

**ATTACHMENT 2**  
**CONDITIONS OF DRAFT APPROVAL**

**DRAFT PLAN OF CONDOMINIUM (STANDARD) FILE 19CDM-20V006**  
**TESMAR HOLDINGS INC. (THE 'OWNER')**  
**PART OF LOT 15, CONCESSION 4, CITY OF VAUGHAN**

**THE CONDITIONS OF THE COUNCIL OF THE CITY OF VAUGHAN (THE 'CITY') THAT SHALL BE SATISFIED PRIOR TO THE RELEASE FOR REGISTRATION OF PLAN OF CONDOMINIUM (STANDARD) FILE 19CDM-20V006 (THE 'PLAN'), ARE AS FOLLOWS:**

**City of Vaughan Conditions**

1. The Plan shall relate to a Draft Plan of Condominium (Standard), prepared by R-PE Surveying Ltd., Job No. 15-019, dated July 23, 2020.
2. The Owner shall enter into a Condominium Agreement with the City of Vaughan and shall agree to satisfy any conditions that the City may consider necessary.
3. The Condominium Agreement shall be registered on title against the lands to which it applies at the cost of the Owner.
4. Prior to the registration of the Draft Plan of Condominium, the Owner shall provide documentation to demonstrate how Site Plan Agreement Conditions Nos. 18, 19, 20 and 21 associated with Site Development File DA.14.037, have been satisfied to the satisfaction of the Development Engineering Department.
5. Prior to the registration of the Draft Plan of Condominium, the Owner shall provide a copy of the Declaration that contains the necessary wording to grant easements to provide for access to and the use of the shared facilities including but not limited to driveways, parking areas, loading and waste collection facilities and stormwater management facilities, between the buildings associated with Draft Plan of Condominium Files 19CDM-20V005 and 19CDM-20V006.
6. Prior to the execution of the Condominium Agreement, the Owner shall:
  - a) Submit a pre-registered Plan of Condominium to the Development Planning Department; and
  - b) Obtain approval from the Development Planning Department for Site Development File DA.21.007 to amend Site Development File DA.14.037 and enter into an amending Site Plan Agreement, as required.

7. The following provisions shall be included in the Condominium Agreement:
  - a) the Condominium Corporation shall be responsible to regularly clean and maintain all driveway catch basins;
  - b) snow removal and clearing shall be the responsibility of the Condominium Corporation; and
  - c) upon a successfully completed application, a site inspection, and the execution and registration of an Agreement with the Vaughan Environmental Services Department, Solid Waste Management Division as determined by the City, the Condominium Corporation may be eligible for municipal waste collection services. Should the Condominium Corporation be deemed ineligible by the City or choose not to enter into an Agreement with the City for municipal collection service, all waste collection services shall be privately administered and shall be the responsibility of the Condominium Corporation.
  
8. Prior to final approval, the Owner shall:
  - a) submit an "as-built" survey to the satisfaction of the Vaughan Building Standards Department;
  - b) shall confirm to the Vaughan Development Planning Department that they have paid all taxes levied, all additional municipal levies, if applicable, development charges and all financial requirements of this development as may be required by the Vaughan Financial Planning and Development Finance Department. The Owner also certifies acknowledgement of responsibility for the payment of all taxes levied to date, both interim and final, and all taxes levied upon the land after execution of this Agreement, if required, until each unit covered under this Condominium Agreement is separately assessed; and
  - c) the Owner and their solicitor and land surveyor shall confirm that all required easements and rights-of-way for utilities, drainage and construction purposes have been granted to the appropriate authorities.
  
9. The Condominium Agreement, Condominium Declaration, and all Agreements of Purchase and Sale and/or Lease shall include the following warning clauses as identified in the Site Plan Agreement for Site Development File DA.14.037:
  - a) Park:
    - "Purchasers and/or tenants are advised that designated parkland within the community may not be fully developed at the time of

occupancy. The timing of development, phasing and programming of parkland is at the discretion of Vaughan.”

- "Purchasers and/or tenants are advised that there may be a neighborhood park in the vicinity of this development and that lighting and noise may be expected from the use of the park for recreation purposes.”

b) Caldari Road

- “Purchasers and/or tenants are advised that Caldari Road will be extended northerly to intersect with Rutherford Road in the future in accordance with Vaughan Mills Center Secondary Plan to facilitate development of adjacent lands.”

c) Noise

- “Purchasers/tenants are advised that despite the inclusion of noise control features in the development and within the individual dwelling units, sound levels from increasing road traffic and adjacent employment/industrial uses may on occasion interfere with some activities of the dwelling occupants as the sound level may exceed the Ministry of Environment, Conservation and Parks environmental noise guidelines NPC-300.”
- “Purchasers and tenants are advised that the Condominium will be constructed on lands that are classified as “Class 4 Area” lands under the current Ministry of Environment, Conservation and Parks guidelines and that agreements respecting noise mitigation may exist and if so, to be registered on title.”
- “Specific warning clauses shall be included in all agreements of purchase and sale and lease, including agreements pertaining to the resale or lease of individual residential condominium units. Such warning clauses shall specify that, notwithstanding the inclusion of certain mitigation features within this development to lessen potential noise, air emissions, dust, odour, vibration, and visual impact from McMillan Rail Yard (“Rail Yard”) and the “Existing and Future Industrial Lands” (e.g. Maple Stamping Plant), from time to time noise is likely to be audible, odours may be unpleasant, and dust and light emissions may be bothersome and such potential noise, air emissions, dust, odour, vibration, and visual impact may impact the enjoyment of indoor and outdoor areas of the development. The “Rail Yard” and the “Existing and Future Industrial Lands” will not be responsible for any complaints or claims arising from any of the activities at or relating to such facilities, property or operations thereon.”

## **Region of York**

10. Prior to final approval, the Owner shall:
  - a) Execute a Site Plan Agreement with the Region of York under file number SP-V-054-14/SP.14.V.0144;
  - b) Provide confirmation to the Region of York that all of the conditions of the Site Plan Agreement York under file number SP-V-054-14/SP.14.V.0144 have been satisfied;
  - c) Confirm that all of the works within the Regional right-of-way have been completed to the satisfaction of the Region or that Region holds sufficient securities to cover the cost of any outstanding works. Should there be insufficient securities to cover the cost of the remaining works, the Owner shall arrange for the deposit of additional securities in the amount sufficient to cover the cost of all outstanding works;
  - d) Provide confirmation to the Region of York that all Transfers of Obligation have been completed where Regional Agreements require the responsibility to change from the Owner to the Condominium Corporation; and
  - e) Include in all Agreements of Purchase and Sale and/or Lease, Condominium Agreement, Condominium Declaration the following clause:

“Despite the inclusion of noise attenuation features within the development area and within the individual building units, noise levels will continue to increase, occasionally interfering with some activities of the building’s occupants.”

## **Canada Post**

11. The Owner must supply, install, and maintain a centralized mailbox facility (rear-fed mailroom) and adjacent to the main entrance for the residential units to Canada Post’s specifications.
12. The Owner must supply provide Canada Post with access to any locked doors between the street and the lock-boxes via the Canada Post Crown lock and key system. This encompasses, if applicable, the installation of a Canada Post lock in the building’s lobby intercom and the purchase of a deadbolt for the mailroom door that is a model which can be retro-fitted with a Canada Post deadbolt cylinder.

## **Utilities Conditions**

13. The Owner is required to confirm that all required easements and rights-of-way for each utility have been granted to the appropriate authority.

### **Canadian National Railway Company ('CN')**

Prior to final approval, the Owner shall satisfy the following conditions of CN:

14. The Owner agrees to enter into with Canadian National Railway Company ("CN") and register against title to the subject lands an agreement under the Industrial and Mining Lands Compensation Act, and to require installation and maintenance of the noise and vibration mitigation measures required by CN. The agreement shall be in CN's standard form.
15. The definition of "common elements" in the Condominium Declaration shall be defined such that (i) all noise mitigation measures that are part of or contained within that condominium development are part of the common elements and not part of any residential unit, and such that (ii) no owner of a residential unit shall be permitted to make any alterations to, or to damage, or to remove any such noise mitigation measures (and such that such provision can be enforced by the condominium corporation as against the owner of the particular residential unit), and (iii) without limiting the foregoing, any windows, doors, walls or other structures located behind an Enclosed Noise Buffer (as defined in Guideline NPC 300 of the Ontario Ministry of the Environment, Conservation & Parks) shall also form part of the common elements of the condominium corporation.
16. The Declaration shall also include the following clauses as a separate section:

#### Section \*\* - Canadian National Railway Agreement

- (a) Purchasers, owners and tenants of the Property are advised that the Property is subject to an agreement with Canadian National Railway Company dated March 3, 2017 (the "CN Agreement"). The CN Agreement contains, inter alia, maintenance requirements for the sound attenuation materials on the Property; requirements for assumption of obligations of the owner of the Property; a release of Canadian National Railway Company for any existing or future claims; acknowledgment requirements for warning clauses; and obligations to obtain agreements from subsequent purchasers of Units in the Property.
- (b) The Corporation shall assume and comply with all requirements of the CN Agreement, including, without limitation, the maintenance, repair and replacement of all sound attenuation materials on the Property and within the Building. The foregoing shall be undertaken by the Corporation on behalf of all Owners and the costs of which shall form common expenses of the Corporation. The Corporation must enforce all obligations of Owners to repair and maintain such of the noise attenuation installations and materials that are located within the particular Unit, so that the general noise attenuation standards applicable to the Building continue to be met at all times.

- (c) Each Owner, tenant and occupant of the Property shall comply with the CN Agreement and the Corporation's requirements in respect of any matter arising from or relating to the CN Agreement, including, without limitation, execution of an agreement in the form prescribed by the CN Agreement.
- (d) The Corporation is authorized to enter into any one or more assumption agreements, covenants, undertakings, acknowledgments, releases or other documents required by or pursuant to the CN Agreement.
- (e) Pursuant to the CN Agreement, all persons presently having or who may in the future acquire any interest in the Owner's Lands (also referred to as the "Subject Lands") is hereby notified as follows:
  1. That Canadian National Railway Company (CN) is the owner of certain lands known as its McMillan Rail Yard (the "CN Lands"). The Subject Lands are located within the environmental influence area of the McMillan Rail Yard as a Class 3 Industrial Facility under the Ministry of Environment Guideline D. The CN Lands are now and will continue to be used for the present and future railway and trucking facilities and operations of CN on a continuous basis (24 hours of each day in each year) including, without limitation, the operation and idling of diesel locomotives and trucks with the generation of diesel fumes and odors, 24 hours a day artificial lighting of the CN Lands which may illuminate the sky, the loading, unloading and switching of rail cars containing bulk and other commodities including hazardous substances and/or goods containing the same, and the operation of various processes for the maintenance of rail equipment;
  2. That the use of such present and future railway and/or trucking facilities and operations may result in the discharge, emanation, emission, emptying, expelling, releasing or venting upon or other effect onto the Subject Lands at any time during the day or night of or by dust, smoke, fumes, odors and other gaseous and/or particulate matter, noise, vibration, electromagnetic interference ("EMI"), stray current and other sounds, light, liquids, solids and other emissions of every nature and kind whatsoever (herein collectively called the "Operational Emissions"), any or all of which may be annoying, unpleasant, intrusive or otherwise adversely affect the use and enjoyment of the Subject Lands or any part thereof notwithstanding the inclusion of features within the development of the Subject Lands which are intended to attenuate, lessen or otherwise minimize or eliminate the impact of the Operational Emissions upon the use and enjoyment of the Subject Lands;

3. That CN, its operators, licensees, agents, tenants, occupants, invitees, and customers will not be responsible for any complaints or claims by or on behalf of the owner and occupants of the Subject Lands from time to time arising from or out of or in any way in connection with the operation of the CN Lands and/or the Operational Emissions and any and all effects thereof upon the use and enjoyment of the Subject Lands or any part thereof, and whether arising from (i) the presently existing facilities and operations of CN, and its operators, licensees, agents, tenants, occupants, invitees, and customers upon or from the CN Lands or from (ii) any and all future renovations, additions, expansions and other changes to such facilities and/or future expansions, extensions, increases, enlargements and other changes to such operations, which could include the acquisition of additional lands for the purpose of expanding the facilities and operations of CN in relation to the CN Lands;
4. That CN shall not be required to change any of its facilities or operations upon the CN Lands as a result of or in response to any such complaints or claims;
5. That CN may in the future renovate, add to, expand or otherwise change its facilities on the CN Lands and/or expand, extend, increase, enlarge or otherwise change its operations conducted upon the CN Lands;
6. Owners, tenants, guests and all other occupants, invitees and users of any portion of the Subject Lands and the Condominium or any part thereof may be required by Governmental Authorities to evacuate the Condominium and the Subject Lands by reason of a hazardous situation upon or an accidental release of hazardous substances from the CN Lands;
7. A permanent and perpetual easement or right and interest in the nature of a permanent and perpetual easement has been or will be granted to CN over, under, along and upon the whole of the Subject Lands and every part thereof for the purposes of permitting the Operational Emissions;
8. That an agreement under the Industrial and Mining Lands Compensation Act has been entered into between the Owner of the whole of the Subject Lands and CN releasing any right any owner may have now or in the future to sue CN, its customers, invitees, lessees and/or licenses for nuisance arising out of the operation of

an activity at the CN Lands including any noise, vibration, light, dust, odour, particulate matter emanating therefrom;

9. In accordance with the required restrictive covenant in favour of CN that will run with title to the Subject Lands and the Condominium units and form part of the Declaration, each owner and/or lessee of a unit with sealed inoperable exterior windows may not replace the exterior sealed inoperable windows in such unit with windows that may open;
10. Within seven (7) days of registration of any Transfer of all or any portion of the Subject Lands in favour of any Purchaser or of a tenant occupying all or any portion of the Lands, the Purchaser and the tenant shall by written agreement under seal delivered to CN:
  - i. acknowledge that he/she has read and is aware of the above-noted and below-noted warning and indemnity clauses provided to him or her by the vendor in the purchase agreement, and of each of the Easement, and Industrial Agreement which will be or has been entered into between the Land Owner and CN, and which agreement will be or has been registered against title to and run(s) with the Subject Lands;
  - ii. agree to fully and forever release and discharge CN from any and all actions, causes of action, proceedings, claims and demands of every nature and kind whatsoever which such Purchaser or tenant has had, now has or may in the future have against CN at law or in equity and directly or indirectly, and from and against any and all liabilities, costs and expenses (including, without limitation, legal costs on a solicitor and his own client basis) of every nature and kind whatsoever which such Purchaser or tenant now has or may incur in the future, at law or in equity and directly or indirectly, whether arising from or out of or in any way in connection with the Operational Emissions which are in conformity with federal regulations governing same or certain Operational Emissions which are not in conformity with federal regulations governing the same, as more particularly described in any of the aforementioned Easement, and Industrial Agreement or both, any and all effects thereof upon the use and enjoyment of the Condominium and the Subject Lands or any part thereof;
  - iii. agree to jointly and severally with all other such persons indemnify and save CN harmless from and against any and



all actions, causes of action, proceedings, claims, demands, liabilities, damages, costs and expenses (including, without limitation, legal costs on a solicitor and his own client basis) of every nature and kind whatsoever which may be made against or incurred by CN and arising at law or in equity and directly or indirectly from or out of or in any way in connection with one or more of the Operational Emissions which are in conformity with federal regulations governing same and certain Operational Emissions which are not in conformity with federal regulations governing the same, as more particularly described in each of the aforementioned Easement, and Industrial Agreement, and any and all effects of both upon the use and enjoyment of any or all of the Condominium and the Subject Lands or any part thereof; and

iv. the Purchaser agrees to obtain from any subsequent purchaser or transferee the above-noted acknowledgement, release and indemnity in favour of CN and to deliver same to CN upon request.

11. For units of buildings on the site that have unenclosed balconies, patios or terraces: Noise levels from CN's MacMillan Rail Yard on the CN Lands may exceed the maximum noise limits of Ministry of the Environment, Conservation and Parks ("MOECP") criteria as defined in Guideline NPC 300 of the Ontario Ministry of the Environment & Climate Change in any outdoor areas accessible from your unit. Such outdoor areas have not been designed to be used as Outdoor Living Areas as defined in Guideline NPC 300 of the Ontario Ministry of the Environment & Climate Change . Among other things, noise levels from activities from the CN MacMillan Rail Yard could potentially cause discomfort or annoyance and/or interrupt conversations in these outdoor areas.

17. The Declarant shall cause the Condominium Corporation to, and the Condominium Corporation shall, enter into an agreement with Canadian National Railway Company whereby the Condominium Corporation shall assume and covenant to comply with the CN Agreement and the requirements thereof in respect of all matters relating to or arising from the CN Agreement, including covenants not to alter or remove any noise mitigation elements or features without the prior consent of Canadian National Railway Company, all as further defined and required in Condition #3 above (being the Section titled "Canadian National Railway Agreement"), including, without limitation, the maintenance and repair of all noise, sound and other attenuation materials described in the CN Agreement.

18. The Condominium Agreement entered into between the City and the Owner shall include the requirement that the Condominium Corporation shall enforce all obligations of unit owners in such Condominium to repair and maintain such of the noise attenuation installations and materials that are located within the particular condominium unit, so that the general noise attenuation standards applicable to the condominium structure and lands continue to be met at all times. The Declaration for the condominium shall require unit owners to repair and maintain such of the noise attenuation installations and materials that are located within the particular condominium unit, so that the general noise attenuation standards applicable to the condominium structure and lands continue to be met at all times.
19. (a) The Condominium Agreement entered into between the City and the Owner shall include the requirement that the Declarant cause, within seven (7) days of registration of any transfer of all or any portion of the Subject Lands to which it is a party (including any condominium unit) in favour of any Purchaser or of a tenant occupying all or any portion of the Lands, the Purchaser or the tenant to execute and deliver to CN a written agreement under seal (the "Agreement") by which the Purchaser or the tenant (respectively):
  - (i) acknowledge that he/she has read and is aware of the above-noted and below-noted warning and indemnity clauses provided to him or her by the vendor in the purchase agreement, and of each of the Easement, and CN Agreement which will be or has been entered into between the land owner and CN, and which agreement will be or has been registered against title to and run(s) with the Subject Lands;
  - (ii) agree to fully and forever release and discharge CN from any and all actions, causes of action, proceedings, claims and demands of every nature and kind whatsoever which such Purchaser or tenant has had, now has or may in the future have against CN at law or in equity and directly or indirectly, and from and against any and all liabilities, costs and expenses (including, without limitation, legal costs on a solicitor and his own client basis) of every nature and kind whatsoever which such Purchaser or tenant now has or may incur in the future, at law or in equity and directly or indirectly, whether arising from or out of or in any way in connection with the Operational Emissions which are in conformity with federal regulations governing same or certain Operational Emissions which are not in conformity with federal regulations governing the same, as more particularly described in any of the aforementioned Easement, and CN Agreement or both, any and all effects thereof upon the use and enjoyment of the Condominium and the Subject Lands or any part thereof; and
  - (iii) agree to jointly and severally with all other such persons indemnify and save CN harmless from and against any and all actions, causes of action,

proceedings, claims, demands, liabilities, damages, costs and expenses (including, without limitation, legal costs on a solicitor and his own client basis) of every nature and kind whatsoever which may be made against or incurred by CN and arising at law or in equity and directly or indirectly from or out of or in any way in connection with one or more of the Operational Emissions which are in conformity with federal regulations governing same and certain Operational Emissions which are not in conformity with federal regulations governing the same, as more particularly described in each of the aforementioned Easement, and Industrial Agreement, and any and all effects of both upon the use and enjoyment of any or all of the Condominium and the Subject Lands or any part thereof; and

(iv) the Purchaser agrees to obtain from any subsequent purchaser or transferee the above-noted acknowledgement, release and indemnity in favour of CN and to deliver same to CN upon request.

(b) The Condominium Agreement entered into between the City and the Owner shall include the requirement that the Declarant cause the Condominium Declaration to include a provision that also obliges the condominium corporation to cause an Agreement to be executed and delivered to CN, as described and in the circumstances described in Condition 6(a) above.

20. The Owner shall pay CN its reasonable costs of reviewing the application and conditions of approval.
21. The Owner shall enter into a Condominium Agreement with the City of Vaughan to implement the CN Conditions listed herein. The Condominium Agreement shall require that it be registered on title and will not be cleared from title to remain on title in perpetuity.
22. The Owner shall agree in the Condominium Agreement that prior to the issuance of a building permit in respect of any residential building or units proposed to be constructed on the lands, written confirmation by an Acoustical Engineer shall be submitted by the Owner to the City and to CN, that the builder's plans for such building shall incorporate mandatory air conditioning as the primary means of ventilation for all units and such other noise mitigation measures as are required in accordance with the Minutes of Settlement between Tesmar and CN executed March 3, 2017.
23. The Owner shall agree in the Condominium Agreement to include in all offers or agreements of purchase and sale or lease, respecting lands proposed for residential uses within the plan the warning clauses which are set out in Condition 3(e) above (the "Warning Clauses").

24. The Owner shall agree in the Condominium Agreement that the Warning Clauses shall also be included in any residential condominium disclosure statement applicable to the Owner's lands or any portion thereof.
25. The Owner shall agree in the Condominium Agreement that prior to any residential condominium unit(s) on the Lands receiving final inspection and release for occupancy, an Acoustical Engineer shall confirm that the residential unit(s) is in compliance with the certified plans and any conditions or requirements contained in the confirmations required pursuant to Condition 10. The Owner shall provide copies of this confirmation of compliance to CN upon request.
26. The Owner shall agree in the Condominium Agreement to include in all the Condominium Declarations created or registered respecting the Project Lands that each owner and/or lessee of a unit with sealed inoperable bedroom windows may not replace the exterior sealed inoperable windows in their unit with windows that may open.
27. Prior to the Deputy City Manager of Planning & Growth Management, or his designate, or the Local Planning Appeal Tribunal, as the case may be, signing the final plan, it is necessary that the City's Development Planning Department first be advised by CN acting reasonably and in a timely fashion that the Owner has satisfied the Conditions in Numbers 14 through 26 above to CN's satisfaction. Ten calendar days after CN receives an executed copy of the Condominium Agreement, it will respond to a request by the City as to whether Conditions 14 through 26 above have been satisfied.

#### **Clearances**

28. The Development Planning Department shall advise that Conditions 1 to 9 have been satisfied.
29. The Region of York shall advise the Development Planning Department in writing that Condition 10 has been satisfied.
30. Canada Post shall advise the Vaughan Development Planning Department in writing that Conditions 11 and 12 have been satisfied.
31. Bell Canada and Alectra Utilities Corporation shall advise the Vaughan Development Planning Department in writing that Condition 13 has been satisfied.
32. The Canadian National Railway Company shall advise the Development Planning Department that Conditions 14 to 27 have been satisfied.