

AGREEMENT FOR THE SALE OF REAL ESTATE

THIS AGREEMENT, made this 27 day of October, 1980 by and between, KETTLER BROTHERS, INC., (hereinafter known as "Seller") and JOHN C. DOSER, (hereinafter known as "Purchaser")

W I T N E S S E T H:

WHEREAS: Seller is the sole developer of Montgomery Village, a Town Sector development comprised of a variety of housing types with commercial, environmental and recreational amenities contained therein, and is a corporation under and by virtue of the laws of the State of Maryland; and

WHEREAS: One of the recreational amenities contained within Montgomery Village is the Montgomery Village Golf Club and

WHEREAS: The Montgomery Village Golf Club contains approximately 146.65 acres, more or less, of green space and is a championship golf course which has been carefully maintained by the Seller since its construction; and

WHEREAS: The aforesaid golf course is located adjacent to many of the homes and roadways in Montgomery Village; and

WHEREAS: It is the desire of the Seller to insure the maintenance of the Montgomery Village Golf Club as a first class golfing facility; and

WHEREAS, It is the desire of the Seller to transfer the ownership of the Montgomery Village Golf Club to a responsible and knowledgeable purchaser who will maintain the facility in the same fashion or better and with the same attention or better as Seller has shown to the needs of both homeowners adjacent to the Golf Club and the club membership; and

WHEREAS: The property was originally offered to the membership of Montgomery Village Golf Club for the same purchase price as is contained herein and said offer was not accepted; and

WHEREAS: The Seller has carefully evaluated the Purchaser and has concluded that Purchaser herein will efficiently and professionally operate and maintain the club facility to the

advantage of both the club members and the adjacent property owners; and

WHEREAS: The membership rights of all members in the Montgomery Village Golf Club expire as of March 1, 1981,

NOW, THEREFORE, FOR AND IN CONSIDERATION OF TEN DOLLARS (\$10.00) AND OTHER GOOD AND VALUABLE CONSIDERATION, RECEIPT AND SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGED, THE PARTIES DO HEREBY AGREE AS FOLLOWS:

1. PROPERTY.

The Seller represents to the Purchaser that the Seller is the owner of the property referred to herein, does hereby bargain and sell unto the Purchaser, and the Purchaser does hereby purchase from the Seller, in fee simple, upon the following conditions, all that parcel of ground and improvements thereon owned by the Seller comprising approximately 1/8.35 acres, more or less, described on the Plats attached hereto, initialled by the parties hereto, and identified as "Exhibit A", said property hereinafter known as "the Club", as well as all improvements, inventory, fixtures and personal property as set forth in item IV hereof.

II. SALE OF PROPERTY.

2.1 Purchase Price - Upon the following conditions and stipulations, Seller hereby agrees to sell and Purchaser hereby agrees to buy, the said Club at and for the price of One Million Dollars (\$1,000,000.00).

2.2 Deposits on the Purchase Price - Upon the execution of this Agreement, the Purchaser will pay to BELL, CORNELIUS & SHORE, 108 South Washington Street, Rockville, Maryland the sum of ^{Fifty} ~~Twenty-Five~~ Thousand Dollars ^{\$50,000.00} ~~(250,000.00)~~ as a deposit. Said deposit to be held by said attorneys in an interest bearing account until such time as settlement is held hereunder, or until distributed as hereinafter provided:

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(a) If this contract is consummated in accordance with the terms hereof, then the deposit and accumulated interest shall become part of and credited towards the payment made by the Purchaser at settlement.

(b) In the event this contract is not consummated due to Seller's failure to perform hereunder, the deposit shall be refunded to the Purchaser by the Seller, along with the accumulated interest and upon said return Seller and Purchaser are relieved of any other liability hereunder.

(c) In the event this contract is not consummated due to Purchaser's failure to comply with his obligations hereunder for any reason, except as specifically provided herein, then and in that event, the entire deposit and accumulated interest shall be forfeited as liquidated damages and not as a penalty, and Seller and Purchaser are relieved from any other liability hereunder.

2.3 Payment at Settlement - The balance of the purchase price over and above the deposit hereunder shall be paid at settlement.

(a) In the event the Purchaser assumes the existing encumbrances on the property with Equitable Savings and Loan Association and Washington Federal Savings and Loan Association, then the balance due at settlement shall be the difference between the amounts due the above lenders on the date of settlement and the purchase price as specified in Paragraph II Section 2.1, less deposit previously paid.

(b) In the event the Purchaser does not assume the existing encumbrances on the property noted above, then the balance due at settlement shall be cash in the amount specified in Paragraph II, Section 2.1, less deposit previously paid.

2.4 Other than the warranty of the title, this contract has no contingencies.

III. SETTLEMENT:

3.1 Settlement Date - Settlement shall occur on Friday, February 27, 1981 unless the date is otherwise modified by the parties in a separate writing at the offices of BELL, CORNELIUS & SHORE, 108 South Washington Street, Rockville, Maryland.

3.2 Conveyance to Purchaser - At settlement Seller shall execute, upon payment of the purchase money, a special warranty deed and deliver same to the Purchaser at Purchaser's expense, which shall convey the property to Purchaser by good and merchantable fee simple title, free from liens, restrictions and encumbrances other than those of record, except as herein provided.

3.3 Defects in Title - If as a result of a title search initiated by the Purchaser, the Seller shall be unable to convey and assign a good and merchantable fee simple title to said property as required herein, ("good and merchantable title" shall mean that a title insurance company licensed in the State of Maryland will insure title to said property subject to standard exceptions), Seller shall have 30 days beyond the settlement date hereunder to correct those defects in title revealed by Purchaser's title search. In the event Seller does not correct the defects in title so as to allow a conveyance of good and merchantable fee simple title of said property, then the Escrow Agent shall return to Purchaser all monies paid hereunder by Purchaser, including accumulated interest and this Agreement shall be declared null and void and all parties are relieved from any further liability hereunder.

3.4 Taxes - Taxes and other public charges against the property shall be apportioned as of the date of settlement, possession to be given at settlement unless otherwise specified herein, or agreed to by the parties in a separate written agreement.

3.5 Costs of Conveyance - Title examination, preparation of conveyances, notary fees and all recording charges

on the deed and other required instruments, and all Federal, State and County documentary stamps and transfer taxes, if any and all other charges required at settlement on the transfer contemplated hereby shall be at the Purchaser's expense.

IV. IMPROVEMENTS, INVENTORY, FIXTURES.

4.1 The sale of the aforesaid property shall include all improvements thereon and all personal property with the exception of perishable inventories and items presently held for sale contained in the improvements which belong to the Seller at the date of settlement, which personal property is listed and attached hereto as "Exhibit B". The parties recognize that the personal property which is presently located on the property belonging to the Seller shall fluctuate prior to settlement. Seller shall endeavor to retain silverware, dinnerware, linen, furnishings, maintenance equipment, and other personal property used in the operation of the Golf Club, so that they approximate the quantities of those items on the premises as of the execution of this agreement. Two days prior to the settlement date hereunder, the parties shall inspect the premises and the Purchaser may inventory the items mentioned above at his expense. In the event the quantities of the above items at that time differ by more than five percent (5%) from the quantities of said items as of the date of execution of this Agreement, then adjustment shall be made at settlement to cover said variance.

V. SELLER'S USE PRIOR TO SETTLEMENT.

5.1 Seller shall continue to maintain and operate the Golf Club until the date of settlement and shall retain its insurance coverage and in the event of loss will credit all proceeds to purchaser. Seller shall conduct the routine and general maintenance of the property in the same fashion as if there were to be no transfer on the settlement date.

VI. BROKERAGE.

Each party recognizes and certifies that no broker is

involved in the sale of this property and that no sales commission is due from either the Seller or the Purchaser.

VII. PURCHASER'S WARRANTIES AND CONTINUING OBLIGATION TO OPERATE FACILITY AS A MEMBERSHIP GOLF CLUB.

7.1 Purchaser recognizes that as of the time of execution of this Agreement, the facility is operated as a private membership golf club funded primarily through membership fees paid by members of Montgomery Village Golf Club. Purchaser warrants that he will continue to operate the facility as a membership golf club and will afford all present members and those persons who are members as of the date of final execution of this Agreement the opportunity to retain membership in Montgomery Village Golf Club without the necessity of payment of an initiation fee for a period of ninety (90) days subsequent to settlement, and will, insofar as it is feasible, give preference for future membership applications to residents of Montgomery Village. However, nothing herein shall preclude Purchaser from allowing sponsored functions such as golf outings, receptions and scheduled private parties at appropriate Club facilities.

7.2 Purchaser further warrants that he will retain the structure of having various committees of members such as "greens", "house", "membership", etc. or a like program including member input into the operation of the club facility.

7.3 Purchaser further warrants that the name "Montgomery Village Golf Club" will be retained and that in the event of a transfer by the Purchaser at some future date, the contract of sale therefor will require the subsequent purchaser to maintain the name "Montgomery Village Golf Club" and that the purchaser and all purchasers thereafter shall be required to have such a provision contained in any agreement to sell, transfer or lease the property and the club facilities.

7.4 Purchaser warrants that the property will continue to be used as a golf club and for no other purpose other than those purposes normally permitted by governmental authorities under existing zoning.

7.5 Purchaser warrants that he will continue to maintain the facility in the same fashion or better as Kettler Brothers, Inc. has maintained the facility, including maintenance of the boundary fences, roadways, all grassy areas within the club boundaries, the stream beds, ponds and storm water management facilities. Purchaser and his successors and assigns will not disturb any storm water management facilities contained on or about the Club property without prior Governmental approval from all State, County and Federal Agencies governing storm water management. Purchaser will maintain the property with a view towards preserving the aesthetics of the property for the surrounding property owners and the community in general and will, in all events, maintain the property in a fashion at least equal to a first rate golf club in Montgomery County, Maryland.

7.6 Purchaser further warrants that so long as it is the desire of Kettler Brothers, Inc., or its successors or assigns to hold the annual Harden & Weaver Tournament at the Montgomery Village Golf Club, Purchaser will permit the use of the facility so long as Purchaser is adequately compensated for his personnel who participate in the preparations and the tournament and Purchaser's other out-of-pocket expenses, and Purchaser will fully co-operate and participate along with Purchaser's employees in the preparation for and operation of the Tournament.

7.7 Purchaser further warrants that he has carefully inspected the entire Club facility and takes same in "as is" condition and warrants that he will indemnify Seller

against any and all claims made against Seller as a result of the continuing operation of the facility whether or not said claims are made because of design defects, or construction defects existing prior to the execution of this Agreement and Purchaser's take-over of club operations. Purchaser will carry adequate public liability insurance for this purpose naming Seller as an insured thereunder.

7.8 Purchaser further warrants that he recognizes that Seller is not conveying to Purchaser as part of the transfer of the property any permitted Property Population Density Credit as set forth in the Town Sector Zone.

7.9 Purchaser further warrants that Seller shall, upon payment of reasonable requisite fees, have the right to use the club as a marketing tool so long as it desires for purposes of meetings, entertaining of guests in the restaurant and on the golf course.

7.10 Purchaser warrants and agrees that prior to settlement Seller may record covenants in the Land Records of Montgomery County, Maryland which will require that the name "Montgomery Village Golf Club" shall be used at least until such time as the Town Sector Zoning expires, describing the property transferred herein and that the property transferred herein shall be used as a golf club exclusively at least until such time as the Town Sector Zoning expires, and the architectural control provision hereunder shall also be the subject of a recorded covenant.

Purchaser further warrants and agrees that he will construct no building nor modify any existing building on the property transferred herein nor erect any exterior signage, lighting or change any vehicular or pedestrian means of ingress or egress until such time as the building plans, specifications and plot plans showing the location of such buildings, alterations or additions have been approved in writing as to conformity and

harmony of external design with existing structures in Montgomery Village and as to location of the building or buildings with respect to topography and finished ground elevation by an architectural control committee designated by Kettler Brothers, Inc. or selected by and under the auspices of the Montgomery Village Foundation, if the duties of architectural control are assigned to said Foundation at some time in the future, whose determination shall be based on the above criteria and not on function.

7.11 Purchaser shall obtain all necessary insurance as of the date of settlement and shall be responsible for all licenses required to operate the Club. Seller will cooperate in Purchaser's obtention of the necessary licenses but will in no way guarantee the transfer or the availability of licenses necessary to operate the facility.

7.12 Seller will reserve an easement fifty (50) feet wide located parallel, adjacent and contiguous to the westerly right of way line of Montgomery Village Avenue for the full length thereof within the property conveyed for the purpose of possible installation, inspection, operation and maintenance and repair of a sewer main or mains and an easement fifty (50) feet wide located parallel, adjacent and contiguous to the Easterly right of way line of Watkins Mill Road as the same is proposed to be re-located on the Master Plan of Highways of Gaithersburg and vicinity for the full length thereof within the property to be conveyed for the same purposes as aforesaid relative to the possible installation of a sewer main or mains therein. Seller further retains and reserves the right to assign said easements to the Washington Suburban Sanitary Commission.

Seller further reserves unto itself or the Montgomery Village Foundation, Inc., if so designated by Seller, an easement

twenty (20) feet wide located parallel, adjacent and contiguous to the Easterly side of a forty (40) foot prescriptive right of way of Watkins Mill Road (centered on the existing travelled way) and for the full length thereof within the property conveyed for the future installation, maintenance, operation and repair of a pedestrian path therein for the use of the general public.

Purchaser warrants that he will execute any further documents required to grant said easements and rights of way to the Seller.

Purchaser further warrants and grants to Seller and its successors or assigns a general right of access across Club property for purposes of connection to all sanitary and storm sewers and all other utilities as may be needed from time to time for the development of properties of Seller or its successors and assigns within the then current Town Sector Land Use and Circulation map, without additional consideration.

VIII. SELLER'S WARRANTIES.

8.1 Seller warrants that it will continue the operation of the golf club until the settlement date in the same fashion that it is now being operated, that it will incur no obligations other than the normal obligations incurred during the operation of the club and in general operate the facility until settlement with the interests of the Purchaser in mind.

8.2 Seller further warrants that it will handle the notice of transfer in a dignified and appropriate fashion, and will notify all members that they will be entitled to and encouraged to continue their membership subsequent to the date of settlement and will promote the Purchaser as a worthy successor and co-operate fully with the Purchaser in dealing with the present membership. Seller further warrants that it will co-operate with the Purchaser in so far as the transition of ownership is concerned and be available for consultation on procedures with which

the Purchaser may be unfamiliar without additional consideration.

IX. FINAL AND ENTIRE AGREEMENT.

This contract contains the final and entire agreement between the parties hereto and neither they, nor their agents, shall be bound by any terms and conditions and representations not herein written. The terms and conditions of this Agreement shall be binding upon and inure to the benefit of the successors, heirs and assigns of the respective parties hereto. Any terms and conditions of this Agreement which are intended to bind the parties beyond the date of execution of the deed shall continue in full force and effect and not be merged therein.

This Agreement shall be governed by the laws of the State of Maryland.

X. NOTICES.

All notices hereunder shall be deemed to have been duly given if mailed, in any Post Office, enclosed in a certified or registered post-paid envelope addressed to the Purchaser or Seller, respectively, at the following addresses:

SELLER: 19110 Montgomery Village Avenue, Gaithersburg, Maryland, 20760.

PURCHASER: 13721 Darnestown Road, Darnestown, Maryland 20760 .

IN WITNESS WHEREOF the parties have heretunto set their hands and seals to two counterparts of this Agreement, each of which shall constitute an original on the day and year first above written.

ATTEST

KETTLER BROTHERS, INC.

Phyllis Howman
Secretary

By James Ketter Per.

[Signature]
Witness

John C. Dosier (SEAL)
JOHN C. DOSIER

STATE OF MARYLAND

COUNTY OF MONTGOMERY, to wit:

I HEREBY CERTIFY that on this 27th day of October, 1980, before me, a Notary Public in and for the State and County aforesaid, personally appeared Clarence Kettler who is the President of KETTLER BROTHERS, INC., who made oath in due form of law that he is authorized to execute the foregoing Agreement on behalf of said corporation, that the matters and facts as stated in the foregoing Agreement are true and correct as therein stated to the best of his information, knowledge and belief, and acknowledged same to be his act.

Delores N. Harsh (SEAL)
Notary Public.

STATE OF MARYLAND

COUNTY OF MONTGOMERY: to wit:

I HEREBY CERTIFY that on this 27th day of October, 1980, before me, a Notary Public in and for the State and County aforesaid, personally appeared JOHN C. DOSER, who made oath in due form of law that the matters and facts as stated in the foregoing Agreement are true and correct to the best of his information, knowledge and belief and acknowledged same to be his act.

Delores N. Harsh (SEAL)
Notary Public.