

LAND ARK CONSTRUCTION LTD.
AGREEMENT OF PURCHASE AND SALE

1. The undersigned _____ (hereinafter called the "Purchaser") having inspected the lands and plans and specifications for the dwelling hereinafter referred to, hereby offers to purchase from Land Ark Construction Ltd. (hereinafter called the "Vendor")

Lot _____ on Subdivision Plan _____ in the Village of Westport, County of Leeds, together with the dwelling described as the _____ Model to be completed thereon and identified as Addendum A (hereinafter referred to as the "Property").

At the price of \$ _____ subject the provisions of paragraph 2 herein.

Payable to the Vendor as follows:

- i. by deposit received _____, 2021 in the amount of \$ _____
- ii. by deposit herewith in the amount of \$ _____ by cash, bank draft, or certified cheque.
- iii. the balance, subject to the adjustments on the date set for the completion of the transaction by cash or certified funds paid to the Vendor's solicitor.

In the event that any cheque given to the Vendor by the Purchaser is not negotiable, the Purchaser shall furnish payment in the amount of said cheque by cash or certified cheque funds within three days of notification, failing which the Vendor shall be entitled to interest at the prime rate of its lender plus 3% or to terminate the Agreement with a full refund of any deposits to the Purchaser.

2. **HST**

- a) Harmonized Sales Tax (HST) The Purchaser acknowledges that the Purchase Price in section 1) e) of this Agreement includes the Harmonized Sales Tax ("HST") payable with respect to the Purchase Price of the Real Property, net any rebate of HST applicable to the Purchase Price.

b) In the event that, after execution of this Agreement, the Purchaser orders amendments, alterations and/or extras with respect to the Dwelling, the Purchaser acknowledges that the total price of these amendments, alterations and or extras include the federal portion of the HST at a rate of 3.2% and the provincial portion of the HST at a rate of 2%.

c) In the event that the HST, net of the new housing rebate, payable with respect to the transaction (the "HST Payable"), exceeds the net HST rates referred to in Subparagraph b) of this Paragraph (the "HST Included"), the Purchaser shall pay the Vendor, as an adjustment on closing, the amount by which the HST Payable exceeds the HST Included.

d) The Purchaser agrees to assign to the Vendor any rebate of any HST (including any transitional housing rebate as applicable) payable to the Purchaser in connection with this transaction and agrees to execute and deliver to the Vendor on or after Closing, such documents or affidavits as may be requested by the Vendor to establish the Purchaser's entitlement to any such rebate together with such form of assignment



as may be required by the Vendor. The Purchaser acknowledges that entitlement to any such rebate requires the Purchaser to occupy the Real Property as a place of residence upon substantial completion.

- e) In the event that the Purchaser, for any reason whatsoever, is not entitled to any such rebate, the Purchaser agrees to pay to the Vendor on or after closing, an amount equal to such rebate otherwise available with respect to the Real Property and such amount shall be paid forthwith upon demand by the Vendor plus interest at the prime rate of the Bank of Nova Scotia plus one percent (1%) per annum from the date of adjustment until payment plus any fees, penalties or damages imposed on the Vendor by the Canada Revenue Agency.

3. Adjustments

The Purchase price shall be adjusted as of the closing date for changes/extras, realty taxes, local improvements, water and sewer rates, other utilities or similar charges. The Purchaser agrees that this paragraph shall not merge on closing.

4. Closing Date and Completion

The date of closing of this transaction shall be as set out in the Statement of Critical Dates which forms part of the Tarion Warranty Schedule attached hereto as Addendum .

The dwelling shall be deemed to be completed when all interior work has been substantially completed notwithstanding that there may be exterior work to be completed. The Purchaser agrees to close the transaction upon substantial completion on the basis of the Vendor's undertaking to complete any outstanding details and inspections within a reasonable time having regard to weather conditions and availability of supplies and labour. Further, the Purchaser agrees that there shall be no holdback from the purchase price for any purpose whatsoever.

5. Tarion New Home Warranty

- i. The Vendor agrees that the dwelling erected on the real property will be registered under the Ontario New Home Warranty Program (ONHWP).

The Purchaser agrees to accept the Tarion Certificate of Warranty in lieu of any other warranty or guarantee expressed or implied, excepting Land Ark Construction Ltd. limited warranty referred to in the Land Ark Homeowners Manual. Notwithstanding the foregoing, or anything contained in the Warranty, the Purchaser waives any right to any claims against the Vendor for damage to any ceilings or walls due to normal shrinkage or for any damage caused by expansion, contraction, warping, twisting or nail pops or other defects similarly caused and the Purchaser agrees that this agreement may be pleaded by the Vendor as an estoppel to any such claims by the Purchaser.

- ii. The Purchaser shall inspect the Real Property after substantial completion and before possession with a representative of the Vendor at time appointed by the Vendor. The parties shall indicate on the Tarion Certificate of Completion and Possession a list of seasonal work and items of a minor nature which are provided for under this agreement but uncompleted. The Purchaser shall be conclusively deemed to have accepted the Real Property as complete in accordance with this Agreement.



- iii. The Vendor will be credited on closing with the cost of enrolling the home with the Tarion Warranty Corporation pursuant to the Ontario New Home Warranties Plan Act.

6. Title

The Purchaser shall complete this transaction provided that title to the Real Property is good and free from all encumbrances, except as herein provided, and except to building and other restrictions, and to any easements or right-of-way granted or to be granted for installation and/or maintenance of services, utilities and T. V. transmission system, if applicable and to any easement or right-of-way granted or to be granted in accordance with the requirements of any government authority. 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 thirty (30) days from the date on which conditions in this agreement are fulfilled or otherwise waived, to examine the title at his own expense and if, within that time, any valid objection of title is made in writing to the Vendor which the Vendor shall be unable or unwilling to remove and which the Purchaser will not waive, this Agreement shall, notwithstanding any intermediate act or negotiations, be null and void and the deposit money shall be returned (except for Purchaser's obligation for changes or extras), without interest, and the Vendor shall not be liable for any damages or costs whatsoever. Save as to any valid objections so made within such time, the Purchaser shall be conclusively deemed to have accepted the title of the Vendor to the Real Property.

7. Purchaser's Acknowledgements

The Purchaser Acknowledges:

(a) that the title to the Real Property may be subject to and agrees to accept, title subject to subdivision or development agreements with municipal and/or regional governments, agreements with utility companies, easements, for telephone, electric lines and gas lines, easements for use at the direction of the utilities commission or corporation, or the said Municipality, to supply such services and the right to carry such lines underground with cable or cable and conduit, together with a right from time to time for the employees of the corporation or corporations maintaining such lines to enter upon the Lands for the purposes of installing, maintaining or replacing the same. The Purchaser agrees to assume or grant easements for utilities and services as are require by the Vendor, the subdivider, if any, utilities commission and local municipal authority provided said agreements have been complied with by the Vendor;

(b) and grants to the Vendor an easement over the subject lands to allow the Vendor to complete all construction and servicing work required on it under Subdivision Agreements with the Village of Wesport and County of Leeds. Any such easement shall expire upon completion of the works and services required of the Vendor by such Agreement.

(c) that, notwithstanding closing, all obligations and covenants of the Purchaser or any provisions of this Agreement which require fulfilment by the Purchaser after the date of closing shall not merge but shall survive the closing and remain in full force and effect thereafter;



(d) that the Vendor, its predecessor in title, or the subdivider of the lands in the Plan of Subdivision in which the Real Property is located, or their servants or agents, may after closing enter upon the Real Property without notice to the Purchaser at all reasonable hours to inspect, repair, complete or rectify construction, grade and undertake modifications to the surface drainage, including installation of swales and/or catch basin in accordance with the grade control plan approved by the Municipality, and/or to fulfil any other obligations under its subdivision agreements, without liability to the Vendor, and that the Purchaser's covenant and undertaking to this effect under seal, if requested, will be provided to the Vendor on closing;

(e) that acceptance of construction, siting and grading by the Municipality shall conclusively constitute acceptance by the Purchaser;

(f) that the Purchaser shall not interfere with any drainage ditches, grades or elevations, surveyor's stakes or obstruct the natural flow of water for a period of one year from the closing date and without written permission of the Vendor. The Vendor shall have the right to enter upon the Lands without notice to the Purchaser for the purpose of rectifying any of the above, the cost of which rectification to be borne by the Purchaser forthwith on demand, and that the Purchaser's covenant and undertaking to this effect under seal, if requested, will be provided to the Vendor on closing;

(g) that the Purchaser acknowledges being advised that a licensed quarry (the "Westport Quarry") exists on nearby lands described as Part of Lot 11, Concession 7, (formerly Township of North Crosby, now Township of Rideau Lakes, United Counties of Leeds & Grenville);

(h) that, in the event the Vendor considers it necessary action for any reason, in the Vendor's sole and absolute discretion, to alter the plans and specifications, or substitute materials of equal or better value, the Purchaser hereby agrees and consents to such alteration and/or substitution and to complete this transaction provided same are in compliance with the provisions of the Ontario New Home Warranty Program;

(i) that the Purchaser shall be solely responsible for watering and general maintenance of any sod, trees, plants and shrubs from the closing date or from the date that sod is laid, or trees, plants or shrubs are planted, whichever shall be later, and the Vendor shall have no obligation in that regard. The Purchaser accepts the trees on the property as they are and the removal of any trees after closing date are the responsibility of the Purchaser;

(j) the Purchaser agrees to take all necessary action to assume immediately on closing all charges for electricity, water and other services, and the Vendor may recover from the Purchaser on closing any payment made by the Vendor in connection therewith;

(k) to accept the real property, subject to the building and other restrictions registered on title, including provisions of the subdivider's deed to the Vendor and any other covenants or conditions as may be attached hereto as an Addendum;



(l) that the dimensions of the Lands and of the house set out above, or elsewhere in this Agreement or in any addendum or appendix appended hereto or in any material provided to the Purchaser are approximate only and that in the event such dimensions are determined to be less or more than set out, the Purchaser agrees to accept same without any abatement of the Purchase Price, provided same are in compliance with the provisions of the Tarion Warranty Corporation;

(m) that prior to closing, the Purchaser will not register this Agreement or any other document on title otherwise the Vendor shall be entitled to terminate this Agreement and retain any monies paid as liquidated damages;

(n) that the title may be encumbered by mortgages in respect of which the Vendor's solicitor shall undertake to discharge provided that the Purchaser shall be entitled to a copy of the mortgagee's discharge statement and to have purchase funds in that corresponding amount directed to satisfy such mortgage on closing;

(o) that no entry shall be made onto the property prior to closing without the Vendor's permission and in any event the Purchaser releases the Vendor, its servants and agents from all liability for personal injury or property damage arising from any visit to the construction sites;

(p) that the property will remain at the risk of the Vendor until closing and in the event of damage prior to that date the Vendor may terminate the Agreement and return all monies paid by the Purchaser.

8. Changes and Extras Requested by Purchaser

No changes shall be permitted for those selections which the Purchaser is entitled to make, without the prior written consent of the Vendor (which consent may be arbitrarily withheld), and in the event any item in which the Purchaser has a selection right has been previously installed or completed, then the Purchaser shall be deemed to have accepted the installed/completed item. No changes or extras will be accepted by the Vendor after commencement of construction. Notwithstanding anything herein contained, the noninstallation of such selections by the closing date shall not entitle the Purchaser to extend the closing.

9. Fences and Structures Erected by Purchaser

The Purchaser agrees not to permit a fence, pool or other structure to be constructed on property unless written permission is obtained from the Vendor or until one year after the closing date, failing which the Vendor shall be relieved from all obligations respecting landscaping, drainage and grading.

10. Keys

The Purchaser agrees that, at the option of the Vendor, keys to the Dwelling will be handed over on closing or released at the Vendor's office or Building Site immediately after closing.

11. Survey

The Vendor shall provide the Purchaser prior to closing a copy of a building location survey prepared by a qualified surveyor.



12. Whole Agreement

The Vendor and the Purchaser agree and acknowledge that there is no representation, warranty, collateral agreement or condition affecting the Agreement or the Real Property, or supported hereby, except as set forth herein in writing.

13. Transfer/Deed

The TransferDeed shall be prepared by the Vendor's solicitor at the Purchaser's expense, (being \$250.00 plus HST) and shall be executed by the Purchaser if required by the Vendor and shall be registered forthwith on closing by the Purchaser and at the Purchaser's expense. The Purchaser agrees to advise the Vendor, or the Vendor's solicitor, at least 20 days prior to the date of closing, as to how he will take title to the Real Property and of the birth dates of any parties taking title to the Real Property.

14. Non-Assignable

This Agreement is personal to the Purchaser and may not be assigned, transferred or encumbered without the Vendor's prior written consent, which consent may be unreasonably and arbitrarily withheld. If the Purchaser should sell, transfer, assign or encumber his interest in this Agreement without the Vendor's consent, the Vendor shall at his option, be entitled to declare this Agreement null and void and upon so doing, the Vendor, in addition to any other remedies it may have, shall be entitled to retain all deposit monies paid hereunder as liquidated damages and not as a penalty.

15. Tender

The Vendor and the Purchaser waive personal tender and agree that tender of any documents or money may be made either upon a party hereto or their respective solicitor, and money may be tendered by certified cheque drawn on any Canadian Chartered Bank or Trust Company. In the event that the Purchaser or his solicitor indicates or expresses to the Vendor or its solicitor, on or before the closing date, that the Purchaser is unable or unwilling to complete the sale, the Vendor at his option, will be relieved of any obligation to make any formal tender upon the Purchaser or his solicitor. any tender hereunder, shall be made by the attendance of the parties hereto or their respective solicitors at the appropriate Land Registry Office where any transfer or deed of the property must be registered, and in the absence of an appointment to the contrary, such attendance shall occur between the hours of 2:30 p.m. and 4:30 p.m. in the afternoon of such date. In the event that the Purchaser or his solicitor is not present at such office at the time as herein before stipulated, and the Vendor or its solicitor or an authorized representative is in attendance at such time, then the Purchaser shall be deemed for all purposes to have waived tender by the Vendor, and the Purchaser shall be estopped and forever barred from claiming any defect in title to the Property or any deficiency in the construction thereof, or that the Vendor was unable or unwilling to complete this transaction in accordance with the provisions of this Agreement.

16. Electronic Registration

Should electronic registration be available at the Land Registry Office on the Closing Date, the following terms and conditions shall form part of this Agreement:



- a) The Purchaser shall retain a solicitor in good standing with the Law Society of Ontario to represent the Purchaser with respect to this Agreement;
- b) The Purchaser shall direct his solicitor to execute an agreement as reasonably required by the Vendor's Solicitor (the "Solicitors' Agreement") establishing the procedure for completion of this Agreement;
- c) The Purchaser and Vendor acknowledge that the delivery of documents and/or money may not occur contemporaneously with the registration of the Transfer/Deed of Land and may be delivered in escrow pursuant to the Solicitors' Agreement;
- d) If the Agreement cannot be completed in escrow pursuant to the Solicitors' Agreement, the Purchaser's solicitor shall attend at the offices of the Vendor's solicitor at such time as directed by the Vendor's solicitor or as mutually agreed upon to complete the Agreement;
- e) Section 15 herein is hereby amended to provide that tender shall have been validly made by the Vendor when the "Completeness Signatory" for the Transfer/Deed of Land has been electronically "signed" by the Vendor's solicitor and same shall be satisfactory evidence that the Vendor is ready, willing and able to complete the sale.

17. Default

The Purchaser agrees that in the event of default or breach of this Agreement by the Purchaser, the deposit shall be forfeited to the Vendor, irrespective of any other right, cause of action or remedy which the Vendor may be entitled to hereunder.

18. Vendor's Conditions

This Agreement is conditional upon the Vendor obtaining, at its own expense, compliance with the requirements of the Planning Act, R.S.O., as amended and all permits necessary for the construction of the dwelling specified herein.

This Agreement is conditional upon the approval of the floor plan and front elevation for the dwelling by the developer or Village of Westport and County of Leeds, where applicable.

19. Non-Residency

The Vendor represents that this is not a non-resident Company as defined under the provision of the Income Tax Act, Canada.

20. Notices

Any notice required to be delivered pursuant to this Agreement to the Purchaser may either be given personally or delivered by prepaid ordinary mail addressed to the Purchaser's solicitor, or the Purchaser at the address set forth herein or as his last know address. Any notice required to be delivered by prepaid ordinary mail to the Vendor's solicitor, or to the Vendor directly, or the Vendor at the following address: P.O. Box 324, Stittsville, Ontario, K2S 1A4.



21. Time of the Essence

Time is in all respects of the essence in this Agreement provided that if the date of closing falls on a Saturday, Sunday or Statutory or Civic holiday the closing will take place on the first day thereafter possible.

21. Addendum

Addendum A (Proposed Residence), B (Subdivision Plan and Lot Location), C (Land Ark Standard Specifications), D (Tarion Warranty Corporation), E (Subdivision Covenants), F (Extras) attached hereto form part of this Agreement.

IF ACCEPTED, THIS OFFER SHALL CONSTITUTE A BINDING AGREEMENT OF PURCHASE AND SALE.

SIGNED, SEALED AND DELIVERED this _____ day of _____, _____2021 .

In the presence of

_____ Witness _____ Purchaser

_____ Witness _____ Purchaser

The Seller hereby accepts the offer.

Dated at _____, this _____ day of _____, _2021.

Land Ark Construction Ltd.

Per:

Solicitor for the Vendor

Bennett McIntyre Mysicka LLP
11B Beckwith Street
Carleton Place ON K7C 0R1

Solicitor for the Purchaser





Addendum A: Proposed Residence

Included by way of attachment;



Addendum B: Subdivision Plan and Lot Location

Included by way of attachment;



Addendum C: Land Ark Standard Specifications

Included by way of attachment;



Addendum D: Tarion Warranty Corporation

Inclusion by way of attachment;



Addendum E: Subdivision Covenants

Intentionally left blank. No covenants contemplated at this time.



Addendum F: Extras

Intentionally left blank.

