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SUPPLEMENTAL AGREEMENT

M. Afzali

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This SUPPLEMENTAL AGREEMENT made as of the 13th day of December, 1984 by and between PURCELL CO., INC., a Delaware Corporation (formerly Diamondhead Corporation and Diamondhead Properties, Inc.), hereinafter referred to as "Purcell"; and DIAMONDHEAD COUNTRY CLUB AND PROPERTY OWNERS ASSOCIATION, INC., a Mississippi non-profit corporation, hereinafter referred to as "Association",

W I T N E S S E T H :

WHEREAS, the parties hereto have previously executed an agreement on the 12th day of June, 1970, and an amendment thereto on the 7th day of June, 1977, copies of which are attached hereto as Exhibit A and B and incorporated herein by reference as if copied in words and figures in full; and

WHEREAS, the parties, in anticipation of those certain events as set forth herein, desire to supplement Exhibits A and B, as aforesaid; and

WHEREAS, Purcell is the developer of that certain real estate development known as "Diamondhead" (hereinafter referred to as "Diamondhead") situated in Hancock and Harrison Counties, Mississippi, and more particularly situated within the perimeter of the property described in Exhibit C, which is attached hereto and incorporated herein by reference as if copied in words and figures in full; and

WHEREAS, Association is a Mississippi non-profit corporation whose membership is composed of and limited to the owners and purchasers of real property in Diamondhead hereinabove referred to; and

WHEREAS, Purcell is the owner of certain amenities, common areas and common facilities (hereinafter referred to as "Common Facilities") used and enjoyed in common by the owners of lots and real property in Diamondhead; and

WHEREAS, Purcell desires to convey to Association, and Association desires to accept said conveyance of certain real property (hereinafter referred to as the "Subject Property") on which the Common Facilities are located, and the parties desire to provide for an orderly turnover of the operation of the Common Facilities and to clarify and define the respective rights of the parties pursuant thereto; and

WHEREAS, Purcell represents that the presently existing Common Facilities were constructed at a cost of approximately \$11,250,000 and have a present replacement value in excess of \$20,000,000; and the continued high degree of maintenance thereof is of substantial importance to the parties, especially considering that Purcell currently retains ownership of approximately fifty-four percent (54%) of the property within the perimeter of the property described on Exhibit C.

NOW THEREFORE, in consideration of the sum of One Dollar (\$1.00) and the mutual promises and covenants herein contained, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby agree as follows:

1. NOTICE. The Association acknowledges that Purcell has met the notice requirements as set forth in paragraph 3 of Exhibit A. Purcell will convey to Association, subject to certain conditions as hereinafter set forth, title to the Subject Property which includes the following Common Facilities:

- (1) Guard Houses - North and South of I-10 Interchange;
- (2) Entrances - North and South of I-10 Interchange;
- (3) Golf Course Maintenance Facility;
- (4) Sales Lodge and Grounds including portion of Parking Lot across street;
- (5) Country Club with adjacent Parking Lots and Grounds;
- (6) Main Pool by Country Club & Locker Rooms, Bath;
- (7) Two Tennis Courts by Main Pool, and one-half (1/2) Parking Lots adjacent to Pool and Tennis Courts;
- (8) Pro Shop, 19th Hole and Cart Storage Building;
- (9) Driving Range;
- (10) Pine & Cardinal Golf Courses (36 holes);
- (11) Stables & Riding Rings;
- (12) Airport (Runway, Taxi Ways, Tie-down area, Hangar Building and Adjacent Grounds);
- (13) Yacht Club, parking areas and adjacent grounds;
- (14) Marina;

- (15) Bait Shop;
- (16) North Rec Center & Pool;
- (17) East Rec Center & Pool, Including Softball Field;
- (18) Holiday Village Rec Center & Pool;
- (19) Camper Park;
- (20) Tennis World (8 Courts & Pro Shop), parking areas and adjacent grounds;
- (21) Six Lakes including maintenance easements;
- (22) Streets and rights of way as platted and as now laid out and improved.;
- (23) Maui Court Park.

The Association does hereby agree to accept the conveyance of the Subject Property and the Common Facilities thereon situated in as-is and present condition in full satisfaction of Purcell's obligation to convey as set out in Exhibits A and B; and Association agrees to operate the Common Facilities pursuant to such standards as hereinafter set forth in Paragraph 6. The property to be conveyed subject to this Agreement consists of real property only and shall be conveyed as of January 1, 1985. Pursuant to paragraph 8 of Exhibit A, the Association agrees to execute a Release in favor of Purcell, a copy of which is attached hereto as Exhibit D and incorporated herein by reference as if copied in words and figures in full.

2. TITLE. Purcell will convey to Association title to the Subject Property free and clear of all encumbrances and liens except for ad valorem taxes for the years 1984 and 1985. Purcell will pay ad valorem taxes for the year 1984, and Association will assume payment of all such taxes for the tax year 1985 and subsequent years.

3. LEGAL DESCRIPTION. Title to the Subject Property shall be conveyed by perimeter description set out as Exhibit C and excepting therefrom all platted lots and certain land owned by Purcell according to a survey or surveys to be provided by Purcell prior to closing and as soon as available.

4. DEED. Purcell will convey legal title to Association by Special Warranty Deed in substantially the form of Exhibit E a copy of which is attached hereto and incorporated herein by reference as if copied in words and figures in full.

5. COLLECTION AND OWNERSHIP OF MAINTENANCE ASSESSMENTS.

From and after January 1, 1985, all maintenance assessments on real property subject to the Declaration of Restrictions, Conditions, Easements, Covenants, Agreements, Liens and Charges filed for record in Deed Book V-8, page 476-502 of the Land Records of Hancock County, Mississippi (hereinafter referred to as the "Diamondhead Master Covenants"), shall be assessed by and payable to Association. All maintenance assessments due and payable prior to January 1, 1985, shall be and remain the sole property of Purcell. Any indebtedness incurred prior to January 1, 1985, by Purcell and/or its subsidiary, Diamondhead Yacht and Country Club, Inc. for the operation and maintenance of the Common Facilities of Diamondhead shall be the sole obligation and responsibility of Purcell.

6. OBLIGATIONS OF ASSOCIATION TO MAINTAIN AND PROVIDE SERVICES. On January 1, 1985, Purcell will turn over to Association possession of the Subject Property and the Common Facilities located thereon. From and after said date, Association will operate and maintain the Common Facilities, provide security guard service, and subsidize the Diamondhead Fire District to the extent necessary to continue its present operations, all for the benefit of owners of lots and real property in Diamondhead.

a. OPERATION AND MAINTENANCE OF COMMON FACILITIES. The Association shall be responsible for the exclusive management and control of the Common Facilities. Association agrees, pursuant to Exhibits A and B attached hereto, to manage, operate and maintain said Common Facilities to the same standard as such facilities and areas have been previously maintained, operated and managed by Purcell. Included in the maintenance and operation of Common Facilities is the provision for security services and maintenance of green spaces adjacent to the streets, lakes and recreational areas of Diamondhead.

b. LIABILITY. In further consideration of the conveyance contemplated herein, Purcell shall not be liable for any loss or damage arising out of any failure of Association to maintain the Common Facilities as above provided from and after January 1, 1985; or arising out of the acts or failure to act on the part of Association in furtherance of its duty to maintain and operate the

Common Facilities and provide services from and after January 1, 1985; and Association agrees to indemnify, defend and hold harmless Purcell from any and all claims, demands, loss or damage arising on account thereof. Purcell acknowledges that Association had no obligation or responsibility to maintain or operate the Common Facilities prior to such conveyance.

c. BREACH. Failure of the Association to operate and maintain the Common Facilities to the standards hereinabove set forth shall constitute a material breach of this Agreement.

7. DEVELOPER LOTS. Notwithstanding other provisions of this Agreement, Association recognizes that all real property and lots, while owned by Purcell, shall be exempt from the payment of any and all liens, charges, assessments, fees or otherwise, levied or sought to be collected by Association.

It is understood and agreed that said property shall be subject to the payment of all such liens, charges, assessments and/or fees on the first day of the month following conveyance of said property to a third party, either by Deed or by Contract for Deed. Purcell agrees to notify Association in writing of any such conveyances within thirty (30) days from date of any such conveyance.

8. FUTURE DECLARATION OF USE:

(a) Purcell shall have the right and option to make additional real property within the perimeter of the property described on Exhibit C subject to the scheme of the Diamondhead Master Covenants and to confer on the purchasers and owners of real properties within such areas all the rights and privileges accruing to property owners under the Diamondhead Master Covenants including use of the Diamondhead Common Facilities, provided such additional property becomes subject to the Diamondhead Master Covenants and that such purchasers and owners of such properties become subject to all the duties imposed on the owners of such properties by the Diamondhead Master Covenants, including the obligation to pay maintenance assessments duly levied by the Association.

(b) Purcell shall have the right and option to convey to Association additional streets, green spaces and parks common to

property owners within the perimeter of the property described on Exhibit C, including such facilities which are constructed after January 1, 1985, for management, operation and maintenance as a part of the Common Facilities of Diamondhead as hereinabove defined; and Association agrees to accept the conveyance of such facilities, when and as conveyed, for the purposes hereinabove set out; provided:

- (1) The properties served by said Facilities are subject to the Diamondhead Master Covenants.
- (2) The said streets meet Hancock County subdivision specifications.
- (3) The green spaces and parks meet the standards for similar facilities previously conveyed by Purcell to the Association.
- (4) Fire hydrants are installed to the same standard of sufficiency as fire hydrants previously installed within Diamondhead.

(c) Nothing herein shall obligate Purcell to subject such additional properties to the scheme of the Diamondhead Master Covenants.

(d) Nothing herein shall confer any right in Association to subject such additional properties to the scheme of the Diamondhead Master Covenants.

(e) Purcell and Association agree that no real property outside the perimeter of the real property described in Exhibit C hereto will be added to scheme of the Diamondhead Master Covenants

(f) Notwithstanding any of the above provisions relating to future declaration of use, Purcell does hereby agree that the parcel of land lying between the Diamondhead County Club and Golf Club Drive, and being bounded by Golf Club Drive and Country Club Circle, shall be considered and is hereby designated to be a RSG Zone as defined in the Diamondhead Master Covenants, and shall be improved, occupied and used only for those purposes and permitted uses set forth for RSG Zones. The legal description of said parcel of land is attached hereto as Exhibit F.

9. WAIVER OF MAINTENANCE ASSESSMENTS. Association recognizes and agrees to honor any and all written dues waiver contracts between Purcell and/or its subsidiaries and third parties, which contracts predate January 1, 1985, and provide that multiple contiguous lots used for a single building site shall be deemed one lot and shall be assessed maintenance dues as one lot. Purcell agrees to furnish Association with a list of all such Contracts, along with photocopies of the executed Contracts.

10. COLLECTION OF ASSESSMENTS IN ARREARS.

(a) Association and Purcell agree to cooperate and use their best efforts to collect from the owners of real property subject to the Diamondhead Master Covenants all liens, charges, assessments and fees (hereinafter referred to as "Assessments") owing by the purchasers of real property subject to the Diamondhead Master Covenants.

(b) Association and Purcell agree to remit to the other party all Assessments collected for the account of said party, payable on or before the last business day of the calendar month following the month during which such collections were received.

(c) Purcell agrees that it will not issue deeds to holders of land sales contracts on real property subject to the Diamondhead Master Covenants, in which it is the seller, or release deeds of trust on which it is holder of the secured note or notes, until all Assessments are paid current, pursuant to the terms of said contracts, including assessments accruing after January 1, 1985. Notwithstanding, such agreement on behalf of Purcell shall be null and void where such deeds or releases are issued pursuant to any valid court order, or in settlement of any claim or pending or threatened litigation against Purcell.

(d) Association agrees that it will not, without written consent of Purcell, transfer memberships on its records or issue membership cards to new members, unless and until all Assessments owing to Purcell have been paid in full. Purcell agrees to indemnify, defend, and hold harmless Association for any and all claims, demands or causes of action of every kind, type and character whatsoever, arising out of or as a result of or in any way connected with the Association's withholding of said membership cards or transfer of said memberships.

(e) Association and Purcell agree to keep their own business records concerning the status of Assessments payable to themselves, and to make such records reasonably available to the other party during regular business hours. "Regular business hours" for purposes of this Agreement are between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday of each week, excluding declared federal and state holidays. Purcell agrees to provide Association with a list of current Diamondhead property owners as of December 31, 1984, and Association agrees to provide Purcell (at Purcell's option and expense) with current lists of Diamondhead property owners on a semi-annual basis from and after January 1, 1985.

(f) Notwithstanding other provisions of this Agreement, the agreements contained in this Paragraph 10, except Sub-paragraph 10(e), shall terminate on December 31, 1986, unless extended by both parties in writing.

11. SUBORDINATION OF LIEN RIGHTS. Until the 1st day of January, 1986, any indebtednesses and lien rights accruing to Association by virtue of Assessments due and owing pursuant to the terms of the Diamondhead Master Covenants shall be subordinate to any such indebtedness owed to and any liens accruing in favor of Purcell and/or its subsidiaries by virtue of such Assessments owed to Purcell and/or its subsidiaries. Purcell agrees to notify the Association of pending lien foreclosure actions to enable Association to protect its interests.

12. USE OF FACILITIES BY PURCELL. Until June 1, 2020, or until the expiration of the Diamondhead Master Covenants, whichever shall first occur, Purcell and its employees shall have the right to use the Common Facilities as guests. Guests of Purcell, including sales guests, shall have the right to use the Common Facilities as guests, and such persons shall pay no more than the maximum fees charged to the guests of members. The Diamondhead Inn (formerly Fairway Villa Motel), an 80 unit motel located within the perimeter of the property described on Exhibit C, was built by Purcell in 1972 and has thereafter been in continuous operation. From inception the Common Facilities at Diamondhead have been made available to registered guests of the

motel. In consideration of this 12 year relationship, Association reaffirms that guests of Diamondhead Inn shall be extended the same guest privileges as guests of members of the Association. Such guest privileges shall not be extended to other motels and hotels located outside the perimeter of the property described on Exhibit C; but the Association shall have the right to grant guest privileges to any and all individuals for such time and period as may be determined by the discretion of the Association. The Common Facilities shall be for the exclusive use of property owners and their guests, including lessees, renters, registrants of Diamondhead Inn, guests of the Association, and persons in lawful possession of properties subject to the Master Covenants and within the perimeter of the property described on Exhibit C.

13. STREET IMPROVEMENT. Notwithstanding the duty to maintain set out in Paragraph 6, Purcell agrees to pave certain streets, or portions of streets, before turning the same over to Association for maintenance. Prior to December 1, 1984, Purcell shall furnish Association a list of such streets, and said list will become a part of this Agreement. Immediately upon completion of each segment of street paving contemplated by this Paragraph, Purcell shall notify Association in writing that streets have been paved in accordance with Hancock County subdivision specifications and Association shall thereafter be responsible for the maintenance of said streets.

14. DIAMONDHEAD LOGO. The parties agree that Association shall have the right to use the Diamondhead logo for a trademark in connection with its official business. Association shall enjoy such right together with Purcell, and its subsidiaries and successors in interest. Association shall not assign its right to use said logo without the prior written consent of Purcell, which consent shall not be unreasonably withheld.

15. UNIFORM MAINTENANCE ASSESSMENTS: MEMBERSHIP IN ASSOCIATION. Association agrees that assessments for maintenance purposes will be charged pursuant to the Diamondhead Master Covenants. Association recognizes that membership in the Association is only appurtenant to the ownership of real property subject to the Diamondhead Master Covenants and situated

within the perimeter of the property described in Exhibit C. Upon any matter brought before any meeting of the Association, except in the election of the officers and directors of the Association, (which exception is agreed to by Purcell without regard to the construction or interpretation of Section 79-11-1 MISS. CODE ANN. 1972), Purcell shall have one (1) vote for each lot or parcel of real property owned by Purcell which is subject to the Diamondhead Master Covenants.

16. RECIPROCAL AGREEMENT. Association agrees to honor any reciprocal agreements already made by Purcell for the use of Common Facilities with other property owners Associations at other Purcell development projects now in existence, provided said agreements involve reciprocal use of facilities as members for Diamondhead property owners. Purcell will provide a copy of these agreements to Association.

17. ENTIRE AGREEMENT. This Supplemental Agreement and all Exhibits hereto shall constitute the entire agreement between the parties and shall supersede any and all other agreements. Other prior agreements, if any, between the parties shall be null and void. Notwithstanding, there is hereby deleted from this Agreement the second subparagraph of Paragraph 3 of Exhibit B which reads as follows:

In further consideration of the above described conveyances of facilities by Clubs to Association and notwithstanding any limitations upon use of said facilities which Association may hereafter impose upon guests, Association agrees that it will not in any manner limit the use of said facilities by renters, lessees and persons otherwise lawfully occupying a dwelling unit at Diamondhead.

18. AGREEMENT TO SURVIVE CLOSING. The provisions of this Agreement shall survive the closing of the sale and the delivery of the deed contemplated by this Agreement, and the provisions hereof shall be and remain in force unless specifically indicated herein to the contrary, until June 16, 2020, or until expiration of the Diamondhead Master Covenants, whichever shall first occur.

19. PROVISIONS SEVERABLE. If any provision of this contract or portion thereof, or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such provision or portion thereof, to any other person or circumstance shall not be affected thereby, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law and equity.

20. DEFAULT. The parties hereto shall be entitled to enforce the provisions of this Agreement by any and all remedies available under the terms of this Agreement. By execution of this Agreement, the parties hereto do not waive any right or remedy available to them at law, in equity, or otherwise. This Agreement may be enforced in any Court of competent jurisdiction. In the event it becomes necessary to resort to litigation to enforce the terms of this Agreement, the prevailing party shall be awarded costs thereof, including a reasonable attorney's fee as determined by a Court of competent jurisdiction.

21. BINDING ON PARTIES. The provisions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto.

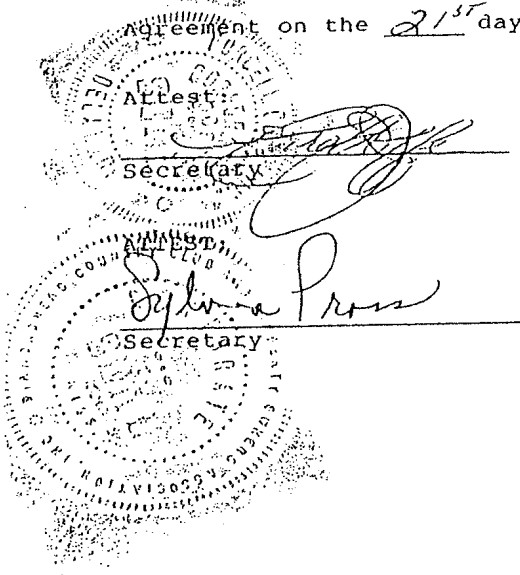
22. PURCELL DEFINED. It is understood and agreed that the term "Purcell" as used in this Agreement includes Diamondhead Properties, Inc., Diamondhead Corporation, Diamondhead Yacht and Country Club, Inc. and all wholly-owned subsidiaries of Purcell Co., Inc., their successors and assigns.

23. LAWS GOVERNING. The provisions of this Agreement shall be construed in accordance with the Laws Governing the State of Mississippi.

24. REPRESENTATIVE CAPACITY. (a) The undersigned Association President warrants that he is authorized to execute this Agreement for and on behalf of the Association and any and all owners and purchasers of real property at Diamondhead to the extent that he is authorized so to do under the provisions of the Charter, By-Laws and Minutes of the Association.

(b) The Purcell Co., Inc. representatives signing this Agreement warrant that they are duly authorized to execute this Agreement for and on behalf of Purcell Co., Inc.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the 21ST day of NOVEMBER, 1984.



PURCELL CO., INC.

BY: [Signature]
President

DIAMONDHEAD COUNTRY CLUB AND
PROPERTY OWNERS ASSOCIATION, INC.

BY: [Signature]
President



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