

December 18, 2019

Dear Registrant:

**Registrar's Advisory – New Mandatory Condo Information Sheet & Terms and Conditions for Condominium Projects**

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On February 20, 2019, the Ministry of Government and Consumer Services announced enhanced disclosure requirements to better inform purchasers about the risks of buying a residential unit in a pre-construction condominium project. Following this announcement, the *Information for Buyers of Pre-Construction Condominium Homes About the Possible Termination of Purchase Agreement* (Information Sheet) was developed in consultation with various stakeholders and will become a mandatory component of Agreements of Purchase and Sale (APS) for all condominium projects (as defined by the Condominium Act (1998)) where the first arm's length APS is signed on or after January 1, 2020. The information sheet must be used with every Purchase Agreement for a residential unit in a standard condominium corporation and phased condominium corporation. Please see the enclosed Q&A for additional details.

In line with this requirement, Tarion has established new standard Terms and Conditions of registration for condominium projects.

As you are currently a registered Vendor of a condominium project, please make note of the following information.

**New disclosure requirements for condominium purchase agreements “Condo Information Sheet”**

Effective January 1, 2020, it will be a Term and Condition of registration that for any project where the first arm's length purchase agreement is entered into good faith on or after January 1, 2020 this Information Sheet be completed and placed at the front of the APS, and, together with the Tarion Condominium Addendum, form part of the APS. Purchasers must sign the document to acknowledge having received and read the document. This document is necessary for new condominium projects<sup>1</sup> going forward where the project has early termination conditions that may result in its cancellation. For each such project, the document must be attached to each APS so long as the project remains conditional.

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<sup>1</sup> It applies to condominium projects where the first arm's length purchase agreement for: the project, or phase of a project is signed on or after January 1, 2020. The information sheet must be used with every such Purchase Agreement for a residential unit in a standard condominium corporation and phased condominium corporation.

## **Additional New Terms and Conditions of Registration for Condominium Projects**

Effective December 1, 2019, all Tarion applicants or registrants proposing to act as Vendor or Vendor/Builder for a Condominium project as defined by the Condominium Act (1998) will be asked to sign and agree to their Terms and Conditions of Registration.

The new Terms and Conditions will outline the Vendor's requirements with respect to the following and have been enclosed for your records:

- Agreement of Purchase and Sale (APS) Supplements including the Tarion Addendum and Information Sheet;
- Title matters;
- Notification requirements in the event of material changes and/or legal proceedings; and
- Notification and documentation requirements and obligations in the event of a possible condominium project cancellation.

For the purposes of the Terms and Conditions Clause:

A project is considered "Cancelled" when Tarion is advised the project will not proceed. APSs in connection with a project will be noted as terminated where they have been terminated because:

1. one or more of the following conditions in the APS have not been satisfied:
  - necessary development approvals are not obtained;
  - specified sales threshold is not attained; and/or,
  - satisfactory financing for the project is not obtained; or
2. the project will not proceed because of an event or circumstance which results in the APS becoming incapable of completion at law (e.g. frustration of contract).

The Vendor will be required to provide information about APSs that are "cancelled" as defined above, whether or not the whole project is cancelled.

However, for clarity, characterization as "cancelled" will not extend to APSs where the APS is terminated: 1) by voluntary mutual termination agreement; or 2) because the purchaser does not satisfy a good faith condition in the APS that the purchaser has the financial resources to complete the transaction; 3) where the purchaser has terminated pursuant to a right set out in the APS or the *Condominium Act (1998)*; or 4) through termination due to the default of the purchaser. In each case, upon request of Tarion the vendor is required to provide evidence to Tarion to establish the circumstances.



For any inquiries, please contact the Licensing and Underwriting Department:

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Signed,

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Deputy Registrar, Ontario New Home Warranties Plan