

RESTRICTION AND RIGHT OF FIRST OPPORTUNITY AGREEMENT

THIS RESTRICTION AND RIGHT OF FIRST OPPORTUNITY AGREEMENT ("Agreement") is made and entered into as of the 17th day of November, 2003, by (i) **PRESTON WEST MADDEN AND ANITA MADDEN**, husband and wife, and **AKBAR, LLC**, a Kentucky limited liability company, all of which having an address of 2030 Winchester Road, P. O. Box 12128, Lexington, Kentucky 40580-2128 (collectively referred to as "Sellers"), and (ii) **C. M. GATTON, TRUSTEE OF THE C. M. GATTON TRUST UNDER AGREEMENT DATED JANUARY 7, 1995**, having an address of 1000 West State Street, Bristol, Tennessee 37620 ("Buyer").

RECITALS:

A. Sellers are the owners of certain real property containing 12.50 acres, shown as "AK-BAR AND MR. AND MRS. PRESTON MADDEN 12.50 ACRES REMAINING 2030 WINCHESTER ROAD" on the plat of Tuscany (formerly a portion of 2030 Winchester Road), Lexington, Fayette County, Kentucky, of record in Plat Cabinet M, Slide 39, in the Fayette County Clerk's office (the "Homestead Tract"); a drawing showing the boundaries of the Homestead Tract is attached hereto and made a part hereof, as Exhibit A.

B. As of the date hereof, Buyer has acquired certain real property ("Buyer's Property") from Sellers situated adjacent to the Homestead Tract, on Sir Barton Way in Fayette County, Kentucky, pursuant to a Deed of even date herewith, of record in Deed Book _____, Page _____, in the Fayette County Clerk's office.

C. The conveyance of Buyer's Property from Sellers to Buyer pursuant to the Deed described in Paragraph B above was made, in part, in consideration of the execution and delivery of this Agreement, pursuant to which Sellers are agreeing to impose certain restrictions and rights upon the Homestead Tract, and Buyer is agreeing to impose certain restrictions on a portion of Buyer's Property, on the terms and conditions contained in this Agreement.

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing, Sellers and Buyer hereby agree as follows:

1. RESTRICTION. The Homestead Tract shall be restricted to residential uses only until the earlier to occur of (i) November 17, 2008, or (ii) the date upon which Buyer has completed its development and construction on the portions of Buyer's Property that surround and are immediately adjacent to the Homestead Tract.

*GD&M 827609.2
November 11, 2003*

Return To:
Cheryl Voll
Greenebaum Doll & McDonald PLLC
300 W. Vine Street, Suite 1100
Lexington, KY 40507

2. RIGHT OF FIRST OPPORTUNITY. Commencing on the date hereof and continuing through November 17, 2008, Sellers hereby grant in favor of Buyer a right of first opportunity to purchase the Homestead Tract, on the following terms and conditions: In the event Sellers determine that they desire to sell the Homestead Tract to a third party (it being understood and agreed that transfers to family members and/or affiliates of Sellers shall not trigger such right of first offer), Sellers shall first offer the Homestead Tract for sale to Buyer for Sellers' initial asking price, and Buyer shall have a period of fifteen (15) days following receipt of such offer within which to accept such offer and purchase the Homestead Tract, with a closing not later than sixty (60) days following Buyer's acceptance. If Buyer declines to purchase the Homestead Tract, Sellers may proceed to offer the Homestead Tract for sale to third parties at the initial asking price; provided, that if Sellers reduce the asking price from the initial asking price, Buyer's right of first offer shall apply to any reduced asking price on the same terms outlined above.

With respect to the foregoing right of first opportunity, in the event Sellers agree, in accordance with a written contract, to expend amounts to cure any alleged defects or objection of a proposed buyer, or to perform remediation in connection with a proposed sale, such concessions shall not constitute a reduction in the asking price for purposes of the foregoing right of first opportunity, and in such event Sellers shall not be required to offer the Homestead Tract for sale to Buyer as a result of Sellers' agreement to grant such concessions. Buyer shall not be permitted to sell or assign this right of first opportunity except to a family member, a trust(s) for the benefit of family members, or a business entity(s) in which Buyer is a principal or Buyer's family is/are principals.

3. RESTRICTIONS ON BUYER'S PROPERTY. Buyer agrees that the following restrictions shall apply to such portion of Buyer's Property as is located within a 300 foot radius of the Homestead Tract: (a) any and all construction thereon shall be in accordance with the existing requirements applicable to the existing *West Wind* development for building materials, size of units, building set-backs (which setbacks shall be at least 60'), and landscaping; (b) the area of the portion of Buyer's Property as is located between the Homestead Tract and Sir Barton Way, bounded by Winchester Road and generally depicted towards the new library, may be zoned to permit the construction of townhomes thereon; and (c) any and all units that are constructed on lots or units that are contiguous to the Homestead Tract shall be of all-brick exterior construction.

4. NOTICES AND CERTIFICATES. All notices required under this Agreement shall be deemed to be properly served if sent by registered or certified mail with return receipt requested, or hand delivered, to Sellers and Buyer at the address as specified above, or to such other addresses which Sellers or Buyer may designate in writing delivered to the other party for such purpose. Date of service of notice served by mail shall be one (1) business day after the date on which such notice is deposited in a post office of the United States Postal Service.

4.2 Counterparts. This Agreement shall be executed in one or more counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same agreement.

4.3 Governing Law. This Agreement has been made, delivered and shall be performed in, and shall be governed and construed in accordance with the laws of the Commonwealth of Kentucky.

4.4 Entire Agreement. This Agreement constitutes the entire agreement of the parties as to the subject matter hereof and may not be amended, modified, supplemented or terminated except in a writing signed by the parties hereto, or their respective heirs, successors and assigns.

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

Preston West Madden
PRESTON WEST MADDEN
Anita Madden
ANITA MADDEN

AKBAR, LLC

BY: Patricia L. Madden
TITLE: managing member
("Sellers")

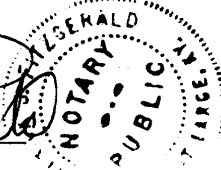
COMMONWEALTH OF KENTUCKY)
) SS:
COUNTY OF FAYETTE)

The foregoing instrument was acknowledged before me this 14th day of November, 2003, by Preston West Madden and Anita Madden, husband and wife, as their free act and voluntary deed.

My Commission expires: 9-29-07

(SEAL)

Paul H. Gwalt
NOTARY PUBLIC



COMMONWEALTH OF KENTUCKY)
) SS:
COUNTY OF FAYETTE)

The foregoing instrument was acknowledged before me this 13th day of November, 2003, by Patricia L. Madden, as Managing Member of Akbar, LLC, a Kentucky limited liability company, for and on behalf of said company.

My Commission expires: 9-29-07

(SEAL)


NOTARY PUBLIC

GD&M 794773.3
November 11, 2003

C. M. GATTON, TRUSTEE OF THE C. M. GATTON
TRUST UNDER AGREEMENT DATED JANUARY 7, 1995

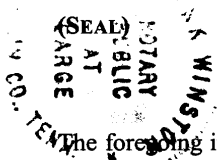
BY: C. M. Gatton
C. M. GATTON, TRUSTEE

("Buyer")

STATE OF TENNESSEE)
COUNTY OF SULLIVAN) SS:

The foregoing instrument was acknowledged before me this 13 day of November, 2003, by
C. M. Gatton, Trustee of the C. M. Gatton Trust under Agreement dated January 7, 1995, as his
free act and voluntary deed.

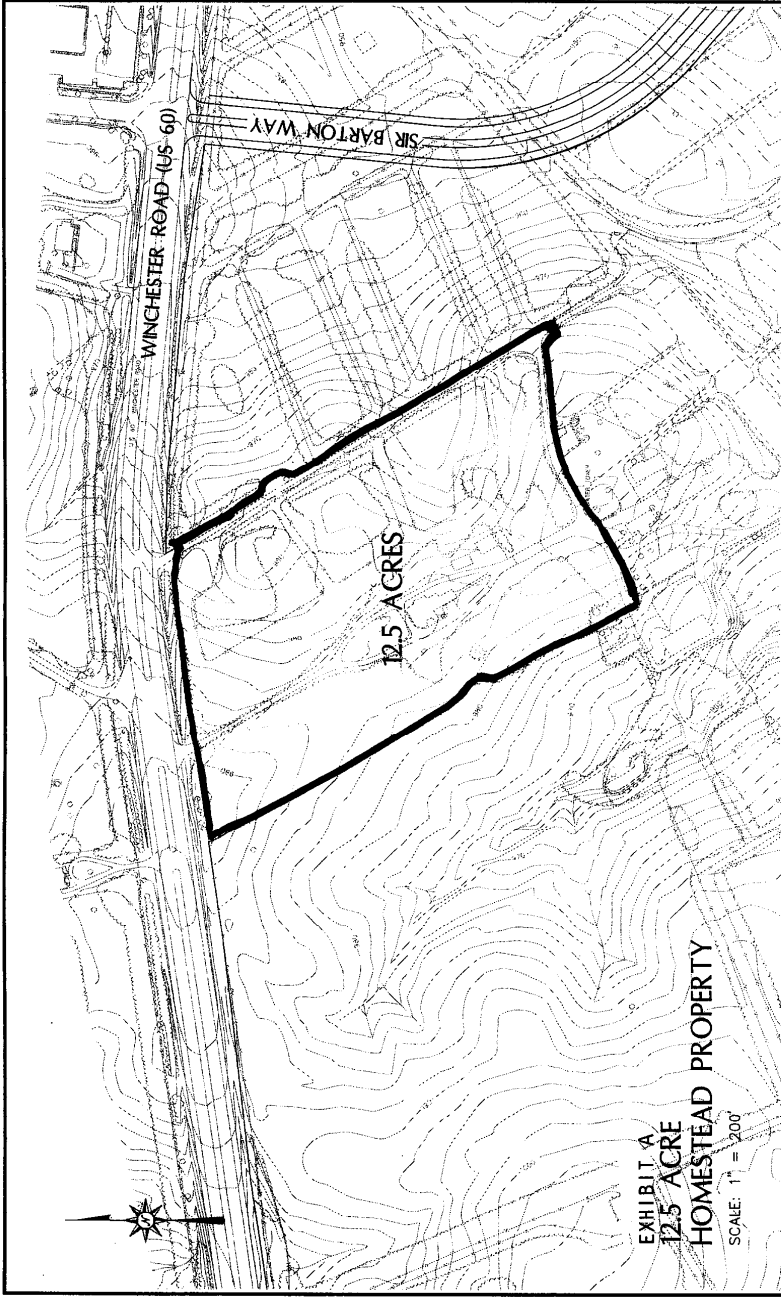
My Commission expires: 4-3-05



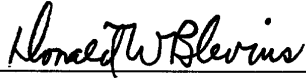
Mark Winston
NOTARY PUBLIC

The foregoing instrument was prepared by,
and after recording should be returned to:

Nandy C. Patrick
Tandy C. Patrick, Esq.
GREENEBAUM DOLL & McDONALD PLLC
300 West Vine Street, Suite 100
Lexington, Kentucky 40507-1665
(859) 288-4705



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



By: Doug BRADLEY, dc

200311170357

November 17, 2003

14:05:36 PM

Fees	\$15.00	Tax	\$.00
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Total Paid	\$15.00
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7 Pages

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