

**CONDOMINIUM BYLAWS**

**OF**

**CONSERVATORY WOODS**

**(EXHIBIT A TO MASTER DEED)**

# CONDOMINIUM BYLAWS OF CONSERVATORY WOODS

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**EXHIBIT A**  
**CONDOMINIUM BYLAWS**  
**OF**  
**CONSERVATORY WOODS**

**SECTION 1**

**ASSOCIATION OF CO-OWNERS**

**1.1 Organization.** Conservatory Woods, a residential condominium project located in the City of Lowell, Kent County, Michigan (the "Project") is being developed in multiple phases so as to comprise a total of up to 55 living units (the "Units"). Upon the recording of the Master Deed, the management, maintenance, operation and administration of the Project shall be vested in an Association of Co-owners organized as a non-profit corporation under the laws of the State of Michigan (the "Association"). The Association will keep current copies of the Master Deed, all amendments to the Master Deed, and other Condominium Documents for the Project available at reasonable hours for inspection by Co-owners, prospective purchasers, mortgagees and prospective mortgagees of Units in the Project.

**1.2 Compliance.** All present and future Co-owners mortgagees, lessees or other persons who may use the facilities of the Condominium in any manner shall be subject to and comply with the provisions of Act No. 59, P.A. 1978, as amended (the "Condominium Act" or "Act"), the Master Deed and all amendments, the Condominium Bylaws, and the Articles of Incorporation, Association Bylaws, and other Condominium Documents which pertain to the use and operation of the Condominium property. The acceptance of a deed of conveyance, the entering into of a lease or the act of occupancy of a Condominium Unit in the Project shall constitute an acceptance of the terms of these documents and an agreement to comply with their provisions.

**SECTION 2**

**MEMBERSHIP AND VOTING**

**2.1 Membership.** Each Co-owner of a Unit in the Project, present and future, shall be a member of the Association and no other person or entity will be entitled to membership. The share of a member in the funds and assets of the Association may be assigned, pledged or transferred only as an appurtenance to the Co-owner's Condominium Unit.

**2.2 Voting Rights.** Except as limited in the Master Deed and in these Bylaws, the Co-owners of a Unit will be entitled to one vote for each Unit owned. Voting shall be by number, and no cumulation of votes shall be permitted.

**2.3 Eligibility to Vote.** No Co-owner, other than the Developer, will be entitled to vote at any meeting of the Association until that person has presented written evidence of ownership of a Condominium Unit in the Project, nor shall any Co-owner be entitled to vote (except for elections pursuant to Section 3.4) prior to the Initial Meeting of Members. The Developer shall be entitled to vote only those Units to which it still holds title prior to an initial sale and conveyance.

**2.4 Designation of Voting Representative.** The person entitled to cast the vote for the Unit and to receive all notices and other communications from the Association shall be designated by a certificate signed by all the record owners of the Unit and filed with the Secretary of the Association. Such certificate shall state the name and address of the individual representative designated, the number or numbers of the Unit or Units owned, and the name and address of the person or persons, firm, corporation, partnership, association, trust or other legal entity who is the Unit owner. All certificates shall be valid until revoked, until superseded by a subsequent certificate or until a change in the ownership of the Unit concerned.

**2.5 Proxies.** Votes may be cast in person or by proxy. Proxies may be made by any designated voting representative who is unable to attend the meeting in person. Proxies will be valid only for the particular meeting designated and any adjournment of that meeting, and must be filed with the Association before the appointed time of the meeting.

**2.6 Majority.** At any meeting of members at which a quorum is present, 51% of the Co-owners entitled to vote and present in person or by proxy (or written vote, if applicable), shall constitute a majority for the approval of the matters presented to the meeting, except in those instances in which a majority exceeding a simple majority is required by these Bylaws, the Master Deed or by law.

### SECTION 3

#### MEETINGS AND QUORUM

**3.1 Initial Meeting of Members.** The initial meeting of the members of the Association may be convened only by the Developer, and may be called at any time after two or more of the Units in the Project have been sold and the purchasers of such units qualified as members of the Association. In no event, however, shall such meeting be called later than 120 days after the conveyance of legal or equitable title to non-developer Co-owners of 75% of the total number of Units that may be created or 54 months after the first conveyance of legal or equitable title to a non-developer Co-owner of a Unit in the Project, whichever first occurs, at which meeting the eligible Co-owners may vote for the election of the Board of Directors of the Association. The maximum number of Units that may be added to the



Project under Section 6 of the Master Deed shall be included in the number of Units that may be created. The Developer may call meetings of members of the Association for informational or other purposes prior to the initial meeting, but no such informational meeting shall be construed as the initial meeting of members.

**3.2 Annual Meeting of Members.** After the initial meeting has occurred, annual meetings of the members shall be held in each year on a date and at a time and place selected by the Board of Directors. At least 10 days prior to the date of an annual meeting, written notice of the date, time, place and purpose of such meeting shall be mailed or delivered to each member entitled to vote at the meeting; provided, that not less than 20 days written notice shall be provided to each member of any proposed amendment to these Bylaws or to other recorded Condominium Documents.

**3.3 Advisory Committee.** Within one year after the initial conveyance by the Developer of legal or equitable title to a Co-owner of a Unit in the Project, or within 120 days after conveyance of 1/3 of the total number of Units, whichever first occurs, two or more persons shall be selected by the Developer from among the non-developer Co-owners to serve as an Advisory Committee to the Board of Directors. The purpose of the Advisory Committee is to facilitate communication between the Developer-appointed Board of Directors and the non-developer Co-owners and to aid in the ultimate transition of control to the Owners. The members of the Advisory Committee shall serve for one year or until their successors are selected, and the Committee shall automatically cease to exist at the Transitional Control Date. The Board of Directors and the Advisory Committee shall meet with each other at such times as may be requested by the Advisory Committee; provided, however, that there shall be not more than two such meetings each year unless both parties agree.

**3.4 Board of Directors Composition.** Not later than 120 days after conveyance of legal or equitable title to non-developer Co-owners of 25% of the Units in the Project, at least 1 director and not less than one-fourth of the Board of Directors of the Association shall be elected by non-developer Co-owners. Not later than 120 days after conveyance of legal or equitable title to non-developer Co-owners of 50% of the Units, not less than one-third of the Board of Directors shall be elected by non-developer Co-owners. Not later than 120 days after conveyance of legal or equitable title to non-developer Co-owners of 75% of the Units, and before conveyance of 90% of such Units, the non-developer Co-owners shall elect all directors on the Board except that the Developer shall have the right to designate at least one director as long as the Developer owns and offers for sale at least 10% of the Units in the Project.

**3.5 Owner Control.** If 75% of the Units have not been conveyed within 54 months after the first conveyance of legal or equitable title to a non-developer Co-owner, the non-developer Co-owners shall have the right to elect a number of members of the Board of Directors of the Association equal to the percentage of Units they hold, and the Developer will have the right to elect a number of members of the Board equal to the percentage of Units which are owned by the Developer and for which assessments are payable by the

Developer. This election may increase, but shall not reduce, the minimum election and designation rights otherwise established. Application of this provision does not require a change in the size of the Board as designated in the corporate Bylaws.

**3.6 Mathematical Calculations.** If the calculation of the percentage of members of the Board that the non-developer Co-owners have a right to elect, or the product of the number of members of the Board multiplied by the percentage of Units held by the non-developer Co-owners results in a right of non-developer Co-owners to elect a fractional number of members of the Board, then a fractional election right of 0.5 or greater shall be rounded up to the nearest whole number. After application of this formula, the Developer shall have the right to elect the remaining members of the Board. Application of this provision shall not eliminate the right of the Developer to designate at least one member as provided in Section 3.4.

**3.7 Quorum of Members.** The presence in person or by proxy of 35% percent of the Co-owners entitled to vote shall constitute a quorum of members. The written vote of any owner furnished at or prior to a meeting, at which meeting such owner is not otherwise present in person or by proxy, shall be counted in determining the presence of a quorum with respect to the question upon which the vote is cast.

## SECTION 4

### ADMINISTRATION

**4.1 Board of Directors.** The business, property and affairs of the Association shall be managed by a Board of Directors to be elected in the manner described in the Association Bylaws; provided, that the Directors designated in the Articles of Incorporation shall serve until such time as their successors have been duly elected and qualified at the initial meeting of members. All actions of the first Board of Directors designated in the Articles of Incorporation or any successors to such directors selected by the Developer before the initial meeting of members shall be binding upon the Association in the same manner as though such actions had been authorized by a Board of Directors elected by the members of the Association, so long as such actions are within the scope of the powers and duties which may be exercised by the Board of Directors as provided in the Condominium Documents. A service contract or management agreement entered into between the Association and the Developer or affiliates of the Developer shall be voidable without cause by the Board of Directors on the Transitional Control Date or within 90 days thereafter, and on 30 days notice at any time thereafter for cause.

**4.2 Powers and Duties.** The Board shall have all powers and duties necessary for the administration of the affairs of the Association, and may take all actions in support of such administration as are not prohibited by the Condominium Documents or specifically reserved to the members. The powers and duties to be exercised by the Board shall include, but shall not be limited to, the following:



- (a) Care, upkeep and maintenance of the common elements;
- (b) Development of an annual budget, and the determination, levy and collection of assessments required for the operation and affairs of the Condominium;
- (c) Employment and dismissal of personnel as necessary for the efficient management and operation of the Condominium property;
- (d) Adoption and amendment of rules and regulations which are not inconsistent with the provisions of Section 7 of these Bylaws, governing the use of the Condominium property;
- (e) Opening bank accounts, borrowing money and issuing evidences of indebtedness in furtherance of the purposes of the Condominium, and designating signatories required for such purpose;
- (f) Obtaining insurance for Condominium property, the premiums of which shall be an expense of administration;
- (g) Granting licenses for the use of portions of the common elements for purposes not inconsistent with the provisions of the Act or of the Condominium Documents;
- (h) Authorizing the execution of contracts, deeds of conveyance, easements and rights-of-way affecting any real or personal property of the Condominium on behalf of the Co-owners;
- (i) Making repairs, additions and improvements to, or alterations of, the Condominium property, and repairs to and restoration of the property in accordance with the other provisions of these Bylaws after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings;
- (j) Asserting, defending or settling claims on behalf of all Co-owners in connection with the common elements of the Project and, upon written notice to all Co-owners, instituting actions on behalf of and against the Co-owners in the name of the Association; and
- (k) Such further duties as may be imposed by resolution of the members of the Association or which may be required by the Condominium Documents or the Act.

**4.3 Books of Account.** The Association shall keep books and records containing a detailed account of the expenditures and receipts of administration, which will specify the



maintenance and repair expenses of the Common Elements and any other expenses incurred by or on behalf of the Association and its members. Such accounts shall be open for inspection by the Co-owners and their mortgagees during reasonable working hours. The Association shall also prepare and distribute a financial statement to each Co-owner at least once a year, the contents of which will be defined by the Association. The books and records shall be reviewed annually and audited at such times as required by the Board of Directors by qualified independent accountants (who need not be certified public accountants), and the cost of such review or audit shall be an expense of administration.

#### **4.4 Maintenance and Repair.**

(a) **By Co-owners.** All maintenance of and repair to a Condominium Unit, other than maintenance of and repair to any General Common Element located within the Unit, shall be made by the Co-owner of such Unit. Any Co-owner who desires to make repairs to a Common Element or structural modifications to the Co-owner's Unit must first obtain the written consent of the Association, and shall be responsible for all damages to other Units or to the Common Elements resulting from such repairs or from the Co-owner's failure to make such maintenance and repairs.

(b) **By the Association.** All maintenance of, repair to and replacement for the General Common Elements, whether located inside or outside the Units, and to Limited Common Elements to the extent required by the Master Deed, shall be made by the Association and shall be charged to all the Co-owners as a common expense unless necessitated by the negligence, misuse or neglect of a particular Co-owner, in which case the expense shall be charged to such Co-owner individually. The Association or its agent shall have access to each Unit from time to time during reasonable working hours, upon notice to the occupant, for the purpose of maintenance, repair or replacement of any of the Common Elements located within or accessible only from a Unit. The Association or its agents shall also have access to each Unit at all times without notice for making emergency repairs necessary to prevent damage to other Units, the Common Elements or both.

**4.5 Reserve Fund.** The Association shall maintain a reserve fund, to be used for major repairs and replacement of the Common Elements, as provided by Section 105 of the Act. Such fund shall be established in the minimum amount required on or before the Transitional Control Date, and shall, to the extent possible, be maintained at a level which is equal to or greater than 10% of the then current annual budget of the Association on a noncumulative basis. The minimum reserve standard required by this Section may prove to be inadequate, and the Board should carefully analyze the Project from time to time in order to determine if a greater amount should be set aside or if additional reserve funds shall be established for other purposes.

**4.6 Construction Liens.** A construction lien arising as a result of work performed on a Condominium Unit or on an appurtenant Limited Common Element shall attach only to the Unit upon which the work was performed, and a lien for work authorized by the Developer or its principal contractor shall attach only to Condominium Units owned by the Developer at the time of recording the lien. A construction lien for work authorized by the Association shall attach to each Unit only to the proportionate extent that the Co-owner of such Unit is required to contribute to the expenses of administration. No construction lien shall arise or attach to a Condominium Unit for work performed on the General Common Elements not contracted for by the Association or the Developer.

**4.7 Managing Agent.** The Board may employ a management company or managing agent at a compensation established by the Board to perform such duties and services as the Board shall authorize, including, but not limited to, the powers and duties described in Section 4.2. The Developer or any person or entity related to the Developer may serve as managing agent if so appointed.

**4.8 Officers.** The Association Bylaws shall provide the designation, number, terms of office, qualifications, manner of election, duties, removal and replacement of officers of the Association and may contain any other provisions pertinent to officers of the Association not inconsistent with these Bylaws. Officers may be compensated, but only upon the affirmative vote of 60% percent or more of all Co-owners.

**4.9 Indemnification.** All Directors and officers of the Association shall be entitled to indemnification against costs and expenses incurred as a result of actions (other than willful or wanton misconduct or gross negligence) taken or failed to be taken on behalf of the Association upon 10 days notice to all Co-owners, in the manner and to the extent provided by the Association Bylaws. In the event that no judicial determination as to indemnification of an officer(s) and/or Director(s) has been made, an opinion of independent counsel as to the propriety of indemnification shall be obtained if a majority of Co-owners vote to procure such an opinion.

## SECTION 5

### ASSESSMENTS

**5.1 Administrative Expenses.** The Association shall be assessed as the entity in possession of any tangible personal property of the Condominium owned or possessed in common, and personal property taxes levied on such property shall be treated as expenses of administration. All costs incurred by the Association in satisfaction of any liability arising within, caused by or connected with the Common Elements or the administration of the Project shall be expenses of administration, and all sums received as proceeds of, or pursuant to any policy of insurance securing the interests of the Co-owners against liabilities or losses arising within, caused by or connected with the Common Elements or the administration of such Common Elements shall be receipts of administration.



**5.2 Determination of Assessments.** Assessments will be determined in accordance with the following provisions:

(a) **Initial Budget.** The Board of Directors of the Association shall establish an initial budget in advance for each fiscal year, which budget will project all expenses for the coming year that may be required for the proper operation, management and maintenance of the Condominium Project, including a reasonable allowance for contingencies and reserves. The annual assessment to be levied against each Unit in the Project shall then be determined on the basis of the budget. Copies of the budget will be delivered to each Co-owner, although the failure to deliver such a copy to each Owner will not affect or in any way diminish the liability of a Co-owner for any existing or future assessment.

(b) **Budget Adjustments.** Should the Board of Directors determine at any time, in its sole discretion, that the initial assessments levied are insufficient: (1) to pay the costs of operation and maintenance of the Common Elements; (2) to provide for the replacement of existing Common Elements; (3) to provide for additions to the Common Elements not exceeding \$3,500 or \$75 per Unit annually, whichever is less; or (4) to respond to an emergency or unforeseen development; the Board will have the authority to increase the initial assessment or to levy such additional assessments as it deems to be necessary for such purpose(s). The discretionary authority of the Board of Directors to levy additional assessments will rest solely with the Board of Directors for the benefit of the Association and its members, and will not be enforceable by any creditors of the Association.

(c) **Special Assessments.** Special assessments, in excess of those permitted by subsections (a) and (b), may be made by the Board of Directors from time to time with the approval of the Co-owners as provided in this subsection to meet other needs or requirements of the Association, including but not limited to: (i) assessments for additions to the Common Elements costing more than \$3,500 in any year; (ii) assessments to purchase a Unit upon foreclosure of the lien described in Section 5.5; or (iii) assessments for any other appropriate purpose not specifically described. Special assessments referred to in this subsection (but not including those assessments referred to in subsections (a) and (b), which will be levied in the sole discretion of the Board of Directors) will not be levied without the prior approval of 60% or more of all Co-owners. The authority to levy assessments pursuant to this subsection is solely for the benefit of the Association and its members and will not be enforceable by any creditors of the Association.

**5.3 Apportionment of Assessments.** All assessments levied against the Unit Owners to cover expenses of administration shall be apportioned among and paid by the Co-

owners in accordance with the Percentage of Value allocated to each Unit by the Master Deed, without increase or decrease for the existence of any rights to the use of Limited Common Elements appurtenant to a Unit. Annual assessments determined in accordance with Section 5.2(a) will be payable by Co-owners in 12 equal monthly installments, commencing with the acceptance of a deed to, or a land contract vendee's interest in a Unit, or with the acquisition of title to a Unit by any other means. The payment of an assessment will be in default if the assessment, or any part of it, is not received by the Association in full on or before the due date assigned by rule or regulation of the Association.

**5.4 Expenses of Administration.** The expenses of administration shall consist, among other things, of such amounts as the Board may deem proper for the operation and maintenance of the Condominium property under the powers and duties delegated to it and may include, without limitation, amounts to be set aside for working capital of the Condominium, for a general operating reserve, for a reserve for replacement and for meeting any deficit in the common expense for any prior year; provided, that any reserves established by the Board prior to the initial meeting of members shall be subject to approval by such members at the initial meeting. The Board shall advise each Co-owner in writing of the amount of common charges payable by him and shall furnish copies of each budget on which such common charges are based to all Co-owners.

**5.5 Collection of Assessments.** Each Co-owner shall be obligated for the payment of all assessments levied upon the Co-owner's Unit during the time that the Co-owner is the Owner of the Unit, and no Co-owner is exempt from liability for contribution toward the expenses of administration by waiver of the use or enjoyment of any of the Common Elements, or by the abandonment of a Unit.

**(a) Legal Remedies.** In the event of default by any Co-owner in paying the assessed common charges, the Board may declare all unpaid installments of the annual assessment for the pertinent fiscal year to be immediately due and payable. In addition, the Board may impose reasonable fines or charge interest at the legal rate on such assessments from and after the due date. Unpaid assessments shall constitute a lien on the Unit prior to all other liens except tax liens in favor of any state or federal taxing authority and sums unpaid upon a first mortgage of record recorded prior to the recording of any notice of lien by the Association, and the Association may enforce the collection of all sums due by suit at law for a money judgment or by foreclosure of the liens securing payment in the manner provided by Section 108 of the Act. In an action for foreclosure, a receiver may be appointed and reasonable rental for the Unit may be collected from the Co-owner or anyone claiming under him, and all expenses incurred in collection, including interest, costs and actual attorney's fees, and any advances for taxes or other liens paid by the Association to protect its lien, shall be chargeable to the Co-owner in default.



(b) **Sale of Unit.** Upon the sale or conveyance of a Condominium Unit, all unpaid assessments against the Unit shall be paid out of the sale price by the purchaser in preference over any other assessment or charge except as otherwise provided by the Condominium Documents or by the Act. A purchaser or grantee may request a written statement from the Association as to the amount of unpaid assessments levied against the Unit being sold or conveyed and such purchaser or grantee shall not be liable for, nor shall the Unit sold or conveyed be subject to a lien for any unpaid assessments in excess of the amount described in such written statement. Unless the purchaser or grantee requests a written statement from the Association at least 5 days before sale as provided in the Act, however, the purchaser or grantee shall be liable for any unpaid assessments against the Unit together with interest, costs, and attorneys fees incurred in collection of the assessments.

(c) **Self-Help.** The Association may enter upon the common elements, limited or general, to remove and abate any condition, or may discontinue the furnishing of services to a Co-owner in default under any of the provisions of the Condominium Documents upon 7 days written notice to such Co-owner of its intent to do so. A Co-owner in default shall not be entitled to utilize any of the General Common Elements of the Project and shall not be entitled to vote at any meeting of the Association so long as the default continues; provided, that this provision shall not operate to deprive any Co-owner of ingress and egress to and from the Co-owner's Unit.

(d) **Application of Payments.** Money received by the Association in payment of assessments in default shall be applied in the following manner; first, to costs of collection and enforcement of payment, including reasonable attorneys' fees; second, to any interest charges and fines for late payment on such assessments; and third, to installments of assessments in default in order of their due dates.

**5.6 Financial Responsibility of the Developer.** During the time that the Developer controls the Association, it will be the Developer's responsibility to keep the books balanced, and to avoid any deficit in operating expenses. At the time of the initial meeting of members, the Developer will be liable for the funding of any continuing Association deficit incurred prior to the Transitional Control Date. No general or special assessments shall be levied by the Association on Units owned by the Developer prior to the initial conveyance of title or a lease of a Unit to a third party by the Developer, without the Developer's consent. The Developer of the Condominium, although a member of the Association, will not be responsible for the payment of either general or special assessments levied by the Association, including the payment of any portion of any general or special assessment which is levied by the Association for deferred maintenance, reserves for replacement or capital improvements or additions, nor for any assessment levied in whole

or in part to finance litigation or other claims against the Developer, any cost of investigating and/or preparing such litigation or claim, or any similar related costs.

## SECTION 6

### TAXES, INSURANCE AND REPAIR

**6.1 Real Property Taxes.** After the year in which construction of the building containing a Unit is completed, real property taxes and special assessments shall be levied against the individual Units and not against the total property of the Project, except for the year in which the Project was established subsequent to the tax day. Taxes and assessments which become a lien against the Condominium property in any such year shall be expenses of administration and shall be assessed against the Units located on the land with respect to which the tax or assessment was levied in proportion to the percentage of value assigned to each Unit. Real property taxes and assessments levied in any year in which the property existed as an established Project on the tax day shall be assessed against the individual Units only, even if a subsequent vacation of the Project has occurred. Taxes for real property improvements to a specific Unit shall be assessed against that Unit description only, and each Unit shall be treated as a separate, single parcel of real property for purposes of property tax and special assessment. No Unit shall be combined with any other Unit or Units, and no assessment of any fraction of a Unit or combination of any Unit with other units or fractions shall be made, nor shall any division or split of the assessment or taxes of a single Unit be made whether the Unit be owned separately or in common.

**6.2 Insurance Coverage.** The Association shall be appointed as Attorney-in-Fact for each Co-owner to act in connection with insurance matters and shall be required to obtain and maintain, to the extent appropriate: casualty insurance with extended coverage, vandalism and malicious mischief endorsements; liability insurance (including director's and officer's liability coverage if deemed advisable); and worker's compensation insurance pertinent to the ownership, use and maintenance of the Common Elements of the Project. All insurance shall be purchased by the Board of Directors for the benefit of the Association, the Co-owners, the mortgagees and the Developer, as their interests may appear. Such insurance, other than title insurance, shall be carried and administered according to the following provisions:

(a) **Co-owner Responsibilities.** Each Co-owner will be responsible for obtaining casualty insurance coverage at the Co-owner's own expense for the interior of the Co-owner's Unit (including wall coverings, floor coverings, doors, sliders, windows and screens), and it shall be each Co-owner's responsibility to obtain insurance coverage for all personal property located within the Co-owner's Unit or elsewhere on the Condominium Property, for personal liability for occurrences within the Unit or upon the Limited Common Elements appurtenant to the Unit, and for alternative living expenses in the event of casualty causing temporary loss of the Co-owner's residence. The Association and all Co-owners shall use their best efforts to



see that property and liability insurance carried by the Association or Owner contains appropriate provisions concerning waiver of the right of subrogation as to any claims against the Owner or the Association.

(b) **Association Responsibilities.** The General Common Elements of the Project shall be insured by the Association against fire and other perils covered by a standard extended coverage endorsement, in an amount equal to the maximum insurable replacement value, excluding land, landscaping, blacktopping, foundation and excavation costs, as determined annually by the Board of Directors of the Association. Such coverage shall also include the interior walls within a Unit and the pipes, wires, conduits and ducts located in such walls. In the event that the Association policy also covers appliances, fixtures and/or trim within the Units, the Board of Directors of the Association (and not the individual unit owner) shall decide whether or not to submit an insurance claim in the event of damage covered by the policy.

Any improvements made by the Co-owner within the Co-owner's Unit subsequent to closing shall be covered by insurance obtained by and at the expense of the Co-owner; provided that, if the Association elects to include owner improvements under its insurance coverage, any additional premium costs to the Association attributable to such owner improvements will be assessed to and paid entirely by the Co-owner and collected as a part of the assessments levied against such owner as provided in these Bylaws.

(c) **Fidelity Insurance.** The Association may obtain, if desired, fidelity coverage to protect against dishonest acts by its officers, directors, trustees and employees and all others who are responsible for handling funds of the Association.

(d) **Power of Attorney.** The Board of Directors is irrevocably appointed as the agent for each Co-owner, each mortgagee (other than Developer's construction lender/mortgagee), other named insureds and their beneficiaries and any other holder of a lien or other interest in the Condominium or the Condominium Property (other than Developer's construction lender/mortgagee), to adjust and settle all claims arising under insurance policies purchased by the Board and to execute and deliver releases upon the payment of claims.

(e) **Indemnification.** Each individual Co-owner shall indemnify and hold harmless every other Co-owner, the Developer and the Association for all damages, costs and judgments, including actual attorneys' fees, which any indemnified party may suffer as a result of defending claims arising out of an occurrence on or within an individual Co-owners Unit or appurtenant Limited Common Elements. This provision shall not be construed to give an

insurer any subrogation right or other right or claim against an individual Co-owner, the Developer or the Association.

(f) **Premium Expenses.** Except as otherwise provided, all premiums upon insurance purchased by the Association pursuant to these Bylaws shall be expenses of administration.

**6.3 Reconstruction and Repair.** If any part of the Condominium Property is damaged or destroyed, and the proceeds of the insurance policy or policies payable by reason of the damage or destruction are sufficient to reconstruct the property which has been damaged or destroyed, the proceeds shall be used for such purpose. As used in this Section, "reconstruction" means the restoration of the Condominium Property to substantially the same condition that existed before the damage or destruction occurred, with each Unit and Common Element having the same vertical and horizontal boundaries as existed prior to the damage or destruction.

(a) **Insufficient Insurance Proceeds.** If the property which is damaged or destroyed is not insured against the peril causing the loss, or if for any other reason the proceeds of the insurance policy or policies payable by reason of the damage or destruction are insufficient to reconstruct the property in the manner described above, a decision to reconstruct the property shall only be made by the affirmative vote of not less than 80% of the Co-owners voting at a meeting called for that specific purpose. Any such meeting shall be held within 30 days following the final adjustment of insurance claims, if any, or within 90 days after the casualty happens, whichever first occurs. At any such meeting, the Board or its representative shall present to the Co-owners an estimate of the cost of the reconstruction and the estimated amount of special assessments to be levied against each Unit in order to pay for reconstruction. If the property is reconstructed, any insurance proceeds received shall be applied to reconstruction, and special assessments may be levied against the Units in order to pay the balance of the reconstruction costs.

(b) **Withdrawal from the Condominium.** If the property which is damaged or destroyed is not insured against the peril causing the loss, or if for any other reason the proceeds of the insurance policy or policies payable by reason of the damage or destruction are insufficient to reconstruct the property in the manner described above, and if a decision to reconstruct is not made in the manner provided by subparagraph (a), provision for the withdrawal of the damaged property from the provisions of the Act may be made by the affirmative vote of not fewer than 80% of the Co-owners voting at a meeting called for the specific purpose. Any such meeting shall be held within 30 days following the final adjustment of insurance claims, if any, or within 90 days after the casualty happens, whichever first occurs. If any Unit or portion of a Unit is withdrawn, the ownership in the Common Elements



which was appurtenant to the withdrawn property shall be reallocated among the remaining Units on the basis of the relative percentages of ownership in the Common Elements appurtenant to each remaining Unit. If only a portion of a Unit is withdrawn, the percentage of ownership in the Common Elements appurtenant to the Unit shall be reduced accordingly, on the basis of the diminution in value of such Unit, as determined by the Board.

(c) **Allocation of Proceeds.** In the event of the withdrawal of a Unit, a Common Element or a portion of either, any insurance proceeds received by the Association shall be allocated among the withdrawn Units and/or Common Elements on the basis of the square footage withdrawn or such other equitable basis as the Board of Directors may determine. As compensation for such withdrawals: (i) any insurance proceeds allocated to withdrawn Units or portions of Units shall be applied in payment to the Owners of such Units in proportion to their relative percentages of ownership in the Common Elements appurtenant to such withdrawn Units, or portions of them; (ii) any insurance proceeds allocated to withdrawn portions of the Limited Common Elements shall be applied in payment to the Unit Owners entitled to their use in proportion to their relative percentages of ownership in the Common Elements appurtenant to the Units served by such Limited Common Elements; and (iii) any insurance proceeds allocated to withdrawn portions of the General Common Elements shall be applied in payment to all Unit Owners in proportion to their relative percentages of ownership in the Common Elements. Upon the withdrawal of any Unit or portion of a Unit, the Owner shall be relieved of further responsibility or liability for the payment of any assessments, if the entire Unit is withdrawn, or for the payment of a portion of such assessments proportional to the diminution in square footage of such Unit, if only a portion of the Unit is withdrawn.

(d) **Compliance with Act.** If the property which is damaged or destroyed is not insured against the peril causing the loss, or if for any other reason the proceeds of the insurance policy or policies payable by reason of the damage or destruction are insufficient to reconstruct the property in the manner described in this Section, and if provision for neither reconstruction nor withdrawal is made pursuant to subparagraphs (a) or (b), the provisions of the Act shall apply.

(e) **Notice to Mortgagees.** Prompt written notice of any and all material damage or destruction to a Unit or any part of the Common Elements shall be given to the holder of a first mortgage lien on any Unit affected by the damage or destruction.

**6.4 Eminent Domain.** The following provisions shall control upon any taking by eminent domain:

**(a) Units and Limited Common Elements.** In the event of any taking of all or any portion of a Condominium Unit or any appurtenant Limited Common Element, the award for such taking shall be paid to the Co-owner of the Unit and the mortgagee of the Unit, as their interests may appear. If a Co-owner's entire Unit is taken by eminent domain, the Co-owner and the Co-owner's mortgagee shall, after acceptance of the condemnation award, be divested of all interest in the Condominium Project.

**(b) General Common Elements.** In the event of any taking of all or any portion of the General Common elements, the condemnation proceeds relative to such taking shall be paid to the Co-owners and the mortgagees in proportion to their respective interests in the Common Elements, and the affirmative vote of 2/3 or more of the Co-owners in number shall determine whether to rebuild, repair or replace the portion so taken or to take such other action as they deem appropriate.

**(c) Amendment to Master Deed.** In the event the Condominium Project continues after taking by eminent domain, the remaining portion of the Condominium Property shall be resurveyed and the Master Deed and Subdivision Plan shall be amended accordingly. In addition, if any Unit shall have been taken, Article V of the Master Deed shall also be amended to reflect such taking and to proportionately readjust the Percentages of Value of the remaining Co-owners based upon the continuing value of the Condominium of 100%. Such amendment may be effected by an officer of the Association duly authorized by the Board of Directors without the necessity of execution or specific approval by any Co-owner.

**(d) Notice to Mortgagees.** In the event any Unit in the Condominium, the Common Elements or any portion of them is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the Association promptly shall notify each institutional holder of a first mortgage lien on any of the Units in the Condominium.

**(e) Inconsistent Provisions.** To the extent not inconsistent with the provisions of this section, Section 133 of the Act shall control upon any taking by eminent domain.

## SECTION 7

### USE AND OCCUPANCY RESTRICTIONS

**7.1 Residential Use.** Condominium Units shall be used exclusively for residential occupancy, and no Unit or appurtenant Common Element shall be used for any purpose other than that of a single family residence or purposes incidental to single family



residential use. Home occupations conducted entirely within the residence and participated in solely by members of the immediate family residing in the residence, which do not generate unreasonable traffic by members of the general public and do not change the residential character of the Unit, are expressly declared to be incidental to primary residential use. No building intended for other business uses, and no apartment house, rooming house, day care facility, foster care residence or other commercial structure of any kind shall be erected, placed or permitted on any Unit.

**7.2 Common Areas.** The Common Elements shall be used only by the Co-owners of Units in the Condominium and by their agents, tenants, family members, invitees and licensees for access, ingress to and egress from the respective Units and for other purposes incidental to use of the Units; provided, that any parking areas, storage facilities or other common areas designed for a specific purpose shall be used only for the purposes approved by the Board. The use, maintenance and operation of the Common Elements shall not be obstructed, damaged or unreasonably interfered with by any Co-owner, and shall be subject to any lease or easement presently in existence or entered into by the Board at some future date which affects all or any part of the Common Elements.

**7.3 Use and Occupancy Restrictions.** In addition to the general requirements of Sections 7.1 and 7.2, the use of the Project and its Common Elements by any Co-owner shall be subject to the following specific restrictions:

(a) **Exterior Changes.** No Co-owner shall make any alterations, additions or improvements to any General Common Element, nor make changes to the exterior appearance or structural members of the Co-owner's Unit or Limited Common Elements without the prior written approval of the Association. The Association shall not approve any alterations or structural modifications which would jeopardize or impair the soundness, safety or appearance of the Project. A Co-owner may make non-structural alterations, additions or improvements within the Co-owner's Unit without the prior approval of the Board, but the Co-owner shall be responsible for any damage to other Units, the Common Elements, or the Condominium Property resulting from the alterations, addition or improvements.

(b) **Unit Rental.** No portion of a Unit may be rented and no transient tenants may be accommodated in any building; provided, that this restriction shall not prevent the rental or sublease of an entire Unit together with its appurtenant Limited Common Elements for residential purposes in the manner permitted by Section 9.

(c) **Nuisances.** No nuisances shall be permitted on the Condominium Property nor shall any use or practice be permitted which is a source of annoyance to, or which interferes with the peaceful possession or proper use of the Project by its residents. The Common Elements shall not be used in whole or in part for the storage of rubbish or trash, nor for the

storage of any property or thing that may cause the Condominium Property to appear in an unclean or untidy condition. No substance or material shall be kept in any Unit or on any Common Element that will emit foul or obnoxious odors, or actions taken which will cause excessive noise which will or might disturb the peace, quiet, comfort or serenity of the occupants of surrounding Units.

(d) **Prohibited Conduct.** No immoral, improper, offensive or unlawful use shall be made of the Condominium Property, and nothing shall be done or kept in any Unit or on the Common Elements which will increase the rate of insurance for the Project without the prior written consent of the Association. No Co-owner shall permit anything to be done or kept in the Co-owner's Unit or elsewhere on the Common Elements which will result in the cancellation of insurance on any part of the Common Elements, or which would be in violation of any law.

(e) **Signs.** No signs or other advertising devices shall be displayed from any residence or on any Unit which are visible from the exterior of the Unit or from the Common Elements without written permission from the Association or its Managing Agent.

(f) **Personal Property.** No Co-owner shall display, hang or store any clothing, sheets, blankets, laundry or similar articles outside the Co-owner's Unit, or which may be visible from the outside of the Co-owner's Unit (other than draperies or curtains, blinds or shades of a customary nature and appearance which shall be lined or colored in a neutral shade facing the exterior), or paint or decorate or adorn the outside of the Co-owner's Unit, or install any CB, short wave, satellite dish or other radio or telecommunications antenna, window air-conditioning unit, snap-in window dividers, awning or other equipment, fixtures or items of any kind, without the prior written permission of the Association or its Managing Agent. The above restrictions shall not be construed to prohibit a Co-owner from placing and maintaining outdoor furniture and decorative foliage of a customary nature and appearance on a deck, patio or porch which is a Limited Common Element appurtenant to the Co-owner's Unit; provided, that no such furniture or other personal property shall be stored on any open deck or porch which is visible from another Unit or from the Common Elements of the Project.

(g) **Fireworks and Weapons.** No Co-owner shall use, or permit the use by any occupant, agent, tenant, invitee, guest or member of his family of any firearms, air rifles, pellet guns, B-B guns, bows and arrows, illegal fireworks or other dangerous weapons, projectiles or devices anywhere on or about the Condominium Project.



(h) **Pets and Animals.** No exotic, savage or dangerous animal shall be kept on the Condominium property and no animal may be kept or bred for commercial purposes. Common household pets permitted by the Association shall be kept only in compliance with the rules and regulations promulgated by the Board of Directors from time to time, and must at all times be kept under such care and restraint as not to be obnoxious on account of noise, odor or unsanitary conditions. No animal shall be permitted to run loose upon the Common Elements, limited or general, and the owner of each pet shall be responsible for cleaning up after it.

(i) **Recreational Property.** No recreational vehicle, mobile home, trailer, tent, shack, garage, accessory building, outbuilding or other structure of a temporary character shall be parked, erected, occupied or used at any time without the prior written consent of the Association. No recreational vehicles, boats or trailers shall be parked or stored in any Limited Common Element garage if such storage would prevent full closure of the garage door, or elsewhere on the Condominium Property without the written approval of the Association. No snowmobile, all-terrain vehicle or other motorized recreational vehicle shall be operated on the Condominium Property. No maintenance or repair shall be performed on any boat or vehicle except within a garage or residence where totally isolated from public view.

(j) **Common Elements.** The General Common Elements shall not be used for the storage of supplies or personal property (except for such short periods of time as may be reasonably necessary to permit periodic collection of trash). No vehicles shall be parked on or along the private drive(s), and Owners and residents shall not use or obstruct any guest parking areas which may be located on the Common Elements of the Project without the prior consent of the Association. No Co-owner shall restrict access to any utility line or other area that must be accessible to service the Common Elements or which affects an Association responsibility in any way. In general, no activity shall be carried on nor condition maintained by any Co-owner either in the Co-owner's Unit or upon the Common Elements which despoils the appearance of the Condominium.

(k) **Application of Restrictions.** Unless there is an election to arbitrate pursuant to Section 11 of these Bylaws, a dispute or question as to whether a violation of any specific regulation or restriction contained in this Article has occurred shall be submitted to the Board of Directors of the Association which shall conduct a hearing and render a decision in writing, which decision shall be binding upon all owners and other parties having an interest in the Condominium Project.

**7.4 Rules of Conduct.** Additional rules and regulations consistent with the Act, the Master Deed and these Bylaws concerning the use of Condominium Units and Common

Elements, limited and general, may be promulgated and amended by the Board. Copies of such rules and regulations must be furnished by the Board to each Co-owner at least 10 days prior to their effective date, and may be revoked at any time by the affirmative vote of 60% or more of all Co-owners.

**7.5 Remedies on Breach.** In addition to the remedies granted by Section 5.5 for the collection of assessments the Association shall have the right, in the event of a violation of the restrictions on use and occupancy imposed by Section 7.3, to correct the cause of the violation. Such entry will not constitute a trespass, and the Co-owner of the Unit will reimburse the Association for all costs of the removal or correction. Failure to enforce any of the restrictions contained in this Article will not constitute a waiver of the right of the Association to enforce such restrictions in the future.

**7.6 Enforcement by Developer.** The Condominium Project shall at all times be maintained in a manner consistent with the highest standards of a private residential community, used and occupied for the benefit of the Co-owners and all other persons interested in the Condominium. If at any time the Association fails or refuses to carry out its obligations to maintain, repair, replace and landscape in a manner consistent with the maintenance of such standards, the Developer, or any person to whom it may assign this right may, at its option, elect to maintain, repair and/or replace any Common Elements or to do any landscaping required by these bylaws and to charge the cost to the Association as an expense of administration. The Developer shall have the right to enforce these bylaws throughout the Development and Sales Period, which right of enforcement shall include (without limitation) an action to restrain the Association or any Co-owner from any prohibited activity.

**7.7 Co-owner Enforcement.** An aggrieved Co-owner will also be entitled to compel enforcement of the Condominium Documents by action for injunctive relief and/or damages against the Association, its officers or another Co-owner in the Project.

**7.8 Reserved Rights of Developer.** The restrictions contained in this Article shall not apply to the commercial activities of the Developer during the Development and Sale Period, or of the Association in the exercise of the powers and purposes contained in these Bylaws and in the Articles of Incorporation, as they may be amended from time to time. The Developer shall also have the right to maintain a sales office, advertising display signs, storage areas and reasonable parking incident to its sales efforts and such access to, from and over the Condominium Property as may be reasonable to enable development and sale of the entire Project.

**7.9 Assignment and Succession.** Any or all of the rights granted to or reserved by the Developer in the Condominium Documents or by law, may be assigned by it to any other entity or to the Association. Any such assignment or transfer shall be made by an appropriate instrument in writing, signed by the Developer and recorded in the public records of Kent County, Michigan. Upon such qualification, the assignee will have the same rights



and powers as those granted to or reserved by the Developer in the Condominium Documents.

## SECTION 8

### MORTGAGES

**8.1 Notice to Association.** Any Co-owner who mortgages a Condominium Unit shall notify the Association of the name and address of the mortgagee, and the Association will maintain such information in a book entitled "Mortgagees of Units". Such information relating to mortgagees will be made available to the Developer or its successors as needed for the purpose of obtaining consent from, or giving notice to mortgagees concerning amendments to the Master Deed or other actions requiring consent or notice to mortgagees under the Condominium Documents or the Act.

**8.2 Insurance.** The Association shall notify each mortgagee appearing in the Mortgagees of Units book of the name of each company insuring the Condominium against fire, perils covered by extended coverage, and vandalism and malicious mischief with the amounts of such coverage.

**8.3 Rights of Mortgagees.** Except as otherwise required by applicable law or regulation which is binding on the parties, the holder of a first mortgage of record on a Condominium Unit will be granted the following rights:

(a) **Inspection and Notice.** Upon written request to the Association, a mortgagee will be entitled to: (i) inspect the books and records relating to the Project on reasonable notice during normal business hours; (ii) receive a copy of the annual financial statement which is distributed to Owners; (iii) notice of any default by its mortgagor in the performance of the mortgagor's obligations which is not cured within 30 days; and (iv) notice of all meetings of the Association and its right to designate a representative to attend such meetings.

(b) **Exemption from Restrictions.** A mortgagee which comes into possession of a Condominium Unit pursuant to the remedies provided in the mortgage or by deed (or assignment) in lieu of foreclosure, shall be exempt from any option, "right of first refusal" or other restriction on the sale or rental of the mortgaged Unit, including but not limited to, restrictions on the posting of signs pertaining to the sale or rental of the Unit.

(c) **Past Due Assessments.** A mortgagee which comes into possession of a Condominium Unit pursuant to the remedies provided in the mortgage, or by deed (or assignment) in lieu of foreclosure, shall take the property free of any claims for unpaid assessments or charges against the mortgaged Unit which accrue prior to the time such holder comes into

possession (except for claims for a pro rata share of such assessments or charges resulting from a pro rata reallocation of such assessments charged to all Units including the mortgaged unit).

**8.4 Additional Notification.** When notice is to be given to a Mortgagee, upon the request of the Mortgagee and the delivery of sufficient address information to the Association, the Board of Directors shall also give such notice to the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Veterans Administration, the Federal Housing Administration, the Farmer's Home Administration, the Government National Mortgage Association and any other public or private secondary mortgage market entity participating in purchasing or guarantying mortgages of Units in the Condominium.

## SECTION 9

### LEASES

**9.1 Notice of Lease.** A Co-owner, including the Developer, desiring to rent or lease a Condominium Unit for a period of more than 180 consecutive days, shall disclose that fact in writing to the Association at least 10 days before presenting a lease form to a prospective tenant and, at the same time, shall supply the Association with a copy of the exact lease form for its review for compliance with the Condominium Documents. If the Developer proposes to rent condominium units before the Transitional Control Date, it must notify either the Advisory Committee or each Co-owner in writing. No Unit shall be rented or leased for a period of less than 180 days without the prior written consent of the Association.

**9.2 Terms of Lease.** Tenants or non Co-owner occupants shall comply with all the conditions of the Condominium Documents of the Project, and all lease and rental agreements must require such compliance. The owner of each rental unit will present to the Association evidence of certification or registration of the rental unit if required by local ordinance.

**9.3 Remedies of Association.** If the Association determines that any tenant or non Co-owner occupant has failed to comply with any conditions of the Condominium Documents, the Association may take the following action:

(a) **Notice.** The Association shall notify the Co-owner by certified mail advising of the alleged violation by the tenant.

(b) **Investigation.** The Co-owner will have 15 days after receipt of the notice to investigate and correct the alleged breach by the tenant or to advise the Association that a violation has not occurred.



(c) **Legal Action.** If, after 15 days the Association believes that the alleged breach has not been cured or may be repeated, it may institute an action for eviction against the tenant or non Co-owner occupant and a simultaneous action for money damages (in the same or in a separate action) against the Co-owner and tenant or non Co-owner occupant for breach of the conditions of the Condominium Documents. The relief provided for in this Section may be by summary proceeding. The Association may hold both the tenant and the Co-owner liable for any damages to the Common Elements caused by the Co-owner or tenant in connection with the Unit or the Condominium Project.

**9.4 Liability for Assessments.** If a Co-owner is in arrearage to the Association for assessments, the Association may give written notice of the arrearage to a tenant occupying the Co-owner's Unit under a lease or rental agreement and the tenant, after receiving such notice, shall deduct from rental payments due the Co-owner the full arrearage and future assessments as they fall due and pay them to the Association. Such deductions shall not be a breach of the rental agreement or lease by the tenant.

## SECTION 10

### TRANSFER OF UNITS

**10.1 Unrestricted Transfers.** An individual Co-owner may sell, give, devise or otherwise transfer the Co-owner's Unit, or any interest in the Unit.

**10.2 Notice to Association.** Whenever a Co-owner shall sell, give, devise or otherwise transfer the Co-owner's Unit, or any interest therein, the Co-owner shall give written notice to the Association 10 days prior to and upon consummation of the transfer. Such notice shall be accompanied by a copy of the sales agreement, deed or other documents effecting the transfer.

## SECTION 11

### ARBITRATION

**11.1 Submission to Arbitration.** Any dispute, claim or grievance arising out of or relating to the interpretation or application of the Master Deed, Bylaws or other Condominium Documents, and any disputes, claims or grievances arising among or between Co-owners or between such Owners and the Association may, upon the election and written consent of the parties to the dispute, claim or grievance, and written notice to the Association, be submitted to arbitration and the parties shall accept the arbitrator's decision and/or award as final and binding. The Commercial Arbitration Rules of the American Arbitration Association, as amended and in effect from time to time, shall be applicable to all such arbitration.

**11.2 Disputes Involving the Developer.** A contract to settle by arbitration may also be executed by the Developer and any claimant with respect to any claim against the Developer that might be the subject of a civil action, provided that:

(a) **Purchaser's Option.** At the exclusive option of a Purchaser or Co-owner in the Project, a contract to settle by arbitration in accordance with Section 11.1 shall be executed by the Developer with respect to any claim that might be the subject of a civil action against the Developer, which claim involves an amount less than \$2,500.00 and arises out of or relates to a purchase agreement, Condominium Unit or the Project.

(b) **Association's Option.** At the exclusive option of the Association of Co-owners, a contract to settle by arbitration in accordance with Section 11.1 shall be executed by the Developer with respect to any claim that might be the subject of a civil action against the Developer, which claim arises out of or relates to the Common Elements of the Project, if the amount of the claim is \$10,000.00 or less.

**11.3 Preservation of Rights.** Election by any Co-owner or by the Association to submit any dispute, claim or grievance to arbitration shall preclude such party from litigating the dispute, claim or grievance in the courts. Except as provided in this Article, however, all interested parties shall be entitled to petition the courts to resolve any dispute, claim or grievance in the absence of an election to arbitrate.

## SECTION 12

### MISCELLANEOUS PROVISIONS

**12.1 Definitions.** All terms used in these Bylaws will have the same meaning assigned by the Master Deed to which the Bylaws are attached as an exhibit, or as defined in the Act.

**12.2 Severability.** In the event that any of the terms, provisions, or covenants of these Bylaws or of any Condominium Document are held to be partially or wholly invalid or unenforceable for any reason whatsoever, such holding shall not affect, alter, modify or impair any of the other terms, provisions or covenants of such documents or the remaining portions of any terms, provisions or covenants held to be partially invalid or unenforceable.

**12.3 Notices.** Notices provided for in the Act, Master Deed or Bylaws shall be in writing, and shall be addressed to the Association at its registered office in the State of Michigan, or to any Co-owner at the address contained in the deed of conveyance, or at such other address as may subsequently be provided. The Association may designate a different address for notices to it by giving written notice of such change of address to all Co-owners. Any Co-owner may designate a different address for notices to him or her by giving written



notice to the Association. Notices addressed as above shall be deemed delivered when mailed by United States mail with postage prepaid, or when delivered in person.

**12.4 Amendment.** These Bylaws may be amended, altered, changed, added to or repealed only in the manner prescribed by Section 9 of the Master Deed.

**12.5 Conflicting Provisions.** In the event of a conflict between the Act (or other laws of the State of Michigan) and any Condominium Document, the Act (or other laws of the State of Michigan) shall govern; in the event of a conflict between the provisions of any one or more of the Condominium Documents themselves, the following order of priority shall be applied and the provisions of the document having the highest priority shall govern:

- (1) the Master Deed, including the Condominium Subdivision Plan (but excluding these Bylaws);
- (2) these Condominium Bylaws;
- (3) the Articles of Incorporation of the Association;
- (4) the Association (Corporate) Bylaws;
- (5) the Rules and Regulations of the Association; and
- (6) the Disclosure Statement.

KENT COUNTY CONDOMINIUM SUBDIVISION PLAN NO. —  
EXHIBIT "B" TO THE MASTER DEED OF :

## CONSERVATORY WOODS

PART OF SECTION 3, T8N, R9W, CITY OF LOWELL, KENT COUNTY, MICHIGAN

DEVELOPER :  
BBS CAPITAL, L.L.C.  
309 EAST MAIN STREET  
LOWELL, MICHIGAN 49331

SURVEYOR :  
NEDERVELD ASSOCIATES SURVEYING, INC.  
P.O. BOX 10 / 5570 — 32nd AVENUE  
HUDSONVILLE, MICHIGAN 49426

### DESCRIPTIONS

#### DESCRIPTION FOR CONSERVATORY WOODS

That part of the SW 1/4 of Section 3, T6N, R9W, City of Lowell, Kent County, Michigan, described as: Commencing at the South 1/4 corner of said Section; thence N00°06'00"W 1385.57 feet along the N-S 1/4 line of said Section to the Point of Beginning; thence S89°54'00"W 727.00 feet; thence N00°06'00"W 334.55 feet along the West line of the East 727.00 feet of the SW 1/4 of said Section; thence N89°28'00"W 0.25 feet along the South line of the North 930.00 feet of the SW 1/4 of said Section; thence N00°06'00"W 65.45 feet; thence N89°54'00"E 727.25 feet; thence S00°06'00"E 400.00 feet along the N-S 1/4 line to the Point of Beginning.

#### DESCRIPTION OF EXPANDABLE AREA

That part of the SW 1/4 of Section 3, T6N, R9W, City of Lowell, Kent County, Michigan, described as: Commencing at the South 1/4 corner of said Section; thence N00°06'00"W 1785.57 feet along the N-S 1/4 line to the Point of Beginning; thence S89°54'00"W 727.25 feet; thence N00°06'00"W 864.61 feet; thence S89°28'00"E 100.00 feet along the E-W 1/4 line of said Section; thence S00°06'00"E 200.00 feet; thence S89°28'00"E 627.29 feet; thence S00°06'00"E 656.57 feet along the N-S 1/4 line of said Section to the Point of Beginning.

#### EASEMENT FOR INGRESS AND EGRESS:

That part of the SE 1/4 of Section 3, T6N, R9W, City of Lowell, Kent County, Michigan, described as: Commencing at the South 1/4 corner of said Section; thence N00°06'00"W 1511.20 feet along the N-S 1/4 line of said Section to the Point of Beginning; thence S89°45'00"E 100.00 feet; thence N00°06'00"W 200.00 feet; thence S89°45'00"W 100.00 feet; thence S00°06'00"E 200.00 feet along the N-S 1/4 line of said Section to the Place of Beginning.

ATTENTION COUNTY REGISTER OF DEEDS  
THE CONDOMINIUM SUBDIVISION PLAN NUMBER MUST BE ASSIGNED  
IN CONSECUTIVE SEQUENCE WHEN A NUMBER HAS BEEN ASSIGNED  
TO THIS PROJECT IT MUST BE PROPERLY SHOWN ON THIS SHEET  
AND IN THE SURVEYORS CERTIFICATE ON SHEET NO. 2.

### SHEET INDEX

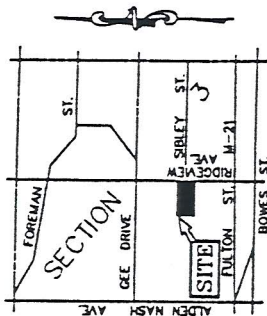
1. COVER SHEET
2. SURVEY PLAN
3. SITE PLAN "A"
4. UTILITY PLAN "A"
5. BUILDING NO. 1 FLOOR PLAN
6. BUILDING NO. 2 FLOOR PLAN
7. BUILDING NO. 3 FLOOR PLAN
8. BUILDING NO. 4 FLOOR PLAN
9. BUILDINGS NO. 5 & 6 FLOOR PLANS



*[Signature]*  
PROPOSED DATED AUGUST 30, 2001



## NO SCALE



1. BENCH MARK ELEVATION 641.79 N.G.V. DATUM
2. ONE FLANGE BOLT UNDER "W" IN "EJAW" ON HYDRANT AT NW CORNER OF SIBLEY STREET AND RIDGEVIEW AVENUE.
3. TWO BEARINGS AS SHOWN HEREON ARE BASED ON THE RECORDED PLAT OF "VALLEY VISTA NO. 7" AS RECORDED IN LIBER 71 OF PLATS, PAGE 20.
4. THREE IRON BARS 1/2 INCH IN DIAMETER AND 36 INCHES IN LENGTH AND ENCASED IN 4" OF CONCRETE HAVE BEEN PLACED AT ALL BOUNDARY CORNERS.
5. ALL DIMENSIONS ARE IN FEET.
6. ALL CURVE DIMENSIONS ARE ARC DISTANCES.
7. FLOOD PLAIN NOTE:

THIS PARCEL IS MAPPED BY THE NATIONAL FLOOD INSURANCE PROGRAM. THIS PARCEL DOES NOT LIE WITHIN THE BOUNDARY OF THE 100 YEAR FLOOD PLAIN AS DEFINED BY THE MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE FEDERAL EMERGENCY MANAGEMENT AGENCY.
8. THE TOTAL AREA OF THE CONDOMINIUM IS 6.68 ACRES.
9. EACH STRUCTURE SHALL BE LOCATED IN STRICT COMPLIANCE WITH THE ORDINANCE OF THE CITY OF LOWELL, KENT COUNTY, PERTAINING THERETO AND THE STATUTES OF THE STATE OF MICHIGAN IN SUCH CASES MADE AND PROVIDED.
10. ALL IMPROVEMENTS AND UTILITIES NEEDED FOR UNITS 1 THOUGH 3 "MUST BE BUILT". ALL OTHER IMPROVEMENTS AND UTILITIES "NEED NOT BE BUILT".

SURVEYOR'S CERTIFICATE

I, Randal J. Vugleven, Professional Surveyor in the State of Michigan, hereby certify: That the subdivision plan known as Kent County Condominium Subdivision Plan No. 59, as shown on the accompanying drawings, represents a survey on the ground made under my direction. That there are no existing encroachments upon the lands and property herein described. That the required monuments and iron markers will be placed in the ground within 12 months from recordation of the Condominium Subdivision Plan as required by rules promulgated under Section 142 of Act No. 59 of the Public Acts of 1978. That the accuracy of this survey is within the limits required by the rules promulgated under Section 142 of Act No. 59 of the Public Acts of 1978. That the bearings, as shown, are noted on the survey plan as required by the rules promulgated under Section 142 of Act No. 59 of the Public Acts of 1978.

August 30, 2001

Randal J. Vuoleveen

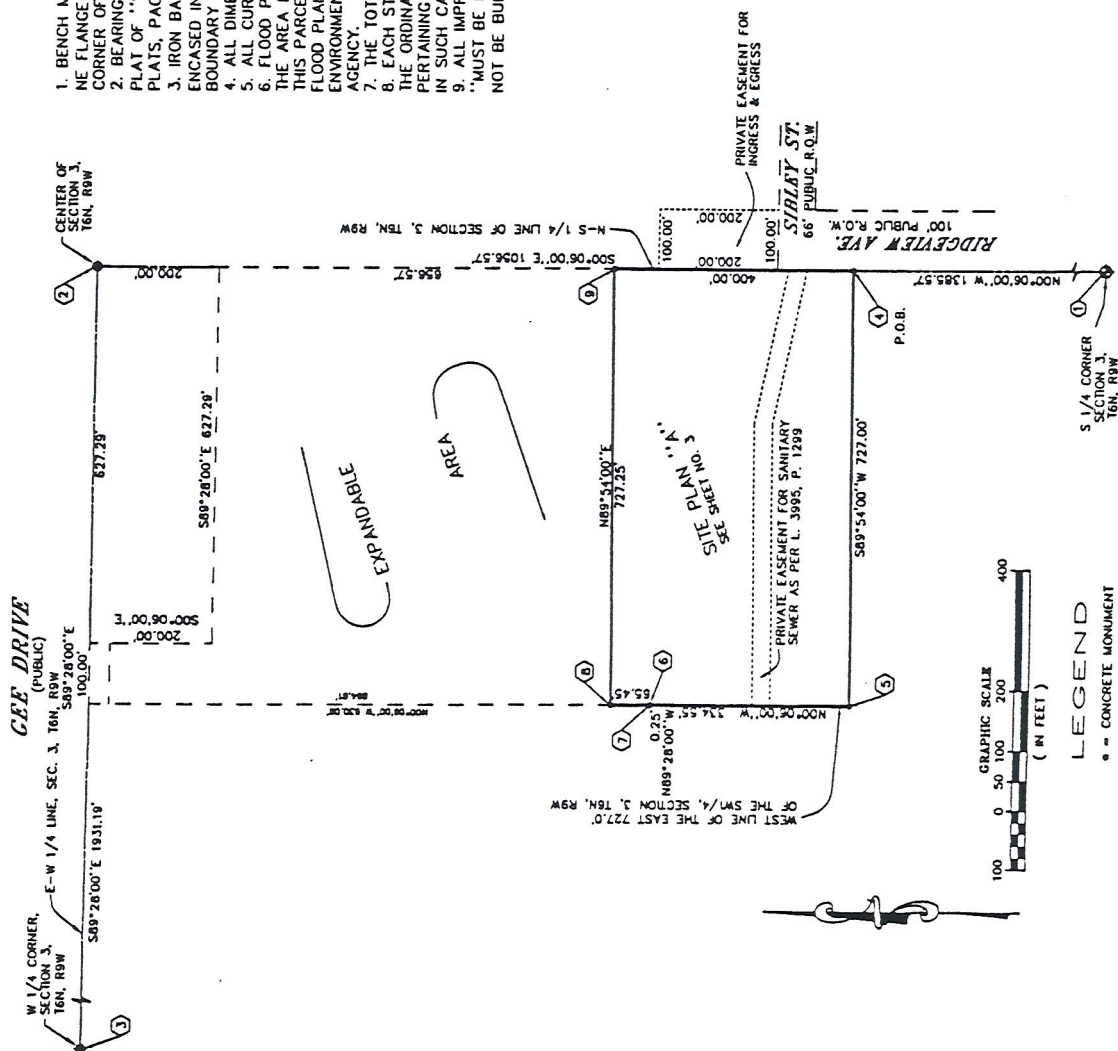
Professional Surveyor No. 28429  
Nederveld Associates Surveying, Inc.

5570 - 32nd Avenue  
Hudsonville, MI 49426



*SURVEY PLAN  
CONSERVATORY WOODS*

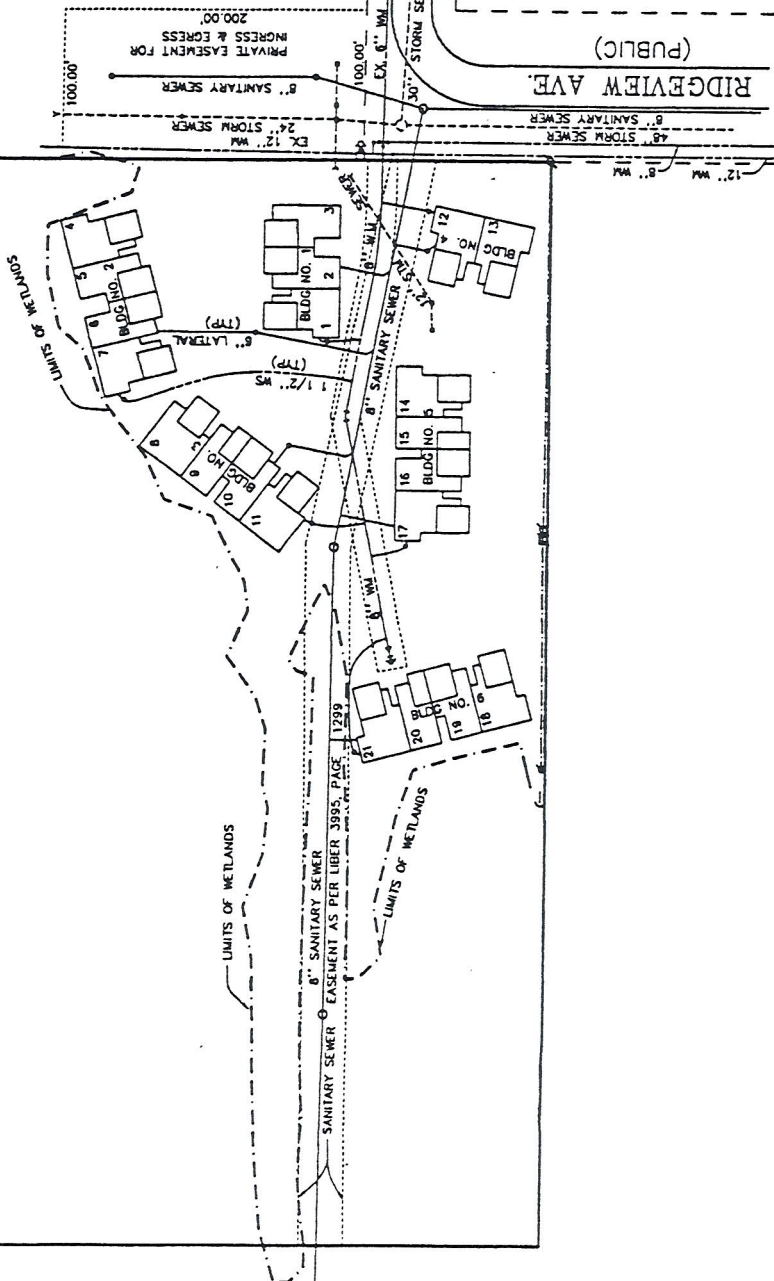
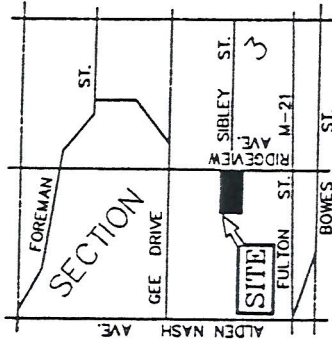
NEDERVELD ASSOCIATES SURVEYING, INC. -- 5570 32ND AVENUE -- HUDSONVILLE, MICHIGAN 49426  
 SHEET NO. 2



	POINT		EASTING		NORTHING		EASTING	
	1	2	3	4	5	6	7	8
1	2357.87		5004.61		6	4076.71		4274.61
2	5000.00		5000.00		7	4076.71		4274.36
3	5024.74		2341.64		8	4142.16		4274.25
4	3743.43		5002.19		9	4143.43		5001.49
5	3742.12		4272.10					

# LOCATION MAP

NO SCALE



NOTE:  
SEE SHEET NO. 2 FOR GENERAL NOTES.

PRIOR TO EXCAVATION CONTACT  
MISS DIG 3 WORKING DAYS IN ADVANCE  
1-800-482-7171

UTILITY NOTE  
ALL THE UTILITIES WILL BE SHOWN ON THE "AS-BUILT" PLANS  
INCLUDING SERVICE SIZE AND METER LOCATION.

## UTILITY PLAN "A" CONSERVATORY WOODS

NEDERVELD ASSOCIATES SURVEYING, INC. --- 5570 32ND AVENUE --- HUDSONVILLE, MICHIGAN 49426 SHEET NO. 4

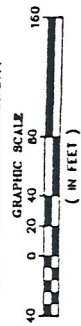
ALL UNDERGROUND UTILITY INFORMATION AS SHOWN HEREON  
IS PER AVAILABLE RECORDS OR ACTUAL MEASUREMENTS ON  
THE GROUND AND SHOULD NOT BE MISTAKEN TO BE A  
GUARANTEE OF COMPLETENESS OR ACCURACY. LOCATION OF  
UTILITIES AS SHOWN HEREON WAS DERIVED FROM THE FOLLOWING:

- WATERMAIN CITY OF LOWELL B.P.W.
- SANITARY SEWER CITY OF LOWELL B.P.W.
- ELECTRIC LOWELL LIGHT & POWER
- STORM SEWER CITY OF LOWELL B.P.W.

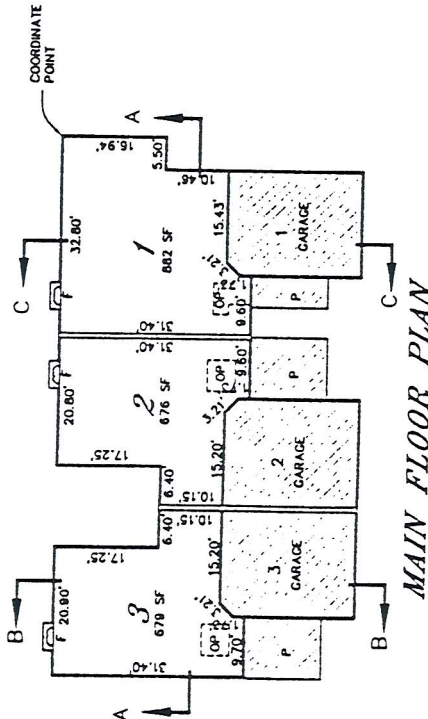
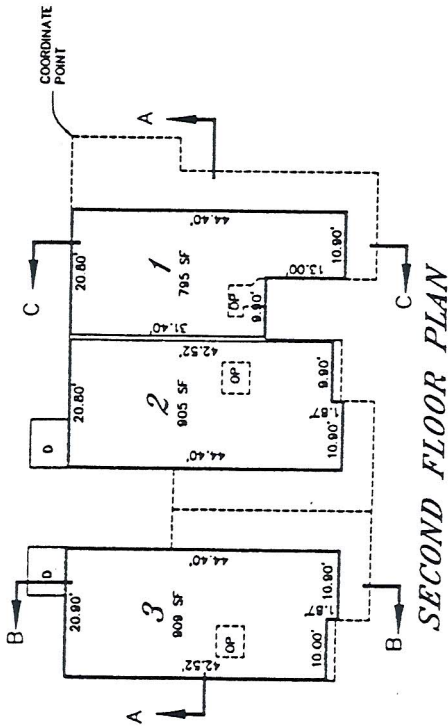


*[Signature]*  
PROPOSED DATED AUGUST 30, 2001

- LEGEND
- ⋆ = HYDRANT
  - = CATCH BASIN
  - = STORM MANHOLE
  - = SANITARY MANHOLE
  - ⋆ = POWER POLE
  - ⋆ = ELECTRIC METER
  - = CONCRETE MONUMENT

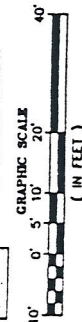




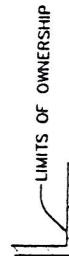


# LEGEND

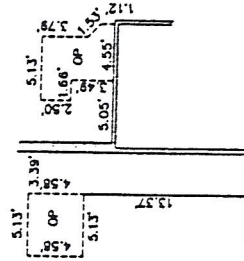
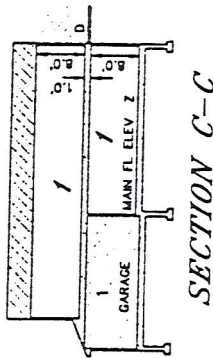
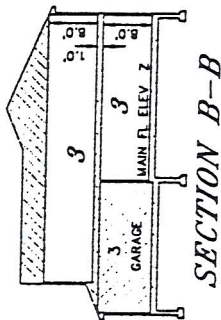
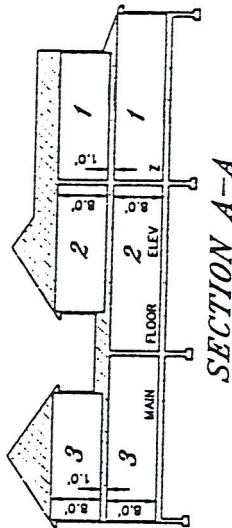
- OP = OPEN AREA
- F = FIREPLACE
- D = DECK
- P = PORCH
- MBB = MUST BE BUILT
- NNBB = NEED NOT BE BUILT
- GENERAL COMMON ELEMENT
- LIMITED COMMON ELEMENT



BUILDING SCHEDULE			
BLDG. NO.	UNIT NO.	TOTAL SQ. FT.	FLOOR ELEV. 2
1	1	1677	643.95
MBB	2	1581	
	3	1586	



NOTE: ALL OWNERSHIP LINE AT 90°00'00" TO EACH OTHER UNLESS OTHERWISE NOTED.  
TYPICAL PARTY WALL THICKNESS = 0.8'  
TYPICAL EXTERIOR WALL THICKNESS = 0.4'

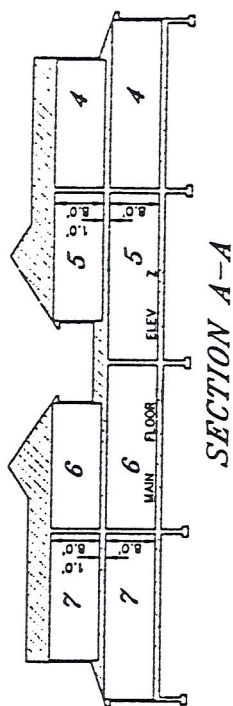


DETAILS OF OPEN AREA BETWEEN FLOORS

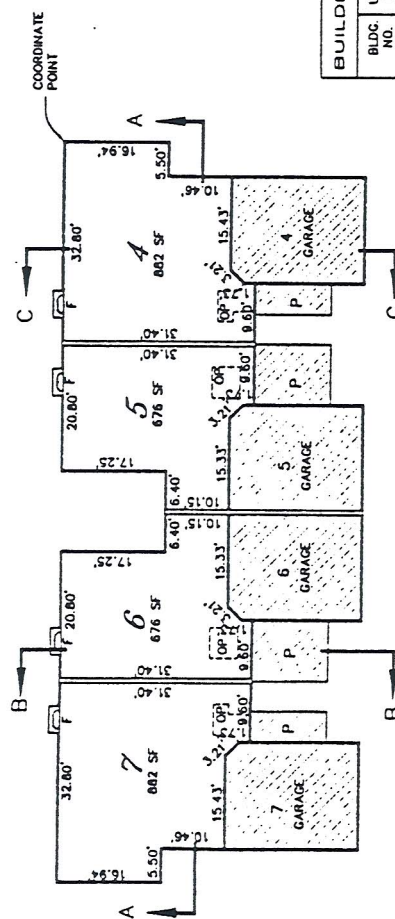


## **BUILDING NO. 1 FLOOR PLANS CONSERVATORY WOODS**

NEDERVELD ASSOCIATES SURVEYING, INC. -- 5570 32ND AVENUE -- HUDSONVILLE, MICHIGAN 49426  
PROPOSED DATED AUGUST 30, 2001  
SHEET NO. 5

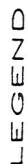




## SECTION A-A

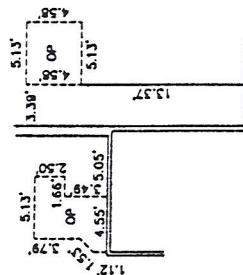
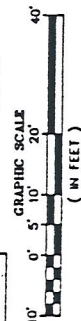


### MAIN FLOOR PLAN

BUILDING SCHEDULE			
BLDG. NO.	UNIT NO.	TOTAL SQ. FT.	FLOOR ELEV. 2
2  NNBB	4	1677	644.10
	5	1581	
	6	1581	
	7	1677	



- F = FIREPLACE  
D = DECK  
P = PORCH  
HP = HIGH POINT  
SC = SLOPED CEILING  
OP = OPEN AREA  
MBB = MUST BE BUILT  
NNBB = NEED NOT BE BUILT
-  = GENERAL COMMON ELEMENT
-  = LIMITED COMMON ELEMENT



DETAILS OF OPEN AREA  
BETWEEN FLOORS

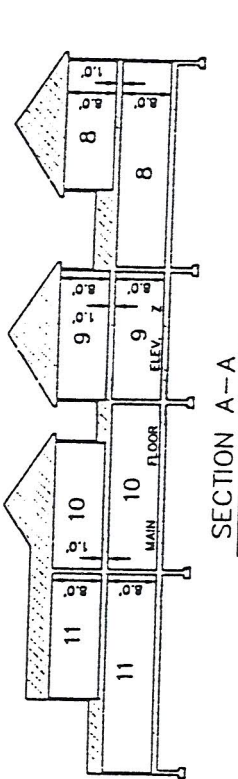
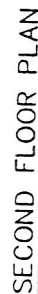
NOTE: ALL OWNERSHIP LINE AT 90°00'00" TO EACH OTHER UNLESS OTHERWISE NOTED.  
TYPICAL PARTY WALL THICKNESS = 0.8'  
TYPICAL EXTERIOR WALL THICKNESS = 0.4'

**BUILDING NO. 2 FLOOR PLANS  
CONSERVATORY WOODS**

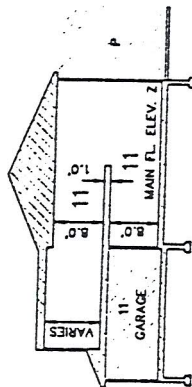
WERNERVELD ASSOCIATES SURVEYING, INC. --- 5570 32ND AVENUE --- HUDSONVILLE, MICHIGAN 49426

SHEET NO. 6

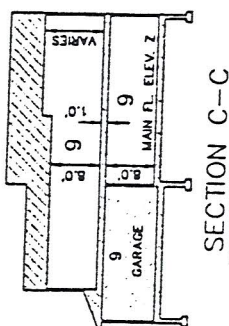




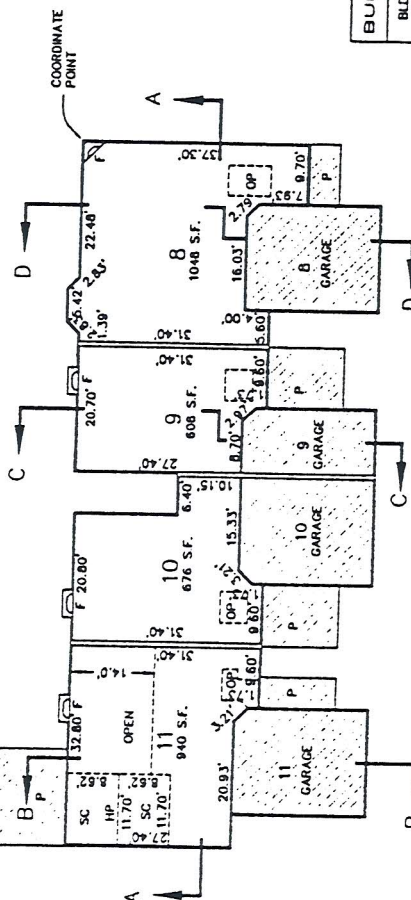
SECTION A--A



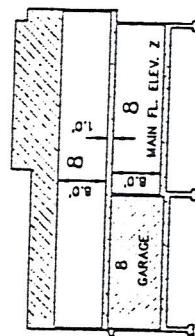
SECTION B-B



SECTION C-C



# MAIN FLOOR PLAN

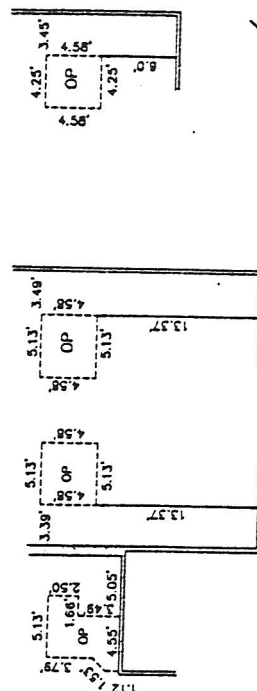


SECTION D-D

BUILDING SCHEDULE			
BLDG. NO.	UNIT NO.	TOTAL SQ. FT.	FLOOR ELEV. 2
3  NNBB	8	1990	643.40
	9	1517	
	10	1581	
	11	1444	

## LIMITS OF OWNERSHIP

NOTE: ALL OWNERSHIP LINE AT 90°00'00" TO EACH OTHER UNLESS OTHERWISE NOTED.  
TYPICAL PARTY WALL THICKNESS = 0.8'  
TYPICAL EXTERIOR WALL THICKNESS = 0.4'



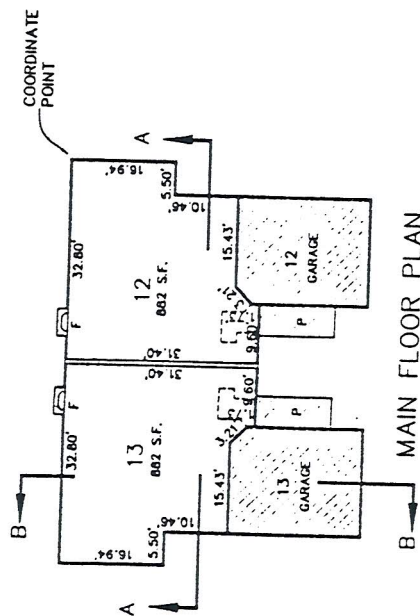
DETAILS OF OPEN AREA BETWEEN FLOORS

**BUILDING NO. 3 FLOOR PLANS  
CONSERVATORY WOODS**

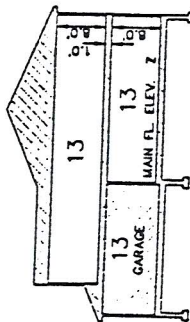
NEDERVELD ASSOCIATES SURVEYING, INC. -- 5570 32ND AVENUE  
 PROPOSED DATED AUGUST 30, 2001

26

SHEET NO. 7



## MAIN FLOOR PLAN

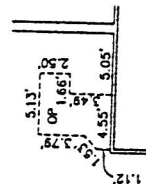


SECTION B-B

BUILDING SCHEDULE			
BLDG. NO.	UNIT NO.	TOTAL SQ. FT.	FLOOR ELEV. 2
4	12	1677	642.65
NN88	13	1677	

## LIMITS OF OWNERSHIP

NOTE: ALL OWNERSHIP LINE AT 90°00'00" TO EACH OTHER UNLESS OTHERWISE NOTED.  
TYPICAL PARTY WALL THICKNESS = 0.8'  
TYPICAL EXTERIOR WALL THICKNESS = 0.4'



DETAIL OF OPEN AREA  
BETWEEN FLOORS

**BUILDING NO. 4 FLOOR PLANS  
CONSERVATORY WOODS**

NEDERVELD ASSOCIATES SURVEYING, INC. -- 5570 32ND AVENUE  
 PROPOSED DATED AUGUST 30, 2001

SHEET NO. 8



ON 06/07/2015

F = FIREPLACE

F = FIREPLACE  
P = PORCH

P = PORCH  
OP = OPEN AREA

OP = OPEN AREA  
B = MUST BE ALL

B - MUST BE BUILT  
BB - NEED NOT BE

BE - NEED NOT BE

GENERAL CONCLUSIONS

- GENERAL COMMON

11-11-11

UNITED STATES OF AMERICA

**— LIMITED COMMON**

GRAPHIC SCALE

**GRAPHIC SCALE**  
0' 5' 10' 20'

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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( 1334 M )

(אמר ר' יוחנן)

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# *Michigan Department of Consumer and Industry Services*

## *Filing Endorsement*

*This is to Certify that the ARTICLES OF INCORPORATION - NONPROFIT*

*for*

*CONSERVATORY WOODS CONDOMINIUM ASSOCIATION*

*ID NUMBER: 770535*

*received by facsimile transmission on May 9, 2001 is hereby endorsed*

*Filed on May 9, 2001 by the Administrator.*

*The document is effective on the date filed, unless a subsequent effective date within 90 days after received date is stated in the document.*

*In testimony whereof, I have hereunto set my hand and affixed the Seal of the Department, in the City of Lansing, this 9th day of May, 2001.*



, Director

*Bureau of Commercial Services*



DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES - CORPORATION SECURITIES  
AND LAND DEVELOPMENT BUREAU

Date Received

(FOR BUREAU USE ONLY)

Name Jonathan W. Anderson  
VARNUM, RIDDERING, SCHMIDT & HOWLETT LLP

Address

Bridgewater Place - Post Office Box 352

City

State

Zip

Grand Rapids

MI

49501-0352

EFFECTIVE DATE:

DOCUMENT WILL BE RETURNED TO NAME AND ADDRESS INDICATED ABOVE

--	--	--	--	--	--	--	--

ARTICLES OF INCORPORATION

OF

CONSERVATORY WOODS CONDOMINIUM ASSOCIATION

These Articles of Incorporation are signed by the incorporator(s) for the purpose of forming a non-profit corporation under the provisions of Act 162 of the Public Acts of 1982 known as the Michigan Nonprofit Corporation Act (the "Act"), as follows:

ARTICLE I.

The name of the corporation is:

CONSERVATORY WOODS CONDOMINIUM ASSOCIATION

ARTICLE II.

The purpose or purposes for which the corporation is formed are as follows:

To provide an entity pursuant to Act No. 59 of the Public Acts of 1978, as amended, hereinafter called the "Michigan Condominium Act", for the operation of

condominium properties in the City of Lowell, Kent County, Michigan, and, in furtherance thereof:

- (a) To maintain, operate and administer the property of the condominium for the use and enjoyment of its members and their guests, invitees and families;
- (b) To make and enforce reasonable rules and regulations concerning the use of the condominium property in furtherance of the Master Deed and By-laws;
- (c) To levy and collect assessments from members of the corporation to defray the costs, expenses and losses of the condominium;
- (d) To employ personnel, to contract for the maintenance, administration and management of the condominium, and to delegate to said persons such powers and duties as are necessary therefor;
- (e) To purchase insurance upon the common elements of the condominium and to collect and allocate the proceeds thereof;
- (f) To authorize and approve the execution of contracts, deeds and/or easements affecting the common elements; and
- (g) In general, to carry on any other business in connection with and incident to the foregoing purposes not forbidden, and with all the powers conferred upon non-profit corporations by the laws of the State of Michigan.

All funds and the titles to all properties acquired by the corporation and the proceeds thereof shall be held in trust for the members in accordance with the provisions of the by-laws of the Association.

### ARTICLE III.

The address of the initial registered office is:

309 E. Main Street  
Lowell, Michigan 49331



The mailing address of the registered office is:

309 E. Main Street  
Lowell, Michigan 49331

The name of the resident agent at the registered office is:

Bill Overbeck

ARTICLE IV.

The corporation is organized on a non-stock membership basis.

The description and value of all assets which the corporation possesses at the time of its incorporation are: Real Property: None; Personal Property: None.

The corporation is to be financed under the following general plan: by assessment of members to defray the costs, expenses and losses of the condominium.

ARTICLE V.

The name and address of the incorporator is as follows:

<u>Name</u>	<u>Residence or Business Address</u>
Jonathan W. Anderson	PO Box 352 - 333 Bridge Street, NW Grand Rapids, Michigan 49501-0352

ARTICLE VI.

The names and addresses of the first Board of Directors are as follows:

<u>Name</u>	<u>Residence or Business Address</u>
Bill Overbeck	309 E. Main Street Lowell, Michigan 49331
Steven D. Hanson	PO Box 64 Grandville, Michigan 49468
Bill Nagy	11333 - 60 <sup>th</sup> Street Alto, Michigan 49302

ARTICLE VII.

The term of the corporation shall be perpetual.

ARTICLE VIII.

The corporation is organized on a membership basis and each Co-owner of record in the condominium, including the Developer until all such units have been sold, shall be a member of the corporation. Such membership shall not be assigned, pledged, encumbered or transferred in any manner except as an appurtenance to such Unit. The directors named herein shall also be members of the corporation until such time as their successors shall have been elected and qualified.

Each member of the corporation shall be entitled to one vote, the value of which and the manner of exercise of which are to be determined in accordance with the By-Laws of the corporation.

ARTICLE IX.

Any action required or permitted by the Act to be taken at an annual or special meeting of members may be taken without a meeting, without prior notice, and without a vote, if a consent in writing, setting forth the action so taken is signed by members of the corporation having not less than the minimum number of votes that would be necessary to authorize or take the action at a meeting at which all members entitled to vote thereon were present and voted. Prompt notice of the taking of corporate action without a meeting by less than unanimous consent shall be given to members who have not consented in writing.

ARTICLE X.

No contract or other transaction between this corporation and any other corporation, firm or association shall be subject to cancellation (other than as provided by Act 59, P.A. 1978, as amended) by the fact that any one or more of the directors or officers of the corporation are



interested in or are directors or officers of such other corporation, firm or association, and any director or officer individually may be a party to or may be interested in any contract or transaction of the corporation; provided, that the contract or other transaction is fair and reasonable to the corporation when it is authorized, approved or ratified and that the material facts as to such relationship or interest are disclosed or known to the board or committee at the time it authorized, approved or ratified the contract or transaction by a vote sufficient for the purpose without counting the vote of such interested director or officer, and each and every person who may become a director or officer of the corporation is hereby relieved from any liability which might otherwise exist from contracting with the corporation for the benefit of himself or any firm, association or corporation in which he may be otherwise interested as set forth herein.

ARTICLE XI.

The members of the Board shall be volunteer directors within the meaning of Act 170 of the Public Acts of 1987. A volunteer director shall not be personally liable to the corporation or to its members for monetary damages for a breach of the director's fiduciary duty arising under applicable law. However, this Article shall not eliminate or limit the liability of a director for any of the following:

- (a) a breach of the director's duty of loyalty to the corporation or its members;
- (b) acts or omissions not in good faith or that involve intentional misconduct or knowing violation of law;
- (c) a violation of Section 551(1) of the Michigan Nonprofit Corporation Act;
- (d) a transaction from which the director derived an improper personal benefit;
- (e) an act or omission that is grossly negligent; or

(f) an act or omission occurring before the date on which this document is filed.

A volunteer director shall only be personally liable for monetary damages for a breach of fiduciary duty as a director to the corporation and its members to the extent set forth in this Article XI. Any repeal or modification of this Article shall not adversely affect any right or protection of any volunteer director existing at the time of, or for or with respect to, any acts or omissions occurring before such repeal or modification.

#### ARTICLE XII.

The corporation assumes liability for all acts or omissions of a non-director volunteer occurring after the date this Article is filed with the Michigan Department of Commerce, providing all of the following conditions are met:

- (a) the volunteer was acting or reasonably believed he or she was acting within the scope of his or her authority;
- (b) the volunteer was acting in good faith;
- (c) the volunteer's conduct did not amount to gross negligence or willful and wanton misconduct;
- (d) the volunteer's conduct was not an intentional tort; and
- (e) the volunteer's conduct was not a tort arising out of the ownership, maintenance or use of a motor vehicle for which tort liability may be imposed under Section 3135 of the Insurance Code of 1956.

#### ARTICLE XIII.

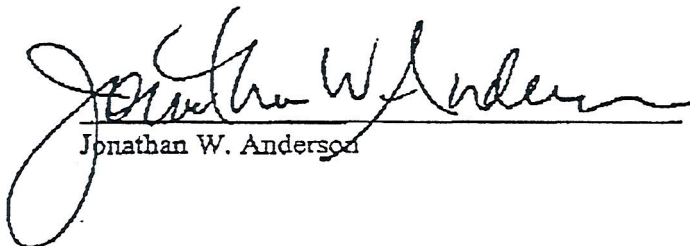
These Articles may be amended by the affirmative vote of not less than a majority of the entire membership of the corporation; provided, that in no event shall any amendment make changes in the qualifications for membership nor the voting rights of members without the unanimous consent of the membership.



ARTICLE XIV.

In the event the existence of the corporation shall be terminated for any reason, all assets of the corporation remaining after payment of obligations imposed by applicable law shall be distributed along the members of the corporation in the same proportion to which each member's interest in the common elements of the Project bears to the total of such interests.

I, the incorporator, sign my name this 30 day of April, 2001.

  
Jonathan W. Anderson

#561423

ASSOCIATION BY-LAWS  
OF  
CONSERVATORY WOODS CONDOMINIUM ASSOCIATION

ARTICLE I.

CONDOMINIUM BY-LAWS

The Condominium By-Laws of Conservatory Woods Condominium Association, a Condominium Project, attached as a part of the Master Deed pertaining to said Project and recorded in the Office of the Register of Deeds of Kent County, Michigan, are hereby incorporated by reference and adopted in their entirety as a part of the By-Laws of this corporation.

ARTICLE II.

MEETINGS AND QUORUM

1. Membership Meetings. The initial meeting of the members, absent a special call by the Board of Directors, shall be held on call of the Developer at or before the time required for such meeting by the Condominium By-Laws. At such meeting, the directors elected at the First Meeting of Incorporators shall resign and a new Board of Directors shall be elected by the members as herein provided.
2. Annual Meeting of Members. Thereafter, the annual meeting of members shall be held on each year at such date, time and place as may be designated by the Board of Directors. Notice of all annual meetings shall be as provided in the Condominium By-Laws.
3. Delayed Annual Meeting of Members. If, for any reason, the annual meeting shall not be held on the day so designated, such meeting may be called and held as a special meeting with the same proceedings as at an annual meeting.
4. Special Meetings of Members. Special meetings of the members may be called by the President or by a majority of the directors of the Board, or by Co-Owners having at least 35% of the votes entitled to notice of the meeting. Notice of special meetings shall be provided in the same manner as for annual meetings.
5. Organizational Meeting of Board. At the place of holding, and immediately following the annual meeting of members, the Board as constituted upon final adjournment of such annual meeting shall convene for the purpose of electing officers and transacting any other business properly proposed; provided, that the organizational meeting in any year may be held at a different time and place by consent of a majority of the Directors.



6. **Regular Meetings of the Board.** In addition to its organizational meeting, the Board may hold regular meetings at such other times and places as it shall from time to time determine. Notice of regular meetings shall be given to each director personally or by mail, telephone, fax or e-mail at least 5 days prior to the date of such meeting.

7. **Special Meetings of Board.** Special meetings of the Board may be called by the President or by any two Directors by written notice to each Director of the time, place and purpose of such meeting, at least 3 days prior to the date of such meeting.

8. **Notice and Mailing.** All written notices required to be given by any provision of these By-Laws shall state the authority pursuant to which they are issued (as, "by order of the President", or "by order of the Board of Directors", as the case may be) and shall bear the written, printed or typed signature of the Corporate Secretary. Each such notice shall be deemed duly served when it has been deposited in the United States mail, with postage fully prepaid, plainly addressed to the addressee at his, her or its last address appearing upon the membership records of the Corporation.

9. **Waiver of Notice.** Notice of the time, place and purpose of any meeting of the members or of the Board of Directors may be waived by telegram, cablegram or other writing, either before or after such meeting has been held. Attendance at any meeting of the Board constitutes a waiver of notice, except where a Director attends for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

10. **Quorum.** A quorum of the members shall be as set forth in the Condominium By-Laws. A majority of the directors then in office, or of the members of any Committee thereof, shall constitute a quorum for the transaction of business. Members or directors present or represented at any such meeting may continue to do business until adjournment, notwithstanding the withdrawal of enough persons to leave less than a quorum, and may adjourn the meeting for not more than 30 days, without notice other than announcement at the meeting, until a quorum shall be present or represented.

### **ARTICLE III.**

#### **BOARD OF DIRECTORS**

1. **Number and Term.** The business, property and affairs of the Corporation shall be managed by a Board of Directors composed of not less than 3 nor more than 5 members. The number of persons comprising each subsequent Board shall be determined by vote of the members prior to the establishment of each such Board; provided, however, that if a motion is not made and carried to increase or decrease the number of directors, then the Board shall consist of the same number of persons as theretofore comprised the full Board of Directors.

In addition, the members may, by resolution duly made and passed, provide that in lieu of annually electing all directors, the directors shall be divided into 2 or 3 classes, each to be as nearly equal in number as possible, with terms of office such that the term of directors in the first class will

expire at the first annual meeting following their election, that of the second class to expire at the second annual meeting after their election, and that of the third class, if any, to expire at the third annual meeting after their election. At each annual meeting after such classification of the Board of Directors, a number of directors equal to the number of the class whose term is expiring shall be elected to hold office until the second succeeding annual meeting if there are 2 classes, or until the third succeeding annual meeting if there are 3 classes. Provided, however, that until the initial meeting of the members as required by the Condominium By-Laws, the directors named in the Articles of Incorporation and their successors shall serve.

2. **Qualification.** Except for members of the first Board, each Director shall be a Co-Owner or the spouse of a Co-Owner (or, if a Co-Owner is a trustee of a trust, a Director may be a beneficiary of such trust, and if a Co-Owner or such a beneficiary is a corporation or a partnership, a Director may be an officer, partner or employee of such Co-Owner or beneficiary). If a Director shall cease to meet such qualifications during his term, he shall thereupon cease to be a Director and his place on the Board shall be deemed vacant.

3. **Vacancies.** Vacancies in the Board may be filled by the affirmative vote of a majority of the remaining Director or Directors, even though less than a quorum of the Board. Each person elected to fill a vacancy shall remain a Director until his successor has been duly elected and qualified, which election shall be for a term equal to that remaining of the Director whose death or resignation has created the vacancy.

4. **Resignation and Removal.** A Director may resign at any time and such resignation shall take effect upon receipt of written notice by the Association, or at such subsequent time as may be set forth in the notice of resignation. Any or all the Directors may be removed, with or without cause, by the vote of a majority of the Co-Owners in number and in value.

5. **Action by Written Consent.** If and when all the Directors shall severally or collectively consent in writing to any action to be taken by the Corporation, either before or after the action, such action shall be as valid corporate action as though it had been authorized at a meeting of the Board.

6. **Powers and Duties.** In addition to the powers and duties imposed or permitted by law, by these By-Laws or by resolution of the members of the Association, the Board of Directors shall have all powers and duties necessary for the administration of the affairs of the Condominium as set forth in the Condominium By-Laws.

7. **Rules and Regulations.** The Board of Directors shall propose regulations respecting the use and enjoyment of the Units and common elements of the Condominium and such other rules and regulations as may be necessary for the maintenance and operation of the Condominium. All such regulations and amendments thereto shall be adopted and promulgated in the manner set forth in the Condominium By-Laws; provided, that all rules and regulations imposed by the first Board of Directors prior to the initial meeting of members shall be binding upon all subsequent members unless duly amended as provided herein.



8. Compensation. Directors shall receive no compensation for their services as directors unless expressly provided for in resolutions duly adopted by not less than sixty percent (60%) of all Co-Owners in number and in value.

## ARTICLE IV.

### OFFICERS

1. Designation and Term. The Board shall elect a President, a Secretary and a Treasurer, and may also elect one or more Vice-Presidents, Assistant Secretaries and Assistant Treasurers, as the needs of the business may require. Each officer shall hold office for the term of one year and until his successor is elected and qualified. No officer shall receive any compensation from the Corporation for acting as such.

2. Qualification. Except for members of the first Board, each Principal Officer (President, Vice-President, Secretary and Treasurer) shall be a Co-owner or the spouse of a Co-owner (or, if a Co-owner is a trustee of a trust, a Principal Officer may be a beneficiary of such trust, and if a Co-owner or such a beneficiary is a corporation or a partnership, a Principal Officer may be an officer, partner or employee of such Co-owner or beneficiary). Provided, that the Board may elect non-Co-owners to fill the positions of Assistant Officers if they feel that additional expertise is needed. Assistant Officers who are not members of the Board, however, shall not be entitled to vote at meetings of the Board of Directors.

3. The President. The President shall be the chief executive officer of the Corporation. He shall preside over all meetings of the members and of the Board, and shall be ex officio a member of all standing committees.

4. The Secretary. The Secretary shall attend all meetings of the members, of the Board, and of the executive committee, and shall preserve in books of the Corporation true minutes of the proceedings of all such meetings. He shall safely keep in his custody the seal of the Corporation and shall have authority to affix the seal to all instruments where its use is required. He shall give all notices required by statute, By-Law or resolution and shall perform such other duties as may be delegated to him by the Board or by the executive committee.

5. The Treasurer. The Treasurer shall have custody of all corporate funds and securities and shall keep in books belonging to the Corporation full and accurate accounts of all receipts and disbursements; he shall deposit all monies, securities and other valuable effects in the name of the Corporation in such depositories as may be designated for that purpose by the Board. He shall disburse such funds of the corporation as may be ordered by the Board, taking proper vouchers for such disbursements, and shall render to the President and Directors at regular meetings of the Board, and whenever requested by them, an account of all his transactions as Treasurer and of the financial condition of the Corporation.

6. Vacancies. Vacancies in any office may be filled by the affirmative vote of a majority of the remaining members of the Board at any regular or special meeting. Each person

appointed to fill the vacancy shall remain an officer for a term equal to that remaining of the officer whose death or resignation has created the vacancy, and until his successor has been duly elected and qualified.

7. **Resignation and Removal.** An officer may resign at any time and such resignation shall take effect upon receipt of written notice by the Association, or at such subsequent time as may be set forth in the notice of resignation. Any or all the officers may be removed, with or without cause, by the vote of a majority of the Board of Directors.

## **ARTICLE V.**

### **INDEMNIFICATION**

1. **Scope of Indemnification.** The corporation shall indemnify to the fullest extent authorized or permitted by the Michigan Nonprofit Corporation Act, as amended, any person, or his or her estate or personal representative, who is made or threatened to be made a party to an action, suit or proceeding (whether civil, criminal, administrative or investigative) because such person is or was a director or officer of the corporation or serves or served in any other enterprise at the request of the corporation. Persons who are not directors or officers of the corporation may be similarly indemnified in respect of services rendered to the corporation or at the request of the corporation to the extent authorized at any time by the board of directors of the corporation. The provisions of this Article shall be applicable to directors and officers who have ceased to render such service and shall inure to the benefit of their heirs, personal representatives, executors, and administrators. The right of indemnify provided herein shall not be exclusive, and the corporation may provide indemnification to any person, by agreement or otherwise, on such terms and conditions as the board of directors of the corporation may approve. Any agreement for indemnification of any director, officer, employee or any other person may provide indemnification rights which are broader or otherwise different than those set forth in the Michigan Nonprofit Corporation Act, unless otherwise prohibited by law.

2. **Authorization of Indemnification.** Any indemnification under this Article (unless ordered by a court) shall be made by the corporation only after 10 days written notice to all Co-Owners of the facts surrounding the request for indemnification, when authorized in the specific case upon a determination that indemnification of the director, officer, employee, or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in this Article. Such determination shall be made: (1) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding; or (2) if such a quorum is not obtainable, or, even if obtainable, when a quorum of disinterested directors so directs, by independent legal counsel (who may be the regular counsel of the corporation) in a written opinion; or (3) by the members.

3. **Advancing of Expenses.** Expenses incurred in defending a civil or criminal action, suit, or proceeding described in Section 1 of this Article may be paid by the corporation in advance of the final disposition of such action, suit, or proceeding as authorized by the Board of Directors upon receipt of an undertaking by or on behalf of the director, officer, employee, or agent to repay



such amount unless it shall ultimately be determined that he is entitled to be indemnified by the corporation as authorized in this Article.

4. **Insurance.** The corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, or other enterprise against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the corporation would have the power to indemnify him against such liability under the provisions of this Article.

5. **Mergers.** For the purposes of this Article, references to the "corporation" include all constituent corporations absorbed in a consolidation or merger, as well as the resulting or surviving corporation, so that any person who is or was a director, officer, employee, or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, shall stand in the same position under the provisions of this Article with respect to the resulting or surviving corporation as he would if he had served the resulting or surviving corporation in the same capacity.

## **ARTICLE VI.**

### **GENERAL PROVISIONS**

1. **Liability of Members.** The Association and the Board shall have the power to raise and the responsibility for raising, by special assessment or otherwise, any sums required to discharge its obligations under these By-Laws; provided, however, that the liability of any Co-Owner arising out of any contract made by or other acts of the Directors, officers or committee, or out of the aforesaid indemnity provisions, shall be limited to such proportion of the total liability hereunder as said Co-Owner's percentage of value in the common elements bears to the total percentage interest of all Co-Owners in the common elements. Every agreement made by the Directors, officers, committees or managing agent on behalf of the Co-Owners shall provide that the persons executing the same are acting only as agents for the Co-Owners and shall have no personal liability thereunder (except as a Co-Owner), and that each Co-Owner's liability thereunder shall be limited to such proportion of the total liability incurred as his percentage of interest in the common elements bears to the total percentage interest of all Co-Owners in the common elements.

2. **Execution of Instruments.** All checks, drafts, and orders for payment of money shall be signed in the name of the Corporation by such officer or officers or agent or agents as the Board shall from time to time designate for that purpose. When the execution of any contract, conveyance or other instrument of title has been authorized without specification of the executing officers, the President, or a Vice-President, if any, may undertake the execution in the name or on behalf of this Corporation without attestation, acknowledgment or seal.

3. **Fidelity Bonds.** The Association may require that all officers, employees and others who are responsible for handling funds obtain adequate fidelity coverage to protect against dishonest acts, the cost of which shall be an expense of administration.

4. **Seal.** The seal of the Corporation shall have inscribed thereon the name of the Corporation and the words "Corporate Seal, Michigan". The seal may be used by causing it or a facsimile thereof to be impressed or affixed or in any manner reproduced.

5. **Fiscal Year.** The fiscal year of the Corporation shall be fixed by resolution of the Board.

## **ARTICLE VII.**

### **AMENDMENT OF BY-LAWS**

1. **Amendment Procedures.** The power to amend or repeal these Association By-Laws, or to adopt new Association By-Laws, has been reserved exclusively to the members of the Association; provided, however, that until the initial meeting of members has been held these By-Laws may be amended by the unanimous action of the directors appointed in the Articles of Incorporation or their successors. Amendments may be proposed by the Board of Directors or by petitions signed by at least 20% of the members, but shall not be effective until approved by a majority of the members voting at any regular or special meeting of members at which a quorum is present. A description of any proposed amendment shall accompany the notice of any regular or special meeting at which such proposed amendment is to be voted upon.

#561476



## CONSERVATORY WOODS

### PURCHASE AGREEMENT

This Agreement is entered into between BBS Capital, LLC, a Michigan limited liability company, of 309 East Main Street, Lowell, Michigan 49331 (the "Developer"), and \_\_\_\_\_ (the "Purchaser"),  
Telephone: Business \_\_\_\_\_ Home \_\_\_\_\_,  
Address: \_\_\_\_\_ I.D. No. \_\_\_\_\_  
upon the following terms and conditions.

1. **Purchase of Unit.** Purchaser agrees to purchase from the Developer, under the terms and conditions of this Agreement, the exclusive ownership of Unit No. \_\_\_\_ in Conservatory Woods (the "Project") as shown on the site plan of the Project prepared by Nederveld Associates, Inc., consulting engineers and surveyors, which has been reviewed and approved by the Purchaser, together with the undivided percentage interest appurtenant to the Unit in the common elements of the Project as described in the Master Deed (the "Unit").

2. **Terms of Purchase.** Purchaser agrees to pay to the Developer the Purchase Price indicated below, at the time and in the manner provided by this Agreement:

A. Purchase Price:

Base Price	\$ _____
Lot Premium	\$ _____
Extras (From Exhibit A)	\$ _____
Total Purchase Price	\$ _____

B. Payments:

Preclosing Payments:

1. Amount paid upon signing of this Agreement	\$ _____
2. _____	\$ _____
3. Total of preclosing payments	\$ _____
Balance of Purchase Price Due at Closing	\$ _____

C. Form of Payment: (Check applicable box)

☐

Purchaser will pay full purchase price in cash.

☐

This Agreement is contingent upon Purchaser's ability to obtain a mortgage commitment for \$\_\_\_\_\_, within \_\_ days of the signing of this Agreement.

3. **Other Conditions.** The General Conditions attached to this Agreement are incorporated by reference. Purchaser acknowledges that there are no written understandings with respect to the Purchase of the Unit except as described in this Agreement, and that no verbal representations have been made to Purchaser by the Developer or any person acting on its behalf.

4. **Additional Terms.** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This offer is subject to acceptance by the Developer within 10 days of Purchaser's offer. If the Developer does not accept this offer within such time period, the deposit will be returned and this offer shall become null and void. Upon written acceptance by the Developer, this Agreement shall become a contract subject to all of its terms and conditions.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Purchaser

\_\_\_\_\_  
Purchaser

This offer is accepted by the Developer.

Dated: \_\_\_\_\_

BBS CAPITAL, LLC

By \_\_\_\_\_

Its \_\_\_\_\_



## GENERAL CONDITIONS TO CONSERVATORY WOODS PURCHASE AGREEMENT

5. **Association Membership.** The Developer is engaged in the development of a condominium project known as Conservatory Woods, to consist of not more than 55 residential Units located in the City of Lowell, Kent County, Michigan (the "Project"), and has organized a Michigan non-profit corporation (the "Association") for the purpose of operating and maintaining the common elements of the Project. All Owners of Condominium Units in the Project shall become members of the Association and shall be subject to and abide by all the terms and provisions contained in the Master Deed, Condominium By-Laws and Subdivision Plan of the Project and in the Articles of Incorporation, By-Laws and Rules and Regulations, if any, of the Association of Owners.

6. **Unit to be Purchased.** The Unit, if not constructed by the date of this Agreement, shall be erected substantially in accordance with the plans and specifications of Developer's basic unit, which Purchaser has examined and approved. The Developer may, in its discretion, make such changes and/or substitutions for comparable material, equipment and appliances called for in the specifications as are reasonable and in accordance with applicable building codes. The nature of landscaping and construction materials shall also be within the discretion of the Developer unless otherwise expressly provided in this Agreement, and the size, style, location and/or ground elevation of any building or Unit not yet completed or of any appurtenant limited common element may be changed by the Developer in its sole discretion at any time.

The purchase of the Unit shall include all standard appliances and fixtures which are owned by the Developer and are situated in the Unit as of the date of closing, but no furnishings or extra features shall be included in the purchase price unless specifically provided for in the basic plans or on Exhibit A attached to this Agreement. Furniture, wall coverings, lighting fixtures, furnishings, draperies and the like shown in any model unit are for display purposes only and are not considered a part of the Unit for purposes of this Agreement.

In the event that the Purchaser elects to make custom selections for the completion of the Unit to be purchased, such selections shall be made within 10 days after the date of notification from the Developer that the Unit is ready for the installation of custom selections. If Purchaser fails to make the selections in writing within that period, the Developer may make the selections on behalf of the Purchaser, and Purchaser agrees to accept the selections without modification of Purchaser's obligations under this Agreement.

The Unit, and Purchaser's rights to the Unit, shall be subject to the terms of the Michigan Condominium Act (Act 59, Public Acts of 1978), as amended (the "Act").

7. **Escrow Provisions.** All sums received by the Developer from Purchaser pursuant to this Agreement shall be deposited with Transnation Title Insurance Company as Escrow Agent (or such other Escrow Agent qualified to serve as such under the Act as may be later substituted by the Developer in such capacity), under an Escrow Agreement between the Developer and such Company attached as Exhibit B and incorporated herein by reference, the terms of which are accepted by Purchaser who agrees to be bound thereby as though a party to the Agreement. In the event of Purchaser's withdrawal from this Agreement prior to the date on which it becomes a binding

Purchase Agreement, such funds shall be returned to the Purchaser within 3 business days after written notification of the withdrawal has been received by the Escrow Agent, and all rights and liabilities of the Purchaser and Developer under this Agreement shall wholly cease and terminate.

After expiration of the withdrawal period, the Developer shall retain sufficient funds in escrow (or provide sufficient security) to assure completion of only those uncompleted structures and improvements which are labeled "must be built" under the terms of the condominium documents.

If the Purchaser orders modifications to the Unit or the acquisition and installation of Extras for the Unit after this Agreement becomes binding upon the Purchaser, the Developer may require an additional sum to be paid to the Developer for construction of the Extras or into escrow, not to exceed the full amount of the estimated cost of such extras. The Purchaser shall pay such sum(s) within 10 days of the Developer's demand, and the Developer may either refuse to proceed with the completion of the Unit or terminate this Agreement if such amount is not paid in a timely manner.

8. **Financing Matters.** If the Purchaser intends to purchase the Unit for cash (i.e. without financing), the Purchaser shall provide the Developer with evidence acceptable to the Developer of Purchaser's ability to close without financing within 10 working days after the date of acceptance of this Agreement by the Developer.

If the Purchaser intends to finance the purchase of the Unit, the Purchaser shall promptly and diligently pursue financing. No later than 30 days prior to the estimated date of closing on the Unit, Purchaser shall provide the Developer with written confirmation from the Purchaser's lender of the Purchaser's ability to consummate the sale in accordance with this Agreement.

Any information provided by the Developer to the Purchaser relating to financing sources is intended only as an accommodation, and the Purchaser is entitled to secure financing from any institution or source, and upon any terms consistent with this Agreement. All costs related to obtaining financing shall be the responsibility of the Purchaser, unless specifically agreed to in writing by and between the parties.

9. **Cancellation Rights of Purchaser.** This Agreement shall not become binding and the Purchaser may withdraw without cause and without penalty if such withdrawal is made before conveyance of the Unit and within 9 business days after receipt by the Purchaser of a copy of the recorded Master Deed and other documents required by Section 84a of the Act. If the Purchaser does not withdraw as provided above, this Agreement shall become binding upon the Purchaser at the expiration of 9 business days following receipt by the Purchaser of the documents specified above (including the day on which the documents are received if that day is a business day).

10. **Cancellation Rights of Developer.** If, prior to the date on which this Agreement becomes a binding purchase agreement, the Developer determines not to construct the unit to be purchased or for any other reason desires to withdraw as a party to this Agreement, the Developer shall so notify the Purchaser in writing. In either case, the Developer reserves the right to cause all sums paid under this Agreement to be returned to the Purchaser or the Purchaser's successors, in



which event all rights of the Purchaser shall cease and terminate without further liability on the part of the Developer.

Subsequent to the date on which this the Agreement becomes a binding purchase agreement, the Purchaser's rights may be cancelled by the Developer in the event that the Purchaser fails to provide written confirmation from a lender as required by Section 8 at least 30 days prior to the estimated closing date on the Purchaser's Unit. In such event, the Developer shall cause all of the sums paid by the Purchaser to be returned to Purchaser, exclusive of the cost of Extras installed pursuant to Purchaser's request, and this Agreement shall be deemed null and void and all rights of the Purchaser and the Developer under this Agreement shall cease and terminate without further liability on the part of either party.

11. **Conveyance of Title.** The Developer agrees to convey to Purchaser good and merchantable title to the Unit at closing, subject to: (1) current general real estate taxes; (2) special city or county taxes or assessments for improvements not yet completed; (3) easements, covenants, restrictions and building lines of record; (4) applicable zoning and building laws or ordinances; (5) acts done or suffered by the Purchaser; (6) the Act; (7) the Master Deed for the Project and all amendments to it; and (8) liens and other matters over which the title insurer commits to insure. At or prior to closing, Developer shall provide to the Purchaser a standard form commitment for issuance of a policy of title insurance by a licensed title insurance company designated by the Developer, showing title in Purchaser subject to the general printed exceptions contained in the policy and the title exceptions described above, and promptly after closing shall cause to be issued and delivered to Purchaser an owner's policy of title insurance based upon such commitment. The title policy or commitment shall be conclusive evidence that good and merchantable title is being conveyed to the Purchaser, and shall be in the amount of the purchase price designated in Section 2 of this Agreement.

If the Purchaser shall on the date of this Agreement have possession of the Unit as a tenant or as lessee under written lease, the Purchaser's possession shall continue on that basis and the Purchaser shall make all rent payments due until this sale is closed. At closing, Purchaser's interest as tenant or lessee shall be merged into Purchaser's title as owner.

12. **Closing.** Purchaser agrees to consummate the purchase of the Unit within 10 days after written notice from the Developer that the Developer is prepared to tender title and possession, and to pay the balance of the purchase price designated in Section 2.

13. **Settlement Fees and Prorations.**

A. The Purchaser shall pay for recording the deed to the Unit, its mortgage costs (if any), and other closing costs customarily paid by purchasers of comparable real estate in Kent County, Michigan. The Developer shall pay for an owner's policy of title insurance and transfer taxes imposed upon the deed.

B. Condominium assessments, rents, real property taxes levied against the Unit and any other items customarily prorated shall be adjusted to the date of closing. Any such real property taxes shall be prorated on a due date basis on the presumption the taxes are paid in advance.

C. At closing, the Purchaser shall also deposit with the Developer on behalf of the Association both the prorata share of the current monthly assessment for the Unit and an additional sum equal to two month's assessments for the reserves of the Association. The reserves may be used by the Association, at its option, either for working capital and/or as a reserve for major repair and replacement of the common elements. The two month's reserve payment is not refundable and shall not be applied toward any future monthly installment or annual assessment of the Association.

14. **Possession.** The Developer agrees to deliver possession of the Unit at the time of closing unless otherwise mutually agreed upon by the Purchaser and the Developer.

15. **Assumption of Obligations.** Prior to closing, the Developer shall cause to be recorded in the office of the Register of Deeds of Kent County, Michigan, a Master Deed for the Project which depicts the size and location of the unit to be purchased. The form and contents of such Master Deed shall be within the sole discretion of the Developer; provided, however, that a copy of the recorded Master Deed shall be furnished to the Purchaser at least 9 business days before this Agreement becomes binding upon Purchaser. Purchaser agrees that as of the date of closing the Purchaser will assume all obligations appurtenant to the Unit under the Master Deed.

16. **Default.** If the Purchaser defaults in the performance of any of the payments or obligations required by this Agreement, and the default shall continue for 10 days after written notice of the default is mailed by the Developer to the Purchaser, then, at the option of Developer, all rights of the Purchaser under this Agreement shall terminate.

If the Purchaser's rights terminate prior to the time this Agreement becomes a binding Purchase Agreement, or if the Developer shall default in any manner, all sums paid by the Purchaser shall be refunded to the Purchaser and neither party shall be obligated further. If the Purchaser's rights are terminated after this Agreement becomes a binding Purchase Agreement, any amount paid by the Purchaser toward the purchase price not to exceed 10% of the total cost of the Unit (plus 100% of any deposits for Extras as specified on Exhibit A) may be retained by the Developer as liquidated damages, or the Developer, at its option, may elect to pursue any legal or equitable remedy available to it under the laws of the State of Michigan.

Tender of a deed or purchase money shall not be necessary where the other party has defaulted. A failure to appear at the time and place stated above on notice to close the transaction shall be a default. A failure to furnish to the Developer and/or mortgagee all requested credit information and to sign customary papers relating to the application and securing of a mortgage commitment as required by Section 8 shall be a default. Time is of the essence of this Agreement and the words "date hereof" mean the date of acceptance of this Agreement by the Developer.

17. **Assignability.** Purchaser shall not assign, set over or transfer this Agreement or any of Purchaser's rights or interests under the Agreement without the prior written consent of the



Developer, and at Developer's option any such purported assignment shall be void and of no effect. Developer's refusal to consent to an assignment shall not entitle the Purchaser to terminate this Agreement or give rise to any claim for damages against the Developer. The Developer may assign its rights under this Agreement and, if the assignment shall be for the purpose of securing a lender, Purchaser's rights under this Agreement shall, at the option of the lender, be subject and subordinate to the rights of the lender.

18. **Limited Warranty.** Developer warrants to the Purchaser that all materials and equipment furnished pursuant to this Purchase Agreement will be new unless otherwise specified, and that all such materials, equipment and work will be of good quality, free from faults and defects and in accordance with the plans and specifications for the Purchaser's Unit.

If Purchaser gives the Developer written notice of alleged defects in workmanship or materials in the Purchaser's Unit or in the limited common elements contained within or appurtenant to the Unit and requests inspection of the Unit within 1 year after the date of closing, the Developer shall make such an inspection. Where the inspection reveals defects in workmanship or materials, the Developer shall make reasonable repairs to cure the defects without cost to the Purchaser. The Developer shall also make reasonable repairs to cure defects (as may be revealed by the Developer's inspection) in workmanship or materials in other common elements contained in or appurtenant to the building in which the Purchaser's Unit is located, of which alleged defects the Developer receives written notice within 1 year from the date the common elements were constructed or installed.

The Developer does not warrant, however, against alleged defects which are the result of characteristics common to the materials used, such as (but not limited to) warping or deflection of wood; fading, chalking or checking of paint due to sunlight; hairline cracks caused by drying or curing of concrete, stucco, plaster, bricks and masonry; drying, shrinking or cracking of caulking and weatherstripping; heaving of cement; snow or ice build-up on roofs causing leakage in the Unit or in the common elements; or initial settlement of buildings, separation of drywall and/or material shrinkage commonly associated with new construction.

THERE IS NO WARRANTY OF THE CONDOMINIUM UNIT OR OF THE COMMON ELEMENTS OTHER THAN AS SPECIFIED IN THIS AGREEMENT; AND DEVELOPER'S WARRANTY IS EXPRESSLY MADE IN LIEU OF ANY AND ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED. UNDER NO CIRCUMSTANCES WILL BE DEVELOPER BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND. NO REPRESENTATIONS, WARRANTIES, UNDERTAKINGS OR PROMISES, WHETHER ORAL, IMPLIED OR OTHERWISE, CAN BE MADE OR HAVE BEEN MADE BY EITHER THE DEVELOPER OR ITS AGENTS OR BROKERS, TO THE PURCHASER OR ANYONE ACTING ON BEHALF OF THE PURCHASER UNLESS EXPRESSLY STATED IN THIS AGREEMENT OR UNLESS MUTUALLY AGREED TO IN WRITING BY THE PARTIES.

19. **Risk of Loss.** Until date of closing, all risk of loss from fire and the elements shall be borne by the Developer.

20. **Entire Agreement.** This Agreement constitutes the entire Agreement between the parties. All amendments, supplements or riders to this agreement, if any, shall be in writing executed by both parties and attached to the Agreement. Purchaser shall not record this Agreement or any Memorandum of Agreement.

21. **Advertising.** For the purpose of completing the sales promotion of the Project, the Developer, its agents, successors and assigns, are hereby given full right and authority to maintain on the condominium property (excluding the Unit) until the sale of the last Unit in the Project, such signs, transient parking, sales offices and/or model apartments as the Developer may desire, together with rights of ingress and egress for the Developer and its agents, successors and assigns, and any of their respective licensees or invitees. The Developer shall restore the common elements to habitable status upon termination of use.

22. **Notices.** All notices and demands made under this Agreement shall be in writing and shall be deemed received on the day following the day on which the notice is deposited in the United States mail, first class or certified mail, return receipt requested, postage prepaid, and addressed to the Developer, or to the Purchaser at the respective addresses contained in this Agreement, or such written notices and demands may be made by personal delivery to either party.

23. **Arbitration.** At the exclusive option of the Purchaser, any claim which might be the subject of a civil action against the Developer which involves an amount less than \$10,000.00, and arises out of or relates to this Purchase Agreement or the Unit or project to which this Agreement relates, shall be settled by binding arbitration conducted by the American Arbitration Association. The arbitration shall be conducted in accordance with applicable law and the currently applicable rules of the American Arbitration Association. Judgment upon the award rendered by arbitration may be entered in a circuit court of appropriate jurisdiction.

24. **Delays.** If the Developer shall fail to perform any of its obligations on the date established for closing, or if the commitment furnished at closing shall disclose a defect in the Developer's title, the Developer shall have a period of 30 days to perform any obligation or to cure such defect. If the Developer fails to perform or to clear its title within such period, Purchaser may elect to terminate this Agreement and all sums paid to date by Purchaser toward the purchase price of the Unit shall be returned to the Purchaser and neither the Purchaser nor the Developer shall have any further obligation to the other.

25. **Brokerage.** Purchaser and Developer acknowledge that this Agreement was procured through the services of the Developer's sales representative, without the intervention of any other real estate broker or agent. Purchaser shall indemnify the Developer against the claim of any other real estate broker or agent, including attorney fees incurred as a result of such claim.

26. **Enforceability.** The contract arising from the execution of this Agreement shall be binding upon and specifically enforceable by the parties and their respective heirs, personal representatives and assigns.



EXHIBIT A

CONSERVATORY WOODS

Purchaser's Change Request

Condominium Unit No. \_\_\_\_\_

Address \_\_\_\_\_

Purchaser \_\_\_\_\_

The following is a list of additional items, changes and/or extra features not shown on the plans and specifications as standard equipment which are to be added to the condominium unit described above ("Extras").

The charge for each of the Extras will be added to the purchase price. If, after the Developer has purchased, constructed and/or installed the improvements listed below, this Purchase Agreement is terminated as a result of the default or withdrawal of the Purchaser or if the Purchaser fails to close, an amount equal to the value of the additional item(s) purchased, constructed or installed shall be paid to the Developer by the Escrow Agent out of the Purchaser's escrowed funds. The payment shall be in addition to the liquidated damage provisions described in Section 16 of the Purchase Agreement.

It is further understood and agreed that in the event of the Purchaser's default, withdrawal or failure to close, the Developer reserves the right to restore the Purchaser's Unit to the condition contemplated under the original plans and specifications, and the amount of additional cost and restoration shall be established by the Developer's general contractor in the sole and absolute discretion of such general contractor, and such additional cost shall similarly be paid to the Developer by the Escrow Agent out of Purchaser's escrowed funds.

To the extent that the provisions of this Change Request are contradictory or inconsistent with the Purchase Agreement to which it is attached, the terms of this Change Request shall control. Any changes in the terms or conditions of this Agreement may only be made in writing and signed by all of the parties to the Agreement.

- |    |       |          |
|----|-------|----------|
| 1. | _____ | \$ _____ |
| 2. | _____ | \$ _____ |
| 3. | _____ | \$ _____ |
| 4. | _____ | \$ _____ |

5. \_\_\_\_\_ \$ \_\_\_\_\_

6. \_\_\_\_\_ \$ \_\_\_\_\_

7. \_\_\_\_\_ \$ \_\_\_\_\_

8. \_\_\_\_\_ \$ \_\_\_\_\_

TOTAL for Extras \$ \_\_\_\_\_

BBS CAPITAL, LLC

By \_\_\_\_\_ Purchaser

Its \_\_\_\_\_ Purchaser

#558334



## EXHIBIT B

### CONSERVATORY WOODS

#### ESCROW AGREEMENT

This Agreement is made the 17th day of April, 2001, between BBS Capital, LLC, a Michigan limited liability company with principal offices in Lowell, Michigan (the "Developer") and Transnation Title Insurance Company, an Arizona corporation with offices in Grand Rapids, Michigan (the "Escrow Agent"), upon the terms and conditions set forth below.

1. **Background.** The Developer intends to establish a residential condominium project known as Conservatory Woods, in the City of Lowell, Kent County, Michigan (the "Project") under applicable Michigan law. The Developer intends to enter into Purchase Agreements with various persons (the "Purchasers") respecting the purchase of condominium units in the Project (the "Units") substantially in the form attached, which Agreements require that all deposits made by a Purchaser shall be held in escrow for the period specified with an Escrow Agent. The parties desire to enter into an Escrow Agreement to establish an escrow account for the benefit of the Developer and of each Purchaser who makes deposits under such an Agreement.

The Escrow Agent is acting as an independent party under the provisions of this Agreement and of the Michigan Condominium Act (Act No. 59, Public Acts of 1978, as amended) (the "Act") for the benefit of Developer and such Purchasers and not as the agent of any such party or parties.

2. **Deposit of Funds.** The Developer shall, promptly after receipt, transmit to the Escrow Agent all sums deposited with it under a Purchase Agreement, together with a fully executed copy of the Agreement and a receipt signed by the Purchaser for the Condominium Documents furnished to him by the Developer, if any. Unless the Escrow Agent shall give its prior written consent, none of such Agreements shall subsequently be amended or modified in any manner which in the opinion of the Escrow Agent will increase its liability or materially change its duties as described in this Agreement.

At such time as a Master Deed for the Project has been prepared, the Developer shall furnish to Escrow Agent a copy of the Master Deed together with copies of the other Condominium Documents as may be requested by the Escrow Agent. After it has had an opportunity to review the documents Escrow Agent may, at its sole discretion, elect to continue the escrow, to transfer all funds held by it to another qualified Escrow Agent selected by the Developer, or to return to each Purchaser the funds which have been deposited by a Purchaser, in complete satisfaction of its duties under this Agreement.

3. **Release of Funds.** The sums paid to Escrow Agent under the terms of any Purchase Agreement shall be held and released to the Developer or to the Purchaser only upon the following conditions:

(a) **Upon Withdrawal by Purchaser.** The escrowed funds shall be released to the Purchaser under the following circumstances:

(i) In the event that a Purchaser withdraws from a Purchase Agreement prior to the time that it becomes binding, the Escrow Agent shall, within 3 business days from the date of receipt of notice of the withdrawal, release to Purchaser all of the Purchaser's deposits held under the Agreement.

(ii) If a Purchase Agreement is contingent upon the Purchaser obtaining a mortgage and the Purchaser fails or is unable to do so, Escrow Agent shall, upon notice of withdrawal, release to Purchaser all sums held by it under the Agreement.

(iii) If, however, Developer files with the Escrow Agent a written objection to the withdrawal request of a Purchaser, which objection claims an interest in the sums held under this Agreement, the Escrow Agent shall hold or dispose of the funds as provided in Section 5.

(b) **Upon Default by Purchaser.** In the event that a Purchaser defaults in making any payments required by a binding Purchase Agreement or in fulfilling any other obligations under the Agreement for a period of 10 days after written notice by the Developer to the Purchaser, Escrow Agent shall release sums held pursuant to the Purchase Agreement to Developer in accordance with the terms of the Agreement. Provided, that if Purchaser files a written objection to the notice of default with the Escrow Agent, which objection claims an interest in the sums held under this Agreement, Escrow Agent shall hold or dispose of the funds as provided in Section 5.

(c) **Upon Conveyance of Title.** Upon conveyance of title to a Unit from the Developer to a Purchaser (or upon execution of a land contract between the Developer and the Purchaser in fulfillment of a Purchase Agreement) and upon issuance of a Certificate of Occupancy with respect to the Unit if required by local public ordinance, the Escrow Agent shall release to Developer all sums held in escrow under such Agreement, provided the Escrow Agent has received a certificate signed by a licensed professional engineer or architect confirming:

(i) That those portions of the phase of the Project in which the Purchaser's Unit is located and which under the terms of the Condominium Documents "must be built" are substantially complete; and

(ii) That recreational facilities or other similar amenities and all similar common elements or improvements intended for



common use, wherever located and which under the terms of the Condominium Documents "must be built" are substantially complete; or

(iii) That, if the elements or facilities referred to in Sections 3(c)(i) and 3(c)(ii) above are not substantially complete, sufficient funds to finance substantial completion of such elements or facilities are being retained in escrow or that other adequate security has been arranged.

For purposes of Section 3(c)(i), the phase of the Condominium Project in which the Purchaser's Unit is located shall be "substantially complete" when all utility mains and leads, all major structural components of buildings, all building exteriors, and all sidewalks, driveways, landscaping and access roads (to the extent such items are designated on the Condominium Documents as "must be built") are substantially complete as evidenced by certificates of the type described in Section 4. The substantial completion of improvements of the type described in Section 3(c)(ii) shall also be evidenced by certificates of the type described in Section 4.

(d) **Release of Funds Escrowed for Completion.** Upon furnishing to the Escrow Agent a certificate from a licensed professional architect or engineer evidencing substantial completion in accordance with the pertinent plans and specifications of a structure, improvement, facility or identifiable portion thereof for which funds or other security have been deposited in escrow, Escrow Agent shall release to Developer the amount of such funds or other security specified by the issuer of the certificate as being attributable to such substantially completed item(s); provided, however, that if the amounts remaining in escrow after any such partial release will be insufficient in the opinion of the issuer of the certificate to finance substantial completion of any remaining incomplete items for which funds or other security have been deposited in escrow, only the amount in escrow in excess of the estimated cost to substantially complete shall be released by Escrow Agent to the Developer. Notwithstanding any release of escrowed funds authorized or required under this Section, Escrow Agent may refuse to release if it, in its sole judgment, has sufficient cause to believe that the certificate confirming substantial completion or determining the amount necessary for substantial completion is fraudulent or without factual basis.

(e) **Interest Earned Upon Escrowed Funds.** The Escrow Agent shall be under no obligation to earn interest upon the escrowed sums held by it. In the event that interest upon such sums is earned, however, all such interest shall be separately accounted for by the Escrow Agent and shall be held in escrow and released as and when principal deposits are released.

(f) **Other Adequate Security.** If Developer requests that all of the escrowed funds or any part of them be delivered to it prior to the time it otherwise

becomes entitled to receive the same, Escrow Agent may release all sums to Developer if Developer has placed with Escrow Agent an irrevocable letter of credit drawn in favor of Escrow Agent in form and substance satisfactory to Escrow Agent and securing full repayment of such sums, or has placed with the Escrow Agent such other substitute security as may be permitted by law and approved by Escrow Agent. Escrow Agent may, at its sole discretion, present any letter of credit deposited pursuant to this Section for payment without prior notice to or consent of the Developer.

(g) **Incomplete Elements or Facilities.** If Escrow Agent is holding in escrow funds or other security for completion of incomplete elements or facilities under §103b(7) of the Act, shall be administered by Escrow Agent as follows:

(i) Escrow Agent shall upon request give all statutorily required notices under §103b(7) of the Act.

(ii) If Developer, the Conservatory Woods Condominium Association and any other party or parties asserting a claim to or interest in the escrow deposit enter into a written agreement satisfactory in its terms and conditions to Escrow Agent for Escrow Agent's protection, (as determined by the Escrow Agent in its absolute and sole discretion), as to the disposition of the funds or security in escrow under §103b(7) of the Act, Escrow Agent shall release the funds or security in accordance with the terms of the written agreement among the parties.

(iii) Failing written agreement as provided in Section 3(g)(ii) above, Escrow Agent shall be under no obligation whatever to release any escrowed funds or security, in which event Escrow Agent shall initiate an interpleader action in any circuit court in the State of Michigan naming the Developer, the Conservatory Woods Condominium Association and all other claimants and interested persons as parties and deposit all funds or other security in escrow under §103b(7) of the Act with the clerk of the court in full acquittance of its responsibilities under this Agreement.

4. **Proof of Occurrences.** Escrow Agent may require reasonable proof of occurrence of any of the events, actions or conditions stated above before releasing any sums held by it pursuant to this Escrow Agreement to either a Purchaser or to the Developer. Whenever Escrow Agent is required to confirm that a facility, element, structure, improvement or identifiable portion of any of the same is substantially complete in accordance with the pertinent plans and specifications, it may base the confirmation entirely upon the certificate to that effect of a licensed professional architect or engineer. Likewise, all estimates and determinations of the cost to substantially complete any incomplete elements, facilities, structures and improvements for which escrowed funds are being specifically maintained under Section 3(d) shall be made entirely by a licensed professional engineer or architect and the determination of all amounts to be retained or maintained in the escrow account



for the completion of any such elements, facilities, improvements or structures shall be based entirely upon the determinations and estimates furnished by the engineer or architect. No inspections of the Project or any portion of it by any representative of the Escrow Agent shall be deemed necessary, nor must any cost estimates or determinations be made by the Escrow Agent and the Escrow Agent may rely entirely upon certificates, determinations and estimates as described above in retaining and releasing all escrowed funds under this Agreement.

5. **Conflicting Claims.** If Escrow Agent receives conflicting instructions or claims to the funds, securities or documents held in Escrow, then it may take any one or more of the following actions:

(a) It may release all or any portion of the funds to the party which it, in its sole judgment, determines is entitled to receive the funds under the provisions of this Agreement;

(b) It may hold all or any portion of the funds, securities and documents affected by the conflicting instructions or claims in Escrow and take no further action until otherwise directed, either by mutual written instructions from all interested parties or by final order of a court of competent jurisdiction;

(c) It may initiate an interpleader action in the Kent County circuit court in the State of Michigan naming all interested persons as parties and depositing all or any portion of the funds, securities and documents affected by the adverse claims with the clerk of that court in full acquittance of its responsibilities under this Agreement.

6. **Rights and Liabilities of Escrow Agent.** Upon making delivery of the funds deposited with Escrow Agent under this Escrow Agreement and performance of the obligations and services stated above, Escrow Agent shall be released from any further liability, it being expressly understood that liability is limited by the terms and provisions described in this Agreement, and that by execution of this Agreement Escrow Agent is acting in the capacity of a depository and is not, as such, responsible or liable for the sufficiency, correctness, genuineness or validity of the instruments submitted to it, or the marketability of title to any Unit in the Project. Escrow Agent is not responsible for the failure of any bank used by it as an escrow depository for funds received by it under this Agreement.

Further, Escrow Agent is not a guarantor of performance by the Developer under the Condominium Documents or any Purchase Agreement, and Escrow Agent undertakes no responsibilities whatever with respect to the nature, extent or quality of the performance or with regard to the conformity of the performance to the terms of the documents, to the plans and specifications for the Project, to local or state laws or in any other particular. So long as Escrow Agent relies in good faith upon any certificate, cost estimate or determination of the type described in Section 3, Escrow Agent shall have no liability whatever to the Developer, any Purchaser or any other party for any error in the certificate, cost estimates or determination.

Except in instances of gross negligence or willful misconduct, Escrow Agent's liability under this Agreement shall in all events be limited to return, to the party or parties entitled to them, of the funds retained in escrow (or which were replaced by security) less any reasonable expenses which Escrow Agent may incur in the administration of the funds including, without limitation, reasonable attorneys' fees and litigation expenses paid in connection with the defense, negotiation or analysis of claims against it, by reason of litigation or otherwise, arising out of the administration of the escrowed funds, all of which costs Escrow Agent shall be entitled without notice to deduct from amounts on deposit under this Agreement.

7. Notices. All notices required or permitted by this Agreement and all notices of change of address shall be deemed sufficient if personally delivered or sent by certified mail, postage prepaid and return receipt requested, addressed to the recipient at the address shown below such party's signature to the pertinent Reservation or Purchase Agreement. For purposes of calculating time periods under the provisions of this Agreement, notice shall be deemed effective upon such mailing or personal delivery, whichever is applicable.

8. Effective Date. The parties have signed this Agreement and it shall be effective as of the day and year which first appear above.

BBS CAPITAL, LLC

By William Overbeck (WILLIAM OVERBECK)

Its MEMBER

DEVELOPER

TRANSNATION TITLE INSURANCE COMPANY

By Albert F. Doss

Albert F. Doss  
Chief Title Officer

Its

ESCROW AGENT