

# Registrar Bulletin No. 10 CH

---

Tarion Application Process for Contract Homes

Effective Date: February 1, 2021  
Updated: September 8, 2022

## What This Bulletin Is About

### Overview

This Bulletin summarizes the process to apply to Tarion to build Contract Homes.

A Contract Home refers to situations where a Builder enters a construction contract with a landowner (owner) to build a new freehold home (that is not tied to a condominium) on the owner's land, for the owner to live in. The Builder who supplies the work and materials to construct the completed Contract Home is deemed to be the "Vendor" of the home who is responsible for providing the statutory warranties under the ONHWP Act.

Contract Homes are distinct from homes that are sold via an agreement of purchase and sale, where a Vendor sells a purchaser both land and dwelling. Tarion refers to the latter situation as "Freehold Homes".

There are separate Registrar Bulletins explaining the application process for Freehold Homes that are sold via an agreement of purchase and sale (Registrar Bulletin 10-FH), and for condominium projects (Registrar Bulletin 10-C).

It is important to follow the process outlined in this Bulletin because it is a provincial offence to: offer to enter into a construction contract; enter a construction contract; and/or Commence Construction of a Contract Home, without the necessary authorizations from the Home Construction Regulatory Authority (HCRA) and Tarion that are outlined in this Bulletin.

### Glossary

Below are definitions of the key terms used in this document (not in alphabetical order). These defined terms are indicated throughout the document with capitalized letters.

<b>"Contract Home"</b>	Refers to a newly constructed residential building constructed by a builder for the owner of the lot for their use (not for sale), in accordance with a construction contract where the builder supplies substantially all the work and materials for the completed building. The building is either: (i) a self-contained one-family dwelling, detached or attached to one or more others by one or more common walls; or (ii) a building composed of more than one and not more than two self-contained, one-family dwellings under one ownership. It does not involve any interest in a condominium of any kind.
<b>"Builder"</b>	A person or entity who undertakes the performance of all the work and supply of all the materials necessary to construct a completed Contract Home.  In the context of Contract Homes, the Builder of the home is deemed to be the Vendor who is responsible for providing statutory warranties to the owner.
<b>"Vendor"</b>	A person or entity who, on their own behalf, sells a home not previously occupied to an owner. The Vendor is responsible for providing the owner with statutory warranty coverage.

	In the context of Contract Homes, the Builder of the home is deemed to be the Vendor who is responsible for providing statutory warranties to the owner.
<b>“Interested Persons”</b>	An individual, corporation, or other entity who may exercise control over the operations of a licensed Vendor or Builder, or who has a beneficial interest in the operations of the licensee (in terms of beneficial ownership, or that they stand to benefit from the profits of the licensee). The Interested Person’s influence may be the result of direct or indirect authority and/or financial control over the business. Examples include but are not limited to directors, officers, principals, or partners of a licensee.
<b>“Home Construction Regulatory Authority (HCRA)”</b>	The administrative authority responsible for licensing Vendors and Builders under the <i>New Home Construction Licensing Act</i> .
<b>“Tarion”</b>	The administrative authority responsible for: authorizing the specific construction plans of licensed Vendors and Builders; and administering the statutory warranty plan under the <i>Ontario New Home Warranties Plan Act</i> .
<b>“Sell”</b>	Includes entering into an agreement to sell.
<b>“Commence Construction”</b>	The commencement of construction of foundation components or elements (such as footings, rafts or piles) for the home.
<b>“Enrolment Confirmation”</b>	The written authorization that a Builder must obtain from Tarion for <u>each</u> Contract Home, before the Builder is permitted to: 1) <i>offer</i> to enter a construction contract with the landowner (owner) to build the Contract Home; 2) <i>enter</i> into a construction contract with the owner to build the Contract Home; and 3) Commence Construction of the Contract Home.
<b>“Qualification for Enrolment (QFE) Confirmation”</b>	<b><u>Note: QFE Confirmation does not apply to Contract Homes.</u></b> QFE Confirmation is the written authorization that a Vendor must obtain from Tarion for <u>each</u> home that will be sold via an agreement of purchase and sale, before the Vendor is permitted to offer or agree to sell the home and underlying land.
<b>“Application for QFE and/or Enrolment”</b>	The application that a licensed Vendor submits to Tarion outlining information about their proposed sales and construction plans. Tarion generally responds to the application with a Notice of Proposal (NOP) of Conditions, which outlines Terms and Conditions that must be satisfied by the applicant to obtain QFE Confirmation and Enrolment Confirmation.  Note that where a Vendor is working in partnership with a separate Builder to sell/build homes, the Vendor is responsible for submitting the application.
<b>“Risk Assessment”</b>	A profile that Tarion develops for a Vendor and/or Builder after reviewing their Application for QFE and/or Enrolment. The profile is used for underwriting purposes to determine whether, and on which Terms and Conditions, a Vendor/Builder’s proposed sales and construction plans should be authorized. A Risk Assessment considers factors relating to the Vendor/Builder and their Interested Persons, including their past and present conduct and financial status (eg. financial equity, experience, and Tarion history). The security-related aspects of the Risk Assessment are outlined in Registrar Bulletin 11-FH.
<b>“Terms and Conditions ”</b>	Requirements that a Vendor and/or Builder must satisfy in order to obtain, and continue to maintain, QFE and Enrolment Confirmation from Tarion.

Some Terms and Conditions are legislated under the *Ontario New Home Warranties Plan Act* and apply equally to all Vendors and Builders.

Some Terms and Conditions are proposed by Tarion on a case-by-case basis for a given Vendor or Builder.

**“Notice of Proposal (NOP) of Conditions”**

The written document that Tarion sends a Vendor outlining the proposed Terms and Conditions that they must satisfy to proceed with their construction and sales plans.

**“BuilderLink”**

Tarion’s online portal where licensed Vendors can submit an Application for QFE and/or Enrolment.

**“Vendor Agreement” and “Builder Agreement”**

A standard agreement that all Vendors and Builders must enter into with Tarion as part of the application process. Entering these agreements is a legislated requirement.

**“Guarantor”**

A person or entity, other than the applicant Vendor / Builder, who enters into a guarantee and indemnity agreement with Tarion to guarantee the Vendor / Builder’s financial obligations to Tarion. The person or entity may or may not be affiliated with the Vendor / Builder. Tarion may request that an applicant Vendor / Builder arrange for a Guarantor depending on the Vendor / Builder’s Risk Assessment.

**“Registrar Bulletins”**

Policies [published by Tarion](#) containing information and rules about various matters related to the statutory warranty plan. Compliance with these Bulletins is a legislated requirement, and a requirement under the Vendor Agreement and Builder Agreement.

**“Freehold Home”**

Refers to a newly constructed residential building sold by a vendor to a purchaser under an agreement of purchase and sale, where the sale involves both the lot and dwelling and the building is either: (i) a self-contained one-family dwelling, detached or attached to one or more others by one or more common walls; or (ii) a building composed of more than one and not more than two self-contained, one-family dwellings under one ownership. It does not involve any interest in a condominium of any kind. Typically, this refers to a regular new home in a subdivision, sometimes called a single-family dwelling, or a dwelling in a duplex, triplex, quadraplex, townhouse or rowhouse (in each case which is not a condominium).

## Application Process

### 1. Obtain Your Licenses from the Home Construction Regulatory Authority (HCRA)

Before approaching Tarion to build a Contract Home, you must first be licensed by the HCRA as both a Vendor and a Builder. Both licenses are required because a Builder of a Contract Home is deemed to be the Vendor responsible for providing the statutory warranties. In the context of Contract Homes it is not possible for two separate entities – one licensed as a Vendor, and the other as a Builder – to work together to build a Contract Home.

For the purposes of this Bulletin, the term “Builder” refers to those who have been properly licensed by the HCRA as both a Vendor and Builder.

Visit the HCRA’s website at [www.hcraontario.ca](http://www.hcraontario.ca) for more information about the licensing process.

Note: being licensed by the HCRA does not guarantee that Tarion will authorize your plans to build a Contract Home. Tarion’s authorization, as well as the Terms and Conditions that must be satisfied to obtain the authorization, will depend on underwriting factors.

### 2. Apply to Tarion for Authorization to Offer & Enter into a Construction Contract

#### *Introduction*

Obtaining or renewing a licence from the HCRA does not authorize you to: offer to enter into a construction contract; enter into a construction contract; or Commence Construction of a Contract Home. Those authorizations can only be obtained by completing the application process with Tarion.

The authorization that permits you to offer to enter into a construction contract with an owner; and to *enter* into the construction contract, is called “**Enrolment Confirmation**”.

There is a single application titled “**Application for QFE and/or Enrolment Confirmation**” that you must submit as a first step to obtain **Enrolment Confirmation** – for ease this is referred to as the “application” throughout this Registrar Bulletin. This application can be completed through Tarion’s online **BuilderLink** portal. Enrolment Confirmation is not issued automatically after you submit an application – you must complete the further steps 3 to 4 outlined in the remainder of this Bulletin.

Your application should relate to all the Contract Homes that you plan to build over the next 12 months. While this Bulletin focuses on the application process for Contract Homes, you may submit a single application to cover a mix of home types (i.e., any and all Contract Homes, Freehold Homes, and Condominium Projects) that you plan to sell/build over the next 12 months. Be sure to review the different versions of Registrar Bulletin 10 that apply to Freehold Homes and Condominium Projects if you will be applying for those home types.

Ideally you will submit one application every 12 months based on your sales and construction plans for the year. However, if something changes shortly after submitting an application, and you wish to increase the number of Contract Homes to build (or there are other changes to your construction plans), you must contact Tarion and we can work with you to determine next steps. We will review to adjust your Risk Assessment and the NOP of Conditions as needed. We may require additional information as part of our Risk Assessment. Significant changes may require a new application.

Below are some points to keep in mind:

- It is a provincial offence to to: 1) offer to enter a construction contract to build a Contract Home; 2) enter into a construction contract to build a Contract Home; and/or 3) Commence Construction of a Contract Home, if you have not received Enrolment Confirmation for the Contract Home in question.
- Each Contract Home that you intend to build requires Enrolment Confirmation (though you may apply for multiple homes on a single application). For clarity, Enrolment Confirmation is not a one-time authorization that subsequently allows you to build a limitless number of Contract Homes.
- When you apply to Tarion, we understand that you will not have all the details (for example, the address or price) of the Contract Home(s) you intend to build. You will not be able to provide these details until you are authorized to offer and enter into construction contracts.
  - The application will collect high-level information about geographic areas and estimated price.
  - After receiving Enrolment Confirmation, while you may offer/enter into a construction contract, you cannot Commence Construction until you return to Tarion to finalize the home's enrolment, as outlined in step # 5 below. At this stage you will be asked to provide more detail about the Contract Home(s), including the address.
- Your Tarion application does not need to correspond with your HCRA licence renewal.
- Check BuilderLink to see how many Contract Homes you have left to build (within your previously authorized limits, if any) and re-apply when you wish to build above your current limit.

#### *Content of the Application for QFE and/or Enrolment*

Your application will include information and documents about you and your proposed construction plans for the next 12 months:

- The estimated number of Contract Homes;
- Details about the types of homes, geographic areas, and estimated price range(s);
- The following forms and documentation which you may access samples of [here](#):
  - Application for QFE and/or Enrolment (to be completed through BuilderLink);
  - Signed Vendor Agreement and Builder Agreement (electronically signed through BuilderLink);
  - Financial documentation about the Builder applicant;
    - If the applicant Builder is a corporation, their latest available externally prepared signed Notice to Reader financial statements, reviewed financial statements, or audited financial statements;
    - If the applicant Builder is a sole proprietorship, a Personal Net Worth Statement form with supporting documents;
    - If the applicant Builder is a partnership, financial statements or Personal Net Worth Statement form with supporting documents, as determined by Tarion;
  - A Guarantee and Indemnity agreement from a third party(s) guarantor of the Builder's financial obligations to Tarion, including;
    - The Guarantee and Indemnity Agreement itself;

- Personal Net Worth Statement form with supporting documents for all guarantors who are: an individual, a sole proprietor, or a partner of a partnership;
  - If the guarantor is a limited or general partnership, additional documentation confirming the enforceability of the guarantee against the partners/partnership (via a template provided by Tarion);
  - If the guarantor is a corporation, reviewed financial statements or audited financial statements for the past three fiscal periods, shareholder register, and a copy of the Initial Return / Notice of Change document as well as the incorporation documents. Note all corporate guarantors are reviewed by Tarion to determine whether the guarantor is acceptable to Tarion;
- Additional information and documentation reasonably requested by Tarion to help to develop a risk and underwriting assessment for the work you are proposing; and
  - You may be asked to attend an interview or a site visit with Tarion.

#### *Application Review*

To assess whether to grant an application and the appropriate **Terms and Conditions**, Tarion may consider the past and present financial position and conduct of the applicant Builder and their **Interested Persons**. This may include a review of the applicant's financial equity, construction experience, warranty service, paid claims, and any other factors that indicate the applicant's willingness or ability to meet their obligations under the ONHWP Act, the Vendor and Builder Agreements, and the Registrar Bulletins.

#### *Application Timelines*

We recommend that you submit your application 10-12 weeks before you plan to offer/enter a construction contract. This timing recommendation is a general guideline to ensure that you provide sufficient lead time for Tarion to review and respond to your application. Your application may take less time to process if your application documentation is in order. It is our objective to assist you with a quick and seamless application process. Below are examples of circumstances that may result in delays. Please factor these into your project timelines as you work through your Tarion application process:

- Interview requirements;
- Reference checks;
- Site visits;
- Additional review of problematic warranty history;
- The Vendor or Builder is unable to demonstrate sufficient technical competency or experience with high-volume sales/construction;
- Missing or incomplete documentation; or
- Time required for you to satisfy Terms and Conditions such as providing security prior to receiving Enrolment Confirmation.

### 3. Terms and Conditions

Tarion will assess your application and provide a written response outlining the Terms and Conditions that you must satisfy prior to offering or entering into a construction contract to build the Contract Home(s) referenced in your application. Note that home(s) you apply for in future applications may be subject to different Terms and Conditions. The written response containing your Terms and Conditions is called a “**Notice of Proposal (NOP) of Conditions**”. The Terms and Conditions found within the NOP of Conditions are broken down into two categories:

- (1) **Conditions of Enrolment:** requirements you must satisfy before Tarion issues written Enrolment Confirmation for the home(s), which authorizes you to offer, and enter into, a construction contract; and,
- (2) **Specified Terms and Conditions:** requirements that you must satisfy on an ongoing basis (ie. even after you receive Enrolment Confirmation).

Common examples of these Terms and Conditions include:

- The amount of security that you must provide to Tarion;
- After receiving Enrolment Confirmation and entering into a construction contract, you must, prior to Commencing Construction, return to Tarion to provide details about the Contract Home such as the address, provide security, and pay the enrolment fee; and,
- Other conditions Tarion may reasonably propose in order to mitigate risks and underwrite the warranty obligations relating to the proposed construction.

We encourage you to contact Tarion to discuss any concerns you have about your NOP of Conditions. If you wish to formally dispute the NOP of Conditions, you may file an appeal with the Licence Appeal Tribunal within 15 days of receiving the NOP of Conditions.

The Terms and Conditions within the NOP of Conditions are deemed to apply if you do not file an appeal by the 15-day deadline. If you are prepared to accept the NOP of Conditions, you do not have to return a signed copy to Tarion. If you wish to indicate to Tarion before the 15-day deadline that you accept the NOP of Conditions and will not be appealing, you are able to indicate your acceptance on BuilderLink,.

#### *Other Sources of Terms and Conditions*

The Terms and Conditions proposed by Tarion in an NOP of Conditions are tailored to your proposed construction plans. It is important to remember that there are other sources of terms, conditions, and obligations that apply across the board to all Vendors and Builders. These sources include: the ONHWP Act and Regulations; the Vendor Agreement and Builder Agreement; and the Registrar Bulletins.

### 4. Enrolment Confirmation and Offering / Entering into a Construction Contract

After all the Conditions of Enrolment, if any, outlined in your NOP of Conditions have been satisfied, Tarion will issue written Enrolment Confirmation for the Contract Home(s) via email or mail. After receiving Enrolment Confirmation, you can proceed to offer and enter into a construction contract for the Contract Home.

You may not Commence Construction of the Contract Home(s) until you complete the further step below.



## 5. Finalizing the Enrolment and Commencing Construction

After you enter into the construction contract, you must return to Tarion to finish enrolling the Contract Home. This involves:

1. Submit the home(s) for enrolment through BuilderLink;
2. Provide security (if any, as outlined in your NOP of Conditions previously issued by Tarion); and,
3. Pay the applicable enrolment fees and regulatory fees either via BuilderLink or cheque (summarized in Registrar Bulletin 15).

Once these steps are complete, you may Commence Construction of the Contract Home(s).

## Work and Materials Supplied by Owners

As a licensed Vendor and Builder, you must familiarize yourself with the types of homes and homebuilding situations that fall within the scope of the ONHWP Act's statutory warranty plan. We encourage you to review the ["Common Definition"](#) guides on the HCRA's website about the definitions of "Vendor", "Builder", "Owner", and "Home" that outline the homebuilding situations that fall within the scope of the ONHWP Act's statutory warranties. If you have questions about whether a home is eligible for warranty coverage and must be enrolled with Tarion, you may contact [ismy.homecovered@tarion.com](mailto:ismy.homecovered@tarion.com).

Builders of Contract Homes should be conscious about the effects of an owner supplying and/or controlling significant aspects of the work and materials to construct a completed Contract Home, as outlined in the [HCRA Advisory - Common Definition of Builder](#). While an owner can supply or control some work and materials without affecting the Contract Home's warranty eligibility, if an owner supplies or controls significant work and materials relating to the "essential elements" of the home, the Contract Home may not be eligible for the statutory warranties.

As a licensed Vendor/Builder, it is your responsibility to determine in the first instance, and make inquiries to Tarion where necessary, as to whether the Contract Home(s) you intend to build must be enrolled in the statutory warranty plan. Construction contracts can change throughout the construction process, so you must continuously monitor changes in control and supply over the work and materials that can affect the Contract Home's warranty eligibility. If you apply to build a Contract Home that you believe will be eligible for warranty coverage, but the construction contract is later revised such that the owner will be supplying significant "essential elements" of the home's construction, you should contact Tarion as soon as possible to provide an update on the situation. Tarion will determine whether the Contract Home remains eligible for statutory warranty coverage. If Tarion determines that the Contract Home is no longer eligible for the statutory warranties, the Contract Home's enrolment will be cancelled and enrolment fees etc. will be refunded.

Licensed Vendor/Builders must ensure that construction contracts are made in writing – do not rely on an oral agreement. If the owner will be supplying or controlling work or materials, this should be detailed in the construction contract. Any changes to the construction contract should be made in writing. Ensuring that you have a written, detailed, and up to date construction contract setting out the rights and obligations of each party will assist with any difficulties that may arise during and after construction of the Contract Home, including statutory warranty claims.

## Ongoing Review by Tarion

Tarion may review your Terms and Conditions, financial situation, licensing status, and the status of your construction and warranty service record on an ongoing basis, including annually; and may propose changes to your Terms and Conditions on an ongoing basis to reasonably reflect any changes to your Risk Assessment. Any proposed changes will be set out and explained to you in writing via an amended NOP of Conditions.

In some cases, if it is in the public interest to do so, or if the nature of the construction ceases to meet the definition of a “home” under the ONHWP Act, Tarion may cancel a Contract Home’s Enrolment Confirmation, or amend your Terms and Conditions. This would be done by way of a Notice of Proposal, and you will have appeal rights as described below.

A failure to abide by your Terms and Conditions may result in sanctions from Tarion, a refusal to approve further homes for construction or sale, a delay in the release of security, a revocation of authorizations already issued by Tarion, and/or a request that the HCRA take action against your licence to sell or build homes.

## Dispute Resolution

If you disagree with the Terms and Conditions proposed by Tarion within an NOP of Conditions, or wish to dispute a proposal by Tarion to refuse Enrolment Confirmation, we encourage you to contact Tarion’s Underwriting department to discuss your concerns. We will explain the basis for Tarion’s proposal and work with you to try to resolve your concerns. For example, if Tarion’s proposal relates to a lack of financial equity, it may be that Tarion’s proposal can be adjusted if you are able to provide additional financial information, bring in a third party guarantor to support your financial obligations, or reduce the number of homes you are proposing to sell.

If you are unable to resolve your dispute through discussions with Tarion, you can appeal any Notice of Proposal issued by Tarion to the Licence Appeal Tribunal. An appeal must be filed within 15 days of receiving Tarion’s Notice of Proposal. The Notice of Proposal document will explain the steps required to initiate an appeal.

## Questions

If you have any questions about the processes outlined in this Bulletin, contact the Customer Service department at 1-877-9-TARION, (1-877-982-7466) or email us at [customerservice@tarion.com](mailto:customerservice@tarion.com).

## Accessibility

Tarion’s [Accessible Customer Service Policy](#) ensures that each person with a disability is considered individually, on a case-by-case basis, in order to determine accommodation requirements. Please do not hesitate to contact us at via any of the methods outlined in the Policy if you require accommodation within the application process or the BuilderLink portal.

Registrar

“Peter Balasubramanian”