

Alabama, Shelby County

Note: \$318,360 of the mortgage has been applied to the purchase price and paid from the mortgage loan closed simultaneously herewith.

1577

WARRANTY DEED, BILL OF SALE, AND MEMORANDUM OF LEASE AND OPTION TO PURCHASE

That U-Tote-M of Alabama, Inc., an Alabama corporation, whose principal address is 4500 South 40th Street, Phoenix, Arizona 85040 ("Grantor"), in consideration of Ten Dollars (\$10) and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, have GRANTED, SOLD, CONVEYED, BARGAINED and DELIVERED and by these presents do GRANT, SELL, CONVEY, BARGAIN and DELIVER unto The Provident Bank, an Ohio banking corporation, as Trustee U/T/A dated as of April 30, 1984, whose principal place of business is One East Fourth Street, Cincinnati, Ohio 45202 ("Grantee"), the following:

(a) The real property being more particularly described in Exhibit "A" hereto, together with the rights, easements and appurtenances pertaining thereto, including any right, title and interest of Grantor in and to adjacent streets, alleys or rights of way (collectively the "Land"); and

(b) Grantor's interest in all buildings heretofore constructed upon the Land, together with Grantor's interest in all machinery, air conditioning equipment and fixtures used in the general operation of such buildings and improvements affixed to or located upon the Land on the date hereof, including Grantor's interest in all gasoline storage tanks and gasoline dispensing equipment, along with all accessions and additions thereto (collectively the "Improvements"); and

(c) Grantor's interest in Seller's personal property located upon the Land, including, but not limited to Seller's interest in all furniture, fittings, carpeting, draperies, blinds, apparatus, equipment, machinery and other items of tangible personal properties (excluding cash) and replacement thereof, if any, attached to or used in connection with the Improvements ("Personal Property").

The Land, Improvements and Personal Property are collectively hereinafter called the "Premises".

SUBJECT, HOWEVER, to easements, covenants, restrictions, reservations and rights-of-way of record or apparent on the Premises, to zoning ordinances, to Grantor's rights under the Lease (as defined hereinbelow), and to rights of tenants in possession under recorded or unrecorded leases.

TO HAVE AND TO HOLD the above described Premises, together with all and singular, the rights and appurtenances thereto pertaining unto the said Grantee, its successors, beneficiaries and

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*American Title*

\*See Affidavit attached hereto  
as Exhibit B.

assigns forever; and the said Grantor does hereby bind itself, its successors and assigns, to WARRANT AND FOREVER DEFEND, all and singular, the said Premises unto the said Grantee, its successors, beneficiaries and assigns, against every person whomsoever lawfully claiming or to claim the same, or any part thereof, except as to those items to which this Deed is above made subject.

This instrument shall also evidence and serve as a memorandum of that one certain Leaseback Lease ("Lease") by and between certain parties including Grantor and Grantee, executed as of April 30, 1984, relating to the Premises conveyed hereby. By the terms of the Lease, Grantee has granted unto Grantor a leasehold estate in and to the Premises for a fifteen-year term commencing May 1, 1984, with three five-year option terms thereafter. In addition, Grantee has granted unto Grantor an option to purchase the Premises. Said option to purchase shall expire 90 days after the end of the seventh year of the Lease term. The terms and provisions of the Lease and option to purchase are more particularly described in the Lease and reference is made to that unrecorded document for all purposes. In the event of any inconsistency between the terms and provisions hereof and the terms and provisions of the Lease, the terms and provisions of the Lease shall control.

IN WITNESS WHEREOF, Grantor has executed this Deed as of April 30, 1984.

Witnesses

U-TOTE-M OF ALABAMA, INC., Grantor

By: James Williamson, Jr.  
James Williamson, Jr. Vice  
President

Attest: Joe A. Sterrett  
Joe A. Sterrett, Secretary

THE PROVIDENT BANK, Trustee, Grantee

By: Luther H. Hodge  
Luther H. Hodge, Senior Vice  
President

Attest: Robert M. Erickson  
Robert M. Erickson, Trust  
Officer

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Gregory S. Hall  
Jeffrey K. Henrich  
Gregory S. Hall  
Jeffrey K. Henrich  
Gregory S. Hall  
Jeffrey K. Henrich  
Gregory S. Hall  
Jeffrey K. Henrich

STATE OF OHIO )  
 : SS.  
COUNTY OF HAMILTON )

I, Jeffrey K. Heinichen, a notary public in and for said county and state, hereby certify that before me personally appeared James Williamson, Jr. as Vice President and Joel A. Sterrett as Secretary of U-Tote-M of Alabama, Inc., a corporation, to me well known, and known to be the individuals described in and who executed the foregoing instrument as such officers, and severally acknowledged to and before me that they executed the foregoing instrument as such officers of the corporation and that the seal affixed to the instrument is the corporate seal of the corporation and that it was affixed to the instrument by due and regular corporate authority and that the signing and execution of said instrument is their free and voluntary act and deed as such officers, and the free and voluntary act and deed of said corporation, for the uses and purposes in said instrument mentioned.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal on the day and year aforesaid.

  
\_\_\_\_\_  
Notary Public

My commission expires:

JEFFREY K. HEINICHEN, Attorney at Law  
Notary Public, State of Ohio  
My Commission has no expiration date  
§ 147.03 O. R. C.

STATE OF OHIO )  
 : SS.  
COUNTY OF HAMILTON )

I, Jeffrey K. Heinichen, a notary public in and for said county and state, hereby certify that before me personally appeared Luther H. Hodge, Senior Vice President, and Robert M. Erickson, as Trust Officer, of The Provident Bank, an Ohio banking corporation, to me well known, and known to be the individuals described in and who executed the foregoing instrument in such capacity, who acknowledged to and before me that they executed the foregoing instrument as such officers by due authority and that the signing and execution of said instrument is their free and voluntary act and deed as such officers, and the free and voluntary act and deed of said corporation, for the uses and purposes in said instrument mentioned.

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IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal on the day and year aforesaid.

*Jeffrey K. Heinichen*  
\_\_\_\_\_  
Notary Public

My commission expires:

THIS INSTRUMENT PREPARED BY:  
Jeffrey K. Heinichen, Esq.  
American Financial Corporation  
One East Fourth Street  
Cincinnati, Ohio 45202  
(513) 579-2542

JEFFREY K. HEINICHEN, Attorney at Law  
Notary Public, State of Ohio  
My Commission has no expiration date  
Section 147.03 O. R. C.

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Exhibit A

Exhibit 6:

A parcel of land situated in the Northeast Quarter of the Northeast Quarter Section 36; Township 19 South, Range 3 West, Shelby County, Alabama, more particularly described as follows: Commence at the Northeast corner of Section 36, Township 19 South, Range 3 West; Shelby County, Alabama, and run Southerly along the East line of said Section 550.00 feet to a point, said point now being in the right of way of U. S. Highway #31 South and also being the old Southeast corner of the W. N. Campbell property as described in Deed Book 128, Page 313, in the Judge of Probate Office, Shelby County, Alabama; thence turn right 76 degrees 12 minutes 31 seconds as measured and run southwesterly 136.91 feet along the South line of said W. N. Campbell property to the Westerly right of way line of U. S. Highway #31 South, and the point of beginning of the property herein described; thence continue Southwesterly along last stated course 200.00 feet; thence turn 83 degrees 15 minutes left and run Southerly 100.55 feet; thence turn 96 degrees 45 minutes left and run Easterly 200.01 feet to a point on said Westerly right of way line of U. S. Highway #31 South, said point being on a curve having a radius of 2,009.86 feet and subtending a central angle of 2 degrees 52 minutes, thence turn left with an interior angle of 95 degrees 18 minutes 35 seconds to tangent of said curve; thence run Northerly along the arc of said curve and said right of way line of U. S. Highway #31 South 100.56 feet to the point of beginning. Mineral and mining rights excepted. Situated in Shelby County, Alabama.

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# 134, 184

AFFIDAVIT

Exhibit B

STATE OF OHIO            )  
                                  :   SS.  
COUNTY OF HAMILTON    )

Now comes Keith E. Lindner, after being duly cautioned and sworn, deposes and states the following to be true:

1. He presently is General Partner of Store Properties Company, an Ohio general partnership, whose principal place of business is 3955 Montgomery Road, Cincinnati, Ohio 45212 and as such, has personal knowledge of the facts and circumstances stated herein and prepares this Affidavit for filing with those certain Deeds relating to the real property described on the attached Exhibit "A".

2. That Store Properties Company is the beneficiary under a certain Trust Agreement dated as of April 30, 1984 with The Provident Bank, an Ohio corporation, Trustee, whose principal place of business is One East Fourth Street, Cincinnati, Ohio 45202.

3. That The Provident Bank as Trustee for Store Properties Company executed a certain Leaseback Lease dated as of April 30, 1984 with Utotem, Inc., Monterre Properties, Inc., Utotem of Alabama, Inc., Utotem Markets of Arizona, Inc., Utotem of Colorado, Inc., Utotem of Miami, Inc., The Circle K Corporation and Circle K Convenience Stores, Inc., which Lease's Primary Term commenced on May 1, 1984 and ended fifteen years from said date, at a rental as set forth on the attached Exhibit "B".

4. The Leaseback Lease provides in Article XV as follows:

The Tenant may exercise its right of renewal as contained in Section 2.2 hereof only by notifying the Landlord in writing of its election to exercise such right to renew the Lease at least six (6) months prior to the expiration of the Primary Term or any Renewal Term, as the case may be.

5. That the Leaseback Lease provides a Rent Schedule for the Primary Term of the Lease and the percentage allocable to the rent for the 38 Alabama stores is a rent factor equal to .0848 (calculated by taking the allocated land value for the 38 Alabama parcels and adding to that figure Alabama value for personal property and dividing that number by the \$98,600,000, the total purchase price for the entire transaction). Listed on Exhibit "C" is the rent allocable to Alabama for the Primary Term, by State and by County.

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6. That there are 38 parcels of real property located in the State of Alabama, the number of parcels per county, and the sales value attributable thereto, are as follows: Madison County (18 parcels: Sales Value \$2,972,338), Morgan County (2 parcels: Sales Value \$202,557), Jefferson County (16 parcels: Sales Value \$3,045,508) and Shelby County (2 parcels: Sales Value \$397,950).

Further Affiant Sayeth Not.

IN WITNESS WHEREOF, the affiant has executed this Affidavit on July 26, 1984.

Keith E. Lindner  
Keith E. Lindner, Managing Partner

Sworn to before me this 26th day of July, 1984.

Maureen E. Glowinski (Glowinski)  
Notary Public

My commission expires:

MAUREEN E. GLOWINSKI  
Notary Public, State of Ohio  
My Commission Expires Nov. 6, 1984

EXHIBIT B  
AND  
EXHIBIT C

RENT SCHEDULE

	<u>Lease Year 1</u>	<u>Lease Year 2</u>	<u>Lease Year 3</u>
Rent	\$10,374,000.00	\$10,374,000.00	\$11,035,950.00
Alabama Allocation	879,715.20	879,715.20	935,848.56
Jefferson County	404,668.99	404,668.99	430,322.90
Madison County	395,871.84	395,871.84	420,968.05
Morgan County	26,391.46	26,391.46	28,064.54
Shelby County	52,782.91	52,782.91	56,129.07
	<u>Lease Year 4</u>	<u>Lease Year 5</u>	<u>Lease Year 6</u>
Rent	\$11,035,950.00	\$11,686,458.00	\$13,932,875.00
Alabama Allocation	935,848.56	991,011.64	1,181,507.80
Jefferson County	430,322.90	455,865.06	543,493.59
Madison County	420,968.05	445,955.24	531,678.51
Morgan County	28,064.54	29,730.35	35,445.23
Shelby County	56,129.07	59,460.70	70,890.47
	<u>Lease Year 7</u>	<u>Lease Year 8</u>	<u>Lease Year 9</u>
Rent	\$14,332,136.00	\$16,438,707.00	\$16,438,707.00
Alabama Allocation	1,215,365.13	1,394,002.35	1,394,002.35
Jefferson County	559,067.96	641,241.08	641,241.08
Madison County	546,914.30	627,301.05	627,301.05
Morgan County	36,460.95	41,820.07	41,820.07
Shelby County	72,921.90	83,640.14	83,640.14
	<u>Lease Year 10</u>	<u>Lease Year 11</u>	<u>Lease Year 12</u>
Rent	\$17,657,704.00	\$17,657,704.00	\$18,976,173.00
Alabama Allocation	1,497,373.30	1,497,373.30	1,609,179.47
Jefferson County	688,791.72	688,791.72	740,227.57
Madison County	673,817.98	673,817.98	724,130.77
Morgan County	44,921.20	44,921.20	48,275.39
Shelby County	89,842.40	89,842.40	96,550.77
	<u>Lease Year 13</u>	<u>Lease Year 14</u>	<u>Lease Year 15</u>
Rent	\$18,976,173.00	\$20,402,228.00	\$20,807,053.00
Alabama Allocation	1,609,179.47	1,730,108.93	1,764,438.09
Jefferson County	740,222.57	795,850.09	811,641.52
Madison County	724,130.77	778,549.00	793,997.14
Morgan County	48,275.39	51,903.27	52,933.14
Shelby County	96,550.77	103,806.53	105,866.29

(K47A,32)

O. H. FLORENCE, JUDGE  
GEORGE R. REYNOLDS, JUDGE

325-5203

325-5428

**PROBATE COURT OF JEFFERSON COUNTY**

110 COURTHOUSE

BIRMINGHAM, ALABAMA 35203

CHIEF COURT CLERKS  
BIRMINGHAM DIVISION  
PEGGY A. GOBER  
JUDICIAL DIVISION  
PHONE 325-5430  
JAMES F. CHEATWOOD  
RECORDING DIVISION  
PHONE 325-5415

MILDRED G. WRIGHT  
DEPUTY PROBATE JUDGE  
BESSEMER DIVISION  
BESSEMER, ALABAMA  
PHONE 425-7511

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I, O. H. Florence, Judge of Probate of Jefferson County, Alabama, do hereby certify that I have collected a deed tax of \$13,953.50 on deed from Monterre Properties, Inc. to The Provident Bank. I further certify that I collected a mortgage tax of \$7,936.50 on mortgage from The Provident Bank to FCA American Mortgage Corporation.

This the 30th day of July, 1984.



O. H. Florence  
Judge of Probate  
Jefferson County

STATE OF ALA. SHELBY CO.  
I CERTIFY THIS  
INSTRUMENT WAS FILED

1984 JUL 31 AM 9:08

*Thomas H. [Signature]*  
JUDGE OF PROBATE

*Day of in Jeff*  
Rec. 22 50  
Ind. 1 00  
23 50