

## PLANNED UNIT DEVELOPMENT AGREEMENT

THIS AGREEMENT made this 4th day of May, 1992, by and between **INTERNATIONAL SOCIETY**, a Michigan corporation, f/k/a **INTERNATIONAL COOPERATIVE SOCIETY**, whose address is 1943 Manton, Canton, Michigan 48187 ("Owner"), and the **TOWNSHIP OF GENOA**, a Michigan municipal corporation, whose address is 2980 Dorr Road, Brighton, Michigan 48116 ("Township").

### W I T N E S E T H :

**WHEREAS**, Owner is the owner of certain real property located in the Township of Genoa, Livingston County, Michigan, which is more particularly described on Exhibit "A" attached hereto and incorporated herein by reference ("Property"); and

**WHEREAS**, on October 7, 1991, the Township Board, at a properly noticed public hearing, and in accordance with the Zoning Ordinance of the Township, enacted September 8, 1981 and amended October 7, 1992 ("Zoning Ordinance") rezoned the Property as a mixed use Planned Unit Development Zoning District ("PUD"); and

**WHEREAS**, at a properly noticed public hearing held on February 5, 1992, the Township Planning Commission held a meeting, at which Owner's PUD preliminary Conceptual Site Plan was considered and approved, and the Planning Commission's comments and recommendations were made to the Township Board; and

**WHEREAS**, at a properly noticed public meeting held on February 18, 1992, the Township Board approved Owner's PUD Conceptual Site Plan, prepared by Boss Engineering & Surveyors, dated December 6, 1991, a copy of which is attached hereto as Exhibit "B" ("PUD Site Plan"), and further approved Owner's Environmental Impact Statement, a copy of which is attached hereto as Exhibit "C", and recommendations were made to the Planning Commission concerning Owner's Final PUD Site Plan Submittal; and

**WHEREAS**, at a properly noticed public hearing held on April 1, 1992, the Planning Commission, having reviewed the PUD Site Plan and the Environmental Impact Statement, approved Owner's PUD Site Plan as Final in accordance with the applicable provisions of the Zoning Ordinance; and

**WHEREAS**, at a properly noticed public meeting held on May 4, 1992, the Township Board, having reviewed the PUD Site Plan and the Environmental Impact Statement, approved Owner's PUD Site Plan as Final in accordance with the applicable provisions of the Zoning Ordinance; and

**WHEREAS**, Owner and Township acknowledge that the development project contemplated by the PUD Site Plan may occur in phases over time as market conditions permit in Owner's sole discretion; and

**WHEREAS**, Owner and Township recognize that the Michigan Department of Transportation is considering the construction of a new Interstate-96 interchange which may become located on or near the Property. Owner and Township recognize that each may benefit from the future construction of such interchange and that the interchange may require the parties to agree upon major changes to the PUD Site Plan; and

**WHEREAS**, the Township agrees that no hydrological studies are required for the use contemplated on the Property for the reason that the Property is served by public wastewater disposal; and

**WHEREAS**, the Zoning Ordinance requires the execution of this Planned Unit Development Agreement, which Agreement shall be binding upon Owner and Township.

**NOW THEREFORE**, in consideration of the foregoing premises and the mutual covenants contained herein, and with the express understanding that this Agreement contains important and essential terms as part of the Final PUD Site Plan, the parties hereby agree as follows:

I. General Terms of Agreement

A. Township and Owner acknowledge and represent that the foregoing recitals are true and accurate and binding on the respective parties.

B. Township acknowledges that the Property has been re-zoned as a mixed use PUD.

C. The PUD Plan is hereby approved in its entirety in accordance with the authority granted to and vested in Township under and pursuant to Act No. 184, Public Acts of 1943, the Township Rural Zoning Act; Act No. 285, Public Acts of 1931 and Act No. 168, Public Acts of 1945, relating to Municipal Planning; and in accordance with the Zoning Ordinance of Genoa Township, enacted October 7, 1991, except as modified herein, and subject to the terms of this Agreement. Additionally, the approval of the final PUD Site Plan shall not relieve Owner from full compliance with the applicable provisions of the Zoning Ordinance, except to the extent provided herein.

D. The PUD Plan which is approved herein includes the final approval of all of the following:

1. The Property description provided in Exhibit "A" hereto.
2. The PUD Site Plan which is attached as Exhibit "B" hereto.
3. The Environmental Impact Statement which is attached as Exhibit "C" hereto.

4. The Traffic Impact Study by Reid, Cool & Michalski, dated February 28, 1992, which is attached as Exhibit "D" hereto.
5. The Site Plan for that portion of the Property for which there are currently plans to construct an automobile dealership ("Phase I").

Township acknowledges and represents that all necessary approvals required by the Zoning Ordinance have been given in connection with each of the foregoing documents.

E. The approval of the PUD Plan described herein, and the terms, provisions and conditions of this Agreement are and shall be deemed to be of benefit to the land described on Exhibit "A" and shall run with and bind such land, and shall bind and enure to the benefit of the successors and assigns of the parties hereto.

## II. Specific Terms of Agreement Regarding Land Use and Land Development

A. The uses permitted in the GCD, OSD, and PFR districts designated on the PUD Site Plan, respectively, shall be only those which may be permitted within the appropriate zoning classification by the Zoning Ordinance, subject to such variances, special exceptions or other waivers which may be sought by Owner in accordance with the Zoning Ordinance, and except for the terms agreed upon.

B. Nothing whatsoever provided in this Agreement shall be construed so as to prevent Owner from seeking minor and/or major changes to the PUD Plan in accordance with the applicable provisions of the Zoning Ordinance.

C. Owner agrees that no outside public address system shall be permitted on any part of the Property located within Phase I.

D. Owner agrees that all lighting for the dealership located within Phase I shall conform with the plans and specifications as set forth in the Site Plan and the Environmental Impact Statement.

E. Owner agrees to develop a plan for the long term maintenance of the sedimentation and oil skimming boom tanks located within Phase I, said plan to conform to any and all applicable requirements of the Environmental Protection Agency, the Michigan State Police, Fire Marshall Division, and any other governmental or quasi-governmental agencies that may have regulatory authority over the maintenance of the tanks. Owner agrees to provide Township with a copy of said plan within sixty (60) days after the date of execution of this Agreement, and Owner agrees to comply with said plan.

F. Within Phase I, the setback requirements for the "pods" upon which cars will be displayed will be allowed to vary from the zoning ordinance as follows:

Pods 4, 5 and 6: Five (5) foot setbacks from the property line

All other pods: Ten (10) foot setbacks from the property line

G. Owner agrees to develop a plan for the long term maintenance of the common areas and the open areas located within Phase I, which shall include how said plan will be financed. Owner agrees to provide Township with a copy of said plan prior to or simultaneously with Owner's application for a construction permit, and Owner agrees to comply with said plan.

H. Owner agrees to develop a plan for financing the construction of the dealership and improvements contemplated within Phase I, and to provide Township with a copy of said plan.

I. Owner has developed a Pollution Incident Prevention Plan, which has been included in the environmental impact assessment, and Owner agrees to comply with said plan.

J. Outdoor storage is specifically permitted within Phase I in accordance with the Site Plan.

K. Should Owner be aggrieved by Township's denial of any site plan, or other approval required for the development contemplated by this Agreement, an arbitration panel shall be appointed, at the request of Owner, to determine whether Township's decision was reasonable, and in accordance with the Zoning Ordinance and applicable law. The arbitrators shall make a finding of whether or not the denial was thus appropriate based upon the specific terms of this Agreement and the applicable provisions of the Zoning Ordinance and applicable law. The arbitration shall be governed by the Uniform Arbitration Act, MCLA 600.5001 through 600.5035, or its successor enactment, if replaced. The decision of the arbitrators shall be binding on the Township and Owner. If the arbitrators determine that the denial was unreasonable, Township shall promptly grant its approval of the application in question.

The parties may agree upon a single arbitrator, but in the event they cannot so agree, there shall be three (3) arbitrators, one named in writing by each of the parties within thirty (30) days after demand for arbitration is made, and a third party chosen by the two arbitrators so appointed. Should either party refuse or neglect to join in the appointment of the arbitrators within thirty (30) days after such demand, the arbitrator to be designated by that party shall be appointed in accordance with the provisions of the Uniform Arbitration Act.

All arbitration hearings conducted hereunder shall take place at the Genoa Township Hall. All judicial proceedings to enforce any of the provisions hereof shall take place in Livingston County, Michigan. Notice of hearings shall be given and the hearing conducted in accordance with the Uniform Arbitration Act. In the event that three (3) arbitrators shall take part in any arbitration hearing, the decision rendered by a majority of the arbitrators shall be binding and conclusive as to the parties.

If the arbitrators shall fail to reach an agreement within thirty (30) days of their appointment, they shall be discharged and three new arbitrators shall be appointed who shall proceed as provided in this paragraph. The process described above shall be repeated until a decision is reached by a majority of the arbitrators selected.

Cost and expense of arbitration, including fees of the arbitrators, shall be borne by the party which fails to prevail in the arbitration. The prevailing party shall recover its expenses, and all reasonable attorney fees incurred in connection with the arbitration proceeding or any appeals therefrom.

L. Any violation of the terms of this Agreement shall be a violation of the Zoning Ordinance. The remedies of Township for a violation shall be such remedies as are provided by and for a violation of the Zoning Ordinance. Nothing contained herein shall in any way diminish any rights Owner may have at law or in equity with respect to a breach of this Agreement by Township.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.


WITNESS:

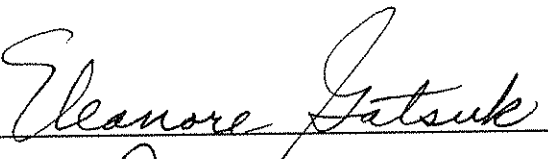
OWNER:

INTERNATIONAL SOCIETY,  
a Michigan corporation, f/k/a  
INTERNATIONAL COOPERATIVE SOCIETY

  
James Hays

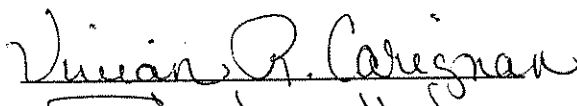
By:   
Its: President

  
James Hays

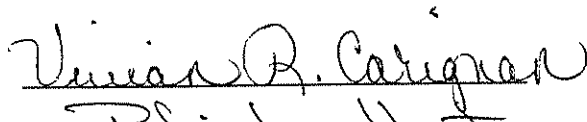
By:   
Its: Secretary

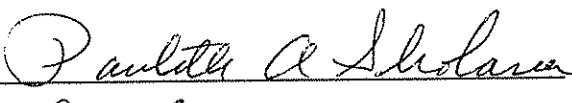
TOWNSHIP:

TOWNSHIP OF GENOA,  
a Michigan municipal corporation

  
Vivian R. Carignan

By:   
Its: Supervisor

  
Vivian R. Carignan

By:   
Its: Clerk

STATE OF MICHIGAN     )  
                              )   ss.  
COUNTY OF Oakland    )

On this 29th day of June, 1992, before me, a Notary Public, personally appeared Charles Scharmen and Eleanore Gatsuk, the President and Secretary of International Society, a Michigan corporation, to me known to be the persons described in and who executed the foregoing Agreement and acknowledged that they executed the same on behalf of said Corporation.

Tracy A. Smith  
Tracy A. Smith, Notary Public  
Macomb County, Michigan  
My Commission Expires: 09-05-94

STATE OF MICHIGAN     )  
                              )   ss.  
COUNTY OF LIVINGSTON

On this 19th day of June, 1992, before me, a Notary Public, personally appeared Robert R. Murray and Paulette A. Skolarus, the Supervisor and Clerk of the Township of Genoa, a Michigan municipal corporation, to me known to be the persons described in and who executed the foregoing Agreement and acknowledged that they executed the same on behalf of said Corporation.

Judith G. Smith  
Judith G. Smith, Notary Public  
Livingston County, Michigan  
My Commission Expires: 02-06-93