

Ontario New Home Warranties Plan Act

R.S.O. 1990, CHAPTER O.31

Last amendment: 2006, c. 21, Sched. F, s. 136 (1).

Definitions

1. In this Act,

“builder” means a person who undertakes the performance of all the work and supply of all the materials necessary to construct a completed home whether for the purpose of sale by the person or under a contract with a vendor or owner; (“constructeur”)

“Corporation” means the corporation designated under section 2; (“Société”)

“guarantee fund” means the provision made by the Corporation for compensation under the Plan; (“fonds de garantie”)

“home” means,

- (a) a self-contained one-family dwelling, detached or attached to one or more others by common wall,
- (b) a building composed of more than one and not more than two self-contained, one-family dwellings under one ownership,
- (c) a condominium dwelling unit, including the common elements, or
- (d) any other dwelling of a class prescribed by the regulations as a home to which this Act applies,

and includes any structure or appurtenance used in conjunction therewith, but does not include a dwelling built and sold for occupancy for temporary periods or for seasonal purposes; (“logement”)

“inspector” means an inspector appointed by the Corporation under section 18; (“inspecteur”)

“Minister” means the Minister of Consumer and Business Services; (“ministre”)

“owner” means a person who first acquires a home from its vendor for occupancy, and the person’s successors in title; (“propriétaire”)

“Plan” means the Ontario New Home Warranties Plan referred to in section 11; (“Régime”)

“prescribed” means prescribed by the regulations; (“prescrit”)

“Registrar” means the Registrar appointed by the Corporation under section 3; (“registrateur”)

“regulations” means the by-laws of the Corporation made under section 23; (“règlements”)

“sell” includes entering into an agreement to sell; (“vendre”)

“Tribunal” means the Licence Appeal Tribunal; (“Tribunal”)

“vendor” means a person who sells on his, her or its own behalf a home not previously occupied to an owner and includes a builder who constructs a home under a contract with the owner; (“vendeur”)

“warranty” means a warranty set out in section 13. (“garantie”) R.S.O. 1990, c. O.31, s. 1; 1999, c. 12, Sched. G, s. 30 (1); 2001, c. 9, Sched. D, s. 13.

Designation of Corporation

2. (1) The Lieutenant Governor in Council shall designate a non-profit corporation incorporated without share capital under the *Corporations Act* to be the Corporation for the purposes of this Act. R.S.O. 1990, c. O.31, s. 2 (1).

Objects

- (2) Upon its designation, the objects of the Corporation are extended to include,
 - (a) the administration of the Ontario New Home Warranties Plan;

- (b) the establishment and administration of a guarantee fund providing for the payment of compensation under section 14, whether by the establishment of a fund for the purpose or by contract with licensed insurers;
- (c) assisting in the conciliation of disputes between vendors and owners; and
- (d) engaging in undertakings for the purpose of improving communications between vendors and owners. R.S.O. 1990, c. O.31, s. 2 (2).

Application of *Insurance Act*

(3) The *Insurance Act* does not apply to the Corporation and its undertakings in respect of any matter within its objects or authorized by this Act. R.S.O. 1990, c. O.31, s. 2 (3).

Registrar

3. (1) The Corporation shall appoint a Registrar who shall perform the duties and exercise the powers given to the Registrar by this Act and the regulations under the supervision of the Corporation and who shall perform such other duties as are assigned by the Corporation. R.S.O. 1990, c. O.31, s. 3.

Deputy Registrars

(2) The Corporation may appoint one or more Deputy Registrars who have and may exercise the powers and duties of the Registrar that the Registrar specifies. 1998, c. 18, Sched. E, s. 187.

References to Registrar

(3) If the Registrar so specifies, references in this Act and the regulations to the Registrar shall be deemed to refer to a Deputy Registrar. 1998, c. 18, Sched. E, s. 187.

Revenues and expenses

4. All money payable under this Act to the Corporation shall be retained by the Corporation and applied to defray the expenses incurred and expenditures made in the carrying out of its duties under this Act and otherwise for the purposes of its objects set out in subsection 2 (2). R.S.O. 1990, c. O.31, s. 4.

Annual report

5. (1) The Corporation shall make a report annually to the Minister upon the affairs of the Corporation. 2000, c. 26, Sched. B, s. 15 (1).

Tabling

- (2) The Minister shall,
 - (a) submit the report to the Lieutenant Governor in Council;
 - (b) lay the report before the Assembly if it is in session; and
 - (c) deposit the report with the Clerk of the Assembly if the Assembly is not in session. 2000, c. 26, Sched. B, s. 15 (1).

Disclosure by Corporation

(3) The Corporation may give a copy of its report under subsection (1) to other persons before the Minister complies with subsection (2). 2000, c. 26, Sched. B, s. 15 (1).

Registration required

6. No person shall act as a vendor or a builder unless the person is registered by the Registrar under this Act. R.S.O. 1990, c. O.31, s. 6.

Registration of vendors and builders

- 7. (1) An applicant is entitled to registration by the Registrar except where,
 - (a) having regard to the applicant's financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of the applicant's undertakings;
 - (b) the past conduct of the applicant affords reasonable grounds for belief that the applicant will not carry on the applicant's undertakings in accordance with law and with integrity and honesty;
 - (c) the applicant is a corporation and,
 - (i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of its undertakings, or

- (ii) the past conduct of its officers or directors affords reasonable grounds for belief that its undertakings will not be carried on in accordance with law and with integrity and honesty; or
- (d) in the case of an application for registration as a builder, the applicant does not have sufficient technical competence to consistently perform the warranties. R.S.O. 1990, c. O.31, s. 7 (1).

Conditions of registration

(2) A registration is subject to such terms and conditions to give effect to the purposes of this Act as are consented to by the applicant or imposed by the Tribunal or prescribed by the regulations. R.S.O. 1990, c. O.31, s. 7 (2).

Registration not transferable

(3) A registration is not transferable. R.S.O. 1990, c. O.31, s. 7 (3).

Refusal to register

8. (1) Subject to section 9, the Registrar may refuse to register an applicant where in the Registrar's opinion the applicant is disentitled to registration under section 7. R.S.O. 1990, c. O.31, s. 8 (1).

Revocation and refusal to renew

(2) Subject to section 9, the Registrar may refuse to renew or may suspend or revoke a registration for any reason that would disentitle the registrant to registration under section 7, if the registrant were an applicant, or where the registrant has a record of breaches of warranties or of failure or unwillingness to complete performance of contracts or is in breach of a term or condition of the registration. R.S.O. 1990, c. O.31, s. 8 (2).

Notice of proposal to refuse or revoke

9. (1) Where the Registrar proposes to refuse to grant or renew a registration or proposes to suspend or revoke a registration, the Registrar shall serve notice of the proposal, together with written reasons therefor, on the applicant or registrant. R.S.O. 1990, c. O.31, s. 9 (1).

Notice requiring hearing

(2) A notice under subsection (1) shall state that the applicant or registrant is entitled to a hearing by the Tribunal if the applicant or registrant mails or delivers, within fifteen days after service of the notice under subsection (1), notice in writing requiring a hearing to the Registrar and the Tribunal. R.S.O. 1990, c. O.31, s. 9 (2).

Powers of Registrar where no hearing

(3) Where an applicant or registrant does not require a hearing by the Tribunal in accordance with subsection (2), the Registrar may carry out the proposal stated in the notice under subsection (1). R.S.O. 1990, c. O.31, s. 9 (3).

Powers of Tribunal

(4) Where an applicant or registrant requires a hearing by the Tribunal in accordance with subsection (2), the Tribunal shall appoint a time for and hold the hearing and, on the application of the Registrar at the hearing, may by order direct the Registrar to carry out the Registrar's proposal or refrain from carrying it out and to take such action as the Tribunal considers the Registrar ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Registrar. R.S.O. 1990, c. O.31, s. 9 (4).

Conditions of order

(5) The Tribunal may attach such terms and conditions to its order or to the registration as it considers proper to give effect to the purposes of this Act. R.S.O. 1990, c. O.31, s. 9 (5).

Parties

(6) The Registrar, the applicant or registrant who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section. R.S.O. 1990, c. O.31, s. 9 (6).

Voluntary cancellation

(7) Despite subsection (1), the Registrar may cancel a registration upon the request in writing of the registrant in the prescribed form surrendering the registrant's registration. R.S.O. 1990, c. O.31, s. 9 (7).

Continuance pending renewal

(8) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of the registration, a registrant has applied for renewal of a registration and paid the prescribed fee, the registration shall be deemed to continue,

- (a) until the renewal is granted; or

- (b) where the registrant is served with notice that the Registrar proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and, where a hearing is required, until the Tribunal has made its order. R.S.O. 1990, c. O.31, s. 9 (8).

Appeal

(9) Even if a registrant appeals an order of the Tribunal under section 11 of the *Licence Appeal Tribunal Act, 1999*, the order takes effect immediately but the Tribunal may grant a stay until the disposition of the appeal. 1999, c. 12, Sched. G, s. 30 (2).

Further applications

10. A further application for registration may be made upon new or other evidence or where it is clear that material circumstances have changed. R.S.O. 1990, c. O.31, s. 10.

Ontario New Home Warranties Plan

11. (1) The Ontario New Home Warranties Plan is continued under the name Ontario New Home Warranties Plan in English and Régime de garanties des logements neufs de l'Ontario in French and is comprised of the warranties and the guarantee fund and compensation provided for by this Act. R.S.O. 1990, c. O.31, s. 11 (1).

Disclosures on entering into contract

(2) When a vendor enters into a contract for the sale of a home to an owner or for the construction of a home for an owner, the vendor shall deliver to the owner such documentation and notices respecting the Plan as are prescribed by the regulations. R.S.O. 1990, c. O.31, s. 11 (2).

Notice of commencing construction

12. A builder shall not commence to construct a home until the builder has notified the Corporation of the fact, has provided the Corporation with such particulars as the Corporation requires and has paid the prescribed fee to the Corporation. R.S.O. 1990, c. O.31, s. 12.

Warranties

13. (1) Every vendor of a home warrants to the owner,

(a) that the home,

(i) is constructed in a workmanlike manner and is free from defects in material,

(ii) is fit for habitation, and

(iii) is constructed in accordance with the Ontario Building Code;

(b) that the home is free of major structural defects as defined by the regulations; and

(c) such other warranties as are prescribed by the regulations. R.S.O. 1990, c. O.31, s. 13 (1).

Exclusions

(2) A warranty under subsection (1) does not apply in respect of,

(a) defects in materials, design and work supplied by the owner;

(b) secondary damage caused by defects, such as property damage and personal injury;

(c) normal wear and tear;

(d) normal shrinkage of materials caused by drying after construction;

(e) damage caused by dampness or condensation due to failure by the owner to maintain adequate ventilation;

(f) damage resulting from improper maintenance;

(g) alterations, deletions or additions made by the owner;

(h) subsidence of the land around the building or along utility lines, other than subsidence beneath the footings of the building;

(i) damage resulting from an act of God;

(j) damage caused by insects and rodents, except where construction is in contravention of the Ontario Building Code;

(k) damage caused by municipal services or other utilities;

- (1) surface defects in work and materials specified and accepted in writing by the owner at the date of possession. R.S.O. 1990, c. O.31, s. 13 (2).

Certificate of completion

(3) The vendor of a home shall deliver to the owner a certificate specifying the date upon which the home is completed for the owner's possession and the warranties take effect from the date specified in the certificate. R.S.O. 1990, c. O.31, s. 13 (3).

Term of warranty under subs.(1)

(4) A warranty under subsection (1) applies only in respect of claims made thereunder within one year after the warranty takes effect, or such longer time under such conditions as are prescribed. R.S.O. 1990, c. O.31, s. 13 (4).

Privity of contract

(5) A warranty is enforceable even though there is no privity of contract between the owner and the vendor. R.S.O. 1990, c. O.31, s. 13 (5).

Application of warranties

(6) The warranties set out in subsection (1) apply despite any agreement or waiver to the contrary and are in addition to any other rights the owner may have and to any other warranty agreed upon. R.S.O. 1990, c. O.31, s. 13 (6).

Compensation

14. (1) Subject to the regulations, a person who has entered into a contract to purchase a home from a vendor is entitled to receive payment out of the guarantee fund for the amount that the person paid to the vendor as a deposit to be credited to the purchase price under the contract on closing if,

- (a) the person has exercised a statutory right to rescind the contract before closing; or
- (b) the person has a cause of action against the vendor resulting from the fact that title to the home has not been transferred to the person because,
 - (i) the vendor has gone into bankruptcy, or
 - (ii) the vendor has fundamentally breached the contract. 1998, c. 19, s. 185 (1); 2000, c. 26, Sched. B, s. 15 (2).

Same, construction contract

(2) Subject to the regulations, an owner of land who has entered into a contract with a builder for the construction of a home on the land and who has a cause of action against the builder for damages resulting from the builder's failure to substantially perform the contract, is entitled to receive payment out of the guarantee fund of the amount by which the amount paid by the owner to the builder under the contract exceeds the value of the work and materials supplied to the owner under the contract. 1998, c. 19, s. 185 (1).

Same, breach of warranty

(3) Subject to the regulations, an owner of a home is entitled to receive payment out of the guarantee fund for damages resulting from a breach of warranty if,

- (a) the person became the owner of the home through receiving a transfer of title to it or through the substantial performance by a builder of a contract to construct the home on land owned by the person; and
- (b) the person has a cause of action against the vendor or the builder, as the case may be, for damages resulting from the breach of warranty. 1998, c. 19, s. 185 (1); 2000, c. 26, Sched. B, s. 15 (3, 4).

Same, major structural defect

(4) Subject to the regulations, an owner who suffers damage because of a major structural defect mentioned in clause 13 (1) (b) is entitled to receive payment out of the guarantee fund for the cost of the remedial work required to correct the major structural defect if the owner makes a claim within four years after the warranty expires or such longer time under such conditions as are prescribed. 1998, c. 19, s. 185 (1).

Interpretation, substantial performance

(5) For the purposes of this section, a contract is substantially performed if it is substantially performed within the meaning given by subsection 2 (1) of the *Construction Lien Act*. 1998, c. 19, s. 185 (1).

Other recovery

(6) In assessing the amount for which a person is entitled to receive payment out of the guarantee fund under this section, the Corporation shall take into consideration any benefit, compensation, indemnity payable, or the value of work and materials furnished to the person from any source. 1998, c. 19, s. 185 (1).

Performance

(7) The Corporation may perform or arrange for the performance of any work in lieu of or in mitigation of damages claimed under this section. 1998, c. 19, s. 185 (1).

Condominiums

15. For the purposes of sections 13 and 14,

- (a) a condominium corporation shall be deemed to be the owner of the common elements of the corporation;
- (b) subject to clauses (c) and (d), if dwelling units are included in the property of a condominium corporation, the warranties on the common elements of the corporation take effect on the date of the registration of the declaration and description;
- (c) no warranties shall take effect on the common elements of a common elements condominium corporation or a vacant land condominium corporation;
- (d) the warranties on common elements of a phased condominium corporation, that are added to the corporation after the registration of the declaration and description take effect on the date of the registration of the amendments to the declaration and description that created them; and
- (e) the amalgamation of two or more condominium corporations does not affect or extend the warranties on the common elements of the amalgamating corporations. 1998, c. 19, s. 185 (2).

Liability of vendor

15.1 For the purposes of sections 13 and 14, a person, who at any time has registered as a vendor under this Act with respect to a home, for which the builder has complied with section 12 and has substantially completed the construction, shall be deemed to be a vendor of the home even if another person sells the home to an owner or completes a transaction to sell the home to an owner. 1998, c. 18, Sched. E, s. 188.

Notice of decision under s. 14

16. (1) Where the Corporation makes a decision under section 14, it shall serve notice of the decision, together with written reasons therefor, on the person or owner affected. R.S.O. 1990, c. O.31, s. 16 (1).

Notice requiring hearing

(2) A notice under subsection (1) shall state that the person or owner served is entitled to a hearing by the Tribunal if the person or owner mails or delivers, within fifteen days after service of the notice under subsection (1), notice in writing requiring a hearing to the Corporation and the Tribunal. R.S.O. 1990, c. O.31, s. 16 (2).

Powers of Tribunal

(3) Where a person or owner gives notice in accordance with subsection (2), the Tribunal shall appoint a time for and hold the hearing and may by order direct the Corporation to take such action as the Tribunal considers the Corporation ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Corporation. R.S.O. 1990, c. O.31, s. 16 (3).

Parties

(4) The Corporation, the person or owner who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section. R.S.O. 1990, c. O.31, s. 16 (4).

Conciliation of disputes

17. (1) The Corporation may, upon the request of an owner, conciliate any dispute between the owner and a vendor. R.S.O. 1990, c. O.31, s. 17 (1).

Idem

(2) Where there is a dispute between a vendor and an owner arising out of the contract, neither party shall commence any proceeding in respect thereof until after fifteen days after the party notifies the Corporation of the dispute for the purpose of giving the Corporation an opportunity to effect conciliation. R.S.O. 1990, c. O.31, s. 17 (2).

Information to Corporation

(3) Each party to a dispute shall supply the Corporation with such particulars thereof as the Corporation requires. R.S.O. 1990, c. O.31, s. 17 (3).

Arbitration

(4) Every agreement between a vendor and prospective owner shall be deemed to contain a written agreement to submit present or future differences to arbitration, subject to appeal to the Divisional Court, and the *Arbitrations Act* applies. R.S.O. 1990, c. O.31, s. 17 (4).

Inspectors

18. (1) The Corporation shall appoint inspectors for the purposes of this Act. R.S.O. 1990, c. O.31, s. 18 (1).

Power of entry

(2) An inspector may, for the purpose of inspecting a home during its construction, enter in or upon and inspect the premises constituting the site of the construction at any time without a warrant. R.S.O. 1990, c. O.31, s. 18 (2).

Powers of inspector

- (3) For the purposes of an inspection, the inspector may,
- (a) require the production of the drawings and specifications of a home or any part thereof, including any drawings prescribed by the regulations, for his or her inspection and may require information from any person concerning any matter related to a home or part thereof;
 - (b) be accompanied by any person who has special or expert knowledge of any matter in relation to a home or part thereof; and
 - (c) alone or in conjunction with such other person or persons possessing special or expert knowledge, make such examinations, tests, or inquiries as are necessary for the purposes of the inspection. R.S.O. 1990, c. O.31, s. 18 (3).

Obstruction of inspectors

(4) No person shall hinder, obstruct, molest or interfere with or attempt to hinder, obstruct, molest or interfere with an inspector in the exercise of a power or performance of a duty under this Act. R.S.O. 1990, c. O.31, s. 18 (4).

Restraining order

19. (1) Where it appears to the Corporation that any vendor or builder does not comply with this Act or the regulations, despite the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the Corporation may apply to the Superior Court of Justice for an order directing such person to comply with such provision and, upon the application, the court may make the order or such other order as the court thinks fit. R.S.O. 1990, c. O.31, s. 19 (1); 2000, c. 26, Sched. B, s. 15 (5).

Appeal

(2) An appeal lies to the Divisional Court from an order made under subsection (1). R.S.O. 1990, c. O.31, s. 19 (2).

Service of notice

20. Any notice or document required by this Act to be served or given may be served or given personally or by registered mail addressed to the person to whom notice is to be given at the person's last known address and, where notice is served or given by mail, the service shall be deemed to have been made on the fifth day after the day of mailing unless the person to whom the notice is given establishes that the person, acting in good faith, through absence, accident, illness or other cause beyond the person's control, did not receive the notice, or did not receive the notice until a later date. R.S.O. 1990, c. O.31, s. 20.

Certificate of evidence

21. The following statements are admissible in evidence as proof, in the absence of evidence to the contrary, of the facts stated in them for all purposes in any proceeding or prosecution, without the need for proving the office or signature of the Registrar, if the statements purport to be certified by the Registrar:

1. A statement as to the registration or non-registration of any person.
2. A statement as to the filing or non-filing of any document or material required or permitted to be filed with the Corporation.
3. A statement as to any other matter pertaining to a registration, non-registration, filing or non-filing of any person. 1998, c. 18, Sched. E, s. 189.

Offences

22. (1) Every person who,

- (a) knowingly furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations; or
- (b) contravenes section 6 or 12 or subsection 18 (4),

and every director or officer of a corporation who knowingly concurs in such furnishing or contravention is guilty of an offence and on conviction is liable to a fine of not more than \$25,000 or to imprisonment for a term of not more than one year, or to both. R.S.O. 1990, c. O.31, s. 22 (1).

Corporation

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is \$100,000 and not as provided therein. R.S.O. 1990, c. O.31, s. 22 (2).

Limitations

(3) A proceeding under clause (1) (a) shall not be commenced after the first anniversary of the day on which the facts upon which the proceeding is based first came to the knowledge of the Registrar. 1998, c. 19, s. 185 (3).

Same

(4) A proceeding under clause (1) (b) shall not be commenced after the second anniversary of the day on which the facts that gave rise to the offence were discovered. 1998, c. 19, s. 185 (3).

By-laws

23. (1) The Corporation may make by-laws,

- (a) governing applications for registration of vendors and builders and the expiration and renewal of registration;
- (b) prescribing the terms and conditions of registration;
- (c) requiring the payment of fees on applications for registration or renewal of registration and prescribing the amounts thereof;
- (d) prescribing the fees payable by builders to the Corporation in respect of the construction of a home or any class of home;
- (e) governing applications for and the issuance of certificates under subsection 13 (3);
- (f) governing agreements entered into between the Corporation and vendors or builders;
- (g) providing for the establishment and maintenance of the guarantee fund and governing procedures for claiming and determining claims for compensation from the guarantee fund;
- (h) governing the procedures for conciliation of disputes and providing for the payment and refunding of fees respecting requests for conciliation;
- (i) prescribing classes of dwellings that are homes;
- (j) specifying warranties in addition to those provided for in clause 13 (1) (a) or (b) and the time of expiration thereof;
- (k) defining major structural defects for the purpose of clause 13 (1) (b);
- (l) requiring vendors and builders to be bonded or to provide other security in such form, on such terms and with such collateral security as are prescribed, and providing for the forfeiture of bonds or other security and for the disposition of the proceeds;
- (l.1) specifying information that a person is required to include in a claim for compensation from the guarantee fund;
- (m) subrogating the Corporation or a named insurer to any right of recovery of a person in respect of a claim paid out of the insurance under the Plan and costs and providing the terms and conditions under which an action to enforce such rights may be begun, conducted and settled;
- (m.1) allowing prescribed persons to inspect homes during or after their construction and requiring builders or vendors to pay the costs of the inspections;
- (n) prescribing any matter required or authorized by this Act to be, or referred to in this Act as, prescribed by the regulations;

- (o) prescribing forms for the purposes of the Corporation and forms for claims for compensation from the guarantee fund. R.S.O. 1990, c. O.31, s. 23 (1); 1994, c. 27, s. 94; 1998, c. 18, Sched. E, s. 190; 1998, c. 19, s. 185 (4-7).

Legislation Act, 2006, Part III

(2) A by-law passed under subsection (1) shall be deemed to be a regulation to which Part III (Regulations) of the *Legislation Act, 2006* applies. R.S.O. 1990, c. O.31, s. 23 (2); 2006, c. 21, Sched. F, s. 136 (1).

Act binds Crown

- (3) This Act, except sections 6 to 10, binds the Crown. R.S.O. 1990, c. O.31, s. 23 (3).
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Ontario New Home Warranties Plan Act

R.R.O. 1990,

REGULATION 892 ADMINISTRATION OF THE PLAN

Last amendment: O. Reg. 166/08.

This is the English version of a bilingual regulation.

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PART I INTERPRETATION

1. In this Regulation,

“business day” means any day other than Saturday, Sunday or a holiday; (“jour ouvrable”)

“certificate of completion and possession” means the certificate required by subsection 13 (3) of the Act; (“certificat d’achèvement et de prise de possession”)

“common elements” of any condominium project has the meaning ascribed by the *Condominium Act, 1998*; (“parties communes”)

“conciliation” means a process whereby the Corporation determines whether a disputed item listed on a notice of claim given to the Corporation under this Regulation, including section 4 or any of sections 4.2 to 4.6, is covered by a warranty and whether repairs or compensation are required; (“conciliation”)

“condominium corporation” means, in respect of any condominium project, the corporation created or continued under the *Condominium Act, 1998*; (“association condominiale”)

“condominium project” means the lands and interests appurtenant thereto that are described or proposed to be described in any description required by the *Condominium Act, 1998* and which include or are proposed to include units to be used as homes; (“projet condominial”)

“construction contract” means an agreement between a builder and an owner of land which provides for the construction of a home on the land; (“contrat de construction”)

“contracted home” means a home constructed pursuant to a construction contract; (“logement sur contrat”)

“Corporation” means Tarion Warranty Corporation; (“Société”)

“date of possession” means the date on which the home is completed for possession by an owner as specified in the applicable certificate of completion and possession; (“date de prise de possession”)

“date of registration” means the date on which the declaration and description required by the *Condominium Act, 1998* are registered in the proper land registry office in respect of a condominium project; (“date d’enregistrement”)

“date of transfer” means the date on which deposits are applied on account of the purchase price payable under a purchase agreement with respect to a home; (“date de transfert”)

“deposit receipt” means a receipt executed by the Corporation, with provision for execution by the vendor and the purchaser, confirming to the purchaser the benefits of the Plan in respect of the purchase agreement; (“récépissé de dépôt”)

“deposits” means, in respect of a home, all money received before the date of possession by or on behalf of the vendor from a purchaser on account of the purchase price payable under a purchase agreement, and, in the case of a condominium dwelling unit, includes money received by or on behalf of the vendor after the date of possession and prior to the date of transfer but does not include money,

- (a) paid under the purchase agreement as rent or as an occupancy charge and not part of the purchase price, or
- (b) specified in the purchase agreement as money paid under subsection 80 (4) of the *Condominium Act, 1998*; (“dépôts”)

“insurers” means the insurers for the time being under any contract or contracts of insurance establishing the guarantee fund; (“assureurs”)

“interest” means the interest at the rate or rates prescribed under the *Condominium Act, 1998* required to be paid by the vendor on deposits; (“intérêt”)

“major structural defect” means, for the purposes of clause 13 (1) (b) of the Act, any defect in work or materials,

- (a) that results in failure of the load-bearing portion of any building or materially and adversely affects its load-bearing function, or
- (b) that materially and adversely affects the use of such building for the purpose for which it was intended,

including significant damage due to soil movement, major cracks in basement walls, collapse or serious distortion of joints or roof structure and chemical failure of materials, but excluding any defect attributable in whole or in part to a Year 2000 compliance problem, flood damage, dampness not arising from failure of a load-bearing portion of the building, damage to drains or services, damage to finishes and damage arising from acts of God, acts of the owners and their tenants, licensees and invitees, acts of civil and military authorities, acts of war, riot, insurrection or civil commotion and malicious damage; (“vice de construction important”)

“pre-delivery inspection date” means the date, on or before the date of possession, on which the vendor and either one or both of the purchaser and the purchaser’s designate conduct an inspection of the home; (“date de l’inspection préalable à la prise de possession”)

“principal” of any corporate applicant or registrant means a person who beneficially owns, directly or indirectly, more than 10 per cent of its outstanding voting shares; (“actionnaire principal”)

“purchase agreement” means an agreement between a vendor and any person providing for the purchase by such person of a home; (“convention d’achat”)

“purchaser” means a person who enters into a purchase agreement with a vendor for the purchase of a home and includes an assignee of the purchaser’s interest in a purchase agreement; (“acheteur”)

“soil movement” means subsidence, expansion or lateral movement of the soil not caused by flood, earthquake, act of God or any other cause beyond the reasonable control of the builder; (“mouvement du sol”)

“warranty certificate” means, in respect of any home or the common elements of any condominium project, the warranty certificate to be issued by the Corporation to the owner or condominium corporation, confirming the warranties provided for in section 13 of the Act; (“certificat de garantie”)

“Year 2000 compliance problem” means a problem that results from,

- (a) a value for the current date that causes an interruption in operation, degradation in performance, change in functionality or misrepresentation of information,
- (b) data-based processing that does not behave consistently for dates prior to, during and after the year 2000,
- (c) data calculations involving either a single century or multiple centuries that cause an abnormal ending or generate incorrect results, or
- (d) failure to recognize the year 2000, or any year divisible by four, as a leap year. (“problème de conformité à l’an 2000”) R.R.O. 1990, Reg. 892, s. 1; O. Reg. 430/99, s. 1; O. Reg. 138/01, s. 1; O. Reg. 142/02, s. 1; O. Reg. 320/03, s. 1; O. Reg. 32/05, s. 1; O. Reg. 483/05, s. 1.

PART II THE PLAN

DELIVERY OF DOCUMENTS

2. In connection with the sale or construction of a home, the requirements for the delivery of documents under the Plan are as follows:

1. In the case of a condominium project, promptly following the provision of the required security acceptable to the Corporation and the enrolment of the common elements of the condominium project, the Corporation shall, upon request by the registrant, deliver to the registrant a deposit receipt for every dwelling unit for which security was provided.
2. On the date of possession, the vendor shall deliver to the owner a combined certificate of completion and possession and warranty certificate.
3. In the case of a condominium project that qualifies for warranty coverage on the common elements under the Act, on or promptly following the date of registration of the condominium corporation, the vendor shall deliver to the condominium corporation a combined certificate of completion and possession and warranty certificate for the common elements.
4. For every home with a date of possession on or after October 1, 2003, the vendor shall deliver to the purchaser, on or before the pre-delivery inspection date, the most current freehold or condominium edition, as applicable, of the document entitled *Homeowner Information Package* published by the Corporation.
5. For every home with a date of possession on or after October 1, 2003, the vendor shall, on the pre-delivery inspection date, complete and sign a certificate of completion and possession form and a pre-delivery inspection form approved by the Corporation and deliver a copy of the completed and signed forms to the purchaser.
6. Within 15 days from the date of possession of each home sold by a vendor, the vendor shall submit to the Corporation the completed and signed forms mentioned in paragraph 5. O. Reg. 142/02, s. 2; O. Reg. 320/03, s. 2.

CERTIFICATES OF COMPLETION AND POSSESSION

3. (1) When, pursuant to a purchase agreement or construction contract, a home is completed for possession by the owner, the vendor or builder shall complete and execute the form of certificate of completion and possession required by the Corporation setting forth the date of possession and the name of the builder (if other than the vendor), identifying any surface defects in work and materials not accepted by the owner and listing any unfinished work. R.R.O. 1990, Reg. 892, s. 3 (1); O. Reg. 142/02, s. 3 (1).

(2) In the case of a condominium project that qualifies for warranty coverage on the common elements under the Act, the vendor shall similarly complete and execute the form of certificate of completion and possession required by the Corporation for the common elements, setting forth the date of registration, identifying any surface defects in work and materials in

respect of the common elements not accepted by the condominium corporation and listing any unfinished work required in connection with the common elements. R.R.O. 1990, Reg. 892, s. 3 (2); O. Reg. 142/02, s. 3 (2).

CLAIMS

4. (1) Each person with a claim under the Plan shall give written notice of the claim to the Corporation in the format that the Corporation specifies. R.R.O. 1990, Reg. 892, s. 4 (1); O. Reg. 483/05, s. 2 (1).

(2) Forthwith upon receipt by the Corporation of such notice, the Corporation shall furnish or make available to the claimant with such forms as it or the insurers may reasonably require for the purpose of establishing and verifying the claimant's loss. R.R.O. 1990, Reg. 892, s. 4 (2); O. Reg. 483/05, s. 2 (2).

(3) REVOKED: O. Reg. 483/05, s. 2 (3).

(4) Promptly after receipt by the Corporation of all information reasonably required to be furnished to it in respect of the claim and after determination of any disputes between the claimant and the vendor as to the liability of the vendor, the Corporation shall serve notice of its decision under section 14 of the Act. R.R.O. 1990, Reg. 892, s. 4 (4).

(5) Claims or conciliations for delayed closing or delayed occupancy made under Ontario Regulation 165/08 (Warranty for Delayed Closing or Delayed Occupancy) made under the Act for all homes with a date of possession on or after May 1, 2004 shall be made in accordance with the administrative procedures for delayed closing or delayed occupancy published by the Corporation. O. Reg. 117/04, s. 1; O. Reg. 166/08, s. 1.

(6) The fees payable by the vendor in connection with conciliations for delayed closing or delayed occupancy made under Ontario Regulation 165/08 (Warranty for Delayed Closing or Delayed Occupancy) made under the Act for all homes with a date of possession on or after May 1, 2004 are as set out in paragraph 6 of Schedule A. O. Reg. 117/04, s. 1; O. Reg. 166/08, s. 1.

4.1 (1) Subsections 4 (1) and (2), this section and sections 4.2 to 4.6 apply, and subsections 4 (4), (5) and (6) do not apply, to all claims made in respect of homes with a date of possession on or after October 1, 2003, excluding,

(a) claims made in respect of the common elements of a condominium project; and

(b) claims for delayed closing or delayed occupancy made under Ontario Regulation 165/08 (Warranty for Delayed Closing or Delayed Occupancy) made under the Act in respect of homes with a date of possession on or after May 1, 2004. O. Reg. 117/04, s. 2 (1); O. Reg. 483/05, s. 3 (1); O. Reg. 166/08, s. 1.

(2) In this section and sections 4.2 to 4.5,

“warranty claim” means a claim for breach of a warranty under subsection 14 (3) of the Act; (“réclamation au titre de la garantie”)

“warranty period”, for a warranty described in subsection 13 (1) of the Act, means the period commencing on the date on which the warranty takes effect under subsection 13 (3) of the Act and expiring on the date that the warranty expires. (“période de garantie”) O. Reg. 320/03, s. 3.

(3) During the first year of the warranty period, the owner shall submit to the Corporation a warranty claim only within one or both of the following time periods:

1. The 30 days after the date of possession.

2. The 30 days before the first anniversary of the date of possession. O. Reg. 320/03, s. 3; O. Reg. 483/05, s. 3 (2).

(4) The Corporation may, in its sole discretion, extend or abridge any times specified in this section, sections 4.2 to 4.6 and section 5.1 if it determines that,

(a) the vendor is unable or unwilling to repair or resolve the claim items covered by a warranty;

(b) the warranty claim involves items requiring seasonal repairs including air conditioning, items involving health and safety or items involving other extraordinary circumstances; or

(c) the specified times begin in, end in or span the period from December 24 of one year to January 1 of the following year, both inclusive. O. Reg. 320/03, s. 3; O. Reg. 483/05, s. 3 (3).

(5) A person whom this section or any of sections 4.2 to 4.6 requires to submit a form to the Corporation shall submit the form by hand, courier, facsimile transmission or, except during a general interruption of postal service, regular mail or registered mail. O. Reg. 320/03, s. 3.

(6) Submission by hand or courier is effective on the day that the Corporation receives it, if that day is a business day, and otherwise on the next business day. O. Reg. 320/03, s. 3.

(7) Submission by facsimile transmission is effective on the day sent, whether it is a business day or not. O. Reg. 117/04, s. 2 (2).

(8) Submission by regular mail is effective on,

(a) the post-mark date if the Corporation receives it within 10 days of the expiry of the period during which this section or any of sections 4.2 to 4.6 permit the submission; or

(b) the date that the Corporation receives it, otherwise. O. Reg. 483/05, s. 3 (4).

(9) Submission by registered mail is effective on the post-mark date and the receipt issued in accordance with the regulations relating to registered mail made under the *Canada Post Corporation Act* (Canada) is admissible in evidence as proof of the post-mark date, in the absence of evidence to the contrary. O. Reg. 320/03, s. 3.

30-DAY CLAIMS

4.2 (1) In this section,

“30-day form” means the form that the Corporation requires for a warranty claim that an owner submits to the Corporation within 30 days after the date of possession. O. Reg. 320/03, s. 3; O. Reg. 483/05, s. 4 (1).

(2) In order to make a warranty claim within 30 days after the date of possession, the owner shall complete and submit to the Corporation a 30-day form. O. Reg. 320/03, s. 3; O. Reg. 483/05, s. 4 (2).

(3) An owner may submit only one 30-day form for a home. O. Reg. 483/05, s. 4 (3).

(4) If the owner submits more than one 30-day form for a home, the only one of those forms that shall be effective for the purpose of the Act and the regulations shall be,

(a) the first form that the owner submits, if the home has a date of possession on or after October 1, 2003 and before September 1, 2005;

(b) the first form that the Corporation receives, if the home has a date of possession on or after September 1, 2005. O. Reg. 483/05, s. 4 (3).

(5) Subject to subsection (6) and section 5.1, if a home has a date of possession on or after October 1, 2003 and before September 1, 2005 and if an owner submits a 30-day form with respect to the home to the Corporation within 30 days after the date of possession, the vendor shall have until the end of the 150th day after the date on which the Corporation receives the form to repair or resolve the claim items that are listed on the form and that are covered by a warranty. O. Reg. 483/05, s. 4 (3).

(6) If the vendor does not repair or resolve all of the claim items listed on the 30-day form mentioned in subsection (5) by the end of the 120th day after the date on which the Corporation receives the form, the owner may request a conciliation by contacting the Corporation at any time from the 121st day to the 150th day, both inclusive, after the date on which the Corporation receives the form. O. Reg. 483/05, s. 4 (3).

(7) If the owner does not request conciliation under subsection (6) or if the owner cancels the conciliation requested under that subsection, the owner shall be deemed to have withdrawn all claim items listed on the 30-day form that the vendor does not repair or resolve by the end of the 150th day after the date on which the Corporation receives the form. O. Reg. 483/05, s. 4 (3).

(8) Subject to subsection (9) and section 5.1, if a home has a date of possession on or after September 1, 2005 and if an owner submits a 30-day form to the Corporation with respect to the home within 30 days after the date of possession, the vendor shall have until the end of the 180th day after the date of possession to repair or resolve the claim items that are listed on the form and that are covered by a warranty. O. Reg. 483/05, s. 4 (3).

(9) If the vendor does not repair or resolve all of the claim items listed on the 30-day form mentioned in subsection (8) by the end of the 150th day after the date of possession, the owner may request a conciliation by contacting the Corporation at any time from the 151st day to the 180th day, both inclusive, after the date of possession. O. Reg. 483/05, s. 4 (3).

(10) If the owner does not request conciliation under subsection (9) or if the owner cancels the conciliation requested under that subsection, the owner shall be deemed to have withdrawn all claim items listed on the 30-day form that the vendor does not repair or resolve by the end of the 180th day after the date of possession. O. Reg. 483/05, s. 4 (3).

(11) If the owner requests conciliation under subsection (6) or (7), the vendor shall have 30 days after the date of the owner’s request to repair or resolve all of the claim items listed on the 30-day form that are covered by warranty. O. Reg. 483/05, s. 4 (3).

(12) The owner may resubmit a warranty claim in accordance with section 4.3, 4.4 or 4.6 for any claim item that subsection (7) or (10) deems the owner to have withdrawn, if the warranty period applicable to the claim item has not expired before the date of resubmission. O. Reg. 483/05, s. 4 (3).

YEAR-END CLAIMS

4.3 (1) In this section,

“year-end form” means the form that the Corporation requires for a warranty claim that an owner submits to the Corporation within the 30 days before the first anniversary of the date of possession. O. Reg. 483/05, s. 5.

(2) In order to make a warranty claim within the 30 days before the first anniversary of the date of possession, the owner shall complete and submit to the Corporation a year-end form. O. Reg. 483/05, s. 5.

(3) If the home has a date of possession on or after October 1, 2003 and before September 1, 2005 and if the owner submits more than one year-end form under subsection (2), the claim items listed on the last year-end form submitted to the Corporation for the home shall replace the claim items listed on all other year-end forms submitted for the home. O. Reg. 483/05, s. 5.

(4) Subject to subsection (5) and section 5.1, if a home has a date of possession on or after October 1, 2003 and before September 1, 2005 and if an owner submits a year-end form with respect to the home to the Corporation within the 30 days before the first anniversary of the date of possession, the vendor shall have until the end of the 150th day after the later of the date on which the Corporation receives the form and the day before the first anniversary of the date of possession to repair or resolve the claim items that are listed on the form and that are covered by a warranty. O. Reg. 483/05, s. 5.

(5) If the vendor does not repair or resolve all of the claim items listed on the year-end form mentioned in subsection (4) by the end of the 120th day after the later of the date on which the Corporation receives the form and the day before the first anniversary of the date of possession, the owner may request a conciliation by contacting the Corporation at any time from the 121st day to the 150th day, both inclusive, after the later of the date on which the Corporation receives the form and the day before the first anniversary of the date of possession. O. Reg. 483/05, s. 5.

(6) If the owner does not request conciliation under subsection (5) or if the owner cancels the conciliation requested under that subsection, the owner shall be deemed to have withdrawn all claim items listed on the year-end form that the vendor does not repair or resolve by the end of the 150th day after the later of the date on which the Corporation receives the form and the day before the first anniversary of the date of possession. O. Reg. 483/05, s. 5.

(7) If a home has a date of possession on or after September 1, 2005, an owner may submit only one year-end form for the home and only the first year-end form that the Corporation receives for the home shall be effective for the purpose of the Act and the regulations. O. Reg. 483/05, s. 5.

(8) Subject to subsection (9) and section 5.1, if a home has a date of possession on or after September 1, 2005 and if an owner submits a year-end form to the Corporation with respect to the home within the 30 days before the first anniversary of the date of possession, the vendor shall have until the end of the 150th day after the first anniversary of the date of possession to repair or resolve the claim items that are listed on the form and that are covered by a warranty. O. Reg. 483/05, s. 5.

(9) If the vendor does not repair or resolve all of the claim items listed on the year-end form mentioned in subsection (7) by the end of the 120th day after the first anniversary of the date of possession, the owner may request a conciliation by contacting the Corporation at any time from the 121st day to the 150th day, both inclusive, after the first anniversary of the date of possession. O. Reg. 483/05, s. 5.

(10) If the owner does not request conciliation under subsection (9) or if the owner cancels the conciliation requested under that subsection, the owner shall be deemed to have withdrawn all claim items listed on the year-end form that the vendor does not repair or resolve by the end of the 150th day after the first anniversary of the date of possession. O. Reg. 483/05, s. 5.

(11) If the owner requests conciliation under subsection (5) or (9), the vendor shall have 30 days after the date of the owner’s request to repair or resolve all of the claim items listed on the year-end form that are covered by warranty. O. Reg. 483/05, s. 5.

(12) The owner may resubmit a warranty claim in accordance with section 4.4 or 4.6 for any claim item that subsection (6) or (10) deems the owner to have withdrawn, if the warranty period applicable to the claim item has not expired before the date of resubmission. O. Reg. 483/05, s. 5.

SECOND-YEAR CLAIMS

4.4 (1) In this section,

“second-year form” means the form that the Corporation requires for a warranty claim that an owner submits to the Corporation during the second year of the warranty period. O. Reg. 320/03, s. 3; O. Reg. 483/05, s. 6 (1).

(2) In order to make a warranty claim during the second year of the warranty period, the owner shall complete and submit to the Corporation a second-year form. O. Reg. 320/03, s. 3.

(3) Subject to subsection (4) and section 5.1, if an owner submits a second-year form to the Corporation in the second year of the warranty period, the vendor shall have until the end of the 150th day from the date on which the Corporation receives the form to repair or resolve the claim items that are listed on the form and that are covered by a warranty. O. Reg. 320/03, s. 3; O. Reg. 483/05, s. 6 (2).

(4) If the vendor does not repair or resolve all of the claim items listed on the second-year form by the 120th day from the date on which the Corporation receives the form, the owner may request a conciliation by contacting the Corporation at any time between the 121st day and the 150th day, both inclusive, from the date on which the Corporation receives the form. O. Reg. 320/03, s. 3.

(5) If the owner does not request conciliation under subsection (4), or if the owner cancels the conciliation requested under that subsection, the owner shall be deemed to have withdrawn all claim items listed on the second-year form that the vendor does not repair or resolve by the end of the 150th day after the date on which the Corporation receives the form. O. Reg. 483/05, s. 6 (3).

(6) If the owner requests conciliation under subsection (4), the vendor shall have 30 days after the date of the owner’s request to repair or resolve all of the claim items listed on the second-year form that are covered by warranty. O. Reg. 483/05, s. 6 (3).

(7) The owner may resubmit a warranty claim in accordance with this section or section 4.6 for any claim item that subsection (5) deems the owner to have withdrawn, if the warranty period applicable to the claim item has not expired before the date of resubmission. O. Reg. 483/05, s. 6 (3).

4.5 REVOKED: O. Reg. 483/05, s. 7.

MAJOR STRUCTURAL DEFECT CLAIMS — YEARS 3 THROUGH 7

4.6 (1) In this section,

“major structural defect form” means the form that the Corporation requires for a claim made under subsection 14 (4) of the Act for a home. O. Reg. 483/05, s. 8.

(2) In order to make a claim under subsection 14 (4) of the Act for a home, the owner shall complete and submit to the Corporation a major structural defect form. O. Reg. 483/05, s. 8.

(3) After receiving a major structural defect form for a home, the Corporation shall, within the time period specified in subsection (4),

(a) conduct an inspection of the home or an assessment of the claim items listed on the form, without doing an inspection of the home; and

(b) issue to the owner a report setting out the Corporation’s assessment of the claim items listed on the form. O. Reg. 483/05, s. 8.

(4) For the purpose of subsection (3), the time period is,

(a) the 10 days after the Corporation receives the major structural defect form, if the home has a date of possession on or after October 1, 2003 and before September 1, 2005; or

(b) the 30 days after the Corporation receives the major structural defect form, if the home has a date of possession on or after September 1, 2005. O. Reg. 483/05, s. 8.

CONCILIATION OF DISPUTES

5. (0.1) Section 4 applies, and subsection 5 (2) and section 5.1 do not apply, to claims and conciliations for delayed closing or delayed occupancy made under Ontario Regulation 165/08 (Warranty for Delayed Closing or Delayed Occupancy) made under the Act for all homes with a date of possession on or after May 1, 2004. O. Reg. 117/04, s. 4; O. Reg. 166/08, s. 1.

(1) An owner who requires conciliation of a dispute between the owner and the vendor shall make request therefor to the Corporation and both the owner and the vendor shall each pay to the Corporation the applicable conciliation fee set out in Schedule A. R.R.O. 1990, Reg. 892, s. 5 (1).

(2) REVOKED: O. Reg. 483/05, s. 9.

(3) If the Corporation determines that the remedial work will require time to complete, the Corporation shall continue to conduct such inspections of the home as the Corporation considers necessary until the work has been completed. R.R.O. 1990, Reg. 892, s. 5 (3).

(4) If the award of the Corporation is in favour of the owner or if the Corporation rules that the request for conciliation was justified in any event, the conciliation fee paid by the owner shall be refunded by the Corporation. R.R.O. 1990, Reg. 892, s. 5 (4).

5.1 (1) This section applies, and subsection 5 (2) does not apply, to all homes, excluding the common elements of a condominium project, with a date of possession on or after October 1, 2003. O. Reg. 320/03, s. 4.

(2) If an owner requests conciliation in accordance with section 4.2, 4.3 or 4.4, the Corporation shall, at any time between the 30th day and the 60th day, both inclusive, from the date of the request for conciliation, conduct a conciliation and issue to the owner and the vendor a report setting out the Corporation's assessment of whether the claim items are covered by a warranty and the repairs or compensation, if any, required. O. Reg. 320/03, s. 4; O. Reg. 483/05, s. 10.

(3) The vendor shall have a further 30 days from the date on which the report is issued to complete the repairs or pay the compensation required in the report. O. Reg. 320/03, s. 4.

(4) If the vendor does not complete the repairs or pay the compensation, the Corporation shall, subject to subsection 14 (3) of the Act and section 6, pay the compensation out of the guarantee fund to the owner or shall perform or arrange for the performance of the repairs. O. Reg. 320/03, s. 4.

LIMITS OF LIABILITY

6. (1) In the case of a home of a type referred to in clause (a) or (b) of the definition of "home" in section 1 of the Act, the maximum amount payable to a person out of the guarantee fund in respect of a claim under subsection 14 (1) or (2) of the Act is,

- (a) \$20,000 in respect of a claim in relation to a purchase agreement, or a construction contract, entered into before February 1, 2003; or
- (b) \$40,000 in respect of a claim in relation to a purchase agreement, or a construction contract, entered into on or after February 1, 2003. O. Reg. 2/03, s. 1.

(2) In the case of a home that is a condominium dwelling unit, the maximum amount payable to a person out of the guarantee fund in respect of a claim under subsection 14 (1) of the Act is \$20,000, plus the amount of interest that has accrued, until the time of payment, on the net principal amount payable out of the guarantee fund in respect of the claim. O. Reg. 2/03, s. 1.

(2.1) In subsection (2),

"net principal amount" means the lesser of,

- (a) \$20,000, and
- (b) the amount of deposit paid by the person to a vendor as a credit towards the purchase price under the contract on closing minus amounts required to be deducted from the deposit amount under subsection 14 (6) of the Act. O. Reg. 2/03, s. 1.

(3) In the case of a home of a type referred to in clause (a) or (b) of the definition of "home" in section 1 of the Act, the maximum amount payable to an owner out of the guarantee fund in respect of a claim made under subsection 14 (3) or 14 (4) of the Act is,

- (a) \$100,000 if the claim relates to a purchase agreement, or a construction contract, entered into before September 1, 2004 and under which the home has a date of possession before July 1, 2006;
- (b) \$150,000 if the claim relates to a purchase agreement, or a construction contract, entered into on or after September 1, 2004 and under which the home has a date of possession before July 1, 2006; or
- (c) \$300,000 if the claim relates to purchase agreement, or a construction contract, under which the home has a date of possession on or after July 1, 2006. O. Reg. 246/04, s. 1 (1); O. Reg. 343/06, s. 1 (1).

(4) In the case of a condominium dwelling unit, the maximum amount payable to an owner out of the guarantee fund in respect of a claim made under subsection 14 (3) or 14 (4) of the Act is,

- (a) \$100,000 if the claim relates to a purchase agreement, or a construction contract, entered into before September 1, 2004 and under which the condominium dwelling unit, excluding common elements, has a date of possession before July 1, 2006;
 - (b) \$150,000 if the claim relates to a purchase agreement, or a construction contract, entered into on or after September 1, 2004 and under which the condominium dwelling unit, excluding common elements, has a date of possession before July 1, 2006; or
 - (c) \$300,000 if the claim relates to a purchase agreement, or a construction contract, under which the condominium dwelling unit, excluding common elements, has a date of possession on or after July 1, 2006. O. Reg. 246/04, s. 1 (1); O. Reg. 343/06, s. 1 (2).
- (5) A condominium corporation that has a claim under subsection 14 (3) or (4) of the Act with respect to a condominium project is entitled, subject to subsection (8), to be paid out of the guarantee fund the cost of rectification of defective work in respect of the common elements of the condominium project. R.R.O. 1990, Reg. 892, s. 6 (5); O. Reg. 138/01, s. 2 (2).
- (6) Liability under subsection (3) or (4) is limited to damage to the home only and liability under subsection (5) is limited to damage to the common elements only and there is no liability for any other damage, direct or indirect. R.R.O. 1990, Reg. 892, s. 6 (6).
- (7) Liability in respect of the cost of completion of a home is limited to 2 per cent of the sale price of the home or \$5,000, whichever is the greater. R.R.O. 1990, Reg. 892, s. 6 (7).
- (8) Subject to subsection (8.1), the maximum amount payable out of the guarantee fund in respect of a claim relating to the common elements of a condominium project is the lesser of,
- (a) \$2,500,000; or
 - (b) an amount equal to \$50,000 multiplied by the number of condominium dwelling units in the condominium project. O. Reg. 118/91, s. 1 (2); O. Reg. 246/04, s. 1 (2).
- (8.1) As part of the maximum amount payable out of the guarantee fund to a condominium corporation under subsection (8), the maximum amount payable in respect of a claim relating to the common elements of a condominium project registered on or after September 1, 2004, for damage caused by environmentally harmful substances or hazards, deleterious substances, mould or any other fungal or bacterial contamination, is the lesser of,
- (a) \$100,000; or
 - (b) an amount equal to \$2,000 multiplied by the number of condominium dwelling units in the condominium project. O. Reg. 246/04, s. 1 (3).
- (9) The limits under subsections (3), (4), (5), (7) and (8) with respect to a home or condominium project are reduced by the amount of any payments previously made under subsection (3), (4), (5), (7) or (8) with respect to the home or condominium project, less any amount recovered by the Corporation or the insurers from any person other than the insurers, by way of indemnity or subrogation. R.R.O. 1990, Reg. 892, s. 6 (9).
- (10) As part of the maximum amount payable to an owner out of the guarantee fund under subsection (3), (4) or (8), the maximum amount payable in respect of a sewage disposal system is \$25,000 per home, in the case of a home that the builder was required to enrol in the Plan after June 30, 1993 and under section 8. O. Reg. 334/93, s. 1.
- (11) As part of the maximum amount payable to an owner out of the guarantee fund under subsection (3) or (4), the maximum amount payable in respect of homes sold under purchase agreements, or constructed under construction contracts, entered into on or after September 1, 2004, for damage caused by environmentally harmful substances or hazards, deleterious substances, mould or any other fungal or bacterial contamination, is \$15,000 per home. O. Reg. 246/04, s. 1 (3).

GUARANTEE FUND

7. (1) The Corporation shall establish and maintain a guarantee fund with a licensed insurer or insurers acceptable to the board of directors under a contract or contracts approved by the board from time to time. R.R.O. 1990, Reg. 892, s. 7 (1).
- (2) Under such a contract, the insurers shall agree to indemnify the Corporation for those sums which the Corporation is obligated to pay by reason of settlement of any dispute, judgment, action or claim arising under the Plan during the term of the contract. R.R.O. 1990, Reg. 892, s. 7 (2).
- (3) Despite subsections (1) and (2), the Corporation may establish and administer an uninsured fund as part of the guarantee fund and out of which it may pay claims made under the Plan. R.R.O. 1990, Reg. 892, s. 7 (3).

ENROLMENT OF HOMES IN THE PLAN

8. (1) Forthwith upon the issue of a building permit authorizing the construction of a home, other than a condominium dwelling unit, but including a contracted home, the builder shall enrol the home in the Plan by submitting to the Registrar a completed enrolment form as provided by the Corporation together with the enrolment fee set out in Schedule A. R.R.O. 1990, Reg. 892, s. 8 (1).

(2) Not less than thirty days prior to the commencement of construction of a condominium project, the builder shall enrol the condominium project and each unit thereof in the Plan by submitting to the Registrar a completed enrolment form as provided by the Corporation together with the enrolment fee set out in Schedule A. R.R.O. 1990, Reg. 892, s. 8 (2).

(3) Upon the sale by a vendor of any home, including a contracted home, the builder shall provide to the Corporation confirmation in the prescribed form of the final sale price, to enable the Corporation to confirm or adjust the enrolment fee paid under subsection (1) or (2), as the case may be. R.R.O. 1990, Reg. 892, s. 8 (3).

(4) Subject to subsection (5), where a builder has enrolled in the Plan a home, construction of which has not been commenced or which has been commenced but which is not fit for habitation, and where the home is acquired from the builder by a vendor, by way of conveyance, foreclosure or otherwise, it shall be re-enrolled in the Plan by submitting to the Corporation a completed enrolment fee set forth in Schedule A. R.R.O. 1990, Reg. 892, s. 8 (4).

(5) If a home referred to in subsection (4) vests in a trustee in bankruptcy, it shall be re-enrolled only if it was or is subject to a purchase agreement and if the Corporation has paid or is liable to make a payment to the purchaser under subsection 14 (1) of the Act. R.R.O. 1990, Reg. 892, s. 8 (5); O. Reg. 138/01, s. 3; O. Reg. 195/01, s. 2.

PART III REGISTRATION

APPLICATION FOR REGISTRATION

9. (1) Each applicant desiring registration under the Plan shall complete, execute and deliver to the Registrar such form or forms of application as the Registrar may require from time to time. R.R.O. 1990, Reg. 892, s. 9 (1).

(2) The application shall set forth the full name and address of the applicant, the type of business organization of the applicant, the names and addresses of all officers, directors and principals of corporate applicants and of all partners and members of applicants who are partnerships and other unincorporated associations, a brief history of the applicant's business experience, customer references, particulars of bonding arrangements, an estimate of the number and type of homes expected to be built by the applicant during the twelve months following the date of application, inventories of homes and such other information as the Registrar may reasonably require. R.R.O. 1990, Reg. 892, s. 9 (2).

(3) The applicant shall furnish to the Registrar:

1. An agreement between the applicant and the Corporation providing for the respective rights and obligations of the parties as to the enrolment of homes under the Plan, the performance of work by builders, the sale of homes by vendors and such other matters as the Corporation may reasonably require, such agreement to be in such form as may be required by the Corporation and to be fully completed and executed by the applicant in duplicate.
2. A letter from a bank chartered under the *Bank Act* (Canada) or from a corporation registered under the *Loan and Trust Corporations Act*, as to the financial position of the applicant.
3. Financial statements of the applicant and such other information relating to the applicant's financial affairs as the Registrar may require.
4. Where the applicant is not a builder, evidence satisfactory to the Registrar that the applicant has a continuing agreement or agreements with at least one registrant who is a builder whereby such registrant agrees to perform the work required to meet the warranty obligations of the applicant under the Plan.
- 4.1 Security for any claim relating to the applicant for any loss, cost or expense paid or payable by the Corporation in such amount and in such form as the Registrar may determine.
5. Such additional documentation related to the application as the Registrar may reasonably require. R.R.O. 1990, Reg. 892, s. 9 (3); O. Reg. 430/99, s. 2 (1).

(4) With each application for registration under the Plan, the applicant shall pay to the Corporation the prescribed registration fee set forth in Schedule A. R.R.O. 1990, Reg. 892, s. 9 (4).

(5) An applicant who fails to comply with the requirements of this section may be refused registration by the Registrar. O. Reg. 430/99, s. 2 (2).

RENEWAL OF REGISTRATION

10. (1) Every registration and renewal thereof expires one year after the date it is granted to the registrant. R.R.O. 1990, Reg. 892, s. 10 (1).

(2) Every registrant shall apply for renewal of registration not less than 30 days before the date on which the registration expires, giving full particulars of any change in the facts set forth in the most recent application for registration or renewal of registration on record. O. Reg. 142/02, s. 4.

(3) Every applicant for renewal of registration shall complete, execute and deliver to the Registrar such form or forms of application and such other documentation as the Registrar may provide from time to time. R.R.O. 1990, Reg. 892, s. 10 (3).

(4) With each application for renewal of registration under the Plan, the applicant shall pay to the Corporation the prescribed renewal fee set forth in Schedule A. R.R.O. 1990, Reg. 892, s. 10 (4).

11. REVOKED: (PART IV) O. Reg. 430/99, s. 3.

12. REVOKED: (PART IV) O. Reg. 430/99, s. 3.

PART V SUBROGATION

13. (1) The Corporation shall be subrogated to all rights of recovery of a person to whom payment in respect of a claim has been made out of the guarantee fund under the Act and may maintain an action in its own name or the name of the person against any other person against whom the action lies in respect of such rights of recovery. R.R.O. 1990, Reg. 892, s. 13 (1).

(2) The Corporation is entitled under its rights of recovery to conduct legal proceedings, including an action for damages, the quantum of which shall be limited to the amount paid out of the guarantee fund by the Corporation to the person whose rights are subrogated to the Corporation, including any legal costs, plus all costs incurred by the Corporation in the subrogated action. R.R.O. 1990, Reg. 892, s. 13 (2).

(3) Any amount recovered by the Corporation shall be applied,

(a) first, to payment of costs actually incurred by the Corporation in any action or any related action and in levying execution;

(b) second, to reimbursement of the Corporation for the amount of compensation paid by the Corporation to the person out of the guarantee fund; and

(c) third, the balance, if any, to payment of the person whose rights are subrogated. R.R.O. 1990, Reg. 892, s. 13 (3).

(4) Any settlement or release does not bar the rights of the Corporation unless the Corporation has concurred therewith in writing. R.R.O. 1990, Reg. 892, s. 13 (4).

(5) Any person who has been paid money out of the guarantee fund by the Corporation shall forthwith notify the Corporation of any action that such person has brought against any person who caused or contributed to the damages that resulted in the said payment by the Corporation out of the guarantee fund. R.R.O. 1990, Reg. 892, s. 13 (5).

PART VI WARRANTIES

WATER PENETRATION

14. Every vendor of a new home warrants to the owner that there will be no water penetration through the basement or foundation of the home for two years after the date upon which the home is completed for possession. R.R.O. 1990, Reg. 892, s. 14.

GENERAL

15. (1) In this section,

“building envelope” means the wall and roof assemblies that contain the building space, and includes all those elements of the assembly that contribute to the separation of the outdoor and indoor environments so that the indoor environment can be controlled within acceptable limits; (“enveloppe”)

“delivery and distribution systems” include all wires, conduits, pipes, junctions, switches, receptacles and seals, but does not include appliances, fittings and fixtures; (“réseaux de distribution”)

“exterior cladding” means all exterior wall coverings and includes siding and above-grade masonry as required and detailed in the relevant sections of the Ontario Building Code under which the Building Permit was issued. (“habillage extérieur”) R.R.O. 1990, Reg. 892, s. 15 (1).

(2) Every vendor of a new home warrants to the owner,

(a) that the home is constructed in a workmanlike manner and is free from defects in materials including windows, doors and caulking such that the building envelope of the home prevents water penetration;

(b) that the electrical, plumbing and heating delivery and distribution systems are free from defects in material and work;

(c) that all exterior cladding of the home is free from defects in material and work resulting in detachment, displacement or physical deterioration;

(d) that the home is free from violations of the Ontario Building Code regulations under which the Building Permit was issued, affecting health and safety, including but not limited to fire safety, insulation, air and vapour barriers, ventilation, heating and structural adequacy; and

(e) that the home is free of major structural defects. R.R.O. 1990, Reg. 892, s. 15 (2); O. Reg. 697/92, s. 1.

(3) The warranties described in subsection (2) apply only in respect of claims made within two years after the home was completed for possession, in respect of homes that were enrolled, or should have been enrolled, after the 31st day of December, 1990. R.R.O. 1990, Reg. 892, s. 15 (3).

(4) The warranties described in subsection (2) are prescribed under clause 13 (1) (c) of the Act. R.R.O. 1990, Reg. 892, s. 15 (4).

16. Where a home was enrolled after the 31st day of December, 1990, the claim for damages because of a major structural defect may be made within seven years of the date specified in the certificate of completion and possession. R.R.O. 1990, Reg. 892, s. 16.

17. REVOKED: O. Reg. 166/08, s. 2.

SUBSTITUTIONS

18. (1) Every vendor of a new home warrants to the owner that the vendor shall make no substitutions in those items of construction or finishing for which the purchaser is entitled to make selection pursuant to the purchase agreement without the written consent of the purchaser. R.R.O. 1990, Reg. 892, s. 18 (1).

(2) Subsection (1) does not apply where,

(a) the purchaser, having been notified, does not make a selection within thirty days after executing the purchase agreement or within such other time period as may be agreed; or

(b) an item selected under clause (a) is not available and the purchaser does not make a selection within seven days of receiving written notice from the vendor or within such other time period as may be agreed that the item is unavailable. R.R.O. 1990, Reg. 892, s. 18 (2).

(3) Every vendor of a new home warrants to the owner that where the purchaser fails to make a selection under clause (2) (a) or (b) that the vendor will make a selection on the purchaser’s behalf that is of equal or better quality than the original selection as set out in the purchase agreement. R.R.O. 1990, Reg. 892, s. 18 (3).

19. Every vendor of a new home warrants to the purchaser that, where the vendor makes a substitution with respect to an item that is referred to in the purchase agreement that is not an item that is to be selected by the purchaser, the item will be of equal or better quality than the item referred to in the purchase agreement. R.R.O. 1990, Reg. 892, s. 19.

19.1 REVOKED: O. Reg. 166/08, s. 3.

ELIGIBILITY

20. A claim may be made under subsection 18 (1) or section 19 only where,

(a) the transaction closes; and

(b) the claim is made by an owner within one year after the date upon which the home is completed for possession. R.R.O. 1990, Reg. 892, s. 20; O. Reg. 166/08, s. 4.

21. (1) Subject to subsections (2) and (3), for the purposes of section 18, written notice may be given personally or sent by electronic mail, fax, courier or registered mail to the purchaser at the address or contact numbers specified in the purchase

agreement or at any replacement address or contact numbers supplied in accordance with the purchase agreement. O. Reg. 166/08, s. 5.

(2) Written notice under section 18 shall not be sent by registered mail if there is a postal stoppage or interruption at the time the notice is sent. O. Reg. 166/08, s. 5.

(3) If written notice under section 18 is sent by registered mail within five days before a postal stoppage or interruption commences or during such a stoppage or interruption, the sending of the notice shall not be effective. O. Reg. 166/08, s. 5.

(4) Written notice given or sent in accordance with this section is deemed to have been given and received,

(a) on the day of delivery or sending, if the notice was given personally or sent by electronic mail or fax and that day is a business day;

(b) on the next business day after the day of delivery or sending, if the notice was given personally or sent by electronic mail or fax and the day of delivery or sending is not a business day;

(c) on the second business day after the day of sending, if sent by courier; and

(d) subject to subsection (3), on the fifth business day after the day of sending, if sent by registered mail. O. Reg. 166/08, s. 5.

22. REVOKED: O. Reg. 166/08, s. 6.

23. (1), (2) REVOKED: O. Reg. 166/08, s. 7.

(3) The warranties in subsection 18 (1) and section 19 apply to purchase agreements entered into after the 30th day of June, 1988. O. Reg. 117/91, s. 2.

24. REVOKED: O. Reg. 166/08, s. 8.

SCHEDULE A

Registration Fee		
1.	The fee for registration is	\$600
Renewal of Registration Fee		
2.	The fee for renewal of a registration is	300
Enrolment and Re-Enrolment Fee		
3. (1)	The enrolment fee for every home of a type referred to in clauses (a), (b) and (c) of the definition of “home” in section 1 of the Act is as follows:	
	Sale Price of the Home	Fee
	\$100,000 or less	325
	over \$100,000 up to and including \$150,000	350
	over \$150,000 up to and including \$200,000	400
	over \$200,000 up to and including \$250,000	450
	over \$250,000 up to and including \$300,000	500
	over \$300,000 up to and including \$350,000	550
	over \$350,000 up to and including \$400,000	600
	over \$400,000 up to and including \$450,000	650
	over \$450,000 up to and including \$500,000	700
	over \$500,000	750
(2)	The sale price of a home referred to in subparagraph (1) is the total amount payable by an owner in an agreement of purchase and sale or construction contract, excluding any applicable taxes.	
(3)	The re-enrolment fee per home is	50
Conciliation Fee		
4.	The fee payable by an owner for a conciliation of a dispute is	50
5.	The fee payable by a vendor for a conciliation of a dispute is,	
	(a) for the first conciliation with respect to each 25 units or fewer sold by the vendor	no fee
	(b) for each conciliation after the first conciliation with respect to each 25 units or fewer sold by the vendor	550
Delayed Closing and Delayed Occupancy Fees		
6. (1)	This paragraph applies to claims for compensation made under section 2 or 3 of Ontario Regulation 165/08 (Warranty for Delayed Closing or Delayed Occupancy) made under the Act for delayed closing or delayed occupancy.	
(2)	In this paragraph,	
	“Delayed Occupancy Administration Fee” means the fee payable by the vendor fixed by the Corporation for a request for conciliation of a claim made under section 2 or 3 of Ontario Regulation 165/08 (Warranty for Delayed Closing or Delayed Occupancy) made under the Act, for every home with a date of possession on or after May 1, 2004, in accordance with the Corporation’s administrative procedures;	
	“Delayed Occupancy Re-assessment Fee” means the fee payable by the vendor fixed by the Corporation for re-assessment of a	

	decision of the Corporation in respect of a claim made under section 2 or 3 of Ontario Regulation 165/08 (Warranty for Delayed Closing or Delayed Occupancy) made under the Act, for every home with a date of possession on or after May 1, 2004, in accordance with the Corporation's administrative procedures.	
(3)	This paragraph applies, and paragraph 5 of this Schedule does not apply, to all requests for conciliation of a claim made under section 2 or 3 of Ontario Regulation 165/08 (Warranty for Delayed Closing or Delayed Occupancy) made under the Act, for every home with a date of possession on or after May 1, 2004.	
(4)	The Delayed Occupancy Administration Fee is:	
	(a) for all homes with a date of possession between May 1, 2004 and December 31, 2004, both inclusive	600
	(b) for all homes with a date of possession between January 1, 2005 and December 31, 2005, both inclusive	1,200
	(c) for all homes with a date of possession on or after January 1, 2006	600
(5)	Delayed Occupancy Re-assessment Fee, which is non-refundable, is	350
7. (1)	This paragraph applies to claims for compensation made under section 5 or 6 of Ontario Regulation 165/08 (Warranty for Delayed Closing or Delayed Occupancy) made under the Act for delayed closing or delayed occupancy.	
(2)	In this paragraph,	
	"Delayed Closing or Occupancy Administration Fee" means the fee payable by the vendor fixed by the Corporation in respect of a claim for compensation made under section 5 or 6 of Ontario Regulation 165/08 (Warranty for Delayed Closing or Delayed Occupancy) made under the Act if a conciliation is needed to settle the claim and if the Corporation pays any part of the claim.	
(3)	The Delayed Closing or Occupancy Administration Fee is	500

O. Reg. 81/01, s. 1; O. Reg. 320/03, s. 5; O. Reg. 117/04, s. 5; O. Reg. 166/08, s. 9.

Ontario New Home Warranties Plan Act

ONTARIO REGULATION 273/04 DESIGNATION OF CORPORATION

No amendments.

This is the English version of a bilingual regulation.

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.

Ontario New Home Warranties Plan Act

R.R.O. 1990,

REGULATION 894

TERMS AND CONDITIONS OF REGISTRATION OF BUILDERS AND VENDORS

Last amendment: O. Reg. 167/08.

This is the English version of a bilingual regulation.

0.1 (1) In this Regulation,

“construction contract”, “date of possession”, “purchase agreement” and “purchaser” have the same meaning as in Regulation 892 of the Revised Regulations of Ontario, 1990; (“contrat de construction”, “date de prise de possession”, “convention d’achat” and “acheteur”)

“controlling principal”, in respect of a builder, means a person or combination of persons that either alone or together have a direct or indirect controlling interest in the builder. (“commettant contrôlant”) O. Reg. 321/03, s. 1; O. Reg. 33/05, s. 1 (1).

(2) A builder is associated with another builder if each of them has the same controlling principal. O. Reg. 33/05, s. 1 (2).

1. The following are conditions of every registration under the Plan:

0.1 The Registrar may require an applicant for registration as a builder to complete a written examination on the technical competence to perform the warranties if,

- i. the applicant has not previously been registered as a builder,
- ii. the applicant has had a previous application for registration refused, or has had a previous registration revoked, or
- iii. the applicant has previously been registered and,
 - A. more than three years have elapsed since the expiration or termination of the registration,
 - B. the applicant is a corporation and its officers or directors have changed since the date of the registration, or
 - C. the Corporation has received written notice of a claim against the guarantee fund with respect to a home sold or built by the applicant.

0.2 The Registrar may interview an applicant for registration as a vendor or builder or a registrant with respect to the person’s entitlement to registration if,

- i. the person has not previously been registered in the capacity that the person is registered or is applying for registration,
- ii. the person has had a previous application for registration refused or has had a previous registration revoked, or
- iii. the person has previously been registered and,
 - A. more than three years have elapsed since the expiration or termination of the registration,
 - B. the person is a corporation and its officers or directors have changed since the date of the registration, or
 - C. the Corporation has received written notice of a claim against the guarantee fund with respect to a home sold or built by the person.

0.3 An applicant for registration as a vendor or builder or a registrant shall,

- i. within the time period specified by the Registrar, provide such information or material relating to the person’s entitlement to registration as the Registrar requires, and

- ii. at the request of the Registrar, have the information and material verified by affidavit.
1. The registrant shall prominently display the certificate of registration at the registrant's principal business address as indicated in the application for registration.
 2. The registrant shall allow the duly authorized representatives of the Corporation free access to the registrant's books and records during normal business hours for the purpose of confirming matters relating to the Plan.
 3. The registrant shall diligently perform or cause to be performed all obligations imposed under the Plan and under any agreement made with the Corporation in respect of the Plan.
 - 3.1 The registrant, and where applicable its officers and directors, whether in connection with the registrant or other registrants, shall, at all times, carry out each of their undertakings to the Corporation in accordance with the law and with integrity and honesty. Without limiting the generality of the foregoing, it is a breach by the registrant of this condition of registration if the registrant, or where applicable any of its officers or directors, whether in connection with the registrant or other registrants, fails, at any time,
 - i. to fully indemnify the Corporation for all monies paid out by the Corporation to third parties for which the registrant or any of its officers or directors is responsible,
 - ii. to fully honour and comply with any outstanding guarantee or indemnity given to and in favour of the Corporation,
 - iii. to provide truthful, accurate and complete financial information to the Corporation as and when required, or
 - iv. to diligently perform or cause to be performed all obligations imposed under the Plan and under any agreement made with the Corporation in respect of the Plan.
 4. The registrant shall indemnify and save harmless the Corporation and the insurers for the time being under any contract or contracts of insurance establishing the guarantee fund, from any loss which they or any of them may suffer by reason of the registrant's failure to diligently perform or cause to be performed all obligations imposed under the Plan and under any agreement made with the Corporation in respect of the Plan. The Corporation may waive the obligation to indemnify and save harmless the Corporation and the insurers set out in this paragraph if,
 - i. the loss relates to a warranty claim under clause 13 (1) (a) or (b) of the Act or under section 14 or subsection 15 (2) of Regulation 892 of the Revised Regulations of Ontario, 1990 (Administration of the Plan) made under the Act,
 - ii. the Corporation, under section 16 of the Act, has served a notice of a decision made under section 14 of the Act denying a claim for payment out of the guarantee fund,
 - iii. the registrant, and any associated builder, is in full compliance with the Act and the regulations and all agreements with the Corporation throughout the conciliation and appeal processes described in section 17 of the Act, and
 - iv. the registrant has fully and completely co-operated with the Corporation throughout the conciliation and appeal processes described in section 17 of the Act and has participated in the processes as required by the Corporation.
 - 4.0.1 If the claim relates to a home of a type referred to in clause (a) or (b) of the definition of "home" in section 1 of the Act or a condominium dwelling unit, excluding common elements, the obligation to indemnify set out in paragraph 4 is limited to,
 - i. \$100,000, plus applicable interest, administrative fees and legal costs, if the purchase agreement or a construction contract for the home was entered into before September 1, 2004 and the home has a date of possession before July 1, 2006, or
 - ii. \$150,000, plus applicable interest, administrative fees and legal costs, if the purchase agreement or a construction contract for the home was entered into on or after September 1, 2004 or if, under the purchase agreement or construction contract, the home has a date of possession on or after July 1, 2006.
 - 4.1 The registrant shall pay an administration fee to the Corporation equal to 15 per cent of the amount that is paid out of the guarantee fund in payment of claims in respect of the registrant.
 - 4.2 The registrant shall pay to the Corporation interest at the rate of 1.5 per cent per month, calculated daily, on all amounts that the registrant owes to the Corporation; the registrant shall make the interest payments on the first day of each month following the date of default in repaying the amounts owed until the amounts owed are repaid in full.

5. The registrant shall from time to time, at the registrant's expense, furnish to the following persons the documents relating to the Plan that the Registrar reasonably requires to be furnished:
 - i. The Registrar.
 - ii. The purchasers who have entered into a purchase agreement with the registrant.
 - iii. The owners who have entered into a construction contract with the registrant.
 - iv. The owners of a home to whom the registrant has transferred title to the home.
6. The registrant shall furnish the Registrar with such information relating to the registrant's financial affairs and position as the Registrar may reasonably request.
- 6.1 The Corporation may inspect a home on which a registered builder has commenced construction if, when applying for registration, the builder was an applicant described in the subparagraphs of paragraph 0.1; the builder shall pay a fee of \$125 per inspection per home to the Corporation at the time the Corporation directs.
- 6.2 The Corporation may inspect a home on which a registered builder has commenced construction if the builder has previously been registered and has had a dispute conciliated by the Corporation; the builder shall pay an inspection fee of \$225 per home to the Corporation at the time the Corporation directs.
- 6.3 The Corporation may issue to the builder of a home that it inspects a list of deficiencies in the construction of the home that must be corrected to bring the home into compliance with the Act and the regulations; a builder who receives a list of deficiencies shall correct them within a reasonable period of time.
- 6.4 If the results of an examination or interview by the Registrar or an inspection by the Corporation demonstrate that a registrant does not have the necessary technical competence to be registered under the Act, the Registrar may require the registrant, as a condition for continuing to be registered, to,
 - i. limit the number of homes the registrant constructs,
 - ii. post security with the Corporation, or
 - iii. successfully complete a course of study that the Registrar specifies.
7. The registrant shall, without undue delay, complete the construction of every home commenced by the registrant in accordance with the Act.
8. A registrant shall offer for sale and take all reasonable steps to complete the sale of every home commenced by the registrant in accordance with the Act within two years after the date on which the building permit for the home is issued.
9. It is a condition of registration that where, as a result of the financial position or the level of technical competence of a registrant, the registrant has consented to conditions limiting the number of homes the registrant may construct or limiting the registrant to the construction of a particular class of homes, the registrant shall not, without the prior written consent of the Registrar, commence to construct,
 - i. homes in excess of the maximum number permitted to be constructed, or
 - ii. homes of any class the construction of which is restricted.
10. The registrant shall, within fifteen days after the event, notify the Registrar in writing,
 - i. of any change in address of the registrant for correspondence relating to the Plan,
 - ii. where the registrant is other than a corporation or an individual, of any change in the members or partners of the registrant, and
 - iii. where the registrant is a corporation,
 - A. of any change in the officers or directors of the registrant,
 - B. of any person who becomes the beneficial owner, directly or indirectly, of more than 10 per cent of the outstanding voting shares of the registrant.
- 10.1 The registrant shall, if requested at any time by the Registrar to do so,
 - i. provide security to the Corporation in such amount and in such form as the Registrar may determine for any claim, loss or expense paid or payable by the Corporation relating to the registrant,

- ii. replace one form of security previously provided to the Corporation with another,
 - iii. provide security to the Corporation additional to that already provided in such amount and in such form as the Registrar may determine, and
 - iv. promptly fulfil any term and condition imposed upon the registrant by the Registrar in connection with the release by the Corporation of the whole or any part of any security provided to the Corporation by the registrant.
11. The registrant shall give prompt written notice to the Registrar of any material change in any of the information contained in or accompanying the application of the registrant for registration or for renewal of registration under the Plan.
- 11.1 For every home with a date of possession on or after October 1, 2003, in respect of which the registrant acts as a vendor or a builder, the registrant shall conduct a pre-delivery inspection of the home with either one or both of the purchaser and the purchaser's designate on or before the date of possession, without charging a fee.
- 11.2 In every purchase agreement or construction contract entered into on or after October 1, 2003 for a home, in respect of which the registrant acts as a vendor or a builder, the registrant shall include a provision whereby the parties agree that the registrant and either one or both of the purchaser and the purchaser's designate will, on or before the date of possession, meet at the home and conduct the pre-delivery inspection of the home described in paragraph 11.1.
- 11.3 In every purchase agreement or construction contract entered into on or after October 1, 2003 for a home, in respect of which the registrant acts as a vendor or a builder, the registrant shall include a provision stating that,
- i. the registrant shall deliver to the purchaser, no later than the date of the pre-delivery inspection described in paragraph 11.1, the most current freehold or condominium edition, as applicable, of the document entitled *Homeowner Information Package* published by the Corporation, and
 - ii. the document entitled *Homeowner Information Package* is also available from the Corporation.
- 11.4 If the Registrar so requests at any time, the registrant shall participate in the training or complete the courses of study that the Registrar reasonably requires.
- 11.5 If the Registrar so requests at any time, the registrant shall provide the Registrar with all information relating to the registrant's record of closing delays or occupancy delays that the Registrar reasonably requests.
- 11.6 If the information provided by the registrant under paragraph 11.5 or the results of an examination or interview by the Registrar or an inspection by the Corporation demonstrate that a registrant has not complied with the warranties set out in Ontario Regulation 165/08 (Warranty for Delayed Closing or Delayed Occupancy) made under the Act, the Registrar may require the registrant, as a condition for continuing to be registered, to,
- i. refrain from entering into any purchase agreement until after a particular date or event,
 - ii. disclose to purchasers all information regarding the potential for closing delays or occupancy delays relating to a purchase agreement that the Registrar reasonably requires,
 - iii. limit the number of homes that the registrant constructs,
 - iv. post security with the Corporation, or
 - v. successfully complete a course of study that the Registrar specifies.
12. On request, the registrant shall furnish to the Registrar proof that the following Addendum forms part of every purchase agreement entered into before July 1, 2008 in respect of every home of a type described in clause (a) or (b) of the definition of "home" in section 1 of the Act constructed by the registrant.

TARION WARRANTY CORPORATION —
Sections 1 to 6

This Document Contains Important Information for the Consumer

ADDENDUM TO AGREEMENT OF PURCHASE AND SALE —
Sections 1 to 6

This addendum forms part of the Agreement of Purchase and Sale

Between:

..... (“Purchaser”)

and

..... (“Vendor”)

dated, (the “Agreement”)

DISCLOSURE

1. Purchasers should note that the Agreement may contain provisions about some or all of the following:

- (i) There may be rights or conditions by which the Vendor may terminate this Agreement regardless of whether or not the Purchaser is in default;
- (ii) It may be a condition of closing that the Purchaser be approved by mortgage lenders(s);
- (iii) The rate payable on any mortgage in the Agreement may be subject to increase;
- (iv) The Vendor may have the right to alter plans and specifications or substitute materials without notice;
- (v) The purchase price in the Agreement may be increased or adjusted by certain additional costs or charges. (In addition, purchasers are advised that on closing and registration, certain fees and taxes will be payable to the Province of Ontario.)

If the Purchaser cannot identify or understand any of these provisions the Purchaser should discuss them with the Vendor or salesperson.

The Purchaser is advised to consult a solicitor before signing the Agreement.

PLANNING STATUS

2. The current planning status of the land is:

- (i) If the land in the Agreement is within a Plan of Subdivision, the Plan of Subdivision IS/IS NOT registered;
- and
- (ii) A building permit for construction of the dwelling IS/IS NOT available for issuance by the municipality after application has been submitted and all municipal review completed.

ONTARIO NEW HOME WARRANTIES PLAN

3. The Ontario New Home Warranties Plan registration number for the Builder is, and

the enrolment number for the dwelling is, (if available).

BUILDER

4. For further information about this Agreement and your home, the Vendor may be contacted at:

.....

(address)

(telephone)

...

(attention)

It is recommended that the Purchaser contact the Vendor prior to the closing date to determine that construction is proceeding on schedule and that closing may occur on time.

EXTENSION AND TERMINATION

5. (i) If the Vendor cannot close the transaction by the closing date in the Agreement because additional time is required for construction of the dwelling, the Vendor shall extend the closing date one or more times as may be required by the Vendor by notice in writing to the Purchaser as soon as reasonably possible and in any event prior to the closing date or extended closing date, all extensions in the aggregate not to exceed 120 days. However, the vendor shall not extend closing if the parties have specifically agreed in writing that the Vendor cannot, and the Purchaser does not waive this covenant.
- (ii) The Vendor shall take all reasonable steps to construct the dwelling without delay.
- (iii) If the closing date in the Agreement has been extended for 120 days and the Vendor still requires further time for construction of the dwelling, unless subsequent to the closing date in the Agreement the parties otherwise agree, the Purchaser may terminate the Agreement within the 10 days immediately after the 120 days have elapsed by delivering or mailing notice in writing to the Vendor at the address shown above (which notice may also be given between solicitors), and upon the giving of such notice this Agreement shall be at an end and all sums paid by the Purchaser shall be returned without interest or deduction. However, if the Purchaser does not terminate as above, closing shall be deemed to be extended to a date 5 days following completion of the dwelling as required by the Agreement but, unless the parties otherwise agree, not later than a further 120 days after the initial 120 day period. If by this further time the dwelling is not constructed in accordance with the Agreement and if the parties do not otherwise agree, the Agreement shall be at an end and all sums paid by the Purchaser shall be returned without deduction and there shall be no further rights between the parties unless the Vendor is in breach of the vendor's covenant in 5 (ii) above to construct without delay. If the Agreement is so ended, interest shall be payable on all sums paid by the Purchaser, for the period commencing 120 days after the closing date in the Agreement at a rate 1% below the rate paid by the Province of Ontario Savings Office savings accounts as of the date on which the Agreement ended.
- (iv) Despite any provision to the contrary contained in it, the Agreement shall not be terminated by the Vendor by reason of failure to complete the dwelling as specified in the Agreement within a period of time or by a date specified in the Agreement, extended as above, unless the Purchaser consents to the termination in writing or the Agreement is ended pursuant to 5 (iii) above.
- (v) Where there is conflict or ambiguity between the Agreement and this Addendum this Addendum shall prevail.
- (vi) The Vendor may exclude extensions of the closing date reasonably required as a result of a strike, a fire, a flood, an act of God or a civil insurrection (an "Event") when calculating the 120 days referred to in 5 (i) and (iii) only if the Vendor delivers the notices described in 5 (vii) to the Purchaser.
- (vii) If an extension of the closing date referred to in 5 (i) or (iii) above is reasonably required as a result of an Event, then the Vendor shall provide the following notices to the Purchaser:
- (A) As soon as reasonably possible but not later than 20 days after the Vendor knows or ought reasonably to have known that the Event has commenced, the Vendor shall provide written notice to the Purchaser setting out a brief description of the Event and an estimate, if available, of the possible length of extension that may be required as a result of the Event; and
- (B) As soon as reasonably possible but not later than 20 days after the conclusion of the Event, the Vendor shall provide written notice to the Purchaser setting out a brief description of the particular Event that was the cause of the extension, the number of days by which the closing date is extended as a consequence of the Event, and the new closing date now in effect as a result of the Event.
- (viii) If an Event occurs and the closing date is reasonably required to be extended as a result of the Event, but the Vendor has failed to provide the notices described in 5 (vii), then the Purchaser shall have the option of sending written notice to both the Tarion Warranty Corporation and the Vendor. The notice shall contain a request for a formal extension of the closing date to accommodate the delay in completing the dwelling caused by the Event. The Purchaser shall send the notice no later than 40 days after the conclusion of the Event. Following receipt of the notice, the Tarion Warranty Corporation shall determine the length of a reasonable extension period that the Vendor ought reasonably to have implemented, and shall confirm its determination by notice in writing to both the Vendor and the Purchaser. The extension period as so determined shall be deemed to be excluded from the calculation of the 120 days referred to in 5 (i) and (iii) above, and the Agreement shall be deemed to be extended accordingly.
- (ix) 5 (vi), (vii) and (viii) apply to all Agreements entered into on or after November 1, 2000.
6. For further information about anything contained in this Addendum or about the warranties available to purchasers under the *Ontario New Home Warranties Plan Act*, please contact your lawyer and the Tarion Warranty Corporation, toll free, at 1-888-463-6466 during regular business hours, Monday through Friday.

R.R.O. 1990, Reg. 894, s. 1; O. Reg. 691/94, s. 1; O. Reg. 431/99, s. 1; O. Reg. 557/00, s. 1; O. Reg. 52/02, s. 1; O. Reg. 321/03, s. 2; O. Reg. 33/05, s. 2; O. Reg. 344/06, s. 1; O. Reg. 167/08, s. 1.

Ontario New Home Warranties Plan Act
Loi sur le Régime de garanties des logements neufs de l'Ontario

ONTARIO REGULATION 165/08
WARRANTY FOR DELAYED CLOSING OR DELAYED OCCUPANCY

No amendments.

This Regulation is made in English only.

DEFINITIONS

Definitions

1. In this Regulation,

“condominium home” means a home of a type described in clause (c) of the definition of “home” in section 1 of the Act;

“condominium phase” has the meaning set out in the definition of “phase” in subsection 145 (3) of the *Condominium Act, 1998*;

“condominium project” means the land and interests appurtenant to the land, as the land and interests are described or proposed to be described in any description required by the *Condominium Act, 1998* and includes units and proposed units, as those terms are defined in that Act, that are to be used as homes;

“freehold home” means a home of a type described in clause (a) or (b) of the definition of “home” in section 1 of the Act;

“phased condominium corporation” and “vacant land condominium corporation” have the same meaning as in subsection 1 (1) of the *Condominium Act, 1998*;

“purchase agreement” and “purchaser” have the same meaning as in Regulation 892 of the Revised Regulations of Ontario, 1990 (Administration of the Plan) made under the Act;

“vacant land condominium home” means a home constructed on a unit in a vacant land condominium corporation and sold by a vendor to a purchaser at the same time as the unit, where occupancy of the home is not provided before the closing of the sale of the unit. O. Reg. 165/08, s. 1.

PURCHASE AGREEMENTS ENTERED INTO BEFORE JULY 1, 2008

Delayed closing, freehold homes

2. (1) This section applies to a purchase agreement that the parties have entered into before July 1, 2008 for a freehold home with a closing date fixed on or after September 1, 1988. O. Reg. 165/08, s. 2 (1).

(2) Every vendor under a purchase agreement to which this section applies warrants to the owner that the vendor shall comply with the Addendum to the purchase agreement that is set out in paragraph 12 of section 1 of Regulation 894 of the Revised Regulations of Ontario (Terms and Conditions of Registration of Builders and Vendors) made under the Act. O. Reg. 165/08, s. 2 (2).

(3) Every vendor under a purchase agreement to which this section applies warrants to the owner that the vendor shall compensate the owner in accordance with subsection (4) in the event of,

(a) a delay in closing that is more than five days beyond the later of the date originally fixed for closing the purchase agreement and the closing date as extended under clause (6) (a) or (b), if the delay commences on or before June 30, 2009; or

(b) a delay in closing beyond the later of the date originally fixed for closing the purchase agreement and the closing date as extended under clause (6) (a) or (b), if the delay commences after June 30, 2009. O. Reg. 165/08, s. 2 (3).

(4) The compensation mentioned in subsection (3) shall be for all direct costs caused by the delay that the owner incurs in an amount that does not exceed \$100 a day for living expenses and \$5,000 in total. O. Reg. 165/08, s. 2 (4).

(5) Subsection (3) does not apply to the period of delay in closing caused by a strike, fire, flood, act of God or civil insurrection. O. Reg. 165/08, s. 2 (5).

- (6) Subject to paragraph 5 of the Addendum mentioned in subsection (2), subsection (3) does not apply if,
 - (a) the vendor extends the closing beyond the original closing date after giving written notice to the purchaser at least 65 days before the original closing date; or
 - (b) the vendor extends the closing for not more than 15 days beyond the original closing date or beyond the extended closing date mentioned in clause (a), after giving written notice to the purchaser at least 35 days before the original closing date or the extended closing date mentioned in clause (a). O. Reg. 165/08, s. 2 (6).
- (7) A breach of the warranty described in subsection (3) is a breach of warranty for the purposes of subsection 14 (3) of the Act. O. Reg. 165/08, s. 2 (7).
- (8) No claim for compensation under subsection (3) may be made unless,
 - (a) the transaction closes; and
 - (b) the claim is made by an owner within one year after the date upon which the home is completed for possession. O. Reg. 165/08, s. 2 (8).
- (9) If a claim for compensation under subsection (3) is made, compensation shall be calculated from the later of the original closing date and the closing date as extended under clause (6) (a) or (b). O. Reg. 165/08, s. 2 (9).

Delayed occupancy, condominium homes

3. (1) Subject to subsections (2) and (3), this section applies to a purchase agreement that the parties have entered into on or after April 1, 1991 and before July 1, 2008 for a condominium home. O. Reg. 165/08, s. 3 (1).

(2) If, before July 1, 2008, parties have entered into one or more arm's length purchase agreements in good faith for condominium homes in a condominium project, other than one involving a phased condominium corporation or a vacant land condominium corporation, this section applies to all purchase agreements for all condominium homes in the condominium project and section 6 does not apply to any of those purchase agreements. O. Reg. 165/08, s. 3 (2).

(3) If, before July 1, 2008, parties have entered into one or more arm's length purchase agreements in good faith for condominium homes in a condominium phase, this section applies to all purchase agreements for all condominium homes in the condominium phase and section 6 does not apply to any of those purchase agreements. O. Reg. 165/08, s. 3 (3).

(4) Every vendor under a purchase agreement to which this section applies warrants to the purchaser that the vendor shall compensate the owner in accordance with subsection (5) in the event of,

- (a) a delay in occupancy of the condominium home that is more than five days beyond the later of the confirmed occupancy date fixed as set out in subsections (7) and (8) and the confirmed occupancy date as extended under clause (12) (a) or (b), if the delay commences on or before June 30, 2009; or
- (b) a delay in occupancy of the condominium home beyond the later of the confirmed occupancy date fixed as set out in subsections (7) and (8) and the confirmed occupancy date as extended under clause (12) (a) or (b), if the delay commences after June 30, 2009. O. Reg. 165/08, s. 3 (4).

(5) The compensation mentioned in subsection (4) shall be for all direct costs caused by the delay that the purchaser incurs in an amount that does not exceed \$100 a day for living expenses and \$5,000 in total. O. Reg. 165/08, s. 3 (5).

(6) Subsection (4) does not apply to a period of delay in occupancy caused by strike, fire, flood, act of God or civil insurrection. O. Reg. 165/08, s. 3 (6).

(7) Every purchase agreement to which this section applies shall contain a confirmed occupancy date or a tentative occupancy date, clearly identified as such. O. Reg. 165/08, s. 3 (7).

(8) If the purchase agreement contains a tentative occupancy date, a confirmed occupancy date shall be established by written notice delivered to the purchaser,

- (a) not more than 30 days after the completion of the roof slab or of the roof trusses and sheathing, as the case may be, or on an earlier date or event set out in the purchase agreement; and
- (b) at least 120 days before the confirmed occupancy date. O. Reg. 165/08, s. 3 (8).

(9) A confirmed occupancy date established under subsection (8) shall not differ from the tentative occupancy date unless the purchase agreement so permits. O. Reg. 165/08, s. 3 (9).

(10) If a tentative occupancy date has been given and the vendor fails to set a confirmed occupancy date as specified in subsection (8) at least 90 days before the tentative occupancy date, the tentative occupancy date becomes the confirmed occupancy date for the purpose of calculating compensation under subsection (4). O. Reg. 165/08, s. 3 (10).

(11) If the vendor is able to provide occupancy before the confirmed occupancy date, the vendor warrants that occupancy before that date will not be required unless the purchaser consents in writing, and upon such consent, the revised date becomes the confirmed occupancy date for the purpose of calculating compensation payable under subsection (4). O. Reg. 165/08, s. 3 (11).

(12) The vendor may extend the confirmed occupancy date,

(a) by a maximum of 120 days if the vendor gives written notice to the purchaser at least 65 days before the confirmed occupancy date; or

(b) by a maximum of 15 days if the vendor gives written notice to the purchaser at least 35 days before the confirmed occupancy date or an extension of it under clause (a). O. Reg. 165/08, s. 3 (12).

(13) A breach of the warranty described in subsection (4) is a breach of warranty for the purposes of subsection 14 (3) of the Act. O. Reg. 165/08, s. 3 (13).

(14) No claim for compensation under subsection (4) may be made unless,

(a) it is made within one year after the date of possession;

(b) the condominium home is occupied; and

(c) the purchaser is not in default of the purchaser's obligations under the purchase agreement. O. Reg. 165/08, s. 3 (14).

(15) If a claim for compensation under subsection (4) is made, compensation shall be calculated from the later of the confirmed occupancy date and the confirmed occupancy date as extended under clause (12) (a) or (b). O. Reg. 165/08, s. 3 (15).

Notice

4. (1) Subject to subsections (2) and (3), for the purposes of sections 2 and 3, written notice may either be given personally or sent by prepaid ordinary mail to the purchaser at the address in the purchase agreement or at the last known address. O. Reg. 165/08, s. 4 (1).

(2) Written notice shall not be sent by mail if there is a postal stoppage or interruption at the time the notice is sent, but rather shall be given personally. O. Reg. 165/08, s. 4 (2).

(3) If written notice is sent by mail within five days before a postal stoppage or interruption commences or during such a stoppage or interruption, the sending of the notice shall not be effective. O. Reg. 165/08, s. 4 (3).

(4) Subject to subsection (3), the purchaser is deemed to have received written notice sent by mail on the fifth business day after the date of its mailing. O. Reg. 165/08, s. 4 (4).

PURCHASE AGREEMENTS ENTERED INTO ON OR AFTER JULY 1, 2008

Delayed closing

5. (1) If parties enter into a purchase agreement for a freehold home or a vacant land condominium home on or after July 1, 2008, the following are conditions of registration under the Plan:

1. The vendor shall ensure that the parties complete the applicable one of the following documents, for which the form is available for inspection at the offices of the Corporation during normal business hours, and that the completed document forms part of the purchase agreement:

i. The Freehold Home Addendum (Tentative Closing Date) dated April 20, 2008.

ii. The Freehold Home Addendum (Firm Closing Date) dated April 20, 2008.

2. Upon request, the vendor shall furnish to the Registrar proof that the applicable document described in paragraph 1, as completed by the parties, forms part of the purchase agreement. O. Reg. 165/08, s. 5 (1).

(2) If parties enter into a purchase agreement for a freehold home or a vacant land condominium home on or after July 1, 2008, the vendor warrants to the purchaser that the vendor will comply with the requirements applicable to the home that are imposed by section 9 of the Freehold Home Addendum (Tentative Closing Date) or the Freehold Home Addendum (Firm Closing Date), as the case may be, that paragraph 1 of subsection (1) requires form part of the purchase agreement, even if the vendor has not complied with that paragraph. O. Reg. 165/08, s. 5 (2).

Delayed occupancy

6. (1) Subject to subsections 3 (2) and (3), if, on or after July 1, 2008, parties enter into a purchase agreement for a condominium home, other than a vacant land condominium home, the following are conditions of registration under the Plan:

1. The vendor shall ensure that the parties complete the applicable one of the following documents, for which the form is available for inspection at the offices of the Corporation during normal business hours, and that the completed document forms part of the purchase agreement:
 - i. The Condominium Home Addendum (Tentative Occupancy Date) dated April 20, 2008.
 - ii. The Condominium Home Addendum (Firm Occupancy Date) dated April 20, 2008.
2. Upon request, the vendor shall furnish to the Registrar proof that the applicable document described in paragraph 1, as completed by the parties, forms part of the purchase agreement. O. Reg. 165/08, s. 6 (1).
 - (2) Subject to subsections 3 (2) and (3), if, on or after July 1, 2008, parties enter into a purchase agreement for a condominium home, other than a vacant land condominium home, the vendor warrants to the purchaser that the vendor will comply with the requirements applicable to the home that are imposed by section 9 of the Condominium Home Addendum (Tentative Closing Date) or the Condominium Home Addendum (Firm Closing Date), as the case may be, that paragraph 1 of subsection (1) requires form part of the purchase agreement, even if the vendor has not complied with that paragraph. O. Reg. 165/08, s. 6 (2).