

# MATTAMY HOMES

## SCHEDULE "1"

### Definitions

5. (a) **"Developer"**: means the Vendor if applicable and/or any predecessor in title to the Real Property who has entered into obligations with the Municipality for subdivision or servicing of the Real Property or any other party who may have rights over architectural control of the Dwelling.
- (b) **"Dwelling"**: means the house to be constructed on the Real Property or, alternatively at the Vendor's option, constructed in whole or in part remote from the Real Property and located or installed upon the Real Property.
- (c) **"HST"**: means federal goods and services tax and applicable provincial sales tax.
- (d) **"Levy" or "Levies"**: means all levies, development charges, education development charges or any impost or other charges imposed by a Municipality or private or public utility corporation in respect of the Real Property.
- (e) **"Municipality"**: means any municipal corporation whether local or regional having jurisdiction over the Real Property.

### Interpretation of Agreement

6. If the Purchaser cannot identify or understand any of the provisions of this Agreement, the Purchaser should discuss them with the Vendor or salesperson.

The Purchaser acknowledges and agrees that, upon acceptance by the Vendor, this is a FIRM AND BINDING Agreement, WITHOUT ANY CONDITIONS whatsoever for the benefit of the Purchaser, including any conditions for review or approval by third-party advisers of the Purchaser (financial, planning, banking, legal or otherwise) unless specifically set out in a dedicated Schedule hereto.

For further information about this Agreement and your new home, the Vendor may be contacted at 433 Steeles Avenue East, Suite 110, Milton, Ontario, L9T 8Z4, Tel: 905-203-3900.

This Agreement is to be read with all changes of gender or number required by the context.

All headings are for convenience of reference only and have no bearing or meaning in the interpretation of any particular clause in this Agreement.

This Agreement shall be binding upon the heirs, executors, administrators, successors and permitted assigns of each party.

Time shall in all respects be of the essence.

### Payment of Purchase Price and Financing

7. (a) If requested by the Vendor (which demand may be made at any time or times), the Purchaser shall deliver to the Vendor (i) a copy of a binding commitment from a third party institutional lender (the "Lender") for permanent mortgage financing for the balance of the Purchase Price (the **"Commitment"**) plus any other amounts payable to the Vendor as contemplated herein; or (ii) other evidence satisfactory to the Vendor, in its sole, subjective and absolute discretion, of the Purchaser's ability to finance the balance of Purchase Price on Closing plus any other amounts payable to the Vendor as contemplated herein. Such Commitment, or other evidence required by the Vendor, must be delivered by the Purchaser to the Vendor within 21 days of the date of execution of this Agreement by the Purchaser and at such other times as specified by the Vendor.

(b) The Purchaser, by executing this Agreement hereby irrevocably authorizes and directs any proposed Lender to release to the Vendor, at such times as the Vendor may request, all information and documentation in the Lender's possession and control respecting the Commitment, as contemplated in this Section 7, and the Purchaser further agrees to provide the Lender with the necessary additional authority to provide such information to the Vendor, if such additional authority is required, without exception. If the Purchaser does not intend to rely upon mortgage funds to complete the subject transaction then the Purchaser shall provide a letter from their bank or solicitor satisfactory to the Vendor, in its sole, subjective and absolute discretion, confirming the Purchaser's ability to complete this transaction.

(c) If the Purchaser fails to submit a Commitment, or any of the other evidence or permissions described above, within a reasonable time period as provided by the Vendor, or if the information that is provided is in whole or in part false or misleading, then such failure shall constitute an act of default under this Agreement. If the Vendor, in its reasonable discretion, determines that the Commitment or other evidence submitted by the Purchaser does not demonstrate a reasonable financial ability to complete the transaction, additional deposits shall be payable by the Purchaser at such times and in such amounts indicated by the Vendor, in its sole, subjective and absolute discretion, provided that such further deposits total no more than 10% of the Purchase Price.

(d) Only if so indicated as an Early Termination Condition in Schedule T (Tarion), this Agreement shall be conditional on the Vendor being satisfied, in its sole, subjective and absolute discretion, with the Purchaser having sufficient financial resources to complete the transaction, which condition may be satisfied or waived, or not, by the Vendor at any time within 60 days following execution of this Agreement in the manner set out in Schedule T (Tarion). Whether or not this Agreement is subject to any such Early Termination Condition, the Purchaser's obligations as set out in Sections 7(a), 7(b) and 7(c) of this Agreement shall always apply.

### Adjustments of Purchase Price and Deposits

8. In addition to paying the Purchase Price, the Purchaser shall reimburse the Vendor for any expenses that the Vendor incurs as agent for the Purchaser including amounts paid by the Vendor, and the Purchase Price shall be increased or adjusted as of Closing with respect to:

- (a) any charges paid to a utility for the installation, connection, energization or inspection of services or meters;
- (b) costs incurred by the Vendor for boulevard landscaping (which, in some municipalities, may include tree planting), fencing and asphalt paved driveway;
- (c) any increase of an existing, or imposition of a new Levy, plus HST, between the date this Agreement is executed and the date upon which a building permit for the erection of the Dwelling is issued;
- (d) the enrolment fee required pursuant to the Tarion Warranty Program;
- (e) realty taxes, fuel, water rates, assessment rates and local improvements that were paid prior to or after Closing and which relate to the post-Closing period which are to be apportioned and allowed to the date of Closing. In the event that realty taxes have not been broken down in respect of the Real Property, 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 the en bloc realty taxes as the same fall due 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 the Real Property. Realty tax re-assessment and/or supplementary tax bills relating to the Dwelling issued subsequent to Closing shall be the sole responsibility of the Purchaser; and
- (f) an administration fee of \$250 (plus HST) for any cheque or payment returned for insufficient funds or as a result of a stop payment order (in the event the Vendor, in its sole, subjective and absolute discretion, forgives the default arising thereby).

As the owner of the Real Property on the Closing Date, the Purchaser shall be liable for any and all realty taxes that are payable in relation to the Real Property for the period after Closing including, without limitation, any taxes that were paid in advance by the Vendor on behalf of the Purchaser in relation to the post-Closing period.

The day of Closing shall be apportioned to the Purchaser. If there are chattels involved in this transaction, the allocation of value of such chattels shall be estimated where necessary by the Vendor and retail sales taxes may be collected and remitted by the Vendor. The Purchaser agrees to pay after Closing any charges for water, hydro, fuel and other services.

The parties agree to readjust any of the above items where appropriate after Closing.

The parties acknowledge and agree that, as part of and included in the Purchase Price herein, the Vendor has or will pay on behalf of the Purchaser, all Levies, imposts, building permit fees (for permit obtained on behalf of the Purchaser), and all applicable development charges including education development charges applicable to the Real Property. The parties acknowledge and agree that these amounts shall be shown separately in the statement of adjustments to be delivered to the Purchaser prior to Closing.

If, as a result of an appeal, reassessment or other adjustment of realty taxes applicable to the Real Property with respect in whole or in part to a taxing period prior to Closing, the Purchaser receives a refund from the taxing authority, the Purchaser shall immediately pay such refund, to the extent it relates to a taxing period prior to Closing, to the Vendor notwithstanding that Closing has already occurred.

**Permitted  
Alterations to  
Lot or Model**

9. The Vendor agrees that it will use reasonable commercial efforts to complete the Dwelling substantially in accordance with the plans and specifications available for viewing by the Purchaser at the Vendor's sales office and subject to the provisions of this Agreement. All work will be performed in a workmanlike manner, free from defects in material and in compliance with the Ontario Building Code and is warranted in accordance with and to the extent of the provisions of the Tarion Warranty Program. All *Construction Act* claims for materials or services supplied to the Vendor shall be the responsibility of the Vendor. Notwithstanding the foregoing, the Vendor may substitute other materials of at least equal quality for those specified and the Vendor shall be permitted to alter the plans, dimensions and specifications, provided that such substitution or alteration shall not materially diminish the value of the Real Property or substantially objectively alter the Dwelling other than as expressly permitted herein. Artists' renderings of the Dwelling do not form part of the plans, dimensions and specifications.

In addition, and without limiting or being limited by the foregoing, the following alterations and adjustments may be made by the Vendor to the lot and model type selected by the Purchaser for any reason, and the Purchaser agrees that such alterations and adjustments for all purposes are minor and permissible, and the Purchaser shall accept the Dwelling constructed on the Property with any or all of the following alterations and adjustments, without compensation or abatement (which alterations and adjustments the Purchaser hereby irrevocably authorizes the Vendor to complete): (a) a change in the front elevation of the Property that results in an increase or decrease in the number of steps to the front door and any change to the grading which affects or alters the steps or entry to the Dwelling from the front door to the lot line of the Property; (b) the deletion or addition or relocation of any and all entry doors to the garage or any side doors to the Dwelling; (c) the relocation or the lowering of the elevation of any other entry doors into the Dwelling or the elevation of the laundry area or the elimination of laundry room door(s); (d) the addition or deletion of steps into any and all of the rear yard, the side yard and the garage; (e) the installation of thresholds dividing rooms or living areas required by differences in surface elevations or floor materials; (f) the substitution of a door for a patio door, or a patio door for a door; (g) the substitution of a door or patio door for a window, or a window for a door or patio door; (h) the construction of the Dwelling reversed to the layout shown on the floor plans (mirror image which may cause side windows to align with neighboring home's windows); (i) any reduced or increased ceiling heights, the presence and/or addition of bulkheads or any reduced or increased window sizes due to grading changes or otherwise; (j) changes in the location of the furnace, fireplace, electrical box or water tank, or a change in the type of water heater (i.e. traditional or tankless water heater), or other services; (k) a reduction or increase in either (i) the total area of the Dwelling of up to five percent (5%) or; (ii) the area, or a single dimension, of any one room of up to ten percent (10%), in either case when calculating area, using Tarion's published uniform method for the

calculation of floor area (and in addition to the equivalency tolerances provided for by such method); (l) any changes either before or after approval of the plans imposed by the Municipality, Developer or the architectural control architect or imposed by any architectural controls, including without limitation any change to external elevations of the Dwelling or the addition or elimination of walkouts and/or lookouts; (m) the installation of catchbasins, the addition of a sump pump in the basement or a change to the locations of downspouts and splashpads, as completed in compliance with the grading and drainage requirements of the Vendor and/or the Municipality; (n) sunken foyers, rooms or other areas of the Dwelling as a result of grading changes; (o) variation of rooflines which may differ from those shown on plans; (p) any other substitution by the Vendor permitted under this Agreement; and (q) any other change that the Vendor's architect in his unfettered discretion considers minor and permissible, and the statutory declaration of the architect or his employee in charge of the project shall be deemed to be conclusive and binding on the Purchaser.

Notwithstanding any of the above, there will be a credit, based on the Vendor's standard credits, to the Purchaser if a described walk-out or look-out basement is not built, but had been charged for, either separately or as part of the Purchase Price, according to the Vendor's standard charge for such feature. There will be a charge, based on the Vendor's standard charges, to the Purchaser if the walk-out basement or look-out was not described or shown as a feature but built anyway, whether due to grading requirements or otherwise (which the Purchaser acknowledges may not be finalized at the time of execution of this Agreement). Subject to the provisions of this paragraph, if the Vendor makes any other change that is not deemed minor or permissible without compensation, the Purchaser's sole remedy shall be to complete the Closing and make a claim for compensation, measured by the reduction to the market value of the Property as of the Closing Date.

Lot sizes and dimensions are also subject to change without notice provided that they are not substantially varied and, without limiting the foregoing, any decrease of less than 10% of any single lot dimension or of less than 10% of the total lot area will not be considered a substantial variation.

The Purchaser is advised and agrees that exterior elevations, views, appearances and finishings related to the Real Property or any neighbouring properties may not be similar to pictures or renderings provided to or viewed by the Purchaser.

**Required Pre-Construction Approval and Planning Act Compliance**

10. The sitings, plans, elevations, dimensions and specifications of the Dwelling including architectural details and exterior finishes may be subject to approval by the Municipality (if so indicated in Schedule T - Taron). If any such required approval is not obtained by 90 days before the First Tentative Closing Date, the Deposit shall be returned without deduction or interest and this Agreement shall be at an end.

This Agreement is conditional upon the Vendor obtaining compliance at its own expense with the subdivision control provisions of the Planning Act.

The Purchaser acknowledges that applications may be made to obtain minor variances or other planning or development approvals in respect of any lands of which the Real Property forms a part or within any adjacent, contiguous lands or other land being developed by the Vendor or the Developer and the Purchaser hereby agrees that it shall not oppose any such applications. The Purchaser further acknowledges that this Agreement may be pleaded as an estoppel or bar to any opposition or objection raised by the Purchaser thereto. The Purchaser also acknowledges that municipal or other authorities may require the Purchaser's written consent for any such applications that relate to the Dwelling or Real Property in particular and will provide such written consent forthwith upon request, and failure to do so shall constitute a material breach hereof entitling the Vendor, at its sole, subjective and absolute option, to terminate this Agreement in accordance with the provisions of Section 34 hereof.

**Selection of Extras, Upgrades, Colours, and Finishings**

11. If the stage of completion of the Dwelling permits, the Purchaser may be requested by the Vendor to select certain colours and materials from the Vendor's samples. The Purchaser is advised that variation from the Vendor's samples may occur due to normal production process. If any selection of the Purchaser is not reasonably available during construction so that the Vendor by seeking to obtain it would be delayed in the construction of this Dwelling or other dwellings, the Vendor shall notify the Purchaser and provide an opportunity to the Purchaser to make or approve an alternate selection of at least equal quality from the Vendor's samples. If the Purchaser has not made or approved selections within ten days of notification by the Vendor in the case of original selections, or seven days of notification in the case of an alternate selection, the Vendor may exercise all of the Purchaser's rights to colour and material selection and such selections by the Vendor shall be binding on the Purchaser. The Purchaser may not change its original interior or exterior selections (including, among other things, materials, colours, styles, shutters, windows, elevation, etc.) without the approval of the Vendor in its sole, subjective and absolute discretion, in which event the Vendor shall be entitled to charge an administration fee of \$1,000 (plus HST) in addition to the price of the revised selections.

Extras, upgrades and options shall be paid for in advance and such payment shall not be refunded if this transaction is not completed by reason of the Purchaser's default. If this Agreement is terminated in circumstances in which the Deposit is to be returned to the Purchaser, any amount paid for extras, upgrades, options shall also be returned without interest. The Purchaser further agrees that if any of the changes, extras or upgrades ordered by the Purchaser are unavailable or in the business judgment and discretion of the Vendor cannot be completed to an acceptable quality or within a reasonable time after the Closing Date, then there shall be refunded or credited on the adjustments to the Purchaser that portion of the amount paid by the Purchaser in connection with extras and upgrades allocated to those extras and upgrades which will not be completed in whole or in part as valued and calculated by the Vendor. The statutory declaration of an officer of the Vendor stating the amount of the calculation for an incomplete item is conclusive and binding on the Purchaser. The Purchaser also agrees that any amounts so calculated and/or credited shall be accepted by the Purchaser as full and final settlement of any claim by the Purchaser with respect to the extras and upgrades which will not be completed as aforesaid.

The Purchaser acknowledges that the selection of optional extras, upgrades and options for the Dwelling can affect the marketability and saleability of the Real Property in the event of Purchaser

default. The Purchaser agrees that before accepting any order for extras, upgrades and options, the Vendor may, at its option, require evidence of the Purchaser's continuing financial ability to complete the transaction. If such evidence is not satisfactory to the Vendor, in its sole, subjective and absolute discretion, the Vendor may refuse to accept any or all such orders for extras, upgrades and options and the Dwelling will be completed in accordance with the original terms hereof.

If there is more than one Purchaser, each Purchaser appoints each other Purchaser as his or her representative and agent with full authority to make colour/material selections and to enter into additional agreements for optional extras. As a result, any such selections or agreements for extras made by any one Purchaser shall be binding on all other Purchasers as if they had made such selections or entered into such agreements themselves.

**Rental  
Equipment  
and Chattels**

12. The Purchaser acknowledges and agrees that the Vendor may supply and install certain rental equipment such as, for example, hot water tanks ("the Rental Property"). The Rental Property and any other equipment identified elsewhere in this Agreement as leased or rented is not included in the Purchase Price and shall remain chattel property and not become a fixture or part of the Dwelling house and is owned by the Vendor's designated Rental Property supplier who has a security interest in the Rental Property and may, at its option proceed to register notice of its security interest. The Purchaser covenants and agrees to execute a rental agreement with the Vendor's designated Rental Property supplier in that supplier's usual form and on its usual terms and to deliver such rental agreement on or before Closing together with a void cheque to permit pre-authorized withdrawal of the monthly rental charges by the designated Rental Property supplier from the Purchaser's bank account. The Vendor may assign any right of action under the provisions of this paragraph to its designated Rental Property supplier or another entity and the Purchaser hereby consents to such assignment.

**Completion  
and Risk**

13. For the purpose of closing, the Dwelling shall be deemed to be completed when all interior work has been substantially completed so that the building reasonably may be occupied, and issuance of an Occupancy Permit as defined in Schedule T shall be conclusive in this regard, notwithstanding that there may remain interior or exterior work to be completed or repaired including, but not limited to, painting, driveway, grading, sodding and landscaping. There shall be no holdback or deduction on Closing for any uncompleted or deficient work.

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 Closing.

The Dwelling shall remain at the Vendor's risk until Closing except as provided herein.

**Pre-Delivery  
Inspection,  
Site Visits  
and Access to  
Real Property**

14. The Purchaser, or any other person on behalf of the Purchaser, will not enter the Real Property before Closing unless accompanied by a representative of the Vendor. When entering the Real Property, the Purchaser agrees to abide by the *Occupational Health and Safety Act* regulations which include wearing safety gear for head and foot or any other apparel as required by the Vendor. Under no circumstances will the Purchaser perform or cause to be performed any work of any nature on or to the Real Property prior to the conveyance thereof to the Purchaser and, in the event of a breach of this covenant, the Vendor shall, in addition to any other rights and remedies to which it is entitled, may take whatever steps it deems necessary, in its sole, subjective and absolute discretion, to remove, correct or remedy any such work and the cost and expenses thereof plus a fifteen percent (15%) administration fee (plus HST) shall be paid by the Purchaser forthwith upon demand to the Vendor or, at the Vendor's option, charged as an adjustment on Closing.

The Vendor agrees to make available and the Purchaser agrees to meet a representative of the Vendor prior to Closing at a time designated by the Vendor, during normal working hours to inspect the Real Property and verify that the Dwelling has been completed in accordance with the provisions of this Agreement.

**Certificate of  
Non-  
Completion**

15. If there is any deficient or uncompleted work remaining at the time of inspection, such items shall be listed on the form of Certificate of Completion and Possession required to be completed pursuant to the provisions of the Tarion Warranty Program, which the Purchaser covenants to execute. This Certificate when executed by the Vendor, together with the warranty itself under the Tarion Warranty Program, shall constitute the Vendor's only undertaking to remedy or complete the Dwelling. Such work will be performed as soon as is reasonably practicable which may be after Closing.

**Title to Real  
Property and  
Restrictions  
on Title**

16. Title to the Real Property shall be good and free from encumbrances except that it may be subject to "Development Requirements" which shall include all subdivision or other agreements, covenants and restrictions (which restrictions may include the power to waive or vary), easements, licenses and rights required or imposed by the Vendor, Developer, Municipality, provincial or federal government authorities or other development approval authorities including, among others, utilities, railways, pipeline companies and transit authorities. The Purchaser shall accept title subject to and shall comply with all Development Requirements provided there does not exist default under any and provided that the Purchaser's use of the Real Property for residential purposes is permitted. The Purchaser shall satisfy himself or herself as to compliance with such matters. The Purchaser agrees that the Vendor shall not be obligated on Closing or thereafter to obtain or register releases of any Development Requirements. Title may also be subject to easements for maintenance (including utility servicing in favour of neighbouring properties that may require access through the Dwelling) or encroachment required for adjoining properties and to the encroachments permitted thereby. If any of the foregoing easements or encroachments or any restrictions, encroachments or other rights under the Development Requirements are required to be created after Closing the Purchaser shall execute any documents needed. The rights of re-entry referred to in Section 23 or pursuant to the Development Requirements shall also affect title and these rights as well as any of the above may be contained in the transfer delivered to the Purchaser.

Municipal subdivision agreements are one of the Development Requirements that regulate development. The Purchaser should inquire of the Municipality whether the applicable subdivision agreements and other Development Requirements contain special warnings, construction or servicing requirements, easements, fences or berms or other matters affecting the Real Property.

The Purchaser acknowledges and agrees that various equipment, signage and infrastructure including, among other things, telecommunication and/or hydro pedestals and equipment, community mailboxes, streetlights, fire hydrants, and bus stops and/or shelters, may be located immediately in front of the Real Property on the municipal boulevard and may be visible from the Dwelling and will not be cause for an abatement of the Purchase Price or any other claim of any kind by the Purchaser.

The Purchaser shall be allowed until thirty (30) days before Closing to examine the title at his or her own expense and if, within that time, any valid objection to title is made in writing to the Vendor, which the Vendor is unable or unwilling to remove and which the Purchaser will not waive, this Agreement shall notwithstanding any intermediate act or negotiations, be at an end and the Deposit shall be returned without interest or deduction and the Vendor shall not be liable for any damages or costs whatever. Save as to any valid objections so made within such time or going to the root of title, the Purchaser shall be conclusively deemed to have accepted the title of the Vendor to the Real Property. The Purchaser is not to call for the production of any title deeds, or other evidence of title except as are in the possession of the Vendor. Notwithstanding the foregoing, the Purchaser acknowledges that neither the Vendor nor its solicitors shall be responsible for abstracting errors made by the Land Registry Office and that the Purchaser or the Purchaser's solicitors shall be responsible for submitting any correction requests desired directly to the Land Registry Office.

The Vendor shall provide an electronic copy of a survey reference plan or surveyor's sketch of the Real Property (at the Vendor's election) on or before Closing.

**Notices and Warnings for Use of Real Property**

17. The Purchaser acknowledges that existing and/or future development agreements between the Developer or the Vendor and the Approving Authority may require the Vendor to provide the Purchaser with certain notices or warnings including notices or warnings regarding the usage of the Real Property, environmental issues, noise levels from adjacent roadways or otherwise, maintenance of municipal fencing, school transportation and related educational issues, and the status of services and works in the subdivision. The Purchaser acknowledges and agrees that the Vendor may be unable, at this time, to provide the Purchaser with all such notices and warnings, notwithstanding the current contents of Schedule "C" of this Agreement. Any supplementary or additional warnings or notices if delivered to the Purchaser after the execution of this Agreement, shall form part of this Agreement. On or before Closing, if requested by the Vendor, the Purchaser shall forthwith execute upon request an acknowledgement or amendment to this Agreement containing the required notices and warning clauses. In the event that the Purchaser fails to execute such acknowledgements or amendments forthwith upon being requested to do so, such failure by the Purchaser shall constitute an event of default under this Agreement and the Vendor shall be entitled, at its sole, subjective and absolute option, to terminate this Agreement in accordance with the provisions of Section 34 hereof.

**Prior Mortgages on Real Property**

18. Title to the Real Property may be encumbered by mortgages not to be assumed by the Purchaser on Closing. The Purchaser agrees to accept the Vendor's written undertaking to remove such encumbrance on title within a reasonable time after Closing if accompanied by:
- (i) a written statement from the mortgagee of the amount required to be paid to obtain a discharge of the Real Property; and
  - (ii) payment by the Vendor, an undertaking of the Developer to make payment, or a direction from the Vendor permitting payment to that mortgagee of such amount by the Purchaser; or
  - (iii) instead of (ii) above, written confirmation by the mortgagee that a discharge will be available without any action or payment on the part of the Purchaser or Vendor;

together with an undertaking by the Vendor's Solicitors to remit to the mortgagee any funds directed to it pursuant to (ii) above and to register any such discharge when received by them.

The Vendor and its solicitors have no obligation to provide details of discharges of mortgages registered prior to Closing, whether or not certified by the Land Registry Office by the time of Closing. Purchasers shall satisfy themselves in this regard.

**Preparation of Transfer**

19. The transfer shall be prepared by the Vendor's Solicitors at the Vendor's expense and shall be registered forthwith on Closing by the Purchaser at his or her expense. The Purchaser agrees to advise the Vendor's Solicitors, at least thirty (30) days prior to Closing, as to how the Purchaser will take title to the Real Property, the birth dates of any parties taking title to the Real Property and any name changes due to marriage or otherwise. If the Purchaser fails to do so by such time or changes such information, the Purchaser shall pay to the Vendor's Solicitors (or reimburse the Vendor) for all additional legal fees and disbursements which may be incurred by the Vendor or charged by its Solicitors, which shall be at a minimum \$250 (plus HST) which payment may be, at the Vendor's option, charged as an adjustment on Closing.

**Purchaser Acting Through Agent or Multiple Purchasers**

20. If there is more than one Purchaser under this Agreement, all covenants, promises, agreements and other obligations of the Purchaser as set out in this Agreement shall be deemed and construed to be, and shall be fully binding as, the joint and several covenants, promises, agreements and obligations of each and every Purchaser. For greater certainty, any default by one Purchaser hereunder shall constitute a default by each and every other Purchaser, for which each and every Purchaser shall be jointly and severally liable.

The Purchaser agrees that any person who takes title to the Property as a beneficiary and/or pursuant to a Direction or Authorization signed by the Purchaser shall be deemed for all purposes to have signed this Agreement through the agency of the Purchaser, or to be the partner of the Purchaser, and to be jointly and severally bound by this Agreement. In doing so, the Purchaser acknowledges that this may result in the loss of eligibility for the Rebates (as defined and further described in Section 32 of this Agreement).

Notwithstanding any other term in this Agreement, the Vendor may demand as a condition precedent to the Vendor's obligation to close, that any person referred to as a beneficiary and/or in a Direction or Authorization as a person to be named as a Transferee shall sign an Acknowledgement on the Vendor's form agreeing to be bound by this Agreement.

The completion of this Agreement on the Closing Date without an Acknowledgement is not a waiver of the Vendor's right to demand the Acknowledgement. It is an act of default by the original Purchaser and a Transferee to refuse to provide the Acknowledgement, and the Vendor may deliver on closing a Transfer excluding such Transferee. If the Purchaser does not take title to the Property on the Closing Date, the Purchaser must still execute all closing documentation and is nevertheless still jointly and severally bound with the Transferee(s) for all of the obligations of the Purchaser after closing as if he or she had received title.

Title may be conveyed directly from the Developer or a third party to the Purchaser and, if it is, the Purchaser hereby: (i) acknowledges and agrees that the Developer and/or such third party is not the builder and has no liability to the Purchaser as such; (ii) acknowledges and agrees that the Developer and/or such third party has no obligations or liabilities whatsoever to the Purchaser in respect of this Agreement and/or the transaction arising herefrom; (iii) releases the Developer and/or such third party from any liability that may otherwise be imposed on the Developer and/or third party pursuant to or in connection with this Agreement and/or the transaction arising herefrom (whether arising from this Agreement or otherwise in law); and (iv) acknowledges and agrees that the Purchaser is estopped from making any claim or taking any action against such Developer and/or third party. If the Vendor so requests, the Purchaser shall execute and deliver on Closing, a closing release and acknowledgement in the Vendor's form with respect to the foregoing. For certainty, in the event that the Purchaser fails to execute such closing release and acknowledgement forthwith upon being requested to do so, such failure by the Purchaser shall constitute an event of default under this Agreement and the Vendor shall be entitled, at its sole, subjective and absolute option, to terminate this Agreement in accordance with the provisions of Section 34 hereof.

**Warranty and Limitations**

21. The Ontario New Home Warranty, administered by the Tarion Warranty Corporation shall constitute the Vendors' only warranty, express or implied, in respect of any aspect of construction of the Dwelling and further shall be the full extent of the Vendor's liability for defects in materials or workmanship or damage, loss or injury of any sort, delay or otherwise with respect to the Dwelling, the Real Property and the relationship between the Purchaser and the Vendor, whether arising in tort or in contract. The Purchaser is urged to review the warranty, particularly its exclusions, and to be aware that the Vendor is not liable for loss or damage to any landscaping, furnishing or improvement by the Purchaser caused either by any defect for which the Vendor is responsible or by the remedying of such defect.

The Purchaser hereby releases the Vendor, its employees, officers, directors, owners, sales representatives, the Vendor's trades, experts and solicitors, and the Vendor's related and affiliated corporations from any causes of action against each and any of them except for any remedy explicitly given to the Purchaser against the Vendor either in this Agreement or the terms of the *Ontario New Home Warranties Plan Act* or any requirements of the Tarion Warranty Corporation.

For greater certainty, remedies available to the Purchaser are deemed to exclude: (a) damages for mental distress, loss of enjoyment, or loss of a personal preference or personal choice; (b) punitive and/or exemplary damages; and (c) substantial indemnity costs, except for such costs as may be awarded as a result of an Offer to Settle.

The Purchaser acknowledges that its rights and remedies and the limitations thereto are fully set forth in this Agreement. The Purchaser's right to terminate or rescind this Agreement are for those events set out expressly in this Agreement, including the Tarion Addendum (Schedule T), and no others. Any other claim by the Purchaser whether before or after Closing (including for conduct predating the signing of this Agreement by the Purchaser and the Vendor) shall be for compensation only and pursuant to binding arbitration, to the extent permitted by this Agreement.

**Arbitration Clause**

22. The Purchaser and the Vendor agree that any claim, dispute, or controversy (whether in contract, tort, or otherwise, whether pre-existing, present or future, and including statutory, common law, intentional tort and equitable claims) that the Vendor may have against the Purchaser or that the Purchaser may have against the Vendor, its agents, employees, principals, successors, assigns, affiliates arising from or relating to this Agreement, its interpretation, or the breach, termination or validity thereof, the relationships which result from this Agreement (including, to the full extent permitted by applicable law, relationships with third parties who are not signatories to this Agreement), the Purchaser's purchase or use of the Real Property and/or the Dwelling or related purchase or the subdivision services (any of the foregoing being a "Claim") SHALL BE RESOLVED EXCLUSIVELY AND FINALLY BY BINDING ARBITRATION pursuant to the *Arbitrations Act*, 1991 (Ontario), as amended or replaced from time to time. Such arbitration shall be the exclusive forum for the resolution of any Claim by the Purchaser against the Vendor, and the Purchaser hereby agrees that it will not bring or participate in a Claim in any court whether directly, indirectly, by counterclaim or otherwise. In addition, THE PURCHASER SHALL NOT BE ENTITLED TO JOIN OR CONSOLIDATE CLAIMS BY OTHER PURCHASERS, OR ARBITRATE A CLAIM AS A REPRESENTATIVE OF A CLASS ACTION OR PARTICIPATE AS A MEMBER OF ANY CLASS ACTION WITH RESPECT TO ANY CLAIM.

The Purchaser and Vendor agree that if and to the extent that any provision of this paragraph is found contradictory to, or cannot be applied due to, the requirements of the Ontario New Home Warranties Plan Act and/or Schedule T or other applicable Ontario law, such provision shall not be applied in the circumstances, but the remainder of this paragraph shall remain in force and effect and otherwise fully applicable and enforceable to the maximum extent allowable.

**Vendor's Right of Re-Entry to Real Property**

23. The Vendor reserves the right of re-entry for itself, the Developer and the Municipality for the completion of grading and the correction of any surface drainage problems or the completion of any other matter required by the subdivision agreement or other Development Requirements. The Vendor may re-enter to remedy at the Purchaser's expense any default by the Purchaser. The Vendor may also re-enter to complete any outstanding work or to rectify non-compliance with any Development Requirements.

The Purchaser acknowledges that there may be unbuilt lots adjoining the Real Property on which

construction will take place after Closing. The Purchaser agrees that the Vendor or other builders, contractors or other parties authorized by the Vendor may enter upon the side and back lots of the Real Property after Closing in order to enable reasonable construction access to any adjoining lots. Such access shall be allowed without objection by the Purchaser provided that access to the Real Property and the Dwelling is not blocked and any disruption or damage resulting therefrom is repaired at no cost to the Purchaser.

**No  
Assignment  
or  
Speculation**

24. The Purchaser represents to the Vendor, upon which representation the Vendor has relied in accepting the Purchaser's offer, that the Purchaser is purchasing the Real Property for the Purchaser's own personal use and not for investment purposes (including as rental property). The Purchaser acknowledges that the truth of this representation is material to the Vendor.

The Purchaser acknowledges and agrees that if a breach of the above covenant occurs or the Vendor discovers that the above representation is not true, such breach is or shall be incapable of rectification. Accordingly, the Purchaser acknowledges and agrees that in the event of such breach the Vendor shall have the unilateral right and option of terminating this Agreement, effective upon delivery of notice of termination to the Purchaser or the Purchaser's solicitor, whereupon the provisions of this Agreement dealing with the consequence of termination by reason of the Purchaser's default shall apply and any forbearance by the Vendor in this regard shall not be deemed to be a waiver of this right.

The Purchaser covenants and agrees that he will in no way, directly or indirectly, list for sale or lease, advertise for sale or lease, rent, convey, transfer, sell or lease, nor in any way assign his interest under this Agreement or in the Real Property, nor directly or indirectly permit any third party to list or advertise the Real Property for sale or lease at any time prior to the Closing Date without the Vendor's prior written consent, which consent may be withheld in the Vendor's sole, subjective and absolute discretion.

**Tender and  
Closing**

25. The Purchaser hereby waives personal tender and agrees that failing any other mutually acceptable arrangements between the Vendor and the Purchaser, and subject to the provisions of Section 30 hereof, 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 Solicitors have:
- a. Delivered all closing documents and/or funds to the solicitor for the purchase ("Purchaser's Solicitor") in accordance with the provisions of the Escrow Agreement, whether or not such Escrow Agreement is entered into by the Purchaser's Solicitor;
  - b. Advised the Purchaser's Solicitor, in writing or by electronic written communication, that the Vendor is ready, willing and able to complete the transaction in accordance with the terms and provisions of this Agreement; and
  - c. Completed steps required by the electronic registration system ("TERS") to give the Purchaser's Solicitor access to the "in preparation" Transfer/Deed for the Property that can be performed or undertaken by the Vendor's Solicitors without the cooperation or participation of the Purchaser's Solicitor;

without the necessity of personally attending upon the Purchaser or Purchaser's Solicitor and without any requirement to have an independent witness evidencing the foregoing, and same shall be satisfactory evidence that the Vendor is ready, willing and able to complete the transaction.

Notwithstanding the foregoing, if the Purchaser or the Purchaser's Solicitor, including without limitation any representative or employee of the Purchaser or the Purchaser's Solicitor, indicates or expresses (even on a "without prejudice" basis) to the Vendor or the Vendor's Solicitors, on or before Closing, that the Purchaser is unable or unwilling to complete the purchase, the Vendor shall be relieved of any obligation to make formal tender upon the Purchaser or the Purchaser's Solicitor and the Vendor may exercise forthwith any and all of its rights and remedies provided for in this Agreement, at law and in equity.

Subject to the provisions hereof with regard to the electronic delivery of funds, the parties agree that payment must be made or tendered by cheque drawn on a valid trust account of an Ontario solicitor in good standing and certified by a Canadian Chartered Bank. Notwithstanding the foregoing, in the sole, subjective and absolute discretion of the Vendor or its solicitors, closing payment may be made by bank draft, on such conditions as they may deem appropriate, which may include but is not limited to delivery of a confirmation of the Purchaser's solicitor, in the Vendor's Solicitor's form, that the bank draft was issued from funds drawn directly from the Purchaser's solicitor's trust account including the particulars thereof. Mortgages not being assumed by the Purchaser and to which Section 18 applies need not be paid by the Vendor on Closing.

The Vendor shall have a one-time unilateral right to extend the Closing Date for one (1) business day to avoid the necessity of tender where the Purchaser is not ready to close on the Closing Date and delayed closing compensation will not be payable for such period.

The Purchaser expressly acknowledges and agrees that the Purchaser will not be entitled to receive the Transfer/Deed of Land to the Real Property for registration or the keys, until the balance of funds due on Closing, in accordance with the statement of adjustments, and all other amounts required to be paid by the Purchaser hereunder in order to close the transaction, are remitted by bank draft or certified cheque, in each case drawn on the Purchaser's Solicitor's trust account, via personal delivery to the Vendor's Solicitors (or in such other manner as the Vendor's Solicitors may direct) prior to the release of the Transfer/Deed of Land for registration.

The Purchaser agrees that keys may be released to the Purchaser at the construction site on Closing. The Vendor's advice that keys are available shall be a valid tender of possession of the Real Property to the Purchaser. If the Purchaser receives the keys on the day of Closing but does not tender the documents and balance due on Closing as called for by this Agreement, the Purchaser shall immediately return the keys to the site office, deliver up vacant possession of the Real Property to the Vendor and indemnify the Vendor for any damage to the Real Property or the Dwelling and for any

expenses, legal fees and other costs thereby caused to the Vendor and the Dwelling shall be at the Purchaser's risk until such time as vacant possession is delivered up to the Vendor.

For greater certainty and without limitation, notwithstanding any other provision herein, the Purchaser shall be solely responsible for the costs of registration and tax on any transfer of the Real Property to the Purchaser, including, without limitation, all land transfer tax and all non-resident speculation tax.

Notwithstanding Closing, the Purchaser's agreements, covenants and warranties shall not merge, and the Vendor may require, at its option, that the Purchaser execute a separate covenant in the Vendor's form confirming the Purchaser's agreements, covenants and warranties contained in this Agreement.

If, on the Closing Date, there is a Construction Lien or a Purchaser's Lien or a Certificate of Pending Litigation for the return of moneys registered on the title to the Real Property, the Purchaser shall accept the title subject to any such lien with a Vendor's undertaking to discharge the same, or at the Vendor's option shall grant the Vendor an extension of the Closing Date for up to 30 days to remove the Certificate or the Construction Lien.

**Web-Delivery System**

26. The Purchaser acknowledges and agrees that the Vendor may, at its option, utilize an internet-based electronic document delivery system (the "**Web Delivery System**") in order to deliver closing documents to the Purchaser's solicitor. Accordingly, the Purchaser acknowledges and agrees that the Vendor's delivery of some or all of the closing documents may be made electronically through the Web Delivery System to the Purchaser's solicitor. Such delivery shall be made and completed upon the Vendor or its solicitor uploading any such documentation to the internet such that it is available for downloading (and printing if desired) by the Purchaser's solicitor. Alternatively, at the Vendor's option, the Vendor or its solicitor may email such documentation directly to the Purchaser's solicitor. Delivery by either such means shall be acceptable and effective for all purposes under this Agreement. If the Purchaser's solicitor is not able or willing to access the Web Delivery System or accept delivery of emailed documents in advance of Closing, the Purchaser shall pay the Vendor (as an additional adjustment on Closing) the sum of \$100 plus HST as a fee for the additional time and disbursements thereby caused to the Vendor.

The Purchaser acknowledges, consents and agrees that documents not intended for registration on title to the Real Property may be delivered by the Vendor electronically, either through the Web Delivery System as described above or by email, telefax transmission or similar system or by electronic transmission of electronically signed documents through the internet, and execution of this Agreement shall constitute the Purchaser's express consent in accordance with the Electronic Commerce Act (Ontario) to the electronic delivery of documents by any and all of the means described above.

**Entire Agreement**

27. THE PARTIES ACKNOWLEDGE THAT THERE ARE NO REPRESENTATIONS, WARRANTIES, COLLATERAL AGREEMENTS OR CONDITIONS AFFECTING THIS AGREEMENT OR THE REAL PROPERTY EXCEPT AS CONTAINED IN THIS AGREEMENT FOR WHICH THE VENDOR CAN BE HELD RESPONSIBLE OR LIABLE FOR IN ANY WAY, whether contained, portrayed, illustrated or represented by, or in, any plan, drawing, brochure, artist's renderings, display, model or any other sales or marketing materials, including without limitation, any statements or representations made by real estate agents, employees of real estate agents, brokers or employees of the Vendor, and this Agreement supersedes all prior negotiations between the Vendor and the Purchaser, whether written or verbal, with respect to the subject matter of this Agreement. The Purchaser acknowledges that any oral statements made concerning the Real Property or the Dwelling before the date of this Agreement did not induce the Purchaser to enter into this Agreement and do not constitute a variation of this Agreement.

The Purchaser acknowledges that the Vendor's model homes, in which specifications may vary from one geographical location to another, may contain upgrades and extras that are not included in the Purchase Price of the Real Property and the Purchaser further acknowledges that the Purchaser has read Schedule "A" attached hereto and acknowledges and agrees that the Dwelling shall be constructed substantially in accordance with those listed standard features and finishes subject to the terms of this Schedule "1". This Agreement may not be amended other than in writing explicitly purporting to amend this Agreement and executed by the Purchaser and an authorized representative of the Vendor.

The Purchaser acknowledges and agrees that no oral or emailed statements from any representative of the Vendor can amend this Agreement and that any information, advice or assistance offered in such forms or similar informal manner shall not be legally binding in any way upon the Vendor.

**Residency and Spousal Consent**

28. The Vendor represents that it is not a non-resident for the purposes of section 116 of the Income Tax Act, Canada, and that spousal consent is not necessary to this transaction under the provisions of the Family Law Act.

**No Registration**

29. The Purchaser acknowledges that this Agreement does not create an interest in the Real Property or the Dwelling and that until a Transfer/Deed of Land is registered in favour of the Purchaser, the Purchaser shall have no such interest. The Purchaser further covenants and agrees not to register or cause or permit this Agreement to be registered on title to the Real Property and that no reference to it, or notice of it or any caution or any certificate of pending litigation, purchaser's lien or any other notice or document of any type shall be registered on title whether or not the Vendor is in default hereunder. The Purchaser shall be deemed to be in default under this Agreement if the Purchaser creates any encumbrance or makes any registration or causes or permits any such encumbrance or registration to be made on title to the Real Property on or before the Closing Date. Should the Purchaser be in default of the obligations under this Section, the Vendor may, as agent and attorney of the Purchaser, cause removal of any such registration from the title to the Real Property. The Purchaser hereby irrevocably consents to a court order removing any notice of this Agreement, any caution, any certificate of pending litigation, any purchaser's lien or any other notice or document of any sort whatsoever from title to the Real Property and the Purchaser agrees to pay all of the Vendor's costs and expenses in obtaining such order (including the Vendor's Solicitors' fees and disbursements on a full indemnity basis).

**Electronic  
Registration,  
Solicitor  
Requirement  
and Escrow  
Agreement**

30. If electronic registration of documentation at the Land Registry Office is required on Closing, the following terms and conditions shall form part of this Agreement:
- a. No less than 15 days after notification of the Vendor's acceptance of this Agreement, the Purchaser shall: (i) retain a solicitor in good standing with the Law Society of Upper Canada to represent the Purchaser with respect to this Agreement as the Purchaser's Solicitor, and (ii) notify the Vendor of the solicitor's contact information, failing which the Purchaser shall be in default hereunder. In the event of such a default, the Vendor may exercise any of its rights in the event of default or, in its sole, subjective absolute discretion, elect to forgive and allow rectification of the default on such terms and conditions as are acceptable to the Vendor. In addition to and notwithstanding the above, in the event the Purchaser does not retain a solicitor at least 30 days prior to Closing and notify the Vendor thereof, the Purchaser shall not only be in default hereunder but also and acknowledges and agrees that in such event tender by the Vendor is waived and the Vendor will be deemed on the day of Closing to be ready, willing and able to complete this transaction without having to give proof thereof. In addition, if the Purchaser notifies the Vendor of its solicitor information less than 30 days prior to Closing or changes its solicitor, and the Vendor forgives any default that arises therefrom, the Purchaser shall pay to the Vendor's Solicitors (or reimburse the Vendor) for all additional legal fees and disbursements which may be incurred by the Vendor or charged by its solicitors, which shall be at a minimum \$250 (plus HST), which payment may be, at the Vendor's option, charged as an adjustment on Closing.
  - b. The Purchaser shall authorize the Purchaser's Solicitor to enter into an escrow closing agreement with the Vendor's Solicitors on the latter's standard form (the "Escrow Agreement"), establishing the procedures and timing for completing this transaction, such Escrow Agreement to be returned to the Vendor's Solicitors, as executed by the Purchaser's Solicitor, at least three (3) days prior to the Firm Closing Date.
  - c. The delivery and exchange of documents and monies 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 of Land (and other registerable documentation);
    - ii. shall be governed by the Escrow Agreement, pursuant to which the solicitors receiving the documents and 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 Agreement;
    - iii. may at the option of the Vendor, in the case of funds to be delivered by the Purchaser, occur electronically, through any electronic funds transfer system designated by the Vendor or the Vendor's Solicitors, and in such case:
      1. the Purchaser acknowledges and agrees that the Purchaser or the Purchaser's Solicitor will not in any circumstances be permitted to deposit funds to the Vendor's or the Vendor's Solicitors bank account;
      2. the Purchaser and or the Purchaser's Solicitor shall execute such documents as the Vendor or the Vendor's Solicitors may require in connection therewith;
      3. the Purchaser shall pay as an adjustment on Closing or to the Vendor's Solicitors as the Vendor may require, any fee incurred by the Vendor or the Vendor's Solicitors in connection therewith, including all applicable bank wire transfer fees and any fees charged by any electronic funds transfer provider; and
      4. the Purchaser's Solicitor shall be registered with such provider and at the request of the Vendor's Solicitors shall provide evidence of such registration to the Vendor's Solicitors at least ten (10) days prior to Closing.
  - d. If the Purchaser's Solicitor are unable to complete this transaction via TERS, in accordance with the provisions of the Escrow Agreement, then the Purchaser's Solicitor (or the authorized agent thereof) shall be obliged to personally attend at the office of the Vendor's Solicitors, at such time on the date scheduled for Closing as may be directed by the Vendor's Solicitors or as mutually agreed upon, in order to complete this transaction via TERS utilizing the computer facilities in the Vendor's Solicitors' office.
  - e. If the Purchaser's Solicitor has not completed the Land Transfer Tax Affidavit or other portion of the Transfer customarily completed by the Purchaser's Solicitor by 12:00 p.m. on the scheduled day of Closing, tender by the Vendor shall be deemed to have been waived by the Purchaser and the Vendor shall be deemed on the day of Closing to be ready, willing and able to complete this transaction without having to give proof thereof.

**Grading and  
Settlement of  
Land**

31. The Purchaser hereby acknowledges that grading and sodding shall be done between the spring and the fall of any year following Closing in accordance with the Vendor's program which may be subject to change without notice.

The Purchaser covenants that he/she will not at any time before or after Closing, without the prior written consent of the Vendor and the Developer, interfere with any drainage works completed by the Vendor or the Developer or take any steps which may result in the alteration or change of any grading or drainage or removal of soil or top soil in contravention of the Developer's obligations under the applicable subdivision agreement or other Development Requirements. In such event, the Vendor or the Developer may enter upon the Real Property and correct such grading and remove any such obstructions at the Purchaser's expense to be paid forthwith or, at the Vendor's option, as a closing adjustment. This covenant may be included in the Purchaser's transfer at the option of the Vendor.

The Purchaser further acknowledges that settlement may occur due to soil disturbance and conditions including areas affecting walkways, stairs, decks, driveways and sodded areas. The Vendor agrees to rectify such settlement problems as and when required by the Municipality or the Developer subject to the Purchaser's obligation to assume the cost of removing and re-installing any driveways, stairs,

decks or walkways installed by the Purchaser.

The Purchaser covenants and agrees on his or her own behalf and on behalf of anyone for whom the Purchaser is in law responsible not to damage or alter any subdivision service at any time or the Dwelling prior to Closing, and shall be liable for the costs of rectification of any such damage or alteration, and in the event same is not paid upon demand or, at the Vendor's option, as a closing adjustment, the Vendor shall have the right to register a lien on title to secure such payment which may be enforced in the same manner as a mortgage in default.

The Purchaser shall not alter the grading or drainage pattern of the land on the Real Property in any way and shall not construct any fences, pools, patios, sheds, or similar structures prior to final grading approval or prior to the installation of sod by the Vendor without the Vendor's consent.

Some settlement of the lands on the Real Property is to be expected and the Purchaser shall be responsible to repair any minor settlement. The Purchaser shall care for sod, shrubs and other landscaping provided by the Vendor or the Developer and the Purchaser shall be responsible for replacing any such landscaping that does not survive.

**Sales Taxes and Rebates**

32. (a) The Purchase Price includes HST and has been determined taking into account HST rebates (the "Rebates") provided for in applicable federal and/or provincial legislation, including any transitional rebates, to the extent eligible. If rebates are included, the Purchaser assigns to the Vendor all of its rights to the Rebates and shall reimburse the Vendor for any loss of the Rebates caused by his or her failure to comply with the representations to be contained in the statutory declarations or certificates or covenants referred in paragraph 32(b).

(b) Prior to closing the Purchaser shall; execute statutory declarations or certificates or covenants in forms satisfactory to the Vendor confirming all eligibility requirements prescribed for the Rebates, including, among other things, that:

- (i) The Purchaser is acquiring the Real Property for use as the primary place of residence of the Purchaser or a relation (as defined in the applicable legislation) of the Purchaser so as to entitle the Purchaser to the Rebates; and
- (ii) The Purchaser or a relation (as defined in the applicable legislation) of the Purchaser will be the first individual to occupy the Real Property as a place of residence.

(c) The Purchaser shall execute and deliver upon closing original (i.e. not a photo or electronic copy) Rebate Applications pursuant to the applicable legislation in prescribed forms and the Vendor's standard forms of Rebate assignment and indemnity agreement (together with the documents referred to in paragraph 32(b), being the "Rebate Documentation"). The Purchaser agrees and acknowledges that the Vendor may request that the Rebate Documentation be completed in the name of the Vendor or any person that is designated by the Vendor including, inter alia, any party in which the Vendor may have been acting as the disclosed or undisclosed agent for when entering into this Agreement. The Purchaser agrees to execute and provide to the Vendor all Rebate Documentation and, to the extent the Vendor has not received adequate Rebate Documentation, the Purchaser hereby nominates and appoints any officer of the Vendor (or any other party as may be directed by the Vendor) as the Purchaser's true and lawful attorney and agent pursuant to the provisions of the Powers of Attorney Act (Ontario), with full power and authority in the Purchaser's name, place and stead to execute, swear to and record any and all documents that may be required in order to have the GST/HST Rebates paid and/or credited to the Vendor or any other person that is designated by the Vendor including, inter alia, any party in which the Vendor may have been acting as the disclosed or undisclosed agent for when entering into this Agreement.

(d) If the Purchaser does not qualify for the Rebates, or any of them, or fails to deliver the requisite Rebate Documentation in connection therewith or takes any action that might disentitle it from receiving the Rebates (such as a resale or rental listing or liability for any non-residential speculation or similar tax payable in respect of the transfer of the Real Property to the Purchaser), then, if discovered prior to closing, the amount of the Rebates shall be paid to the Vendor on Closing or, if discovered after Closing, the Purchaser shall pay the Vendor by certified cheque the amount of the Rebates forthwith upon demand and shall indemnify the Vendor from any loss of the Rebates. Notwithstanding any provision to the contrary in this Agreement or in the applicable legislation, if at any time, in the view of the Vendor or its solicitors, the Purchaser's information might be inaccurate, incomplete or untruthful such that the Rebates, or any of them, may not be properly collected by the Vendor, or if the Vendor or its solicitors believe, in their sole, subjective and absolute discretion, that the Rebates might for any reason be disallowed, the Vendor shall be entitled in its sole, subjective and absolute discretion to increase the Purchase Price by the amount of the Rebates and the Purchaser shall pay such additional sum on Closing together with any other costs/expenses caused to the Vendor including the Vendor's Solicitor fees, which shall be a minimum of \$250 (plus HST).

(e) The Vendor and Purchaser acknowledge that prior to Closing, the HST rate, including either or both of its federal or provincial components, applicable to this Agreement may change. In such event all references to such rate in this Agreement shall be deemed to be amended to reflect the new rate. Any such change will affect the calculation of the Purchase Price and any Rebates applicable to the determination of the Purchase Price.

**Notice**

33. Any notice required to be given pursuant to this Agreement to the Purchaser may either be delivered personally or be sent by prepaid mail, facsimile or email addressed to the Purchasers' solicitor or the Purchaser at his or her last known address or email address and in the case of the Vendor any notice required to be given pursuant to this Agreement may either be delivered personally or be sent by prepaid mail or facsimile to the Vendor's solicitor or to the Vendor at the address in Section 6. If such notice is mailed it shall be deemed to have been received by the party to whom it is addressed on the third business day following the date of its mailing. In the event of a mail stoppage or interruption all notices shall be delivered by another method permitted hereby.

**Default**

34. In the event of failure by the Purchaser to make any monetary payment called for under this

Agreement (including but not limited to a cheque or other payment returned for insufficient funds or as a result of a stop payment order) or in case of any other default or breach of this Agreement by the Purchaser, the Deposit and any other amounts paid by the Purchaser (whether directly to the Vendor or held in trust) shall be forfeited to the Vendor and the Vendor shall have the right, in its sole, subjective and absolute discretion, to declare this Agreement terminated and at an end with no further obligation to the Purchaser, irrespective of and without prejudice to any other right, cause of action or remedy to which the Vendor may be entitled.

Without limiting the foregoing, the Vendor shall have a vendor's lien for any unpaid amount of the Purchase Price on Closing or other amount owing hereunder (such as disallowed Rebates or an underpayment of the balance due on Closing) and shall be entitled to register a notice of lien against the Real Property any time on or after Closing.

An act of default by the Purchaser is any breach of any obligation of or promise made by the Purchaser in this Agreement, and includes a breach by the Purchaser on or before Closing of any requirements set out in the Tarion Addendum forming a part of this Agreement, even if a breach of that promise or requirement is not described explicitly in this Agreement as an act of default, and includes a default or failure to complete a Purchaser Occupancy Obligation as referred to in the Addendum.

Upon learning of an act of default by the Purchaser prior to the Closing of this Agreement, the Vendor shall be entitled to any remedy explicitly given to the Vendor by this Agreement and/or to terminate this Agreement and pursue the Purchaser for any other remedy permitted by law.

Without limiting the generality of the foregoing paragraph, such termination of this Agreement shall entitle the Vendor at its sole option and in its unfettered discretion to each of the following and any combination thereof: (a) to retain the deposit and all monies paid for extras and upgrades as liquidated damages and not as penalty and without limiting the Vendor's claim; (b) to require the Purchaser to perform this Agreement and/or pay damages for breach of this Agreement; (c) to recover from the Purchaser all damages and losses arising from the Purchaser's default as may be permitted by law; and (d) subject to the Addendum, to its full indemnity costs on a solicitor and his own client basis against the Purchaser either to enforce its rights or to defend any claim or counterclaim by the Purchaser in any proceeding. The Vendor is not obliged to elect a remedy until there is an arbitration or action, is not obliged to give notice to the Purchaser of any default, and is not obliged to permit the Purchaser to remedy its default, but may do so without waiver of its rights herein.

If at any time before the Closing Date, the Vendor or its solicitor wrongly terminates this Agreement by reason of the alleged default of the Purchaser, and the Purchaser is not in default or believes he or she is not in default, the Purchaser shall not be entitled to treat the wrongful termination by the Vendor as grounds to terminate this Agreement, or to rescind this Agreement, or to enforce this Agreement, or to deny liability in a proceeding unless and until: (i) the Purchaser offers to complete this Agreement by a written notice with an offer to the Vendor's solicitor to complete this Agreement delivered within 5 business days of the date of receipt of the Vendor's notice of termination, and (ii) the Vendor's solicitor communicates the Vendor's rejection of the Purchaser's offer to complete the Agreement or does not communicate the Vendor's acceptance of such offer to complete the Agreement within 5 business days of receipt of the Purchaser's offer to complete the Agreement. If the Vendor's solicitor communicates the Vendor's acceptance of such offer to complete within such time, closing shall occur on the Closing Date or such other date as appointed by the Vendor's solicitor in the acceptance letter. If a new closing date is appointed that is after the original Closing Date, the Purchaser shall be entitled to delay damages pursuant to the Addendum, but to no other damages or claims. The acceptance of the Purchaser's offer by the Vendor constitutes a waiver of all prior breaches of this Agreement by the Vendor or the Purchaser, a revocation of any termination of this Agreement, and a re-installment of this Agreement. Except for delay damages pursuant to the Addendum this paragraph can be pleaded against the Purchaser as a complete waiver or estoppel in any other proceeding between the Vendor and the Purchaser.

**Power of Attorney**

35. (a) The Purchaser hereby irrevocably constitutes and appoints the Vendor to be and act as his lawful attorney, in the Purchaser's name, place and stead in order to execute the application form for the HST new housing Rebate, or any other rebate forms, documents, forms, approvals or like items as otherwise provided in this Agreement and all documents necessary to fully release all interest of the Purchaser in the Dwelling and the Land and to do such other things as are provided for in this Agreement, all in accordance with the provisions of the Powers of Attorney Act (Ontario), as amended, or replaced from time to time and any regulations made thereunder. The Purchaser hereby confirms and agrees that this power of attorney may be exercised by the Vendor during any subsequent legal incapacity of the Purchaser and that such appointment and power of attorney, being coupled with an interest, shall be irrevocable and shall not be revoked by any action of the Purchaser.

(b) If any documents required to be executed and delivered by the Purchaser to the Vendor are, in fact, executed by a third party other than the Vendor appointed as the attorney for the Purchaser, then the power of attorney appointing such person must be in a form acceptable to the Vendor and the Vendor's Solicitors, in their sole, subjective and absolute discretion, registered in the Land Registry Office, and a duplicate registered copy thereof, together with a statutory declaration sworn by the attorney for the Purchaser confirming that said power of attorney is in full force and effect, unamended, and has not been revoked, shall be delivered to the Vendor along with such documents. The Purchaser's Solicitor shall also certify to the Vendor and the Vendor's Solicitors, in a form to be provided by the Vendor's Solicitors, that he has verified by appropriate procedures, the identity of the attorney and that the power of attorney has not been revoked. The Purchaser and/or his attorney shall also execute such other documents and cause the Purchaser's Solicitor and/or such attorney's solicitor to execute such other documents as the Vendor or the Vendor's Solicitors may in their sole, subjective and absolute discretion require and the Vendor shall be entitled to refuse to deal with any such attorney in the event that the Purchaser, his attorney or their respective solicitors do not provide such documents. In addition, any additional requirements of TERS, the Law Society of Upper Canada or of any Approving Authority, in respect of powers of attorney, shall be complied with by the Purchaser, the Purchaser's Solicitor, the attorney and the attorney's solicitors.

(c) Where a third party has been appointed as the attorney for the Purchaser for the purposes of executing any documents contemplated by this Agreement, the Purchaser must provide an address or contact number of such attorney to the Vendor. Thereafter, any notices required or desired to be delivered to the Purchaser in accordance with Section 35 hereof may be given to such attorney, in lieu of the Purchaser and shall be deemed to have been received by the Purchaser when so delivered to his attorney.

(d) If there is more than one Purchaser, then each one (hereinafter referred to as the “Donor”) hereby constitutes and appoints each other one (hereinafter referred to as the “Donee”) to be and act as the Donor’s lawful agent and attorney, in order to execute the fully executed copy of this Agreement, and/or for the purposes of receiving notices required or desired to be delivered by the Vendor in accordance with Section 35 hereof, any amendments to this Agreement and/or any other documents or forms relating to extras, colour and material selections or changes. As a result, any such selections or agreements for extras made by any one Purchaser shall be binding on all other Purchasers as if they had made such selections or entered into such agreements themselves. In accordance with the provisions of the Powers of Attorney Act (Ontario) as amended from time to time or replaced, the Donor hereby confirms and agrees that the power of attorney may be exercised by the Donee during any subsequent legal incapacity of the Donor, and shall only be revoked upon the death of the Donor or upon the Donor delivering written notice of such revocation to the Vendor. The Donor hereby confirms that he has or may have multiple powers of attorney and that this power of attorney does not revoke any other power of attorney granted by the Donor in existence as of the date hereof and that the Donor may give additional powers of attorney in the future.

**Contract  
Under Seal**

36. The Purchaser acknowledges and agrees that notwithstanding any rights which the Purchaser might have at law or in equity arising of this Agreement, the Purchaser shall not assert any of such rights, nor have any claim or cause of action as a result of any matter or thing arising under or in connection with this Agreement against any person, firm, corporation or other legal entity, other than the person, firm, corporation or legal entity specifically named or defined as the Vendor herein, even though the Vendor may be found to be a nominee, agent or representative or another person, firm, corporation or other legal entity, and this acknowledgement and agreement may be pleaded as estoppel and bar against the Purchaser in any action or proceeding brought by the Purchaser to assert any of such rights, claims or causes of action. Furthermore, the Purchaser and the Vendor acknowledge and agree that this Agreement shall be deemed to be a contract under seal. Furthermore, the Purchaser and the Vendor acknowledge and agree that this Agreement shall be deemed to be a contract under seal. IN ADDITION, THE PURCHASER ACKNOWLEDGES AND AGREES THAT THE OFFER TO ENTER INTO THIS AGREEMENT CONSTITUTES AN OFFER “UNDER SEAL” AND, AS SUCH, IS IRREVOCABLE IN ACCORDANCE WITH ITS TERMS.

**Costs Set out  
in Tarion  
Addendum**

37. Notwithstanding anything contained in this Agreement it is understood and agreed by the parties hereto that in the event that construction of the Dwelling is not completed on or before the Closing Date for any reason or in the event the Vendor cannot complete the subject transaction on the Closing Date, other than as a result of the Purchaser’s default, the Vendor shall not be responsible or liable to the Purchaser in any way for any damages or costs whatsoever including without limitation loss of bargain, relocations costs, loss of income, professional fees and disbursements and any other amount paid to third parties on account of decoration, construction or fixturing costs other than those costs set out in the Tarion addendum.

**Further  
Assurances**

38. The Purchaser agrees to execute and deliver from time to time and at the request of the Vendor or the Vendor’s Solicitors such further assurances (including, without limitation, closing documents) as the Vendor or the Vendor’s Solicitors shall reasonably require in order to more effectually carry out the intent of this Agreement.