

**ADMINISTRATIVE AGREEMENT  
BETWEEN:**

**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO  
AS REPRESENTED BY THE  
MINISTER OF GOVERNMENT AND CONSUMER SERVICES**

**-AND-**

**TARION WARRANTY CORPORATION**

## TABLE OF CONTENTS

Recitals .....	4
1. Definitions and Interpretation .....	5
2. Purpose of the Agreement .....	6
3. Designation and Administration of the Act.....	7
4. Accountability Relationships .....	7
5. Roles and Responsibilities of the Parties .....	7
5.1 The Minister .....	7
5.2 The Corporation.....	8
6. Membership .....	10
7. Board and Statutory Appointments .....	11
7.1 Board Composition and Appointment of Board Members .....	11
7.2 Information Required from the Board.....	12
7.3 Minister's Appointment of Chair .....	12
7.4 Statutory Appointments.....	13
8. Ombudsperson.....	13
9. Corporate Reporting .....	15
10. Education and Public Outreach .....	16
11. Regulatory Governance.....	17
12. Financial Arrangements .....	17
13. Records, Privacy and Access .....	18
14. Litigation .....	19
15. Indemnification.....	20
16. Insurance .....	20
17. Non-Statutory Business .....	21
18. Code of Conduct for Compliance Personnel .....	22
19. Wind-Up or Other Termination of the Corporation's Administration .....	22
20. Dispute Resolution .....	24
21. Communications and Information Sharing.....	24
22. Reviews.....	24
23. Severability of Provisions .....	25
24. Assignment.....	25

<b>25. Waiver .....</b>	<b>25</b>
<b>26. Independent Parties.....</b>	<b>25</b>
<b>27. Jurisdiction.....</b>	<b>25</b>
<b>28. Conflict.....</b>	<b>26</b>
<b>29. Amendment and Review of Agreement.....</b>	<b>26</b>
<b>30. Public Document.....</b>	<b>26</b>
<b>31. Entire Agreement .....</b>	<b>26</b>
<b>32. Effective Date .....</b>	<b>27</b>
<b>SCHEDULE “A” – REGULATION.....</b>	<b>28</b>
<b>SCHEDULE “B” – INFORMATION SHARING PROTOCOL .....</b>	<b>29</b>
<b>SCHEDULE “C” – COMPETENCY CRITERIA FOR MEMBERS OF THE BOARD OF DIRECTORS.....</b>	<b>34</b>
<b>SCHEDULE “D” – CORPORATE PLANNING AND REPORTING.....</b>	<b>38</b>
<b>SCHEDULE “E” – CODE OF CONDUCT FOR DIRECTORS.....</b>	<b>45</b>
<b>SCHEDULE “F” – PAYMENTS.....</b>	<b>58</b>
<b>SCHEDULE “G” – ACCESS TO INFORMATION AND PRIVACY CODE .....</b>	<b>60</b>
<b>SCHEDULE “H” – NON-STATUTORY BUSINESS POLICY.....</b>	<b>75</b>
<b>SCHEDULE “I” – PROTOCOL FOR BY-LAWS UNDER SECTION 23 OF THE ONTARIO NEW HOME WARRANTIES PLAN ACT.....</b>	<b>77</b>
<b>SCHEDULE “J” – TRANSITION .....</b>	<b>81</b>

## **Recitals**

WHEREAS the Minister and the Corporation are required to enter into an administrative agreement pursuant to the Act;

AND WHEREAS the Minister is accountable to the people of Ontario as a member of the Legislative Assembly and to the Legislative Assembly as a Minister of the Crown in right of Ontario;

AND WHEREAS the Corporation is accountable to the Minister and the government for its administration of the Act;

AND WHEREAS the Corporation provides valuable information to the government regarding the operational effectiveness of the Act and that both parties acting in the public interest are dependent on a collaborative relationship;

AND WHEREAS the Minister and the Corporation recognize the benefit of maintaining a strong collaborative relationship and the importance of resolving any disagreements as amicably and expeditiously as possible;

AND WHEREAS the Corporation is not a Crown agent, is self-funded and is not self-regulating;

AND WHEREAS the Minister is responsible for recommending legislative and regulatory changes to the Lieutenant Governor in Council;

AND WHEREAS the Minister and the Corporation intend to exercise their powers and duties under the Act in such a manner as to protect the public interest and consumers in particular and carry out and perform this Agreement in a manner consistent with the objective of maintaining a fair, safe and informed marketplace that supports a competitive economy;

NOW THEREFORE in consideration of the promises and the mutual covenants contained in this Agreement and subject to the terms and conditions hereof, the parties hereby enter into this administrative agreement.

## 1. Definitions and Interpretation

- 1) In this Agreement, the following terms have the following meanings:
  - a) “**Act**” means the Ontario New Home Warranties Plan Act, R.S.O. 1990, chapter O.31 and the regulations under that Act;
  - b) “**Agreement**” means this administrative agreement, all attached schedules and any agreement or schedule in writing supplementing or amending this administrative agreement or any of its schedules;
  - c) “**Board**” means the Board of Directors of the Corporation;
  - d) “**Chair**” means the Chair of the Board of Directors of the Corporation;
  - e) “**Claim**” means a claim as defined in section 1 of the Act;
  - f) “**Corporate By-Laws**” means the corporate by-laws as defined in section 1 of the Act;
  - g) “**Corporation**” means the Tarion Warranty Corporation as designated under the Act;
  - h) “**Crown**” means Her Majesty the Queen in Right of the Province of Ontario;
  - i) “**Deputy Minister**” means the Deputy Minister of the Ministry of Government and Consumer Services;
  - j) “**Guarantee Fund**” means the guarantee fund as defined in section 1 of the Act;
  - k) “**HCRA**” means the Home Construction Regulatory Authority;
  - l) “**Minister**” means the Minister responsible for the administration of the Act by Order in Council of the Lieutenant Governor acting for and on behalf of the Crown;

- m) **“Ministry”** means the ministry of the Minister;
  - n) **“Ombudsperson”** means the ombudsperson referred to in section 5.7 of the Act; and
  - o) **“Statutory Mandate”** means the Corporation’s exercise of its authority pursuant to the Act, excluding non-statutory business ventures.
- 2) In this Agreement, for purposes of interpretation:
- a) Words denoting the singular include the plural and vice versa and words denoting any gender include all genders;
  - b) The word “including” or “includes” shall mean “including (or includes) without limitation”;
  - c) Any reference to a statute shall mean the statute in force as at the date hereof, together with all regulations promulgated thereunder, as the same may be amended, re-enacted, consolidated and/or replaced, from time to time, and any successor statute thereto, unless otherwise expressly provided;
  - d) The division of this Agreement into separate sections and subsections, and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement; and
  - e) This Agreement should be read together with the Act. This Agreement does not affect, modify or limit the powers of the Act or the Corporation as set out in the Act, or interfere with responsibilities of any of its parties as established by law.

## 2. Purpose of the Agreement

- 1) This Agreement between the Minister and the Corporation:
  - a) Clarifies the roles, duties and responsibilities of the Minister and the Corporation in relation to the administration of the Act and the administrative matters as set out under the Act; and
  - b) Clarifies the administrative, financial, auditing, accountability, legislative and regulatory development, and working and reporting relationships between the parties.

### **3. Designation and Administration of the Act**

- 1) The parties acknowledge that responsibility for the administration of the Act will be carried out by the Corporation. For greater clarity, a copy of the regulation designating the Corporation is attached as Schedule “A” to this Agreement.
- 2) The Corporation is responsible for the administration of the Act.
- 3) The Statutory Mandate of the Corporation is established by the Act.

### **4. Accountability Relationships**

- 1) The Minister is accountable to the Legislative Assembly for the fulfilment of the Statutory Mandate by the Corporation and for reporting to the Legislative Assembly on the affairs of the Corporation.
- 2) The Board is accountable to the Minister through the Chair, for the performance of the Corporation.

### **5. Roles and Responsibilities of the Parties**

#### **5.1 The Minister**

- 1) The Minister is responsible for the Corporation’s fulfilment of its Statutory Mandate. The Act requires the Minister to report publicly on the Corporation’s activities. For this purpose, the Minister requires timely access to information from the Corporation as set out in the Information Sharing Protocol, attached as Schedule “B”.
- 2) The Minister is responsible for bringing forward proposed changes to the Act to the Lieutenant Governor in Council and the Legislative Assembly.
- 3) The Minister may engage the Corporation:
  - a) throughout the policy development process,
  - b) in coordinating public and stakeholder communications regarding any proposed legislative, regulatory or policy changes, and
  - c) in the development of communication strategies for critical or on-going issues.
- 4) The Minister may provide the Corporation with an annual letter outlining the government’s expectations and priorities for the Corporation during the specified

fiscal year. The letter would provide measurable expectations from the Minister that align with the Corporation's mandate as well as government priorities and commitments.

- 5) The Minister may, where the Minister deems appropriate, make or assign to the Corporation such additional authority, appointments or consents as are within the Minister's authority, if the Corporation requires such additional authority, appointments, or consents to carry out the administration of the Act.
- 6) The Minister may, where the Minister deems appropriate, assist the Corporation in obtaining any additional authorities, appointments or consents which cannot be granted by the Minister.
- 7) The Minister may, where the Minister deems appropriate, assist the Corporation in working with other ministries to facilitate agreements and relationships with the Corporation.
- 8) The Minister shall not interfere with the independent exercise of the statutory functions fulfilled by the Corporation's registrar or deputy registrars, inspectors, investigators and other officers exercising statutory and regulatory duties.
- 9) The Minister shall make reasonable efforts to meet with the Chair from time to time.

## **5.2 The Corporation**

- 1) The Corporation shall, in accordance with section 2.0.3 of the Act, carry out its powers in accordance with the Act, this Agreement, the information sharing agreements and other applicable law.
- 2) The Corporation, through the Chair, shall ensure that the Board is aware of the terms of this Agreement.
- 3) The Corporation shall comply with the principles of maintaining a fair, safe and informed marketplace and promoting the protection of the public interest, and consumers in particular.
- 4) The Corporation is responsible for ensuring that it has adequate resources, including financial resources, to comply with this Agreement, the Act and other applicable law, and for acting in accordance with the business plan that it has provided to the Minister under clause 9(1)(a) of this Agreement.
- 5) The Corporation is responsible for developing and maintaining Corporate By-Laws and shall make such Corporate By-Laws available to the public, including



by posting on the Corporation's website, within thirty days after the Corporate By-Laws are made by the Board.

- 6) The Corporation is responsible for developing and maintaining an up-to-date written policies and procedures manual for each functional area of its business.
- 7) If the Minister appoints the Chair pursuant to section 2.5 of the Act, the Corporation is responsible for developing, maintaining and making publicly available, including by posting on the Corporation's website, up-to-date written procurement policies and procedures that comply with the Ontario Public Service Procurement Directive. If the Minister does not appoint the Chair, the Corporation is responsible for developing, maintaining and making publicly available, including by posting on the Corporation's website, up-to-date written procurement policies and procedures which must be in keeping with the spirit of the most recent Ontario Public Service Procurement Directive to ensure that goods and services, including consulting services and information technology are acquired through a process that is fair, open and transparent.
- 8) The Corporation is responsible for developing, maintaining and making publicly available, including by posting on the Corporation's website, up to date written travel, meal and hospitality expenses policies and procedures in keeping with the spirit of the most recent Ontario Public Service Travel, Meal and Hospitality Expenses Directive in order to set out principles for the reimbursement of expenses to ensure fair and reasonable practices, and to provide a framework of accountability to guide the effective oversight of resources in the reimbursement of expenses.
- 9) The Corporation is responsible for developing and maintaining appropriate performance measurement, governance and financial management processes with sound internal controls to conduct the Corporation's operations effectively and efficiently.
- 10) The Corporation is responsible for developing, maintaining and making publicly available, including by posting on the Corporation's website, up-to-date written policies and procedures for responding to and assisting in the resolution of complaints and Claims received by the Corporation.
- 11) The Corporation is responsible for providing the Minister with timely information in relation to any matter requested by the Minister in accordance with the Act and shall also provide the information identified in the Information Sharing Protocol attached as Schedule "B".
- 12) When able and appropriate, the Corporation shall coordinate its enforcement

activities in relation to the investigation of serious incidents with the enforcement activities of other provincial and federal enforcement authorities.

- 13) When engaged by the Minister, in accordance with subsection 5.1(3) of this Agreement, the Corporation shall participate in:
  - a) the policy development process, including matters related to the transition of the administration of warranties and protections to a new statute;
  - b) coordinating public and stakeholder communications regarding any proposed legislative, regulatory or policy changes; and
  - c) the development of communication strategies for critical or on-going issues.
- 14) The Corporation, through the Chair, shall meet with the Minister as required in order to discuss, consult and share information with respect to the business operations of the Corporation. In addition, the President (CEO) of the Corporation shall be available from time to time to meet with the Deputy Minister.
- 15) The Corporation and the Ministry will hold at least one liaison meeting every quarter.
- 16) The Corporation may make by-laws that are deemed to be regulations under section 23 of the Act. The Corporation shall follow the protocol set out in Schedule "I" when developing by-laws under section 23 of the Act.
- 17) The Corporation shall hold an annual public meeting where the Chair or any vice-chair shall present its annual report and audited financial statements, and report on the affairs of the Corporation for the immediately preceding year. The annual public meeting shall be open to the general public to attend and participate through electronic means and, to the extent reasonably possible, in person, and the Corporation shall make reasonable efforts to inform the general public of such meeting. The annual public meeting shall take place not less than two weeks after the annual report is published.

## **6. Membership**

The Corporation shall provide the Minister with a copy of any Corporate By-Laws, as amended from time to time, respecting both the qualifications and the terms and conditions of membership in the Corporation.

## **7. Board and Statutory Appointments**

### **7.1 Board Composition and Appointment of Board Members**

- 1) Subject to a Minister's order under section 2.2 or 2.3 of the Act, and subject to any other legal obligations, the composition of the Board, the selection criteria, selection process and term of office of Board members, other than Ministerial appointees, shall be established by Corporate By-Law with approval of the membership. The Corporation shall provide such Corporate By-Laws to the Minister for review and approval prior to submitting them to the Board for final approval.
- 2) Regarding Ministerial appointees, the Corporate By-Laws may include provisions that reflect the content of section 2.4 of the Act for completeness.
- 3) The Corporation shall obtain the Minister's prior approval of any change in the Corporate By-laws respecting Board composition, the selection criteria, selection process and term of office of its Board members.
- 4) No one may sit as a member of the Board while they are an employee of an industry association representing the interests of the regulated industry. The Corporate By-Laws shall not grant to any person who is not a Board member the right to notice of meetings of the Board or the right to attend meetings of the Board.
- 5) Subject to a Minister's order under section 2.2 of the Act, the Corporation shall develop and maintain competency criteria for the Board setting out the types of skills and competencies that are required on the Board, which shall be approved by the Minister and attached to this Agreement as Schedule "C". Section 2.2 of the Act authorizes the Minister to issue an Order regarding competency criteria for members of the Board. If the Minister makes such an Order, then those competencies must be addressed by the Board. Any Order issued by the Minister would be considered to be an addendum to Schedule "C" on board competency criteria in the administrative agreement.
- 6) The Board selection criteria in Schedule "C" shall include consumer protection or public interest perspectives and other criteria with a goal of reflecting the diversity of Ontario, including gender, geographic distribution and ethnicity. The Corporation shall make the selection criteria public.
- 7) The Minister shall have regard to the competency criteria and selection criteria used by the Board when making appointments to the Board.

- 8) The Board recognizes that Board members appointed by the Minister in accordance with the Act may include representatives of the public, consumer groups, businesses or government organizations, or such other interests as the Minister determines.
- 9) The Minister shall endeavour to make appointments to the Board in a timely manner.
- 10) Board members appointed by the Minister shall be remunerated by the Corporation in an amount and on a basis that is equivalent to all other Board members. If such a Board member is employed by the public service of Ontario, the Board member shall not receive any remuneration unless permitted under the Ontario Public Service Agencies and Appointments Directive (or any successor directive).
- 11) The Board shall ensure that new Board members complete any training required by the Minister within 6 months of being elected or appointed, or when next available.

## **7.2 Information Required from the Board**

- 1) The Board shall conduct a Board evaluation in accordance with best practices at least once every two years. The evaluation may be facilitated by an independent third party. The results of the evaluation shall be summarized in a report and a copy of the report shall be provided to the Chair. The Chair shall provide a copy of the report to the Minister upon request.
- 2) The Board shall adopt a binding code of conduct for the Board members to prevent the possibility of any Board member advancing his or her personal or business interests or the interests of another person or organization, ahead of the interests of the Corporation. The code of conduct for Board members, as it may be amended from time to time, is subject to the approval of the Minister. Upon approval by the Minister, such code shall be attached to this Agreement as Schedule "E".
- 3) The Board shall establish an advisory process for direct input to the Board on issues of importance to consumers. The terms of reference of such a process shall be made public and a report on the activities and advice provided by this process shall be included in the annual report.

## **7.3 Minister's Appointment of Chair**

In accordance with section 2.5 of the Act, the Minister may appoint the Chair from

among the Board members and for this purpose the Minister shall have regard to the views of the Board, the competency criteria used by the Board, succession planning, and any other matter the Minister considers advisable in the circumstances.

#### **7.4 Statutory Appointments**

- 1) As provided for in section 3 of the Act, the Board shall appoint a registrar and may appoint one or more deputy registrars.
- 2) The registrar and any deputy registrar(s) shall be employees of the Corporation and shall not be:
  - a) a member of the Board;
  - b) an employee or director of a builder or vendor, or industry association representing the interests of builders or vendors; or
  - c) a builder or vendor under the Act.
- 3) The Corporation acknowledges that the registrar under the Act and any deputy or deputies and any other statutory appointments thereof exercise statutory duties that require independent decision-making and, for that purpose, the Corporation agrees that the Board shall not interfere with the independent exercise of these statutory responsibilities but may review the manner in which those responsibilities are carried out, consistent with the Board's corporate and regulatory governance responsibilities.

### **8. Ombudsperson**

- 1) In this section, any reference to the office of the Ombudsperson includes any employees within the office, as applicable.
- 2) The Corporation shall make available an Ombudsperson and fill any vacancy of the position as soon as reasonably possible.
- 3) The Corporation will not terminate the position of the ombudsperson as a reprisal for recommendations or criticisms made by the Ombudsperson to the Corporation or Board.
- 4) The Corporation shall, in consultation with the Ombudsperson, establish and maintain a Terms of Reference ("TOR") for the Ombudsperson that is consistent with the Act and the Agreement.

- 5) The Corporation shall jointly review the TOR with the Ombudsperson on an annual basis or such other time that the Corporation and the Ombudsperson deem appropriate to ensure that the TOR remains current and consistent with the Act and the Agreement. The Corporation remains ultimately responsible for maintaining the TOR.
- 6) The Corporation shall clearly communicate to the public about the role, mandate, scope, and how to access or contact the Ombudsperson.
- 7) The Corporation will publish on its website the progress it has made in responding to any recommendations the Ombudsperson has published in any report.
- 8) In providing the Ombudsperson, the Corporation shall comply with the following requirements:
  - a) the Ombudsperson and their office must operate independently of all other departments in the Corporation;
  - b) the files and records of the Ombudsperson and their office shall not be accessed by anyone else within the Corporation;
  - c) the Ombudsperson and their office has access to all information and all individuals in the Corporation;
  - d) the Ombudsperson will report only to the Board;
  - e) the Corporation shall respond to the recommendations made from the Ombudsperson within a reasonable time;
  - f) the Corporation shall not prejudice or reprise against complainants or individuals who participate in any way in an investigation of the Ombudsperson;
  - g) the Ombudsperson will select staff and manage the budget and operations of their office;
  - h) the budget for the Ombudsperson and their office will be set by the Ombudsperson subject to the approval of the Board;
  - i) the Corporation will ensure the Ombudsperson has direct access to the Board and any of its meetings;
  - j) the Board shall review the performance of the Ombudsperson and

management must abstain from any role or involvement in evaluating or reviewing the performance of the Ombudsperson or any employee within the Ombudsperson's office; and

- k) except in exceptional circumstances, the Chair must provide written notice to the Minister at least 30 days before terminating the Ombudsperson, appointing a new Ombudsperson, or reducing the salary or benefits of the Ombudsperson.

## **9. Corporate Reporting**

- 1) The Corporation shall:
  - a) each year, provide the Minister with a business plan (as described in Schedule "D") for the forthcoming year, in a format acceptable to the Minister, no later than thirty (30) days before the end of the current fiscal year;
  - b) each year, provide the Minister with an annual report (as described in Schedule "D") in a format acceptable to the Minister, no later than one hundred and twenty (120) days after the end of its previous fiscal year; and
  - c) enable the Minister to review and comment on the documents referred to in clauses (a) and (b) within a reasonable time period, estimated to be approximately thirty (30) days from the receipt of the documents, under normal circumstances, and prior to final approval of the Board.
- 2) The Corporation's business plan shall set out the means by which the Corporation will provide any services in French, if requested.
- 3) The Corporation's business plan shall set out the means by which complaints and Claims received by the Corporation are managed and resolved and the Corporation's annual report shall include statistics that account for how these complaints and Claims were responded to and resolved.
- 4) The Corporation's business plan shall set out a summary of the activities it will undertake to ensure that its goods, services and facilities are accessible in accordance with the Accessibility for Ontarians with Disabilities Act, 2005, and any relevant additional accessibility related activities. The Corporation's annual report shall account for how these accessibility related activities were provided.
- 5) The Corporation:

- a) shall make the business plan referred to in clause (1)(a) available to the public, including by posting on the Corporation's website, no later than thirty (30) days after final approval of the Board; and
  - b) shall publish the annual report referred to in clause (1)(b) to the Corporation's website and by any other method no later than thirty (30) days after the annual report receives final approval of the Board.
- 6) The Corporation shall conduct a client satisfaction/value survey of all or a sampling of its clients and stakeholders at least once every two years. These activities may be facilitated by an independent third party. The Corporation shall share a summary of the survey results with the Minister. The Corporation's annual report and website shall also include a synopsis of the results of the client satisfaction/value survey, as conducted.
  - 7) The Corporation shall have a risk management framework and risk management plan for managing risks that the Corporation may encounter in meeting its program and service delivery objectives as described in Schedule "D".
  - 8) The Corporation shall establish performance measures regarding the administration of the Act, subject to the approval of the Minister. This stable set of performance measures will reflect the home building and vendor sector and enable a year-to-year comparison. Where a year-to-year comparison is not possible because of a change in performance measures, the Corporation shall give the Minister sufficient information to enable a proximate comparison of the changed performance measure.
  - 9) The Corporation shall provide the Minister with performance targets and results for performance measures approved by the Minister in subsection (8) on an annual basis and upon request by the Minister. Where the Corporation does not meet any one or more of its performance targets, the Corporation shall identify any variance from the target and provide a written rationale to the Minister.
  - 10) The Corporation shall report in its annual report the per diem remuneration rates for Board members and the total remuneration for the Board as a whole that fiscal year.

## **10. Education and Public Outreach**

- 1) In order for the Corporation to discharge its responsibility to communicate with home buyers, it will maintain an annual budget designated for the purpose of home buyer awareness advertising and related activities. The Corporation will list all of its significant home buyer awareness activities in its annual report.



- 2) The Corporation will meet with Members of Provincial Parliament (MPPs) to describe the Corporation's program and home buyer protection activities upon request of the MPP or as requested by the Minister.

## **11. Regulatory Governance**

- 1) The Board shall be responsible for carrying out the following regulatory governance functions:
  - a) reviewing the adequacy and effectiveness of the Corporation's compliance, enforcement and consumer protection framework to ensure compliance with the Act;
  - b) reviewing implementation of and reporting on the enforcement of the Act, as well as the operations of the consumer protection framework; and
  - c) providing strategic advice to the Minister on potential or proposed legislative or regulatory changes.

## **12. Financial Arrangements**

- 1) The Corporation shall ensure that it has adequate resources to comply with this Agreement and the Act consistent with the business plan that it has provided to the Minister under clause 9(1)(a) of this Agreement.
- 2) The Corporation acknowledges it cannot collect or retain as revenue any fines imposed by a court further to proceedings taken by the Corporation under the Provincial Offences Act.
- 3) The Corporation may establish fees, subject to any limitations on the amount imposed by the Act, costs and other charges in accordance with the Act.
- 4) The Corporation shall make publicly available, including by posting on its website,
  - a) its fees, costs and other charges; and
  - b) any rules and relevant timelines governing the payment of its fees, costs and other charges.
- 5) The Corporation agrees to pay to the Minister such amounts as set out in the attached Schedule "F".
- 6) Any payments by the Corporation to the Minister shall be made payable to the Minister of Finance, drawn on the account of the Corporation and paid on a timely

basis and on the terms as set out in the attached Schedule “F”.

- 7) The Minister will charge interest on any late payments on the terms set out in the attached Schedule “F”.
- 8) The Corporation shall report to the Minister at the earliest opportunity if there is any reason for concern about the financial state of the Corporation.
- 9) The Corporation shall conduct a review of the Guarantee Fund on an annual basis to assess whether the money in the fund is adequate for the purpose of providing compensation under the Ontario New Home Warranties and Protection Plan continued under subsection 11 (1) of the Act.

### **13. Records, Privacy and Access**

- 1) All records obtained from any source, created, or maintained by the Corporation in the course of carrying out its administration of the Act are the property of the Corporation and the Corporation is the sole owner and custodian of such records and may use them for its legitimate purposes in the administration of the Act.
- 2) The Corporation is responsible for all records obtained by it from any source and all such records shall be maintained in keeping with the data collection, records retention and destruction policy established by the Corporation and any other legal requirements.
- 3) Subject to the information sharing requirements under section 2.0.2 of the Act, the Corporation shall have an access to information and privacy code addressing issues of access to its records, protection of personal information, and effective procedural rights and remedies. This code shall protect privacy and provide access in accordance with the principles of the Freedom of Information and Protection of Privacy Act and provide an effective procedure in support of these principles. Upon approval by the Minister, the code shall be attached to this Agreement as Schedule “G”.
- 4) The Corporation shall comply with the access to information and privacy code referred to in subsection (3), and shall make the code available to the public, including by posting on the Corporation’s website.
- 5) The Corporation shall obtain the Minister’s approval of any changes to the access and privacy code.
- 6) The Corporation shall not access any files or records held by the Ombudsperson or their office, including any employees within the office.

## 14. Litigation

- 1) The following provisions address any litigation arising after or as a result of the Corporation's designation under the Act.
- 2) Civil and administrative litigation, including inquests, related to the Act in which the Crown is a defendant or an interested party, as a result of any alleged act or omission of the Corporation in its administration of the Act shall be defended or otherwise carried out by the Corporation (with full right and power to choose legal counsel and with full right and power to reach a settlement which binds the Corporation and, with the Crown's consent, binds the Crown), unless the parties expressly agree otherwise. The Corporation shall be responsible for all costs of the litigation and for the payment of any settlement costs agreed to and payable by it and any damages awarded against it, as a result of any act, omission or fault of the Corporation subject to an order of the court or agreement between the parties. The parties agree that the Crown reserves the right to defend or otherwise carry out any such litigation on its own behalf and at its own cost in respect of its own interest where it determines that it has an independent interest in the litigation.
- 3) Any proceedings, and any civil, criminal or administrative litigation, including inquests, not related to the Corporation's administration of the Act, in which the Crown is a defendant or an interested party, arising from or in any way connected with any activity undertaken by, or alleged act or omission of the Corporation, shall be defended or otherwise carried out by the Corporation. The Corporation shall be responsible for all costs of the proceedings or litigation and for the payment of any settlement costs agreed to and payable by it and any damages awarded against it. The parties agree that the Crown reserves its right to defend or otherwise carry out any such proceedings or litigation on its own behalf and at its own cost where it determines that it has an independent interest in the proceedings or litigation.
- 4) The Minister or the Crown shall cooperate with the Corporation for the purpose of the Corporation's defence or other participation in the litigation referred to in subsections (2) and (3) including providing documentation or information and providing witnesses in such litigation, where appropriate.
- 5) The Corporation shall have authority to and may carry out all prosecutions related to the Act on its own behalf and in its own name, all in accordance with, pursuant to and in furtherance of the obligations of the Corporation to administer the Act. The Corporation shall develop policies for the conduct of prosecutions that accord with the principles set out in any Ministry of the Attorney General

prosecution-related policies, guidelines, codes or similar documents provided to it by the Minister. In carrying out prosecutions related to the Act, the Corporation shall conduct prosecutions in the public interest and in a manner consistent with such policies.

- 6) The Minister shall keep the Corporation informed of any litigation by or against the Crown or in which the Crown is an interested party that may affect the interests of the Corporation.
- 7) The Corporation shall keep the Minister informed of any litigation by or against the Corporation or in which the Corporation is an interested party that may affect the interests of the Crown.

## **15. Indemnification**

- 1) The Corporation acknowledges that, pursuant to section 2.9 of the Act, it is required to indemnify the Crown in respect of damages and costs incurred by the Crown for any act or omission of the Corporation or its members, officers, directors, employees or agents in the exercise or performance or intended performance of their powers or duties under the Act, a Minister's order, the Agreement or the information sharing agreements or for any act or omission otherwise connected to the Act, a Minister's order, the Agreement or the information sharing agreements.
- 2) The indemnification survives termination of this Agreement for the maximum period permitted by law or contract.

## **16. Insurance**

- 1) The Corporation shall take all reasonable steps to protect itself from and against all claims which might arise from the carrying out of the administration of the Act and carrying out of duties under the Act by the Corporation, its Board members, appointees, officers, employees and agents. The Corporation shall at all times maintain adequate insurance against liability arising out of the Corporation's carrying out of the administration of the Act and this Agreement including commercial general liability insurance on an occurrence basis for the third party bodily injury, personal injury and property damage, to an inclusive limit of not less than ten million dollars (\$10,000,000) per occurrence, ten million dollars (\$10,000,000) products and completed operations aggregate. The policy is to include the following:
  - a) Her Majesty the Queen in Right of Ontario as represented by the Minister as additional insureds with respect to liability arising in the course of

performance of the Corporation's obligations under, or otherwise in connection with, the Act;

- b) cross-liability clause;
  - c) thirty (30) day written notice of cancellation, termination or material change; and
  - d) non-owned automobile coverage with blanket contractual coverage for hired automobiles.
- 2) The Corporation shall provide the Minister with certificates of insurance or other proof as may be requested by the Minister, that confirms all of the insurance coverage as provided for in subsection (1), and renewal replacements on or before the expiry of any such insurance.
- 3) If the Crown imposes an obligation on the Corporation by obtaining the enactment of legislation, making a regulatory change or otherwise which gives rise to exposure to liability on the part of the Corporation for which the Corporation cannot reasonably obtain appropriate liability insurance, the Corporation shall provide immediate notice to the Minister in writing of the uninsured risk and subject to government approvals that may be required, if any, the Corporation and the Minister shall identify appropriate measures to resolve the issue to the satisfaction of both parties. Where government approval is required, the Minister shall make reasonable efforts to obtain the necessary approvals.

## **17. Non-Statutory Business**

- 1) The Corporation shall only enter into non-statutory business ventures that promote the protection of the public interest and enhance consumer protection. For this purpose, the Corporation shall comply with the principles set out in the Non-Statutory Business Policy set out in Schedule "H".
- 2) For any non-statutory business venture, the Corporation shall submit to the Minister a statement confirming that such non-statutory business venture will not negatively impact the Corporation's statutory business. The form and content of the statement shall be detailed in Schedule "H".
- 3) The statement shall be provided to the Minister prior to the Corporation entering into a small business venture for the non-statutory business.
- 4) The Corporation acknowledges that it shall not engage in commercial activity

through a person or entity that is related to the Corporation.

## **18. Code of Conduct for Compliance Personnel**

- 1) The Corporation shall develop a code of conduct for its compliance personnel relating to the Corporation's compliance and enforcement responsibilities under the Act and any other legislation.
- 2) The Corporation shall provide its code of conduct to the Minister, as it is updated from time to time, make it available to the public, and post the code on the Corporation's website.
- 3) From time to time, the government may develop new policies governing the conduct of compliance personnel. As new policies emerge, the Minister shall provide the Corporation with any government directives regarding the conduct of compliance officers. If the Minister has done so, the Corporation shall revise its code of conduct as necessary to accord with the principles set out in the government directive.

## **19. Wind-Up or Other Termination of the Corporation's Administration**

- 1) Without limiting the powers of the Crown under the Act or otherwise, the termination of the Corporation to administer the Act may result from a decision of the Corporation to wind-up or dissolve or cease to operate as a Corporation, the insolvency or bankruptcy of the Corporation, the failure of the Corporation to comply with the Act, the Agreement, any of the information sharing agreements or other applicable law, or may occur if the Lieutenant Governor in Council considers it advisable in the public interest to revoke the Corporation's designation.
- 2) The Corporation may request the Lieutenant Governor in Council to revoke its designation and in that case the Lieutenant Governor in Council may, by regulation, revoke the designation on the terms it considers advisable in the public interest.
- 3) If the Corporation fails to comply with the Act, the Agreement, an information sharing agreement or other applicable law, the Minister shall allow the Corporation the opportunity of remedying its default within the time period that the Minister considers reasonable in the circumstances.
- 4) The Minister shall advise the Lieutenant Governor in Council if the Corporation has not remedied its default to the Minister's satisfaction within the time period that the Minister specifies.

- 5) The Lieutenant Governor in Council shall not revoke the designation of the Corporation if it remedies its default within the time period that the Minister specifies.
- 6) If a decision is made to terminate the designation of the Corporation, the Minister may appoint an individual as an administrator of the Corporation for the purposes of assuming control of it and responsibility for its activities. Unless the order appointing the administrator provides otherwise, the administrator has the exclusive right to exercise all the powers and perform all the duties of the directors, officers and members of the Corporation. The administrator has the same rights as the Board in respect of the Corporation's documents, records and information. The administrator will report to the Minister as the Minister requires. Through the administrator, the Corporation is expected to deliver effective administration of the Act, pending resolution of financial and legal issues relating to the termination.
- 7) If the termination is due to the wind-up, bankruptcy, or insolvency of the Corporation, the Minister may appoint a person to liaise with the persons(s) appointed by the Corporation, by a secured creditor(s), or by a court, to oversee the wind-up, bankruptcy, or insolvency of the Corporation to ensure the continued effective administration of the Act.
- 8) The parties shall use reasonable efforts to resolve financial and other issues resulting from the termination of designation that impact the Crown or the Corporation, in keeping with the principle of fairness in light of the nature of the termination.
- 9) Any agreement under subsection 19(8) of this Agreement that may increase, directly or indirectly, the indebtedness or contingent liabilities of the Crown will require the prior written approval of the Minister of Finance, the President of the Treasury Board or both, as applicable, in accordance with section 28 of the Financial Administration Act, and will be subject to approval by Treasury Board. The Minister shall make reasonable efforts to obtain this and any other necessary approvals.
- 10) The Corporation or its appointee shall keep the Minister and any person appointed under subsections 19(6) and (7) of this Agreement informed to ensure the effective ongoing administration of the Act during the wind-up or other termination of the Corporation.

## **20. Dispute Resolution**

The parties agree to use reasonable efforts to resolve any disputes that may arise out of or in connection with this Agreement or the administration of the Act.

## **21. Communications and Information Sharing**

- 1) Each of the parties shall designate an individual who will be the primary contact for all issues and communications related to this Agreement and the administration of the Act.
- 2) The parties shall develop procedures for the sharing of information and the resolution of issues that may arise during the course of the Corporation's administration of the Act. Upon approval by the Minister, such procedures shall be added to the Agreement as Schedule "B".

## **22. Reviews**

- 1) The Corporation acknowledges that:
  - a) The Minister may, where the Minister deems appropriate require that policy, legislative or regulatory reviews related to the powers and duties of the Corporation under the Act, this Agreement or the information sharing agreements be carried out; and
  - b) The Minister may also require that reviews of the Corporation, its operations, or both, including performance, governance, accountability and financial reviews, be carried out.
- 2) If the Minister requires the Corporation or a person on behalf of the Corporation to carry out a review, the Corporation shall share the results of any reviews with the Minister.
- 3) If the Minister specifies another person or entity to carry out a review, the Minister shall ensure that the person or entity consults with the Corporation as appropriate during any such review.
- 4) Pursuant to section 5.4 of the Act, the Auditor General appointed under the *Auditor General Act* may conduct an audit of the Corporation other than an audit required under the *Corporations Act*.
- 5) Upon the Auditor General conducting an audit under the Act, the Corporation shall provide the Auditor General and its employees access to all records and



any information required to conduct the audit, as may be requested by the Auditor General.

- 6) The Corporation shall forthwith notify the Minister upon receiving notice from the Auditor General of an audit conducted on the Corporation.
- 7) In the event the Auditor General conducts an audit, the Minister shall, as appropriate, assist the Corporation in responding to the audit.
- 8) The Corporation shall cooperate in any review or audit required by the Minister or the Auditor General.

## **23. Severability of Provisions**

The invalidity or unenforceability of any provision of this Agreement will not affect the validity or enforceability of any other provision of the Agreement. Any invalid or unenforceable provision will be deemed to be severed.

## **24. Assignment**

Neither the Corporation nor the Minister shall assign this Agreement in whole or in part without the express written consent of the other.

## **25. Waiver**

If a party fails to comply with any term of the Agreement, that party may only rely on a waiver of the other party if the other party has provided a written waiver. Any waiver must refer to a specific failure to comply and will not have the effect of waiving any subsequent failures to comply.

## **26. Independent Parties**

The Corporation is not an agent, joint venture, partner or employee of the Crown, and the Corporation shall not represent itself in any way that might be taken by a reasonable person to suggest that it is, or take any actions that could establish or imply such a relationship.

## **27. Jurisdiction**

This Agreement shall be governed by the laws of the Province of Ontario and applicable laws of Canada.

## **28. Conflict**

In the event of a conflict between the provisions of this Agreement and the Act, the Act prevails.

## **29. Amendment and Review of Agreement**

- 1) Subject to subsection 2.0.1(4) of the Act, the terms of this Agreement may only be added to, deleted, varied or amended with the consent of both parties. Such amendments shall be in writing, dated, and signed by both parties and attached to this Agreement.
- 2) The parties shall amend this Agreement as required to accommodate any changes to the Act.
- 3) Pursuant to subsection 2.0.1 (4) of the Act, prior to any Minister's amendments to this Agreement, the Minister shall give such notice to the Corporation as the Minister considers reasonable in the circumstances. The Minister shall provide the Corporation with a time period that the Minister considers reasonable for the Corporation to comply with the amendments.
- 4) Upon a change in the Minister or Chair of the Board, both parties must sign a letter of affirmation that is attached to the Agreement or sign the existing Agreement within six months of the change. Both parties may agree to review and update the Agreement before signing it.
- 5) The parties shall conduct a review of this Agreement within five (5) years of execution to ensure it is current. Despite the foregoing, either party may initiate a review of the Agreement when advisable in the public interest upon giving notice in writing to the other.

## **30. Public Document**

The parties agree that this Agreement shall be made available to the public by either party upon request to that party by any member of the public. The Corporation shall post this Agreement on its website within thirty (30) days of execution and thirty (30) days of execution of any amendments thereafter.

## **31. Entire Agreement**

The Minister and the Corporation agree that this Agreement, as amended from time to time in accordance with section 29 of this Agreement, forms the entire Agreement between the parties and supersedes any prior understanding or agreement, collateral,

oral or otherwise, existing between the parties at the date of execution of this Agreement.

### **32. Effective Date**

Subject to Schedule "J", this Agreement comes into effect on the later date of execution by the parties and will supersede and replace any prior administrative agreements and the Accountability Agreement dated November 25, 2010 made between the parties.

IN WITNESS WHEREOF the parties hereto have executed this Agreement.

**Tarion Warranty Corporation**



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Hari Panday, Chair of the Board

Date: February 23, 2021

**Her Majesty the Queen in right of  
Ontario**



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Minister of Government and Consumer  
Services

Date: February 26, 2021

## **SCHEDULE “A” – REGULATION**

### **TARION WARRANTY CORPORATION**

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#### **Ontario New Home Warranties Plan Act**

#### **ONTARIO REGULATION 273/04**

#### **DESIGNATION OF CORPORATION**

##### **Designation of Corporation**

1. The corporation known as Tarion Warranty Corporation, formerly Ontario New Home Warranty Program, is designated as the Corporation for the purposes of the Act. O. Reg. 273/04, s. 1.
2. Omitted (revokes other Regulations). O. Reg. 273/04, s. 2.

**Tarion Warranty Corporation**



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Hari Panday, Chair of the Board

**Her Majesty the Queen in right of  
Ontario**



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Minister of Government and Consumer  
Services

Date: February 23, 2021

Date: February 26, 2021

## SCHEDULE “B” – INFORMATION SHARING PROTOCOL

### TARION WARRANTY CORPORATION

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This Schedule “B” outlines the information sharing protocol recognizing that Tarion Warranty Corporation (Tarion) shall respond in an expeditious manner to all the requests made by the Minister/Ministry, including requests in respect of:

- 1) the governance of Tarion;
- 2) the administration of the Act by Tarion;
- 3) the Agreement; or
- 4) the information prescribed under subsection 2.0.2(1) of the Act.

This Schedule outlines information sharing protocols not already specified in the Agreement or other schedules to the Agreement.

Unless specifically outlined in this Schedule “B”, when making information requests of Tarion, the Minister/Ministry shall inform Tarion of the timeframe in which the information is required.

Prior to any personal information being shared, the Minister/Ministry and Tarion will confirm how it will be used, that there is legal authority to share it, that any notice or consent requirements have been addressed, as well as the method for sharing, securing and disposing of the personal information. For this purpose, “personal information” has the same meaning as in the *Freedom of Information and Protection of Privacy Act*.

If the Minister/Ministry makes a request for information prescribed under subsection 2.0.2(1) of the Act, the information Tarion shares with the Minister/Ministry to comply with the request shall not include personal information as defined in subsection 2 (1) of the *Freedom of Information and Protection of Privacy Act* unless the person to whom the information relates consents to their personal information being shared with the Minister/Ministry.

Tarion shall not share information with the Minister/Ministry if the information is held only by the ombudsperson mentioned in section 5.7 of the Act and is not otherwise in Tarion’s possession.

To facilitate information sharing, Tarion and the Minister/Ministry will seek to achieve a “one-window” policy with Tarion and the Ministry’s Policy and Governance Branch (PAG) unless otherwise specified by the Minister/Ministry, being the access points.

In addition, Tarion and PAG shall make reasonable efforts to meet quarterly to discuss current issues, needs and other matters necessary for the proper administration of this Schedule.

Description	Responsibility	
	Minister/Ministry	Tarion
Information requests made by the Minister/Ministry to Tarion	The Minister/Ministry shall make reasonable efforts to share with Tarion the context in which the request for information is being made.	Tarion shall respond in an expeditious manner to all requests made by the Minister/Ministry.
<b>Cabinet Submission</b>		
All issues	PAG will develop Cabinet submissions, as required, in cooperation with other Ministry branches.	Tarion is consulted where appropriate.
<b>Correspondence</b>		
The Minister/Ministry and Tarion will work together to draft responses whenever possible, in a timely fashion, respecting that PAG is required to respond to all correspondence within five (5) business days.		
On all subjects directed to the Minister/Ministry	PAG will: <ul style="list-style-type: none"> <li>• redirect to Tarion;</li> <li>• draft a reply indicating referral to Tarion for direct response; or</li> <li>• draft a reply.</li> </ul>	Tarion shall: <ul style="list-style-type: none"> <li>• respond directly under Tarion's signature and copy PAG as appropriate, or</li> <li>• supply PAG with information required for the Minister/Ministry to reply.</li> </ul>
<b>Briefing Notes</b>		
For Minister/Ministry meetings with Tarion's stakeholders	PAG will coordinate preparation of meeting materials (as appropriate) and make reasonable efforts to notify Tarion of any such meetings and discuss with Tarion.	Tarion will provide PAG with relevant information on stakeholders/issues.
For Tarion's meetings with Minister/Ministry stakeholders (e.g. other		Tarion shall make reasonable efforts to notify PAG of the meeting, discuss outcomes with

ministries or agencies)		PAG, and provide a briefing note upon request.
<b>Issue Notes</b>		
The Minister/Ministry and Tarion will work together to issue responses in a timely fashion respecting the requirement for the PAG to respond to all requests for issue notes within specific timeframes (i.e. short notice or outside of regular business hours).		
On any subject (designed for use in the Legislature)	PAG will prepare the issue note and provide it to the Ministry's Communications Branch.  Requests for information made to Tarion to develop the issue note will be accompanied by a timeline for response.	Tarion will provide information to PAG within the timeframe specified.
<b>Issue Management</b>		
Emergencies, accidents and fatalities	When the Minister/Ministry is informed by Tarion or through media reports, PAG will provide the Ministry's Communications Branch with key information as quickly as possible and monitor for updates.	Tarion will inform PAG and provide relevant details, key messages and response strategy.
Other possible contentious issues (e.g. stakeholder grievances/concerns, etc.)	PAG will inform the Ministry's Communications Branch.	Tarion will inform PAG and provide relevant details, key messages and response strategy.
<b>Media Relations</b>		
Requests made to the Minister/Ministry for interviews and background material on Tarion's operational issues	Ministry's Communications Branch will notify PAG, who will then, as appropriate, refer the request to Tarion or obtain the required information from Tarion.	Tarion will provide the required information or, if requested by the Minister/Ministry, respond directly and advise PAG of the outcome from the media engagement.
Media releases issued by Tarion	PAG will share a copy of Tarion's media release with the Ministry's Communications Branch for information and review.	Tarion will prepare and share a copy of its media release with PAG five to seven business days in advance or at its earliest opportunity and before the release is issued to media.
<b>Speeches/Speaking Notes</b>		
All Minister/Ministry speeches/speaking	Ministry's Communications Branch will prepare, and PAG will	Tarion will supply PAG with information.

notes (any topic)	advise Tarion.	
<b>Performance Measures</b>		
Metrics and performance measure results	PAG may request metrics and performance measure results from Tarion from time to time to facilitate the publication of performance measures and other oversight functions.	Tarion will supply PAG with metrics and performance measure results, as available, at the time of request or when Tarion determines there is a risk that it will not achieve its target performance measure.
<b>Marketing / Public Relations Events and Public Education Campaigns</b>		
Collaboration on Marketing / Public Relations Events and Public Education Campaigns	<p>PAG and the Ministry's Communications Branch will work collaboratively with Tarion to:</p> <ul style="list-style-type: none"> <li>plan and develop joint Minister/Ministry / Tarion marketing and public relations events; and</li> <li>obtain information on Tarion's specific events, public education campaigns, industry events to be attended by Tarion, communications research and best practices.</li> </ul> <p>PAG will be the lead in contacting Tarion about communications activities, respecting the one-window approach. However, the Communications Branch may follow up directly with Tarion while keeping PAG fully informed of discussions and planned activities.</p>	<p>Tarion will work collaboratively with PAG and the Ministry's Communications Branch to:</p> <ul style="list-style-type: none"> <li>plan and develop joint Tarion/Minister/Ministry marketing and public relations events; and</li> <li>provide information on Tarion's specific events, public education campaigns, industry events to be attended by Tarion, communications research and best practices.</li> </ul> <p>Tarion will initially contact PAG about communications activities, respecting the one-window approach. However, Tarion may subsequently follow up directly with the Ministry's Communications Branch, while keeping PAG fully informed of discussions and planned activities.</p>
<b>Reports</b>		
Quarterly Reports of Operating Information	Minister/Ministry and Tarion will work collaboratively to identify the key operating information that is required and relevant.	Tarion will provide the Minister with quarterly reports of key operating information. Tarion and the Ministry will work collaboratively to identify the key operating information that is required and relevant.



Annual Regulatory Plan	The Ministry may request that Tarion provide further information on the rationale, anticipated impacts, and timing of individual proposals as requested by the Ministry.	Tarion will share an Annual Regulatory Plan with the Ministry each year, summarizing policy initiatives Tarion intends to pursue in that year. Tarion will provide the Ministry any information it requests.
<b>Other</b>		
Information concerning communications campaigns/activities undertaken by Tarion	PAG will make requests to Tarion for information regarding planned communications campaigns/activities.	Tarion will provide information on key communication activities to PAG on a quarterly basis and on request.
Information concerning Board member competencies	PAG will make requests to Tarion for information as and when required.	Tarion shall provide to PAG at least once annually, and as requested, the Board's skills profile.

**Tarion Warranty Corporation**



Hari Panday, Chair of the Board

Date: February 23, 2021

**Her Majesty the Queen in right of Ontario**



Minister of Government and Consumer Services

Date: February 26, 2021

## SCHEDULE “C” – COMPETENCY CRITERIA FOR MEMBERS OF THE BOARD OF DIRECTORS

### TARION WARRANTY CORPORATION

Competency	Description
<b>Consumer Protection</b>	<p>Competency in consumer rights, unfair practices, laws, advocacy, protection, appeals and representation; full understanding of consumer expectations and new homeowners' rights and obligations, and consumer practices of administrative authorities. Proactive, evidence-based and balanced orientation to conflict resolution.</p> <p><b>*Minister's Order:</b> Possess a positive orientation for proactive consumer protection initiatives, including with respect to new home purchasers and owners.</p>
<b>Dispute Resolution</b>	<p>Proven track record of conflict, dispute and complex claim resolution, interest-based mediation, adjudication, arbitration between/among parties, and application of foregoing in a variety of contexts. Certification or equivalent recognition in this regard.</p> <p><b>*Minister's Order:</b> Experience or knowledge of alternative dispute resolution theory and practice.</p>
<b>Building Sector – Freehold Homes</b>	<p>Competency in the home building and vendor sector: arranging for, managing, or undertaking the construction of a new freehold home, including all of the work and supply of the necessary materials, or agreeing to do so, or selling or transferring the freehold home (regardless of height). Have experience as it relates to being, as applicable, a freehold homes registrant with Tarion or a licensee under the New Home Construction Licensing Act, 2017 in good standing within the past seven (7) years.</p>
<b>Building Sector – Condominiums</b>	<p>Competency in the home building and vendor sector: arranging for, managing, or undertaking the construction of a new condominium unit that is a residential dwelling, including all of the work and supply of the necessary materials, or agreeing to do so, or selling or transferring the condominium unit that is a residential dwelling. Have experience as it relates to being, as applicable, a condominium registrant with Tarion or a licensee under the New Home Construction Licensing Act, 2017 in good standing within the past seven (7) years.</p>

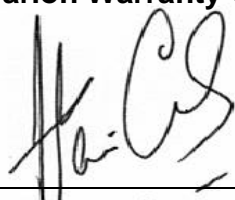
Competency	Description
<b>Communications/ Stakeholder Management</b>	Competency in brand, reputation and communication; direct experience in organizations with large stakeholder base; knowledge of survey methodology; experience in developing or providing oversight regarding strategic communications frameworks. Experience and thorough understanding of marketing, including social and traditional media, technology, brand and planning. Credibility and contacts with Tarion's stakeholders.
<b>Diversity, Inclusion and Accessibility</b>	Experience in or knowledge of championing diversity, inclusion and accessibility in governmental, not-for-profit or private sector organizations.
<b>Enterprise Leadership</b>	Competency, whether as a recent or current CEO, COO or other Senior Officer, in a profit and loss role, of a company or major organization similar to the size and scope of Tarion, with a successful track record of leading value creation, growth and strategic execution.
<b>Financial and Accounting</b>	Competency, whether as a professional accountant, a prior or current CFO, or otherwise, with oversight of financial and/or audit matters, financial accounting, reporting, corporate finance, investment, tax and capital structure. CPA designation, or certification in financial audit or evaluation.
<b>Governance</b>	Previous leadership role experience on a board or a senior executive capacity of a public company or major organization, similar to size, complexity and scope of Tarion, with mature governance and risk management practices.
<b>Government Relations</b>	Competency in legislative process, policy development, Ontario Public Service, Delegated Administrative Authorities, with knowledge of broad public policy development, critical analysis of options, strategic advocacy, and implementation of public policy.
<b>Human Resources and Compensation</b>	Competency in human resources, including CEO succession, talent development, recruiting, performance management and evaluation, preferably within organization similar in size and risk profile of Tarion. A thorough understanding of executive compensation, benefits, pension programs, legislation and agreements.
<b>Information Technology</b>	Competency in the development, integration, deployment and management of complex, enterprise-wide information technology solutions. Experience in leading information technologies, including Internet-of-Things, energy efficiency, privacy, cyber security,

<b>Competency</b>	<b>Description</b>
	digitization, artificial intelligence, mobile, machine learning and innovation, and in application in new homes.
<b>Innovation / Design / Collaboration</b>	Achieving value-for-money through innovative partnerships, best practices, joint venture arrangements, operational structures and design cost-sharing methodologies with an understanding of customer experience, latest technology, conflict of interest, reputation risk and stakeholder interest.
<b>Legal/Regulatory</b>	Thorough understanding of applicable industry laws and regulation, combined with sound commercial judgment. General legal experience, construction law, real estate law, insurance law, condominium law, and regulatory understanding of Tarion's business and the regulatory environment in which it operates.
<b>Not-for-Profit Experience</b>	Experience in a leadership or decision-making role, domestically or internationally in a not-for-profit environment; satisfactory knowledge of duties (such as, fiduciary duty, duty of care, duty of loyalty and standard of care) in a not-for-profit universe.
<b>Regulatory Experience</b>	Experience and competency overseeing or directing a regulator, including rule-making, public consultation, implementing regulations, communicating rules in commercial and consumer environment, monitoring, evaluating, compliance, enforcing and adjudication.
<b>Risk</b>	Competency in risk management, including internal controls, audit, assurance, actuarial assumptions, capital management, natural disaster planning and recovery, and full understanding of risk profile of Tarion.
<b>Strategic</b>	Direct experience driving strategic innovation, transformation and direction to lead and challenge the organization; thorough understanding of the Tarion's history, strategy, revenue model, industry dynamics, predictive trends, operations, financials, and stakeholder expectations; and strategic credibility of foregoing with Management.
<b>Sustainability/Social Responsibility</b>	Competency in, or a strong understanding of, leading safety, clean energy and environmental practices, associated risks and regulatory requirements, and in sound corporate responsibility and sustainable development practices and reporting, applied in particular to new homes.

Competency	Description
<b>Technical</b>	Competency in building sciences and Ontario Building Code; professional designation/or equivalent experience in architecture or civil engineering; legal expertise in the area of real estate and development. Attention to detail and expertise identifying, positioning and prioritizing crucial issues, coping with complexity, skills of logic and analysis; and assessing causes, relationships and organizational alternatives.
<b>Warranty/Insurance</b>	Competency and full understanding of one-two, seven-year warranties and processes, warrantable matters, actuarial assumptions and effects, claim processing and coverage, deposit insurance, and possibly competitive insurance models.

\* One or more directors **must** possess this competency

**Tarion Warranty Corporation**



Hari Panday, Chair of the Board

Date: February 23, 2021

**Her Majesty the Queen in right of Ontario**



Minister of Government and Consumer Services

Date: February 26, 2021

## **SCHEDULE “D” – CORPORATE PLANNING AND REPORTING**

### **TARION WARRANTY CORPORATION**

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The corporate planning and reporting documents of the Tarion Warranty Corporation (Tarion) are essential communications vehicles for demonstrating responsible stewardship of the Corporation in the achievement of consumer protection. As such, Tarion will strive to continuously improve and strengthen the linkages between strategic planning business planning and reporting.

Recognizing that corporate planning and reporting documents have a broad audience including government, industry stakeholders and the public, Tarion will use plain language so that the objectives and performance of Tarion are clear and easy for the average reader to understand.

The corporate planning and reporting documents should easily allow for comparisons between years and a means of measuring performance against plans. For example, commitments in the business plan and outcomes in the annual report, over the course of Tarion carrying out its duties and exercising its powers under the Act, should be comparable.

Tarion's corporate planning and reporting documents will support the accountability framework as laid out in the Agreement.

In addition to any requirements specified in the Agreement and the Act, Tarion's corporate planning and reporting documents shall include, at a minimum, the following:

#### **1. Business Plan**

Tarion will draft a business plan annually that identifies a coordinated set of activities to achieve Tarion's strategic objectives for the next three-year period. The business plan will state specific activities that will be undertaken in the fiscal year, as well as identify resources to achieve Tarion's strategic objectives and successfully deliver its services. The business plan shall include, at a minimum, the following:

##### **1.1. Corporate Overview**

A general overview of Tarion, including its mandate, mission, vision or values. It will also describe Tarion's structure, services, home builder and vendor sectors/industries and include a description of the nature and scope of the relationship between Tarion and the Minister.

## 1.2. Business Planning Overview

An explanation of the connections between strategic planning, the business plan and the annual report.

## 1.3. Objectives, Activities and Performance Measures

Details on the performance measures that link Tarion's objectives to the statistical outcomes that will be reported in the annual report, including, at a minimum, the following:

- (a) **Strategic Objectives** (priority outcomes that Tarion proposes to achieve to successfully administer the Act, including those aimed at enhancing protections for consumers):
  - **Core strategic objectives** relate to Tarion's Statutory Mandate, focus on consumer protection objectives, and address high priority risks;
  - **Supporting strategic objectives/Major Activities** relate to other aspects of operations such as governance, financial objectives, communication, risk management or stakeholder relations;
  - Should Tarion's objectives change at any point during a given year, Tarion will notify the Minister prior to the start of the next fiscal year.
- (b) **Strategies** (the initiatives and approaches that will be employed to undertake activities in order to achieve objectives);
- (c) **Outcome measures** (details about how outcomes for the planning period will be measured or assessed);
- (d) **Outcome targets** (annual targets for the outcome measures):
  - Outcome measures and targets should enable year-to-year comparisons demonstrating Tarion's:
    - Effectiveness (primarily related to core strategic objectives),
    - Efficiency (could be related to supporting strategic objectives, including things such as overhead costs, administration to program delivery ratios), and
    - Performance based on customer and stakeholder satisfaction.
  - Where a year-to-year comparison is not possible because of a change in performance measures, Tarion shall provide a rationale regarding the change, and sufficient information to enable a comparison.

(e) **Activities** (planned annual actions that will support the execution of the strategies to achieve the objectives):

- The activities in the business plan usually reflect core strategic objectives;
- The business plan may also include activities that reflect supporting strategic objectives;
- The business plan must include descriptions of Tarion's means to:
  - manage and resolve complaints and Claims;
  - provide French language services to the public; and
  - undertake activities to ensure that the goods, services and facilities are accessible in accordance with the *Accessibility for Ontarians with Disabilities Act, 2005* and any other relevant accessibility activities.

(f) **Activity measures** (details about how activities will be measured or assessed to evaluate performance):

- Measures can be quantitative or qualitative.

(g) **Activity targets** (measurable activity targets set for the fiscal year).

#### **1.4. Resources Needed to Meet Objectives**

- Assess the adequacy of financial, human and other resources required by Tarion to undertake its major activities and meet its objectives over the planning horizon and indicate how the resources will be acquired.
- Forecast of anticipated revenues (derived from fulfilment of its Statutory Mandate and non-statutory Business, if applicable) and planned expenditures for the next-year period.

## **2. Annual Report**

Pursuant to section 5 of the Act, Tarion will report annually on its performance. The following items will be included in Tarion's annual report but shall not be limited to these requirements. An explanation of the items is given for clarity where necessary.

### **2.1. Organizational Overview**

This section of the annual report shall set out:

- Introduction
- Mandate, mission, visions or values



- Overview of the organization
- Message from the Chair
- Message from the CEO
- Message from the Registrar

## **2.2. Report on Performance**

This section of the annual report shall report on how successful Tarion has been at meeting the targets set out in its performance measures report for the planning/reporting period as set out in the business plan. Tarion shall indicate if the targets have been met for the previous fiscal year. If the target has not been met, Tarion shall explain why achievement was not possible in that fiscal year.

### **a) Performance Statistics**

When possible, statistical reports should be in chart form to indicate how the major activities and objectives as well as targets contained in the performance measures report were met over the previous fiscal year. Tarion may include any statistics it considers relevant to carrying out its duties and exercising its powers under the Act. Performance statistics reported should, at a minimum, include:

- The activities completed over the prior year which reflect the activity measures in the business plan;
- The outcome results achieved in the previous year, which reflect performance against outcome measures and targets established in the business plan, in these areas:
  - Compliance and enforcement, including enrolments, Claim resolution, inspections, investigations, prosecutions;
  - Efficiency, including management times for enrolments, complaint and Claim handling processes, and inspections; and
  - Education and awareness initiatives.

### **b) Review of Legislation, Corporate By-Laws and Policy Changes**

Outline any changes made to the Act, Corporate By-Laws or Tarion's by-laws or policies during the previous fiscal year.

### **c) Compliance and Enforcement Activities**

Outline a summary of the compliance and enforcement activities carried out by Tarion, such as number of inspections, investigations or prosecutions

undertaken during that reporting period.

d) French Language Services

Report on the provision of services, including how those with need for services in French were provided for, the total number of inquiries that were received in the French language during the reporting period, and any other statistics Tarion considers relevant.

e) Complaint Handling Process and Outcomes

Review of the complaint and Claim handling and dispute resolution processes provided by Tarion including outcomes, appeal procedures and information to the public on how to make complaints or Claims with Tarion.

f) Accessible Goods, Services, or Facilities:

Report on the provision of accessible goods, services or facilities pursuant to the Accessibility for Ontarians with Disabilities Act, 2005, including how those goods, services or facilities were provided, the total number of inquiries that were received for accessible goods, services or facilities during the reporting period, and any other statistics that Tarion considers relevant.

## **2.3. Corporate Governance**

This section of the annual report shall include a summary of how Tarion is governed by providing, at a minimum, the following information, which may alternatively be posted on its website:

- Role of the Board
- Election/appointment process of the Board
- Basic qualifications of the Board
- Committees of the Board
- Code of Conduct for Directors
- Board of Directors (including biographies)
- Director's terms of appointment/election
- Officers (including biographies)
- Organization chart
- Tarion's contact information

## **2.4. Financial Statements and Notes**

The annual report shall include audited financial statements for Tarion and a copy of

the auditor's report. The audited financial statements shall include but not be limited to the following:

- The auditor's report;
- Statement of financial position;
- Statement of operations;
- Statement of changes in net assets;
- Statement of cash flows; and
- Notes and supporting schedules to the financial statements including schedules of segment revenues and expenses.

## **2.5. Management Discussion and Analysis**

This section shall provide a discussion and analysis intended to assist with an understanding of the material financial changes in Tarion's operations over the past fiscal year, to be read along with the financial statements and accompanying notes. This discussion shall include a breakdown of its Statutory Mandate and Non-Statutory Business, if applicable.

## **3. Risk Management Framework and Plan**

Utilizing a risk-based approach to mandate fulfillment and service delivery, Tarion will conduct a risk assessment to identify, assess and mitigate risks and develop a risk management plan that will include:

- a) Tarion's major activities and objectives;
- b) Risks to the achievement of those major activities and objectives;
- c) Risk mitigation strategies;
- d) Maintenance of a system of internal controls to minimize risk; and
- e) Documentation of policies and procedures to manage risk.

In order to facilitate informed and coordinated responses to any issues that emerge, twice annually Tarion will provide the Minister with reports on high and medium risks with corresponding mitigation strategies.

A summary of the risk management plan including a summary of key information that conveys how Tarion will ensure continuous delivery of critical business services in the event of an emergency (e.g. expansion of digital service delivery), shall be provided to the Minister annually for review at the same time as, or as a component of, Tarion's annual business plan. The occurrence of any risk(s) that required the use of any mitigations can be reported through the annual report.

#### 4. Annual Burden Reduction Plan

Upon request from the Minister (or Ministry), Tarion must provide a burden reduction plan that identifies opportunities that Tarion could implement to respond to the government's commitment to cut red tape and reduce regulatory burden in Ontario. These opportunities could include legislative and regulatory proposals but should also consider how Tarion can operate more effectively and efficiently and provide digital services to their regulated sectors and consumers.

**Tarion Warranty Corporation**



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Hari Panday, Chair of the Board

Date: February 23, 2021

**Her Majesty the Queen in right of  
Ontario**



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Minister of Government and Consumer  
Services

Date: February 26, 2021

## **SCHEDULE “E” – CODE OF CONDUCT FOR DIRECTORS**

### **TARION WARRANTY CORPORATION**

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#### **SCOPE**

This Code applies to all members of the Board of Directors (“Directors”) of Tarion Warranty Corporation (“Tarion”), or the Corporation.

#### **INTRODUCTION**

This Code of Conduct and Governance Practices, Confidentiality and Conflict of Interest Policy (“Code”), summarizes a number of important business conduct and corporate governance policies that apply to all Directors. The Corporation administers the Ontario New Home Warranties Plan Act (“the Act”) and as such is responsible for providing protection pursuant to the Act for all consumers who purchase a new housing unit in Ontario.

The Board has approved this Code as a supplement to any legal requirements for Directors including those contained in relevant statutes or in the by-laws of the Corporation, in order to assist Directors in understanding and performing their duties and responsibilities to the Corporation with appropriate discipline and dedication.

#### **1. Compliance with Laws and Policies**

Each Director shall:

- a) Comply with all laws applicable to their role as a Director of Tarion.
- b) Comply with all policies applicable to the Directors.
- c) Comply with any Minister's Orders.
- d) Promptly report to the appropriate authority within Tarion, according to Tarion's policies, any observed illegal, fraudulent or other suspected misconduct by a Director or employee or officer of Tarion.

#### **2. Duties and Responsibilities of Tarion's Directors**

The fiduciary duty of each Director is to act in the best interests of the Corporation at all times. Each Director shall act in accordance with the Director's fiduciary duty to Tarion. In carrying out such duty, each Director has a responsibility to understand and balance appropriately the legitimate interests of a number of stakeholders, including, in no particular order and without limitation: purchasers of new homes in the Province of Ontario; new home vendors and builders; the Government of Ontario; and employees of the Corporation.

Director shall neither act in self-interest nor in the interests of any individual Tarion stakeholders. Directors are not “representative of any stakeholder, nor is their duty or obligation in any way to be beholden to any stakeholder.” The fiduciary duty of each Director is to the Corporation as a whole, which is to act with the view to Tarion’s best interests. From time to time, a duly taken decision made by the Board may be believed by a particular Director or Directors to be adverse to one or more stakeholders of Tarion. Such a belief may be honest and reasonable in the view of that Director. Nonetheless, regardless of their personal opinion or individual vote, each Director must support and not undermine the decisions of the Board at all times.

### **3. Conduct of each Director**

To enable the Board to discharge its collective responsibilities for stewardship, including oversight and strategic leadership, each Director shall:

- a) Conduct themselves honestly, fairly, ethically and with integrity;
- b) Maintain a positive reputation in the business community and with the public;
- c) Demonstrate a good understanding of, and a willingness to learn current corporate governance practices;
- d) Take all reasonable steps to ensure that they and the Board, as a whole, acts in the best interests of the Corporation, rather than in the interests of any individual or group;
- e) Bring to the attention of the Board a perspective based on their background or experience;
- f) Assist the Corporation in the achievement of its corporate strategic objectives and business plans;
- g) Declare in a full, true and plain fashion any potential conflict promptly to the Corporate Secretary and Committee or Board Chair, as the case may be, leave the room for the deliberations concerning the matter, and not vote or, influence the vote on any such matter; and
- h) Monitor their continued ability to meet the foregoing expectations.

### **4. Functions of the Board and Committees of the Board**

The Board and each Committee of the Board (Committee) have regularly scheduled meetings announced prior to the beginning of each calendar year. The Board and each Committee, and each Member of the Board and Member of each Committee are expected to perform a number of regular duties and functions each year in keeping with each of the Board of Director Guidelines, Committee Charters, calendars of responsibilities, and Position Descriptions, as well as several specific functions including the following:

- a) Evaluating, compensating, selecting and, if or when necessary, terminating the President & CEO;
- b) Overseeing succession planning of the President & CEO and other senior Management;

- c) Reviewing and approving the financial condition of the Corporation to ensure that effective financial and capital management practices are being followed, including monitoring the design, implementation and testing of the internal controls of the Corporation;
- d) Identifying, assessing and approving the material financial and non-financial risks of the Corporation, reviewing the internal controls for their mitigation, and reviewing the independent assurance of the foregoing internal control effectiveness; and
- e) Reviewing, providing input on, and approving the strategy of the Corporation, including the key performance indicators to measure the implementation of the strategy.

## **5. Chair of the Board**

Unless the Minister has exercised its right to appoint a Chair under the Ontario New Home Warranties Plan Act, prior to the expiration of the Incumbent Board Chair's term, the Directors will select a Chair of the Board from among their number who will assume responsibility to chair meetings of the Board, fulfill all responsibilities within the Chair of the Board Position Description, and any other responsibilities that the Directors may delegate from time to time to the Chair.

In addition, the Chair will:

- a) Consult with the President & CEO prior to each regularly scheduled Board meeting and shortly after in-camera sessions of the Board as necessary;
- b) Administer the Board's relationship with Management, as directed by the Board and consistent with the Chair of the Board Position Description; and
- c) Oversee, in conjunction with the Governance, Regulatory Affairs & Nominations Committee, Board member conduct and compliance by each Director with the requirements of this Code. The Chair and the Governance, Regulatory Affairs & Nominations Committee will speak to individual Directors, or if necessary, the full Board regarding any non-compliance with this Code.

## **6. Preparation for, Attendance at, and Engagement within Board & Committee Meetings**

Each Director is expected to devote necessary time to Board and Committee affairs, including the review of Board and Committee materials and attendance at all meetings of the Board and Committee of which they are a member. Each Director should arrive in person and in advance of the start of the Board or Committee meeting, as the case may be, and remain engaged and focused for the entirety of the meeting, without any distraction (including phone calls, emails, texts or the use of social media). All the foregoing forms of distraction should be avoided except in case of emergency or for Taron-related matters.

Additional meetings beyond the regularly scheduled Board and Committee meetings may need to be scheduled from time to time on short notice. Certain Directors may not

be able to attend meetings from time to time for medical reasons or due to other unusual circumstances. The Chair of the Board reviews the attendance of Directors each year, and the attendance of each Director is published every year in the annual report of the Corporation. Any Director who does not, in two consecutive years, attend at least 75% of the regularly scheduled meetings of the Board and the Committees to which they are assigned, must tender a written offer to resign to the Chair of the Board for acceptance or rejection by the Board.

An application for temporary short-term leave by a Director for an unanticipated absence, for a period of three months at most, shall be reviewed by the Chair of the Board and Governance Committee, with a recommendation for acceptance or rejection to the full Board. It is expected that an application for a temporary short-term leave from the Board shall be approved only in unusual circumstances, given the need and difficulty to accommodate that Director's responsibilities, and be limited to three months. Any absence beyond three months would require a Director to resign from the Board.

## **7. Confidential Information**

Each Director's obligation of confidentiality arises from the Director's fiduciary duty to the Corporation. Each Director also agrees to comply with Tarion's Confidential Information Policy as outlined in Appendix "A" of this Code.

## **8. Avoiding Conflicts of Interest**

Each Director shall comply with Tarion's Conflict of Interest Policy as outlined in Appendix "B" of this Code.

## **9. Orientation of New Directors**

The Corporation has an orientation and education program for new Directors. A new Director will be provided with a range of written materials including those which outline the organization of the Board and its Committees, the powers and duties of Directors, the required standards of performance for Directors, and this Code.

Management will also review the current business plan with each new Director and will arrange site visits as well as private meetings with members of management, as requested by the Director. The Director will also be provided with information on the business services provided by the Corporation, as well as a review of the financial statements of the Corporation.

## **10. Personal Liability of Directors for Breach of Duty**

In discharging their duties, Directors of the Corporation are required by law to act honestly and in good faith with a view to the best interests of the Corporation, and they may incur personal liability if they breach such duties. Directors may incur personal liability if they fail to meet certain standards of performance - the general requirement



being that Directors must exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. In addition, Directors have potential statutory liability under certain provincial statutes, such as the *Employment Standards Act, 2000*.

The Corporation maintains Director & Officer Liability Insurance to provide coverage for Directors related to claims brought with respect to the discharge of their duties, however, the Ontario Corporations Act specifically provides that such insurance coverage is not to be available " . . . where the liability relates to the person's failure to act honestly and in good faith with a view to the best interests of the Corporation".

#### **11. Interaction with the Media and Other Public Activities**

The President & CEO, or other designated member of Management, rather than Directors have the responsibility to speak publicly on behalf of the Corporation. From time to time, Directors may be requested by politicians, the media, or stakeholders, to discuss issues related to the business of Tarion, including matters discussed at meetings of the Board of the Corporation. Any Director to whom such a request is made should review the request with the President & CEO or the Chair before responding.

The Director shall, in any public communication activity or use of social media, make clear in what capacity they are speaking or writing when doing so publicly, such that inferences are not drawn or allowed to be drawn that a Director may be speaking on behalf of the Board of Tarion or of Tarion.

#### **12. Political Activities of Directors**

Directors shall use all reasonable efforts to discharge their duties and responsibilities in a manner so as to not diminish the public's trust in the objectivity and impartiality of Tarion. Accordingly, Directors shall take all reasonable steps to ensure that Tarion does not, directly or indirectly, contribute to or participate in, or be seen to contribute to or participate in political fund raising or activities of any nature. The Director, in their capacity as Director of Tarion, shall not contribute to, or participate in, political fund raising or activities. However, nothing in this Code prevents a Director from contributing to or participating in, political fund raising or activities, provided that it is done so in their non-Directorial and personal capacities and this capacity is made clear to observers and members of the public.

#### **13. Delegation of Management Authority**

In accordance with the delegation of authority pursuant to the by-laws of the Corporation, and subject to the authority of the Board, the President & CEO shall have responsibility for the day-to-day general management and direction of the business and affairs of the Corporation. Board members are expected to understand and respect those responsibilities that have been delegated to Management.

## **14. Board and Director Evaluations**

All Directors shall participate in a regular Board Evaluation administered by a third party under the supervision of the Governance, Regulatory Affairs & Nominations Committee. The results of the Board Evaluation will be confidential, except that they will be provided to the Chair who may in turn review the results in general terms without attribution with the Director (including attributing any results or comments) with the duly appointed Governance, Regulatory Affairs & Nominations Committee.

The Board also has the option from time to time of arranging a peer review of the Directors. Each Director will be provided with the results of their peer review. Such results will be confidential except that individual reviews will be provided to the Board Chair, who shall review them with the Director in question and may review the results with the Governance, Regulatory Affairs & Nominations Committee or recommend coaching and development for a Director.

The Board Evaluation and any peer review will include an evaluation of the Board Chair. The results of such reviews shall be provided to the Board Chair and the Chair of the Governance, Regulatory Affairs & Nominations Committee or the Vice Chair of the Committee should the Committee Chair also be the Board Chair.

The scope of the Board Evaluation and any peer reviews will include determining compliance by Board members with this Code and with other policies of the Corporation applicable to Directors, and compliance by the Board generally with current best governance practices.

## **15. Relations with Tarion Staff**

Directors are entitled to any information of the Corporation needed in order to carry out their duties as Directors, provided the information request is not overly onerous. All information requests by Board members will be channeled through the Corporate Secretary. The Corporate Secretary will then delegate the request to a member of the management team.

Any Director wishing to meet with management/staff must make the request through the Corporate Secretary with a copy to the CEO and Chair. The CEO will take into account the nature of the request balanced against the risk that there could be undue influence. Other members of management or the board may be asked to be present to control against such influence.

If the information requested is relevant to Board matters, the information will be shared with all Board members and not just the member who requested the information. If the information is requested or a meeting requested by a member of a committee, that information will be shared with the Chair of such committee.

In all dealings with Tarion staff, Directors shall treat staff fairly and with respect. Each Director shall refrain from exerting any pressure on any Tarion staff members that

might reasonably be or reasonably be perceived as seeking favoured or unequal treatment for the Director personally or their related entities or family members.

#### **16. Compliance with the Code**

Any Director who requires clarification as to the application of this Code or has concerns as to compliance with this Code by another Director, should raise those concerns with the Board Chair. In resolving such concerns, the Board Chair may seek advice of other Directors and from legal counsel of the Corporation and will communicate their decision directly to the Director whose conduct is at issue. In the event of continuing with this Code, the by-laws of the Corporation provide that a Director may be removed by a special resolution of the Board.

#### **17. Annual Affirmation and Review**

Each Director of the Corporation shall sign an annual affirmation that they understand and will comply with this Code. The Governance, Regulatory Affairs & Nominations Committee may recommend changes to this Code from time to time to enhance its effectiveness, and to ensure the achievement of good governance practices by the Board, and from each Director.

#### **MONITORING METHODOLOGY:**

This Code will be reviewed no less than annually. Directors are required to sign the Code at the Board reorganization meeting held in April of each year.

## Confidentiality Policy – Appendix “A”

### Purpose

The purpose of this policy is to set out Tarion’s confidentiality requirements which are effective upon acceptance of appointment as a member of the Board of Directors of Tarion (a “Director”) and which continues in effect both during and after the member’s tenure as Director.

### Non-Disclosure of Confidential Information

The relationship between Tarion and a Director is one of mutual trust and reliance. Directors have access to information and knowledge, including **Confidential Information**, (as defined below), relating to the affairs and business of Tarion, the disclosure of any of which may be highly detrimental to the interests of Tarion.

Accordingly, each Director shall not disclose nor allow disclosure of any Confidential Information to any person at any time before, during or after their tenure as a Director except to:

- Permitted Representatives, (i.e., agents, advisors, consultants and other representatives who have agreed in writing to be bound by the terms of this policy);
- As authorized expressly in writing by the President & CEO or Board Chair, and then only for the purpose of conducting the business of the Board of Directors of Tarion; or
- As required by law.

All Directors agree in all other respects to conduct themselves and require their Permitted Representatives who have reviewed Confidential Information or who know of its existence, to conduct themselves in such a way as to keep the Confidential Information confidential.

The provisions of this Confidentiality Policy continue to apply and bind each Director after the Director’s term of service has expired.

In the event that a Director ceases for any reason to be a Director, the Director must forthwith upon request return to Tarion every copy of any Confidential Information in the possession or under the control of the Director at that time.

Any real or apparent infraction of this Policy including inadvertent disclosure of Confidential Information by a Director, shall be promptly reported to the General Counsel and Corporate Secretary. Any such matters shall be documented in writing and retained in the Board records.

“**Confidential Information**” includes:

- a) any information regarding builders, homeowners and claimants that is not otherwise publicly available;
- b) any information, process or idea that is not generally known outside Tarion;
- c) all proprietary and financial information relating to Tarion and its employees, including without limitation all contracts and policies;
- d) such information as a senior employee of Tarion may from time to time designate to a Director as being included in the expression "Confidential Information";
- e) any secret or trade secret or know-how of Tarion or any information relating to Tarion or to any person, firm or other entity with which Tarion does business which is not generally known to persons outside Tarion, including the identity of builders, homeowners and claimants;
- f) all computer programs including algorithms, specifications, flow charts, listings, source codes and object codes either owned by Tarion or to which Tarion has access and wishes to keep confidential; and
- g) all information relating to computer programs now existing or currently under development.

This list is illustrative and is not an exhaustive list. Other *Confidential Information* may currently exist or arise in the future. If a Director has any doubt whether information is *Confidential Information*, they should ask the President & CEO or Board Chair.

At the end of each Board meeting, the Directors will determine and declare what information is not considered *Confidential Information*. Material and discussions at Board meetings will be considered *Confidential Information* unless declared otherwise.

### **Confidential Information Disposal Guidelines**

Confidential Information may be contained in several types of Tarion records that may need to be discarded by a Director from time to time in the ordinary course of business. To protect the confidentiality of the information in such records, they must be disposed of properly.

Directors agree that any record, physical or electronic, containing Confidential Information, shall be disposed of, deleted, destroyed or returned in a secure manner.

## **Conflict of Interest Policy – Appendix “B”**

### **Purpose**

The purpose of this policy is to set out Tarion's Conflict of Interest Policy, which is effective upon your acceptance of appointment as a member of the Board of Directors of Tarion (a “Director”) and which continues in effect both during and after your tenure as Director.

### **Conflict of Interest**

Directors must avoid placing themselves, their business interests, agents or associates, or their family members (any relation by blood, marriage or adoption) (“Director’s Interests”), in a position where such interests conflict with their duties and responsibilities as a Director (“**Conflict of Interest**”). A Conflict of Interest may be real or perceived and may exist whether or not a monetary advantage has been or may have been conferred upon a Director. A Director’s interest may include the activities of their family.

The following activities could be construed as a Conflict of Interest:

#### *Acceptance of Gifts, Favours, Hospitality and Honours*

To demand, accept, agree to accept or offer, directly or indirectly, present or future advantage, award, cash payment, discount, loan, services or benefits of any kind from an individual, corporation or other entity having dealings with Tarion, in favour of the Director or their Director’s Interest.

#### *Alternative Employment/Business*

To knowingly engage in any outside work or business undertaking in which the Director’s interests conflict with the interests of Tarion. This includes undermining the performance of their duties as a Director and where the Director or Director’s Interest has an advantage derived from their position as a Director.

#### *Personal Influence*

To derive personal benefit through personal influence.

#### *Financial Interest*

The Director or Director’s Interests derive a beneficial interest in any goods, services or properties that might be acquired by Tarion unless Tarion has expressly acknowledged and consented to such beneficial interest in writing after full written disclosure by the Director to Tarion of such interest.

### *Management or Auditor Interests*

A Director, or an affiliate or family member of the Director or Officer, is, or has been, a member of senior Management of Tarion.

A Director, or an affiliate or family member of the Director, is, or has been, a partner of, or employed by, a current or former Internal or External Auditor of, or Consultant to, if or as the case may be, Tarion.

### *Close Relationship Interest*

A Director or Officer, or an affiliate or family member of the Director, has a close personal relationship with a member of senior Management or another Director of Tarion.

### *Compensation Interest*

A Director receives any form of remuneration from Tarion other than compensation and reimbursement of expenses for being a Director, respectively.

### *Board Interlock Interest*

A Director who serves on a Board with another Director, other than on the Board of Tarion.

### *Arrangement or Relationship*

The Director or Director's Interests enter into a contract, program relationship or other arrangements with Tarion where the Director or Director's Interests derive a benefit, financial or otherwise.

### *Profit from Access to Information*

To use one's position, authority or knowledge acquired through the position as Director, to obtain a beneficial interest in any goods, services or properties, if the results would be detrimental to the interest of Tarion or unfair to the public.

### *Disclosure of Confidential Information*

To disclose any Confidential Information (see Tarion's Confidentiality Policy), obtained by the Director in the course of their tenure as Director.

### *Fees for Public Appearance*

To accept any fee for public appearances resulting directly from their position as a Director or their field of knowledge derived from the Director's position.

### *Builders or Vendors*

A Director or Director's Interests are a Builder or Vendor or an officer, director or principal of any Builder or Vendor during their tenure as a Director, without making full disclosure to Tarion in writing.

### *Avoiding a Conflict of Interest*

Each Director shall at all times:

- a) Seek to avoid, and if this is not possible, promptly disclose and report fully, any real or perceived conflict of interest of the above nature, without limitation, to the Governance, Regulatory Affairs & Nominations Committee and to the Corporate Secretary;
- b) Not seek to influence the foregoing conflict of interest;
- c) Absent themselves from the discussion pertaining to the foregoing conflict of interest; and
- d) Cooperate fully in the information pertaining to, and the management of, the foregoing conflict of interest, in accordance with the Corporate by-law with respect to conflict of interest and the provisions within this Policy.

Each Director must immediately take steps to resolve a real or perceived conflict of interest.

### **Reporting a Conflict of Interest**

Any Director in a position of Conflict of Interest (either actual or potential), or who becomes aware of an actual or potential Conflict of Interest or of another Director, shall disclose the actual or potential Conflict of Interest in accordance with the procedures set out below. The disclosure of an actual or potential Conflict of Interest will be treated as confidential.

### *Director*

If the disclosure is made by the Director, they will promptly notify either the Chairman of the Board or the President and CEO.

Both prior to being elected to the Board or being appointed as an Officer, and annually during the Director's term of office, each Director shall disclose to the Governance, Regulatory Affairs & Nominations Committee, financial interests and any perceived or real conflict of interest as soon as it arises or appears likely to arise. Please see Annual Review and Affirmation, above.



### *Third Party*

If the disclosure is made by a third party or a Director concerning another Director, the person receiving the information will notify either the Chairman of the Board or the President and CEO.

### *Investigation and Resolution*

Appropriate steps will then be taken to determine whether an actual or apparent conflict exists, and in accordance with statutory requirements, determine whether it is necessary for the Director to resign, or merely be excused from discussions by the Board on a particular subject matter.

**Tarion Warranty Corporation**



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Hari Panday, Chair of the Board

Date: February 23, 2021

**Her Majesty the Queen in right of  
Ontario**



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Minister of Government and Consumer  
Services

Date: February 26, 2021

## **SCHEDULE “F” – PAYMENTS**

### **TARION WARRANTY CORPORATION**

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Tarion Warranty Corporation (Tarion or the Corporation) agrees to pay an oversight fee to the Minister for each Provincial fiscal year (April 1 to March 31), unless otherwise specified by the Minister on the following terms:

1. An annual amount (“the payment”) as determined by the Minister. The purpose of the oversight fee the Minister charges to Tarion is to recoup the government’s costs of the consumer protection regime in its entirety. This includes the cost to government of oversight of Tarion, responsibility for the Corporation, oversight and development of legislation, and regulations administered by Tarion, and advice to the Minister in the execution of his or her duties in respect of the consumer protection regime within his or her mandate. The Ministry will share with Tarion the detailed information regarding the calculation of the cost of oversight upon request.
2. For the 2019-20 to 2022-23 fiscal years, Tarion agrees to pay to the Minister the following amounts:

<b>2019-20</b>	<b>2020-21</b>	<b>2021-22</b>	<b>2022-23</b>
\$413,072.19	\$526,144.39	\$639,216.58	\$639,216.58

3. For 2023-24 and subsequent fiscal years, the Minister shall determine the payment for each year and will notify Tarion at least 18 months in advance of the payment being due. If, during the fiscal year, the costs of oversight as determined by the Minister exceed the payment amount, the Minister may, after reasonable notice and prior consultation with Tarion, increase the payment amount accordingly.
4. The payment for each fiscal year ending March 31 will be remitted to the Minister by way of cheque payable to the Minister of Finance within 30 days of the date of the invoice sent by the Minister each year.

5. Late payments will be subject to interest charged at the interest rate for unpaid debts to the Crown as fixed from time to time by the Lieutenant Governor in Council in accordance with subsection 10(4) of the *Financial Administration Act*.

**Tarion Warranty Corporation**



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Hari Panday, Chair of the Board

Date: February 23, 2021

**Her Majesty the Queen in right of  
Ontario**



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Minister of Government and Consumer  
Services

Date: February 26, 2021

## SCHEDULE “G” – ACCESS TO INFORMATION AND PRIVACY CODE

### TARION WARRANTY CORPORATION

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#### 1 Overview

- 1.1 Tarion is the not-for-profit corporation mandated by the Lieutenant Governor in Council to administer the *Ontario New Home Warranties Plan Act*. This document establishes policy and practices regarding information in the *custody and control* of Tarion, including:
- a) access to information collected or maintained by Tarion in the administration of its statutory mandate, including *personal information*;
  - b) protection of *personal information* and *confidential information*;
  - c) collection, use and disclosure of personal and other information by Tarion in the administration of Tarion’s statutory mandate; and
  - d) effective and timely procedural remedies concerning the handling of personal and other information collected by Tarion in the administration of its statutory mandate.
- 1.2 Although the *Freedom of Information and Protection of Privacy Act* does not apply to Tarion, Tarion is committed to the principles of promoting transparency of, and accountability for, its regulatory activities, while also ensuring the protection of *personal information* and *confidential information*.
- 1.3 Tarion is required under the *ONHWP Act* to share information, including *personal information* and *confidential information*, with the *Minister*, *HCRA* and other prescribed persons. Effective sharing of information between Tarion and *HCRA* will be essential to the fulfilment of their respective mandates and to consumer protection. The access to information provisions and procedures in this Code do not apply to Tarion’s sharing of information with the *Minister*, *HCRA* and other prescribed persons, and information sharing procedures will be set out in information sharing agreements between these organizations.

## 2 Purpose

2.1 The purposes of this Code are:

- a) to provide a right of access to information in Tarion's *custody* and *control* in accordance with the principles that:
  - i) information should be available to the public; and
  - ii) exceptions to the right of access should be limited and specific; and
- b) to protect the privacy of persons with respect to *personal information* and *confidential information* about them in Tarion's *custody* and *control* and to provide them with a right of access to that information.

## 3 Application

3.1 This Code applies to information, including *personal information* and *confidential information*, collected, used or disclosed by Tarion in the course of Tarion's administration of the *ONHWP Act*.

## 4 Definitions

4.1 In this Code:

<i>access</i>	means access by an individual or an organization to a <i>record</i> of information in the <i>custody</i> of Tarion and under the <i>control</i> of Tarion.
<i>bulk data</i>	means <i>records</i> requested in bulk or selective form that do not contain <i>personal information</i> or <i>confidential information</i> and may have commercial value.
<i>confidential information</i>	information of or about an individual or organization that is not publicly available, is the property of the individual or organization, or could reasonably be regarded as confidential by the individual or organization.
<i>control</i>	means the power or authority to make a decision about the use or disclosure of information or a <i>record</i> .
<i>custody</i>	means the keeping, care, watch, preservation or security of a <i>record</i> for a legitimate business purpose.
<i>data breach</i>	means the loss of, unauthorized disclosure of or unauthorized access to information resulting from a breach of Tarion's technological, organizational or

	physical security safeguards or from a failure to establish such security safeguards.
<i>enforcement</i>	means: <ul style="list-style-type: none"> <li>a) policing;</li> <li>b) complaints from the public, or investigations, deliberations or inspections by Tarion or other provincial or federal enforcement bodies that lead or could lead to proceedings in a court or tribunal;</li> <li>c) compliance with regulatory requirements; or</li> <li>d) the conduct of proceedings referred to in (b).</li> </ul>
<i>frivolous and vexatious request</i>	means any request for access to information that, for example: is made without any reasonable ground; has no legitimate purpose but is designed to harass or to accomplish some other objective unrelated to the process being used; is a repeat request for the purpose of revisiting a previously addressed issue; is made in bad faith; or is a speculative or indiscriminate demand for information without any reasonable grounds to identify an expected outcome.
<i>HCRA</i>	means the Home Construction Regulatory Authority, the not-for-profit corporation designated by the Lieutenant Governor in Council to be the regulatory authority under the New Home Construction Licensing Act, 2017 responsible for the licensing of Ontario's new home builders and vendors.
<i>Minister</i>	means the Minister of Government and Consumer Services or any other member of the Executive Council to whom the responsibility for the administration of the ONHWP Act is assigned under the Executive Council Act.
<i>ONHWP Act</i>	means the Ontario New Home Warranties Plan Act, R.S.O. 1990, c. O.31 and the regulations under that Act, as amended from time to time.
<i>personal information</i>	means information about an identifiable individual or by which an individual's identity could be deduced but does not include the name, title, business address or business telephone number of an officer, director or employee of an organization or of an individual acting in a business capacity.

<i>public information</i>	means information that is publicly available, including information that Tarion has published on its website at <a href="http://www.tarion.com">www.tarion.com</a> or that Tarion has otherwise determined is necessary to make available to the public in order to carry out its administration of the ONHWP Act.
<i>record</i>	means any record of information, however recorded, in the custody and control of Tarion as a result of its administration of the ONHWP Act.
<i>Registrar</i>	means the Registrar as that term is defined in the ONHWP Act.
<i>umbrella group</i>	means a group of builders and/or vendors sharing at least one common officer, director, principal or partner.

## 5 Accountability

- 5.1 The *Registrar* shall have accountability for the administration of this Code, including all decisions regarding access to *records*.
- 5.2 The *Registrar* may delegate some or all of his or her powers and responsibilities under this Code to Tarion's Privacy Officer or other designate. Any decision of any such delegated person shall be deemed to be a decision of the *Registrar*.
- 5.3 Tarion has appointed a Privacy Officer to investigate and respond to privacy issues and to be accountable for Tarion's compliance with this Code. Tarion's Privacy Officer may be contacted by email to [privacyofficer@tarion.com](mailto:privacyofficer@tarion.com) or by mail to:
- Privacy Officer  
Tarion  
5160 Yonge Street, 7th Floor  
Toronto, ON M2N 6L9.
- 5.4 The ongoing collection, use and management of information may be the responsibility of other individuals within Tarion.
- 5.5 Although Tarion takes reasonable steps to ensure the accuracy of the information disclosed under this Code, it does not warrant or otherwise guarantee that the information is complete, accurate or up to date.

## **6 Access to Records**

- 6.1 Subject to the *ONHWP Act* and the exceptions in this Code, every person has a right of *access to records* in the *custody and control* of Tarion containing the following information:
- a) his, her or its own personal information or confidential information;
  - b) information relating to the statutory warranties on a home purchased, owned, sold or built by that person including, for example, information relating to warranty claims, decisions and compensation;
  - c) information relating to the person's registration, renewal of registration, application for registration, home enrolment, qualifying for home enrolment, or guarantee; and
  - d) public information.
- 6.2 A request for *access* shall be made in writing to Tarion's Privacy Officer. The request shall include sufficient information to allow the Privacy Officer to authenticate the identity of the person making the request.
- 6.3 Upon receiving a written request for *access* the Privacy Officer shall, within a reasonable period of time having regard to the volume and nature of the *records* requested, and subject to the *ONHWP Act* and the exceptions in this Code, provide the person with *access* to the *records* requested or written reasons for refusing *access*.
- 6.4 Where a person requests *access to records* that contain *personal information* or *confidential information* about a person other than the requester, Tarion shall require the affected person's consent prior to providing *access* to the requester.

## **7 Access Requirements and Procedure – Public Information**

- 7.1 Tarion shall ensure that the public has ready access to *public information* as is required and relevant to Tarion's administration of the *ONHWP Act*. Tarion shall make *public information* available on Tarion's website and in other ways determined by its Chief Executive Officer in accordance with the *ONHWP Act*.
- 7.2 Tarion shall promote access to information by communicating *public information* as is required and relevant to its administration.



## 8 Exceptions to Access

8.1 Mandatory Exceptions: Subject to section 8.3 of this Code, Tarion shall refuse a person access to a *record* where the *record* or part of the *record*:

- a) could reveal *personal information* or *confidential information* about another person, unless the other person consents to the access;
- b) is in the *custody* and *control* of the Tarion Ombudsperson Office – any request for such *records* should be made to the Ombudsperson Office at [ombuds@tarion.com](mailto:ombuds@tarion.com);
- c) is a building permit or building permit application received by Tarion pursuant to law or an agreement with a municipality; or
- d) is a recording of a telephone call made for quality assurance purposes in accordance with Tarion's Call Recording Policy.

unless access is required by law, the information is already *public information*, or access is appropriate in litigation or regulatory proceedings.

8.2 Discretionary Exceptions: Subject to section 8.3 of this Code and any applicable legal requirements, Tarion may refuse access to a *record* where providing access to the *record* or part of the *record*:

- a) may violate a legally recognized privilege such as solicitor-client privilege, litigation privilege or settlement privilege or may have been prepared by or for counsel in giving or seeking legal advice or in contemplation of litigation;
- b) may derive from or compromise an *enforcement* activity, including where access may be refused under the exceptions described in subsection 14(1) of the *Freedom of Information and Protection of Privacy Act* if it applied to Tarion;
- c) may contain *bulk data*;
- d) may have been generated in the course of a dispute resolution process including, for example, mediation or the handling of a complaint;

- e) may not be in the public interest or could reasonably be expected to threaten the life, health or security of an individual;
- f) may reveal commercial, scientific, proprietary, technical, financial, or human resources information of Tarion or of any individual, entity or third party that has supplied the *records* to Tarion in confidence, whether explicitly or implicitly;
- g) may reveal the substance of deliberations by Tarion's Board of Directors (including its committees, sub-committees and task forces), committees, Corporate Leadership Team or other managers including, but not limited to, agenda, minutes, notes of participants, policy options and analysis, advice or recommendations to or from employees or an external consultant, and advice or recommendations to or from government;
- h) may be unreasonably costly to provide, taking into account the nature of the request and the volume of *records* requested;
- i) may be a *frivolous and vexatious request*;
- j) may be information compiled by Tarion or supplied to Tarion for the purposes of risk management or risk-informed decision making;
- k) may reasonably endanger the security of a building or system, including an information system or procedure established for the protection of a building or information for which protection is reasonably required;
- l) may be a report or other information supplied by a government, regulatory or enforcement body to Tarion in confidence, whether explicitly or implicitly;
- m) may reveal procurement information, including information submitted to Tarion in response to a procurement process;
- n) may reveal information that could reasonably be expected to prejudice the financial interests of Tarion;
- o) may reveal proposed plans, policies or projects of Tarion where disclosure could reasonably be expected to result in premature disclosure of a pending policy decision or would cause undue financial loss or benefit to a person;
- p) may reveal information about a home that is not owned by the requester; or

- q) may violate a provision of the *ONHWP Act*.
- 8.3 If information that an access request concerns is captured by sections 8.1 or 8.2 and if that information can be reasonably severed or redacted from a *record*, Tarion may sever or redact that information and provide the requester with access to the remaining part of the *record* that is otherwise not captured by sections 8.1 or 8.2.
- 8.4 Tarion may refuse to confirm or deny the existence of a *record* to which subsection 8.2 (a), (b), (d), (e), (f), (h), (j), (m) or (n) applies.

## **9 Collection of Information**

- 9.1 Tarion shall limit the collection of *personal information* and *confidential information* to that which is necessary to carry out Tarion's administration of the *ONHWP Act* and to fulfil its consumer protection and regulatory mandate.
- 9.2 Tarion collects *personal information* and *confidential information* from new home purchasers and new homeowners in relation to disputes with or complaints about builders and vendors and in relation to warranty claims made under the *ONHWP Act*. The primary purposes of collecting this information are to assess whether the person has a valid warranty claim or complaint, to provide information regarding the person's rights and responsibilities, to investigate and resolve disputes and complaints, and to process payments to or from the person. To fulfil these purposes, Tarion may disclose *personal information* and/or *confidential information* about a home purchaser or homeowner to the vendor and/or builder of the home and/or to its *umbrella group*.
- 9.3 Tarion collects *personal information* and *confidential information* from new home builders and vendors, and prospective new home builders and vendors, who apply to qualify a home for enrolment or to enrol a home in the Ontario New Home Warranties and Protection Plan, as well as from interested persons such as, principals, officers, directors, guarantors and indemnitors. The primary purposes of collecting this information are to administer the enrolment of homes in the Plan, to process payments to and from the person, to address security and underwriting considerations, and to ensure compliance with the *ONHWP Act*.
- 9.4 Tarion collects information, which may include *personal information* and *confidential information*, from *HCRA* regarding vendors, builders and other prescribed persons for the purposes of assessing whether a person is entitled to enrol homes under the *ONHWP Act* and to ensure compliance with the *ONHWP Act*.

- 9.5 Tarion may collect information from vendors, builders and other prescribed persons as required by the *ONHWP Act*, including for the purpose of providing that information to *HCRA*.
- 9.6 By providing Tarion with *personal information* or *confidential information*, a person consents to its use and disclosure in accordance with this Code. As well, such consent may be implied through the person's conduct with Tarion.
- 9.7 Subject to the exception set out in section 9.8 of this Code, where Tarion collects *personal information* or *confidential information* it shall,
- a) only collect information directly from the person to whom the information relates, unless the person authorizes another manner of collection; and
  - b) explain to the person the purpose for collecting the information and, at or before the time of collection, obtain his or her consent for its collection, use and disclosure by Tarion for that purpose.
- 9.8 Where it is necessary for the administration of the *ONHWP Act*, Tarion may collect *personal information* and/or *confidential information* without the knowledge or consent of the person to whom the information relates and/or without communicating the purpose of the collection.

## **10 Use and Disclosure of Information**

- 10.1 Subject to the exceptions set out under section 10.2 of this Code, Tarion shall use *personal information* and *confidential information* only for the purposes for which it was collected and shall disclose *personal information* and *confidential information* only with the consent of the person to whom the information relates.
- 10.2 Tarion may use or disclose *personal information* and/or *confidential information* without the consent of the person, or for purposes other than those for which it was collected, if:
- a) the information is shared with the *Minister*, *HCRA* or a prescribed entity in accordance with the *ONHWP Act*;
  - b) the information is used or disclosed for purposes related to an *enforcement* activity of Tarion pursuant to the *ONHWP Act*;
  - c) it is required in connection with a proceeding under the *ONHWP Act* or in connection with the administration of the *ONHWP Act*;

- d) the information is requested by a law enforcement agency;
- e) the information is requested by a ministry, department or agency of a government engaged in the administration of legislation similar to the *ONHWP Act* or legislation that protects consumers, or to any other entity to which the administration of legislation similar to the *ONHWP Act* or legislation that protects consumers has been assigned;
- f) it is authorized under the *Regulatory Modernization Act*, 2007;
- g) it is necessary for the purpose of establishing or collecting a debt owed to Tarion;
- h) it is requested by the counsel of the person to whom the *personal information* relates;
- i) the information is subject to an agreement Tarion has entered into with a third-party consultant or service provider to manage or use Tarion *records* on its behalf, if such agreement requires the third party to comply with this Code and have in place security safeguards comparable to those used by Tarion;
- j) it is required by law or pursuant to a court order;
- k) the information is disclosed for the purpose for which it was obtained or for a consistent purpose;
- l) the information is disclosed to a prescribed entity or organization, if the purpose of the disclosure is consumer protection;
- m) the information is disclosed to the person's counsel or to Tarion's counsel;  
or
- n) the information is publicly available.

## **11 Public Safety**

- 11.1 Despite any provision of this Code, Tarion may disclose any *record* to the public or persons affected if Tarion has reasonable and probable grounds to believe that

it is in the public interest to do so and that the *record* reveals a grave environmental, health or safety hazard to an individual or the public.

- 11.2 Before disclosing a *record* under section 11.1, Tarion shall make reasonable efforts to give notice to any person to whom the information in the *record* relates, if it is practicable to do.
- 11.3 Any notice given under this section must include a statement that if a person makes representations forthwith to Tarion as to why the *record* or part thereof should not be disclosed, those representations shall be considered by Tarion before Tarion discloses the information in question.

## **12 Retention and Security of Information**

- 12.1 Tarion shall ensure that reasonable measures respecting *records* containing *personal information* and/or *confidential information* are developed and put into place to preserve *personal information* and *confidential information* in its *custody* and *control*.
- 12.2 Tarion shall adopt administrative and security mechanisms to prevent the unauthorized access, disclosure, use, copying or modification of *personal information* and *confidential information* in its *custody* and *control*, including:
  - a) taking reasonable steps to prevent theft, loss or misuse of *records*, and to protect them from unauthorized access, modification or destruction;
  - b) implementing physical and organizational protections for paper *records*;
  - c) implementing technological protections for electronic *records*;
  - d) ensuring that all employees, the Board of Directors, committee members, and all consultants or contract workers employed or retained by Tarion have received adequate training to comply with this Code; and
  - e) ensuring that any consultant or service provider retained by Tarion to manage or use Tarion records on its behalf agrees to have security safeguards in place comparable to those used by Tarion.
- 12.3 Tarion shall retain *personal information* and *confidential information* for as long as is necessary to fulfil the purpose for which it was collected or for its use in accordance with this Code, and for 12 months thereafter in order to provide an opportunity for the individual or organization to access their information. A record

of *personal information* or *confidential information* may be retained beyond this time period in the following circumstances:

- a) another law requires or authorizes the retention;
- b) the *record* is reasonably required for Tarion's future regulatory actions; or
- c) the *record* is transferred to storage or archives for historical research or permanent preservation, provided that the information that can identify the person to whom the information relates is removed.

12.4 If a *record* has fulfilled the purposes for which it was collected and is not to be further retained, Tarion shall destroy the *record* as follows:

- a) a paper *record* containing *personal information* or *confidential information*, and all copies, shall be shredded before it is destroyed;
- b) an electronic *record* containing *personal information* or *confidential information* shall be deleted from hardware that hosted the *record*; and
- c) before hardware that hosted electronic *records* is discarded or destroyed, all electronic *records* containing *personal information* or *confidential information* shall be deleted.

12.5 Ongoing access to *personal information* and *confidential information* in the *custody* and *control* of Tarion shall be restricted to appropriate Tarion employees and contract workers.

### **13 Correction of Information**

13.1 Where a person disagrees with the accuracy of *personal information* or *confidential information* in the *custody* and *control* of Tarion, the person has the right to challenge the accuracy and have it addressed as follows:

- a) a person requesting a correction or amendment to their own *personal information* or *confidential information* in order to ensure its accuracy and/or completeness shall send a request in writing to Tarion's Privacy Officer. The request must include sufficient information to allow the Privacy Officer to authenticate the identity of the person making the request and to identify the applicable *personal information* or *confidential information* and the correction or amendment being sought; and

- b) Tarion shall respond in writing to a request for a correction or amendment to *personal information* or *confidential information* within a reasonable amount of time.
- 13.2 Where Tarion agrees to correct or amend a *record* of *personal information* or *confidential information*:
- a) a correction or amendment to *personal information* or *confidential information* received from the person to whom it relates shall be recorded by Tarion as soon as practically possible; and
  - b) Tarion shall provide written notice to every third party to whom the original *record* was provided within the previous twelve (12) months, unless to do so is impractical or would reasonably interfere with the regulatory activities of Tarion.
- 13.3 If a person's request for a correction or amendment is refused, Tarion shall provide the reason for such refusal in writing to the person to whom the information relates, and Tarion shall file with the *record* a brief statement of disagreement provided by the person if requested, unless to do so is impractical or would reasonably interfere with the regulatory activities of Tarion.
- 13.4 Tarion may be unable to make a requested correction or amendment due to circumstances that include, but are not limited to, the following:
- a) the fact that the statement was made, whether it is correct or not, is relevant to the regulatory activities of Tarion;
  - b) Tarion determines that it does not have sufficient knowledge, expertise, or authority to make the correction or amendment;
  - c) correction or amendment may reasonably interfere with a regulatory process of Tarion including, but not limited to, an inquiry, inspection, investigation or hearing;
  - d) correction or amendment may reasonably interfere with the regulatory or *enforcement* activities of another regulatory body or a law enforcement agency;
  - e) correction or amendment may alter an original document that belongs to someone else and will eventually be returned to that person; or
  - f) correction or amendment is prohibited by a law.



## **14 Fees**

- 14.1 *Personal information* shall be made available to the individual to whom the information relates at a reasonable cost.
- 14.2 *Records*, other than *bulk data* and *personal information*, shall be made available to a requester for a fee that reflects the total cost of providing the information. The fee for providing *bulk data* will be determined on a case-by-case basis. In determining fees, Tarion shall make efforts to be consistent and base costs on publicly available criteria.
- 14.3 Before proceeding with an *access* request, Tarion shall provide the requester with the approximate fee for responding to the request, and then confirm whether the requester still wishes to proceed with the request.

## **15 Complaints and Data Breaches**

- 15.1 A complaint about Tarion's handling of information in Tarion's *custody* and *control*, access to information, or correction to records shall be made in writing to Tarion's Privacy Officer and shall describe the issue the person wishes to have reviewed. The Privacy Officer shall review all complaints and make efforts to respond within 30 days of receipt of the complaint. If the Privacy Officer is unable to respond within 30 days, the Privacy Officer shall advise the person who made the complaint of the date a response can be expected. If a complaint is found to be justified, Tarion shall take appropriate measures to resolve the problem including, where necessary, amending its procedures and practices.
- 15.2 A data breach or suspected data breach involving information in Tarion's *custody* and *control* shall be reported in writing to Tarion's Privacy Officer and shall describe the concern or incident the person wishes to have reviewed. The Privacy Officer shall make efforts to respond within 30 days of receipt of the report. If the Privacy Officer is unable to respond within 30 days, the Privacy Officer shall advise the person who made the report of the date a response can be expected. The Privacy Officer shall investigate the reported data breach or suspected data breach in accordance with Tarion's Data Breach Response Policy. If a data breach has occurred, Tarion shall take appropriate measures to resolve the problem including, where necessary, amending its procedures and practices.

## **16 Administration**

- 16.1 Tarion shall implement practices and procedures required to give effect to this Code, as soon as practicable, including those relating to,
- a) advising Board members, management, employees and contract workers about the Code, and providing appropriate training to ensure compliance with the Code's provisions; and
  - b) the development of documentation describing this Code and its related practices and procedures.

## **17 Interpretation**

- 17.1 In the event that this Code conflicts with the *ONHWP Act* or any other applicable legislation, the *ONHWP Act* or applicable legislation shall prevail.

## **18 Effective Date and Review**

- 18.1 This Code as amended comes into effect on March 1, 2021.
- 18.2 Tarion shall review this Code from time to time, and at least annually, and shall make any necessary changes to improve the effectiveness of the requirements and procedures in this Code. Any changes to this Code shall be posted to Tarion's website.

**Tarion Warranty Corporation**



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Hari Panday, Chair of the Board

Date: February 23, 2021

**Her Majesty the Queen in right of  
Ontario**



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Minister of Government and Consumer  
Services

Date: February 26, 2021

## **SCHEDULE “H” – NON-STATUTORY BUSINESS POLICY**

### **TARION WARRANTY CORPORATION**

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#### **Authority**

This schedule authorizes Tarion Warranty Corporation (Tarion) to undertake non-statutory business.

#### **Policy**

Tarion will only enter into non-statutory business arrangements that promote and enhance consumer protection and are consistent with its objectives, vision and mission. It will operate in compliance with the principles outlined in this policy. Tarion will ensure that all of its employees are aware of and act in accordance with this policy.

#### **Policy Principles**

- Commitment to Core Responsibilities and Regulatory Integrity: Tarion will at all times conduct itself in a manner that maintains its ability to effectively deliver its Statutory Mandate, with high standards of integrity and in a non-conflicted manner.
- Fair Business Practices: Tarion will not use its authority to create an unfair business advantage.
- Fair Competition: Tarion shall ensure that all contracts, agreements or understandings are consistent with competition law.
- Financial Independence: Tarion will only deliver non-statutory business services that enhance consumer protection and generate revenues generally to the benefit – and never to the detriment – of its responsibilities under the Act. Tarion will ensure independent financial reporting of non-statutory business services.

#### **Compliance**

Tarion will submit to the Minister a statement for each non-statutory business arrangement confirming that it will not negatively impact its Statutory Mandate and is consistent with this policy. This statement shall be provided to the Minister a minimum of ten (10) business days prior to entering into or bidding on a legally binding contract. The statement shall contain the duration and parties of each contract, and the nature of the work.

Tarion will communicate this policy to its stakeholders to ensure a broad base of understanding. Tarion will monitor its business development activities to ensure this policy is being consistently applied.

Tarion will implement this policy to ensure appropriate treatment of confidential information, proper disclosure of Tarion's role, and decision-making that is fair and sound.

Upon request of the Minister, Tarion will engage a third-party to conduct a review of compliance with this policy. In addition, Tarion shall make a summary of findings of the review available to the public, including by posting on Tarion's website.

**Tarion Warranty Corporation**



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Hari Panday, Chair of the Board

Date: February 23, 2021

**Her Majesty the Queen in right of  
Ontario**



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Minister of Government and Consumer  
Services

Date: February 26, 2021

# **SCHEDULE “I” – PROTOCOL FOR BY-LAWS UNDER SECTION 23 OF THE ONTARIO NEW HOME WARRANTIES PLAN ACT**

## **TARION WARRANTY CORPORATION**

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Pursuant to section 23 of the Act, the Tarion Warranty Corporation (Tarion) may make by-laws that are deemed to be regulations.

Certain by-laws made by Tarion require approval of the Minister.

This schedule establishes the process Tarion shall follow when making a by-law under section 23 of the Act, including the process for seeking Minister approval of a by-law when such approval is required by the Act.

For greater clarity:

- References to by-laws in this schedule mean by-laws made under section 23 of the Act and exclude Corporate By-Laws; and
- Making a by-law includes amending, revoking or replacing a by-law.

### **1. Consultation with the Ministry**

- 1) If Tarion proposes to make a by-law, Tarion shall provide the Ministry the opportunity to review and comment on the proposed by-law at least 45 days prior to any public consultation on the proposed by-law.
- 2) For the purpose of enabling the Ministry’s review and comment on the proposed by-law, Tarion shall provide the Ministry with an information package which includes the following information:
  - Description of what is being proposed, including if in Tarion’s opinion whether the proposed by-law will require Minister approval;
  - The draft text of materials to be posted publicly, including drafts of materials proposed to be included in the Regulatory Registry and, if applicable, Environmental Registry posting(s) to be made under this schedule;

- A summary of any early stakeholder consultation;
  - Why the by-law is needed;
  - The planned effective date of the proposed by-law (i.e., January 1 or July 1), or if the proposed effective date is neither January 1 nor July 1, a justification for proposing that effective date;
  - The planned date on which the Board shall consider the proposed by-law;
  - Who will be affected by the change;
  - How those affected will be impacted and their anticipated reaction;
  - Any cost implications for stakeholders (e.g. new home purchasers and/or home builders);
  - What actions, if any, will be taken to mitigate the impact of the proposed by-law on stakeholders;
  - Any resourcing implications for Tarion;
  - How the by-law will be implemented (e.g., are new policies or is new training required? Is organizational change necessary?); and
  - A copy of the draft text of the proposed by-law.
- 3) The Ministry will submit feedback to Tarion within 45 days of receiving the information package specified under paragraph 2, or a time period agreed to by the parties.
  - 4) If the by-law requires Minister approval pursuant to section 23 of the Act, Tarion shall work with the Ministry to address feedback received from the Ministry prior to public consultation.
  - 5) If the by-law does not require Minister's approval pursuant to section 23 of the Act, Tarion shall consider all feedback of the Ministry prior to public consultation.
  - 6) The Ministry will work with the Office of Legislative Counsel to prepare a draft of the proposed by-law for consultation (consultation draft).

## **2. Public Consultation**

- 1) Before the proposed by-law is finalized, Tarion shall publicly consult on the proposed by-law on Ontario's Regulatory Registry for a minimum period of 45 days, or for such a period of time as is specified by the Government in Ontario's Regulatory Policy.
- 2) If the Ministry determines that the proposed by-law could have environmental impacts, Tarion shall also publicly consult on the proposed by-law on Ontario's Environmental Registry. The posting on the Environmental Registry

shall be made concurrently with the posting on the Regulatory Registry.

- 3) With the exception of the consultation draft, which is translated by the Office of Legislative Counsel, Tarion shall be responsible for translating into French all materials to be posted to the Regulatory Registry (e.g., Summary of the Proposal, key words, supporting documents) and, if applicable, the Environmental Registry.
- 4) When the consultation draft of the proposed by-law is finalized and Tarion has provided the French translations required under paragraph 9 of this schedule, the Ministry will ensure the relevant materials are posted to the Regulatory Registry (and if applicable, Environmental Registry).
- 5) Tarion shall notify its stakeholders and the general public of the Regulatory Registry posting (and if applicable, Environmental Registry posting) of the proposed by-law, including information on how to access the posting and the timeframe for providing comments, as soon as practicable after the posting becomes publicly accessible.
- 6) Feedback from the Regulatory Registry posting (and if applicable, Environmental Registry posting) will be directed to Tarion for review and analysis.
- 7) Following the closing of the Regulatory Registry posting (and if applicable, Environmental Registry posting) and within 45 days, Tarion shall provide the Ministry with a summary of stakeholder comments received, and analysis with respect to the impact of the comments on the proposed by-law, including any proposed changes in response to the feedback received.

### **3. When No Minister Approval is Required**

- 1) If no Minister approval of the by-law is required, Tarion will inform the Ministry in a timely manner if the proposed by-law is approved by the Board and if it is substantively different from the proposed by-law that was provided to the Ministry for consultation.
- 2) Tarion will file the by-law with the Registrar of Regulations, or provide the Ministry written permission to file the by-law with the Registrar of Regulations.

### **4. When Minister Approval is Required**

- 1) If Minister's approval of the by-law is required, Tarion shall provide the Ministry with the final draft by-law being presented to the Board 10 days

before the Board meeting.

- 2) Once the Board has approved the by-law, Tarion shall provide the original signed by-law to the Ministry.
- 3) The Ministry will coordinate and facilitate Minister approval of the by-law in a timely manner.
- 4) If the Minister approves and signs the by-law, the Ministry will promptly notify Tarion. The Ministry will file the by-law with the Registrar of Regulations upon receiving written permission from Tarion.
- 5) If the Minister does not approve the by-law, the Ministry will promptly notify Tarion.

## **5. General**

The Ministry may waive or vary, in writing, the timelines, public consultation process, criteria or other requirements in this schedule, or any steps in this process, if Tarion provides evidence satisfactory to the Ministry that doing so would be appropriate in the circumstances.

**Tarion Warranty Corporation**



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Hari Panday, Chair of the Board

Date: February 23, 2021

**Her Majesty the Queen in right of  
Ontario**



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Minister of Government and Consumer  
Services

Date: February 26, 2021



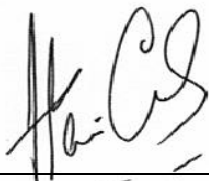
## SCHEDULE “J” – TRANSITION

### TARION WARRANTY CORPORATION

The provisions of the Agreement specified in column A of the table below take effect on the date specified in column B of the table.

A. Section of agreement	B. Effective date (details, if applicable)
5.2 (10)	December 31, 2021
7.2 (3)	December 31, 2021
9 (1)(b),(c)	December 31, 2021
9 (2) to (4), 9 (5)(a), 9 (8)	December 31, 2021
9 (9)	December 31, 2021 (for the purposes of the requirement to “provide the Minister with performance targets” for the 2022 Business Plan)  March 31, 2023 (for the purposes of “results for performance measures”)
9 (10)	December 31, 2021
10 (1)	December 31, 2021
13 (2)	June 30, 2021
14 (5)	June 30, 2022
18	December 31, 2021

**Tarion Warranty Corporation**



Hari Panday, Chair of the Board

**Her Majesty the Queen in right of  
Ontario**



Minister of Government and Consumer  
Services

Date: February 23, 2021

Date: February 26, 2021