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Corporation & Securities Bureau

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NON-PROFIT ARTICLES OF INCORPORATION OF
HERON BAY SUBDIVISION HOMEOWNERS ASSOCIATION

(Recorded Pursuant to Michigan Public Act 200
of 1945, As Amended)

These Articles of Incorporation are signed and acknowledged by the Incorporators for the purpose of forming a non-profit corporation under the provisions of Act No. 162 of the Public Acts of 1982.

ARTICLE I

NAME

The name of the corporation is Heron Bay Subdivision Homeowners Association. ✓

ARTICLE II

DEFINITIONS

Capitalized terms not otherwise defined herein shall have the meanings specified therefor in the Declaration. The following terms as used herein shall have the meanings specified below:

A. "Association" or the "Homeowners Association" shall mean the non-profit corporation being formed under these Articles of Incorporation and pursuant to the Declaration.

B. "Subdivision" shall mean Heron Bay Subdivision, Bloomfield Township, Oakland County, Michigan, according to the plat thereof recorded in Liber 186, Pages 27 et seq., Oakland County Records.

C. "Declarants" shall mean David V. Johnson, Victor International Corporation and Cohen Development Corporation, Inc., the Declarants under the Declaration.

D. "Declaration" shall mean the Declaration of Restrictions, Conditions and Covenants for Heron Bay Subdivision, which has been recorded in Liber 9180, Pages 540 et seq., Oakland County Records, as the same has been amended by the First Amendment thereto of even date and as the same may be further amended pursuant to the terms thereof.

E. "Developer" shall mean Victor International Corporation, its successors and assigns.

F. "Lot" shall mean a lot within the Subdivision.

G. "Lot owner" shall mean the beneficial owner(s) of a Lot, irrespective of whether such interest is acquired by deed, land contract or otherwise (i.e., the holder(s) of fee simple title or, if a Lot is sold on land contract, the vendee(s) under the land contract).

H. "Incorporators" shall mean David V. Johnson, Victor International Corporation and Cohen Development Corporation, Inc.

ARTICLE III

PURPOSE AND POWERS OF THE ASSOCIATION

The Association does not contemplate pecuniary gain or profit to the members thereof, and the general purposes for which it is formed are to encourage, promote and implement a high standard of maintenance, preservation and administration of all residential areas of the Subdivision and the Access Roads and other common areas of the Subdivision, consistent with the stature and ambiance of the Subdivision. The Association also is formed to promote the health, safety and welfare of the residents within the Subdivision. In furtherance of all of the foregoing, the specific purposes of the Association are to:

- A. Exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in the Declaration;
- B. Hold title to all or part of the Access Roads, to the extent (if any) contemplated by the plat for the Subdivision or as contemplated by the Declaration;
- C. Cause the Access Roads and other common areas of the Subdivision to be maintained in a good, reasonable and attractive condition in accordance with the nature thereof and as contemplated by the Declaration;
- D. Provide information, guidance and services to all owners of Lots in the Subdivision, to the extent contemplated by the Declaration;
- E. Represent all owners of Lots in the Subdivision on matters of mutual interest before all governmental and administrative bodies, boards and agencies;

- F. Enforce rules and regulations for utilization of the Access Roads and other common areas of the Subdivision, as such rules and regulations are established by the Declarants or, to the extent such authority has been delegated to the Association by either (i) the Declaration or (ii) the Developer in writing, by the Association;
- G. Levy fees, dues and/or assessments on the owner of each Lot in the Subdivision (as provided for in the Declaration and the Bylaws of the Association), whether or not the Lot owner is an active member of the Association, levy late charges and accrued interest on outstanding fees dues and assessments (as provided for in the Declaration and the Bylaws of the Association), and further enforce against each Lot owner a lien on the Lot (as provided for in the Declaration and the Bylaws of the Association) to secure payment thereof, including collection of costs and reasonable attorney fees;
- H. Appoint members to an Architectural Control Committee described in Article IV of the Declaration, when and to the extent the Developer assigns or delegates such right of architectural control to the Association pursuant to the Declaration;
- I. To the extent not done by the Developer, collect the sum of three hundred and fifty dollars (\$350.00) from each Lot Owner to be placed in a fund to defray the costs of the Architectural Control Committee;
- J. Establish the powers of the Architectural Control Committee, but only to the extent that such right is delegated to the Association by the Developer or otherwise is provided to the Association in the Declaration;
- K. Provide coordination and assistance to all governmental authorities having jurisdiction over fire protection, police protection and other governmental activities with respect to property within the Subdivision;
- L. Cause the Association to procure such insurance coverages with respect to the Subdivision or any part thereof as are required by the Declaration, the Bylaws, these Articles or as the Association determines are appropriate;

- M. To the extent not done by the Developer, and prior to the commencement of any construction activities relative to the building of a dwelling, collect the sum of five hundred dollars (\$500.00) from the Lot owner or the contractor as more fully provided in Article II, paragraph C, subparagraph 5 of the Declaration;
- N. Enter into a Joint Maintenance Agreement and such other agreements or arrangements as are contemplated in Article VI of the Declaration, and to perform all obligations and exercise such rights or privileges as may be provided for or established thereunder;
- O. Represent and act on behalf of the Association and Lot owners in matters pertaining to the Access Roads and other amenities of the Subdivision referred to in Article VI of the Declaration, including without limitation in conforming the Easements to the current location of the Access Roads and gatehouse; and
- P. In general, do all other acts necessary to perform, enforce or administer any duties, powers and rights conferred upon the Association by its members or under the Declaration, and to have and exercise any and all powers, rights and privileges which a corporation organized under the General Corporation Law of the State of Michigan by law may now or hereafter have or exercise, except to the extent inconsistent with the Declaration.

ARTICLE IV

REGISTERED OFFICE AND POST OFFICE ADDRESS

- A. The location of the first registered office is Suite 400, 27400 Northwestern Highway, Southfield, Michigan 48034.
- B. The post office address of the first registered office is Suite 400, 27400 Northwestern Highway, Southfield, Michigan 48034.
- C. The name of the initial resident agent is David V. Johnson.

ARTICLE V

DEVELOPER

The name of the Developer is Victor International Corporation, a Michigan corporation.

ARTICLE VI

ASSETS AND FINANCING

The Association is organized as a non-profit corporation upon a nonstock membership basis.

- A. The amount of assets which the Association possesses at the time of incorporation is:

Real Property: None
Personal Property: None

- B. The terms of the general plan of financing of the Association are as follows:

The Association shall have the right and the obligation to assess and collect dues, fees or other charges to the owner(s) of each Lot in the Subdivision, except as provided below. The dues, fees or other charges shall be in amounts reasonably sufficient to permit the Association to discharge its responsibilities, liabilities or prerogatives as provided in the Bylaws, these Articles or the Declaration. It is contemplated that such dues, fees or charges generally shall be levied on a monthly basis, although the Association periodically may levy special assessments to fund extraordinary expenses or to make up for shortfalls in the monthly dues, fees or other charges. Furthermore, at the sale of any Lot the Declarants may collect on behalf of the Association an amount equal to the projected dues for the first full year during which the Association is to discharge all of its obligations or responsibilities hereunder (or the year following closing, if the sale occurs after the commencement of such first year), as such amount is projected by the Declarants, and the Declarants may collect on behalf of the Association all dues falling due thereafter until such time as the Association undertakes to collect the same. If any required payment of dues, fees or other charges is not paid within thirty (30) days after the date the same is due,

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a late charge equal to eight (8%) percent of the payment so overdue shall be assessed. In addition, the Lot owner shall be assessed interest on overdue payments. Such interest shall accrue at seven (7%) percent from the date the payment is due but shall be waived if payment is received within thirty (30) days of the date due. All dues, fees, late charges and accrued interest shall constitute a lien on any Lot(s) owned by any person responsible for the payment of the same, and the Developer, the Declarants or the Association, as the case may be, may enforce the lien by recording appropriate instruments confirming the existence of the lien and/or by foreclosing the lien by appropriate legal action. In such legal action a court of competent jurisdiction shall be empowered to order a sale of any Lot(s) subject to the lien in order to satisfy the lien. Notwithstanding the foregoing, the lien shall be subordinate and junior to the lien of any first mortgage securing a loan for the acquisition or improvement of any Lot.

The Association shall charge the same dues to each Lot, irrespective of the size of the Lot and irrespective of whether or not the Lot has or doesn't have lake frontage or lake access. The dues shall be payable by the Lot owner whether or not the Lot owner resides in the Subdivision or has constructed a dwelling on his or her Lot. Notwithstanding the foregoing, at such time as two-thirds (2/3rds) of the aggregate number of Lots in the Subdivision have been sold by the Declarants or any of them, no dues, fees or other charges shall be payable to the Association with respect to any Lots owned by the Declarants or any of them. Instead, the financial needs of the Association shall be met by the dues, fees or other charges assessed on the remaining Lots. Notwithstanding the foregoing, at such time as the Declarants or any of them sells or otherwise transfers a Lot to an unrelated third party, the Association may levy fees with respect to such Lot.

ARTICLE VII

INCORPORATORS

The name and place of business of the Incorporators is as follows:

DAVID V. JOHNSON	Suite 400 27400 Northwestern Highway Southfield, Michigan 48034
VICTOR INTERNATIONAL CORPORATION, a Michigan corporation	Suite 400 27400 Northwestern Highway Southfield, Michigan 48034
COHEN DEVELOPMENT CORPORATION, INC., a Michigan corporation	Suite 427 27700 Northwestern Highway Box 667 Southfield, Michigan 48037-0667

ARTICLE VIII

FIRST BOARD OF DIRECTORS

The name and address of the sole member of the first Board of Directors are as follows:

David V. Johnson	Suite 400 27400 Northwestern Highway Southfield, Michigan 48034
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ARTICLE IX

DURATION

The term of the Association's existence is perpetual.

ARTICLE X

MEMBERSHIP AND VOTING

- A. The members of the Association shall consist of the Developer and all Lot owners, except that the Bylaws may provide that a Lot owner's membership in the Association may be suspended or terminated for all purposes (save for liability to pay dues and assessments) if the Lot owner is thirty (30) days or more past due in paying dues or assessments to the Association. Any person transferring all of his or her beneficial ownership interest in a Lot(s), by deed, land contract sale or otherwise, automatically shall be terminated as a member of the Association. Membership in the Association shall be deemed to be an incident

to a beneficial ownership interest in a Lot, and in no event may the membership or any rights or privileges thereof be severed or separated from the beneficial ownership interest of a Lot. Notwithstanding the foregoing, the termination of a person's beneficial ownership interest in a Lot, and the consequent termination of his or her membership in the Association, shall not be deemed to relieve such person from any debt or obligation which accrued or arose during the period in which the person was a member of the Association. All voting in Association affairs shall be conducted in a manner consistent with paragraph B below. A Lot Owner may vote even if the Lot is not subject to assessment by the Association.

- B. There shall be three classes of membership in the Association. Class A membership shall be voting, and the Developer shall be the only Class A member. Class B membership shall be non-voting until the time specified in the following paragraph. Except as provided below, each owner of a Lot shall be a Class B member, and voting shall be on a one vote per Lot basis (i.e., each Lot is entitled to one vote, irrespective of how many people own the Lot and hence are members of the Association). Class C membership shall be non-voting and shall consist of any member who does not occupy a dwelling at the time the Class B membership acquires voting rights (i.e., at the time specified in the following paragraph). A Class C member shall become a Class B member upon occupying a dwelling on a Lot.

The only voting class of membership in the Association shall be Class A (i.e., the Developer shall have the sole vote in the Association, and the consequent right to appoint the Board of Directors), until such time as twenty-five (25) Lots have occupied dwellings on them or at such earlier time as is designated in writing by the Developer as the date on which Class B members of the Association shall have voting rights. When twenty-five (25) Lots in the Subdivision have occupied dwellings on them, or at such earlier time as the Developer may specify in writing as aforesaid, Class B members of the Association shall have the voting rights specified in the above paragraph. Thereafter, the Board of Directors of the Association shall be elected by the combined vote of Class A and Class B members; however, voting as to all other matters shall be

by class, and for the Association to take any other action it will be necessary for both Class A and Class B (but not Class C) members to approve the same by the applicable majority or super-majority requirements established by these Articles of Incorporation and/or the Bylaws of the Association.

- C. Except as set forth above, no other person or entity shall be entitled to membership in the Association.
- D. Any sale or purchase of a Lot shall be subject to the Bylaws and these Articles of Incorporation for the Association, and by acquiring a Lot each Lot owner shall be obligated to abide by and observe such Bylaws and Articles of Incorporation. If there is more than one owner with respect to a Lot (e.g., co-owners or tenants by the entireties), collectively they shall be entitled to but one vote in Association matters and one person shall be designated in the records of the Association as having the authority to cast such vote.

ARTICLE XI

LIMITATION OF DIRECTOR LIABILITY

In no event shall a volunteer director (as defined below) be personally liable to the Association or its members for monetary damages resulting from a breach of the director's fiduciary duty except for the following actions:

- (1) a breach of the director's duty of loyalty to the Association or its members;
- (2) acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law;
- (3) a violation of Section 551(1) of the Michigan Nonprofit Corporation Act;
- (4) transactions from which the director derived an improper personal benefit;
- (5) an act or omission occurring before January 1, 1988;

- (6) an act or omission that is grossly negligent.

"Volunteer director" means a director who does not receive anything of value from the Association for serving as a director other than reasonable per diem compensation and reimbursement for actual, reasonable and necessary expenses incurred by the director in his capacity as a director.

ARTICLE XII

BYLAWS AND AMENDMENT THEREOF

- A. The Association shall be further governed by such Bylaws as the Declarants may establish. Any such Bylaws shall be consistent with the Declaration.
- B. Until the time specified in Article X, paragraph B above for the Class B members to acquire voting rights, the Declarants shall have the right to amend or modify the Bylaws. Such right may be exercised at the Declarants' sole discretion. The Bylaws of the Association may be amended at any time after the time specified in Article X, paragraph B above; provided that any matter stated therein to be or which is in fact governed by the Declaration may not be amended except as provided in the Declaration; further provided that the amendment receives the affirmative vote of eighty-two (82%) percent of each class of Association members entitled to vote, and further provided that no such amendment may:
- (1) Eliminate the eligibility of any Lot owner to vote, or change the basis for voting;
 - (2) Purport to have any retroactive effect;
 - (3) Change the super-majority (i.e., 82%) voting requirement, or the restrictions on amendments, which are contained in this Article;
 - (4) Affect or diminish any obligation, responsibility or liability of the Association which is established in the Declaration, as such may be amended, or in any contract or agreement contemplated by the Declaration, as such may be amended (including without limitation the Joint Maintenance Agreement and the other agreements contemplated in Article VI of the Declaration).

(5) Enlarge, expand, limit or eliminate the rights to use or enjoy the Nature Reserve Area as specified and defined in the Declarations; or

(6) Amend paragraph C of Article X above.

ARTICLE XIII

AMENDMENT OF ARTICLES OF INCORPORATION

- A. These Articles of Incorporation may be amended only upon due notice at a meeting of the members called specifically for the purpose of considering such amendment.
- B. Until the time specified in Article X, Paragraph B above for the Class B members to acquire voting rights, the Declarants shall have right to amend or modify these Articles of Incorporation. This right may be exercised at the Declarants' sole discretion. The Articles of Incorporation may be amended at any time after the time specified in Article X, paragraph B above; provided that any matter stated herein to be or which is in fact governed by the Declaration may not be amended except as provided in the Declaration; further provided that the amendment receives the affirmative vote of eighty-two (82%) percent of each class of Association members entitled to vote; and further provided that no such amendment may:
- (1) Eliminate the eligibility of any Lot owner to vote, or change the basis for voting;
 - (2) Purport to have any retroactive effect;
 - (3) Change the super-majority (i.e., 82%) voting requirement, or the restrictions on amendments, which are contained in this paragraph;
 - (4) Affect or diminish any obligation, responsibility or liability of the Association which is established in the Declaration, as such may be amended, or in any contract or agreement contemplated by the Declaration, as such may be amended including the Joint Maintenance Agreement referred to in Article VI of the Declaration);

- (5) Enlarge, expand, limit or eliminate the rights to use or enjoy the Nature Reserve Area as specified in the Declaration; or
- (6) Amend paragraph C of Article X above.

ARTICLE XIV

DISSOLUTION

- A. The Association may be dissolved only upon the unanimous vote of the members.
- B. Upon dissolution, the assets of the Association shall be distributed to the Lot owners equally.

IN WITNESS WHEREOF, the undersigned, being all of the Incorporators, have signed their names as of this 5th day of September, 1989.

WITNESSED:
(As to All Incorporators)

Mark E. Hubbard
Mark E. Hubbard

Nancy A. Peterson
Nancy A. Peterson

x David V. Johnson
DAVID V. JOHNSON

VICTOR INTERNATIONAL CORPORATION,
a Michigan corporation

By: x David V. Johnson
David V. Johnson
Its: Chairman of the Board

COHEN DEVELOPMENT CORPORATION,
INC. a Michigan corporation

By: Maurice Cohen
Maurice Cohen
Its President

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me
this 5th day of September, 1989 by David V. Johnson.

NANCY A. PETERSON
Notary Public, Oakland County, MI
My Commission Expires Aug. 25, 1992

Nancy A. Peterson
Notary Public, Oakland County,
Michigan
My Commission Expires: _____

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

This instrument was acknowledged before me this 5th day
of September, 1989 by David V. Johnson, Chairman of the
Board of Victor International Corporation, and Maurice Cohen,
President of Cohen Development Corporation, Inc., on behalf of
the respective corporations.

NANCY A. PETERSON
Notary Public, Oakland County, MI
My Commission Expires Aug. 25, 1992

Nancy A. Peterson
Notary Public, County, MI
My Commission Expires: _____

Drafted by and when recorded
return to:

Cameron H. Piggott, Esq.
Dykema, Gossett, Spencer, Goodnow & Trigg
35th Floor
400 Renaissance Center
Detroit, Michigan 48243

378AB
06/28/89

DOCUMENT WILL BE RETURNED TO NAME AND MAILING ADDRESS
INDICATED IN THE BOX BELOW. Include name, street and number
(or P.O. box), city, state and ZIP code.

Name of person or organization
remitting fees:

Dykema Gossett

Athena Bacalis, Esq.
Dykema Gossett
35th Floor, 400 Renaissance Center
Detroit, Michigan 48243

Preparer's name and business
telephone number:

Athena Bacalis

(313) 568-6534

INFORMATION AND INSTRUCTIONS

1. The articles of incorporation cannot be filed until this form, or a comparable document, is submitted.
2. Submit one original copy of this document. Upon filing, a microfilm copy will be prepared for the records of the Corporation and Securities Bureau. The original copy will be returned to the address appearing in the box above as evidence of filing.
Since this document must be microfilmed, it is important that the filing be legible. Documents with poor black and white contrast, or otherwise illegible, will be rejected.
3. This document is to be used pursuant to the provisions of the Act by one or more persons for the purpose of forming a domestic nonprofit corporation.
4. ARTICLE II — The purpose for which the corporation is organized must be included. It is not sufficient to state that the corporation may engage in any activity within the purposes for which corporations may be organized under the Act.
5. ARTICLE III — The corporation must be organized on a stock or nonstock basis. Complete Article III(1) or III(2) as appropriate, but not both. Real property assets are items such as land and buildings. Personal property assets are items such as cash, equipment, fixtures, etc.
6. ARTICLE IV — A post office box may not be designated as the street address of the registered office.
7. ARTICLE V — The Act requires one or more incorporators. The addresses should include a street number and name (or other designation), city and state.
8. This document is effective on the date approved and filed by the Bureau. A later effective date, no more than 90 days after the date of delivery, may be stated as an additional article.
9. This document must be signed in ink by each incorporator listed in Article V. However, if there are 3 or more incorporators, they may, by resolution adopted at the organizational meeting by a written instrument, designate one of them to sign the articles of incorporation on behalf of all of them. In such event, these articles of incorporation must be accompanied by a copy of the resolution duly certified by the acting secretary at the organizational meeting and a statement must be placed in the articles incorporating that resolution into them.
10. FEES: Filing fee & Franchise fee (Make remittance payable to State of Michigan) . . . \$20.00
11. Mail form and fee to:
MICHIGAN DEPARTMENT OF COMMERCE
Corporation and Securities Bureau
Corporation Division
P.O. Box 30054
6546 Mercantile Way
Lansing, MI 48909
Telephone: (517) 334-6302