



AGREEMENT OF PURCHASE & SALE

The undersigned Client(s) hereby agrees to and with the undersigned Vendor to purchase the property (the "Property") described below (and as may be shown on a schedule attached hereto on the following terms:

Client: Date of Birth:

Client: Date of Birth:

Vendor: OH (Whitby Meadows) Inc. Presented By: Fairgate Real Estate Ltd. Brokerage

Lot No: Model: Elevation: Proposed Siting (may change):

Proposed Municipal Address:

Purchase Price:

Initial Deposit:

Further Deposit Due Date:

Further Deposit Due Date:

Further Deposit Due Date:

Further Deposit Due Date:

The following Schedules attached hereto form part of this Agreement:
E, S, A, G/H, P I/L, X, W, Tarion & House Plans

Date of Offer: The day of
Irrevocable Date: The day of
1st Tentative Closing Date: The day of

(SUBJECT TO THE EXTENSION PROVISIONS OF TARION DELAYED CLOSING WARRANTY ADDENDUM ("TARION Addendum") AND/OR BY MUTUAL AGREEMENT, WHETHER BEFORE OR AFTER ANY SUCH EXTENSION)

ORAL REPRESENTATIONS DO NOT FORM PART OF, NOR CAN THEY AMEND THIS AGREEMENT.

Signed, Sealed and Delivered in the presence of:

Witness

Client Contact Info:

Address:

Client

Client

Home:

Work:

Cell:

Email:

The undersigned hereby accepts the Offer and its terms and covenants, promises, and agrees to and with the above-named Client duly to carry out the same on the terms and conditions above-mentioned and hereby accepts the said deposit.

Vendor's Solicitor:
Michael F. Ronco Barrister & Solicitor
331 Cityview Blvd, Suite 201
Vaughan Ontario, L4H 3M3
Tel: (905) 832-2055 Fax: (905) 832-2588
Email: michael@roncolaw.com

Accepted on

Per:
Authorized Signing Officer
OH (Whitby Meadows) Inc.

SCHEDULE “E”  
TOWNHOMES

Vendor: OH (Whitby Meadows) Inc.

Lot #:

Client Name:

		VALUE
	PROMOTIONS INCLUDED IN THE PURHCASE PRICE:	
1.	\$5,000 to be used at the Décor Studio, inclusive of HST (no cash value)	
2.	5 Appliances as per Builder’s specifications (Stainless Steel Fridge, Stove, Dishwasher plus White Washer and Dryer)	
3.	Air Conditioning Unit - sized per model	
4.	Flow Thru Humidifier, to help control humidity levels throughout the home	
5.	Rough-in for electric car charger in garage	
6.	200 AMP Service	
7.	The total adjustment pursuant to paragraph 8(d) of Schedule X shall not exceed \$5,000.00 plus HST.	
	ADDITIONAL OPTIONS/EXTRAS AND/OR PREMIUMS THAT HAVE BEEN ADDED TO THE PURCHASE PRICE:	
	Lot Premiums:	
	The Purchaser acknowledges and agrees that they shall have thirty (30) days from the date of acceptance of the Agreement of Purchase and Sale to finalize their time of sale options as noted on the Price List. If these options are not selected prior to the expiry of thirty (30) days from the date of acceptance herein, then the Purchaser understands and agrees that the said options will no longer be available to the Purchaser.	

The Client(s) & Vendor agree that:

- a)The changes/additions will be installed in accordance with the written instructions supplied above. If written instructions are not clear then the Client(s) agrees to accept the change(s) as interpreted and installed by the Vendor.
- b)The items above are a limited time offer and are inclusive of HST.
- c)All changes and selections to be made are those from the Vendor’s décor samples.
- d)The Vendor will refuse to accept any change(s) if the stage of construction affected by the change(s) has been scheduled by the Vendor or his agents.
- e)The Vendor will transfer to the Client any guarantees or warranties received from the manufacturer or suppliers of the said changes. The Vendor may at its discretion substitute any and all materials for those of equal or better quality where it deems necessary or applicable.
- e)The Client agrees that the changes requested are properly and accurately described above, and that no other instructions verbal or otherwise are valid except those written above.
- f)If there is any discrepancy between this schedule/change order and other schedules included in the Purchase and Sale Agreement, then it is agreed to by all parties that this schedule takes precedence.
- g)NO SUBSTITIOTNS OR CASH VALUE

Client:

Client:

The Vendor hereby agrees to incorporate the above requested changes into the above-mentioned home, subject to the terms and conditions noted E. & O.E.

Vendor Signature:

SCHEDULE “E”  
DETACHED HOMES

Vendor: OH (Whitby Meadows) Inc.

Lot #:

Client Name:

		VALUE
	PROMOTIONS INCLUDED IN THE PURHCASE PRICE:	
1.	\$10,000 to be used at the Décor Studio, inclusive of HST (no cash value)	
2.	5 Appliances as per Builder’s specifications (Stainless Steel Fridge, Stove, Dishwasher plus White Washer and Dryer)	
3.	Air Conditioning Unit - sized per model	
4.	Flow Thru Humidifier, to help control humidity levels throughout the home	
5.	Rough-in for electric car charger in garage	
6.	200 AMP Service	
7.	The total adjustment pursuant to paragraph 8(d) of Schedule X shall not exceed \$5,000.00 plus HST.	
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	Lot Premiums:	
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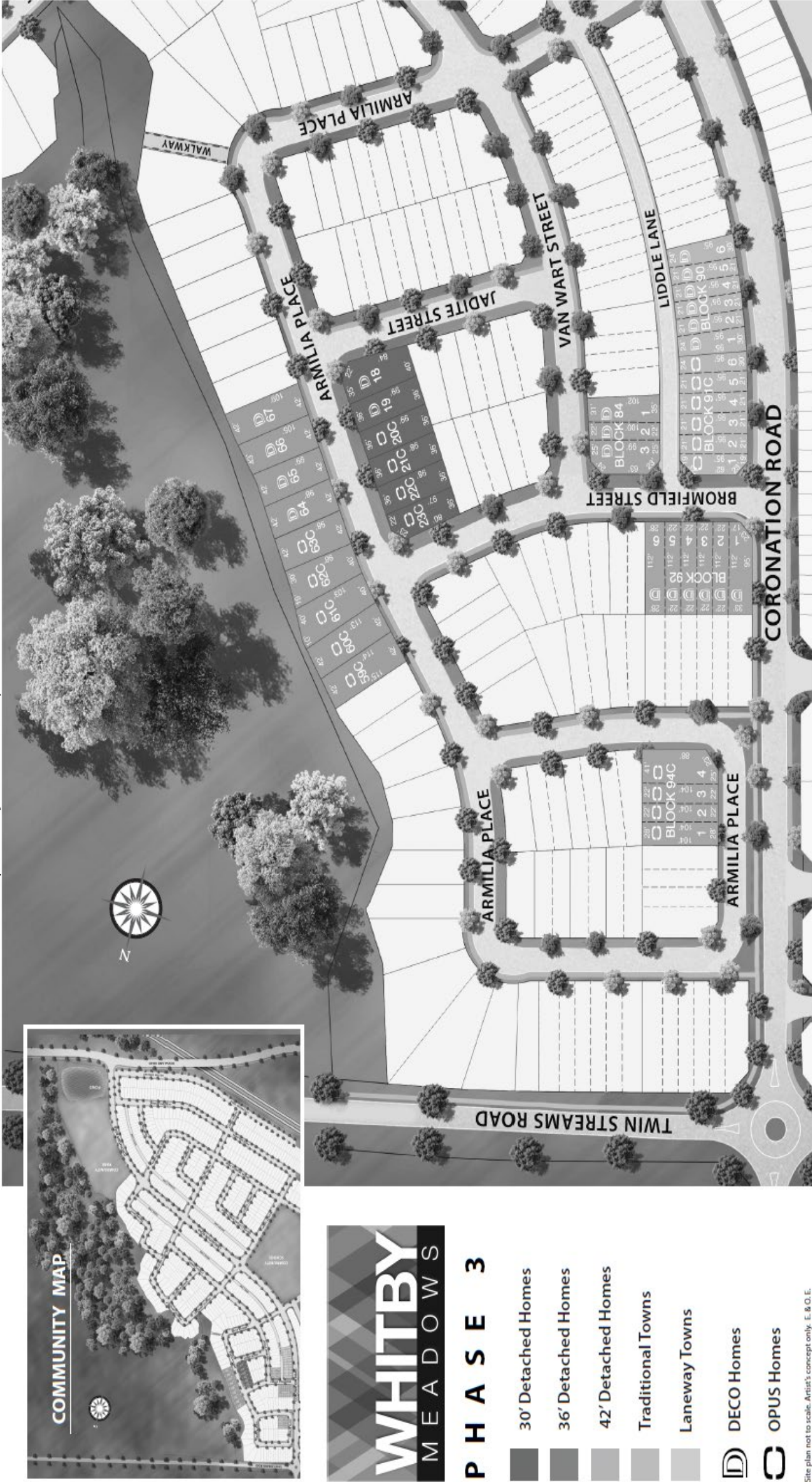
Client:

Client:

The Vendor hereby agrees to incorporate the above requested changes into the above-mentioned home, subject to the terms and conditions noted E. & O.E.

Vendor Signature:

Schedule “S” – Site Plan  
OH (Whitby Meadows) INC.



The Client acknowledges that all street landscaping and fixtures represented herein is "Artist's Concept" and subject to change without notice. All amenities represented herein are proposed and are subject to change. This schedule is for the purpose of lot location within the community only. E. & O. E.

Client : \_\_\_\_\_

Client : \_\_\_\_\_

SCHEDULE A  
DETACHED AND TOWNHOMES

Exterior & Structural Design Features

1. Front facades are a combination of stone, stucco, brick, and other unique materials, with precast, brick or stone accents at entry point and around windows as per plan/elevation. Colour, style, materials and elevations are pre-selected and architecturally controlled, to achieve variety within the streetscape.
2. Poured concrete basement floors and foundation walls with damp proofing, weeping tiles and drainage membrane to walls.
3. 2”X 6” exterior framed walls.
4. Advanced floor joist system utilizing “Engineered Floor Joist Technology”.
5. **Prominent 8’ insulated fiberglass front entry door (Traditional Elevations) as per plan. Prominent 8’ front door entry with frosted glass and sidelights (Contemporary Elevations) as per plan.** Elev. A & B to receive clear glass sidelights, as per plan. Elev. C’s (including Townhomes) to receive frosted glass door and sidelights, as per plan. All homes to receive satin nickel grip set and deadbolt.
6. Fully drywalled garage walls (taped and primed) excluding concrete block walls.
7. Steel insulated roll-up garage door, complete with complimenting glass inserts for Elev. A & B detached homes. Aluminum roll-up garage doors with frosted contemporary glass panels for Elev. C homes (Townhomes included)
8. Insulated garage to house access door installed with dead bolt and safety closer, if grading permits.
9. **Convenient cold cellars** with vent chamber, interior light, and weather-stripped solid core door, as per plan.
10. **Durable, maintenance free, pre-finished aluminum** or vinyl soffits, fascia, eavestrough, downpipes and siding – all colour coordinated.
11. Colour coordinated self-sealing Limited Lifetime asphalt shingles.
12. Maintenance free exterior aluminum railings for both porch (where required by building code) and decorative applications.
13. **Energy Star vinyl thermo pane** (with low ‘E’ argon gas filled) **casement windows throughout**, featuring mullions as per plan (to front elevations), complete with screens. All door systems include weather stripping. All windows and doors are colour coded to match your exterior colour package.
14. Vinyl horizontal basement windows, 30” x 16” (min).
15. Tasteful precast municipal address plaques.
16. Professionally graded and sodded lot with precast patio slabs and steps at front walkway. Precast step(s) at rear door, as required by grade.
17. One lift asphalt paved driveway. The driveway paving shall be charged on closing in the amount of \$700 for single width driveway & \$1000 for double width driveway, plus HST.
18. In order to conserve lumber, DECO and OPUS have opted not to provide wood decking. Should a client desire to have said deck, an appropriately sized design will be submitted to the municipality for permit, please see Sales Consultant for details.

Kitchen, Baths & Laundry Details

1. **Extended kitchen upper cabinets.**
2. Quality designed furniture finish cabinetry in Kitchen and Bathrooms in a wide choice of styles and colours from Builder’s standard selections.
3. **Choice of Granite or Quartz countertops in Kitchen** to be selected from Builder’s standard selections and

- laminate countertops throughout all bathrooms and laundry, as per plan.
4. **Undermount stainless steel kitchen sink with single lever faucet and integrated pull out..**
  5. Single lever faucets in all bathrooms, and powder room.
  6. Provisional rough-in for future dishwasher (electrical run from panel to underside of dish-washer space in basement).
  7. All bathroom tub and shower enclosures to receive mould resistant bathroom drywall board.
  8. **Framed glass shower enclosures in Master Ensuite**, as per plan.
  9. **Master Ensuite to receive a stand alone soaker tub**, with a deck mounted faucet where plan permits.
  10. Low flow toilet systems including Moen’s low flow lave faucets and Moen Eco-Performance showerheads, throughout.
  11. All bathroom vanities to have a top drawer where sizing permits.
  12. Pedestal sink for powder room.
  13. Mirrors over vanities in all bathrooms. Powder room to receive an oval beveled mirror.
  14. Due to the variety in options available, bath accessories (towel bars, and toilet paper holders), are not provided.

Floor Coverings

1. A wide assortment of 12”x12” or 13”x13” ceramic tile flooring in foyer, kitchen, breakfast area, all bathrooms, and finished laundry rooms, from Builder’s standard samples.
2. Glass shower stalls to receive 2”x2” mosaic tiles on floor and 8”x10” ceramic tiles on walls, excluding ceiling.
3. Ceramic wall tiles installed in combination tub and shower enclosures to receive 8”x10” ceramic tiles on walls, excluding ceiling.
4. **Detached homes to receive a Prefinished approx 3” wide engineered hardwood** in a natural finish throughout main floor, excluding tiled areas.
5. Townhomes to receive laminate flooring throughout main floor, excluding tiled areas.
6. 40 oz. broadloom with underpad throughout second floor (choice of one colour), & in optional loft.

Interior Design Features

1. All homes feature grand **9’ ceilings on the first and second floor.**
2. Detached homes to receive **Direct-Vent Gas Fireplace with elegant stonecast mantel**, as per plan.
3. Kitchen, bathrooms and laundry room (main or second floor) will receive smooth ceilings.
4. Spray textured stippled ceilings with 4” smooth border throughout entire home (where smooth ceilings do not apply).
5. **Tray smooth ceilings in all Master Bedrooms.**
6. Where applicable, interior column profile shall be square. All art niches to have MDF ledge as finished detail.
7. 4” traditional baseboard with 2 ¾” casing throughout within Elevation A & B models. Approximately 4 ¼” modern baseboard with 2 1/2 ” contemporary casing within Elevation C models.
8. **All Interior doors to be a 2-panel square top smooth door profile.**
9. **Satin nickel interior lever hardware and hinges** throughout all interior doors.
10. All arches (on main floor) and low walls are trimmed and painted.



SCHEDULE A  
DETACHED AND TOWNHOMES

- 11. All homes to receive a **natural varnished oak staircase to finished areas**, complete with oak strip hardwood on landings, excluding basement stairs.
- 12. Railings to be finished with a 2 ¾” handrail and 1 5/16” square wood pickets, complete with 3 1/2” x 3 1/2” square post, as per plan. All upper hallways to receive oak nosing complete with oak stringers (side of staircase).
- 13. Wire shelving installed in all closets (ideal for expanding shelving).
- 14. All interior trim and doors are painted white.
- 15. Selection of one interior **low VOC paint** colour throughout.
- 16. Professional home cleaning prior to occupancy, including windows and furnace/duct system.

Mechanical Systems

- 1. All Homes feature an **HRV System** (Heat Recovery Ventilator), to provide for fresh air exchange within the home.
- 2. **Forced air Hi-Efficiency gas furnace** (location may vary from plan and shall be moved to optimize performance at Builder’s discretion). **If an optional loft is purchased a Dual Zone Forced Air Hi-Efficiency gas furnace** shall be included.
- 3. **Flow-Through Humidifier to be installed to improve indoor humidity levels all year long.**
- 4. High efficiency gas hot water heater, on a rental basis. (as per the Agreement of Purchase & Sale)
- 5. Ductwork is sized to allow for future central air conditioning.
- 6. Sealed basement ducts to reduce heat loss.
- 7. The home will be insulated in accordance with the current Ontario Building Code specifications including expanding foam insulation to all garage ceilings (when finished areas above) and around all windows and doors.
- 8. Flexible water pipe solution using PEX (polyethylene) to reduce noise & corrosion, and eliminate sodder contaminants within plumbing system.
- 9. Exhaust fans installed in all finished bathrooms & laundry, vented to the exterior.
- 10. **Stainless Steel hood fan** over stove, vented (6”) to the exterior.
- 11. Two exterior hose bibs are provided, one at the rear (or side) and one in garage.
- 12. Laundry rooms are equipped with white drop-in laundry tub including a base cabinet and hot/cold water connections for main and second floor laundry rooms, as per plan.
- 13. White plumbing fixtures for all bathrooms complete with shut off valves (toilets and sinks).
- 14. All shower areas to receive the comfort of pressure balance control valves.
- 15. **3 piece rough-in bathroom** in basement, drain only (location predetermined and may vary from brochure).

Electrical Components

- 1. **Upgraded ceiling fixtures with Energy Star bulbs** in all bedrooms, hallways, side halls, foyer, kitchen, breakfast room, den, living room, dining room, and family room / great room. Bathrooms to receive a light fixture over the vanity and ceiling fixture (excluding powder room).
- 2. Black exterior coach lights on front and rear elevations for Elev. A & B. Elev. C to receive Black exterior contemporary light fixtures on front elevation.
- 3. 100 amp electrical service with breaker panel and copper wiring throughout.

- 4. Weatherproof exterior electrical outlets, one at rear of home and one at the front porch.
- 5. 220-volt Heavy-duty receptacle for stove and dryer.
- 6. Ground fault interrupter receptacles, as per building code.
- 7. Smoke detectors located on all floors and bedrooms. Smoke detectors in all bedrooms are equipped with an alarm and required strobe light as per OBC requirements. Carbon Monoxide detectors located on main and second floor hallways.
- 8. White Decora switches and receptacles throughout.
- 9. Rough-in for future central vacuum system terminating in the basement or garage, complete with a dedicated plug in the basement & garage.
- 10. Convenient garage door opener receptacle(s), at the ceiling for a future garage door opener.
- 11. The added feature of a **holiday receptacle for front porch**, on a separate controlled switch.
- 12. Single switch operating all basement lighting.
- 13. Electronic door chime with doorbell at front entry.

Home Automation/Tech Packages

- 1. All Bedrooms and Family Room / Great room are pre-wired for TV with one RG6 Cable and a finished cover plate.
- 2. Telephone rough-in in master bedroom and kitchen with a finished cover plate.
- 3. Electronic Smart Thermostat with smart phone control compatibility.
- 4. All purchasers will have a personally scheduled appointment with our Home Automation Contractor to explain and co-ordinate any additional requirements you may desire.

Tarion Warranty

DECO & OPUS HOMES are dedicated to achieving minimized home deficiencies. We will achieve this through the efforts our diligent personnel and thorough Quality Assurance Practices. Given that a home is built thru a large number of personnel, errors may occur, however our desire is to showcase a home that both you and your family can all be proud of.

- 7 years for major structural defects
- 2 years for plumbing, heating, and electrical systems and building envelope
- 1 year for all other items in accordance with Tarion Guidelines

Specifications, Terms & Conditions are subject to change without notice. E. & O.E.  
October 19, 2021



Client Initial:\_\_\_\_\_

Client Initial: \_\_\_\_\_

**SCHEDULE “G” – Granite Countertops**

By selecting the granite countertops, we, the Client(s) of the property as set out on the first page of this Agreement of Purchase and Sale, hereby agree that the granite and/or marble countertops is a natural product produced and quarried from the earth with inherent shade variations, natural seams and imperfections.

Each slab is uniquely different. The Vendor assumes no responsibility or liability for any labour or material claims due to any variations. The Vendor guarantees the installation of stone counters; however, due to the natural composition of stone, the Vendor cannot guarantee that the stone will resemble the sample the Client selects at the Décor Studio.

Both materials can be scratched if abused and both can stain if not cleaned up immediately. The Vendor also suggests not cutting directly onto stone but instead using a cutting board. Acidic liquids and/or oils should be wiped up immediately to prevent damage or staining to the top. Never place hot or boiling items directly onto the counter as it may crack the material.

We, the Client, release and forever discharge the Vendor from any and all actions and claims, howsoever arising from which we stated above.

Client Initial:\_\_\_\_\_

Client Initial: \_\_\_\_\_

**SCHEDULE “H” – Prefinished Hardwood**

By selecting the prefinished engineered hardwood flooring and finishes option, we, the Client(s) of the property as set out on the first page of this Agreement of Purchase and Sale, hereby agree that the prefinished hardwood flooring were finished in a separate factory than the cupboards/cabinetry, stairs, nosings and reducer strips, under computer controlled conditions and that my stairs, nosings, reducer strips, railings were finished by tradesmen working in standard uncontrollable site conditions.

We understand that the hardwood flooring is not warranted against any moisture or water damage. We release and forever discharge the Vendor from any and all actions and claims, and demand for water damages howsoever arising from same.

We acknowledge that the hardwood flooring will benefit by using only manufacturer’s cleaning products and methods. Keep your new pre-finished hardwood floor clean by vacuuming it and make regular use of the washable wiper mop (for use dry and damp).

Client Initial:\_\_\_\_\_

Client Initial: \_\_\_\_\_

SCHEDULE “P” - Privacy Policy

For the purposes of facilitating compliance with the provisions of any applicable Federal and/or Provincial privacy legislation (including without limitation, the Personal Information Protection and Electronic Documents Act S.C. 2000, as amended), the Purchaser hereby consents to the Vendor’s collection and use of the Purchaser’s personal information necessary and sufficient to enable the Vendor to proceed with the Purchaser’s purchase of the Real Property, including without limitation, the Purchaser’s name, home address, e-mail address, telefax/telephone number, age, date of birth, and in respect of marital status only for the limited purposes described in subparagraphs (c), (d), (h), (i) and (j) below, and in respect of residency status, and social insurance number only for the limited purpose described in subparagraph (i) and (j) below, as well as the Purchaser’s financial information and desired design(s) and colour / finish selections, in connection with the completion of this transaction and for post-closing and after-sales customer care purposes, and to the disclosure and/or distribution of any or all of such personal information to the following entities, on the express understanding and agreement that the Vendor shall not sell or otherwise provide or distribute such personal information to anyone other than the following entities, namely to:

- a) the Vendor’s sales agents, and any companies or legal entities that are associated with, related to, affiliated with the Vendor, other future real estate developers that are likewise associated with, related to or affiliated with the Vendor (or with the Vendor’s parent/holding company) and are developing one or more other real property developments or commercial properties that may be of interest to the Purchaser or members of the Purchaser’s family, for the limited purposes of marketing, advertising and/or selling various products and/or services to the Purchaser and/or members of the Purchaser’s family;
- b) one or more third party data processing companies which handle or process marketing campaigns on behalf of the Vendor or other companies that are associated with the Vendor, and who may send (by e-mail or other means) promotional literature / brochures about new real property developments and/or related services to the Purchaser and/or members of the Purchaser’s family;
- c) any financial institution (s) providing (or wishing to provide) mortgage financing, banking and/or other financial or related services to the Purchaser and/or members of the Purchaser’s families;
- d) any private lender(s) or financial institution(s) or their assignee or successor, providing (or wishing to provide) financing, or mortgage financing, banking and/or other financial or related services to the Vendor, the Tarion Warranty Corporation and/or any warranty bond provider, required in connection with the development and/or construction financing of the Real Property;
- e) any insurance companies providing (or wishing to provide) insurance coverage with respect to the Property (or any portion thereof), including without limitation, any title insurance companies providing (or wishing to provide) title insurance to the Purchaser or the Purchaser’s mortgage lender(s) in connection with the completion of this transaction;
- f) any trades/suppliers or sub-trades/suppliers, who have been retained by or on behalf of the Vendor (or who are otherwise dealing with the Vendor) to facilitate the completion and finishing of the Real Property and the installation of any extras or upgrades ordered or requested by the Purchaser;
- g) one or more providers of cable television, telephone, telecommunication, security alarm systems, hydro-electricity, chilled water/hot water, gas and/or other similar or related services to the Real Property (or any portion thereof), unless the Purchaser advises the Vendor in writing not to provide such personal information to an entity providing security alarm systems and services;
- h) any relevant governmental authorities or agencies, including without limitation, the Land Titles Office (in which the Real Property is registered), the Ministry of Finance for the Province of Ontario (i.e. with respect to Land Transfer Tax), and Canada Revenue Agency (i.e. with respect to GST);
- i) Canada Revenue, to whose attention the appropriate interest income tax information return and/or the non-resident withholding tax information return is submitted (where applicable), which will contain or refer to the Income Tax Act R.S.C. 1985, as amended, or for the benefit of the Vendor or its related or parent company where the Purchaser has agreed to provide financial information to the Vendor to confirm the Purchaser’s ability to complete the transaction contemplated by the agreement of purchase and sale, including the Purchaser’s ability to obtain sufficient mortgage financing;
- j) the Vendor’s solicitors, to facilitate Closing of this transaction, including the closing by electronic means via the Teraview Electronic Registration System, and which may (in turn) involve the disclosure of such personal information to an internet application service provider for distribution of documentation.
- k) The Vendor’s accountants and/or auditors who will prepare the Vendor’s regular financial statements and audits;
- l) The Vendor’s solicitors for the purposes of facilitating closing of the transaction or enforcement of the Vendor’s rights under the Agreement of Purchase and Sale; and
- m) Any person, where the Purchaser further consents to such disclosure or disclosures required by law.

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’s 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 and/or disclosing 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 Unit (including, without limitation, gas, electricity, water, telephone, cable and/or satellite t.v.) for the purpose of marketing, promoting and providing such utilities, services and/or commodities to the Unit; and
- c) the Vendor’s consultants and lending institution(s) for the purpose of arranging financing to complete the transaction contemplated by this Agreement.

The Purchaser also acknowledges and consents to the Purchaser’s name and personal information remaining in the Vendor’s file for the uses and purposes set out above.

Client Initial: \_\_\_\_\_  
Client Initial: \_\_\_\_\_



**SCHEDULE “I” – Indemnity**

The Purchaser(s) shall indemnify and save the Vendor, its servants and agents harmless from all actions, causes of action, claims and demands for, upon or by reason of any damage, loss or injury to person or property of the Purchaser(s), or any of their friends, relatives, workmen or agents who have entered on the real property or any of the subdivision of which the real property forms a part whether with or without the authorization, express or implied, of the Vendor.

Client Initial:\_\_\_\_\_

Client Initial: \_\_\_\_\_

**SCHEDULE “L” – Lawyer Review**

The Client acknowledges that this Agreement of Purchase and Sale is binding upon the Client and **IS NOT CONDITIONAL UPON THE CLIENT SOLICITOR’S REVIEW**. The Vendor acknowledges that the Client shall have a period of 5 (five) business days from the date of acceptance to have the Client solicitor review the form and content of the Agreement and to set out in writing to the Vendor’s solicitor any specific concerns with respect to the form and content of the Agreement. The Vendor agrees that it will permit such review of the Agreement of Purchase and Sale as the Vendor’s solicitor deems satisfactory and the parties hereto covenant and agree that the Agreement shall be deemed to be amended in accordance with those comments requested by the Client solicitor, which are for clarification purposes only and as approved and accepted by the Vendor’s solicitor. The Client and their solicitor understand and agree that this schedule is not for the purpose of negotiating the terms and conditions, or any financial provisions of the Agreement of Purchase and Sale but merely for clarification purposes only.

Client Initial:\_\_\_\_\_

Client Initial: \_\_\_\_\_

**SCHEDULE "X"**

**PURCHASER’S COVENANTS**

- 1. Notwithstanding the closing of this transaction, the Purchaser's covenants, warranties and agreements in this Agreement shall survive and not merge and the Purchaser shall give to the Vendor any further written assurance as may be required by the Vendor to give effect to this covenant either before or after the Closing Date. 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, to inspect, repair, complete or rectify construction, grade and undertake modifications to the surface drainage, including installation of catch basins and or infiltration trenches, without liability therefore, and the Transfer/Deed may contain such provisions.
  - a. 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 the 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 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, fencing, decking or any other accessory building 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. 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.
  - b. The Purchaser acknowledges that construction of the Dwelling may be subject to the requirements of the architect appointed by the Subdivider of the Property (the "Control Architect") and the Purchaser agrees to accept the Dwelling subject to any changes, variations or restrictions now or hereafter imposed or approved by the Subdivider or Control Architect.
  - c. The Purchaser acknowledges that the dimensions of the Property set out in this Agreement or on any schedule attached hereto or shown on drawings or plans made available to the Purchaser on site or otherwise, are approximate only. In the event the frontage, depth or area of the Property is varied from those specified in the Agreement, or on any schedule attached hereto or shown on drawings 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.
  - d. This Agreement is conditional upon compliance with the subdivision control requirements of the Planning Act (Ontario) which compliance shall be obtained by the Vendor at its sole expense, on or before closing.
  - e. All exterior elevations and colours are architecturally controlled and approved. No changes whatsoever which are requested by the Purchaser will be permitted to the aforementioned and the Purchaser hereby acknowledges notice of same and agrees to accept the exterior elevation and colour scheme chosen by the Vendor and approved by the Municipality and the Control Architect.
  - f. The Purchaser acknowledges and agrees that in the event the dwelling unit being purchased herein is a semi-detached dwelling unit, the lot upon which such semi-detached 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.

**ARCHITECTURAL CONTROL AND SITING**

- 2. The Purchaser(s) acknowledges that the model type indicated in this Agreement has been preliminarily sited and is subject to final siting approval by the Municipality, the Architectural Control Committee, the Control Architect or the Vendor’s surveyors. In the event such final siting approval is not obtained from any of the foregoing, the Purchaser(s) shall be given the first opportunity to submit an offer for a model type that does meet final siting approval for this particular lot. In the event an Agreement for another model type is not consummated within five (5) days of notification to the Purchaser(s) of which model type does meet the final siting approval requirements, this Agreement shall be at an end, the Purchaser(s) shall be entitled to a refund of the deposit money, without interest, but in no event shall the Vendor or the Agent be liable for any damages or costs whatsoever.

**CONSTRUCTION APPROVALS AND CONSTRUCTION**

- 3. The Vendor will construct (if not already constructed) and complete upon the Property a dwelling (the "Dwelling") of the type herein before 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.
  - a. Acceptance of construction, siting and grading by the Municipality shall conclusively constitute acceptance by the Purchaser. The Dwelling will be constructed substantially in accordance with the plans and specifications to be filed with the Building Department of the Municipality in which the dwelling is located, and in accordance with the *Ontario Building Code* and the Purchaser shall have no claims against the Vendor for any higher or better standards of workmanship or materials than required in such plans and specifications and pursuant to the *Ontario Building Code*. The foregoing shall constitute complete and absolute acceptance by the Purchaser of all construction matters, and the quality and sufficiency thereof, including, without limitation, all mechanical, structural, and architectural matters. Subject to the TARION Warranty Corporation guidelines and bulletins, the Vendor shall have the right to substitute materials for those designated in the plans and/or specifications provided the quality is equal to or better, and the Vendor shall also have the right to make minor changes in plans, siting and specifications, provided there is no objection from the Municipality and/or the Control Architect. The Purchaser acknowledges and agrees that it shall have absolutely no claim or cause of action against the Vendor for any such changes, variances or modifications, nor

shall the Purchaser be entitled to any notice thereof. The Purchaser acknowledges and agrees that this paragraph may be pleaded by the Vendor as an estoppel in any action brought by the Purchaser or his successors in title against the Vendor.

- b. The Purchaser acknowledges and agrees that architectural control of external elevations, driveway construction, boulevard tree planting, landscaping, corner lot fencing (including the location of such corner lot fencing), exterior colour schemes, or any other matter external to the Dwelling designed to enhance the aesthetic of the community as a whole, may be imposed by the Municipality and/or the Subdivider and/or the Control Architect. 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 Purchaser acknowledges and agrees that Amended Elevations can cause interior changes as well and the Purchaser hereby irrevocably agrees to accept such interior changes as caused by the Amended Elevation. The Vendor shall have the right, in its sole discretion, to construct the herein before 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. The Purchaser hereby irrevocably accepts construction of a reverse mirror image Dwelling plan without any right of abatement of Purchase Price and in full satisfaction of the Vendor's obligations as to construction of the Dwelling type herein before 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 sales brochures, renderings and other plans and specifications 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), the Purchaser hereby irrevocably agrees to accept such change without any right of abatement of Purchase Price and in full satisfaction of the Vendor's obligation as to construction of the Dwelling type herein before described.
- c. 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 or rear deck where so indicated in this Agreement, or vice versa. In the event this Agreement calls for a walk-out basement 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 or rear deck and such is required, pursuant to final approved grading and engineering plans, and/or architectural control, the Purchaser shall accept a credit in the Purchase Price, or, pay the additional cost involved in constructing such walk-out basement or rear deck, as the case may be (such costs shall be absolutely determined by Statutory Declaration sworn on the part of the Vendor).
- d. The Purchaser acknowledges that certain lots within the subdivision may require catch basins and/or infiltration trenches in the rear yard and associated leads and that hydro transformers, street light poles and hydrants will front onto certain lots (including the Property) within the Subdivision. The Purchaser agrees to accept the Property subject to any retaining walls, catch basins, fencing, landscaping, entrance features, infiltration trenches or other subdivision enhancement features required pursuant to the municipally approved plans.
- e. 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 sub trades to enter upon the Property for the purposes of completing work on 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 and its agents and sub trades. The Purchaser agrees that this covenant may be pleaded by the Vendor as an estoppel to any action or opposition by the Purchaser.
- f. The Purchaser acknowledges that all electrical, and mechanical rough-in changes will not be permitted unless processed and approved by Vendor 90 days prior to excavation of the dwelling.
- g. The Purchaser covenants and agrees that the Purchaser shall pay to the Vendor in advance for all extras, upgrades or changes ordered by the Purchaser at the time such order is made and the Purchaser further acknowledges and agrees that such payment is non-refundable in the event that this transaction is not completed for any reason whatsoever save and except for the default of the Vendor. 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 in the manner following, 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, at the Vendor's discretion, the Purchaser received credit on 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 above 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 deemed to have been released from any and all obligation, claims or demands whatsoever with respect to such incomplete extras, upgrades or changes. In the event no such amount was paid or quantified in Schedule "E", or the "Options and Upgrades Agreement", then no refund or credit shall be paid to the Purchaser and no further compensation shall be owed by the Vendor. 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 a delay in the Vendor's construction operations, the Vendor may require the Purchaser to complete this transaction on the Closing Date 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 shade difference occurring in the manufacture of items such as, but not limited to, finishing materials or products such as cushion floor, laminate floor, carpet, floor tiles, roof shingles, brick, aluminum or vinyl siding, bath tubs, water closets, sinks and other such products where the product manufacturer establishes the standard for such finishes. The Vendor is also not responsible for colour variations in natural products or the finishes on natural products such as but not limited to marble, granite, quartz hardwood flooring, kitchen cabinets, wood stair railings, spindles, trim 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 plastic toilet seats, china toilets, enamel tubs, melamine cabinet finishes and paint and in these circumstances the product as manufactured shall be accepted by the Purchaser. Purchaser herein acknowledges that thresholds exist between rooms during transition areas of one material to another and accept varying heights therein.

- i. All dimensions and specifications on sales brochures and other sales aids are artists' concept 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 and Tarion Warranty Corporation. The location of mechanical installations may not be as shown on the sales brochures and will be located in accordance with approved plans and/or good construction practice and may result in room size or garage size reduction commensurate with the mechanical components being installed. The Purchaser acknowledges being advised by the Vendor that the Vendor has experienced a high theft rate of air-conditioning units when they are installed prior to the Closing Date. 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 seven (7) days after the Closing Date. 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 Date. Notwithstanding the foregoing, in the event that the Purchaser requires the air-conditioning unit to be installed prior to the Closing date, the Purchaser shall make written request therefore, such request to be received not later than thirty (30) days prior to the Closing Date by way of separate written request addressed to the Vendor's solicitor. 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 date and the Vendor shall not be obliged to replace same nor shall there be any adjustment in the Purchase Price with respect thereto.
- j. Where any portion of any fence is within twelve (12) inches of the Property line, such fence shall be deemed not to be an encroachment at that point (the "Permitted Encroachment") and the Purchaser agrees to accept title to the Property and to complete the sale contemplated herein, without abatement of the Purchase Price. If any portion of any fence is not deemed to be a Permitted Encroachment (an "Unpermitted Encroachment") then the Purchaser shall complete the transaction herein 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.

#### **TARION WARRANTY CORPORATION – WARRANTY AND PDI**

4. The Vendor agrees to make available, and the Purchaser agrees to meet with a representative of the Vendor during the seven day working period immediately prior to closing to inspect the Dwelling and verify that the Dwelling has been completed in accordance with the provisions of Paragraph 3.(a) hereof. The Purchaser shall not be entitled to examine the Dwelling except when accompanied by a representative of the Vendor (no inspectors permitted, only those listed on the Agreement of Purchase & Sale). The Purchaser agrees to comply with all regulations under the Occupational Health & Safety Act, 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 fines incurred as a result of non-compliance with these provisions by the Purchaser. The Purchaser is to arrange the inspection with a representative of the Vendor and is to give the representative of the Vendor at least five (5) days prior notice of the said inspection. In the event of any items remaining uncompleted at the time of such inspection, only such uncompleted items and mutually agreed deficiencies shall be listed by the Vendor on the form of Certificate of Completion and Possession required to be completed pursuant to the provisions of the Ontario New Home Warranties Plan Act (the "Act"), which the Purchaser covenants to execute and which Certificate of Completion and Possession SHALL CONSTITUTE THE VENDOR'S ONLY UNDERTAKING TO COMPLETE THE SAID UNCOMPLETED ITEMS AND THE DWELLING. The Purchaser agrees that such uncompleted items as are included in the Certificate of Completion and Possession represent the balance of work to be completed by the Vendor with respect to the Dwelling and the Purchaser agrees that no further request for completion of items may be maintained by the Purchaser, and this shall serve as a good and sufficient release of the Vendor in that regard. The Purchaser further agrees that the Vendor shall have the right to enter upon the Property and Dwelling after completion of the transaction in order to complete such items as are included in the Certificate of Completion and Possession. The Vendor shall complete such items as are contained in the Certificate of Completion and Possession within a reasonable time after closing, subject to weather conditions and the availability of supplies and trades.
5. The Purchaser further agrees to have noted at the time of inspection on the form of Certificate of Completion and Possession any damages or defects found on the Dwelling's floor coverings, kitchen and bathroom cabinetry including countertops, bathtubs, sinks, toilets and other finished plumbing. These deficiencies listed on the form will be the limit of the Vendor's repairs to these items to be completed before or within a reasonable time after closing, subject to availability of material and trades.
6. The Purchaser agrees that in no event shall the Purchaser be entitled to obtain possession of the Dwelling until and unless the Purchaser has executed the said Certificate of Completion and Possession. The warranties given under the Act replace any warranties at law or otherwise. In the event the Purchaser has omitted to execute the Certificate of Completion and Possession prior to the Closing Date, this shall constitute a default by the Purchaser hereunder and the Vendor may, at its sole option, (and without prejudice to any other rights which the Vendor may have on the Purchaser's default) terminate this Agreement and the Purchaser agrees that the deposit monies paid by the Purchaser hereunder shall be forfeited.
7. The Purchaser acknowledges that a Homeowner Information Package (HIP) is available from TARION and that the vendor shall email a link to a downloadable copy of the HIP to the Purchaser at the Purchasers designated email address on or prior to the PDI to be undertaken between the Purchaser and the Vendor. The Purchaser hereby agrees to accept this form of delivery for the HIP and further, acknowledges that the designated email address given by the Purchaser is a reliable email address for such delivery. The Purchaser covenants and agrees to acknowledge receipt via a reply email or to execute a Confirmation of Receipt of the HIP at the PDI.

#### **CLOSING ADJUSTMENTS**

8. The hot water heater and tank are not included in the Purchase Price and shall remain chattel property. The Purchaser agrees to execute a rental contract for the said heater and tank and agrees to take all necessary steps to assume immediately on closing, charges for hydro, water and other services, and the Vendor may recover any payments therefore from the Purchaser. The rental agreement will take effect between the Purchaser and the supplier on the closing date. The Purchaser understands that rental

information, including the supplier's standard rental terms and conditions and the current monthly rental rates (which may change from time to time), will be provided either at or prior to the time of closing or with the first rental bill.

#### **Water and Hydro Meters**

- 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 water meter/electricity meter/gas 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, or the charge made 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 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. Notwithstanding the foregoing, the parties hereto acknowledge and agree that the Purchaser shall pay the sum of \$1,050.00 plus Applicable Taxes to the Vendor on the Closing Date for the supply, installation and connection of the water, electricity and gas meters for the Property;

#### **Property Taxes**

- b. Taxes, fuel, water rates, assessment rates and local improvements to be apportioned and allowed to the Closing Date. In the event realty taxes have not been individually broken down 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 closing 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.

#### **Tarion Enrollment Fee**

- c. The Vendor represents and warrants that it is registered as a builder under the Act, as hereinafter defined, and that the Dwelling is or will be enrolled under the Act. The Purchaser covenants and agrees to reimburse the Vendor on closing for the enrolment fee paid by the Vendor for the Dwelling under the Act.

#### **Development Charges**

- d. In the event that any level of government including, without limiting the generality of the foregoing, federal, provincial or municipal, shall impose a new levy, impost charge or any other charge or tax against the Property (the "New Charge") or increase any existing levy, impost charge or any other charge or tax against the Property (the "Increase in Levies") after the date of signing of this agreement by both parties, the Purchaser shall pay to the Vendor in addition to the Purchase Price an amount equal to the New Charge and/or Increase in Levies which amount will be added to the Statement of Adjustments and payable on the Closing Date.

#### **Retail Sales Tax on Chattels**

- e. The Vendor shall have the option to collect and remit the retail sales tax, if any, payable by the Purchaser on chattels which are purchased in this transaction as a charge on closing and the allocation of such chattels will be estimated, if necessary, by the Vendor.

#### **NSF Charges**

- f. A Two Hundred and Fifty Dollar (\$250.00) administrative fee shall be charged to the Purchaser for any cheque delivered to the Vendor pursuant to this Agreement, or for any extras ordered, which is returned to the Vendor and not honoured by the bank of the Purchaser for any other reason (collectively **Returned Cheque**). The total of the administration fees shall be adjusted for on the Statement of Adjustments for each Returned Cheque and shall be paid by the Purchaser on the Closing Date.

#### **Late Changes in Model Type**

- g. A fee of One Thousand Five Hundred Dollars (\$1,500.00) shall be charged to the Purchaser to be paid at the time a request is made by the Purchaser for a change in lot or model type if such request is made more than thirty (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 approval of the Vendor, who's approval may be arbitrarily withheld.

#### **Driveway Paving Fee**

- h. The Purchaser shall pay as an adjustment on closing the sum of Seven Hundred Dollars (\$700.00) to reimburse the Vendor for the top-coat Asphalt Driveway Paving Fee for a driveway belonging to a single car garage dwelling or the sum of One Thousand Dollars (\$1,000.00) for a double car garage dwelling. Asphalt will be installed in two coats where permitted by the municipality. Some municipalities require both coats to be installed at one time and driveways will be installed as per municipal engineering standards. The purchaser shall pay for the topcoat whether it is installed in one lift with the base or on a separate occasion as the base.

#### **Rebate Reduction**

- i. The Rebate Reduction amount (as hereinafter defined at paragraph 15, if any).

#### **Transaction Levy**

- j. The purchaser shall pay as an adjustment on closing the sum of Sixty-Five Dollars (\$65.00) for the Law Society of Upper Canada Fee.

#### **Unpaid Purchase Monies**

- k. All proper readjustments shall be made after closing, if necessary, forthwith upon 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.



- I. The Vendor may reserve a Vendor's Lien, following the Vendor's usual form, for unpaid purchase monies or adjustments or claims herein provided together with the interest thereon as set forth in Paragraph 8(k) hereof, and the Vendor will upon request deliver to the Purchaser (for registration at the Purchaser's expense) a release of the Vendor's Lien after such monies have been received by the Vendor. The Purchaser shall be responsible for the Vendor's cost to have the Vendor's Lien registered.

#### **Purchaser's Request Late Change**

- m. In the event the Purchaser requests: (i) an extension of the Closing Date and the Vendor consents to such extension (which consent may be arbitrarily withheld), the Purchaser shall pay to the Vendor such fee plus HST as required by the Vendor, in consideration of granting such extension; (ii) a change to the name or names or manner in which the Purchaser has previously requested to take title to the Real Property; (iii) a change to any other information provided to the Vendor or its solicitor or to any other final closing documentation prepared by the Vendor's solicitor (whether or not delivered to the Purchaser or its solicitor), then the Purchaser shall pay to the Vendor the sum of \$250.00 plus HST as an administrative charge and shall pay the Vendor's solicitor's legal fees in the sum of \$300.00 plus HST, for each such requested change, but notwithstanding the foregoing there is no obligation whatsoever on the part of the Vendor, or its solicitor, to approve of or implement any such changes so requested by the Purchaser or its Solicitors. Notwithstanding anything contained to the contrary in this Agreement, the Vendor will not accept any name or title changes by a direction re. title. The consent of the Vendor must be obtained to all such name/title changes, which consent may be arbitrarily withheld. Where the Vendor so consents, an amendment in the Vendor's form must be executed by all appropriate parties and the hereinbefore set out fees shall be paid.

- n. **Missed/Rescheduled Décor Appointment**

In the event the Purchaser fails to attend their scheduled virtual or in-person tier 1 or tier 2 décor appointment or fails to reschedule their missed décor appointment with the vendor no later than 72 hours prior to the scheduled date and time of their tier 1 or tier 2 décor appointment, then the Purchaser hereby agrees to pay as an adjustment on closing, the sum of Two Hundred and Fifty (\$250.00) plus H.S.T. as an administrative fee for their missed décor appointment or their failure to reschedule their décor appointment.

### **PRIOR TO CLOSING**

9. Prior to the Closing Date, the Purchaser covenants and agrees not to post any signs for sale, or list the Property for sale or advertise to others that the Property is or may be available for sale, offer for sale or sell, the Property or to enter into any agreement, conditional or otherwise, to sell the Property, or any interest therein, nor to assign this Agreement or any interest therein, or the benefit thereof, either directly or indirectly, to any person. 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 the 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. At any time prior to the Closing Date the Vendor shall be permitted to assign this Agreement to any party registered as a Vendor pursuant to the Warranty Act, and upon notification of assumption of this Agreement 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.

### **FINANCING**

10. Within fourteen (14) days after the expiry of the condition contained in Schedule "M" of this Agreement, or if no Schedule "M" is attached to this Agreement, then within 14 days of final acceptance, the Purchaser shall deliver to the Vendor:
  - a. a mortgage commitment from a bank, trust company or other financial institution for at least 75% of the Purchase Price; or
  - b. evidence from a bank, trust company or other financial institution, indicating that the Purchaser has sufficient funds and is able to close this transaction without registering a mortgage against the Real Property. If the Vendor determines in its sole unfettered discretion that the evidence provided to it pursuant to this Paragraph 7(b) is insufficient or not acceptable for the purpose of Closing, the purchaser shall deliver a mortgage commitment for at least 75% of the Purchase Price to the Vendor within fourteen (14) days of request.

The Purchaser acknowledges and agrees that the failure of the Purchaser to deliver the documentation described at Paragraph 10 within the time periods described therein, shall be considered material default of this Agreement. This condition is inserted for the benefit of the Vendor and may be waived by the Vendor at its sole discretion.

### **CONVEYANCE**

11. 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 Occupancy Agreement. From and after the date of possession the Purchaser shall be responsible for realty taxes, water, hydro, gas and other public or private utilities. 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.

### **TITLE**

12. 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 service, T.V. transmission system, 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, or other attachments to the roofs, 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 .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 sixty (60) days prior to the Closing Date, 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 (except for the Purchaser's obligations for extras or changes), notwithstanding any intermediate act or negotiations be void and the deposit monies shall be returned, without 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. Any tender of documents or money or giving of notice herein may be made or given either upon or to the party hereto or his solicitor, and money may be tendered by negotiable cheque certified by a Canadian Schedule "A" chartered bank. Provided further, that tender for any reason by the Vendor shall be deemed as sufficiently made when the Vendor or its solicitor appears at the recording Land Registry Office for the Property at two p.m. (or such other time agreed to by the parties) on the Closing Date or any extension thereof, and tender shall accordingly be deemed to have been sufficiently made by the Vendor notwithstanding the non-appearance of the Purchaser or his solicitor at such date. The Vendor may assign this Agreement and its covenants and obligations herein to a third party, provided following such assignment, the Vendor shall notify the Purchaser of such assignment.

- a. 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 the Subdivision 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, hydro, gas, sewer, water and cable television, as well as any rights or easements reserved by the Vendor for maintenance purposes and roof overhangs, if necessary on or about the Property. The Purchaser shall execute any easements required for the said purposes upon being requested by the Vendor either before or after closing. The Purchaser acknowledges that the Deed or Transfer of the Property may reserve such rights and easements.
- b. In the event the Property borders 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.
- c. The Purchaser acknowledges that title may be conveyed directly from the Subdivider of the lands, and not the Vendor, and the Purchaser hereby releases the Subdivider from all obligation, liability and responsibility whatsoever arising out of or associated with the construction of the Dwelling and installation of all other improvements within the lot boundaries, and the Purchaser agrees to execute and deliver on closing a separate acknowledgment and release in favour of the Subdivider to this effect.
- d. 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.
- e. The Vendor may have agreed to acquire registered title to the Property from the Subdivider on terms set forth in a separate purchase agreement. In the event the Vendor fails to acquire title through no fault of the Vendor, this Agreement of Purchase and Sale shall be terminated, all deposit monies shall be repaid to the Purchaser without interest or deduction, and all parties hereto shall be relieved of any liability or obligation hereunder.
- 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 thirty (30) days prior to the Closing Date, 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.

#### **PURCHASER'S COVENANTS AFTER CLOSING**

13. 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 or fences are located within six (6) feet of an external wall, the Purchaser covenants that it will remove such addition and/or improvements prior to the Vendor taking any corrective actions which it is required to take.
  - a. 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, 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.
  - b. 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 therefore 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.
  - c. 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 twenty-four months after the Closing Date or such longer period, which is equivalent to the warranty period under the 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
  - d. 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 closing.
  - e. 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.

- f. 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, water or hydro.
- g. The Purchaser agrees that after closing, if required by the Municipality or any public utility such as the local hydro-electric authority, gas company or Bell Canada, he will grant an easement for the installation and maintenance of sewers, water mains, lines, or any other similar installations. The Purchaser also agrees to grant maintenance easements in favour of abutting land owners after closing if required by the Municipality.

#### **BREACH OF CONTRACT**

- 14. 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 null and void, 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.
- 15. The Purchaser represents to the Vendor upon which representation the Vendor has relied in accepting the Purchaser's offer that he is purchasing the property for his 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 list the Property for sale, or advise others that the Property is or may be available for sale, offer for sale or sell, the Property or to enter into any agreement, conditional or otherwise, to sell the Property, or any interest therein, nor to assign this Agreement or any interest therein, or the benefit thereof, nor to mortgage, deal with or in any way encumber the premises. The Purchaser will not any time prior to completing this transaction, register this Agreement, or any notice thereof, whether by Caution or otherwise, or register a notice of Purchaser's lien against the Property. Any breach of the foregoing shall constitute a breach of this covenant which shall, at the Vendor's sole option, entitle the Vendor to terminate this Agreement and the Vendor shall be entitled to retain the deposit monies as liquidated damages and not as penalty in addition to and without prejudice to any other remedy available to the Vendor arising out of such default and the Purchaser shall have no further right to or interest in the Property.

#### **UNLAWFUL WORK**

- 16. Unless specifically agreed to by the Vendor in writing, no work shall be done by, or for the Purchaser in or to the Dwelling Unit prior to the date of Closing ("Unauthorized Work"). The Purchaser acknowledges that a breach of this condition constitutes a trespass and entitles the Vendor, at its sole option, to take any of the following actions:
  - a. declare this Agreement to be at an end whereby the Purchaser's deposit shall be forfeited to the Vendor;
  - b. finish the dwelling to the extent possible, as determined by the Vendor in its sole discretion, without regard to possible damage to the Unauthorized Work and without incurring any additional expense as a result of the Unauthorized Work; OR
  - c. remove and/or repair the Unauthorized Work, and any other portion of the dwelling thereby affected, and to receive compensation therefore as an adjustment on the date of Closing in an amount to be determined by the Vendor at its sole discretion. Further, the Purchaser acknowledges that the Vendor's warranty of workmanship is rendered invalid insofar as it relates to matters affected by the Unauthorized Work.

#### **CONTRACT TERMS AND HEADINGS**

- 17. This offer is to be read with all changes of gender or number required by the context and, when accepted, shall constitute a binding contract of Purchase and Sale, and time shall, in all respects, be of the essence. 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. 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 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 12% 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 of Purchase and Sale. 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.
- 18. The marginal notations or headings in this agreement are for convenience purposes only and do not form part of, or in any way amend or affect, the contents of the whole or any part of this Agreement. This Agreement shall be construed and interpreted by the courts of and in accordance with the Laws of the Province of Ontario, as such laws from time to time shall be in effect.

#### **SUBDIVISION AGREEMENT REQUIREMENTS**

- 19. 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 Date and the Purchaser shall satisfy himself as to compliance.
  - a. The Purchaser acknowledges receipt of notice from the Vendor that the Vendor and or the Subdivider may apply for a re-zoning 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, and the Purchaser, 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-zoning. The Purchaser covenants to include this clause in any conveyance, mortgage or disposition of the Property and to assign the benefit of such covenant to the Vendor

- b. The Purchaser acknowledges that the Subdivision Agreement entered into between the Subdivider and the Municipality may require the Vendor to provide the Purchaser with certain notices ("Notices"), including, but not limited to, land usage, maintenance of Municipal fencing, school transportation, noise levels from adjacent roadways, noise and/or vibration levels from nearby railway lines, 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. In the event the Subdivision 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 herein, 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 mailed to the Purchaser's address as shown on this Agreement or to the Purchaser's solicitor and such mailing shall be deemed to constitute appropriate notification. The Purchaser agrees to be bound by the contents of any such notice and covenants to execute forthwith upon request, an acknowledgement containing such notice if and when requested to do so by the Vendor.
- 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.

**COLOUR AND MATERIAL SELECTION**

- 20. Wherever in this Agreement the Purchaser has the right to choose colours or materials, he shall do so within ten (10) days after notification by the Vendor and the Purchaser shall make his selection of such colours and/or materials, whatever the case may be, from the Vendor's samples and list same on the Vendor's colour selection form.
  - a. In the event that the Purchaser shall desire to select colours or materials from other than the Vendor's samples, he 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. Acceptance of same is at the sole discretion of Vendor.
  - b. 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 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 three (3) days 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.
  - c. In the event that by the Closing Date the installation of the selected colours and upgraded materials or other work 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.
  - d. In the event that the Purchaser shall not have made his selection within ten (10) days after notification by the Vendor or an extended date acceptable to the Vendor, then the Vendor shall have the option of choosing the colours and materials for and on behalf of the Purchaser and the Purchaser agrees to accept same.
  - e. 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.
  - f. Where omissions occur on the original colour selection sheet, the Purchaser acknowledges that selection by the Vendor will be final.
  - g. Upgrades listed on a standard colour chart will not be deemed to be part of the Agreement of Purchase and Sale. **Should the Purchaser include upgrades on said Colour Chart without accompanying payment, the Vendor shall in their discretion choose whether to complete said upgrades or not and the Purchaser agrees to accept the Vendor's choice in that regard. If the vendor chooses to complete said upgrades then the purchaser agrees to pay the costs for said upgrades as an adjustment to the purchase price on closing.**
  - h. 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. Any change to processed selection will be subject to \$250.00 Administration charge.
  - i. 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.

**MODEL HOMES**

- 21. The Purchaser acknowledges that he has purchased the Dwelling on the basis of plans which he has viewed and not from a model. The Purchaser acknowledges that the model homes, if any, may have items installed for decor purposes, such as, but not limited to, up-graded flooring materials, ceramic tile, hardwood, carpet, paint, kitchen cabinets, lighting, driveways, walkways, railings and pickets, skylights, entry doors, interior doors, paneling, wallpaper, window treatment, drapes, curtains, plumbing supplies, intercom systems, alarm systems, landscaping, 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".

- a. Notwithstanding anything herein written, if at the time that this Agreement of Purchase and sale 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.

## **H.S.T. CLAUSE**

22.

- a. The Purchaser agrees to personally occupy the Dwelling as his principal residence forthwith after Closing, and to allow the Vendor's inspectors or agents or representatives of Canada Revenue Agency access to the Dwelling at all reasonable hours until the Vendor has received all HST Rebates. In the event that the Purchaser does not personally occupy the Dwelling as his principal residence and deliver on closing the necessary documents, evidence and affidavits required by the Vendor with respect to the HST, then the Purchaser shall pay an amount on closing equal to such HST Rebate that would have been available had the Purchaser occupied the Dwelling as his/her principal residence.
- b. This paragraph 22(b) deals with the payment of federal goods and services tax and the Province of Ontario's portion of any harmonized single sales tax (which combined harmonized single sales tax is called the "HST") and the rebate of HST (that is both the federal and provincial rebates) for new houses (the "HST Rebate"), under the Excise Tax Act (Canada) as amended and the regulations there under (the "ETA") as follows:
  - i) The Vendor agrees that the Purchaser Price is inclusive of HST (but net of the HST Rebate) and that following Closing it will pay and remit the HST (net of the HST Rebate), in accordance with the provisions of the ETA, subject to the Purchaser assigning to the Vendor (or as the Vendor may otherwise direct) the HST Rebate, as hereinafter set out. The Purchaser hereby assigns to the Vendor or the Vendor's designate all of the Purchaser's right, title, and interest in and to the HST Rebate including the Purchaser's entitlement thereto, all in respect of the Real Property.
  - ii) The Purchaser agrees to comply with the ETA and with all other laws, regulations, rules and requirements relating to HST and HST Rebate and to do such acts and to complete and deliver to the Vendor before, on, or after Closing, as the Vendor may require or direct, such documents, certificates, declarations, instruments, and applications to enable the Vendor or its designate to obtain payment of the full amount of HST Rebate and in such form and content as the Vendor may require or direct, including, without limitation:
    - 1. A prescribed new housing rebate application containing prescribed information executed by the Purchaser; and
    - 2. Assignment of HST to the Vendor or its designate.
  - iii) The Purchaser agrees to provide the Vendor with all information required by the Vendor in connection with the registered and beneficial ownership of the Real Property or information with respect to any other person in connection therewith. Such information shall be by way of sworn statutory declaration in form and content required by the Vendor and to be delivered to the Vendor on or before Closing.
  - iv) In the event that the Purchaser is not eligible for the HST Rebate or any part thereof, (whether determined on or after the Closing and notwithstanding that the price of the Real Property would qualify for a rebate) pursuant to the provisions of the ETA, then the Purchaser shall forthwith upon demand pay a sum equal to the HST Rebate that would have otherwise been applicable to the Real Property, to the Vendor (or to whomever the Vendor may in writing direct) by way of certified cheque and the Purchaser shall not be entitled to any credit for or with respect to the HST Rebate. The Purchaser hereby agrees that the amount of the HST Rebate to be paid by the Purchaser to the Vendor (or as it may direct) in accordance herewith shall be a charge against the Real Property in favour of the Vendor, and secured by a lien (including a vendor's lien), charge or caution as the Vendor deems appropriate on and against the Real Property.
  - v) If 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 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 whomever the Vendor may in writing direct), by certified cheque delivered on the Closing Date, an amount equivalent to the HST Rebate and in addition to the Purchase Price and in those circumstances where the Purchaser maintains that he is eligible for the HST Rebate despite the Vendor's belief to the contrary, the Purchaser shall (after payment of the amount equivalent to the HST Rebate as aforesaid) be fully entitled to pursue the procurement of the HST Rebate directly from the CRA. It is further understood and agreed that in the event that the Purchaser intends to rent out the Dwelling after the Closing Date, the Purchaser shall not be entitled to the HST Rebate, but may nevertheless be entitled to pursue, on his own after the Closing Date, the federal and provincial new rental housing rebates directly with CRA, pursuant to Section 256.2 of the Excise Tax Act, as may be amended from time to time, and other applicable legislation to be enacted relating to the provincial new rental housing rebate.
  - vi) The Purchaser represents and warrants that the Purchaser qualifies for the HST Rebate and confirms and agrees that the Vendor is relying upon such representation and warranty to the Vendor's detriment. The Purchaser covenants and agrees that such representation and warranty shall be true and correct at Closing and shall not merge on Closing but shall continue thereafter. If the foregoing representation and warranty is not true and correct in all respects, then (in addition to the foregoing provisions of this paragraph 22(b)), the Purchaser hereby indemnifies and saves harmless the Vendor or its designate from and against all costs, expenses, actions, suites, causes of action, proceedings, damages and liabilities, which the Vendor or its designate may sustain or incur, including without limiting the generality of the foregoing, any penalty, fine,



interest, other charge, payment or expense whatsoever, which the Vendor or its designate may sustain suffer or incur.

23. Notwithstanding any other provision herein contained in this Agreement, the Purchaser acknowledges and agrees that the Purchase Price does not include any HST eligible with respect to any of the closing adjustments payable by the Purchaser pursuant to this Agreement, or any extras or upgrades or changes purchased, ordered or chosen by the Purchaser from the Vendor which are not specifically set forth in this Agreement, and the Purchaser covenants and agrees to pay such HST to the Vendor in accordance with the Excise Tax Act. In addition, and without limiting the generality of the foregoing, in the event that the Purchase Price is increased by the addition of extras, changes, upgrades or adjustments and as a result of such increase, the quantum of the Rebate that would otherwise be available is reduced or extinguished (the quantum of such reduction being hereinafter referred to as the "Rebate Reduction") then the Purchaser shall pay to the Vendor on the Closing Date the amount of (as determined by the Vendor in its sole and absolute discretion) the Rebate Reduction.

#### **ELECTRONIC REGISTRATION**

24. In the event that 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, then at the option of the Vendor's solicitor, the following provisions shall prevail, namely:
- a. the Purchaser shall be obliged to retain a lawyer in good standing with the Law Society of Upper Canada 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;
  - 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 at time of 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 if agreed to by the Vendor's solicitor, by electronic funds transfer to the Vendor's solicitor (or in such other manner as the latter may direct) prior to the release of the transfer/deed for registration;
  - e. each of the parties hereto agrees that the delivery of any documents not intended for registration on title to the Property shall be delivered to the other party hereto on or before the Closing Date; and
  - f. 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 specifically when the "completeness signatory" for the transfer/deed has been electronically "signed" by the Vendor's solicitor; without the necessity of personally attending upon the Purchaser or the Purchaser's solicitor with the aforementioned documents and/or funds, and without any requirement to have an independent witness evidencing the foregoing.
25. 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 Offer shall be void and the deposit monies returned to the Purchaser, without interest. This transaction shall be completed on the Closing Date, on which date vacant possession of the Dwelling is to be given to the Purchaser.

#### **EXTENSION**

26. The Vendor may unilaterally 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 close on the Firm Closing Date or Delayed Closing Date, as the case may be. The parties hereto acknowledge that delayed closing compensation will not be payable for such period and that the Vendor may not impose any penalty or interest charge upon the Purchaser with respect to such extension. 'Firm Closing Date', 'Delayed Closing Date' and Business Day' are defined in the Addendum.

**CREDIT REPORT**

- 27. The Purchaser acknowledges having been notified by the Vendor that the consumer report containing credit and/or personal information may be applied for obtained or referred to in connection with this transaction and the Purchaser hereby consents to same and to forthwith execute any documents and authorizations required by the Vendor in this regard.

**SUBORDINATION**

- 28. The Purchaser agrees that this Agreement shall be subordinated to and postponed to any mortgage(s) arranged by the Vendor and any advances made thereunder from time to time or liabilities secured thereunder and to any agreements, easements, licenses, rights covenants and restrictions referred to herein to which title to the Real Property may be subject. The Purchaser agrees to execute all necessary documents and assurances to give effect to the foregoing as requested by the Vendor.

**CLOSING DOCUMENTS & KEYS**

- 29. The Purchaser acknowledges that the Vendor is not required to deliver “hard” or paper copies of the documentation pertaining to the Closing of the herein transaction, draft or otherwise, to the Purchaser or the Purchaser’s solicitor (the “Closing Documentation”). The Vendor or the Vendor’s representatives may, deliver to the Purchaser or the Purchaser’s solicitor any or all of the Closing Documentation by email and/or by website. If delivered by website, the Closing Documentation shall be made available for download on an internet website designated by the Vendor and access to such website shall be effected by way of a confidential password to be provided to the Purchaser and/or the Purchaser’s solicitor.
- 30. Keys will be released to the Purchaser at the registry office or the construction site or the sales office or the head office of the Vendor, as the Vendor in its 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.

**ORAL REPRESENTATIONS DO NOT FORM PART OF NOR CAN THEY AMEND THIS AGREEMENT.**

Client Initial:\_\_\_\_\_

Client Initial: \_\_\_\_\_

**TFP WHITBY DEVELOPMENTS INC.**  
**SCHEDULE “W”**  
**(WARNING CLAUSES AND NOTICE PROVISIONS)**

---

**The purchaser acknowledges receipt of the following Warning Clauses and Notice Provisions:**

The Purchaser acknowledges that the subdivision agreements entered into between the Subdivider and the municipalities may require the Vendor to provide the Purchaser with certain notices, including, but not limited to, land usage, maintenance of municipal fencing, school transportation (including the bussing or transportation of students to schools outside of the neighbourhood), noise levels from adjacent roadways, noise and/or vibration levels from nearby railway lines, the absence of door-to-door mail delivery, the absence of local or neighbourhood schools, the location of “super mailboxes”, fencing, street trees, catch basins, all of which may be included on the property or on the boulevard adjacent to the property, and in general, any other matter that may be deemed by the municipalities to inhibit or interfere with the enjoyment by the Purchaser of the property. The Purchaser agrees to be bound by the contents of the subdivision agreements or any other municipal agreement wherein such warning clauses are more fully set out and the Purchaser covenants to execute forthwith upon request by the Vendor, an acknowledgment of receipt by the Purchaser of such notices and/or an amendment to this Agreement including such warning clauses and all schedules, plans, statements attached to the agreement and as required by the subdivision agreement, and the Purchaser’s acknowledgment of receipt of same.

**PART 1 – GENERAL NOTICE PROVISIONS**

**The following Warning Clauses and Notice Provisions are for the information of purchasers and tenants of all lots and blocks shown on Registered Plan 40M2644. All lots and blocks referred to in this Schedule are lots and blocks shown on Registered Plan 40M2644.**

**A. DURHAM DISTRICT SCHOOL BOARD**

“Students from this development may have to attend existing schools. Although a school site has been reserved within this plan of subdivision, a school may not be constructed for some time, if at all, and then only if the Ministry of Education authorizes funding and construction of this required school.”

**B. ASSUMPTION OF THE SUBDIVISION**

Purchasers are advised the “Assumption of the Subdivision” by the Town may not occur until 5 years after occupancy and the issuance of a Certificate of Acceptance from the Commissioner of Public Works / Commissioner of Planning and Development pursuant to Section 46 of the Subdivision Agreement that must be complied with prior to assumption by the Town.

**C. LANDSCAPING AND SODDING**

Purchasers acknowledge that certain sodding and/or other landscaping provisions including the planting of trees are to be completed on such lot and that the conveyance to the purchaser reserves a license to the Subdivider and/or the Vendor to enter on the said lot for the purpose of completing, maintaining or repairing such projects.

**D. LOT GRADING**

Purchasers are advised that it may be necessary for the Subdivider, in order to comply with the grading requirements of the Town, to enter upon the Property in order to complete or alter the grading of such lot and that the conveyance to the purchaser reserves a license to the Subdivider and/or the Vendor to enter upon the Property in order to complete or alter any of the grades on the said lot as may be required by the Town in order to provide proper drainage to any of the lots on the plan. Purchasers are advised that the proposed lot grading may require the use of retaining walls and/or sloping. Where retaining walls are constructed on the lot being sold, the Purchasers are advised that such retaining walls will be maintained in good condition and repair for a period of 2 years from completion of the same after which time the maintenance and repair of such walls shall be the responsibility of the Purchasers.

**E. SIDEWALKS**

Purchasers acknowledge being advised that where sidewalks are to be installed in front of the lot being sold, the Subdivider or the Vendor will be paving the driveway approach (being the area between the curbs and the sidewalk) and the Purchasers acknowledge having been advised of the approximate date of the completion of such paving (see Section 4.1 of Schedule "A" of the agreement of purchase and sale).

Purchasers are advised that the location of the various sidewalks to be constructed by the Subdivider or the Vendor are shown on Appendix I to Schedule “C” to the Whitby subdivision agreement and the location and the type of fencing that will be erected by the Subdivider or Vendor on Appendix II to Schedule “C” are attached hereto.

**F. LOT INFORMATION, AND ADJACENT LAND USES**

Purchasers acknowledge being provided with a map showing the zoning of all areas within the plan and within 400 feet (120 m) of the external boundaries of the said plan. In addition, the Purchasers will be provided with any secondary plans, development plans or planning studies which are available to the public having regard to the future land use of the Lands within the plan and external to the said plan, 400 feet (120 m) therefrom. Any additional inquiries with respect to future development of the adjacent lands may be referred to the Town of Whitby Planning and Development Department.

**G. NOISE ATTENUATION**

Purchasers are advised that despite the inclusion of noise control features within the development area, noise levels may continue to be of concern, occasionally interfering with the activities of the dwelling occupants.

**H. SURVEY**

Purchasers are advised that within fifteen (15) days prior to closing, they will be provided with a plan of survey prepared by an Ontario Land Surveyor, showing the size and location of the lot and the location of the dwelling erected thereon in relation to the various lot boundaries.

I. **PARK BLOCK**

Purchasers are advised that the parkland may not be developed for a substantial period of time after residential dwellings have bene completed as the timing of the development of the park is dependent upon the financial ability of the Town of Whitby to fund same provided it has received sufficient contributions for park development purposes through the Development Charges Act and the Planning Act

J. **LOCATION OF PUBLIC PARKS AND WALKWAYS**

Purchasers acknowledged that they have been advised of the location of any public park and public walkways on any plans that may be used by the Subdivider, the builder or their real estate agent so the purchaser is clearly aware of the location of such public parks and public walkways in respect to the lot being purchaser by such person.

**PART 2 – SPECIFIC NOTICE PROVISIONS**

A. **NOISE ATTENUATION FENCE**

- **Lots 55 to 58, 163 to 263**
- **Blocks 271 to 295 and Block 299**

“Purchasers are advised that sound levels due to increasing road and /or rail traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels exceed the Ministry of the Environment and Climate Change Noise criteria.”

- **Lot 263**

The acoustic barrier on Lot 263 is designed and constructed wholly on private property. The maintenance and replacement of said barrier is the sole responsibility of the property owner.

B. **PROVISION FOR CENTRAL AIR CONDITIONING**

- **Lots 55 to 58, 163 to 263**
- **Blocks 271 to 295 and Block 299**

“Purchasers are advised that the dwelling unit has been fitted with a forced air heating system and the ducting, etc. was sized to accommodate central air conditioning. Installation of the central air conditioning by the occupant will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the Ministry of the Environment and Climate Change’s noise criteria. (Note, the location and installation of the outdoor air conditioning device should be done so as to comply with noise criteria of MOECC Publication NPC-216. Residential Air Conditioning Devices, and thus minimize the noise impacts both on and in the immediate vicinity of subject property.)”

C. **CANADIAN PACIFIC RAILWAY**

- **Lots 16 to 63, 64 to 151, and 154 to 262**
- **Blocks 266 to 275, 300, 301, 304, 307, 309, and 310**

"All Purchasers are advised of the existence of the right-of-way of the Canadian Pacific Railway. In future, it is possible that such rail facilities and operations may be altered or expanded, which expansion or alteration may affect the living environment of residents despite the inclusion of noise and vibration attenuating measures in the design of the subdivision and individual units and the Canadian Pacific Railway will not be responsible of complaints or claims arising from its use of its facilities and/or arising from its operations."

D. **NOISE ATTENUATION MEASURES**

All Purchasers of a dwelling affected by any noise and vibration attenuation measures are advised that any berm, fencing, or vibration isolation features implemented are not to be tampered with or altered, and further the owner of such dwelling shall have the sole responsibility for and shall maintain these features.

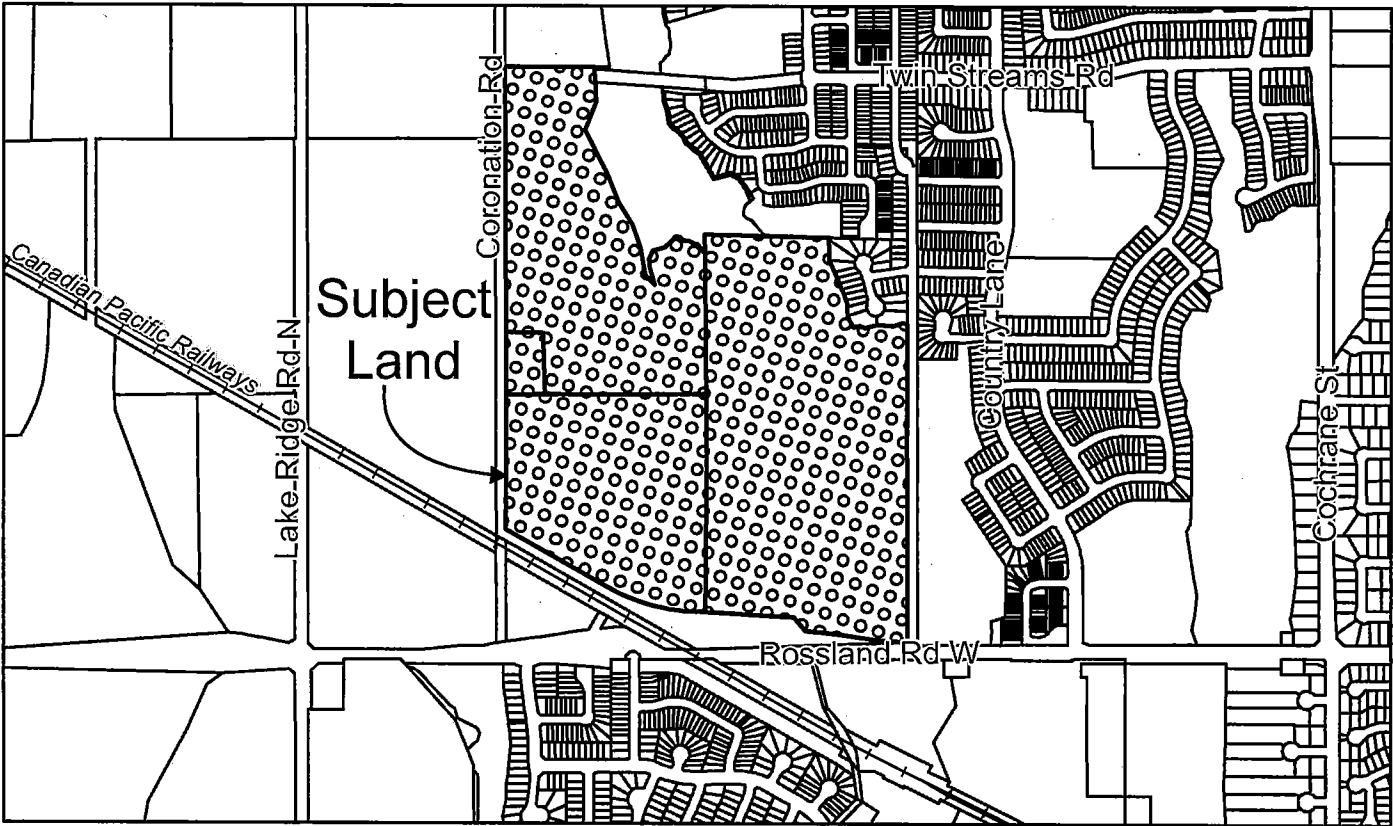
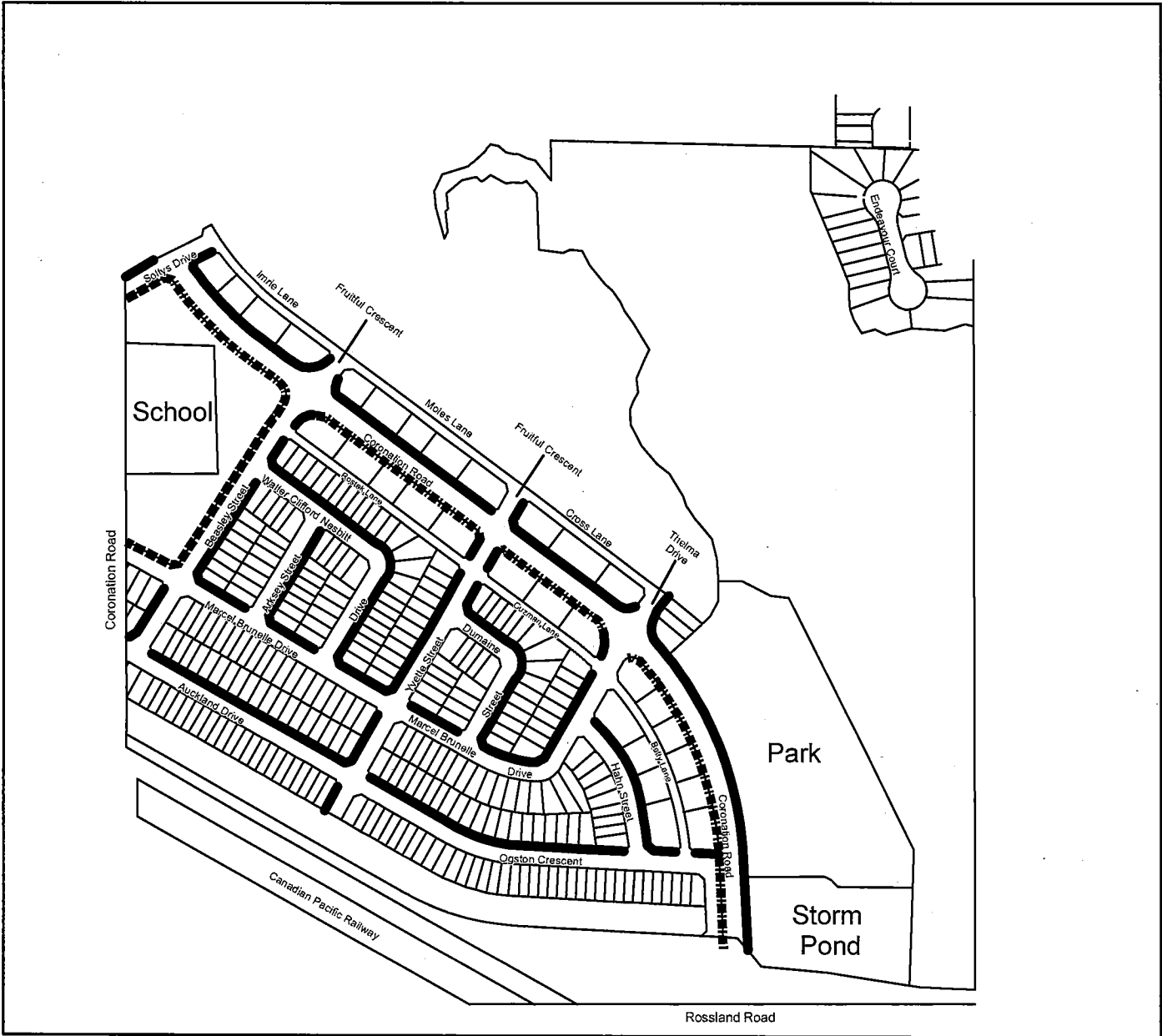
The purchaser acknowledges receipt of the aforementioned Warning Clauses and Notice Provisions in Schedule “W”.

\_\_\_\_\_  
Client

\_\_\_\_\_  
Client

# Appendix I: Sidewalks (Phase 1)

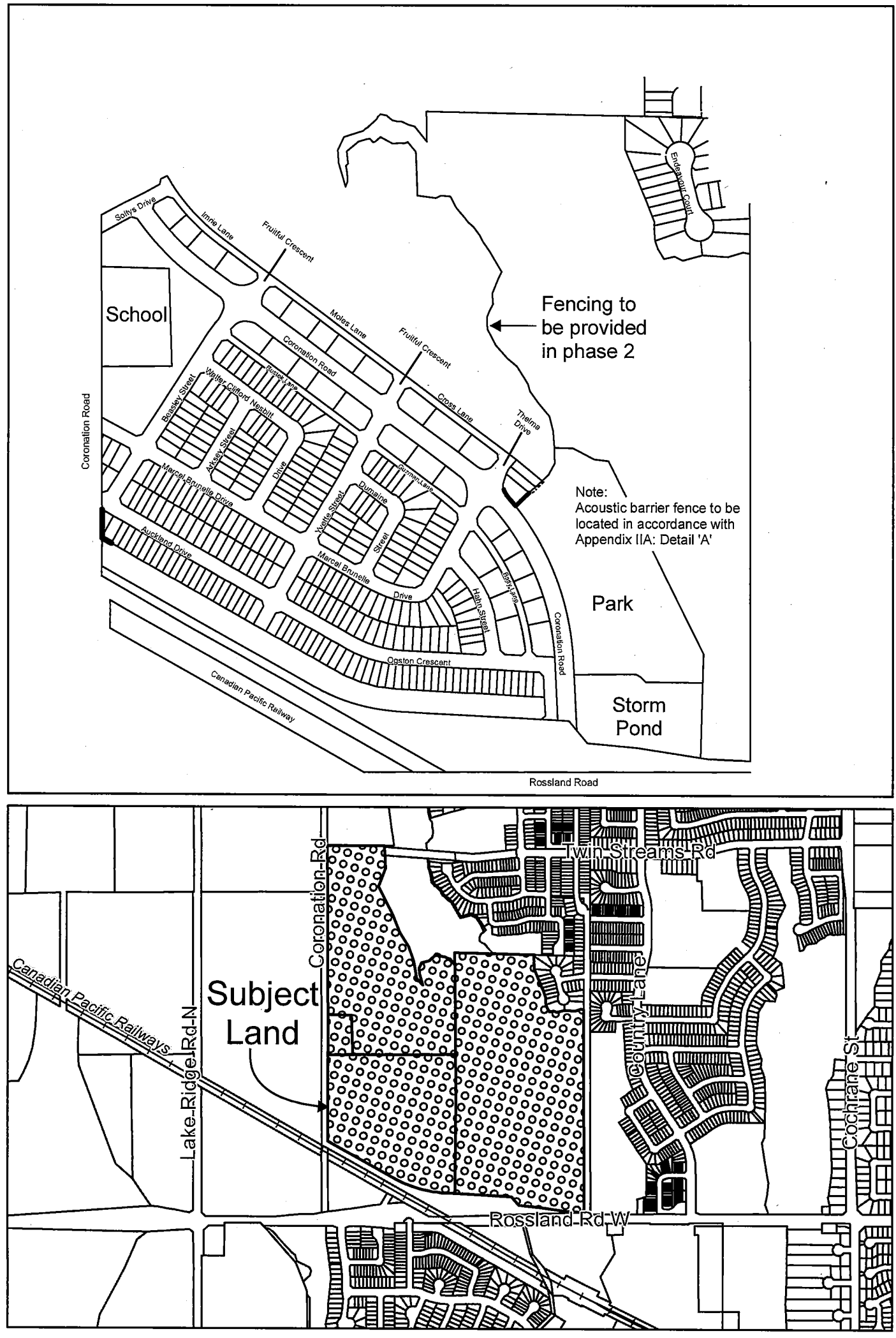
- 1.5m Wide Concrete Sidewalk
- 3.0m Wide Asphalt Multi-use Pathway





# Appendix II: Fencing (Phase 1)

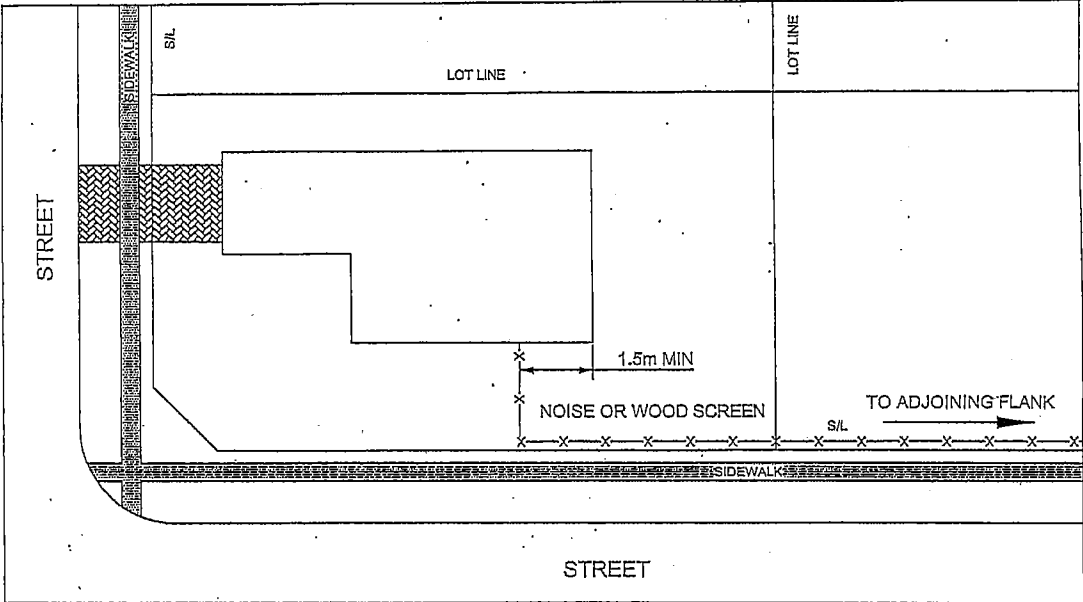
- 1.8m High Acoustic Barrier Cedar Fence Design
- 2m High Acoustic Barrier Cedar Fence Design Required only if Lands to the West are not Developed within 1 Year
- 1.2m High Black Vinyl Chain Link Fence



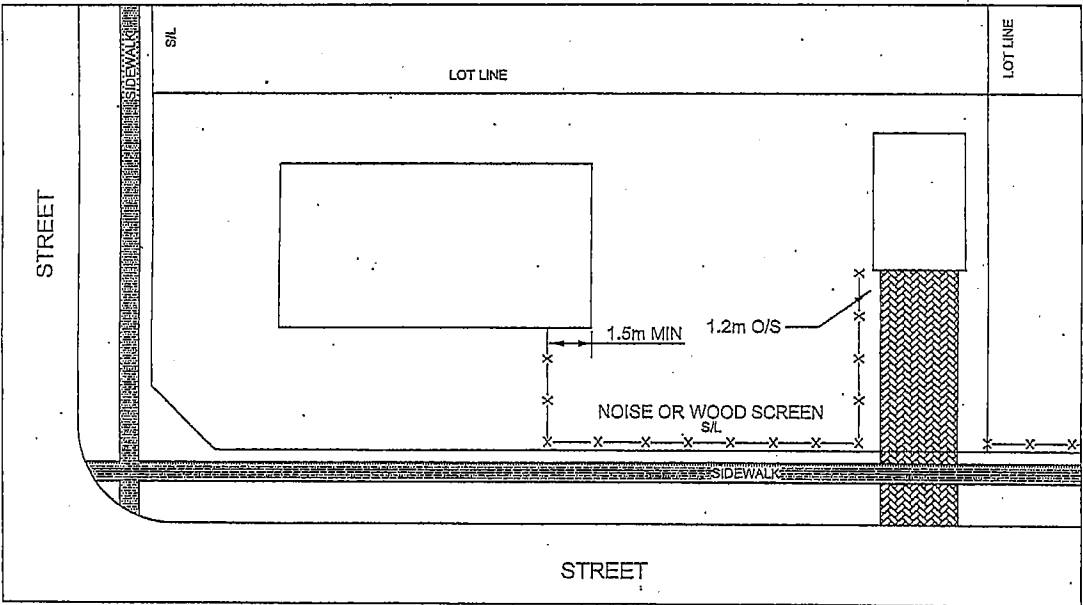
48

# APPENDIX IIA: FENCING DETAILS

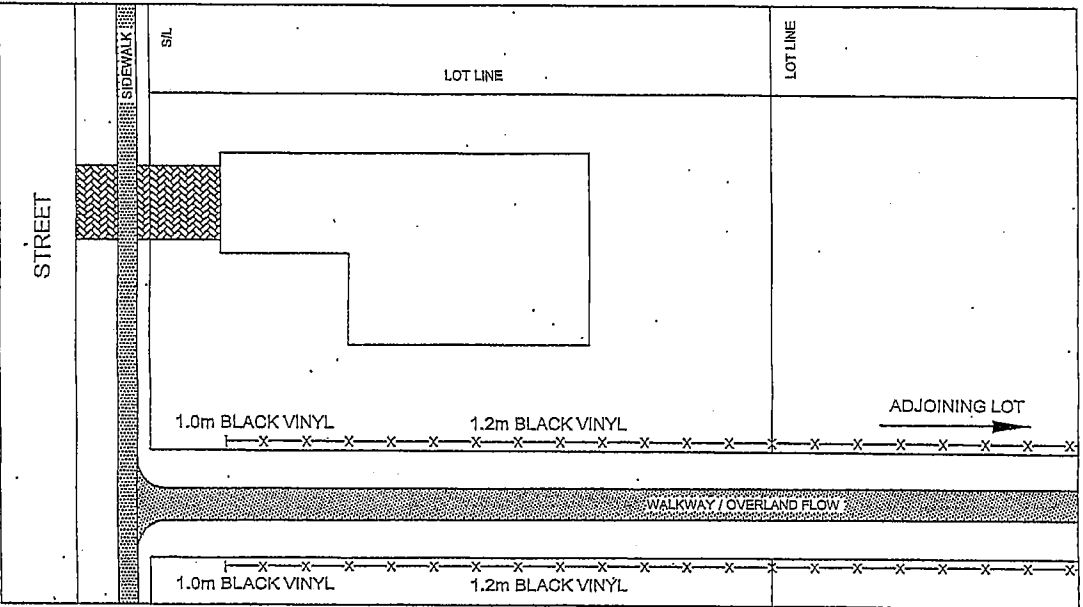
NOTE: The exact extent and location of fencing and returns (if any), is determined through final landscape drawings, as well as the approved noise impact study and field conditions. Therefore these fencing details are for the purpose of a general guide only.



DETAIL 'A'



DETAIL 'B'



DETAIL 'C'

Property \_\_\_\_\_  
Town of Whitby \_\_\_\_\_

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**                      **OH (WHITBY MEADOWS) INC.**  
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:                      the      day of                      , 20\_\_.

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

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

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

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

**2. Notice Period for a Delay of Closing**

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

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

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

**3. Purchaser's Termination Period**

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

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

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

Acknowledged on \_\_\_\_\_  
VENDOR: OH (WHITBY MEADOWS) INC.

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

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

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

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

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

The Vendor shall complete all blanks set out below.

<b>VENDOR</b>	OH (WHITBY MEADOWS) INC.		
	Full Name(s)		
	46548	331 CITYVIEW BOULEVARD, SUITE 201	
	HCRA Licence Number	Address	
	905-832-2522	VAUGHAN	ONTARIO L4H 3M3
	Phone	City	Province
	905-832-2588	Postal Code	
	Fax	Email*	

<b>PURCHASER</b>	Full Name(s)		
	Address	City	Ontario
			Postal Code
	Phone		
	Fax	Email*	

<b>PROPERTY DESCRIPTION</b>	Municipal Address		
	Whitby	Ontario	N/A
	City	Province	Postal Code
	Short Legal Description		
	Number of Homes in the Freehold Project <u>19</u> (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.  
If yes, the plan of subdivision is registered.  
If the plan of subdivision is not registered, approval of the draft plan of subdivision has been given.

☒ Yes

☐ No

☐ Yes

☒ No

☒ 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.  
If yes, the nature of the confirmation is as follows: Town Council Approval and Confirmation  
If the availability of water and sewage capacity is uncertain, the issues to be resolved are as follows: \_\_\_\_\_

☒ Yes

☐ No

(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 15 day of June, 2022.

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

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

FREEHOLD TENTATIVE – October 7, 2020

Page 2 of 12

# **Freehold Form**

## **(Tentative Closing Date)**

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

## **EARLY TERMINATION CONDITIONS**

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

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

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

### **Condition #1 (if applicable)**

Description of the Early Termination Condition:

**Schedule “X” (10)** Within fourteen (14) days after the expiry of the condition contained in Schedule “M” of this Agreement, or if no Schedule “M” is attached to this Agreement, then within 14 days of final acceptance, the Purchaser shall deliver to the Vendor:

- a. a mortgage approval and/or mortgage approval from a bank, trust company or other financial institution for at least 75% of the Purchase Price; or
- b. evidence from a bank, trust company or other financial institution, indicating that the Purchaser has sufficient funds and is able to close this transaction without registering a mortgage against the Real Property. If the Vendor determines in its sole unfettered discretion that the evidence provided to it pursuant to this Paragraph 7(b) is insufficient or not acceptable for the purpose of Closing, the purchaser shall deliver a mortgage approval for at least 75% of the Purchase Price to the Vendor within fourteen (14) days of request.

The Purchaser acknowledges and agrees that the failure of the Purchaser to deliver the documentation described at Paragraph 10, which must be satisfactory to the Vendor, within the time periods described herein, shall be considered a material default of this Agreement by the Purchaser. This condition is inserted for the benefit of the Vendor and may be waived by the Vendor at its sole discretion. If the Vendor does not provide notice to the Purchaser in writing within the time periods specified above that it is not satisfied with the Purchaser’s financing documentation then this condition shall be deemed to be waived by the Vendor.

The Approving Authority (as that term is defined in Schedule A) is N/A – Condition for the benefit of the Vendor. The Vendor shall approve.

**The date by which Condition #1 is to be satisfied is as per the time period set out in the Clause reproduced above.**

### **Condition #2 (if applicable)**

Description of the Early Termination Condition:

**Schedule “X” (2)** The Purchaser(s) acknowledges that the model type indicated in this Agreement has been preliminarily sited and is subject to final siting approval by the Municipality, the Architectural Control Committee, the Control Architect or the Vendor’s surveyors. In the event such final siting approval is not obtained from any of the foregoing, the Purchaser(s) shall be given the first opportunity to submit an offer for a model type that does meet final siting approval for this particular lot. In the event an Agreement for another model type is not consummated within five (5) days of notification to the Purchaser(s) of which model type does meet the final siting approval requirements, this Agreement shall be at an end, the Purchaser(s) shall be entitled to a refund of the deposit money, without interest, but in no event shall the Vendor or the Agent be liable for any damages or costs whatsoever.

The Approving Authority (as that term is defined in Schedule A) is: Municipality, the Architectural Control Committee, the Control Architect or the Vendor’s surveyors.

The date by which **Condition #2** is to be satisfied is 90 days before the First Tentative Closing Date.

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

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

termination by the Purchaser may be effected.

### **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"):
  - (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**

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

- (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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### **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.

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**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.

See Schedule “X” Paragraph 8 (a)	Hydro, Water & Gas Meter/Connection	\$1,050.00
See Schedule “X” Paragraph 8 (h)	Driveway Paving Fee (Single Car Garage)	\$700.00
See Schedule “X” Paragraph 8 (h)	Driveway Paving Fee (Double Car Garage)	\$1,000.00
See Schedule “X” Paragraph 8 (j)	LSUC Transaction Levy	\$65.00
See Schedule “X” Paragraph 8 (f)	NSF Charges, if applicable per occurrence	\$250.00
See Schedule “X” Paragraph 8 (g)	Late Changes Model Type, if applicable per occurrence	\$1,500.00
See Schedule “X” Paragraph 8 (m) (i) (ii) (iii)	Failure to Inform Vendor of Change of Purchaser Info/Lawyer’s Info (Vendor’s Fee), if applicable per occurrence	\$250.00
See Schedule “X” Paragraph 8 (m) (i) (ii) (iii)	Failure to Inform Vendor of Change of Purchaser Info/Lawyer’s Info, (Vendor’s Lawyer Fee), if applicable per occurrence	\$300.00
See Schedule “X” Paragraph 8 (n)	Failure to Reschedule or Missed Décor Appointment fee, if applicable per occurrence	\$250.00
See Schedule “X” Paragraph 20 (h)	Late Change to processed Selection fee, if applicable per occurrence	\$250.00

\*ALL ABOVE PLUS HST

Note to Purchaser: capitalized headings herein are for descriptive purposes only – for more particulars, please refer to appropriate provisions of the Agreement of Purchase and Sale



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**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.

See Schedule “X” Paragraph 8 (b)	Property Taxes
See Schedule “X” Paragraph 8 (c)	Tarion Enrollment Fee
See Schedule “X” Paragraph 8 (d)	Development Charges
See Schedule “X” Paragraph 8 (e)	Retail sales tax on Chattels
See Schedule “X” Paragraph 3 (c)	Walk out or Rear Deck Adjustment, if applicable
See Schedule “X” Paragraph 8 (i)	The Rebate Reduction amount, if applicable
See Schedule “X” Paragraph 8(k)	Monies owing to Vendor as a result of Purchaser(s) breach.
See Schedule “X” Paragraph 8(l)	Cost of Vendor’s Lein
See Schedule “X” Paragraph 13 (b)	Vendor’s cost to replace laid sod, if applicable
See Schedule “X” Paragraph 16	Unlawful Works, cost to recitfy
See Schedule “X” Paragraph 8(k) & Paragraph 17	Interest on Unpaid Monies, if applicable
See Schedule “X” Paragraph 22	GST/HST Rebate (If Purchaser not qualified)
See Schedule “X” Paragraph 23	HST on all adjustments
See Schedule “X” Paragraph 20(g)	Unpaid Extras, if applicable
See Schedule “X” Paragraph 20(h)	Colour Chart Admin Charge, if applicable

\*ALL ABOVE PLUS HST

**Tarion Homeowner Warranty Fee (effective February 1, 2021)**

Sale Price** Range (Excluding HST)	Tarion Enrolment Fee (\$)	13% HST	Total Tarion Fee + HST***	HCRA Regulatory Oversight Fee	13% HST	Total HCRA Fee + HST	Total Fee to Submit to Tarion
0 - \$100,000	\$300	\$42.90	\$372.90	\$145	\$18.85	\$163.85	\$536.75
\$100,000.01 - \$150,000.00	\$375	\$48.75	\$423.75	\$145	\$18.85	\$163.85	\$587.60
\$150,000.01 - \$200,000.00	\$445	\$57.85	\$502.85	\$145	\$18.85	\$163.85	\$666.70
\$200,000.01 - \$250,000.00	\$515	\$66.95	\$581.95	\$145	\$18.85	\$163.85	\$745.80
\$250,000.01 - \$300,000.00	\$585	\$76.05	\$661.05	\$145	\$18.85	\$163.85	\$824.90
\$300,000.01 - \$350,000.00	\$655	\$81.15	\$740.15	\$145	\$18.85	\$163.85	\$904.00
\$350,000.01 - \$400,000.00	\$725	\$94.25	\$819.25	\$145	\$18.85	\$163.85	\$983.10
\$400,000.01 - \$450,000.00	\$815	\$105.95	\$920.95	\$145	\$18.85	\$163.85	\$1,084.80
\$450,000.01 - \$500,000.00	\$890	\$115.70	\$1,005.70	\$145	\$18.85	\$163.85	\$1,169.55
\$500,000.01 - \$550,000.00	\$970	\$126.10	\$1,096.10	\$145	\$18.85	\$163.85	\$1,259.95
\$550,000.01 - \$600,000.00	\$1,020	\$132.60	\$1,152.60	\$145	\$18.85	\$163.85	\$1,316.45
\$600,000.01 - \$650,000.00	\$1,075	\$139.75	\$1,214.75	\$145	\$18.85	\$163.85	\$1,378.60
\$650,000.01 - \$700,000.00	\$1,155	\$150.15	\$1,305.15	\$145	\$18.85	\$163.85	\$1,469.00
\$700,000.01 - \$750,000.00	\$1,205	\$156.65	\$1,361.65	\$145	\$18.85	\$163.85	\$1,525.50
\$750,000.01 - \$800,000.00	\$1,260	\$163.80	\$1,423.80	\$145	\$18.85	\$163.85	\$1,587.65
\$800,000.01 - \$850,000.00	\$1,310	\$170.30	\$1,480.30	\$145	\$18.85	\$163.85	\$1,644.15
\$850,000.01 - \$900,000.00	\$1,430	\$185.90	\$1,615.90	\$145	\$18.85	\$163.85	\$1,779.75
\$900,000.01 - \$950,000.00	\$1,485	\$193.05	\$1,678.05	\$145	\$18.85	\$163.85	\$1,841.90
\$950,000.01 - \$1,000,000.00	\$1,540	\$200.20	\$1,740.20	\$145	\$18.85	\$163.85	\$1,904.05
\$1,000,000.01 - \$1,500,000.00	\$1,670	\$217.10	\$1,887.10	\$145	\$18.85	\$163.85	\$2,050.95
\$1,500,000.01 or more	\$1,745	\$226.85	\$1,971.85	\$145	\$18.85	\$163.85	\$2,135.70

\*ALL ABOVE PLUS HST

# Warranty Information for New Freehold Homes



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

## The Pre-Delivery Inspection (PDI)

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

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

## Deposit Protection

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

## Delayed Closing Coverage

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

## Warranty Coverage

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

### One-Year Warranty

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

### Two-Year Warranty

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

### Seven-Year Warranty

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

Continued...

## Warranty Exclusions

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

## Construction Performance Guidelines

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

## Important Next Steps

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

## About Tarion

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

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

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