the Vendor has posted security for taxes, made payment for taxes or has been advised by the applicable authority that taxes will be billed to its account for the current year and/or following year, taxes shall be adjusted as if such sum had been paid by the Vendor notwithstanding that the same may not by the Closing Date have been levied or paid, subject, however, to readjustment upon the actual amount of said realty taxes being ascertained. In the event realty taxes have not been individually apportioned or assessed in respect of this Property and remain en bloc, then notwithstanding that such en bloc taxes may be outstanding and unpaid, the Purchaser covenants to complete this transaction and accept the Vendor's undertaking to pay realty taxes once individually assessed against this Property and agrees to pay on the Closing Date a deposit to be readjusted and to be applied on account of the Purchaser's portion of realty taxes applicable to this Property. Municipal realty tax re-assessment and/or supplementary tax bills relating to the Dwelling constructed on the Property issued subsequent to the Closing Date shall be the sole responsibility of the Purchaser. Notwithstanding the foregoing, the Vendor shall not be obliged to make any readjustment of the foregoing deposit in the event that such readjustment is equal to or less than \$150.00;
- (c) The transaction levy surcharge imposed upon the Vendor or its solicitors by the Law Society of Ontario plus Applicable Taxes shall be reimbursed to the Vendor on the Closing;
- (d) any enrolment and/or regulatory fees paid by the Vendor for the Property under, pursuant to or as a requirement or prerequisite of any governmental authority and any of the following: the Ontario New Home Warranties Plan Act (the "Warranty Act"), New Home Construction Licensing Act, 2017, the Act, the Condominium Management Services Act, or by any of the regulators or authorities pursuant to any of the foregoing, including, without limitation, the Taron Warranty Corporation, the Home Construction Regulatory Authority and/or the Condominium Authority of Ontario;
- (e) A \$250.00, plus Applicable Taxes, administrative fee shall be charged to the Purchaser for any payment made for a deposit, occupancy fee or for any upgrades/extras and the like which is not honoured or accepted by the Purchaser's bank for any reason, including, without limitation, a cheque returned N.S.F. or upon which a "stop payment" has been ordered;
- (f) The amount of the development charges and education development charges paid by the Vendor pursuant to the Development Charges Act, the Education Act or any successor or replacement legislation in excess of the amount of the development charges and education development charges that would have been payable by the Vendor with respect to the Property if same had been paid on the date of mutual execution of this Agreement, plus Applicable Taxes thereon. There shall be no credit or adjustment whatsoever in favour of the Purchaser in the event of any decrease in the amount of development charges and education development charges payable by the Vendor pursuant to the Development Charges Act, the Education Act or any successor or replacement legislation. In addition to the amount set out above, the amount of any other levies, charges, payments, contributions, fees or assessments, including without limitation, any parks levies, cash-in-lieu of parkland

dedication payments, community benefit charges, new development charges, new education development charges, public art contributions and/or impost charges, assessed against or attributable to the Property by the Municipality, a regional municipality, a transit authority, a public or separate school board or any other authority having jurisdiction under the Development Charges Act, the Education Act, the Planning Act and any other existing or new legislation, regulation, bylaw and/or policy of a similar nature, plus Applicable Taxes thereon. If the amounts owing under this subsection are attributable, assessed against, charged or imposed against the Subdivision as a whole and not against the whole or any part of the Property separately, then the Vendor shall be entitled to a reimbursement for the foregoing, as may be apportioned by the Vendor equally among all lots within the Subdivision or in such other manner as the Vendor may elect, acting reasonably;

- (g) A \$150.00, plus Applicable Taxes, administrative fee shall be charged to the Purchaser for each sum that the Vendor permits to be paid to the Vendor’s solicitor on account of the Purchase Price for the Property by wire transfer or direct deposit. All payments by wire transfer or direct deposit shall be made in strict accordance with the provisions of the Vendor’s solicitor’s wire transfer and direct deposit form, which may be amended by the Vendor’s solicitor from time to time. All payments by wire transfer must also include the Vendor’s bank’s wiring fee and/or the Vendor’s solicitor’s bank’s wiring fee. Without derogation from any other right or remedy of the Vendor, if such form is not complied with and a wire transfer or direct deposit is made on account of the Purchase Price, the Purchaser shall pay an additional adjustment of \$150.00, plus Applicable Taxes, as an administrative fee per occurrence;
- (h) A \$250.00, plus Applicable Taxes, administrative fee shall be charged to the Purchaser for each deposit cheque in the possession of the Vendor that the Vendor permits to be: (i) exchanged for a replacement cheque or (ii) deposited on a later date than the date indicated on the face of said cheque. The Purchaser acknowledges and agrees that any deposit cheques that are exchanged for a replacement cheque shall, at the sole option of the Vendor, either be destroyed by the Vendor and not be returned to the Purchaser or his solicitor, or be returned by the Vendor to the Purchaser or its solicitor;
- (i) All proper readjustments shall be made after Closing, if necessary, forthwith upon written request. Any monies owing to the Vendor pursuant to such readjustment or as a result of any expenses incurred by the Vendor arising from a breach by the Purchaser of any of the Purchaser’s obligations described in this Agreement shall be payable upon written demand by the Vendor and shall bear interest from the date of written demand at the rate of twelve (12%) percent per annum, calculated daily, not in advance and shall be a charge on the Property until paid and such charge shall be enforceable in the same manner as a mortgage in default. The Vendor may reserve a Vendor’s Lien or Charge, following the Vendor’s usual form, for unpaid purchase monies or adjustments or claims herein provided together with the interest thereon as provided for herein, and the Purchaser covenants and agrees to forthwith pay all costs in relation to said Vendor’s Lien or Charge including, without limitation, the Vendor’s solicitor’s legal fees and disbursements and the cost to register said Vendor’s Lien on title to the Property. The Purchaser hereby authorizes and directs the Vendor’s solicitors to register such Lien or Charge on title to the Property and furthermore, on or before the Closing Date, the Purchaser shall sign an acknowledgment and direction and any other documents, if and as required by the Vendor and/or its solicitor, in their sole, absolute and unfettered discretion, in favour of the Vendor’s solicitor authorizing and directing the Vendor’s solicitor to register such Lien or Charge on title to the Property. The Vendor will upon request deliver to the Purchaser (for registration at the Purchaser’s expense) a release of the Vendor’s Lien or discharge of the Vendor’s Charge after such unpaid purchase monies or adjustments or claims herein provided, as applicable, together with the interest thereon as provided for herein have been received by the Vendor and upon payment of a discharge fee of \$500.00 plus Applicable Taxes;
- (j) The Purchaser shall provide a refundable security deposit in the amount of \$2,500.00 on the Closing (the "**Security Deposit**") to secure compliance with the Purchaser’s obligations hereunder including, without limitation, the Purchaser’s grading and subdivision damage covenants. The Purchaser and/or the Purchaser’s designate does hereby agree that at the time of the PDI or such other time as may be set by the Vendor, the Purchaser and/or the Purchaser’s designate will attend at the Property and upon such request, the Purchaser and/or the Purchaser’s designate and Vendor mutually agree that they will attend at the Property to inspect with the Vendor the subdivision services installed by the Vendor or Subdivider and to compile a list of all existing damages or defects to the subdivision services, including buried or damaged water boxes and keys, damaged curbs or sidewalks, retaining walls, acoustic barriers, fences and other such applicable services. Such compiled list to be signed by the Vendor and the Purchaser and/or the Purchaser’s designate, and the Purchaser shall not under any circumstances be responsible for the cost of repair, rectification or replacement of such existing damages or defects and the Vendor shall not apply any portion of the Security Deposit paid by the Purchaser in compliance with this Agreement in respect of the repair, rectification or replacement of any such existing

damages to the subdivision services. The Subdivider's consulting engineer for this subdivision shall be the authority for the development of the subdivision as a whole and will determine responsibility and damages and costs therefore and in the event that the Subdivider's consulting engineer determines the responsibility for the cost of repair, rectification and/or replacement is that of the Purchaser, then the Vendor will charge the Purchaser accordingly, save and except for those items listed on inspection as noted herein and the Purchaser agrees to abide by such engineer's decision and the Vendor will deduct the cost of such repair, rectification or replacement from the Security Deposit relevant thereto. Should the cost of such repairs, rectification or replacement EXCEED the value of the Security Deposit, then the Vendor shall be entitled to compensation from the Purchaser for the difference between the Security Deposit and such costs and the Purchaser shall pay such shortfall amount upon demand by the Vendor. The Security Deposit, (or any balance thereof after applicable deductions as herein described) shall be released to the Purchaser(s) named in this Agreement AFTER the event of Municipal Assumption of Subdivision Services;

- (k) The fee, plus Applicable Taxes, paid by the Vendor to Canada Post for the provision of mail delivery services to the Property by way of a central mailbox shall be reimbursed to the Vendor on the Closing;
- (l) In the event the Vendor has undertaken an obligation for subdivision esthetic enhancement such as boulevard treatment or improvement, or landscaping (including tree planting), or subdivision entrance features, or corner lot fencing, or fences or retaining walls, in the Subdivision, the Purchaser shall, on Closing, reimburse the Vendor as to the cost thereof for the Property, the cost to be absolutely determined and apportioned by the Vendor, plus Applicable Taxes;
- (m) The Purchaser shall pay, as an adjustment on Closing, the amount paid by the Vendor to coat the subject driveway (whether single or double), plus Applicable Taxes;
- (n) An amount paid by the Vendor to the Municipality and/or other governmental authority with respect to "Blue Boxes" or other recycling programs plus Applicable Taxes, such amount to be absolutely determined by statutory declaration sworn on the part of the Vendor shall be reimbursed to the Vendor;
- (o) In the event the Vendor has provided the Purchaser with a building or foundation survey following request for same by the Purchaser or anyone on behalf of the Purchaser after Closing, the Purchaser shall reimburse the Vendor for same, plus Applicable Taxes as an adjustment; and
- (p) If requested by the Vendor or the Electricity Provider (as defined below), then the Purchaser agrees to enter into or assume a contract with the provider of electricity and/or the party monitoring consumption of electricity to the Property (the "Electricity Provider"), on the Electricity Provider's form, for the provision and/or metering of electricity services to the Property. The fees, costs and charges (including, without limitation, any rental, security deposit, administration, commodity and non-commodity fees/charges) for such electricity services and/or for monitoring consumption of same shall be adjusted for the month of closing with the Purchaser being responsible for such fees, costs and charges from and after the Closing Date;

If requested by the Vendor or the Water Provider (as defined below), then the Purchaser agrees to enter into or assume a contract with the provider of water and/or the party monitoring consumption of water to the Property (the "Water Provider"), on the Water Provider's form, for the provision and/or metering of water services to the Property. The fees, costs and charges (including, without limitation, any rental, security deposit, administration, commodity and non-commodity fees/charges) for such water services and/or for monitoring consumption of same shall be adjusted for the month of closing with the Purchaser being responsible for such fees, costs and charges from and after the Closing Date; and

If requested by the Vendor or the Gas Provider (as defined below), then the Purchaser agrees to enter into or assume a contract with the provider of gas and/or the party monitoring consumption of gas to the Property (the "Gas Provider"), on the Gas Provider's form, for the provision and/or metering of gas services to the Property. The fees, costs and charges (including, without limitation, any rental, security deposit, administration, commodity and non-commodity fees/charges) for such gas services and/or for monitoring consumption of same shall be adjusted for the month of closing with the Purchaser being responsible for such fees, costs and charges from and after the Closing Date.

- (q) A fee of \$1,500 plus Applicable Taxes shall be charged to the Purchaser to be paid at the time as determined by the Vendor for a change in lot or model type if such request is made more than 30 days after the date of acceptance of this agreement of purchase and sale and

further provided that such change shall be subject to the express written approval of the Vendor, which approval may be refused in the Vendor’s sole, absolute, subjective and unfettered discretion.

In the event that a conflict or inconsistency exists between any of the terms and provisions contained in this Section 1 and any of the terms and provisions contained within Schedule “A” attached to and forming a part of this Agreement, the provisions of Schedule “A” shall prevail, provided however that the existence of a particular term or provision in this Section 1 which is not contained in the Schedule “A” attached to and forming a part of this Agreement shall not be deemed to be an inconsistency or conflict.

2. **SUBDIVISION MATTERS**

- (a) The Vendor, the subdivider (the "**Subdivider**") of the plan of subdivision in which the Property is situate or their servants or agents may, for such period after Closing as is designated by the Subdivider and/or Vendor, enter upon the Property at all reasonable hours to enable completion or correction of sodding, fencing, corner lot screens or fences, subdivision aesthetic enhancement features, to inspect, repair, complete or rectify construction, grade and undertake modifications to the surface drainage, including installation of catch basins, without liability therefor, and the Transfer/Deed may contain such provisions.
- (b) The Purchaser will not alter the 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 drainage and/or grading control plan, the Purchaser is estopped both from objecting thereto and from requiring any amendments thereto. If the Vendor has not undertaken to pave or finish the driveway pursuant to this Agreement, the Purchaser shall not pave or finish the driveway without the prior written consent of the Vendor and the prior written consent of the Subdivider and the Municipality, if required by a subdivision agreement or any other municipal agreement. Following such approval and prior to completing the driveway, the Purchaser shall notify the Vendor in writing so that water keys/boxes can be located and raised, if necessary. The Purchaser covenants and agrees not to damage or alter any subdivision service, and shall be liable for the cost of rectification of any such damage or alteration, and in the event same is not paid upon demand, the Vendor shall have the right to register a lien on title to secure such payment. The Purchaser agrees that neither the Purchaser(s) nor their successors or assigns shall construct or install a swimming pool, hot tub, underground sprinkler system, fencing, decking, curbs, retaining walls, landscape rocks, trees, shrubs, gazebos or other structures, nor shall the Purchaser alter or widen the driveway upon the Property until after the Vendor has obtained acceptance of lot grading from the Municipality and the Subdivider and after the Purchaser has made due application for (if applicable) any permits required for such work to the Municipality or any other authority with jurisdiction. The Purchaser agrees to remove such additions and/or improvements at its own cost upon the Vendor's request, failing which the Vendor may remove same at the Purchaser's expense. Any changes to the grading in contravention of the foregoing by the Purchaser shall result in the forfeiture of the Security Deposit and the Purchaser shall reimburse the Vendor for any costs over and above the Security Deposit resulting from the Purchaser's contravention of the foregoing.
- (c) The Purchaser acknowledges that construction of the Dwelling may be subject to the requirements of the architect appointed by the Subdivider and/or the Vendor (the "**Subdivider's Architect**") and the Purchaser agrees to accept the Property subject to any changes, variations or restrictions now or hereafter imposed by the Subdivider or Subdivider's Architect.
- (d) The Purchaser acknowledges that the dimensions, specifications, layouts and sizes of the Property set out in this Agreement or on any schedule attached hereto or shown on drawings, brochures, renderings or plans made available to the Purchaser on site or otherwise are approximate only. In the event the dimensions, specifications, layouts and sizes (including without limitation, frontage, depth or area of the Property) are varied from those specified in the Agreement, or on any schedule attached hereto or shown on drawings, brochures, renderings or plans made available to the Purchaser on site or otherwise, as aforesaid, or any or all of the foregoing and provided the Property complies with municipal and other governmental requirements including zoning by-laws, the Purchaser agrees to accept all such variations without claim for abatement in the Purchase Price and this Agreement shall be read with all amendments required thereby. In addition to the foregoing, if minor variations to the size of the Dwelling including internal dimensions of any areas are made to the Dwelling the Purchaser shall accept such minor variations without any abatement to the Purchase Price. The Purchaser is notified of the following statement pursuant to the requirements of the applicable Home Construction Regulatory Authority Directive: "Note: Actual usable floor space may vary from the stated floor area".
- (e) All exterior elevations and colours are architecturally controlled and approved. No changes



whatsoever will be permitted to the aforementioned prior to assumption of the Subdivision by the Municipality, and the Purchaser hereby acknowledges notice of same and agrees to accept the exterior elevation and colour scheme as architecturally controlled and approved. Any changes to the aforementioned by the Purchaser shall result in the forfeiture of the Security Deposit and the Purchaser shall reimburse the Vendor for any costs over and above said deposits resulting from the aforementioned Purchaser's changes.

- (f) The Purchaser acknowledges and agrees that in the event the Dwelling being purchased herein is a semi-detached or townhouse dwelling unit, the lot or block upon which such dwelling unit is constructed will not necessarily be divided equally but may instead be divided in unequal proportions. The Purchaser agrees to accept any such unequal division of such lot or block.
- (g) Subdivision esthetic enhancements such as boulevard treatments, landscaping (including tree planting), entrance features, or corner lot fencing, or fences or retaining walls may be erected/placed/installed within the Subdivision in accordance with municipally approved plans. Such subdivision esthetic enhancements may not necessarily apply to/benefit all dwellings within the Subdivision. The erection/placement/installation and/or spacing of subdivision esthetic enhancements such as municipal trees and/or privacy fencing may be sporadic in accordance with municipally approved plans and the overall design objectives of the Municipality/Subdivider. Purchasers who do not receive/benefit from any subdivision esthetic enhancements such as a municipal tree or privacy fencing are not entitled to any refund/abatement of any sums payable to the Vendor hereunder. In the event this Agreement, any schedule hereto or other matter obligates the Vendor to install or provide any of the features set out herein, such matters will be provided and installed at the times determined by the Vendor and shall not comprise outstanding deficiencies or matters with respect to the completion of the Dwelling, and the Purchaser specifically acknowledges, covenants and agrees that any such features shall be installed at the times determined by the Vendor in its sole and absolute discretion.
- (h) The Purchaser covenants and agrees that should the Purchaser request any changes such as but not limited to lot change, elevation change, model type change which would require a Mutual Release of this Agreement of Purchase and Sale and a new Agreement of Purchase and Sale prepared, the Purchaser shall be required to pay to the Vendor an administration fee of One Thousand Five Hundred Dollars (\$1,500.00) plus Applicable Taxes and any additional costs associated with the requested change prior to the Vendor agreeing to process such a change.

3. **CONSTRUCTION**

- (a) The Vendor will construct (if not already constructed) and complete upon the Property a dwelling (the "**Dwelling**") of the type hereinbefore indicated in accordance with the plans of the Vendor therefore and filed or to be filed with the Municipality in order to obtain a building permit and the specifications set out in Schedule "A" annexed hereto. The Dwelling shall be deemed to be completed for the purposes of Closing when the requirements of the Tarion Addendum and Statement of Critical Dates have been met and the Purchaser agrees in such case to close this transaction, without holdback of any part of the Purchase Price, on the Vendor's undertaking given pursuant to section headed "COMPLETION AND ONTARIO NEW HOME WARRANTIES INSPECTION" hereof to complete the Dwelling, and the Purchaser hereby agrees to accept the Vendor's covenant of indemnity regarding lien claims which are the responsibility of the Vendor, its trades and/or suppliers, in full satisfaction of the Purchaser's rights under the Construction Lien Act, and will not claim any lien holdback on the Closing Date. If by reason of "Unavoidable Delay" as defined in or as otherwise permitted by the Tarion Addendum and Statement of Critical Dates the Vendor is required to extend the Closing, the Vendor shall be entitled to extend the Closing provided the Vendor complies with the provisions of the Tarion Addendum and Statement of Critical Dates in respect of such extensions. The Dwelling shall be deemed to be completed when all interior work has been substantially completed as determined by the Vendor and provided that the provisions of paragraph 9 of the Tarion Addendum and Statement of Critical Dates attached hereto have been complied with. The Purchaser agrees to complete this transaction notwithstanding any claims submitted to the Vendor and/or Tarion or otherwise in respect of apparent deficiencies or incomplete work.
- (b) Acceptance of construction, siting and grading by the Municipality shall conclusively constitute acceptance by the Purchaser. The Vendor shall have the right to substitute materials for those designated in the plans and/or specifications provided the quality is equal or better, and also to make minor changes in plans, siting and specifications, provided there is no objection from the Municipality.
- (c) The Purchaser acknowledges and agrees that architectural control of external elevations, driveway construction and location, boulevard tree planting, landscaping, acoustical barriers, corner lot fencing (including the location of such acoustical barriers and corner lot

fencing), exterior colour schemes, corner lot and rear lot treatments, or any other matter external to the Dwelling designed to enhance the aesthetics of the community as a whole, may be imposed by the Municipality and/or the Vendor/Subdivider. In the event the Vendor is required, in compliance with such architectural control requirements, to construct an external elevation for this Dwelling other than as specified in this Agreement, or amend the driveway construction, boulevard tree planting or landscaping plan for this Dwelling (all of which is hereinafter referred to as the "**Amended Elevation**"), the Purchaser hereby irrevocably authorizes the Vendor to complete the Dwelling herein including the required Amended Elevation, and the Purchaser hereby irrevocably agrees to accept such Amended Elevation in lieu of the elevation specified in this Agreement. The Vendor shall have the right, in its sole discretion, to construct the hereinbefore described Dwelling either as shown on the sales brochures, renderings and other plans and specifications approved by the Municipality or any other authority having jurisdiction over same, or, to construct such Dwelling on a reverse mirror image plan, including reversal of garage siting and reversal of interior floor plan layout. Construction of a reverse mirror image Dwelling plan is hereby irrevocably accepted by the Purchaser without any right of abatement of Purchase Price and in full satisfaction of the Vendor's obligations as to construction of the Dwelling type hereinbefore described. Further, in the event the Vendor determines, at its sole discretion, to construct the Dwelling at a grade level different than as depicted in the plans or drawings attached hereto, sales brochures, renderings or any other plans and specifications whether or not approved by the Municipality or any other authority having jurisdiction over same, necessitating a step, landing or series of steps to the front door, side door, rear door, or any door from the garage to the interior of the Dwelling (notwithstanding that such step, landing or series of steps may encroach into the garage parking area and/or affect the interior floor area of the dwelling adjacent to such step, landing or series of steps), or to relocate and/or remove any side door, rear door or door from the garage to the interior of the Dwelling, the Purchaser hereby irrevocably agrees to accept such changes without any right of abatement of Purchase Price and in full satisfaction of the Vendor's obligation as to construction of the Dwelling type hereinbefore described.

- (d) The Purchaser hereby acknowledges that complete engineering data in respect of the Municipally approved final grading of the Property may not, as yet, be complete and accordingly, it may not be possible to construct a Dwelling with a walk-out basement, look-out or rear deck where so indicated in this Agreement, or vice versa. In the event this Agreement calls for a walk-out basement, look-out or rear deck and such is not possible or reasonable in the Vendor's opinion or in the event this Agreement does not call for a walk-out basement, look-out or rear deck and such is required, pursuant to final approved grading and engineering plans, the Purchaser shall accept a credit in the Purchase Price, or, pay the additional cost involved in constructing such walk-out basement, look-out or rear deck, as the case may be (such costs shall be absolutely determined by the Vendor).
- (e) The Purchaser acknowledges that certain lots within the subdivision may, at the Vendor's sole, absolute and unfettered discretion, require catch basins in the rear or front yard and associated leads, drainage systems, weeping pipe/sump pump systems, retaining walls, fencing, sidewalks landscaping and other subdivision enhancement features, and the Purchaser covenants and agrees that in the event the Property contains any of the foregoing items, on/after the Closing Date, the Purchaser shall maintain all such items in proper working condition. Additionally, the Purchaser is advised that electricity transformers, super mailbox, telecommunication pedestals, street light poles and hydrants and other utility infrastructure may front onto or be located within certain lots (including the Property) within the Subdivision. The Purchaser agrees to accept the Property subject to any catch basins and associated leads, drainage systems, weeping pipe/sump pump systems, retaining walls, fencing, landscaping, sidewalks and other subdivision enhancement features, and that electricity transformers, super mailbox, telecommunication pedestals, street light poles and hydrants required pursuant to the municipally approved plan and the Purchaser covenants and agrees to maintain all foregoing items in proper working order in the event the Property contains such items.
- (f) In the event the Purchaser completes this transaction and occupies the Dwelling at a time prior to the Vendor completing all of its work or construction within the Subdivision, the Purchaser covenants and agrees to permit the Vendor and its agents and subtrades to enter upon the Property for the purposes of completing work on the Property, an adjoining property or other properties in the Subdivision and the Purchaser shall not interfere with any work or construction being so performed by the Vendor, the Subdivider and their agents and subtrades. The Purchaser agrees that this covenant may be pleaded by the Vendor as an estoppel to any action or opposition by the Purchaser.
- (g) The Purchaser covenants and agrees that he shall pay to the Vendor for all extras, upgrades or changes ordered by the Purchaser in accordance with the terms of any documents/agreements pertaining to the purchase of said extras, upgrades or changes and the Purchaser further acknowledges and agrees that such payment is non-refundable in the event that this transaction is not completed as a result of any default hereunder of the

Purchaser. Notwithstanding anything herein contained to the contrary, the Purchaser acknowledges and agrees that if, upon Closing, any of the extras, upgrades or changes ordered by the Purchaser remain incomplete in whole or in part or if the Vendor shall, in its sole discretion, determine that it will not provide extras, upgrades or changes or cannot complete the extras, upgrades or changes then there shall be refunded or credited to the Purchaser that portion of the amount paid by the Purchaser in connection with such extras, upgrades or changes allocated to those extras, upgrades or changes which remain incomplete in whole or in part as aforesaid, as determined by the Vendor. The Purchaser further acknowledges and agrees that the amount so paid to the Purchaser (or for which, in the alternative, in the Vendor's discretion, the Purchaser received credit in the Statement of Adjustments) 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. The Purchaser further acknowledges that the Vendor's liability with respect to such incomplete extras, upgrades or changes shall be limited to the return of the amounts referred to aforesaid and, thereafter, there shall be no further liability upon the Vendor in connection with such incomplete extras, upgrades or changes and upon such payment being made or credit being given, the Vendor shall be released from any and all obligation, claims or demands whatsoever with respect to such incomplete extras, upgrades or changes. In the event the Purchaser neglects to advise the Vendor forthwith upon request as to the Purchaser's selection of finishing specifications, or orders any extras, upgrades in interior finishings, or performs any work in or about the Dwelling which causes delay in the Vendor's construction operations, the Vendor may require the Purchaser to complete this transaction on the Closing herein set out without holdback of any part of the Purchase Price, on the Vendor's undertaking to complete any of the Vendor's outstanding work.

- (h) The Vendor is not responsible for any difference or variation in shade, colour, exterior finish or other material characteristics or features in items such as, but not limited to, finishing materials or products including, but not limited to, carpet, floor tiles, roof shingles, brick, cement board, mortar, aluminum or vinyl siding, bath tubs, water closets, sinks, stone, stucco and any other such products where the product manufacturer establishes the standard for such finishes which occur as a result of the manufacturing process, change of suppliers, municipal requirements, unavailability of materials or otherwise. The Vendor is also not responsible for colour variations or variations in material characteristics or features including, but not limited to veining, grain or grain direction, knotting etc. in natural products or the finishes on natural products or man-made products such as but not limited to marble, granite, brick, stone, hardwood flooring, kitchen cabinets, wood stair railings, steps, spindles, trim, nosings, thresholds as well as stains or finishes applied to any of the aforesaid which colours may vary when finishes are applied to them. Nor shall the Vendor be responsible for shade difference in colour of components manufactured from different materials but which components are designed to be assembled into either one product or installed in conjunction with another product such as but not limited to toilet seats, toilets, bathtubs, cabinet finishes and paint and in these circumstances the product as manufactured shall be accepted by the Purchaser. Purchaser acknowledges and agrees that (i) carpeting may be seamed in certain circumstances and said seams may be visible; (ii) hardwood, laminate or other flooring materials may react to normal fluctuating humidity levels contributing to gapping or cupping, and (iii) there may be different levels of flooring which may require transition strips, nosings or thresholds, and the Purchaser agrees that in any of the forgoing eventualities are considered to be acceptable by industry standards and the Purchaser shall make no claim whatsoever against the Vendor in the event of same.
- (i) All dimensions, specifications and illustrations in any schedules attached hereto or on sales brochures and other sales aides are artists' concepts only and are approximate and subject to modification without prior notice at the sole discretion of the Vendor in compliance with the Ontario Building Code. The designation of door swings, including entrance doors and doors from the garage to the interior of the Dwelling, if any, in any schedules attached hereto or sales brochures and other sales aides are conceptual only and are subject to modification without prior notice at the sole discretion of the Vendor. The Purchaser acknowledges and agrees that attic hatches or access points may be located within any location determined by the Vendor in its sole discretion, including without limitation, within any hallway, room, closet or interior wall. The location of mechanical installations may not be as shown (or not shown, as the case may be) on sales documentation and will be located in accordance with approved plans and/or good construction practice and may result in room size or garage size reduction caused by the mechanicals being installed. The Purchaser acknowledges being advised by the Vendor that the Vendor has experienced a high rate of theft of air-conditioning units when they are installed prior to the Closing. Accordingly, the Purchaser acknowledges that if the Agreement herein calls for the Vendor to install an air-conditioning unit, the Vendor has the right to install that unit, in accordance with the Agreement, within 7 days after the Closing, weather permitting. The Purchaser shall not be entitled to any holdback on account of the Purchase Price notwithstanding that the air-conditioning unit is not installed at the Closing. Notwithstanding the foregoing, in the event that the Purchaser requires the air-conditioning unit to be installed prior to the Closing, the Purchaser shall

make written request therefor, such request to be received not later than 30 days prior to the Closing by way of separate written request addressed to the Vendor's solicitor and the Purchaser acknowledges that the Purchaser shall assume all liability for the air-conditioning unit in the event that it is stolen after its installation prior to the Closing and the Vendor shall not be obliged to replace same nor shall there be any adjustment in the Purchase Price with respect thereto.

- (j) In the case of the purchase of a townhome by the Purchaser (if applicable) the Purchaser acknowledges that: the concept plans displayed in the sales office and/or in promotional brochures or media (including any websites), do not necessarily represent any specific block to be built by the Vendor; the Vendor has not artistically rendered all block scenarios and combinations of model types available; final block plans will feature similar but not necessarily identical architectural details; variances from block to block will reflect, amongst other things, the number of units in respective blocks, final siting combinations of actual model types within respective blocks, roof designs that evolve in conjunction with the combination of various model types constituting specific blocks, unit stepping due to grading within respective blocks and the location of required partywalls and firewalls (if applicable) per respective block plan.
- (k) Where any portion of any fence is within 0.45 metres 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 either upon the Vendor's undertaking to take all reasonable lawful steps to remove the Unpermitted Encroachment; or, at the Vendor's sole option, upon an abatement in the Purchase Price, such abatement to be calculated by multiplying the Purchase Price by the ratio of the area of the Unpermitted Encroachment to the total area of the Property. Despite anything hereinbefore set out, the whole of any fence erected by any governmental authority, utility or railway or pursuant to any Subdivision, Site Plan or Development Agreement shall be deemed to be a Permitted Encroachment and the Purchaser agrees to maintain all such fencing to the satisfaction of the appropriate authority.
- (l) Where a dwelling type has a sunken foyer, landing or hallway leading to a front and/or rear porch (at the front and/or rear door entry), the ceiling area below the porch slab and other relevant areas will be reduced and this height may vary up or down, caused by the number of risers from the main floor to the dropped landing, as per applicable plan. Notwithstanding that the sales aids, such as brochure plans or sketches may refer to these areas as cold rooms, storage areas, cantinas or fruit cellars, they shall be treated and referred to as crawl space, notwithstanding that the Purchaser may be desirous of using this space for other purposes. The Purchaser hereby acknowledges these facts and accepts the Dwelling as built and will make no claims whatsoever relevant thereto. Furthermore, any reference to ceiling heights in this Agreement, the schedules attached hereto or in sales material, if any, shall mean the approximate height and such heights will be reduced by sound attenuation features, finishes of floors and ceilings and installations such as bulkheads, etc..
- (m) In the event that the Dwelling includes stucco to be installed on the exterior of the Dwelling, the Purchaser acknowledges that there may be a variance in accordance with Tarion standards, which the Purchaser agrees to accept, without objection or claim for compensation. In the event that the Dwelling includes stucco to be installed on the exterior of the Dwelling, the Purchaser acknowledges that there may be variance in the colour of such stucco and that the Vendor shall choose, in its sole, absolute and unfettered discretion, the texture of such stucco, and the Purchaser agrees to accept same without objection or claim for compensation.
- (n) The Purchaser acknowledges and agrees that drainage holes may be required, as determined and where required by the Vendor, on all or any of the exterior finishing and/or cladding of the Dwelling.

4. RENTAL EQUIPMENT

Unless expressly provided in this Agreement, the hot water heater/tank and related equipment, the heat pump and all other heating and ventilation equipment and any other equipment or included in any schedule attached hereto as rental equipment (the "Equipment") for the Dwelling, if any, is not included in the Purchase Price and shall remain chattel property. The Purchaser acknowledges that (i) the Equipment may be non-owned (ii) the terms governing the lease/rental for the Equipment will be provided by the Vendor prior to closing and the Purchaser may be required to execute a lease/rental document containing the terms prior to closing; and (iii) the terms of the lease/rental may contain a buy-out option allowing the Purchaser to purchase the Equipment if desired. If any provider of the Equipment no longer rents the Equipment and if arrangements are not made with another supplier for the installation of the Equipment on a rental basis, then notwithstanding anything to the contrary in this Agreement, the Purchaser shall pay, as an adjustment on closing, the cost of the Equipment, such cost to be determined by the Vendor. The

Purchaser acknowledges and agrees that it shall only utilize the hot water heater/tank supplied by the Vendor within and upon the Property and the Purchaser is prohibited from installing or utilizing any other hot water heater/tank, without the Vendor's prior written consent.

5. **COMPLETION AND ONTARIO NEW HOME WARRANTIES INSPECTION**

- (a) The Purchaser or its designate shall inspect the Dwelling, such inspection hereinafter referred to as the Pre-Delivery Inspection (the "**PDI**") prior to the Closing Date with a representative of the Vendor at a time appointed by the Vendor and the parties shall indicate on the face of the Warranty Act's Certificate of Completion and Possession Form (the "Certificate"), the approval of the Purchaser, which shall be subject only to the completion of seasonal work, and any items uncompleted, and listed thereon (or on an addendum thereto), and save as to such list the Purchaser shall be conclusively deemed to have accepted the Dwelling as complete in accordance with this Agreement. The Purchaser covenants and agrees that, on or before the PDI, the Purchaser shall access and review all materials within the online Learning Hub of Tarion Warranty Corporation ("**Tarion**") including, without limitation, any and all modules, brochures and/or materials. The Vendor will complete all matters set out in the said Certificate as soon as reasonably practicable. Further, the Vendor agrees to rectify any defects in materials or workmanship covered by the Warranty Act's warranty issued to the Purchaser as soon as reasonably practicable after the same will have been called to the Vendor's attention by notice in writing and in accordance with the guidelines of Tarion. Except for the aforementioned inspection with the Vendor's representative, the Purchaser shall not enter (and shall not direct or cause anyone to enter) the Property and the Dwelling until the Purchaser has completed his obligations under this Agreement on the Closing Date. The Purchaser shall provide the Vendor with written notice, at least 5 days prior to the date appointed by the Vendor for the PDI, irrevocably appointing the Purchaser's designate, if any. If the Purchaser appoints a designate to the PDI, the Purchaser acknowledges, covenants and agrees that the Purchaser shall be bound by all of the documentation executed by such designate to the same degree and with the force and effect as if executed by the Purchaser directly. Furthermore, the Purchaser acknowledges, covenants and agrees that the Purchaser shall execute any confirmation or statements if and as required by the Vendor from time to time confirming the Purchaser has reviewed the online Learning Hub.
- (b) The completion of the foregoing inspection and the preparation and endorsement of the Certificate are conditions of the Vendor's obligation to complete this transaction. Failure by the Purchaser to attend at the appointed time for the inspection and to complete the Certificate shall be deemed to be a default by the Purchaser under this Agreement. The Vendor, at its sole option, may thereupon either terminate the transaction in accordance with the provisions set out in the paragraph(s) headed "Contract and Default" herein, or may elect to complete the Certificate on behalf of the Purchaser. The Purchaser hereby irrevocably nominates, constitutes and appoints the Vendor or any of its authorized signing officers to be and act as his lawful attorney in the Purchaser's name, place and stead for this purpose.
- (c) The Purchaser agrees to forthwith upon request do all acts and execute and deliver all documents, both before and after Closing, as may be required by the Vendor or the relevant municipality (the "**Municipality**") in connection with the acceptance of the subdivision as a whole by the Municipality.
- (d) Keys will be released to the Purchaser at the construction site or the sales office or from any other location designated by the Vendor, as the Vendor in its sole, absolute discretion determines, unless otherwise specifically agreed in writing between the Vendor and the Purchaser. The Purchaser agrees that the Vendor's advice that keys are available for release to the Purchaser constitutes a valid tender of keys on the Purchaser. Upon completion of this transaction, if the Purchaser fails to attend to pick up the keys by five o'clock (5:00) p.m. on that day, the Vendor may retain the keys and release same to the Purchaser on the next business day (in this Agreement the term "business day" or "business days" shall mean Monday to Friday, excluding statutory holidays in the Province of Ontario).

6. **CONVEYANCE**

In the event the Vendor is unable to deliver to the Purchaser on or before Closing a conveyance of the Property free and clear of all encumbrances save as may be provided for in this Agreement, for any reason whatsoever, the Vendor at its option may require the Purchaser to pay the Vendor the balance due on Closing, which shall be deposited with the Vendor's solicitors in trust, with the interest earned to the benefit of the Vendor, and take possession of the Property on the Vendor's undertaking to deliver a conveyance in accordance with the provisions of this Agreement within such period as the Vendor may require and

execute the Vendor's Possession Undertaking. From and after the date of possession the Purchaser shall be responsible for realty taxes, water, electricity, gas and other public or private utilities and payment to the Vendor of interest on the unpaid Purchase Price at the same rate of interest that the Purchaser is being charged by his lender as confirmed by the Purchaser providing to the Vendor's solicitor a copy of the Purchaser's mortgage commitment. The parties further agree that upon the Vendor delivering to the Purchaser a conveyance in accordance with the terms of this Agreement, the monies held in trust shall be released to the Vendor and any further adjustments that may be required shall be made at the time of the delivery of the conveyance. The Vendor's solicitor shall undertake to the Purchaser not to release such monies to the Vendor until the Vendor has delivered a conveyance to the Purchaser in accordance with the terms of this Agreement.

7. **TITLE**

- (a) Provided the title is good and free from all encumbrances except as herein provided, and except as to building and other restrictions, and to any easement or right-of-way granted or to be granted for installation and/or maintenance of services, telecommunication, cable television systems, and all related or appurtenant equipment, mutual driveways, and for maintenance and repair of adjoining dwellings, if applicable. Furthermore, title to the Property may be subject to encroachments by portions of the buildings located on abutting lands, including eaves, eavestroughing, downpipes, or other attachments to the roofs, footings, drainage pipes, utility meters and other projections of the buildings, and the Purchaser further acknowledges that portions of the Dwelling may encroach onto abutting lands where the right to do so exists. The Purchaser accepts legal access to the subject Property even though it may be restricted by 0.3 metre reserves owned by the Municipality and not yet dedicated as public highway. The Purchaser is not to call for the production of any title deeds, abstract or other evidence of title except as are in the possession of the Vendor. The Purchaser is to be allowed 60 days prior to the Closing, to examine the title at his own expense and if, within that time, any valid objection to title is made in writing to the Vendor which the Vendor shall be unable or unwilling to remove and which the Purchaser will not waive this Agreement shall, notwithstanding any intermediate act or negotiations be void and the deposit monies shall be returned, with interest, and the Vendor and the Broker shall not be liable for any damages or costs whatsoever. Save as to any valid objection so made within such time, the Purchaser shall be conclusively deemed to have accepted the title of the Vendor to the Property. The Purchaser acknowledges and agrees that the Vendor shall be entitled to respond to some or all of the requisitions submitted by the Purchaser through the use of a standard title memorandum or title advice statement prepared by the Vendor's solicitors and that the same shall constitute satisfactory manner of responding to the Purchaser's requisitions. Further, the Purchaser agrees that in the event that any valid requisition is not sufficiently answered by the Vendor, then the requisition shall be deemed sufficiently answered if a title insurance policy, available for issuance to the Purchaser by any company which issues title insurance policies in Ontario, would insure over the title matter which is being requisitioned.
- (b) The Purchaser agrees to accept the Property subject to municipal regulations and restrictions now or hereafter affecting the ownership or use of the Property and the Purchaser shall observe and comply with the said regulations and restrictions and with the terms and obligations imposed by any subdivision or development agreement. The Purchaser agrees to accept title to the Property subject to any easements or licences for the installation of the maintenance of public or other utilities including, without limitation, telephone, electricity, gas, sewer, sump pumps, water and cable television, as well as any rights or easements reserved by the Vendor and/or granted in favour of other lands for maintenance purposes, drainage and roof overhangs, downpipes, footings, drainage pipes, sump pumps, utility meters and other projections of the Dwelling, if necessary on or about the Property. The Purchaser shall also accept title to the Property subject to any rights of entry in favour of the Subdivider, the Vendor, the Municipality or any other utility/service provider or public or private governmental authority. The Purchaser shall execute any easements required for the said purposes upon being requested by the Vendor both before or after Closing. The Purchaser acknowledges that the Transfer/Deed of the Property may reserve such rights and easements. In the event the Municipality or any other governmental authority or the Vendor requires the granting of maintenance and/or private drainage easements which have not been created on or before Closing, the Purchaser shall execute and deliver to the Vendor on Closing an Acknowledgement and Direction authorizing and directing the Vendor to register after Closing any such easements on behalf of the Purchaser. The Purchaser agrees to accept title to the Property subject to any easements, rights of way, licenses, agreements with the local municipality, regional or county municipality or other tier of municipal government having jurisdiction with respect to future services to be installed, or any other purpose.
- (c) In the event the Property abuts land owned by any government, utility, or railway such authority may require fences, entrance gates or other structures to be located within the Property line and the Purchaser agrees to accept same and agrees to maintain same, if

required by such authority.

- (d) The Purchaser acknowledges that title may be conveyed directly from the Subdivider of the lands, or from another person or entity (the “**Transferor**”) and not the Vendor, and the Purchaser hereby releases the Subdivider or the Transferor, as the case may be, from all obligation, liability and responsibility whatsoever arising out of or associated with this Agreement, the construction of the Dwelling, the installation of all other improvements within the lot boundaries and the conveyance of title to the Property to the Purchaser, and the Purchaser agrees to execute and deliver on Closing a separate acknowledgment and release in favour of the Subdivider or the Transferor, as the case may be, to this effect. Furthermore, in the event that the Vendor is not the registered owner of the Property, the Purchaser agrees to accept a conveyance of title from the registered owner in lieu of the Vendor and the Purchaser acknowledges and agrees that the consideration shown on the transfer of title is the consideration paid by the Purchaser to the Vendor and not to such registered owner, and that such registered owner has no contractual or other obligation or liability whatsoever to the Purchaser. The Purchaser hereby release(s) such registered owner from all claims, demands, obligations, liability and responsibility whatsoever arising out of or associated with this Agreement, the construction of the dwelling unit and any other improvements by the Vendor upon the above-mentioned lands and the conveyance of title to the Purchaser, and the Purchaser agrees to execute and deliver on the Closing Date a separate acknowledgment and release in favour of such registered owner to this effect.
- (e) In the event any mortgages are outstanding on Closing the discharge of which is the Vendor's obligation, the Purchaser agrees to accept the Vendor's solicitor's undertaking to obtain and register the discharge of the same within a reasonable period of time after Closing in full satisfaction of the Vendor's obligation in that regard.
- (f) The Purchaser agrees to provide the Vendor's solicitor with a written direction as to whom title is to be conveyed no later than sixty (60) days prior to the Closing, failing which, the Vendor is hereby directed to convey title to the Purchaser(s) set forth and named in this Agreement. Prior to Closing, the Purchaser covenants not to register this Agreement or any other document on title to the Property.
- (g) If, on or after registration of the Plan of Subdivision or such other land severance or lot creation process, the lot number or municipal address of the Property is changed, the Purchaser agrees to accept such variation in lot number and municipal address and this Agreement shall be read with all amendments required thereby.
- (h) The Purchaser agrees to accept title to the Property subject to any Certificates of Property Use, Notice of Requirement or other notices or directives of any governmental authority, including, without limitation the Ministry of the Environment, provided that the Vendor or the Property, as the case may be, is in compliance thereof.
- (i) The Purchaser agrees to accept title to the Property subject to any easements, rights-of-way, easement agreements and/or any other agreements with or in favour of the Ministry of Transportation and/or other governmental authorities.
- (j) The Purchaser agrees to accept title to the Property subject to any specific and/or blanket easements, right-of-way, easement agreements and/or other agreements with or in favour of utilities, other lots and/or other applicable entities for installation and/or maintenance of services, telecommunication, cable television systems, and all related or appurtenant equipment.
- (k) The Purchaser agrees to accept title to the Property subject to any easements, rights-of-way, easement agreements, development agreements, subdivision agreements or site plan agreements and any other agreements with the Municipality or other governmental body or agency having jurisdiction, applicable by-laws whether registered or not.
- (l) The Purchaser agrees to accept title to the Property subject to any agreement(s), easement(s), covenants and restrictions between or among the Vendor on its behalf and on behalf of the owner(s) of improvements constructed or to be constructed on lands adjoining or in the vicinity of the Property and/or Subdivision.
- (m) The Purchaser agrees to accept title to the Property subject to any agreement(s), covenants and restrictions that prohibit or restrict, inter alia, any changes to landscaping on the Property and any changes to the esthetics of the external Dwelling features from that as provided by the Vendor.

8. **SUBDIVISION/DEVELOPMENT AGREEMENT REQUIREMENTS**

- (a) The Purchaser acknowledges and agrees that title may on Closing be subject to one or more subdivision or other development agreements and that the Subdivider has agreed at its own expense to construct, install and pay for roads, sanitary sewers, water mains and



all other services in accordance with the requirements of the Municipality, which the Vendor herein is not responsible to construct, install or pay for. The Purchaser agrees that the Vendor shall not be obligated on Closing or thereafter to obtain releases of such subdivision or other development agreements provided that the same have been complied with as of the Closing and the Purchaser shall satisfy himself as to compliance.

- (b) The Purchaser hereby acknowledges receipt of notice from the Vendor that the Vendor and/or the Subdivider or a company (or other entity) related, associated or affiliated with the Vendor, or any entity or person with the consent of the Vendor, may apply for re-zonings, severances, part lot control exempting by-laws, minor variances, site plan approvals, development approvals or official plan amendments or any similar applications with respect to blocks or lots not purchased hereunder as laid down by the Plan of Subdivision or with regard to the lands adjacent to or near the lands laid down by the Plan of Subdivision, the Purchaser and the Purchaser's successors and assigns, shall consent to any such application and agrees that this paragraph may be pleaded as a bar to any objection by the Purchaser to such re-zonings, severances, part lot control exempting by-laws, minor variances, site plan approvals, development approvals, official plan amendments, signage by-law variances, signage approval applications or any similar applications. The Purchaser further acknowledges that the Vendor or a company (or other entity) related, associated or affiliated with the Vendor, or any entity or person with the consent of the Vendor, may make any such application without any further notice to the Purchaser or the Purchaser's successors and assigns. The Vendor shall have the right to remove any objection(s) made by the Purchaser, the Purchaser's successors and assigns, with respect to any such application and the Purchaser shall reimburse the Vendor for all legal fees, expenses and costs that it incurs as a result of such objection(s). The Purchaser covenants to include the provisions of this clause in any conveyance or disposition, other than a charge or mortgage, of the Property and upon request by the Vendor to assign the benefit of such covenant to the Vendor or a company (or other entity) related, associated or affiliated with the Vendor. The Purchaser shall insert this clause in all agreements of purchase and sale and leases in respect of the Property. The Vendor may, at its sole, absolute and unfettered discretion, register a restriction on title to the Property, for such term as determined by the Vendor in its sole, absolute and unfettered discretion, containing the terms of this provision or language similar thereto and/or include same in the transfer/deed to the Property. The Purchaser covenants and agrees to accept title to the Property subject to said restriction and to accept the transfer/deed containing this provision or language similar thereto.
- (c) The Purchaser acknowledges and agrees that the relevant governing authorities and/or any subdivision or development agreements may require the Vendor to provide the Purchaser with certain notices ("**Notices**"), including, without limitation, notices regarding land usage, landscaping, maintenance of fencing, school transportation, noise and vibration warning resulting from existing or proposed highways and public transportation systems or corridors, railways, garbage, buffers, school pick-up, transit routes, bus-stops and/or shelter locations, in some instances the absence of door-to-door mail delivery, the location of "super mailboxes", and in general, any other matter that may be deemed by the Municipality to inhibit the enjoyment by the Purchaser of this Property. Such Notices, when available, may be delivered to the Purchaser in accordance with the notice provisions herein and delivery in accordance with any methods described in said notice provisions shall be deemed to constitute appropriate notification of the Purchaser. The Purchaser agrees to be bound by the contents of any such Notices and covenants to execute forthwith upon request, an acknowledgment containing such Notices if and when requested to do so by the Vendor. In the event any subdivision agreement or other development, site plan or similar agreement is not registered as of the date of acceptance of this Agreement, and therefore the Notices are not yet available, or if after they are available, they are amended by the Municipality, or are inadvertently omitted or misquoted by the Vendor and if the Municipality requires the Purchaser to receive a copy of the Notices, then a copy of the Notices as revised as necessary, shall be delivered to the Purchaser in accordance with notice provisions herein and delivery in accordance with any methods described in said notice provisions shall be deemed to constitute appropriate notification. Without limiting the generality of the foregoing, to the extent that any Notices are provided to the Purchaser by the Vendor after this Agreement has been made, such Notices shall be deemed to have been included in this Agreement at the time that this Agreement has been made. The Purchaser acknowledges and agrees that any Notices and warning clauses may be registered on title to the Property, at the sole and absolute and unfettered discretion of the Vendor. Purchasers/tenants are advised that despite the inclusion of noise control features in this development area and within dwellings, noise levels from increasing road traffic from nearby roadways may be of concern occasionally interfering with some activities of the dwelling occupants.
- (d) The Purchaser hereby unconditionally acknowledges that he/she is aware of the above matters and warning clauses and the notices set out in this Agreement and any schedule attached hereto and confirms that he/she does not object, in any manner whatsoever, to any of these matters and warning clauses nor to any of the notices set out in this Agreement

or any schedule attached hereto nor will he/she be entitled to raise any objections with respect to the above matters and warning clauses or notices set out in this Agreement and any schedule attached hereto and the Purchaser hereby waives and releases any claims that the Purchaser may have against the Vendor with respect to the above matters, warning clauses and the notices set out in this Agreement and any schedule attached hereto and any additional notices and warning clauses as referred to at a future date.

9. **DAMAGES BEFORE CLOSING**

- (a) All buildings and equipment shall be and remain at the Vendor’s risk until Closing. In the event of any damage to the Dwelling, however caused, the Vendor shall be entitled to the insurance proceeds payable under any insurance policy coverage on the Dwelling.
- (b) In the event that the Property or the Dwelling are substantially damaged or destroyed, and the Vendor’s lender requires that insurance proceeds be applied to reduce its loan rather than to the reconstruction of the Dwelling and the Vendor does not have alternative financing arrangements satisfactory to the Vendor, in its sole, absolute and unfettered discretion, then the Purchaser and Vendor agree that such event shall constitute a frustration of this Agreement and the Purchaser’s deposits shall be returned to the Purchaser with interest as required by law, without deduction, and the Vendor shall not be liable for any costs and/or damages incurred by the Purchaser thereby whatsoever, including, without limitation, costs and/or damages arising from (or in connection with) the termination of this transaction, by virtue of the frustration of this contract.

10. **AFTER CLOSING**

- (a) In the event that after taking possession of the Dwelling, the Purchaser shall complete and/or install any additions and/or improvements such as, but not limited to, porches, patios, plantings, paved driveways, pools or hot tubs, curbs or fences which are located within 6 feet of an external wall or within any area which interfere with the Vendor or Subdivider installing any required services, the Purchaser will remove such addition and/or improvements within five (5) business days of written request from the Vendor and prior to the Vendor taking any corrective actions which it is required to take.
- (b) In the event that after taking possession of the Dwelling, the Purchaser shall complete and/or install any improvements, additions or alterations thereto, including, but not limited to, finishing basement, wallpapering, cabinetry and/or mouldings and/or finishings, porch tiles or finishes, pools or hot tubs the Purchaser shall be required to remove such improvements, additions or alterations at his own expense, in the event that the Vendor shall be required to carry out any repairs or replacements to the Dwelling in the area of such improvements, additions or alterations.
- (c) The Purchaser covenants and agrees that it shall not place or allow to be placed any “for sale”, “for lease” or “for rent” signs within the Dwelling that are visible from the exterior thereof or upon any portion of the Property or lands adjacent thereto until the later of: (a) the closing of the herein transaction and (b) until all of the dwellings in the Subdivision have been sold, which occurrence shall be determined by the Vendor in its sole, absolute, subjective and unfettered discretion. In the event that the Purchaser places or allows to be placed any such signs in contravention of the aforementioned, the Vendor shall have the absolute right to enter onto the Property and remove such sign without such act being an act trespass and the Vendor shall not be liable to the Purchaser for such removal, either in contract, tort or otherwise. The aforementioned covenant of the Purchaser and right of the Vendor shall survive the closing of the herein transaction.
- (d) The Purchaser acknowledges that grading and sodding shall be done between June and October (weather permitting and subject to availability of supplies) of any year as per the Vendor's scheduling program. The Purchaser agrees that he shall be solely responsible for watering and general maintenance of sod from the Closing Date or from the date that sod is laid, whichever shall be the later, and the Vendor shall have no obligation in that regard. In the event the Vendor is, for any reason, required to replace laid sod, the Vendor shall not be obligated to do so until payment has been made therefor by the Purchaser and if so replaced, the Purchaser agrees to reimburse the Vendor for the costs and expenses of same as determined by the Vendor, which costs and expenses may be deducted from the Security Deposit at the Vendor's sole, absolute and unfettered discretion. Further, the Purchaser acknowledges that the order of closing of the Property and/or the order of completion or closing of other lots sold by the Vendor is not indicative of the order of sodding of the Property and said other lots.
- (e) The Purchaser covenants to occupy the Dwelling forthwith after Closing. The Purchaser agrees not to finish the whole or any part of the basement of the Dwelling for a period of 24 months after the Closing Date or such longer period which is equivalent to the warranty

period under the Warranty Act for basement repairs. The Purchaser hereby releases the Vendor from any liability whatsoever in respect of water damage to basement improvements and chattels stored in basement resulting from water seepage or leakage, including any consequential damages arising therefrom.

- (f) The Purchaser acknowledges that the Vendor has a master key for the subdivision and in the event that the Purchaser wishes to change any locks, he may do so, at his own expense, any time after the Closing Date.
- (g) If settlement occurs due to soil disturbances around the Dwelling, the walkways, driveways and sodded areas, all minor settlements shall be the responsibility of the Purchaser, and the Vendor will rectify any major settlement once only, and such work, unless of an emergency nature, will be completed when reasonably feasible and according to the Vendor's work program and availability of materials and tradesmen's services. The Vendor is not responsible for any damage to the Dwelling which the Vendor considers of a minor nature by reason of such settlement.
- (h) No request by the Purchaser for homeowner service will be processed by the Vendor unless such request is in writing other than emergency service, such as no heat, no water or no electricity. In the event the Vendor is requested by the Purchaser to perform a homeowner service call for repairs relating to construction or work performed by the Vendor and the Vendor determines in its sole discretion that such repair is required due to any negligent act or omission either through the neglect or omission of the Purchaser, the Purchaser shall pay to the Vendor the sum of \$350.00 per homeowner service call, plus the cost of all materials utilized by the Vendor in making such repair, plus Applicable Taxes thereon.
- (i) The Purchaser agrees that after Closing, if required by the Municipality or any public or private utility such as the local electric authority, gas company, telecommunication or television system provider he will grant an easement for the installation and maintenance of such utilities, including without limitation, for sewers, water mains, lines, electricity equipment and appurtenances, gas equipment and appurtenances, telephone equipment and appurtenances or any other similar installations.

11. **BREACH OF CONTRACT**

- (a) Any breach by the Purchaser of any of the provisions of this Agreement shall entitle the Vendor, in addition to any rights or remedies that the Vendor may have in law or otherwise, to give notice to the Purchaser declaring this Agreement terminated, whereupon all deposit monies paid hereunder, and any monies paid for extras, shall be forfeited to the Vendor as liquidated damages and not as a penalty.

12. **UNLAWFUL WORKS**

- (a) In the event that the Purchaser shall without the consent in writing of the Vendor, enter upon the Property and carry out changes or additions to the Dwelling (the "Unlawful Works") being constructed by the Vendor, the Purchaser will forthwith pay to the Vendor the amount incurred by it in order to correct any damages caused by the installation or existence of the Unlawful Works including, without limiting the generality of the foregoing, time lost by the resulting delays and interest on monies invested, and at the Vendor's option it may declare this Agreement terminated. In addition to the foregoing, if the Unlawful Works shall be determined by any inspector having jurisdiction in that regard as not complying with the statutes, by-laws or regulations applying thereto, the Purchaser shall forthwith carry out any required work to remedy any such non-compliance and failing which, the Vendor, at its option may carry out such work at the expense of the Purchaser which he shall pay to the Vendor forthwith upon written request for payment for same and/or at the option of the Vendor, it may declare this Agreement terminated. The Purchaser agrees that anything constructed by the Vendor which is not accessible due to the Unlawful Works shall not be covered under the Warranty Act's warranties.
- (b) In the event that the Vendor shall choose the option as set forth above to declare the Agreement terminated, it shall be entitled to retain the Purchaser's deposit paid plus the value of the Unlawful Works. The parties agree that the damages which may be suffered by the Vendor as a result of the Unlawful Works cannot be assessed monetarily and the retention of the deposit and Unlawful Works, shall be deemed to be liquidated damages and not a penalty. **THE PURCHASER ACKNOWLEDGES THAT THE UNLAWFUL WORKS SHALL NOT BE COVERED UNDER THE WARRANTY ACT'S WARRANTIES.**
- (c) The Purchaser covenants and agrees that it will not be entitled nor permitted and shall at not time enter upon the subdivision or the Property prior to the Closing without the approval of the Vendor. Additionally, the Purchaser covenants and agrees that it shall not enter upon the Property or the subdivision prior to the Closing to supply any material and/or to perform any work or labour to or on the Dwelling or Property respectively. The Purchaser further covenants and agrees that the Vendor will not contract for the supply and installation of

extras to the Dwelling to be constructed other than by way of written contract on a specific form supplied by the Vendor for that purpose within fourteen (14) days of the acceptance of this Agreement.

- (d) The Purchaser shall not enter upon the Property at any time without the consent in writing of the Vendor or accompanied by a representative of the Vendor. Failure to comply with the foregoing shall constitute a trespass by the Purchaser on the Property and will entitle the Vendor to bring criminal or civil proceedings for such trespass against the Purchaser. In respect of any entry with the Vendor’s prior written consent, the Purchaser agrees to comply with all regulations under the Occupational Health & Safety Act, including the wearing of head and foot protection and such other safety apparel as designated by the Vendor. The Purchaser further agrees to indemnify the Vendor against any damages, losses and fines incurred as a result of non-compliance with this provision by the Purchaser.

13. **CONTRACT AND DEFAULT**

The Purchaser shall be deemed to be in default under this Agreement if the Purchaser registers any instrument against title to the Property other than the transfer to be delivered by the Vendor, or if any lien, execution or encumbrance arising from any action or default whatsoever of the Purchaser is charged against or affects the Property.

The Purchaser covenants and agrees to deliver to the Vendor post-dated cheques upon execution or acceptance of the Agreement of Purchase and Sale payable to the Vendor for further deposits due in accordance with the Agreement of Purchase and Sale.

The deposit monies are expressly deemed to be deposit monies only, and not partial payments. Default in payment of any amount payable pursuant to this Agreement on the date or within the time specified, shall constitute substantial default hereunder, and the Vendor shall have the right to terminate this Agreement and forfeit all deposit monies in full as liquidated damages and not as a penalty. Without prejudice to the Vendor's rights as to forfeiture of deposit monies as aforesaid, and in addition thereto, the Vendor shall have the right to recover from the Purchaser any monies owing to the Vendor pursuant to this Agreement and not paid to the Vendor in accordance with the terms hereof and/or all additional costs, losses and damages arising out of default on the part of the Purchaser pursuant to any provision contained in this Agreement, including interest thereon from the date of demand for payment at the rate of 24% per annum, calculated daily, not in advance, until paid. In the event this Agreement, in future, is amended in order to accelerate the Closing of the transaction or to change or alter the construction specifications of the Dwelling by giving the Purchaser a credit or reduction against the Purchase Price and the Purchaser fails to complete the transaction, all damages shall be assessed as if such amendment was not entered into. In the event any one or more of the provisions of this Agreement or any portion or portions thereof are invalid or unenforceable, the same shall be deemed to be deleted herefrom and shall not be deemed to affect the enforceability or validity of the balance of this Agreement. The Purchaser, if required by the Vendor, shall execute and deliver on Closing one or more covenants incorporating the terms hereof. There is no representation, warranty, collateral Agreement or condition affecting this Agreement or the Property, or supported hereby, except as set forth herein in writing. In the event there is a conflict between any term(s) in this Agreement, the Vendor shall determine which conflicting term(s) prevail(s). The Purchaser acknowledges and agrees that the covenants and obligations of the Vendor contained in this Agreement shall be those of the Vendor only and should the Vendor represent or act as trustee or agent on behalf of a beneficiary or principal (whether disclosed or undisclosed) in executing this Agreement, such beneficiary or principal shall have no liability under this Agreement, such liability being restricted to the Vendor only. All buildings and equipment shall be and remain at the Vendor's risk until Closing. In the event of any damage to the Dwelling, however caused, the Vendor shall be entitled to the insurance proceeds payable under any insurance policy coverage on the Dwelling. Deed to be prepared at Vendor's expense, and shall be executed by the Purchaser if required by the Vendor and shall be registered forthwith on Closing at the Purchaser's expense. The Purchaser shall pay the Vendor's solicitor's fees in the amount of \$500.00 (plus Applicable Taxes and disbursements) for each letter or other form of notice sent to the Purchaser or the Purchaser's solicitor relating to any default by the Purchaser.

In the event that the person(s) executing this Agreement as Purchaser have done so for a disclosed or undisclosed beneficiary or principal, such person(s) executing this Agreement shall nevertheless be deemed and construed to constitute the personal indemnity of such person(s) so signing with respect to the obligations of the Purchaser herein and shall be fully liable to the Vendor for the Purchaser’s obligations under this Agreement and shall not plead such agency, trust relationship or other relationship as a defence to such liability.

In the event that this Agreement is terminated and the Purchaser is entitled to the return of its deposits in accordance with this Agreement, the Purchaser acknowledges that the Vendor and any undisclosed beneficiary, agent or other person or corporation, shall not be liable for any damages or costs whatsoever incurred by the Purchaser resulting from the termination of this Agreement including, without limitation, relocation costs, moving costs, professional fees and disbursements, opportunity costs, loss of bargain or other damages or costs incurred by the Purchaser, whether direct or indirect and the Purchaser further acknowledges that this provision may be pleaded by the Vendor as a complete defence to any claim, action or proceeding which may be made or brought against the Vendor and/or its agents and/or affiliates.

14. **COLOUR AND MATERIAL SELECTION**

- (a) Wherever in this Agreement that the Purchaser has the right to choose colours or materials, the Purchaser shall do so by appointment at the Vendor's sales office for the subject project (or such other location that may apply from time to time) within 7 days after notification by the Vendor. The Purchaser shall make his selection of such colours and/or materials, whatever the case may be, from the Vendor's samples at the Vendor's sales office for the subject project (or such other location that may apply from time to time) and list same on the Vendor's colour selection form. While attending his appointment at the Vendor's sales office for the subject project (or such other location that may apply from time to time), the Purchaser shall be bound by and shall observe and perform all reasonable rules and regulations made by the Vendor from time to time and of which notice in writing shall be given to the Purchaser prior to the Purchaser's appointment, and all such rules and regulations shall be deemed to be incorporated into and form part of this Agreement, provided that the Purchaser shall be given reasonable prior notice of any amendment to such rules and regulations.
- (b) If the Purchaser fails to attend his appointment for the choosing of colours or materials for the Dwelling, or cancels or reschedules such appointment with less than 72 hours' notice, the Purchaser shall be charged a fee of \$500.00 plus Applicable Taxes on the Statement of Adjustments.
- (c) In the event that the Purchaser shall desire to select colours or materials from other than the Vendor's samples, the Purchaser must negotiate such colours or materials directly with the Vendor or the Vendor's subtrade or supplier as directed by the Vendor and attend to payment of any additional cost as a result of such choice to the Vendor or the Vendor's subtrade or supplier directly, as directed by the Vendor.
- (d) In the event that the Purchaser shall have made a choice of colours and/or materials from either the Vendor's samples or otherwise as aforesaid and because of lack of supply or other reasons the installation of such colour choice and material cannot be completed in accordance with the Vendor's construction schedule, the Purchaser shall choose alternate colours and materials within 7 days of notification by the Vendor and in the event the Purchaser fails to make an alternate selection as aforesaid, the Vendor shall have the option of choosing the colours and materials and the Purchaser shall be obligated to accept same.
- (e) In the event that by the Closing Date the installation of the selected colours and upgraded materials to be performed by the Vendor or its subtrade(s) has not been completed, and as a result thereof the Dwelling has not been completed, then the Purchaser shall, notwithstanding such incomplete work, complete the transaction on the Closing Date and shall pay the full amount required to be paid on Closing in accordance with this Agreement, notwithstanding that an occupancy permit may not be available as a result thereof.
- (f) In the event that the Purchaser has installed or has requested the Vendor to install a different floor covering than that which the Vendor would normally install in the dwelling, then the Purchaser agrees that if any defects should come to light for which the Vendor is normally responsible and repairs to which require the removal of the said floor covering, the Vendor will not be responsible to effect such repairs. For purposes of this Agreement "floor covering" shall mean any type of finished floor covering which is normally placed on the sub-floor and without limiting the generality of the foregoing, shall include tile, hardwood, marble, terrazzo and carpet.
- (g) Where omissions occur on the original colour selection sheet, the Purchaser acknowledges that selection by the Vendor will be final.
- (h) Unpaid upgrades listed on a standard colour chart will not be deemed to be part of the Agreement and if installed, the Purchaser shall pay for said upgrades upon demand to the Vendor.
- (i) The Purchaser agrees that if after having made the original colour selections the Purchaser does make a change erroneously or otherwise, he will be deemed responsible for all errors resulting from any double selections.
- (j) The Purchaser further agrees that in the event that the Vendor has preselected colours prior to the purchase herein of the Property, the prescribed colours shall be final notwithstanding that the Purchaser may have completed a colour selection/chart.
- (k) In the event that any of the terms and conditions stated on a contract, addendum or schedule requesting upgrades or extras (the "Purchaser's Extras Contract") are in conflict or contradiction of any terms or conditions stated in this Agreement, it is hereby agreed that the terms and conditions stated on the Purchaser's Extras Contract shall take precedence over the terms and conditions of this Agreement provided such provisions do not conflict

with the provisions of the Tarion Addendum and Statement of Critical Dates annexed hereto, in which case the provisions of the Tarion Addendum and Statement of Critical Dates annexed hereto shall be read to form part of the Purchaser's Extras Contract in the place and stead of the conflicting or contradictory provisions thereof. without limiting the foregoing, the vendor and purchaser agree that the provisions of the Tarion Addendum and Statement of Critical Dates annexed hereto shall prevail over any provision contained in this agreement, in any amendment to this agreement or in any other document between the vendor and purchaser in relation hereto that derogates from, conflicts with or is inconsistent with the provisions of the Tarion Addendum and Statement of Critical Dates annexed hereto.

15. **MODEL HOMES**

- (a) The Purchaser acknowledges that he has purchased the Dwelling on the basis of plans appended to this Agreement and not from a model, vignette or sales office samples. The Purchaser acknowledges that the model homes, if any, may have items installed for decor purposes, such as, but not limited to, upgraded flooring materials, ceramic tile, hardwood, carpet, paint, kitchen cabinets, countertops, lighting and fixtures, driveways, walkways, railings and pickets, skylights, entry doors, interior doors, paneling, wallpaper, window treatment, drapes, curtains, plumbing supplies, intercom systems, alarm systems, appliances, landscaping, underground sprinkler systems, underground lighting, decks and finished basements. The Purchaser acknowledges and agrees that these decor items will not be included in the Purchase Price and that the contract will consist of only those items listed on Schedule "A".
- (b) Notwithstanding anything herein written, if at the time that this Agreement is executed, the dwelling constructed on the Real Property has already been substantially completed, the Purchaser shall purchase the Real Property in an "as built" condition rather than in accordance with any other representations herein contained.
- (c) Furthermore, in the event that the Dwelling has been used as a model or show home, the Purchaser acknowledges that the subject premises has been used extensively as a "Model" of "Show" home, and as such, has been subjected to the normal wear and tear associated with that purpose. Unless otherwise specifically agreed in writing, no refinishing shall be done by the Vendor on the subject premises and the purchaser agrees to accept the dwelling on closing on an "as-is" basis. For the purposes of clarity only, and without restricting the generality of the foregoing, the Purchaser hereby waives any claim in respect of scratched floors, counters or plumbing fixtures; or, sun-faded paint and stain colours.

16. **PROHIBITION ON SELLING, ASSIGNING, LEASING, LISTING, ETC.**

The Purchaser represents to the Vendor, upon which representation the Vendor has relied in accepting the Purchaser's offer, that the Purchaser is purchasing the property for its own personal use and not for short term speculative purposes. Prior to Closing the Purchaser covenants and agrees not to post any signs for sale or lease, or list the Property for sale or lease, or advise others that the Property is or may be available for sale or lease, offer for sale or sell or lease, or advertise for assignment, the Property or to enter into any agreement, conditional or otherwise, to sell or lease the Property, or any interest therein, nor to assign this Agreement or any interest herein, or the benefit thereof, nor to mortgage, deal with or in any way encumber the premises or this Agreement. In no event shall the Purchaser list, allow or cause to be listed for sale, lease, assignment or otherwise the Property or an interest under this Agreement on a listing service system including, without limitation, the Multiple Listing Service ("MLS") or on, by or through any other publication or medium, including, without limitation, any form of social media or through any website or application. 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 and the Purchaser shall have no further right to or interest in the Property.

17. **HST CLAUSE**

The Purchaser and Vendor agree that the harmonized sales tax (the "HST") applies to this transaction and the Purchase Price includes the HST, net of the federal and Ontario new housing rebates or the like (collectively the "Rebate"). The Purchaser shall assign in a form required by the Vendor and/or by any of the Government of Canada, Government of Ontario and/or any other governmental and/or tax authority (collectively, the "Government") to the Vendor (or to such other party as the Vendor may otherwise require or direct) all of the Purchaser's right, title and interest in the Rebate to which the Purchaser is entitled. In connection with such assignment, the Purchaser shall deliver to the Vendor (or to such other party as the Vendor may otherwise require or direct), upon request by the Vendor, on or after the Closing Date, such

application, documents and affidavits as may be required by the Vendor and/or the Government to establish the Purchaser's entitlement to the Rebate. If the Purchaser is not entitled to the Rebate for any reason whatsoever or if the Rebate is reduced or withdrawn by the Government and not replaced with an amount equivalent to the amount of the Rebate to which the Purchaser is entitled by the Government or if the Rebate is not or cannot be assigned to the Vendor (or to such other party as the Vendor may otherwise require or direct) or the Rebate is claimed and payment/credit of the Rebate to the Vendor (or to such other party as the Vendor may otherwise require or direct) is denied by the Government or if, following the Closing Date, the Vendor (or such other party identified by the Vendor) believes that the Purchaser does not qualify for the Rebate for whatever reason, including, without limitation, the Property being offered, listed or advertised for sale, lease or transfer privately or otherwise on a listing service system, then, the Purchaser shall forthwith upon demand by the Vendor pay to the Vendor (or to such other party as the Vendor may otherwise require or direct) an amount equal to the Rebate or the amount so reduced or withdrawn and until so paid, the amount of the Rebate shall form a charge against the Property which charge shall be recoverable by the Vendor (or by such other party identified by the Vendor) in the same manner as a mortgage in default. If the Vendor (or such other party identified by the Vendor) does not receive the full benefit of the Rebate for any reason whatsoever, whether or not as a result of the Purchaser's acts or omissions, the Purchaser shall indemnify and save the Vendor (or such other party identified by the Vendor) harmless in the amount that the Vendor (or such other party identified by the Vendor) would have been entitled to had such Rebate been received, together with all interest and penalties thereon, and all losses, costs, damages and liabilities which the Vendor (or such other party identified by the Vendor) may suffer, incur or be charged with in connection therewith, as a result of the Purchaser's failure to qualify for the 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 to such other party as the Vendor may otherwise require or direct), or as a result of the ineffectiveness of the documents purporting to assign the benefit of the Rebate to the Vendor (or to such other party as the Vendor may have otherwise required or directed), which indemnity shall survive the Closing Date. Notwithstanding anything herein contained to the contrary, the Vendor shall have the right to register a Vendor's Lien for the amount of the Rebate against the Property immediately following the Closing Date to secure the Vendor's entitlement (or the entitlement of such other party as may be identified by the Vendor) to the Rebate as herein provided. The Purchaser acknowledges and agrees that the Purchaser shall not be entitled to any refund, credit or abatement in any manner whatsoever should the HST, or any portion thereof, not apply to this transaction for any reason whatsoever. The HST that is included in the Purchase Price is based on the federal portion and the provincial portion of the HST at the rates of 5% and 8%, respectively. If either or both of the rates increase, the Purchaser shall be responsible for the increase and shall pay same as an adjustment on the Closing Date, and if either or both of the rates decrease, the Purchaser shall not be entitled to any abatement or reduction of the Purchase Price. Notwithstanding that the Purchase Price is inclusive of the HST net of the Rebate as aforesaid, the Purchaser, shall, at the Purchaser's own cost and expense, be responsible for the payment of the HST and all other taxes, value added taxes, sales taxes, use taxes or transfer taxes and any increases thereof which may be applicable (collectively the "Applicable Taxes") on all closing adjustments and amounts payable for extras, changes, upgrades, fees and charges.

If the Vendor (or such other party identified by the Vendor) believes, for whatever reason, that the Purchaser does not qualify for the Rebate, regardless of any documentation provided by or on behalf of the Purchaser (including any statutory declaration sworn by the Purchaser) to the contrary, and the Vendor's (or such other party identified by the Vendor) belief or position on this matter is communicated to the Purchaser or the Purchaser's solicitor on or before the Closing Date, then notwithstanding anything hereinbefore or hereinafter provided to the contrary, the Purchaser shall be obliged to pay to the Vendor (or to whomsoever the Vendor may in writing direct), as an adjustment on Closing (or such other manner as may be determined by the Vendor in its sole, absolute and unfettered discretion), an amount equivalent to the Rebate, in addition to the Purchase Price. In those circumstances where the Purchaser maintains that he or she is eligible for the Rebate despite the Vendor's (or such other party identified by the Vendor) belief to the contrary, the Purchaser shall (after payment of the amount equivalent to the Rebate as aforesaid) be fully entitled to file the rebate form directly with (and pursue the procurement of the Rebate directly from) the Canada Revenue Agency.

The Purchaser acknowledges and agrees for any matter related to HST that is applicable to this transaction, including without limiting the generality of the foregoing, the Rebate, that the Vendor may designate another person (including the Subdivider or any party in which the Vendor is acting as the disclosed or undisclosed agent for when it entered into this Agreement of Purchase and Sale) to be listed as a party to the HST documentation and the Purchaser agrees to execute such HST documentation notwithstanding that a party other than the Vendor may be the recipient, addressee or beneficiary of the Rebate. Where the Vendor determines that such HST documentation is incomplete, incorrect or insufficient for the Rebate to be claimed, the Purchaser, without limiting the generality of Section 32, hereby irrevocably nominates, constitutes and appoints the Vendor (and any other party as may be directed by the Vendor) as its duly authorized attorney, agent and representative to amend, correct and complete, as applicable, such HST documentation including the Rebate form.

Regardless of whether or not the Purchaser is a registrant under the Excise Tax Act, the Purchaser shall not be entitled to self-assess the HST payable in respect of this transaction.



18. **AGREEMENT CONDITIONAL**

This Agreement and the transaction arising therefrom are conditional upon compliance with the provisions of the Planning Act of Ontario, and amendments thereto at the Vendor's expense.

19. **AGREEMENT NOT TO BE REGISTERED**

The Purchaser acknowledges this Agreement confers a personal right only and not any interest in the Property and that the registration against title of any notice or caution or other reference to this Agreement or his or her interest is likely to cause inconvenience and prejudice or irreparable harm to the Vendor and other purchasers of dwellings within the Subdivision. If any such registration occurs, the Vendor may terminate this Agreement forthwith and take full forfeiture of the Purchaser's deposits as liquidated damages and not as a penalty. Further, the Purchaser hereby irrevocably consents to a court order removing such registration and agrees to pay all Vendor's costs and expenses in obtaining such court order including, but not limited to, fees of its solicitors on a full indemnity basis together with any Applicable Taxes thereon. Additionally, the Purchaser hereby irrevocably nominates, constitutes and appoints the Vendor or any of its authorized signing officers to be and act as his lawful attorney in the Purchaser's name, place and stead, without liability or claim, for the purpose of removing any such registration from title.

20. **TENDER**

Any tender of documents or money may be made by the Vendor upon the Purchaser hereto or upon the respective solicitor, will be deemed to be good and valid if made in accordance with the provisions of paragraph herein headed "ELECTRONIC REGISTRATION". The Vendor shall not be required to register any discharge of any outstanding mortgage, charge or other encumbrance not being assumed by the Purchaser on the Closing Date, in order to validate or perfect the Vendor's tender upon the Purchaser, and need only make arrangements to discharge same in accordance with the provisions of paragraph headed "TITLE" herein in the event that the Purchaser completes this transaction. The parties agree that payment of monies must be made or tendered in such form and by such method as may be directed in writing by the Vendor, in its sole, absolute and unfettered discretion. Unless otherwise directed, in accordance with the foregoing, payment shall be made by way of the Purchaser's solicitor's certified cheque drawn on a Schedule "1" Canadian Chartered bank. The Purchaser further acknowledges and agrees that the Vendor shall not be required to provide any key(s) as part of any tender made by it and that this Agreement provides for the release of keys following the Closing.

21. **EXTENSION AND TERMINATION**

- (a) The Purchaser acknowledges that the Closing Date as described in this Agreement may be extended in accordance with the Warranty Act and the Tarion Addendum and Statement of Critical Dates.
- (b) Forthwith upon any termination of this Agreement the Purchaser shall execute and deliver to the Vendor the form of Mutual Release and Termination Agreement that may be required by the Vendor and/or Tarion in the circumstances of such termination.
- (c) The Vendor shall have the option, in its sole, absolute and unfettered discretion, to extend the Firm Closing Date or Delayed Closing Date (as set out in the Tarion Addendum and Statement of Critical Dates hereof), as the case may be, for one business day to avoid the necessity of tender where the Purchaser is not ready to complete the transaction on either of such dates.
- (d) The Vendor shall have a one-time unilateral right, at its sole, absolute and unfettered discretion, to extend the Firm Closing Date or Delayed Closing Date (as set out in the Tarion Addendum and Statement of Critical Dates appended hereto), 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 either of such dates.

22. **AGREEMENT NOT TO MERGE WITH TRANSFER**

All of the covenants, warranties and obligations contained in this Agreement to be performed by the Purchaser and all of the Purchaser's acknowledgments, waivers, releases and indemnities contained in this Agreement shall survive the Closing and completion of this transaction and shall remain in full force and effect notwithstanding the transfer of title to the Property to the Purchaser. It is provided that in the event of a breach of any covenant, warranty or obligation contained in this Agreement to be performed by the Purchaser, the Vendor shall be entitled, at its option, to declare this Agreement terminated and to retain all amounts paid by the Purchaser without prejudice to any other rights of the Vendor arising from that breach.

23. **WAIVER**

No provision of this Agreement may be waived by either party except in writing. The waiver of any of the provisions hereunder shall not affect the right of either party to enforce all other provisions not so waived.

The Purchaser acknowledges and agrees that the covenants and obligations of the Vendor contained in this Agreement shall be those of the Vendor only. The Purchaser further acknowledges and agrees in the event that the Vendor has entered this Agreement as a trustee or agent for and on behalf of an undisclosed beneficiary or principal, whether or not so stated herein, there shall be no liability on such undisclosed beneficiary or principal and the only recourse or remedy that the Purchaser shall have on default by the Vendor herein is against the Vendor and the Property, the Purchaser hereby waiving any rights of recovery or recourse against such beneficiary or principal whether in law, equity or otherwise. The Purchaser further acknowledges and agrees that this acknowledgment, agreement and waive may be pleaded as an estoppel and bar against the Purchaser in any action, suit, application or proceeding brought by or on behalf of the Purchaser to assert any of such rights of recovery or recourse against any such beneficiary or principal.

**24. SUBORDINATION AND ASSIGNMENT OF AGREEMENT**

The Purchaser agrees that this Agreement shall be subordinate to and postponed to any mortgages arranged or to be arranged by the Vendor and any advances thereunder from time to time, and to any easement, service agreement and other similar agreements made by the Vendor concerning the property or lands. The Purchaser agrees to do all acts necessary and execute and deliver all necessary documents as may be reasonably required by the Vendor from time to time to give effect to this undertaking and in this regard the Purchaser hereby irrevocably nominates, constitutes and appoints the Vendor or any of its authorized signing officers to be and act as his lawful attorney in the Purchaser's name, place and stead for the purpose of signing all documents and doing all things necessary to implement this provision. The Vendor may assign this Agreement and its covenants and obligations herein to a third party including any lender (i.e. a chartered bank, trust company or other lending entity), provided following such assignment, the Vendor shall notify the Purchaser of such assignment. Such assignment shall be in a form prescribed or approved by the Vendor and upon notification of assumption of this Agreement and such assignment to the Purchaser, the Vendor shall be automatically released from all obligations arising pursuant to this Agreement and the assignee shall continue from the date of such assignment as the Vendor as if it had been the original party to this Agreement. As it relates to an assignment of this Agreement to a lender as aforesaid the lender's liability shall be limited as provided for in the assignment.

**25. ACCEPTANCE**

This Offer by the Purchaser when accepted by the Vendor shall constitute a binding agreement of purchase and sale, without requiring notice of such acceptance to be delivered to the Purchaser prior to such time. Without limiting the generality of the foregoing, acceptance of this offer (or any counter offer with respect thereto) may be made by way of telefax transmission, pdf electronic mail or similar electronic transmission, reproducing the original, provided all of the necessary signatures and initials of both parties hereto are duly reflected on (or represented by) the telefaxed, emailed or electronic copy of the Agreement are so transmitted, and such offer and/or acceptance shall be deemed to have been effected or made when the Agreement is telefaxed, emailed or sent electronically to the intended party, and the parties irrevocably acknowledge and agree that such telefaxed, emailed or electronic transmission of the Agreement shall be binding upon the parties to the same extent as if originally signed.

**26. TIME OF ESSENCE**

Time shall in all respects be strictly of the essence of this Agreement and no extension of time for any payment by the Purchaser or rectification of any breach of any agreement, stipulations, condition or restriction shall operate as a waiver of this provision with respect to any other payment or rectification of any other breach, except as specifically agreed upon in writing by the Vendor or the Purchaser, as the case may be.

**27. PREPARATION AND COST OF REGISTERING DOCUMENTS**

The Transfer is to be prepared by the Vendor on the Vendor's standard form. If required by the Vendor, the deed may contain covenants on the part of the Purchaser to comply with the stipulations set out herein, and is to be executed by the Purchaser. Any discharges of underlying mortgages (collectively, the "Discharges") shall be prepared by the Vendor on the Vendor's standard form; the Discharges to be at the expense of the Purchaser, being a fee of \$450.00 plus Applicable Taxes in total, irrespective of the number of Discharges required. The Purchaser shall pay the cost for registration and any eligible taxes on the registration of the Transfer/Deed and Discharges. The Purchaser agrees to provide a statutory declaration on or before closing confirming that there are no judgments outstanding against him and the Purchaser agrees to provide reasonable evidence confirming same, including a creditor's letter if necessary, if requested by the Vendor, if there is any judgment filed against a person with the same or similar name. That statutory declaration shall also include the birth date and social insurance number of the Purchaser. In the event that the electronic document registration system is operative in the relevant Land Registry Office in which the Property is situate, at the Vendor's discretion the Purchaser shall enter into the Vendor's form of escrow closing agreement which shall include provisions relating to the delivery of funds and keys and the exchange, delivery and registration of documentation.

**28. SEVERABILITY**

If any provision of this Agreement is determined by a court of competent jurisdiction to be illegal or invalid, or beyond the powers or capacity of the parties hereto, then provided such provision is not, in the Vendor's sole opinion, essential or fundamental to the completion of this transaction, such provision shall be deemed and construed to be severed and deleted from this Agreement, and the remainder of this Agreement shall continue in full force and effect.

29. **NOTICE**

- (a) Save and except for any notices to be provided pursuant to the Tarion Addendum and Statement of Critical Dates, any notice desired or required to be given to the Purchaser shall be in writing, and either delivered personally or by prepaid mail, addressed to the Purchaser's solicitor or to the Purchaser at the address as provided on the front page of this Agreement or in the Tarion Addendum and Statement of Critical Dates, or telefaxed to the Purchaser's solicitor or the Purchaser's telefax number as provided in the Tarion Addendum and Statement of Critical Dates, or electronically mailed to either the Purchaser at the address contained in the Tarion Addendum and Statement of Critical Dates or to the Purchaser's solicitor, with all such address and contact information set out on the front page of this Agreement or in the Tarion Addendum and Statement of Critical Dates being subject to other or updated information that may be provided to the Vendor from time to time or otherwise in accordance with this Agreement. If such notice is mailed, it shall be deemed to have been received by the Purchaser on the day (excluding Saturdays, Sundays and statutory holidays) following the date of its mailing, and if such notice is personally delivered, same shall be deemed to have been received on the date of such personal delivery, and if telefaxed, same shall be deemed to have been received on the day (excluding Saturdays, Sundays and statutory holidays) of the transmission of the telefax, and if electronically mailed, same shall be deemed to have been received on the day (excluding Saturdays, Sundays and statutory holidays) of the date of its electronic mailing.
- (b) Save and except for any notices to be provided pursuant to the Tarion Addendum and Statement of Critical Dates, any notice desired or required to be given to the Vendor shall be in writing, and either delivered personally or by prepaid mail, addressed to the Vendor's solicitor at the address noted herein and to the Vendor, or telefaxed to the Vendor's solicitor. If such notice is mailed, it shall be deemed to have been received by the Vendor on the 3rd day (excluding Saturdays, Sundays and statutory holidays) following the date of its mailing, and if such notice is personally delivered, same shall be deemed to have been received on the date of such personal delivery, and if telefaxed, same shall be deemed to have been received on the day (excluding Saturdays, Sundays and statutory holidays) following the transmission of the telefax.
- (c) The Purchaser acknowledges and agrees that upon entering into this Agreement, he/she shall provide in the Tarion Addendum and Statement of Critical Dates the Purchaser's electronic mail address, and forthwith upon request by the Vendor the Purchaser's solicitor's electronic mail address.
- (d) The Purchaser shall advise the Vendor of any changes in any of its mailing address, telephone number or electronic mail address or of its solicitors forthwith upon such change, failing which the Purchaser shall be charged a fee plus Applicable Taxes on the Statement of Adjustments, as determined by the Vendor and/or its solicitor.
- (e) The Purchaser agrees to provide the name, address and telephone number of his solicitor to the Vendor or its solicitor in writing no later than 90 days prior to the Closing Date. Should the Purchaser fail to provide this information and/or during such 90-day period change solicitors, the Purchaser may be charged a fee plus Applicable Taxes on the Statement of Adjustments, as determined by the Vendor and/or its solicitor.
- (f) The Purchaser covenants to forthwith and without delay retrieve, collect, receive and read all notices sent to the Purchaser by the Vendor or the Vendor's solicitor.

Provided that during periods of postal interruption or impending postal interruption, notice may not be sent by mail and must be sent by personal delivery, telefax or electronic mail in accordance with sub-paragraphs (a) and (b) above.

Purchasers are hereby notified that information of an important nature may be communicated by the Vendor to the Purchaser by electronic mail. In order to facilitate such communication by electronic mail, the Purchaser shall ensure that the Purchaser's computer settings permit receipt of electronic mail from the Vendor and its representatives.

30. **GENDER AND NUMBER**

This Offer and its acceptance are to be read with all changes of gender and number as may be required by the context.

31. **SUCCESSORS AND ASSIGNS**

Except as expressly herein provided, the parties hereto further agree that the covenants, agreements, provisos and conditions in this Agreement contained shall extend to and be binding upon and enure to the benefit of the parties hereto, and their respective heirs, executors, administrators, successors and permitted assigns.

32. **POWER OF ATTORNEY**

- (a) In accordance with the provisions of the Powers of Attorney Act R.S.O. 1990, as amended, the Purchaser hereby confirms and agrees that each and every power of attorney granted to the Vendor or its signing officers in accordance with the terms of this Agreement may be exercised by the donee(s) during any subsequent legal incapacity of the Purchaser.
- (b) If any documents, instruments, etc. 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 shall be registered in the Land Titles Office for the Property, 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.
- (c) Where a third party has been appointed as the attorney for the Purchaser for the purposes of executing any documents contemplated by this Agreement, then any notices required or desired to be delivered to the Purchaser in accordance with 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 his or her attorney).
- (d) Where the Purchaser is required to execute and deliver any document herein to the Vendor and fails to do so, the Purchaser hereby irrevocably nominates, constitutes and appoints the Vendor to be and act as his lawful attorney, in the Purchaser's name, place and stead, in order to execute any such documents in accordance with the provisions of the Powers of Attorney Act (Ontario) as amended from time to time.

33. **ELECTRONIC DOCUMENTS AND TRANSFER OF FUNDS**

- (a) Pursuant to subsection 3(1) of the Electronic Commerce Act of Ontario, as amended (or any successor or similar legislation) (the "EC Act"): (i) the Purchaser acknowledges and agrees to use and accept any information and/or document to be provided by the Vendor and/or its solicitors in respect of this transaction in an electronic form if, when and in the form provided by the Vendor and/or its solicitors including, without limitation, accepting and providing electronic signatures, delivery by electronic mail and/or by the Vendor making information or documentation available to the Purchaser or its solicitor for access or download from a website; and (ii) the Purchaser acknowledges and agrees to provide to the Vendor and/or its solicitors any information and/or document required in respect of this transaction in an electronic form or in originally executed paper form as, when and in the form required by the Vendor and/or its solicitors, in their sole, absolute and unfettered discretion. The terms "electronic", "electronically" and "electronic signature" utilized in this Agreement shall have the meanings ascribed to them in the EC Act. In the event that the Purchaser and/or its solicitor is not willing or able to use, provide and/or accept information and documentation in electronic form in accordance with the foregoing, the Vendor in its sole, absolute and unfettered discretion may provide or accept documentation or information other than in electronic form, in which event the Purchaser agrees to pay all of the Vendor's solicitor legal fees and disbursements for same forthwith.
- (b) The Purchaser acknowledges and agrees that the Vendor shall determine, in its sole, absolute and unfettered discretion, the method by which the Purchaser is to make payment of any funds payable by the Purchaser in respect of this transaction. Such method may include, at the option of the Vendor, delivery of funds by the Purchaser electronically through an electronic funds transfer system (the "EFTS") designated by the Vendor or the Vendor's Solicitors, including, without limitation, the Closure Service provided by Teranet Inc.. In such case:
  - (i) the Purchaser's solicitor shall be registered with the provider of the EFTS, and, at the request of the Vendor's solicitors, shall provide evidence of such registration to the Vendor's solicitors at least 10 days prior to the Closing Date;
  - (ii) the Purchaser and/or the Purchaser's solicitor shall execute such documents as the Vendor or the Vendor's solicitors may require in connection with the EFTS; and
  - (iii) the Purchaser shall pay as an adjustment on Closing to the Vendor or its solicitors all fees and charges imposed by the provider of the EFTS together with any wire transfer fees and charges imposed upon the Vendor or its solicitors by their banks

in connection with the transfer of funds.

34. **ELECTRONIC REGISTRATION**

If the electronic registration system (hereinafter referred to as the "Electronic System" or "ERS") is operative in the applicable Land Registry Office in which the Property is registered, the following provisions shall prevail, namely:

- (a) the Purchaser shall be obliged to retain a lawyer in good standing with the Law Society of Ontario to represent the Purchaser in connection with the completion of the transaction, and shall authorize such lawyer to enter into an escrow closing agreement with the Vendor's solicitor on the latter's standard form (hereinafter referred to as the "Escrow Document Registration Agreement"), establishing the procedures and timing for completing this transaction. The Purchaser shall reimburse the Vendor as an adjustment on closing for any additional legal costs that the Vendor may incur to complete this transaction under ERS of \$250, plus Applicable Taxes.
- (b) the delivery and exchange of documents and monies for the Property and the release thereof to the Vendor and the Purchaser, as the case may be:
  - (i) shall not occur contemporaneously with the registration of the Transfer/Deed (and other registerable documentation); and
  - (ii) shall be governed by the Escrow Document Registration Agreement, pursuant to which the solicitor receiving the documents 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 Escrow Document Registration Agreement;
- (c) if the Purchaser's lawyer is unwilling or unable to complete this transaction via ERS, in accordance with the provisions contemplated under the Escrow 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 prior to 2:00 p.m. on the scheduled Closing Date or at such time on the scheduled Closing Date as may be directed by the Vendor's solicitor or as mutually agreed upon, in order to complete this transaction via ERS utilizing the computer facilities in the Vendor's solicitor's office;
- (d) the Purchaser expressly acknowledges and agrees that he or she will not be entitled to receive the Transfer/Deed to the Property for registration until the balance of funds due on Closing, in accordance with the statement of adjustments, are either remitted by certified cheque via personal delivery (or by wire transfer if agreed to or required by the Vendor's solicitor) to the Vendor's solicitor (or in such other manner as the latter may direct) prior 2:00 p.m. on the scheduled Closing Date and prior to the release of the Transfer/Deed for registration;
- (e) the Purchaser covenants and agrees to deliver the balance of funds due on closing to the Vendor in accordance with the foregoing subparagraph (d) together with all other Purchaser's documents not intended for registration on title to the Property prior to 2:00 p.m. on the scheduled Closing Date;
- (f) the Purchaser covenants and agrees that it will cause its solicitor to complete, prior to 2:00 p.m. on the scheduled Closing Date, all steps required by the ERS in order to permit the Vendor's solicitor to sign the transfer/deed for completion and release without the cooperation or the participation of the Purchaser's solicitor; and
- (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:
  - (i) delivered all closing documents and/or funds to the Purchaser's solicitor in accordance with the provisions of the Escrow Document Registration Agreement;
  - (ii) advised the Purchaser's solicitor, in writing, that the Vendor is ready, willing and able to complete the transaction in accordance with the terms and provisions of this Agreement; and
  - (iii) has completed all steps required by ERS in order to complete this transaction that can be performed or undertaken by the Vendor's solicitor without the cooperation or participation of the Purchaser's solicitor, and
  - (iv) 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.

35. **HEADINGS**

The headings to the clauses of this Agreement form no part of the agreement but shall be deemed to be inserted for convenience of reference only.

36. **MEANINGS OF WORDS**

In the event there is a conflict between any term(s) in this Agreement, the Vendor shall determine which of the conflicting term(s) prevail(s). In the event that there is a conflict between any provision of this Agreement and the Act, and the Act provides that the provision in the Act prevails, then the provision of the Act shall prevail.

37. **APPLICABLE LAW AND JOINT AND SEVERAL LIABILITY**

This Agreement of Purchase and Sale shall be governed by the laws of the Province of Ontario. If more than one individual, partnership and/or company comprises the Purchaser, then all of the covenants, obligations and agreements of the Purchaser herein shall be deemed and construed to be the joint and several covenants, obligations and agreements of all the individuals, partnerships and companies comprising the Purchaser.

38. **PURCHASER INFORMATION, TITLE AND HST REBATE CLAIM**

- (a) The Purchaser covenants and agrees to provide through its solicitor to the Vendor's solicitor, at least 60 days prior to the Closing Date: (i) the full name(s), birth date(s), marital status and social insurance number(s) of all parties comprising the Purchaser and (ii) the address for service to be inserted in the transfer. If the Purchaser does not provide such information, then the Vendor shall be entitled to engross the transfer to the Property and all other documents in the name of the Purchaser as noted on the front page of this Agreement, insert such other details for the Purchaser as may be determined by the Vendor and absolutely no changes shall be permitted to same following the 60th day prior to the Closing Date.
- (b) The Purchaser covenants and agrees that it shall not, and that it is not permitted, to: (i) direct title to any other parties; (ii) add any additional parties to title; or (iii) direct or re-direct title to only some of the parties which comprise the Purchaser. The sole purpose of any title direction contemplated herein or in any closing documents shall be for the purposes of confirming the full name(s), date(s) of birth, address for service, social insurance number(s) and such other information as the Vendor may require.
- (c) The Purchaser shall provide the name of its solicitor to the Vendor not later than the 30th day following the execution of this Agreement. Failure to provide same shall constitute a default pursuant to the terms of this Agreement. If the Purchaser does not provide the name of its solicitor when required hereunder, changes solicitors, or the Purchaser or its solicitor (i) fail to provide any required information; (ii) change or amend any of the information provided, including title information required for engrossing transfer to the Property as required in this Agreement or in respect of the Rebate; or (iii) provide information to the Vendor or its solicitors that is incorrect or amended for any reason, the Purchaser shall be charged \$325.00 plus Applicable Taxes on the Statement of Adjustments.
- (d) The Purchaser covenants and agrees to provide through its solicitor to the Vendor's solicitor, at least 60 days prior to the Closing Date, all information required by the Vendor with respect to or evidencing the Purchaser's entitlement to the Rebate. Such information shall include, without limitation, (i) confirmation of which of the parties comprising the Purchaser will be occupying the Property if there is more than 1 party comprising the Purchaser; (ii) if there is more than 1 party comprising the Purchaser, the relationship between the parties; (iii) whether any other person(s) will be occupying the Property together with the Purchaser, including their name(s) and date(s) of birth; and (iv) if the person(s) occupying the Property together with the Purchaser are not the spouse or child of the Purchaser, and the Vendor consents to same, copies of valid identification for such persons (such as a driver's license or passport) acceptable to the Vendor in its sole, absolute and unfettered discretion. If the Purchaser does not provide the foregoing information at least 60 days prior to the Closing Date, or if the Purchaser provides information upon which the Vendor determines that it will not permit the Purchaser to claim and assign the Rebate to the Vendor (or as the Vendor may otherwise require or direct) as part of this transaction, then the Vendor shall prepare all adjustments and closing documents on the basis that the Purchaser will not be claiming and assigning the Rebate to the Vendor (or as the Vendor may have otherwise required or directed) as part of this transaction and the amount of the Rebate shall be added to the statement of adjustments and paid by the Purchaser on the Closing Date in addition to the Purchase Price. The Purchaser acknowledges, covenants and agrees that no changes to the information required to be provided herein shall be permitted following the day that is 60 days prior to the Closing Date. In addition, once the Purchaser has provided the information required to

be provided herein and there are any changes to same, such changes to the information shall entitle the Vendor (or such other party designated by the Vendor) to elect not to permit the Purchaser to claim and assign the Rebate to the Vendor (or as the Vendor may have otherwise required or directed) as part of this transaction. If the Purchaser is prohibited from claiming the Rebate and assigning same to the Vendor (or as the Vendor may have otherwise required or directed) as part of this transaction or does not do so for any other reason, or the determination of the Vendor in its sole, absolute and unfettered discretion is that the Purchaser is not entitled to claim the Rebate, then the Purchaser shall retain the option of pursuing the Rebate or any other similar or related rebates directly from the Canada Revenue Agency following the Closing Date.

**39. FINANCIAL INFORMATION**

The Purchaser represents that the Purchaser is capable of obtaining the financing the Purchaser requires to enable the Purchaser to complete this transaction. The Purchaser hereby consents to the Vendor obtaining a consumer report containing credit and/or personal information for the purposes of this transaction. In addition, the Purchaser shall deliver to the Vendor, within ten (10) days of acceptance of this Agreement by the Vendor and thereafter within fourteen (14) days of demand from the Vendor or any agent thereof, all necessary financial 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 Date, 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 and a mortgage commitment from one of the Schedule "1" Canadian Chartered banks with respect to this transaction of purchase and sale, all of the foregoing to be satisfactory to the Vendor in its sole, absolute and unfettered discretion. Any failure by the Purchaser to comply with the provisions of this paragraph shall constitute a default by the Purchaser, pursuant to which the Vendor shall have the right to terminate this Agreement and take forfeiture of the Purchaser’s deposit in accordance with the provisions of this Agreement. In this regard, the Purchaser acknowledges and agrees that (a) the aforesaid information has been provided with the Purchaser’s knowledge and consent that such information may be used by the Vendor, its consultants and its lending institution(s) for the purpose of arranging financing to complete the transaction contemplated by this Agreement and; (b) such information may remain on file by the Vendor for future reference.

**40. PERSONAL INFORMATION**

The Purchaser(s) consents to the Vendor collecting and possessing the Purchaser’s name and “personal information” (as such term is defined in the Personal Information Protection and Electronic Documents Act 2000, c.5) obtained by the Vendor pursuant to and in connection with this Agreement. The Purchaser acknowledges and agrees that the aforesaid information has been provided to the Vendor with the Purchaser’s knowledge and consent. In addition, the Purchaser(s) consents to the Vendor using, releasing, disclosing and/or retaining on file the Purchaser’s name and personal information to: (a) a company or organization affiliated, associated or related to the Vendor, in order to provide the Purchaser with information relating to this project and other projects of such entities; (b) any provider of utilities, services and/or commodities to the Property (including, without limitation, gas, electricity, water, telephone, internet and other communication services, cable, heating, cooling, satellite television, appliances and/or property tax assessments) for the purpose of marketing, promoting and providing such utilities, services and/or commodities to the Property; (c) the Vendor’s consultants and lending institution(s) for the purpose of arranging financing to complete the transaction contemplated by this Agreement; and (d) the Vendor’s sales agents and representatives for the purpose of using same for promotional and marketing purposes and for the purpose of providing the opportunity of closing management for purchasers who have a property to sell in order to complete this transaction. Furthermore, the Purchaser consent to the Vendor’s solicitors using and retaining on file, which files may be retained through cloud-based servers and/or systems provided by third parties, the Purchaser’s name and personal information. The Vendor’s solicitors do not represent or guarantee that its files, its servers and/or its systems and/or any cloud-based servers and/or software provided by third parties will be free from loss, corruption, attack, viruses, interference, hacking or other security intrusion and the Purchaser’s name and personal information may be subject to such security intrusions. The Purchaser hereby irrevocably releases and forever discharges the Vendor’s solicitors from all losses, actions, claims, demands, proceedings and all other matters relating to the such security intrusions and same may be pleaded as an estoppel or bar to any action, claim, demand or proceeding by the Purchaser in this regard. The Vendor’s solicitors may rely on this release notwithstanding that the Vendor’s solicitors are not a party to this Agreement.

**41. ELECTRONIC COMMUNICATIONS**

The federal government has enacted legislation that requires the Vendor to obtain the Purchaser’s consent to send the Purchaser electronic communications, which may include correspondence, requests, announcements, update or other information that may be of interest to the Purchaser.

By signing this Agreement the Purchaser agrees to receive electronic communications from the Vendor, as well as from its affiliated corporations and/or related entities. In addition, the Purchaser consents to receiving electronic commercial messages from the Vendor’s trades, businesses, bodies or agencies which shall include but not be limited to (i) financial institutions or private lenders; (ii) insurance companies; (iii) any of the Vendor’s trades or suppliers or any sub-trades and sub-suppliers; and (iv) providers of



telephone, television, telecommunications, security and utility services.

42. **ADVERTISING AND PROMOTIONAL MATERIALS**

The Purchaser acknowledges and agrees that the Vendor shall have the right to use drawings, photographs, videos or other depictions of the interior and/or exterior of the Dwelling and/or the Subdivision or any components or features thereof in any promotional or advertising materials without notice to or consent from the Purchaser being required in any manner whatsoever.

43. **ENTIRE AGREEMENT**

This Agreement and all schedules referred to in this Agreement constitute the final, complete, and exclusive statement of the terms of the agreement between the parties pertaining to the subject-matter of this Agreement and supersedes all prior or contemporaneous understandings or agreements or usage or course of dealings of the parties. Oral representations or warranties by the Vendor or its officers, directors, sales personnel, employees or agents prior to or at the time of entering into this Agreement or at any time thereafter shall not form part of nor shall they amend this Agreement. There is no oral and/or written representation, warranty, collateral agreement or condition affecting this Agreement or the Property, or supported hereby, except as set forth herein in writing. No reliance is placed by the Purchaser on any oral or written representations, opinions, advice or assertions of fact made by the Vendor or its officers, directors, sales personnel, employees or agents prior to or at the time of entering into this Agreement or at any time thereafter except as set forth herein in writing. Accordingly, there shall be no liability either in tort or contract, assessed in relation to such warranty, representation, opinion advice or assertion of fact except to the extent aforesaid. The Purchaser has not been induced to enter into this Agreement by, nor is the Purchaser relying on, any representation, understanding, agreement, commitment or warranty outside those expressly set forth in this Agreement. The Purchaser acknowledges that the new home industry is multi-faceted and complex and that while sales personnel or agents may be knowledgeable about most issues regarding the purchase and construction of a new home, they cannot be expected to know all aspects in detail. The Purchaser is encouraged to have this Agreement reviewed by the Purchaser's solicitor prior to signing same. The Purchaser acknowledges having read all paragraphs and schedules of this Agreement.

44. **IRREVOCABLE**

This Offer is irrevocable by the Purchaser until one minute before midnight on the Irrevocable Date hereinbefore set out, after which time if not accepted, this Agreement shall be void and the deposit monies returned to the Purchaser, without interest. On the Closing, vacant possession of the Dwelling is to be given to the Purchaser.

45. **ONE PURCHASER BINDS ALL PURCHASERS**

In the event that more than one party comprises the Purchaser herein, the obligations of such parties under this Agreement shall be joint and several, and in the event that any one of the parties comprising the Purchaser executes any agreement, amendments, extension agreement, notice, colour or materials or upgrades selections charts or order forms or any other agreement, notice, acknowledgment or matter in respect of this Agreement or the Property, all of the parties comprising the Purchaser shall be bound by the document executed by the one party on behalf of the others and each such party hereby grants a Power of Attorney to the other or others for any such purpose. The Vendor may, but shall not be required, to obtain the signatures or execution of all parties comprising the Purchaser to any other documents as aforesaid.

46. **RIGHTS OF SURVIVORSHIP**

Notwithstanding anything contained in this Agreement to the contrary, it is expressly understood and agreed that if the Purchaser comprises more than one individual, then all individuals comprising the Purchaser shall be deemed and construed to have acquired the Property on joint account with right of survivorship, and accordingly should any of the individuals comprising of the Purchaser die before Closing and the completion of this Agreement, then the Vendor is hereby irrevocably authorized and directed to engross the Transfer/Deed in the name of the surviving individual(s) comprising the Purchaser, without requiring probate of the deceased individual's last will and testament (and regardless of the provisions of any last will and testament of the deceased individual comprising the Purchaser and/or any rules applicable on his or her intestacy), provided however that the surviving individual(s) comprising the Purchaser shall nevertheless be obliged to deliver to the Vendor's solicitor a notarial copy of the death certificate, or the funeral director's certificate, or other satisfactory proof of death of the deceased individual comprising the Purchaser, and shall also be obliged to execute and deliver, on or before Closing, the Vendor's standard form of indemnity pursuant to which the surviving individual(s) comprising the Purchaser shall jointly and severally indemnify and save the Vendor and its solicitors harmless from and against all costs, claims, damages and/or liabilities which either or both of them may suffer or incur as a result of transferring title to the Property to the surviving individual(s) exclusively (including any claims from any children, relatives or other heirs of the deceased individual comprising the Purchaser, or from any beneficiaries of the estate of

the deceased individual comprising the Purchaser).

47. **RETURN OF DEPOSITS AND REPLACEMENT CHEQUES**

If the deposits paid hereunder are returned to the Purchaser due to the termination of this Agreement, the Purchaser acknowledges and agrees that the deposits shall be returned by cheque payable to the Purchaser and not payable to the payor(s) of any deposits if said payor(s) are different than the Purchaser. If the Purchaser is comprised of more than one entity or person, the Purchaser acknowledges and agrees that the aforementioned deposits shall be made payable to all entities and persons that comprise the Purchaser, as payees. The Purchaser acknowledges and agrees that said deposits shall be delivered to the Purchaser at the Purchaser’s address in accordance with the Section entitled “Notice”, above. The Purchaser acknowledges and agrees that any deposit cheques which have been delivered to the Vendor with respect to the deposits and which have not yet been negotiated by the Vendor on the date of termination shall, at the sole option of the Vendor, either be destroyed by the Vendor and not be returned to the Purchaser or his solicitor, or be returned by the Vendor to the Purchaser or its solicitor. Furthermore, the Purchaser agrees to, and to cause its solicitors to, forthwith and without charge, provide replacement cheque(s) for any cheque(s) that the Purchaser and/or its solicitors has(have) provided to the Vendor or the Vendor’s solicitors which have been inadvertently misplaced and which have not yet been negotiated by the Vendor or the Vendor’s solicitors.

48. **AGENCY**

The Purchaser hereby consents to and authorizes the Vendor to act as the Purchaser’s agent in the payment(s) of realty taxes applicable to or on the Property and related to the time following the Closing Date (the “Payments”). The Purchaser approves of the Payments to be made by the Vendor to third parties to whom such Payments are payable and owed. As the Payments are to be made by the Vendor on the Purchaser’s behalf, the Purchaser confirms that he or she shall reimburse the Vendor with an amount equal to such Payments as part of the balance due on the Closing Date. This section may be relied upon by the Vendor and/or the H.S.T. registrant and may be disclosed to the Canada Revenue Agency (the “CRA”) in connection with any matters raised by the CRA in respect of the Vendor and/or the H.S.T. registrant’s H.S.T. account. This section shall ensure to the benefit of the Vendor, H.S.T. registrant and the Vendor’s solicitor and their respective successors and assigns.

49. **CERTIFIED FUNDS**

The Purchaser acknowledges and agrees that any and all funds required herein to be paid by certified cheque to the Vendor’s and/or the Vendor’s solicitors shall be drawn on a lawyer’s trust account, which trust account must be with one of the Schedule “I” Banks in Canada and which lawyer must be, both in good standing with the Law Society of Ontario and an authorized ERS user.

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

Full Name(s)

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:

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 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:

*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:

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:

(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:

(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:

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.**

**VENDOR**

Full Name(s) \_\_\_\_\_  
HCRA Licence Number \_\_\_\_\_ Address \_\_\_\_\_  
Phone \_\_\_\_\_ City \_\_\_\_\_ Province \_\_\_\_\_ Postal Code \_\_\_\_\_  
Fax \_\_\_\_\_ Email\* \_\_\_\_\_

**PURCHASER**

Full Name(s) \_\_\_\_\_  
Address \_\_\_\_\_ City \_\_\_\_\_ Province \_\_\_\_\_ Postal Code \_\_\_\_\_  
Phone \_\_\_\_\_  
Fax \_\_\_\_\_ Email\* \_\_\_\_\_

**PROPERTY DESCRIPTION**

Municipal Address \_\_\_\_\_  
City \_\_\_\_\_ Ontario \_\_\_\_\_  
Province \_\_\_\_\_ Postal Code \_\_\_\_\_  
Short Legal Description \_\_\_\_\_  
Number of Homes in the Freehold Project \_\_\_\_\_ (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:  
(i) water capacity; and (ii) sewage capacity to service the Property. ☐ Yes ☐ No

If yes, the nature of the confirmation is as follows: \_\_\_\_\_

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 \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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. O Yes O 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 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:

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.

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**(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)



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**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 an Closing permit; and/or
- (c) completion of the home.

**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-references to text in the Purchase Agreement.]**

SAMPLE

**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-references to text in the Purchase Agreement.]**

SAMPLE