



GUARANTEE TERMS

This guarantee is a contract of surety under which *Garantie Habitation ACQ inc.* (hereinafter, "**GHA**") promises to a purchaser, for a fee paid by the **Vendor**, to perform the some obligations of this one if the latter fails to meet it within the strict limits of this document, hereinafter referred to as the "**Guarantee Terms**".

Civic address of building: _____

Lot No. (cadastre of Quebec): _____

Vendor's names: _____

Purchaser's names: _____

Broker's name: _____

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GUARANTEE TERMS

This Guarantee is a contract of suretyship through which *Garantie Habitation ACQ inc.* (hereinafter "**GHA**") binds itself towards a **Purchaser**, for remuneration paid by the **Vendor**, to perform some of the **Vendor's** obligations if the **Vendor** fails to fulfil them, within the strict limits of this document, hereinafter referred to as the "**Guarantee Terms**".

1 DEFINITIONS

In these *Guarantee Terms*, the following words and expressions mean:

- 1.1 "**Purchaser**": a person designated as such in the guarantee contract or any person who becomes the owner of the *Guaranteed Building* during the guarantee validity period, subject to clause 6 hereof regarding the transfer of the guarantee.

This definition excludes any person related to the **Vendor** (within the meaning of s. 251 of the *Income Tax Act*) or any hypothecary lender.

- 1.2 "**Building**" or "*Guaranteed Building*": the **Building** included exclusively for residential use, the address of which is indicated above;

In the case of a **Building** held in divided co-ownership, the Guarantee only covers the private portion of the **Building** offered for sale.

- 1.3 "**Apparent Defect**": a defect that can be perceived by a prudent and diligent buyer.
- 1.4 "*Garantie Habitation ACQ inc.* or **GHA**": a legal person acting pursuant to the obligations described in these *Guarantee Terms*, having its head office at 9200 boul. Métropolitain Est, Montreal, Quebec, H1K 4L2.
- 1.5 "**Private Portion**": the portion of the **Building** owned by a co-owner determined in the declaration of co-ownership for residential use excluding the common portions and the common portions for restricted or exclusive use.

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- 1.6 "**Taking of Possession**": Time when the **Purchaser** indicated above takes possession, which shall occur on the earlier of these two (2) events:

- ☐ The date ownership of the *Guaranteed Building* is transferred to the **Purchaser** in accordance with the deed prepared by the acting notary;
- ☐ The occupancy date of the *Guaranteed Building* by the **Purchaser**.

- 1.7 "**Transfer of Ownership**": contract pursuant to which a person, the **Vendor**, transfers ownership of the *Guaranteed Building* to another person, the **Purchaser**, for a sum of money which the **Purchaser** pays in full at the time of the transfer.

- 1.8 "**Vendor**": a natural or legal person whose **Building** is the subject of a promise to purchase and is registered by **GHA** as evidenced by the Registration Certificate issued by **GHA** for the *Guaranteed Building* identified above.

- 1.9 "**Latent Defect**": a serious defect which is unknown to the **Purchaser** and cannot be perceived by a prudent and diligent buyer without the need to resort to an expert and which renders the **Building** unfit for the use for which it was intended or which so diminishes its usefulness that the **Purchaser** would not have bought it or paid so high a price if he had been aware of it, within the meaning of article 1726 of the Civil Code of Québec, unless indicated otherwise herein;

This definition excludes any non-compliance with any standard, building code, law, regulation or trade practice which does not render the property unfit for the use for which it was intended or significantly diminish its usefulness.

- 1.10 "**Major Defect**": a defect not known to the **Purchaser** which cannot be perceived by a prudent and diligent buyer without the need to resort to an expert and which seriously affects the structure of the **Building** and which leads to the partial or total loss thereof, unless indicated otherwise herein.

2 GUARANTEE AGAINST LATENT DEFECTS

- 2.1 If the **Vendor** does not fulfil its obligations toward the **Purchaser**, **GHA** shall repair any latent defect affecting a *Guaranteed Building* when it has been reported to the **Vendor** and **GHA** by certified or registered mail as soon as it becomes apparent, i.e. not later than ninety (90) days following its discovery but in any event within not more than twelve (12) months of the date that the **Purchaser** takes possession of the *Guaranteed Building*;

Should the latent defect not be reported in writing within the above-mentioned delays, **GHA** shall not be liable and shall not repair any defect which is reported late.

- 2.2 For the purposes of section 2.1 hereof, in any event, the Latent Defect must affect the components of the *Guaranteed Building* as such.

3 GUARANTEE AGAINST MAJOR DEFECTS

- 3.1 If the **Vendor** does not fulfil its obligations toward the **Purchaser**, **GHA** shall repair any Major Defect affecting a *Guaranteed Building* when it has been reported to the **Vendor** and **GHA** by certified or registered mail as soon as it becomes apparent (or in the case of gradual defects or losses, after their first significant manifestation), i.e. not later than ninety (90) days following its discovery but in any event within not more than three (3) years of the date that the **Purchaser** takes possession of the *Guaranteed Building*;

Should the Major Defect not be reported in writing within the above-mentioned delays, **GHA** shall not be liable and shall not repair any defect which is reported late.

- 3.2 For the purposes of section 3.1 hereof, in any event, the Major Defect must affect the components of the *Guaranteed Building* as such.

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4 SCOPE OF GUARANTEE

- 4.1 The total of all claims relating to a *Guaranteed Building* of any nature, the Guarantee is given up to the price paid by the **Purchaser** indicated in the deed of sale, and may under no circumstances exceed the sum of forty thousand dollars (\$40,000).
- 4.2 For the purpose of the application of the guarantees set forth in clauses 2 and 3 hereof, **GHA** reserves the right, but shall not be required, to assess the cost of the work required to correct the defects and pay the amount thereof to the **Purchaser** in full and final payment of the claim, upon which the **Purchaser** shall be required to carry out and be responsible for the corrective work, to the complete exoneration of **GHA**.

5 TAKING EFFECT INTO FORCE REQUIREMENTS AND COVERAGE

- 5.1 The Guarantee shall take effect upon the Taking of Possession by the **Purchaser** of the *Guaranteed Building*.
- 5.2 If the **Vendor** does not pay the cost of issuing the Guarantee Certificate by the time the notarized transaction for the *Building* takes place, no Guarantee shall be offered by **GHA**; the **Purchaser** must therefore make inquiries of **GHA** or the notary to ensure that the Guarantee Certificate has been paid for.
- 5.3 The *Guaranteed Building* shall irrevocably lose the benefit of the Guarantee if the taking of possession occurs more than 12 months after **GHA** issues the Registration Certificate; the **Purchaser** shall therefore check with **GHA** before signing this document to confirm whether the Guarantee is being offered.

6 TRANSFER OF GUARANTEE

- 6.1 The sale of the *Building* by the **Purchaser** to a subsequent **Purchaser** before the expiry of the terms of the Guarantee, i.e. one year for Latent Defects and 3 years for Major Defects, shall not lead to the end of the said coverage, which shall continue to apply for the benefit of the subsequent **Purchaser** until the expiry of expiry of the initial guarantee periods,

provided the transaction between the *Purchaser* and the subsequent *Purchaser* is carried out through a RE/MAX listing broker.

- 6.2 The *Purchaser* may cause a subsequent *Purchaser* to benefit from new Guarantee periods beginning on the day the *Building* is transferred pursuant to a resale, provided the applicable fee is paid and all the eligibility requirements are met again, including a qualification visit of the *Building* and the transaction is carried out by a RE/MAX listing broker.
- 6.3 In the case of a resale, if it is carried out without the legal warranty, in whole or in part, this Guarantee shall automatically become null and void.

7 EXCLUSIONS

THE GUARANTEE EXCLUDES:

- 7.1 Deficiencies, poor workmanship, defects and other flaws not specifically contemplated by the definitions of latent defect or major defect.
- 7.2 In the case of a building held in co-ownership, the correction of deficiencies, poor workmanship, latent defects and major defects and other flaws relating to the common portions, even those for exclusive use.
- 7.3 Troubles and inconveniences, the cost of experts' reports, representational costs, relocation fees, moving, storage fees, damages suffered by the *Purchaser* or third parties resulting from the liability of the *Vendor*, including, without limitation, bodily injury, damage to property, loss of value or loss of profit regarding the person or property of another which occurs from a defect in the *Building* covered by the Guarantee.
- 7.4 Defects, deficiencies, damages and other flaws caused by or stemming from the soil of the *Building*, a contaminant, microorganism, bacteria or other, such as: load-bearing capacity, movement, drying, ferrous ochre, pyrite, pyrrhotite, etc.
- 7.5 Damage caused by earthquakes, disasters and other natural phenomena and any event of force majeure.
- 7.6 The portions of *Buildings*, components or work which have been added or built after the qualification visit by *GHA* for the issuance of the Registration Certificate for the *Building* under this guarantee.
- 7.7 Elements or accessories which do not form an integral part of the *Guaranteed Building* as such, including land, parking areas or storage rooms located outside the *Building* and any works located outside the *Building* such as swimming pools, detached garages, shelters, earthwork, sidewalks, driveways or surface water drainage systems, the artesian well, connections with municipal or government services, the quantity and quality of the water supply, the septic tank and its absorption field and the subsoil drain as well as recreational, training and sports equipment as well as those located inside the *Building*.
- 7.8 Repairs made necessary by normal behaviour of materials, such as cracks or shrinkage or deterioration brought about by normal wear and tear of the *Building*, repairs made necessary by the fault or negligence of the *Purchaser*, such as inadequate maintenance or misuse of the *Building*, including damage caused by humidity, condensation or cold as a result of the inadequate ventilation of the *Building*, as well as repairs made necessary by alterations, deletions or additions made by the *Purchaser* or use of the *Building* for other than residential purposes.
- 7.9 Repairs to damage resulting from the *Vendor's* extra-contractual civil liability or promises concerning costs for use or energy consumption of appliances, systems or equipment of the *Building*.
- 7.10 The obligation of a public utility to supply the *Building* with natural gas or electricity.
- 7.11 Claims from the persons who contributed to the construction or renovation of the *Building*.
- 7.12 Repairs made necessary due to the presence of insects or pests (carpenter ants, rodents, etc.).

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- 7.13 Direct or indirect damages due to or caused by latent or major defects.
- 7.14 The contamination or presence of asbestos or urea formaldehyde foam insulation (UFFI).
- 7.15 Any damage or defect covered by insurance, whether or not a claim has been accepted by the insurer of the *Vendor* or *Purchaser*.

8 EXCLUDED BUILDINGS AND LIMITATION OF GUARANTEE

- 8.1. Any *Building* which, when the deed of sale was signed by the *Vendor* and the *Purchaser*, was under the guarantee (even in part) pursuant to the *Regulation respecting the guarantee plan for new residential buildings* (B-1.1, r. 8).
- 8.2 Any *Building* which is uninhabited and not properly maintained for more than 90 days.
- 8.3 Any change made by the *Purchaser* to the structure of the *Guaranteed Building*.
- 8.4 A repossession, judicial sale, voluntary surrender or bankruptcy of any of the *Purchasers* or any building sold without a legal warranty, in whole or in part.
- 8.5 If, for any reason whatsoever, the *Vendor* or a person related to it becomes the owner of the *Guaranteed Building* or becomes the owner of it again.
- 8.6 A *Building* used to grow cannabis or for the production of any illegal or regulated substance, unless the situation has been corrected to the complete satisfaction of *GHA* and air quality tests have been conducted, also to the complete satisfaction of *GHA* before the *Building* is registered.
- 8.7 The *Vendor*, as well as its representatives and mandataries, are not *GHA's* mandatory for the purposes of this Guarantee and may not under any circumstances act or claim to be acting on behalf of *GHA*. No promise, statement or undertaking by the *Vendor* and its representatives or mandataries shall bind *GHA* in any manner whatsoever.

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9 PURCHASER'S OBLIGATIONS

- 9.1 This Guarantee shall become null and void in the event the *Purchaser* fails to fulfil or does not comply with any of the obligations hereunder and, without limiting the generality of the foregoing, if it fails to fulfil or does not comply with the following:
- 9.2 If the *Purchaser* has a dispute with the *Vendor* regarding the application of the *Vendor's* undertakings under the Guarantee, it shall, before undertaking any other legal proceeding available to it, apply for conciliation in accordance with the conciliation procedure described in section 11 hereof.
- 9.3 The said procedure shall be mandatory and shall end with the refusal to act in accordance with the decision referred to in section 11.5 hereof, firstly by the *Vendor* and secondly by *GHA*.
- 9.4 The *Purchaser* agrees to provide *GHA*, upon simple request, with all presale inspection reports, expert's reports and technical or other opinions relating to the *Guaranteed Building* and the *Purchaser* authorizes *GHA* to contact such professionals directly to obtain any information *GHA* may consider necessary.
- 9.5 The *Purchaser* further agrees to provide *GHA*, upon simple request, with the precontractual documents signed with the *Vendor*, including: promise to purchase, counter-offer, amendments, list of conditions and other documents or correspondence.
- 9.6 In the event of resale during the term of the guarantee, all the obligations described herein shall also bind any subsequent *Purchaser*, and in particular any prior action, omission, default or agreement entered into between the previous owner (or *GHA*) and the *Purchaser* shall bind any subsequent *Purchaser*.
- 9.7 If the *Purchaser* institutes legal proceedings against the *Vendor* or *GHA* before the conciliation procedure provided by section 11 hereof has been taken and completed, this Guarantee shall become null and void since it is of the essence of this Guarantee that the said binding conciliation procedure may be instituted and carried out.

9.8 If the *Purchaser* wishes to institute legal proceedings against *GHA* under these *Guarantee Terms* after receiving the conciliation decision, it shall, in the same proceedings, institute such proceedings against the *Vendor*.

10 CLAIM FEE

10.1 A \$500 fee shall be payable by the *Purchaser* for any claim submitted to *GHA* hereunder. Such sum shall be payable before the execution of the corrective work acknowledged by *GHA* following a claim by the *Purchaser*.

11 CONCILIATION PROCEDURE

11.1 If a dispute remains between the parties notwithstanding the notices sent to the *Vendor* by the *Purchaser* regarding any matter involving the application of this Guarantee, such dispute shall be submitted to *GHA* for conciliation. The said conciliation procedure is acknowledged by the *Vendor* and the *Purchaser* as being an essential condition to the acceptance by *GHA* of any liability incumbent upon it hereunder. The failure to carry out the said procedure shall lead to the loss of the benefit of this Guarantee.

11.2 Conciliation may only be requested by the *Purchaser*.

11.3 The *Purchaser* shall submit to *GHA* a written request for conciliation along with the deposit in the amount of \$200.

11.4 Upon receipt of the conciliation request and the deposit, *GHA* shall appoint a conciliator, who shall be a member of the *Ordre des technologues professionnels du Québec* and shall be in charge of hearing the representations of each party and conducting any investigation or inspection he considers necessary. He shall be given complete access to the *Building* for such purpose.

11.5 Within a reasonable time following the conciliation session, the conciliator shall render his decision in writing and send it to each party by e-mail only.

11.6 If the decision rendered by the conciliator is in favour of the *Purchaser*, in whole or in part, the total amount of the deposit shall be returned to it unless one of the parties seeks a remedy pursuant to any other legal proceeding.

11.7 If the decision rendered by the conciliator is completely against the *Purchaser*, the total amount of the conciliation deposit shall be kept by *GHA*.

12 RECOURSE AGAINST GARANTIE HABITATION ACQ INC.

12.1 No legal action may be taken hereunder against *GHA* unless the conditions set forth herein have been met and it is instituted within not more than six (6) months following the date of the conciliator's decision.

12.2 The *Purchaser*, the *Vendor* and *GHA* elect domicile in the judicial district of Montreal and any legal proceeding taken against *GHA* shall be instituted in the district of Montreal.

12.3 No complaint or other recourse may be made or taken against *GHA* if *GHA* has not been paid for the issuance of the Guarantee Certificate.

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13 SIGNATURES

WE ACKNOWLEDGE THAT WE HAVE READ, UNDERSTOOD AND RECEIVED A COPY OF THIS GUARANTEE CONTRACT AND THAT WE HAVE CHECKED THAT THE *GUARANTEED BUILDING* IS REGISTERED WITH **GHA**.
IN WITNESS WHEREOF, WE HAVE SIGNED IN TRIPLICATE:

IN _____, THIS _____ DAY OF _____ 20_____.

Names (in block letters)¹:

Purchaser's 1 name

Purchaser's 2 name

Tel. No.

Tel. No.

E-mail address

E-mail address

Addresses:

(Purchaser 1)

(Purchaser 2)

Signatures:

(Purchaser 1)

(Purchaser 2)

¹ If there are more than two purchasers, please refer to the appendix at page 8.

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APPENDIX TO THE GUARANTEE TERMS

Purchaser's 3 name

Purchaser's 4 name

Tel. No.

Tel. No.

E-mail address

E-mail address

Purchaser's 5 name

Purchaser's 6 name

Tel. No.

Tel. No.

E-mail address

E-mail address

SIGNATURES

WE ACKNOWLEDGE THAT WE HAVE READ, UNDERSTOOD AND RECEIVED A COPY OF THIS GUARANTEE CONTRACT AND THAT WE HAVE CHECKED THAT THE *GUARANTEED BUILDING* IS REGISTERED WITH **GHA**. IN WITNESS WHEREOF, WE HAVE SIGNED IN TRIPLICATE:

IN _____, THIS _____ DAY OF _____ 20_____.

Signatures:

(Purchaser 3)

(Purchaser 4)

(Purchaser 5)

(Purchaser 6)

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