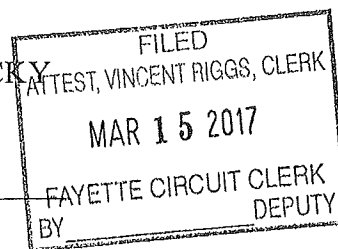


COMMONWEALTH OF KENTUCKY  
FAYETTE CIRCUIT COURT  
DIVISION 3  
CIVIL ACTION NO. 17-CI- 986



WHITAKER BANK, INC.

PLAINTIFF

v.

BALL HOMES, LLC

DEFENDANTS

Serve: Ball Homes, LLC  
c/o Lawrence E. Goodwin, Jr.,  
its Registered Agent  
3609 Walden Drive  
Lexington, KY 40517

LOCHMERE DEVELOPMENT CORPORATION

Serve: Lochmere Development Corporation  
c/o Thomas C. Marks, Esq.  
Miller, Griffin & Marks, PSC  
271 West Short Street, Suite 600  
Lexington, KY 40507-1292

\* \* \* \* \*

**PETITION FOR DECLARATION OF RIGHTS**

Comes the Plaintiff Whitaker Bank, Inc. ("Whitaker Bank"), pursuant to KRS 418.040, *et seq.*, and for its Petition for Declaration of Rights states as follows:

1. Plaintiff Whitaker Bank is a Kentucky corporation with its principal office located in Fayette County, Kentucky.

2. Defendant Ball Homes, LLC is a Kentucky limited liability company with its principal place of business located in Fayette County, Kentucky. Ball Homes, LLC is

the successor by merger to Ball Homes, Inc., and may be served by service on its registered agent Lawrence E. Goodwin, Jr., 3609 Walden Drive, Lexington, Kentucky 40515.

3. Defendant Lochmere Development Corporation is a Kentucky corporation which was administratively dissolved on November 1, 2007. Lochmere Development Corporation may be served by agreement by service on its attorney Thomas C. Marks, Esq., Miller, Griffin & Marks, PSC, 271 West Short Street, Suite 600, Lexington, Kentucky 40507-1292.

4. This action arises by reason of claims made by Defendants that certain real property located in Fayette County, Kentucky encumbered by a mortgage in favor of Plaintiff is subject to the following:

a. A restriction or covenant requiring that such property be perpetually operated and maintained as a golf course.

b. A right of first refusal in favor of Defendants.

5. Plaintiff is the holder of a first mortgage lien against real property and improvements ("Golf Course"), owned by the Andover Golf and Country Club, Inc., as described in that mortgage dated August 13, 2007, of record in Mortgage Book 6165, Page 397, of the Fayette County Clerk's office ("Mortgage"). A copy of the Mortgage is attached hereto and incorporated herein as Exhibit A.

6. That both prior and subsequent to the execution of the Mortgage, portions of the real property comprising the Golf Course were conveyed by Andover Golf and Country Club, Inc. for use as residential real property without objection by any third party.

7. That there is no recorded restriction or covenant of record creating or memorializing any right of first refusal in favor of Defendants or creating or memorializing any covenant or restriction requiring the Golf Course to be perpetually maintained as a golf course.

### COUNT I

8. Plaintiff adopts and reiterates the allegations contained in paragraphs 1 through 6 herein.

9. Plaintiff Whitaker Bank acquired its mortgage interest free from any right of first refusal.

10. Plaintiff Whitaker Bank acquired its mortgage interest free from any restriction or covenant requiring the Golf Course to be perpetually maintained as a golf course.

### COUNT II

11. Plaintiff adopts and reiterates the allegation contained in paragraphs 1 through 6 herein.

12. On information and belief, Plaintiff believes that Defendants will allege that the restriction or covenant requiring the Golf Course to be perpetually operated and maintained as a golf course is contained in that unrecorded Golf Course Lease, Construction and Purchase Agreement dated July 11, 1988 between Defendants and Corman-McQueen Golf, Inc., a copy of which is attached hereto as Exhibit B ("Lease").

13. Pursuant to paragraph 2 of the Lease, the terms and provisions of the Lease, with the exception of the terms and provisions of paragraph 16 of the Lease, terminated five (5) years from the date of construction of the Golf Course.

14. There are no amendments to the Lease extending the terms of the Lease set forth in paragraph 2 of the Lease.

15. The Golf Course was completed in 1989 and opened for plan in March 1990.

16. The Lease terminated pursuant to the provisions of paragraph 2 no later than March 1995.

17. Any restriction or covenant created by paragraph 4 of the Lease terminated not later than March 1995.

### COUNT III

18. Plaintiff adopts and reiterates the allegations contained in paragraphs 1 through 6 and paragraph 12 herein.

19. In a series of deed conveyances executed in July, 1990, Defendants conveyed the Golf Course to Corman-McQueen Golf, Inc. which, in turn, conveyed the Golf Course to Andover Golf & Country Club, Inc. Copies of such deeds are attached as collective Exhibit C.

20. None of the foregoing deeds state that the grantees are acquiring title subject to the Lease or that the Lease survived the conveyance.

21. No other documents recorded prior to the deed conveyances state that the terms of the Lease survive the deed conveyance.

22. No recorded document provided notice to a third party that the terms and conditions of the Lease did not merge into the fee title by reason of the deed conveyances, terminating the provisions of the Lease.

23. Plaintiff acquired its mortgage interest in the Golf Course free from the terms and conditions of the Lease, including, but not limited to, any agreement that the Golf Course be perpetually operated and maintained as a golf course and any right of first refusal in favor of Defendants.

#### COUNT IV

24. Plaintiff adopts and reiterates the allegations contained in paragraphs 1 through 6 herein.

25. The property on which the Golf Course is located is not properly zoned for the operation of a golf course as a permitted use.

26. The Golf Course is currently operated and maintained pursuant to a conditional use permit issued by the Lexington-Fayette County Board of Adjustment on April 28, 1988.

27. Any abandonment of the rights granted by the Conditional Use Permit is a sufficient change in circumstances to release the Golf Course from any restriction that it be operated and maintained as a golf course.

#### COUNT V

28. Plaintiff adopts and reiterates the allegations contained in paragraphs 1 through 6 and paragraph 12 herein.

29. The Golf Course is unable to generate sufficient revenue to operate as a golf course due to the current condition of the golf course industry.

30. The decline in the golf course industry is a sufficient change in circumstances to release any restriction or covenant requiring the Golf Course to be operated and maintained as a golf course.

## COUNT VI

31. Plaintiff adopts and reiterates the allegations contained in paragraphs 1 through 6 and paragraph 12 herein.

32. That any restriction or covenant requiring the Golf Course to be perpetually operated and maintained as a golf course is an unreasonable restraint on the alienation of the Golf Course.

## COUNT VII

33. Plaintiff adopts and reiterates the allegations contained in paragraphs 1 through 6 and paragraph 12 herein.

34. That any covenant or restriction that requires the Golf Course to be perpetually operated and maintained as a golf course violates the rule against perpetuations.

WHEREFORE, Petitioner prays as follows:

1. That Plaintiff acquired its mortgage lien against the Golf Course free from any restriction or covenant that requires the Golf Course to be operated and maintained as a golf course.

2. That there is no restriction or covenant that requires the Golf Course to be operated or maintained as a golf course.

3. That any restriction or covenant that required the Golf Course to be operated or maintained as a golf course is unenforceable.

4. That there has been sufficient change in circumstances to render any covenant or restriction that the Golf Course be operated or maintained as a golf course unenforceable or terminated.

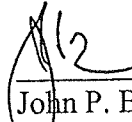
5. That Plaintiff acquired its mortgage lien against the Golf Course free from any right of first refusal in favor of Defendants.

6. That any right of first refusal in favor of Defendants is no longer enforceable.

7. For such other relief to which it may be entitled.

Respectfully submitted,

WYATT, TARRANT & COMBS, LLP

  
\_\_\_\_\_  
John P. Brice  
250 West Main Street, Suite 1600  
Lexington, KY 40507-1746  
Telephone: (859) 288.7462  
Facsimile: (859) 259-0649

*Counsel for Plaintiff Whitaker Bank, Inc.*

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**MORTGAGE AND SECURITY AGREEMENT**

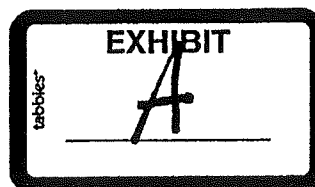
THIS MORTGAGE AND SECURITY AGREEMENT (herein "Mortgage") is made effective as of August 13, 2007, between the Mortgagor and Debtor, **ANDOVER GOLF AND COUNTRY CLUB, INC.**, a Kentucky non-stock, non-profit corporation, whose address is c/o Andover Golf and Country Club, 3450 Todds Road, Lexington, Kentucky 40509 (herein "Borrower"), and the Mortgagee and Secured Party, **WHITAKER BANK, INC.**, a Kentucky banking corporation, whose address is 2001 Pleasant Ridge Dr., Lexington, Fayette County, Kentucky 40555 (herein "Lender").

WHEREAS, Borrower is indebted to Lender in the aggregate principal sum of **Three Million Six Hundred Fifty Thousand Dollars (\$3,650,000.00)**, which indebtedness is evidenced by those certain promissory notes executed by Borrower as follows: (i) Promissory Note, of even date herewith, executed by Borrower and payable to the order of Lender, in the maximum principal amount of Three Million Four Hundred Thousand and No/100 Dollars (\$3,400,000.00), providing for payments of principal and interest as set forth therein with the balance of the indebtedness, if not sooner paid, due and payable on August 13, 2017 (the "Term Note") and (ii) Revolving Promissory Note, of even date herewith, executed by Borrower and payable to the order of Lender in the maximum principal amount of Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00), providing for payments of principal and interest as set forth therein, with the balance of this indebtedness, if not sooner paid, due and payable on August 13, 2008 (the "Revolving Note"). The Term Note and the Revolving Note are hereinafter collectively referred to as the "Notes."

The Revolving Note secured hereby constitutes a "line of credit" pursuant to Kentucky Revised Statutes 382.385. The maximum principal amount of credit which may be outstanding at anytime or times under the Revolving Note and which is to be secured by this Mortgage (not including "Future Advances," as hereinafter defined, made in accordance with Section 21 hereof which may also be a "line of credit") is Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00).

TO SECURE to Lender (a) the repayment of the indebtedness evidenced by the Notes, with the interest thereon, the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Mortgage, and the performance of the covenants and agreements of Borrower herein contained and contained in the Loan Agreement by and between Borrower and Lender of even date herewith (the "Loan Agreement") and in any other instrument or agreement evidencing, securing or otherwise pertaining to the Notes, and (b) the repayment of any future advances, with interest thereon, made to Borrower by Lender pursuant to Paragraph 21 hereof

Return to Preparer





(herein "Future Advances"), Borrower does hereby mortgage, grant and convey to Lender the following described property located in the County of Fayette, Commonwealth of Kentucky, and more fully described on Exhibit "A" which is attached hereto and incorporated herein by reference;

TOGETHER with all the improvements now or hereafter erected on the property, and all easements appurtenant thereto, and all other rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water, water rights, and water stock, and all fixtures now or hereafter attached to the property, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the property covered by this Mortgage; and all of the foregoing, together with said property (or the leasehold estate if this Mortgage is on a leasehold), are herein referred to as the "Property."

To further secure to Lender the payment of the obligations described hereinabove, Borrower further grants to Lender a security interest in and to the following property (herein "Collateral"):

(a) all goods and other tangible personal property which are or are to become fixtures, including operating equipment, machinery, and trade fixtures, if any, situated on or associated with the Property, including, but not by way of limitation, all heating, air conditioning, duct, elevator and escalator, plumbing, electrical, lighting, fire extinguishing, communications, power equipment and like facilities, with all replacements thereof, all attachments, accessories, parts, appliances, equipment and tools belonging thereto or for use in connection therewith, whether now owned or hereafter acquired by Borrower;

(b) all building materials or components delivered to the Property as are to be incorporated into the Property, together with any additional and similar later-acquired property purchased by Borrower and incorporated or to be incorporated into the Property, whether now owned or hereafter acquired by Borrower;

(c) all furnishings, furniture, office equipment, maintenance equipment or other goods or tangible personal property of Borrower located at or to be used in connection with the Property, whether now owned or hereafter acquired by Borrower;

(d) all licenses and permits issued in favor of, for the account of, or granted to Borrower by any division or department of the Lexington-Fayette Urban County Government, by any division or department of the Commonwealth of Kentucky, or by any other government or quasi governmental authority having the power and authority to issue any such permits and licenses in connection with the Property;

(e) all rights of Borrower in and to any contracts with utility companies, whether now existing or hereafter entered into, for the providing of service to the Property, including all fees or refunds due to Borrower in connection therewith;

(f) all of Borrower's rights, titles and interests in any and all leases, tenant contracts, rental agreements, management contracts, and all other contracts, licenses, permits, plans and specifications, and any and all other contracts pertaining to the Property or now or hereafter affecting the Property, without, however, imposing upon Lender any obligation with respect thereto;

(g) any and all rents, deposits and accounts receivable which are now due or may hereafter become due by reason of the renting and/or leasing of the Property and the improvements thereon;

(h) any and all demand, savings and any other bank accounts and/or deposits; and

(i) all products, rents, issues, profits, proceeds, accessions to, substitutions for and/or replacements of the foregoing.

The Property and the Collateral are hereinafter referred to collectively as the "Mortgaged Estate."

Borrower covenants to Lender that Borrower is well seized of the Mortgaged Estate, subject to the lien hereof, and has good right and full power to grant, bargain, sell, convey, mortgage, grant a security interest in and warrant the same as herein described. Borrower covenants that the premises and properties constituting the Mortgaged Estate are and will be free from all liens and encumbrances whatsoever, excepting only the lien of general taxes not yet due and payable, easements and restrictions of record affecting the Property, and restrictions and zoning laws affecting the Property, none of which impair or will impair the value of the Mortgaged Estate as collateral for payment of the Notes. Borrower warrants and will defend the said Mortgaged Estate, with the privileges and appurtenances thereunto belonging, to Lender, its successors and assigns forever, against all claims and demands whatsoever adverse to the interest of Lender, at Borrower's sole expense.

Borrower and Lender covenant and agree as follows:

1. **Payment of Principal and Interest.** Borrower shall promptly pay when due the principal of and interest on the indebtedness evidenced by the

Notes, prepayment and late charges as provided in the Notes, and the principal of and interest on any Future Advances secured by this Mortgage.

2. **Funds for Taxes and Insurance.** Subject to applicable law or to a written waiver by Lender, Borrower shall pay to Lender in monthly installments, until the Notes are paid in full, a sum (herein "Funds") equal to one-twelfth (1/12) of the yearly taxes and assessments on the Property which may attain priority over this Mortgage, and ground rents on the Property, if any, plus one-twelfth (1/12) of yearly premium installments for hazard insurance, plus one-twelfth (1/12) of yearly premium installments for mortgage insurance, if any, all as reasonably estimated initially and from time to time by Lender on the basis of assessments and bills and reasonable estimates thereof.

The Funds shall be held in an institution the deposits or accounts of which are insured or guaranteed by a federal or state agency (including Lender if Lender is such an institution). Lender shall apply the Funds to pay said taxes, assessments, insurance premiums and ground rents. Lender may not charge for so holding and applying the Funds, analyzing said account, or verifying and compiling said assessments and bills, unless Lender pays Borrower interest on the Funds and applicable law permits Lender to make such a charge. Borrower and Lender may agree in writing at the time of execution of this Mortgage that interest on the Funds shall be paid to Borrower, and unless such agreement is made or applicable law requires such interest to be paid, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for the sums secured by this Mortgage.

If the amount of the Funds held by Lender, together with the future monthly installments of Funds payable prior to the due dates of taxes, assessments, insurance premiums and ground rents, shall exceed the amount required to pay said taxes, assessments, insurance premiums and ground rents as they fall due, such excess shall be, at Borrower's option, either promptly repaid to Borrower or credited to Borrower on monthly installments of Funds. If the amount of the Funds held by Lender shall not be sufficient to pay taxes, assessments, insurance premiums and ground rents as they fall due, Borrower shall pay to Lender any amount necessary to make up the deficiency within thirty (30) days from the date notice is mailed by Lender to Borrower requesting payment thereof.

Upon payment in full of all sums secured by this Mortgage, Lender shall promptly refund to Borrower any Funds held by Lender. If under Paragraph 18 hereof the Property is sold or the Property is otherwise acquired by Lender,

Lender shall apply, no later than immediately prior to the sale of the Property or its acquisition by Lender, any Funds held by Lender at the time of application as a credit against the sums secured by this Mortgage.

3. **Application of Payments.** Unless applicable law provides otherwise, all payments received by Lender under the Notes and Paragraphs 1 and 2 hereof shall be applied by Lenders first in payment of amounts payable to Lender by Borrower under Paragraph 2 hereof, then to such payments shall be allocated between principal, interest and fees, if any, in the discretion of Lender, and then to interest and principal of any Future Advances.

4. **Charges; Liens.** Borrower shall pay all taxes, assessments and other charges, fines and impositions attributable to the Property which may attain a priority over this Mortgage, and leasehold payments or ground rents, if any, in the manner provided under Paragraph 2 hereof or, if not paid in such manner, by Borrower making payment, when due, directly to the payee thereof. Borrower shall further pay all taxes, assessments and other charges, fines and impositions attributable to the Collateral which may attain a priority over this Mortgage by Borrower making payment, when due, directly to the payee thereof. Borrower shall promptly furnish to Lender all notices of amounts due under this paragraph, and in the event Borrower shall make payment directly, Borrower shall promptly furnish to Lender receipts evidencing such payments. Borrower shall promptly discharge any lien which has priority over this Mortgage; provided, that Borrower shall not be required to discharge any such lien so long as Borrower shall agree in writing to the payment of the obligation secured by such lien in a manner acceptable to Lender, or shall in good faith contest such lien by, or defend enforcement of such lien in, legal proceedings which operate to prevent the enforcement of the lien or forfeiture of the Mortgaged Estate or any part thereof.

5. **Hazard Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property and the Collateral insured against loss by fire, hazards included within the term "extended coverage," and such other hazards as Lender may require and in such amounts and for such periods as Lender may require; provided, that Lender shall not require that the amount of such coverage exceed that amount of coverage required to pay the sums secured by this Mortgage.

The insurance carrier providing the insurance shall be chosen by Borrower subject to approval by Lender; provided, that such approval shall not be unreasonably withheld. All premiums on insurance policies shall be paid in the manner provided under Paragraph 2 hereof or, if not paid in such manner, by Borrower making payment, when due, directly to the insurance carrier.

All insurance policies and renewals thereof shall be in form acceptable to Lender and shall include a standard mortgagee clause in favor of and in form acceptable to Lender. Lender shall have the right to hold the policies and renewals thereof, and Borrower shall promptly furnish to Lender all renewal notices and all receipts of paid premiums. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

Borrower hereby assigns to Lender all proceeds from any insurance policies, and Lender is hereby authorized and empowered in its reasonable discretion, to adjust or compromise any loss under any insurance policies on the Mortgaged Estate, and to collect and receive the proceeds from any such policy or policies. Each insurance company is hereby authorized and directed to make payment for all such losses directly to Lender alone, and not to Borrower and Lender jointly. After deducting from such insurance proceeds any expenses incurred by Lender in the collection or handling of such funds, Lender may apply the net proceeds, at its option, either toward restoring the Mortgaged Estate or as a credit on any portion of the indebtedness and other sums secured hereby, whether then matured or to mature in the future, or at the option of Lender such sums either wholly or in part may be paid over to Borrower to be used to repair such improvements or to build new improvements in their place or for any other purpose or object satisfactory to Lender, without affecting the lien of this Mortgage for the full amount secured hereby before such payment took place. If Lender elects to restore the Mortgaged Estate, any balance of such monies after restoration shall either be applied toward the reduction of indebtedness and other sums secured hereby or shall be paid to Borrower. Lender shall not be responsible for any failure to collect any insurance proceeds due under the terms of any policy regardless of the cause of such failure.

Unless Lender and Borrower otherwise agree in writing, any such application of proceeds to principal shall not extend or postpone the due date of the monthly installments referred to in Paragraphs 1 and 2 hereof or change the amount of such installments. If under Paragraph 18 hereof the Mortgaged Estate or any part thereof is acquired by Lender, all right, title and interest of Borrower in and to any insurance policies and in and to the proceeds thereof resulting from damage to the Mortgaged Estate prior to the sale or acquisition shall pass to Lender to the extent of the sums secured by this Mortgage immediately prior to such sale or acquisition.

**6. Preservation and Maintenance of Mortgaged Estate:**  
**Leaseholds.** Borrower shall keep the Mortgaged Estate in good repair, cause the Mortgaged Estate to be utilized in conformance with all applicable laws, regulations and ordinances and shall not commit waste or permit impairment

or deterioration of the Mortgaged Estate and shall comply with the provisions of any lease if this Mortgage is on a leasehold. If the Collateral includes movable personal property, Borrower shall keep, store or regularly garage such property at locations approved by Lender in writing.

7. **Protection of Lender's Security.** If Borrower fails to perform the covenants and agreements contained in this Mortgage, or if any action or proceeding is commenced which materially affects Lender's interest in the Mortgaged Estate, including, but not limited to, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, then Lender at Lender's option, upon notice to Borrower, may make such appearances, disburse such sums and take such action as is necessary to protect Lender's interests, including, but not limited to, disbursement of reasonable attorney's fees and entry upon the Property or other premises to make repairs to the Mortgaged Estate. If Lender required mortgage insurance as a condition of making the loan secured by this Mortgage, Borrower shall pay the premiums required to maintain such insurance in effect until such time as the requirement for such insurance terminates in accordance with Borrower's and Lender's written agreement or applicable law. Borrower shall pay the amount of all mortgage insurance premiums in the manner provided under Paragraph 2 hereof.

Any amounts disbursed by Lender pursuant to this Paragraph 7, with interest thereon, shall become additional indebtedness of Borrower secured by this Mortgage. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof, and shall bear interest from the date of disbursement at the rate payable from time to time on outstanding principal under the Notes unless payment of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate permissible under applicable law. Nothing contained in this Paragraph 7 shall require Lender to incur any expense or take any action hereunder.

8. **Inspection.** Lender may make or cause to be made reasonable entries upon the Property or other premises for purposes of inspecting the Mortgaged Estate, provided that Lender shall give Borrower notice prior to any such inspection specifying reasonable cause therefor related to Lender's interest in the Mortgaged Estate.

9. **Condemnation.** If all or any part of the Mortgaged Estate shall be damaged or taken through condemnation (which term when used herein shall include any damage or taking by any governmental authority or any other authority authorized by the laws of the state where the Property is located or the United States of America to so damage or take, and any transfer by private

sale in lieu thereof), either temporarily or permanently, Lender shall be entitled to all compensation awards, damages, claims, rights of action and proceeds of, or on account of any damage or taking through condemnation and is hereby authorized, at its option, to commence, appear in and prosecute, in its own or Borrower's name, any action or proceeding relating to any condemnation, and to settle or compromise any claim in connection therewith. All such compensation awards, damages, claims, rights of action and proceeds, and any other payments or relief, and the right thereto, are hereby assigned by Borrower to Lender, who, after deducting therefrom all its expenses, including attorney's fees, may release any monies so received by it without affecting the lien of this Mortgage or may apply the same, in such manner as Lender shall determine, to the reduction of the sums secured hereby and to any prepayment charge provided in the Notes, this Mortgage or other instrument securing the Notes. Any balance of such monies then remaining shall be paid to Borrower. Borrower agrees to execute such further assignments of any compensations, awards, damages, claims, rights of action and proceeds as Lender may require.

If all or any part of the Mortgaged Estate is abandoned by Borrower, or if, after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within thirty (30) days after the date such notice is mailed, Lender is authorized to collect and apply the proceeds, at Lender's option, either to restoration or repair of the Mortgaged Estate or to the sums secured by this Mortgage.

Unless Lender and Borrower otherwise agree in writing, any such application of proceeds to principal shall not extend or postpone the due date of any payments referred to in Paragraphs 1 and 2 hereof or change the amount of such payment.

**10. Borrower Not Released.** Neither extensions of the time for payment or modification of amortization of the sums secured by this Mortgage granted by Lender to Borrower, or to any successor in interest of Borrower nor the release of other parties or collateral, shall operate to release, in any manner, the liability of the original Borrower and Borrower's successors in interest. Lender shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Mortgage by reason of any demand made by the original Borrower and Borrower's successors in interest.

**11. Forbearance by Lender Not a Waiver.** Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver or preclude the exercise of any such right or remedy. The procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate

the maturity of the indebtedness secured by this Mortgage. No waiver of any Event of Default hereunder shall extend to or affect any subsequent or any other Event of Default then existing, or impair any rights, powers or remedies consequent thereon. If Lender (a) grants forbearance or an extension of time for the payment of any sums secured hereby; (b) takes other or additional security for the payment thereof; (c) waives or does not exercise any right granted in the Notes, the Loan Agreement, this Mortgage or any other instrument securing the Notes; (d) releases any part of the Mortgaged Estate from the lien of this Mortgage or any other instrument securing the Notes; or, (e) makes or consents to any agreement changing the terms of this Mortgage or subordinating the lien or any charge hereof, no such act or omission shall release, discharge, modify, change or affect the original liability under the Notes, this Mortgage or otherwise of Borrower, or any subsequent purchaser of the Mortgaged Estate or any part thereof or any maker, cosigner, endorser, surety or guarantor. No such act or omission shall preclude Lender from exercising any right, power or privilege herein granted or intended to be granted in case of any Event of Default then existing or of any subsequent Event of Default nor, except as otherwise expressly provided in an instrument or instruments executed by Lender, shall the lien of this Mortgage be altered thereby.

**12. Remedies Cumulative.** All remedies provided in this Mortgage are distinct and cumulative to any other right or remedy under this Mortgage, any other agreement between Borrower and Lender or afforded by law or equity, and may be exercised concurrently, independently or successively.

**13. Successors and Assigns Bound; Joint and Several Liability; Captions.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective heirs, successors and assigns of Lender and Borrower, subject to the provisions of Paragraph 17 hereof. All covenants and agreements of Borrower shall be joint and several. The captions and headings of the paragraphs of this Mortgage are for convenience only and are not to be used to interpret or define the provisions hereof.

**14. Notice.** Except for any notice required under applicable law to be given in another manner, (a) any notice to Borrower provided for in this Mortgage shall be given by mailing such notice by certified mail addressed to Borrower at the address set forth above, or at such other address as Borrower may designate by notice to Lender as provided herein, with copies as set forth in the Loan Agreement, and (b) any notice to Lender shall be given by certified mail, return receipt requested, to Lender's address set forth above or to such other address as Lender may designate by notice to Borrower as provided herein. Any notice provided for in this Mortgage shall be deemed to have been given to Borrower or Lender when given in the manner designated herein.



15. **Governing Law; Severability.** This Mortgage shall be interpreted and construed under and governed by the laws of the Commonwealth of Kentucky. In the event that any provision or clause of this Mortgage or the Notes conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Notes which can be given effect without the conflicting provision, and to this end the provisions of the Mortgage and the Notes are declared to be severable.

16. **Borrower's Copy.** Borrower acknowledges receipt of a conformed copy of the Notes and of this Mortgage.

17. **Transfer of the Mortgaged Estate; Assumption.** If all or any part of the Mortgaged Estate or any legal or equitable interest therein is sold or transferred by Borrower without Lender's prior written consent, Lender may, at Lender's option, declare all the sums secured by this Mortgage to be immediately due and payable, and without further notice or demand on Borrower invoke any remedies permitted by Paragraph 18 hereof.

18. **Acceleration; Remedies.** Upon the occurrence of any "Event of Default," which, for purposes of this Mortgage, means any foreclosure instituted against the Mortgaged Estate or any part thereof by a junior lienholder, including foreclosure or other proceedings to enforce any security interest, lien or encumbrance of any kind upon the Mortgaged Estate or any portion thereof, any default in, or "Event of Default," or breach of any covenant, agreement, representation or warranty by Borrower, under the provisions of the Notes, or either of them, this Mortgage, the Loan Agreement, any document evidencing other indebtedness secured hereby, or any loan agreement or other agreement with respect to which Borrower and Lender are parties, which default has not been cured within any applicable grace period, Lender shall, at Lender's option, have the following rights and remedies, which, to the extent permitted by law, shall be cumulative: (a) to declare immediately due and payable and accelerate the entire unpaid balance due on the Notes and all other obligations of Borrower, to Lender, (b) to enforce the lien of this Mortgage by judicial proceeding and have the Property and/or the Collateral, or specific items thereof, sold and collect from Borrower all expenses of foreclosure, including, but not limited to, reasonable attorney's fees, court costs, costs of taking, holding, preparing for sale and sale of the Mortgaged Estate or any part thereof, and costs of documentary evidence, abstracts and title reports, (c) to exercise the rights granted by this Mortgage relative to collection of rents and all other rights provided by this Mortgage, and (d) to exercise any and all other rights and remedies afforded to Lender in and against the Mortgaged Estate or Borrower provided for or permitted by applicable law, including the Uniform

Commercial Code or the provisions of any other agreement entered into by and between Borrower, or any of them, and Lender.

The remedies of Lender upon the occurrence of an Event of Default shall, with respect to the Collateral, specifically include the following rights and powers, any of which may be exercised concurrently with or independent of those hereinabove described: (i) all rights and remedies of a secured party under the Uniform Commercial Code of the Commonwealth of Kentucky or similar statutes, including, without limitation, the right to take possession of the Collateral and to take such other measures as Lender may deem necessary for the care, preservation or protection thereof, and for such purposes Lender may enter upon the Property or upon any other premises on which the Collateral may be situated and remove the same therefrom; (ii) the right to require Borrower to assemble all of the Collateral and make it available to Lender at a place to be designated by Lender, or in the alternative Lender may conduct any public or private sale at or upon the Property or other site where any Collateral may be located; (iii) the right to transfer any Collateral into Lender's own name or that of its nominee and receive the income thereon and proceeds thereof and hold the same as security for the Notes and any other obligations secured hereby or apply it to principal or interest due on the Notes or other obligations secured hereby; and (iv) the right and power of Lender as attorney-in-fact for Borrower, with power of substitution, which right and power Borrower hereby irrevocably grants to Lender to, in the name of Borrower or of Lender, give, demand, collect, receipt for and give renewals, extensions, bills of sale, transfers of title, discharges and releases of any Collateral; to institute and to prosecute legal and equitable proceedings; to realize upon any Collateral; to settle, compromise, compound or adjust claims in respect of any Collateral or any legal proceedings brought in respect thereof; and generally to sell same in whole or in part for cash, credit or property to others at any public or private sale and to assign or make any agreement with respect to or otherwise deal with any Collateral as fully and completely as though Lender were the absolute owner thereof for all purposes.

For purposes of this section, disposition of the Collateral shall be deemed commercially reasonable if made pursuant to a public offering advertised at least twice in a newspaper of general circulation in the community where the Collateral is located or by a private sale for a sum equal to or in excess of the liquidating value of the Collateral as determined by Lender. Lender may bid upon and acquire any portion of the Collateral at any sale if it is public. Any notice of sale, disposition or other intended action by Lender with respect to the Collateral sent to Borrower in accordance with the provisions hereof at least ten (10) days prior to such action, shall constitute reasonable notice to Borrower. In addition to all other sums secured hereby, Borrower shall promptly pay to Lender all expenses, including legal expenses and attorney's

fees, incurred by or paid by Lender in protecting its interest in the Collateral, assembling and holding same for sale or other disposition and in enforcing its rights hereunder with respect thereto.

**19. Assignments of Rents and Leases; Collection of Rents; Appointment of Receiver.** As additional security hereunder, Borrower does hereby transfer and assign to Lender and its assigns, forever, all of the rents, revenues, issues and profits now due and hereafter to become due from the Mortgaged Estate and also all leases and rental agreements affecting the Mortgaged Estate, provided that Borrower shall, prior to the earlier of (a) acceleration of any indebtedness secured by this Mortgage, (b) abandonment of the Mortgaged Estate, or (c) the failure of Borrower to promptly pay when due any and all amounts secured by this Mortgage, have the right to collect and retain such rents and revenue as they become due and payable.

Upon any acceleration under Paragraph 18 hereof, abandonment of the Mortgaged Estate, or the failure of Borrower, or any of them, to pay when due any amounts secured by this Mortgage, Lender, in its sole discretion, shall have the following rights and remedies, which, to the extent permitted by law, shall be cumulative: (a) to enter upon and take possession of the Mortgaged Estate; to demand, collect and receive from the tenant or tenants now or hereafter in possession of the Mortgaged Estate, or any part thereof, or from other persons liable therefor, all of the rents and revenues from such tenants or other persons, which may now be due and unpaid and which may hereafter become due; to institute and carry on all legal proceedings necessary for the protection of the Mortgaged Estate, including such proceedings as may be necessary to recover the possession of the whole or any part of the Mortgaged Estate, to institute and prosecute any and all suits for the collection of rents and all other revenues from said Mortgaged Estate which now may be due and unpaid and which may hereafter become due, to institute and prosecute summary proceedings for the removal of any tenant or tenants or other persons from the Mortgaged Estate, and to pay the costs, legal fees and other expenses of all such suits and proceedings out of the rents and other revenues received; to maintain the Mortgaged Estate and keep the same in repair, to pay, out of the rents and other revenues received, the costs thereof and of all services of all employees, including their equipment, and of all of the operating expenses and expenses of maintaining and keeping the Mortgaged Estate in repair and proper condition, also all amounts now due and unpaid and which may hereafter become due which are secured by this Mortgage, and also all taxes, assessments and sewer, water, electricity and other utility charges now due and unpaid and which may hereafter become due; to execute and comply with all the laws of the United States and the Commonwealth of Kentucky and all rules, regulations and orders promulgated thereunder, and all local laws, regulations and ordinances, affecting the Mortgaged Estate and to pay the

costs thereof out of the rents and other revenues received; to rent or lease the whole or any part of the Mortgaged Estate for such term or terms and on such conditions as Lender may deem proper; to employ an agent or agents to rent and manage the Mortgaged Estate and to collect the said rents and other revenues thereof, and to pay the reasonable value of its or their services out of the rents and revenues received; to effect general liability insurance, boiler insurance, plate glass insurance, rent insurance, fire and other casualty insurance and workmen's compensation insurance and generally such other insurance as is customarily effected by an owner of property of the types and kinds included in the Mortgaged Estate, or as Lender may deem advisable or necessary to effect, and pay the premiums and charges therefor out of said rents and other revenues received; to determine to which one or more of the purposes aforesaid the said rents and revenues shall be applied and the amount to be applied thereto; and, to act exclusively and solely in the place and stead of Borrower, and to have all of the powers of Borrower for the purposes aforesaid; (b) to have a receiver appointed by a court to enter upon, take possession of and manage the Mortgaged Estate and to collect the rents and revenues of the Mortgaged Estate including those past due, which rents and revenues shall be applied first to payment of the costs of management of the Mortgaged Estate and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorneys fee, and then to the sum secured by this Mortgage, provided, however, the receiver shall be liable to account only for those rents actually received; (c) to exercise the rights granted in this Mortgage relative to foreclosure of the Mortgaged Estate and all other rights provided by this Mortgage; and (d) to exercise any and all other rights and remedies in and against the Mortgaged Estate and Borrower provided or permitted by applicable law and the provisions of any other agreement entered into by and between Borrower, or any of them, and Lender.

**20. Nature of this Agreement.** This instrument constitutes both a real property mortgage and a "security agreement," within the meaning of the Uniform Commercial Code, and the Mortgaged Estate includes both real and personal property and all other rights and interest, whether tangible or intangible in nature of Borrower in the Mortgaged Estate. Borrower by executing and delivering this instrument has granted to Lender, as security for the indebtedness referred to herein, a security interest in the Collateral above described as a portion of the Mortgaged Estate. To the extent that any portion of the Mortgaged Estate may be defined herein as a part of the Property and as a part of the Collateral, Lender, in its sole discretion, may designate how such portion of the Mortgaged Estate shall be classified and Lender may change such classification at any time or from time to time.

**21. Future Advances.** This Mortgage shall secure all the obligations of Borrower, and each of them, and all provisions hereof shall apply to (a) the

Notes as well as all renewals and extensions of the Notes, and (b) all "Future Advances" as hereinafter defined. The term "Future Advances" as used herein refers to any and all indebtedness of Borrower, to Lender, whether direct, indirect, existing, future, contingent or otherwise, other than indebtedness evidenced by the Notes or otherwise excluded by this Mortgage; provided, however, (a) the total of the Future Advances secured by this Mortgage shall not exceed the total sum of \$1,350,000.00 in addition to the original face amount of the Notes, and (b) the term "Future Advances" shall include obligations which are, at the time incurred, "consumer credit" and thus subject to the disclosure and/or notification provisions of the Federal Truth-in-Lending Act and the Regulations promulgated thereunder only if (i) the instrument evidencing such obligation provides it is to be secured by this Mortgage, or (ii) such disclosure and notification requirements have been satisfied.

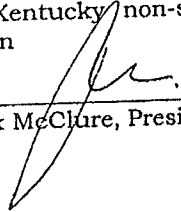
Notwithstanding anything contained in this Mortgage to the contrary, Lender shall have no obligation to (a) make any Future Advances, (b) permit extensions or renewals of the Notes, or (c) otherwise extend credit of any kind to Borrower, in addition to that required by the Notes.

**22. Release.** Upon payment of all sums secured by this Mortgage, Lender shall release this Mortgage, without charge to Borrower, except Borrower shall pay all costs of recordation, if any.

**23. Waiver of Homestead.** Borrower hereby waives all right of homestead exemption in the Property.

IN WITNESS WHEREOF, Borrower has executed this Mortgage.

**ANDOVER GOLF AND COUNTRY CLUB,  
INC.,** a Kentucky non-stock, non-profit  
corporation

BY:   
Rick McClure, President

COMMONWEALTH OF KENTUCKY

COUNTY OF FAYETTE

Subscribed, acknowledged and sworn to before me on August 13, 2007,  
by Rick McClure, as President of Andover Golf and Country Club, Inc., a  
Kentucky non-stock, non-profit corporation, for and on behalf of the  
corporation.

Jennifer C. Wainfield  
Notary Public  
My commission expires: 6/30/08

This instrument was prepared by:

STOLL KEENON OGDEN PLLC  
300 West Vine Street, Suite 2100  
Lexington, Kentucky 40507  
(859) 231-3000

BY:

Frank L. Wilford  
Frank L. Wilford

LEX 005796/111460/3523414.1

EXHIBIT "A"

TRACT 1

Being all of Tract 5 of the Brighton Place Subdivision as shown on the plat of record at Cabinet H, Slide 425, in the Office of the Fayette County Clerk, all of Parcels 8 and 9, Tract 9, of the Brighton Place Subdivision as shown on the plat of record at Cabinet H, Slide 571 in the aforesaid Clerk's Office, all of Parcels 6 and 7, Tract 10, of the Brighton Place Subdivision as shown on the plat of record at Cabinet H, Slide 571, in the aforesaid Clerk's Office, all of Tracts 11 and 12 of the Brighton Place Subdivision as shown on the plat of record at Cabinet H, Slide 425, in the aforesaid Clerk's Office, all of Tract 13 of the Brighton Place Subdivision as shown on the Corrected Amended Minor Plat of record at Cabinet I, Slide 131, in the aforesaid Clerk's Office, all of Parcels 4 and 5, Tract 15, of the Brighton Place Subdivision as shown on the plat of record at Cabinet H, Slide 571, in the aforesaid Clerk's Office, and all of Tract 16 of the Brighton Place Subdivision as shown on the plat of record at Cabinet H, Slide 571, in the aforesaid Clerk's Office.

There is EXCEPTED from the above described Tract I the following:

All of that property conveyed by Andover Golf & Country Club, Inc. a Kentucky corporation, to Ball Homes, Inc., a Kentucky corporation, by deed dated December 17, 1996, of record in Deed Book 1887, Page 494 in the Fayette County Clerk's office. Said property being more particularly described as:

Being all of Parcel "A", as shown on the Consolidation Minor Subdivision Plat of 3209 Brighton Place Drive (Lot 119, Block "A") and a portion of Andover Golf and Country Club Property in the Village of Andover Forest, Brighton Place Subdivision, Unit 6-B, of record at Plat Cabinet K, Slide 167, in the Office of the Fayette County Clerk.

Tract I being a portion of the same property conveyed to Andover Golf & Country Club, Inc. by deed dated July 24, 1990, of record in Deed Book 1553, Page 692, in the Fayette County Clerk's office.

TRACT 2

Being all of tracts 1B-1, 1B-2, 1B-3, 2A, 2B and 4B of the Fourth Amended Non-Building & Consolidation Minor Subdivision Plat of the Lochmere Development

Corporation Property and Stonecase Valley (a portion of), of record in Plat Cabinet I, Slide 134, in the Fayette County Clerk's office.

There is INCLUDED in Tract II described above the following:

- a) All of Parcel 3, as shown on the Corrected Amended & Consolidation Minor Subdivision Plat of Lochmere, Unit 11-B, Section 2 and Lochmere Development Corporation Property, Tract 1B-3 & Tract 2B, (Andover Golf Course), of record in Plat Cabinet K, Slide 892, in the Fayette County Clerk's office;
- b) All of Parcel 1, as shown on the Consolidation Minor Subdivision Plat of Stonecase Valley, Lot 33, Unit 5, Plat Cabinet "K", Slide 38 and Lochmere Development Corp. Property, Parcel 3, Plat Cabinet "K", Slide 381, of record in Plat Cabinet L, Slide 316, in the Fayette County Clerk's office;

There is EXCEPTED from the above described Tract II the following:

- a) All of that property conveyed by Andover Golf & County Club, Inc., a Kentucky non-profit corporation, to Lochmere Development Corporation, a Kentucky corporation, by deed dated June 21, 1999, of record in Deed Book 2065, Page 595 in the Fayette County Clerk's office. Said property being more particularly described as:

Being all of Parcel 6, of Lochmere Unit 11-B, Section 2, as shown on Corrected Amended & Consolidation Minor Subdivision Plat of Lochmere, Unit 11-B, Section 2 and Lochmere Development Corporation Property, Tract 1B-3 & Tract 2B, (Andover Golf Course), of record in plat Cabinet K, Slide 892, in the Fayette County Clerk's office, and

- b) All of that property conveyed by Andover Golf & Country club, Inc., a Kentucky non-profit corporation, to Lochmere Development Corporation, a Kentucky corporation, by deed dated June 9, 1992, of record in Deed Book 1632, Page 395, in the Fayette County Clerk's office. Said property being more particularly described as follows:

Being all of Parcel 1, of the Consolidation Minor Subdivision Plat of the Andover Golf and Country Club Property and Lochmere - Unit Two, Subsection Three, Lot 45, 708 Andover Village Drive, of record in Plat Cabinet I, Slide 568, in the Fayette County Clerk's office.

Tract II being a portion of the same property conveyed to Andover Golf & County Club, Inc. by deed dated July 24, 1990, of record in Deed Book 1553, Page 692, in the Fayette County Clerk's office.



### TRACT 3

Being all of Parcel 1, of Stonecase Valley, Unit 7, Section 2 as shown on Final Record Plat of Stonecase Valley, Unit 7, Section 2, of record in Plat Cabinet K, Slide 861 in the Fayette County Clerk's office.

Being a portion of the same property conveyed to Andover Golf & Country Club, Inc. by deed dated August 20, 1999, of record in Deed Book 2075, Page 631, in the Fayette County Clerk's office.

### TRACT 4

Being all of Parcel 4a, of Lochmere Unit 11-B, Section 2, as shown on Corrected Amended and Consolidation Minor Subdivision Plat Lochmere Unit 11-B, Section 2 and Lochmere Development Corporation Property Tract 1B-3 and Tract 2B (Andover Golf Course), of record in Plat Cabinet K, Slide 892, in the Fayette County Clerk's office.

Being a portion of the same property conveyed to Andover Golf & Country Club, Inc. by deed dated June 21, 1999, of record in Deed Book 2065, Page 591 and deed dated August 20, 1999, of record in Deed Book 2075, Page 631, all references to the Fayette County Clerk's office.

### TRACT 5

Being all of Parcel 1 as shown by the Amended Final Record Plat and Consolidation Plat of Lochmere Development Corp. Property (A Portion of) and Stonecase Valley (A Portion of), of record in Plat Cabinet J, Slide 455, in the Fayette County Clerk's office and made a part hereof for a more particular description; the improvements thereon being known and designated as 3452 Todds Road.

Being the same property conveyed to Andover Golf & Country Club, Inc. by deed dated March 21, 1999, of record in Deed Book 2065, Page 586, in the Fayette County Clerk's office.

TRACT 6

Being all of Parcel 1 as shown on Consolidation Minor Subdivision Plat of Lochmere Development Corp. Property (A Portion of) and Stonecase Valley - Unit 5, Lot 31, (3520 Hunter's Green Way) and Stonecase Valley - Unit 5, Lot 32, (3516 Hunter's Green Way), of record in Plat Cabinet K, Slide 381, in the Fayette County Clerk's office.

Being the same property conveyed to Andover Golf & Country Club, Inc., a Kentucky non-profit corporation, by deed dated September 30, 1997, of record in Deed Book 1938, Page 463, in the Fayette County Clerk's office.

TRACT 7

Being all of Parcel 2 as shown on Consolidation Minor Subdivision Plat of Lochmere Development Corp. Property (A Portion of) and Stonecase Valley - Unit 5, Lot 31, (3520 Hunter's Green Way) and Stonecase Valley - Unit 5, Lot 32, (3516 Hunter's Green Way), of record in Plat Cabinet K, Slide 381, in the Fayette County Clerk's office.

Being the same property conveyed to Andover Golf & Country Club, Inc., a Kentucky non-profit corporation, by deed dated September 30, 1997, of record in Deed Book 1938, Page 467, in the Fayette County Clerk's office.

MORTGAGE BOOK 6165 PAGE 416

I, Donald W Blevins, County Court Clerk  
of Fayette County, Kentucky, hereby  
certify that the foregoing instrument  
has been duly recorded in my office.

Donald W Blevins

By: DOUG BRADLEY , dc

200708130287

August 13, 2007 15:23:21 PM

Fees	\$65.00	Tax	\$ .00
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Total Paid	\$65.00
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THIS IS THE LAST PAGE OF THE DOCUMENT

20 Pages

397 - 416

GOLF COURSE LEASE,  
CONSTRUCTION AND PURCHASE AGREEMENT

THIS GOLF COURSE LEASE, CONSTRUCTION AND PURCHASE AGREEMENT, entered into as of the 11th day of July, 1988, by and between BALL HOMES, INC., a Kentucky corporation, whose address is 3399 Tates Creek Road Lexington, Kentucky 40502 and LOCHMERE DEVELOPMENT CORPORATION, a Kentucky corporation, whose address is 4679 Tates Creek Road, Lexington, Kentucky 40515 (hereinafter referred to as "Ball & Lochmere"), and CORMAN-McQUEEN GOLF, INC., a Kentucky corporation (hereinafter "Corman-McQueen"), whose address is 3200 Roxburg Road, Lexington, Kentucky, 40503.

WITNESSETH THAT:

1. Lease of Property. In consideration of the payment of the rental reserved herein, and of the performance by the parties of their respective obligations stated herein, Ball & Lochmere hereby lease to Corman-McQueen, and Corman-McQueen hereby leases from Ball & Lochmere, 165 acres, more or less, of land located on Todds Road, Lexington-Fayette County, Kentucky, as more fully shown on a plat attached hereto (to be supplemented by a survey and/or legal description to be prepared by Endicott and Associates, Engineers, to be attached to this Agreement) as Exhibit "A".

2. Term of Lease. This Lease shall commence upon the resolution, satisfactorily to Corman-McQueen, of the contingencies specified in paragraph 18 herein, and shall conclude 5 years after the date on which Corman-McQueen opens its golf course for use on

EXHIBIT

B

tabbles

a greens-fees paying basis. At the appropriate times, the parties shall execute certificates confirming the commencement and expiration dates of this Lease, to constitute amendments to this Agreement.

3. Rent. Corman-McQueen shall pay rent to Ball & Lochmere at the address given above, payable quarterly in arrears, beginning September 1, 1989, for the previous quarter. Each rental payment shall be an amount which is equal to what would be the "cost of funds" during the preceding calendar quarter to Ball & Lochmere for a principal amount equal to the actual number of acres in the leased property, multiplied by \$5,000. "Cost of funds" shall be determined by multiplying such principal amount by the rate of interest (or average thereof if different rates are charged) charged to Ball & Lochmere from time to time on the land-acquisition note, secured by a mortgage upon the leased property, as calculated on a daily basis. If no land-acquisition note is outstanding at any time, the rate shall be First Security National Bank Prime plus one percent (1%) as calculated on a daily basis.

4. Use. Corman-McQueen shall construct and operate on the leased property a golf course and country club, as more fully described herein. The property and facilities shall be operated under the name "Andover Golf and Country Club", shall be continuously operated, and shall be used for no other purpose.

5. Construction of Golf course: Corman-McQueen shall construct a regulation 18-hole golf course on the leased property,

in accordance with the plans of Clyde Johnson, Hilton Head, South Carolina, golf course architect, to be attached hereto as Exhibit "B". Construction shall commence upon the resolution, reasonably satisfactorily to Corman-McQueen, of the contingencies described in paragraph 18 herein, and shall proceed to completion with reasonable diligence. Corman-McQueen may make minor modifications to the golf course plans, but any substantial modification in layout, grading, drainage or roadway construction shall require the written approval of Ball & Lochmere, which approval shall not be unreasonably withheld. Construction of the golf course shall be deemed substantially completed upon seeding which shall be no later than April 30, 1989, subject to extension for reasons set forth in paragraph 21 herein. If seeding cannot be completed on all golf course holes during the same seeding season, Corman-McQueen shall seed the holes in an equitable manner between the separate properties of Ball & Lochmere. If all golf course holes are not ready for play at the same time, Corman-McQueen agrees to open the golf course for play only with the approval of both Ball & Lochmere.

6. Construction of Country Club. Corman-McQueen shall also construct on the leased property a clubhouse at the site as shown on Exhibit "A" (with grill, locker rooms, party room and pro shop) comparable to Greenbrier Golf and Country Club, two tennis courts, a junior olympic swimming pool, and related parking, sidewalk and patio areas as shown on Exhibit "A". Construction of the clubhouse shall commence upon seeding the golf course but not

later than April 30, 1989, and construction of the tennis courts and swimming pool shall begin no later than April 30, 1989. All such improvements shall be completed by August 30, 1989, subject to extension for reasons set forth in paragraph 20 herein. Ball & Lochmere shall have the right of reasonable architectural approval prior to commencement of the clubhouse or incidental outbuildings proposed by Corman-McQueen. Corman-McQueen may make modifications to the plans and specifications for such improvements during construction, except that any changes which materially alter the external appearance of such improvements, or materially alter the kind of facilities to be constructed, shall require the written approval of Ball & Lochmere, which approval shall not be unreasonably withheld on matters of appearance.

7. General Construction Provisions: All improvements on the leased property shall be constructed in accordance with certified plans and specifications, and in a good workmanlike manner. Workers' compensation insurance shall be maintained at all times by Corman-McQueen or its' contractors. Corman-McQueen shall discharge, by payment, bond or otherwise, within ten banking days, any mechanic's or materialman's lien placed against the leased property.

8. Operations. Corman-McQueen shall maintain the golf course and building improvements on the leased property in good condition at all times. Corman-McQueen shall comply with all laws and regulations applicable to the leased property and its operations thereon. Corman-McQueen shall maintain fire and

extended coverage insurance in effect at all times for the building improvements constructed on the leased property, for their full replacement value. Such insurance shall designate Ball & Lochmere as a loss payee, as their interests may appear, and shall provide for thirty days' advance written notice to Ball & Lochmere in the event of cancellation. Ball & Lochmere shall bring all utility connections to the clubhouse and maintenance area boundary sites. Corman-McQueen shall arrange and pay for all utility connections from the boundary sites to the leased property, and shall pay for all utilities used on the property.

In the event of damage or destruction to the golf course or the building improvements on the leased property, regardless of cause, Corman-McQueen shall restore such improvements to their condition prior to such casualty (or as otherwise required by this Agreement), regardless of the adequacy of any insurance proceeds.

9. Taxes. Corman-McQueen shall arrange to have the leased property assessed as a separate parcel, and shall pay all real estate taxes and assessments levied on the leased property and improvements. Corman-McQueen shall also pay all taxes assessed against its personal property, and all taxes which might, if unpaid, result in a lien against the leased property.

10. Liability Insurance; Indemnity. Corman-McQueen shall at all times maintain public liability insurance with respect to the leased property, in which Ball & Lochmere are named as additional insureds, with cross-liability provisions in favor of Ball & Lochmere. Such insurance shall have limits of liability of not



less than \$1,000,000 combined single limit with a \$5,000,000.00 umbrella. Policies of such insurance shall provide for thirty days' advance written notice to Ball & Lochmere in the event of cancellation, and certificates of insurance shall be furnished to Ball & Lochmere. Corman-McQueen shall also maintain statutory workers' compensation insurance, and public liability insurance for its motor vehicles with limits of at least \$100,000/\$300,000. Corman-McQueen shall indemnify Ball & Lochmere, their respective officers, directors and shareholders, against, and hold them harmless from, all claims, damages, suits or causes of action, resulting from any injury to person or property, sustained on or about the leased property, or attributable to activities or operations thereon, including costs and reasonable attorney's fees.

Should Ball & Lochmere reenter the property during the lease period or thereafter as provided in paragraph 14, Ball & Lochmere shall indemnify Corman-McQueen, its respective officers, directors and shareholders, against, and hold it harmless from, all claims, damages, suits or causes of action, resulting from any injury to person or property, sustained on or about the leased property, or attributable to activities or operations thereon, including costs and attorney's fees.

11. Construction Financing. Corman-McQueen may obtain a \$1,000,000 construction loan from Bank One, Lexington, N.A., pursuant to a loan commitment letter attached hereto as Exhibit "C", which loan may be secured by a first mortgage upon the leased

property. Ball & Lochmere shall subordinate their interest in the leased property to the lien of such mortgage, and shall subordinate their rights to receive rental payments from Corman-McQueen to the right of Bank One to receive principal and interest payments on such loan. Ball & Lochmere shall furthermore secure the subordination of any existing lien on the leased property to the lien of the Bank One mortgage. Corman-McQueen shall use the proceeds of such loan only for the construction of the golf course and building improvements on the leased property, and shall comply with all requirements of the lender regarding loan proceeds as set forth on Exhibit "C" hereof which are incorporated herein by reference as essential terms of this document. Prior to the Bank One closing, Corman-McQueen shall provide Ball & Lochmere with a copy of final loan documents for review for compliance with the terms of this paragraph.

To protect the subordinate position of Ball & Lochmere, Corman-McQueen agrees to provide in its loan agreement with Bank One a provision that Bank One will give any notice of default to Ball & Lochmere at the same time and manner as may be given to Corman-McQueen.

12. Condemnation. If any portion of the leased property is acquired in fee pursuant to the exercise of the power of eminent domain, Ball & Lochmere prior to improvement by Corman-McQueen shall receive all of the award or payment, and after improvements Ball & Lochmere shall receive that portion of the award or payment which is equal to what the purchase price would be for such

property, calculated according to paragraph 15 herein. After improvements by Corman-McQueen any balance of the award or payment shall belong to Corman-McQueen. Compensation for any easement shall belong to Corman-McQueen.

13. Signs. Corman-McQueen may not place any signs upon the leased property without the consent of Ball & Lochmere, except for signs which are consistent with regulations imposed by Ball & Lochmere on the balance of the Andover Development.

14. Developers' Covenants. Ball & Lochmere intend to develop land adjacent to the leased property for residential purposes. Ball & Lochmere retain the right to re-enter the leased property to install utilities and sanitary and storm sewers to serve their residential development, and in the event of re-entry for those purposes, or otherwise, shall restore any damage to the leased property and improvements caused by them during construction of general subdivision improvements, and shall make all reasonable efforts to avoid interference with operation of the golf course and country club during such construction. Upon Corman-McQueen's purchase of the leased property, Ball & Lochmere shall have an easement for such purposes which shall include such duties. Ball & Lochmere shall furthermore impose upon property adjoining the leased property, covenants and restrictions to promote the use of the leased property by Corman-McQueen as a golf course and country club including, but not limited to, no fencing shall be allowed along the golf course and residential common boundaries.

15. Purchase of Leased Property. Upon termination of the lease, or at an earlier date selected by Corman-McQueen, Corman-McQueen shall purchase the leased property, for the purchase price of \$5,000 per acre. Ball & Lochmere shall in exchange for payment deliver a Deed of General Warranty for the leased property, subject to liens and encumbrances created by Corman-McQueen; subject to easements and restrictions of record; and subject to a certain flowage easement with Kentucky American Water Company and other covenants and restrictions appropriate to continue in effect the provisions of this Agreement. Rent shall be apportioned to the date of closing. Transfer taxes shall be paid by Ball & Lochmere; recording fees shall be paid by Corman-McQueen.

16. First Refusal. For a period of thirty years from the date of closing, Ball & Lochmere shall have the right of first refusal to purchase the leased property and improvements, at the price of and according to the same terms and conditions of any bona fide purchase offer. Such right of first refusal shall be exercised by giving written notice thereof within thirty days after receipt from Corman-McQueen of written notice of any such offer; otherwise such right shall be deemed waived with respect to such offer, but only such offer. Should either Ball or Lochmere singularly decline to exercise said right to purchase the other party, may on its own account exercise said right. Corman-McQueen may nevertheless transfer ownership of the leased property and improvements at any time to the Andover Golf and Country Club membership, or an organization of such members, and such transfers

shall not be subject to the foregoing right of first refusal, but for the remainder of the thirty-year period, the transferee shall be subject to the right of first refusal.

17. Subleasing and Assignment. The parties do hereby specifically agree that the services of Corman-McQueen as described herein have been contracted for by Ball & Lochmere due to the specific expertise and capabilities of Corman-McQueen which are personal in nature and that due thereto, the rights of Corman-McQueen are not intended to be assignable. Corman-McQueen may not sublease the leased property nor assign its interests in the leased property or this agreement (including its right to purchase the leased property), in whole or in part directly or indirectly without the prior written consent of Ball & Lochmere. This prohibition shall extend and prohibit the issuance of common stock in Corman-McQueen to any one other than family members.

18. Contingencies. Corman-McQueen's obligations to lease and subsequently to purchase the leased property are subject to its obtaining approval from the Lexington-Fayette Urban County Board of Adjustment and all other regulatory agencies with jurisdiction, to construct a golf course and country club on the leased property, which approvals Corman-McQueen shall promptly and diligently pursue. The obligations of Corman-McQueen hereunder are also subject to the availability of adequate sewers for the leased property.

19. Country Club Membership and Governance. Utilization of the golf course by members of the public, residents of the Andover

development and members of the Andover Golf and Country Club, shall be on terms and conditions determined by Corman-McQueen, except that each resident of the Andover development may use the golf course once per month for payment of customary greens fees only.

Andover Golf and Country Club memberships shall consist of two types: full memberships, which may be issued by Corman-McQueen in its sole discretion; and social memberships, which shall be limited to 400 in number and shall be issued by Corman-McQueen only to lot owners in the Andover development, for the first ten years of the club's operation. Social memberships enjoy access to all club facilities equal to full memberships except for utilization of the golf course. Social memberships may be limited to use of the golf course once per month, for payment of customary greens fees only. Dues for social memberships shall have no initiation fee, and the annual family fee for first year of operation shall not exceed \$250, and thereafter shall be set comparably to dues for similar facilities at Hartland and Palomar subdivisions. Increases in social membership dues of more than ten percent in any year (for the first ten years) are subject to the approval of Ball & Lochmere.

Corman-McQueen may issue regulations for the use of all golf and country club facilities.

Ball & Lochmere shall have no interest in or entitlement to proceeds from the sale of memberships. However, if Corman-McQueen becomes in default of the leasing and development provisions of

this Agreement, and pursuant thereto Ball & Lochmere recover possession and exclusive ownership of the leased property and improvements, as set forth in paragraph 21 herein, Ball & Lochmere may at their sole option elect to continue operation of the club facilities, in which event Ball & Lochmere shall be entitled to receive from Corman-McQueen the unearned portion of all paid memberships.

20. Drainage Pipe Expense and Water and Silt Detention.

Corman-McQueen will be required to install drainage pipe on the leased property during construction to properly drain the golf course. If larger drainage pipe is required to be installed on the leased property in order to facilitate the development water runoff of Ball & Lochmere's surrounding property, Ball & Lochmere agree to pay for any increase in cost between the pipe needed to serve the leased and adjacent property for undeveloped runoff and that needed to facilitate the development runoff for Ball & Lochmere's developments, and Corman-McQueen agrees to install same at no installation cost to Ball & Lochmere. Any necessity of upgrading of pipe shall be determined by Ball & Lochmere engineers prior to installation.

Corman-McQueen agrees to cooperate with Ball and Lochmere in providing water and silt detention in the ponds that will be maintained on the leased property. Ball and Lochmere shall pay for any increase in costs incurred when they request assistance with water or silt detention from Corman-McQueen.

21. Delays in Performance. The deadlines stated herein for performance by Corman-McQueen shall be extended equitably in the event of destruction or other casualty by acts of God or other forces beyond its reasonable control.

22. Default and Remedies. The occurrence of any of the following before purchase of the leased property pursuant to paragraph 15, shall constitute a default by Corman-McQueen of its obligations hereunder: (a) Failure after written notice to make any rental payment within thirty days after its due date; (b) failure diligently to proceed with construction of the golf course, clubhouse, and amenities, for a period of sixty days after receipt of written notice of such failure; (c) failure diligently to operate the leased property as a full-time golf course and country club, for a period of sixty days after receipt of written notice of such failure; (d) the insolvency or bankruptcy or the filing of a voluntary or involuntary petition under any applicable Chapter of the Bankruptcy Code by or on behalf of Corman-McQueen, or any assignment for the benefit of its creditors, unless such condition or act is removed or reversed within sixty days after receipt of written notice thereof; (e) failure to discharge or remove liens or encumbrances upon the leased property, other than the mortgage liens permitted by this agreement; or (f) commencement of foreclosure proceedings by Bank One, Lexington, N.A. (or any lender substituted in its place), unless such proceedings are dismissed within sixty days.



Upon the occurrence of default, and after written notice of the expiration of any stated grace period, Ball & Lochmere may terminate the lease, recover possession of the leased property and all improvements thereon, and may terminate Corman-McQueen's right to purchase the leased property, without obligation to refund any payments previously made by Corman-McQueen. These remedies are not exclusive, and are supplementary to all legal and equitable remedies available to the parties upon default.

If any foreclosure proceeding is instituted Bank One, Lexington, N.A. (or any lender situated in its place) and the same is not dismissed within 60 days, Corman-McQueen grants Ball & Lochmere its power of attorney to satisfy the Bank One loan. The acceptance of this right by Ball & Lochmere shall be discretionary and not obligatory.

23. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if delivered personally or deposited in the United States Post Office, First Class Mail, postage prepaid, addressed as follows:

Ball Homes, Inc.  
P.O. Box 12950  
Lexington, Kentucky 40583

Lochmere Development Corporation  
4679. Bates Creek Road  
Lexington, Kentucky 40515

Corman-McQueen Golf, Inc.  
3200 Roxburg Road  
Lexington, Kentucky 40503

24. Miscellaneous. This Agreement constitutes the entire agreement of the parties, and supersedes all prior negotiations or agreements between the parties. The Agreement may not be terminated or amended, except in writing. This Agreement shall be interpreted and enforced according to Kentucky law. This Agreement shall not be construed as creating any partnership or joint venture among the parties, their relationships being merely that of lessor/lessee and vendor/vendee. The provisions of this Agreement may not be waived, except in writing, and no waiver of any condition at any time shall be deemed to be a waiver of any other condition or a subsequent waiver of the same condition. This Agreement shall be binding upon and may be enforced by the parties hereto, and their permitted successors and assigns.

IN WITNESS WHEREOF, the parties hereto have affixed their signature as of the day and year first above written.

BALL HOMES, INC.

By: 

Its: President

LOCHMERE DEVELOPMENT CORPORATION

By: 

Its: PRESIDENT

By: Daniel H. McQueen  
Its: PRESIDENT

My Commission expires April 14, 1992  
Dorothy Xanne Cylsworth  
 Notary Public, State at Large,  
 Kentucky

My Commission expires 9-17-88  
Betty Cox  
 Notary Public, State at Large,  
 Kentucky

STATE OF KENTUCKY)

SCT.

COUNTY OF FAYETTE)

The foregoing instrument was acknowledged before me on this the 15 day of July, 1988, by Daniel H. McQueen as President of Corman-McQueen, Inc., a Kentucky corporation, for and on behalf of the corporation.

My Commission expires 9-17-88

Betty Cox  
Notary Public, State at Large,  
Kentucky

EXHIBITS "A", "B" AND "C"  
INTENTIONALLY LEFT  
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ALL ARE ATTACHED TO ORIGINAL  
LEASE ON FILE WITH  
BANK ONE

EXHIBITS "A", "B" AND "C"  
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ALL ARE ATTACHED TO ORIGINAL  
LEASE

D E E D

BOOK 1553 PAGE 678

THIS DEED, made and entered into this the 24<sup>th</sup> day of July, 1990, by and between BALL HOMES, INC., a Kentucky corporation, with its principal office and place of business at 3399 Tates Creek Road, Lexington, Kentucky 40502 ("Party of the First Part"), and CORMAN-McQUEEN GOLF, INC., a Kentucky corporation, with its principal office and place of business being 3200 Roxburg Drive W, Lexington, Kentucky 40514 ("Party of the Second Part").

W I T N E S S E T H:

THAT, for and in consideration of the sum of Three Hundred Fifty-Nine Thousand Three Hundred Fifty Dollars (\$359,350.00), cash in hand paid by Party of the Second Part to Party of the First Part, the receipt of all of which is hereby acknowledged by Party of the First Part, the said Party of the First Part has this day BARGAINED and SOLD and does hereby GRANT and CONVEY unto the Party of the Second Part, its successors and assigns forever, all the following described property located in the City of Lexington, Fayette County, Kentucky, and more fully described on Exhibit A attached hereto and incorporated by reference herein.

TO HAVE AND TO HOLD the above described property, together with all appurtenances thereunto belonging, unto said Party of the Second Part, in fee simple, its successors and assigns forever.

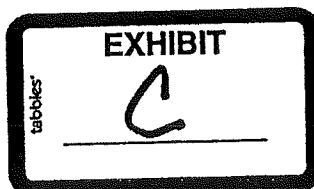
Said Party of the First Part does hereby release and relinquish unto the said Party of the Second Part, its successors and assigns, all of its right, title and interest in and to the above described property including dower, curtesy, the homestead exemption and all other exemptions allowed by law, and hereby covenant to and with said Party of the Second Part, its successors and assigns, that it is lawfully seized in fee simple title to said property and has a good and lawful right to convey the same as herein done, and that said property is free and clear of all encumbrances of whatsoever nature and that it will WARRANT GENERALLY the title to said property.

Provided, however, that there is excepted from the foregoing warranty and covenants the following:

1. All conditions and/or restrictions, if any, affecting the said property herein conveyed and contained on any plat of record in the Fayette County Clerk's Office.
2. Zoning and building restrictions, regulations and ordinances, if any.

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Return To:  
Stephen M. Ruschell  
250 W Main 23rd Floor  
Lexington, KY 40507



3. Easements and rights-of-way of whatsoever nature and kind reserved and recorded in the aforesaid Clerk's Office.

4. Any liens and/or encumbrances placed upon the property conveyed herein by the Grantee.

5. The rights of tenants in possession or third parties to use or occupy the property, or any portion thereof, conveyed herein.

The Party of the Second Part assumes and agrees to pay all 1990-91 city, county, state and school district ad valorem property taxes when due.

IN WITNESS WHEREOF, the Party of the First Part has hereunto set its hand this the day and year first above written.

BALL HOMES, INC.,  
a Kentucky corporation

BY: Mira Ball  
ITS Sec. - Treas.

STATE OF KENTUCKY)

COUNTY OF FAYETTE)

Subscribed, sworn to, and acknowledged before me this 24<sup>th</sup> day of July, 1990, by Mira Ball, as Secretary-Treasurer of Ball Homes, Inc., a Kentucky corporation, for and on behalf of said corporation.

My Commission Expires: May 24, 1993

Constance Nicholas  
Notary Public



CONSIDERATION CERTIFICATE

We, the undersigned, hereby certify that the consideration reflected in this deed is the full consideration paid for the property.

BALL HOMES, INC.,  
a Kentucky corporation

BY: Mira Ball  
ITS Sec. - Treas.





BOOK 1553 PAGE 680

CORMAN-McQUEEN GOLF, INC.,  
a Kentucky corporation

BY: Daniel N. McQueen  
ITS PRES.

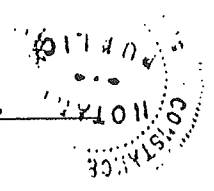
STATE OF KENTUCKY)

COUNTY OF FAYETTE)

The foregoing Consideration Certificate was acknowledged and sworn to before me this 24th day of July, 1990, by Mira Ball, as Secretary-Treasurer of Ball Homes, Inc., a Kentucky corporation, for and on behalf of the corporation, grantor.

My Commission Expires: May 24, 1993

Constantine Nicholas  
Notary Public



STATE OF KENTUCKY)

COUNTY OF FAYETTE)

The foregoing Consideration Certificate was acknowledged and sworn to before me this 24th day of July, 1990, by Daniel H. McQueen, as President of Corman-McQueen Golf, Inc., a Kentucky corporation, for and on behalf of the corporation, grantee.

My Commission Expires: July 2, 1993

Paul Wilford  
Notary Public

THIS INSTRUMENT PREPARED BY:

STOLL, KEENON & PARK  
1000 First Security Plaza  
Lexington, Kentucky 40507  
(606) 231-3000

BY: Rena G. Wiseman  
Rena G. Wiseman

361\bell\corman\deed.001



EXHIBIT A

Being all of Tract 5 of the Brighton Place Subdivision as shown on the plat of record at Cabinet H, Slide 425, in the Office of the Fayette County Clerk, all of Parcels 8 and 9, Tract 9, of the Brighton Place Subdivision as shown on the plat of record at Cabinet H, Slide 571 in the aforesaid Clerk's Office, all of Parcels 6 and 7, Tract 10, of the Brighton Place Subdivision as shown on the plat of record at Cabinet H, Slide 571, in the aforesaid Clerk's Office, all of Tracts 11 and 12 of the Brighton Place Subdivision as shown on the plat of record at Cabinet H, Slide 425, in the aforesaid Clerk's Office, all of Tract 13 of the Brighton Place Subdivision as shown on the Corrected Amended Minor Plat of record at Cabinet I, Slide 131, in the aforesaid Clerk's Office, all of Parcels 4 and 5, Tract 15, of the Brighton Place Subdivision as shown on the plat of record at Cabinet H, Slide 571, in the aforesaid Clerk's Office, and all of Tract 16 of the Brighton Place Subdivision as shown on the plat of record at Cabinet H, Slide 571, in the aforesaid Clerk's Office.

Being a portion of the same property conveyed to Ball Homes, Inc. by deed dated May 31, 1985 and of record at Deed Book 1371, Page 574, by quit claim deed dated October 27, 1988 and of record at Deed Book 1494, Page 479, by deed dated November 27, 1987 and of record at Deed Book 1461, Page 775, by deed dated August 11, 1988 and of record at Deed Book 1486, Page 475, and by quit claim deed dated January 26, 1989 and of record at Deed Book 1502, Page 89, all in the aforesaid Clerk's Office.

361\ball\cornan\deed.001

STATE OF KENTUCKY SCT.  
COUNTY OF FAYETTE  
I, DONALD W. BLEVINS, CLERK OF  
SAID COUNTY COURT HEREBY CER-  
TIFY THAT THE FOREGOING INSTRU-  
MENT HAS BEEN DULY RECORDED  
IN DEED BOOK 1553, PAGE 678.  
IN MY SAID OFFICE.  
DONALD W. BLEVINS, CLERK  
BY [Signature] D.C.

12-00  
Jul 24 2 27 PM '90  
FAYETTE  
CLERK  
[Signature]

Road Tex  
359.50

THIS DEED, made and entered into this the 24 day of July, 1990, by and between Joe R. B. Hacker II (being the same as Joe R. B. Hacker III) and Pamela S. Hacker, his wife, whose address is 4679 Bates Creek Road, Lexington, Kentucky 40515, and Troy N. Thompson and Teresa K. Thompson, his wife, whose address is 4679 Bates Creek Road, Lexington, Kentucky 40515, parties of the first part, hereinafter referred to as "Grantors", and Corman-McQueen Golf, Inc., a Kentucky corporation, whose address is 3200 Roxburg Drive, W, Lexington, Kentucky 40514, party of the second part, hereinafter referred to as "Grantee",

W I T N E S S E T H:

THAT for and in consideration of the total purchase price of \$ 307,950.<sup>00</sup>, receipt of all of which by Grantors is hereby acknowledged, Grantors have BARGAINED AND SOLD and do hereby GRANT AND CONVEY, unto Grantee, its successors and assigns forever, the following described property situated in Lexington, Fayette County, Kentucky, to-wit:

Being all of Tracts 1B-1, 1B-2, 1B-3, 2A and 2B of the Fourth Amended Non-Building & Consolidation Minor Subdivision Plat of the Lochmere Development Corporation Property and Stonecase Valley (a portion of), of record in Plat Cabinet I, Slide 134, Fayette County Clerk's Office.

Being a part of the same property conveyed to Grantor herein by deed dated December 30, 1988, and of record in the aforesaid Clerk's Office in Deed Book 1500, Page 326, and by Deed of Correction dated July 31, 1989, and of record in Deed Book 1520, Page 658, aforesaid Clerk's Office.

TO HAVE AND TO HOLD said above described property, together with all improvements thereon and all appurtenances thereunto appertaining, unto Grantee, its successors and assigns forever.

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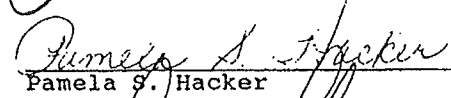
Return To:  
Stephen M. Ruschell  
250 W Main 23rd Floor  
Lexington, KY 40507

And Grantors do hereby release and relinquish unto Grantee, all of their right, title and interest in and to said property, including dower, curtesy, homestead and all other exemptions allowed by law and do hereby covenant to and with Grantee that they are lawfully seised of said property in fee simple; that they have a good and valid right to convey same as is hereby done; that the title to said property is clear, perfect and unencumbered, except as otherwise herein set forth; and that subject to said exceptions they will WARRANT GENERALLY the said title.


This conveyance, and the above Warranty, are made subject, however, to: all applicable conditions on plats of record, restrictions and easements of record affecting said title; liens for the ad valorem taxes assessed against said property, which Grantee assumes and agrees to pay and all applicable building, zoning and health enactments.

IN WITNESS WHEREOF, Grantors have hereunto set their hands, on or as of the day and year first above written.

  
Joe R. B. Hacker II

  
Pamela S. Hacker

  
Troy N. Thompson

  
Teresa K. Thompson

STATE OF KENTUCKY )  
 ) SCT.  
COUNTY OF FAYETTE )

The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of July, 1990, by Joe R. B. Hacker II and Pamela S. Hacker, his wife.

My Commission expires: 9-17-92  
Betty Cox  
Notary Public, State at Large  
Kentucky

STATE OF KENTUCKY )  
 ) SCT.  
COUNTY OF FAYETTE )

The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of July, 1990, by Troy N. Thompson and Teresa K. Thompson, his wife.

My Commission expires: 9-17-92  
Betty Cox  
Notary Public, State at Large  
Kentucky

CERTIFICATION OF CONSIDERATION

Being first duly sworn, the undersigned Grantors and Grantees, state that the consideration set forth in the foregoing deed is true and correct and is the full consideration paid for the subject property.

GRANTORS:

Joe R. B. Hacker II  
Joe R. B. Hacker II  
Pamela S. Hacker  
Pamela S. Hacker  
Troy N. Thompson  
Troy N. Thompson  
Teresa K. Thompson  
Teresa K. Thompson

GRANTEE:

CORMAN-MCQUEEN GOLF, INC.  
a Kentucky corporation

By Daniel H. McQueen  
President

STATE OF KENTUCKY )  
                          ) SCT.  
COUNTY OF FAYETTE )

The foregoing was subscribed and sworn to before me by Joe R. B. Hacker II and Pamela S. Hacker, his wife, this 24th day of July, 1990.

My Commission Expires: 9-17-92

Betty Cox

NOTARY PUBLIC, STATE AT LARGE, KENTUCKY

STATE OF KENTUCKY )  
                          ) SCT.  
COUNTY OF FAYETTE )

The foregoing was subscribed and sworn to before me by Ttoy N. Thompson and Teresa K. Thompson, his wife, this 24th day of July, 1990.

My Commission Expires: 9-17-92

Betty Cox

NOTARY PUBLIC, STATE AT LARGE, KENTUCKY

STATE OF KENTUCKY )  
                          ) SCT.  
COUNTY OF FAYETTE )

The foregoing was subscribed and sworn to before me by Daniel H. McQueen as President of Corman-McQueen Golf, Inc., a Kentucky corporation, for and on behalf of the corporation, this 24th day of July, 1990.

My Commission Expires: 9-17-92

Betty Cox

NOTARY PUBLIC, STATE AT LARGE, KENTUCKY

This Instrument Prepared By:  
STITES & HARBISON  
2300 Lexington Financial Center  
Lexington, Kentucky 40507

By St. Surchee

L:A:andover club/AF65:22687  
071690:1:smr  
DD/h-t to c-m

STATE OF KENTUCKY  
COUNTY OF FAYETTE SCT.

I, DONALD W. BLEVINS, CLERK OF  
SAID COUNTY COURT HEREBY CER-  
TIFY THAT THE FOREGOING INSTRU-  
MENT HAS BEEN DULY RECORDED  
IN DEED BOOK 1553 PAGE 685  
IN MY SAID OFFICE.

DONALD W. BLEVINS, CLERK  
BY J. H. [Signature] D.C.

12.00  
JUL 24 2 27 PM '90  
Blevins  
Deal Tax  
308.00

THIS DEED, made and entered into this the 24 day of July, 1990, by and between Ball Homes, Inc., a Kentucky corporation, whose address is 3399 Bates Creek Road, Lexington, Kentucky 40502, Lochmere Development Corporation, a Kentucky corporation, whose address is 4679 Bates Creek Road, Lexington, Kentucky 40515, Joe R. B. Hacker II (being the same as Joe R. B. Hacker III) and Pamela S. Hacker, his wife, whose address is 4679 Bates Creek Road, Lexington, Kentucky 40515, and Troy N. Thompson and Teresa K. Thompson, his wife, whose address is 4679 Bates Creek Road, Lexington, Kentucky 40515, parties of the first part, hereinafter referred to as "Grantors", and Corman-McQueen Golf, Inc., a Kentucky corporation, whose address is 3200 Roxburg Drive, W, Lexington, Kentucky 40514, party of the second part, hereinafter referred to as "Grantee",

W I T N E S S E T H:

THAT for and in consideration of the total purchase price of \$ 156,200.00, receipt of all of which by Grantors is hereby acknowledged, Grantors have BARGAINED AND SOLD and do hereby GRANT AND CONVEY, unto Grantee, its successors and assigns forever, the following described property situated in Lexington, Fayette County, Kentucky, to-wit:

Being all of Tract 4B of the Fourth Amended Non-Building & Consolidation Minor Subdivision Plat of the Lochmere Development Corporation Property and Stonecase Valley (a portion of), of record in Plat Cabinet I, Slide 134, Fayette County Clerk's Office.

Being a part of the same property conveyed to Ball Homes, Inc. and Lochmere Development

300724103

Return To:  
Stephen M. Ruschell  
250 W Main 23rd Floor  
Lexington, KY 40507

Corporation by deed dated November 16, 1988, and of record in the aforesaid Clerk's Office in Deed Book 1497, Page 603; and

Being a part of the same property conveyed to Joe R. B. Hacker III and Troy N. Thompson, individually, Grantor herein by deed dated December 30, 1988, and of record in the aforesaid Clerk's Office in Deed Book 1500, Page 326, and by Deed of Correction of record in Deed Book 1520, Page 658, aforesaid Clerk's Office.

BOOK 1553 PAGE 687

TO HAVE AND TO HOLD said above described property, together with all improvements thereon and all appurtenances thereunto appertaining, unto Grantee, its successors and assigns forever.

And Grantors do hereby release and relinquish unto Grantee, all of their right, title and interest in and to said property, including dower, curtesy, homestead and all other exemptions allowed by law and do hereby covenant to and with Grantee that they are lawfully seised of said property in fee simple; that they have a good and valid right to convey same as is hereby done; that the title to said property is clear, perfect and unencumbered, except as otherwise herein set forth; and that subject to said exceptions they will WARRANT GENERALLY the said title.

This conveyance, and the above Warranty, are made subject, however, to: all applicable conditions on plats of record, restrictions and easements of record affecting said title; the rights of tenants in possession or third parties to use or occupy the property, or any portion thereof, conveyed herein; liens for the ad valorem taxes assessed against said property, which Grantee assumes and agrees to pay and all applicable building, zoning and health enactments.

IN WITNESS WHEREOF, Grantors have hereunto set their hands, on or as of the day and year first above written.



BALL HOMES, INC.  
a Kentucky corporation

By Mrs. Ball  
Its Sec. - Treas.

LOCHMERE DEVELOPMENT CORPORATION  
a Kentucky corporation

By Troy Thompson  
Its PRESIDENT

JRBHVR  
Joe R. B. Hacker II  
Pamela S. Hacker  
Pamela S. Hacker  
Troy Thompson  
Troy N. Thompson  
Teresa K. Thompson  
Teresa K. Thompson

STATE OF KENTUCKY     )  
                                  ) SCT.  
COUNTY OF FAYETTE    )

The foregoing instrument was acknowledged before me this 24  
day of July, 1990, by Mrs. Ball as Sec. Treas. of  
Ball Homes, Inc., a Kentucky corporation, for and on behalf of the  
corporation.

My Commission expires: May 23, 1993  
Constance Nichols  
Notary Public, State at Large  
Kentucky

STATE OF KENTUCKY     )  
                              ) SCT.  
COUNTY OF FAYETTE    )

The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of July, 1990, by TROY N. Thompson as President of Lochmere Development Corporation, a Kentucky corporation, for and on behalf of the corporation.

My Commission expires: 9-17-92

Betty Cox  
Notary Public, State at Large  
Kentucky

STATE OF KENTUCKY     )  
                              ) SCT.  
COUNTY OF FAYETTE    )

The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of July, 1990, by Joe R. B. Hacker II and Pamela S. Hacker, his wife.

My Commission expires: 9-17-92

Betty Cox  
Notary Public, State at Large  
Kentucky

STATE OF KENTUCKY     )  
                              ) SCT.  
COUNTY OF FAYETTE    )

The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of July, 1990, by Troy N. Thompson and Teresa K. Thompson, his wife.

My Commission expires: 9-17-92

Betty Cox  
Notary Public, State at Large  
Kentucky

#### CERTIFICATION OF CONSIDERATION

Being first duly sworn, the undersigned Grantors and Grantees, state that the consideration set forth in the foregoing deed is true and correct and is the full consideration paid for the subject property.

GRANTORS:

BALL HOMES, INC.  
a Kentucky corporation

By Maria Ball  
Its Sec. - Treas.

LOCHMERE DEVELOPMENT CORPORATION  
a Kentucky corporation

By Troy Thompson  
Its PRESIDENT

JRB AMR  
Joe R. B. Hacker II  
Pamela S. Hacker  
Pamela S. Hacker  
Troy Thompson  
Troy N. Thompson  
Teresa K. Thompson  
Teresa K. Thompson

GRANTEE: CORMAN-MCQUEEN GOLF, INC.  
a Kentucky corporation  
By Daniel McQueen  
President

STATE OF KENTUCKY )  
COUNTY OF FAYETTE ) SCT.

MIRA Ball The foregoing was subscribed and sworn to before me by  
as Secretary/Treasurer of Ball Homes, Inc., a Kentucky  
corporation, for and on behalf of the corporation, this 24th day  
of July, 1990.

My Commission Expires: May 27, 1993  
Constance Nicholas  
NOTARY PUBLIC, STATE AT LARGE, KENTUCKY

STATE OF KENTUCKY )  
COUNTY OF FAYETTE ) SCT.

The foregoing was subscribed and sworn to before me by Troy N. Thompson as  
Lochmere Development Corporation, a Kentucky corporation, for and as pres.  
on behalf of the corporation, this 24th day of  
July, 1990.

My Commission Expires: 9-17-92  
Betty Cox  
NOTARY PUBLIC, STATE AT LARGE, KENTUCKY

STATE OF KENTUCKY )  
 ) SCT.  
COUNTY OF FAYETTE )

The foregoing was subscribed and sworn to before me by Joe R. B. Hacker II and Pamela S. Hacker, his wife, this 24th day of July, 1990.

My Commission Expires: 9-17-92

Betty Cox  
NOTARY PUBLIC, STATE AT LARGE, KENTUCKY

STATE OF KENTUCKY )  
 ) SCT.  
COUNTY OF FAYETTE )

The foregoing was subscribed and sworn to before me by Troy N. Thompson and Teresa K. Thompson, his wife, this 24th day of July, 1990.

My Commission Expires: 9-17-92

Betty Cox  
NOTARY PUBLIC, STATE AT LARGE, KENTUCKY

STATE OF KENTUCKY )  
 ) SCT.  
COUNTY OF FAYETTE )

The foregoing was subscribed and sworn to before me by Daniel H. McQueen as President of Corman-McQueen Golf, Inc., a Kentucky corporation, for and on behalf of the corporation, this 24th day of July, 1990.

My Commission Expires: July 2, 1993

Frank Guillard  
NOTARY PUBLIC, STATE AT LARGE, KENTUCKY

This Instrument Prepared By:  
STITES & HARBISON  
2300 Lexington Financial Center  
250 West Main Street  
Lexington, Kentucky 40507

By Don W. Blevins

L:A:andover club/AF65:22687  
071690:1:smr  
DD/b-1 h-t to c-m

STATE OF KENTUCKY SCT.  
COUNTY OF FAYETTE

I, DONALD W. BLEVINS, CLERK OF SAID COUNTY COURT HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT HAS BEEN DULY RECORDED IN DEED BOOK 1553 PAGE 686 IN MY SAID OFFICE.

DONALD W. BLEVINS, CLERK  
BY S. J. [Signature] D.C.

15.00  
JUL 24 2 27 PM '90  
BY ack [Signature]  
Real Tax  
156.50



THIS DEED, made and entered into this the 24th day of July, 1990, by and between Corman-McQueen Golf, Inc., a Kentucky corporation, whose address is 3200 Roxburg Drive, W, Lexington, Kentucky 40514, party of the first part, hereinafter referred to as "Grantor", and Andover Golf & Country Club, Inc., a Kentucky non-profit corporation, whose address is 3450 Todds Road, Lexington, Kentucky 40509, party of the second part, hereinafter referred to as "Grantee",

WITNESSETH:

THAT for and in consideration of the total purchase price of \$4,522,504.00, receipt of all of which by Grantor is hereby acknowledged, Grantor has BARGAINED AND SOLD and does hereby GRANT AND CONVEY, unto Grantee, its successors and assigns forever, the following described property situated in Lexington, Fayette County, Kentucky, to-wit:

For a more particular description of said property, see Exhibit "A" attached hereto, consisting of two pages.

Being the same property conveyed by Grantor by three deeds dated July 24, 1990, and of record in the aforesaid Clerk's Office in Deed Book 1553, Page 686, Deed Book 1553, Page 682, and Deed Book 1553, Page 678, recorded simultaneously herewith.

TO HAVE AND TO HOLD said above described property, together with all improvements thereon and all appurtenances thereunto appertaining, unto Grantee, its successors and assigns forever.

And Grantor does hereby release and relinquish unto Grantee, all of its right, title and interest in and to said property,

900724104

Return To:  
Stephen M. Ruschell  
250 W Main 23rd Floor  
Lexington, KY 40507

including dower, curtesy, homestead and all other exemptions allowed by law and does hereby covenant to and with Grantee that it is lawfully seised of said property in fee simple; that it has a good and valid right to convey same as is hereby done; that the title to said property is clear, perfect and unencumbered, except as otherwise herein set forth; and that subject to said exceptions it will WARRANT GENERALLY the said title.

This conveyance, and the above Warranty, are made subject, however, to: all applicable conditions on plats of record, restrictions and easements of record affecting said title; liens for the ad valorem taxes assessed against said property, which Grantee assumes and agrees to pay and all applicable building, zoning and health enactments.

IN WITNESS WHEREOF, Grantor has hereunto set its hand, on or as of the day and year first above written.

CORMAN-MCQUEEN GOLF, INC.  
a Kentucky corporation

By Daniel H. McQueen  
President

STATE OF KENTUCKY )  
 ) SS:  
COUNTY OF FAYETTE )

The foregoing instrument was acknowledged before me this 24th day of July, 1990, by Daniel H. McQueen, President of Corman-McQueen Golf, Inc., a Kentucky corporation, for and on behalf of the corporation.

My Commission Expires: 9-17-92

Betty Cox  
Notary Public, State at Large,  
Kentucky

BOOK 1553 PAGE 694

CERTIFICATION OF CONSIDERATION

Being first duly sworn, the undersigned Grantor and Grantee, state that the consideration set forth in the foregoing deed is true and correct and is the full consideration paid for the subject property.

GRANTOR: CORMAN-MCQUEEN GOLF, INC.  
a Kentucky corporation  
By Daniel H. McQueen  
President

GRANTEE: ANDOVER GOLF & COUNTRY CLUB, INC.  
a Kentucky non-profit corporation  
By Daniel H. McQueen  
Its PRES

STATE OF KENTUCKY )  
                          ) SCT.  
COUNTY OF FAYETTE )

The foregoing was subscribed and sworn to before me by Daniel H. McQueen, President of Corman-McQueen Golf, Inc., a Kentucky corporation, for and on behalf of the corporation, this 24th day of July, 1990.

My Commission Expires: 9-17-92  
Betty Cox  
NOTARY PUBLIC, STATE AT LARGE, KENTUCKY

STATE OF KENTUCKY )  
                          ) SCT.  
COUNTY OF FAYETTE )

The foregoing was subscribed and sworn to before me by Daniel H. McQueen, President of Andover Golf & Country Club, Inc., a Kentucky non-profit corporation, for and on behalf of the corporation, this 24th day of July, 1990.

My Commission Expires: 9-17-92  
Betty Cox  
NOTARY PUBLIC, STATE AT LARGE, KENTUCKY

This Instrument Prepared By:  
STITES & HARBISON  
2300 Lexington Financial Center  
Lexington, Kentucky 40507

By: S. Ruschele

L:A:andover club/AF65:22687  
DD/c-m to andover



Being all of Tract 5 of the Brighton Place Subdivision as shown on the plat of record at Cabinet H, Slide 425, in the Office of the Fayette County Clerk, all of Parcels 8 and 9, Tract 9, of the Brighton Place Subdivision as shown on the plat of record at Cabinet H, Slide 571 in the aforesaid Clerk's Office, all of Parcels 6 and 7, Tract 10, of the Brighton Place Subdivision as shown on the plat of record at Cabinet H, Slide 571, in the aforesaid Clerk's Office, all of Tracts 11 and 12 of the Brighton Place Subdivision as shown on the plat of record at Cabinet H, Slide 425, in the aforesaid Clerk's Office, all of Tract 13 of the Brighton Place Subdivision as shown on the Corrected Amended Minor Plat of record at Cabinet I, Slide 131, in the aforesaid Clerk's Office, all of Parcels 4 and 5, Tract 15, of the Brighton Place Subdivision as shown on the plat of record at Cabinet H, Slide 571, in the aforesaid Clerk's Office, and all of Tract 16 of the Brighton Place Subdivision as shown on the plat of record at Cabinet H, Slide 571, in the aforesaid Clerk's Office.

EXHIBIT "A"

Page 1 of 2





BOOK 1553 PAGE 696

Being all of Tracts 1B-1, 1B-2, 1B-3, 2A, 2B and 4B of the Fourth Amended Non-Building & Consolidation Minor Subdivision Plat of the Lochmere Development Corporation Property and Stonecase Valley (a portion of), of record in Plat Cabinet I, Slide 134, Fayette County Clerk's Office.

STATE OF KENTUCKY SCT.  
COUNTY OF FAYETTE

I, DONALD W. BLEVINS, CLERK OF  
SAID COUNTY COURT HEREBY CER-  
TIFY THAT THE FOREGOING INSTRU-  
MENT HAS BEEN DULY RECORDED  
IN DEED BOOK 1553 PAGE 696  
IN MY SAID OFFICE.

DONALD W. BLEVINS, CLERK  
BY S. Lee D.C.

EXHIBIT "A"  
Page 2 of 2

1350  
JUL 24 2 27 PM '90  
FILED  
BY Michael

Paid Tax  
4,523.00