

BUILDER ARBITRATION FORUM

REQUEST TO ARBITRATE

Note: *All parts of this form including Schedule A must be completed in order to commence an arbitration.*

Builder's Information

Licence Number: _____

Company Name: _____

Contact Name: _____

Address: _____

Phone Number: _____

Builder's Email: _____

Representation at the Arbitration

Read Rule 10.8 before completing this section. Check one box only.

the Builder will be self-represented by the officer, director, employee, sole proprietor or partner indicated in the "Contact Name" field above; *or*

the Builder will be represented by counsel. Their contact information is as follows:

Name: _____

Firm: _____

Address: _____

Email: _____

Tel: _____

Background Details of Assessment Report Under Appeal

Assessment Report Dated: _____

Enrolment: _____

Case: _____

Details of Appeal Dispute and Remedy Sought

The Builder applies to have the following dispute referred to an Arbitrator, under an Arbitration Agreement between the Builder and Tarion: **(check all that apply)**

- 1) the Builder requests a declaration from the Arbitrator that Tarion's assessment of the following item(s) as warranted is not correct and should not be warranted: *(attach a Schedule A detailing the items and the reasons why they should not be warranted)*
- Item Number(s): _____
- 2) the Builder requests a declaration from the Arbitrator that the Conciliation leading to the Assessment Report is not chargeable for the following reason(s):
- a) the above Item Number(s) should not be warranted; and/or
- b) even if there was a warranted item, the following exception(s) to chargeability apply, see Registrar Bulletin 04: **(check all that apply). Note:** *Evidence of exceptions to chargeability will only be admitted into evidence in a BAF hearing if it was provided to Tarion prior to the conciliation inspection as described in Rule 6.2.*
- i) Denied Access
- Date Tarion was advised: _____
- ii) Reasonable repair refused
- Date Tarion was advised: _____
- iii) Reasonable settlement refused
- Date Tarion was advised: _____
- iv) Evidence of prior satisfaction with the warranted item(s)
- Date Tarion was advised: _____
- v) Re-introduced or new issue raised at the conciliation
- Date Tarion was advised: _____
- vi) Shortened or no builder repair period
- Date Tarion was advised: _____
- vii) COVID -19 Temporary Supplement to Registrar Bulletin 04
- Date Tarion was advised: _____
- 3) the Builder requests a declaration from the Arbitrator that it should be reimbursed for amounts it paid under section 2.1 of the BAF Rules (Repairs made or Compensation Paid under Protest), in the amount of: \$_____

Proposed Details for the Arbitration

Number of Witnesses for the Builder: _____

Estimated Time to Present Builder's Case: _____

Arbitrator Nominees

The Builder nominates the following three persons from the Roster and agrees that Tarion may appoint one of them as the sole Arbitrator:

Note: *Before completing this section, you must obtain written confirmation (using Form 3 to the BAF Rules) from each of the nominees that they have no conflict of interest and is available to proceed within the time limits in the BAF Rules. Remember to attach the written confirmation to this Request. You may obtain an updated copy of the Roster of Arbitrators from BAF@Tarion.com.*

Nominee #1: _____

Nominee #2: _____

Nominee #3: _____

Rules of the Arbitration

1. The Builder understands and agrees that the arbitration will be conducted in accordance with the Builder Arbitration Forum Rules ("BAF Rules") adopted by Tarion, a copy of which has been received and read, and the Arbitration Agreement.
2. The Builder further understands and agrees that it will be required to pay a deposit to Tarion for the Arbitrator's fees and disbursements, and that the Arbitrator may require the Builder to pay an additional deposit to cover additional estimated fees and disbursements.
3. The Builder understands and agrees that the Builder may be required to pay all or part of the Arbitrator's fees and disbursements, if and as directed in the Arbitrator's decision pursuant to Rule 8 of the BAF Rules.
4. The Builder confirms:
 - (a) their offer to proceed to arbitrate the issues referred to in this Request;
 - (b) that the appointed Arbitrator shall have jurisdiction for this arbitration; and
 - (c) that the Arbitrator's Decision shall be final and binding upon all parties.

Attachments

The following documents must be attached in order to initiate the arbitration:

- a copy of the Arbitration Agreement referred to in paragraph 1 above;
- a copy of the Assessment Report;
- a non-refundable administration fee in the amount of \$847.50 (\$750.00 plus HST) by certified cheque or money order payable to Tarion Warranty Corporation;
- three completed Nominee Confirmation forms from each of the Builder's three nominees;
- Schedule A, setting out the builder's detailed reasons for arbitration;
- copies of Builder's written notice to Tarion for each exception claimed (*if applicable*); and,
- any additional documents.

Date: _____

Per: _____
Signature of Authorized Signing Officer

Print Name: _____

Print Title: _____

I have authority to bind the Builder.

TO: Builder Arbitration Forum
Tarion Warranty Corporation
5160 Yonge Street, 7th Floor
Toronto, ON M2N 6L9