

631

STATE OF ALABAMA)
 :
SHELBY COUNTY)

**FIRST MODIFICATION TO MORTGAGE
AND OTHER LOAN DOCUMENTS**

THIS AGREEMENT made as of the 30 day of January, 1989, by and between MARK-POINT PROPERTIES, INC., an Alabama corporation ("Borrower"), EDDIE HUBERT GILMORE, CLAUDE M. FOUNTAIN, C. WAYNE THORNTON, ROBERT E. PADEN, and RANDALL J. GILMORE ("Guarantors") and AMSOUTH BANK N.A., a national banking association ("Lender").

RECITALS:

A. The Lender is the holder of a Promissory Note in the principal amount of \$1,700,000.00 dated July 15, 1988, made by Borrower in favor of Lender (referred to as the "Note"). The loan evidenced by the Note is referred to as the "Loan." The Note is secured by various documents and instruments executed in favor of Lender including but not limited to the following:

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1. Mortgage and Security Agreement (the "Mortgage") executed by Borrower dated July 15, 1988, recorded in Real Book 195, Page 306, in the Probate Office of Shelby County, Alabama.
2. Assignment of Rents and Leases (the "Assignment") executed by Borrower dated July 15, 1988, recorded in Real Book 195, Page 322, in the Probate Office of Shelby County, Alabama.
3. UCC-1 Financing Statement filed with the Secretary of State of Alabama, file number A289353R.
4. UCC-1 Financing Statement filed with the Judge of Probate of Shelby County, file number 020718.

All the documents and instruments referred to or described in this Paragraph A, together with this instrument and all other documents further securing the Note, are referred to as the "Loan Documents." The real property described in and conveyed under the Mortgage is referred to collectively as the "Property."

B. This modification agreement increases the face amount of the Note and contains various other covenants and agreements respecting the foregoing transaction, as more particularly set forth below.

Amsouth Bank
P.O. # 11007
B'ham 35282

WITNESSETH:

NOW THEREFORE, in consideration of the premises and of other due good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Modification to Promissory Note.** The Note is modified to increase the face amount thereof by \$150,000 to \$1,850,000. All references in the Note and the other Loan Documents to the words "\$1,700,000" and to "ONE MILLION SEVEN HUNDRED THOUSAND AND NO/100 DOLLARS" are deleted and the words "\$1,850,000" and "ONE MILLION EIGHT HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS" are substituted in lieu thereof, respectively.

2. **References to Loan Documents.** All references in the Loan Documents to the term "Loan Documents" shall refer to the Loan Documents as amended by this instrument.

3. **Ratification.** Except as expressly modified herein, all of the terms, covenants, conditions, agreements and stipulations of the Loan Documents shall remain in full force and effect and are hereby ratified and confirmed by the Borrower and by each of the partners thereof.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals as of the date first above written.

ATTEST:

By: [Signature]
Name: Robert E. Paden
Its: Secretary

"BORROWER":

MARK-POINT PROPERTIES, INC.,
an Alabama corporation

By: [Signature] [SEAL]
Name: Eddie Hubert Gilmore
Its: President

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WITNESS:

Melinda Owens

WITNESS:

Melinda Owens

WITNESS:

Rhonda K. McCombs

WITNESS:

Melinda Owens

WITNESS:

Melinda Owens

"GUARANTORS:"

Eddie Hubert Gilmore [SEAL]
Eddie Hubert Gilmore

Claude M. Fountain [SEAL]
Claude M. Fountain

C. Wayne Thornton [SEAL]
C. Wayne Thornton

Robert E. Paden [SEAL]
Robert E. Paden

Randall J. Gilmore [SEAL]
Randall J. Gilmore

"LENDER:"

AMSOUTH BANK N.A., a national banking association

ATTEST:

By: Dorothy J. Perry
Name: Dorothy J. Perry
Its: Assistant Vice President

By: Robert E. Nesbitt
Name: Robert E. Nesbitt
Its: Vice President

STATE OF ALABAMA)

COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for said county in said state, hereby certify that Eddie Hubert Gilmore, whose name as President of MARK-POINT PROPERTIES, INC., an Alabama corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

GIVEN under my hand and official seal of office, this 30 day of January, 1989.

[NOTARIAL SEAL]

Shirley Jean Lenz
Notary Public

My Commission Expires: 7-2-89

STATE OF ALABAMA)

COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for said county in said state, hereby certify that Eddie Hubert Gilmore, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he executed the same voluntarily on the day the same bears date.

GIVEN under my hand and official seal of office, this 30 day of January, 1989.

[NOTARIAL SEAL]

Shirley Jean Lenz
Notary Public

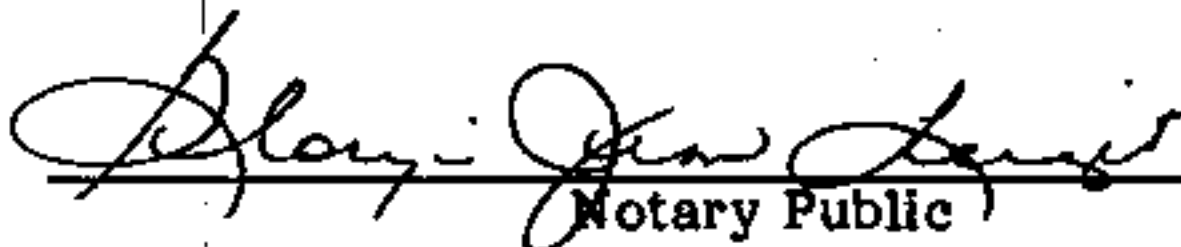
My Commission Expires: 7-2-89

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for said county in said state, hereby certify that **Claude M. Fountain**, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he executed the same voluntarily on the day the same bears date.

GIVEN under my hand and official seal of office, this 30 day of January, 1989.

[NOTARIAL SEAL]


Notary Public

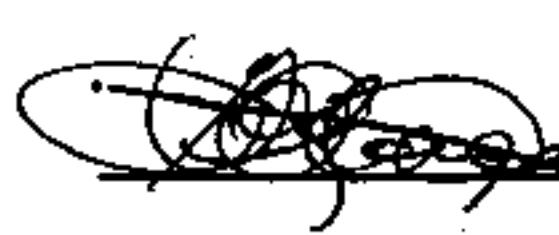
My Commission Expires: 7-2-89

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for said county in said state, hereby certify that **C. Wayne Thornton**, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he executed the same voluntarily on the day the same bears date.

GIVEN under my hand and official seal of office, this 31ST day of January, 1989.

[NOTARIAL SEAL]

 Lisa Ann Hartsfield
Notary Public

My Commission Expires: 7-2-89 4-18-90

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STATE OF ALABAMA)

COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for said county in said state, hereby certify that **Robert E. Paden**, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he executed the same voluntarily on the day the same bears date.

GIVEN under my hand and official seal of office, this 30 day of January, 1989.

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[NOTARIAL SEAL]


Notary Public

My Commission Expires: 7-2-89

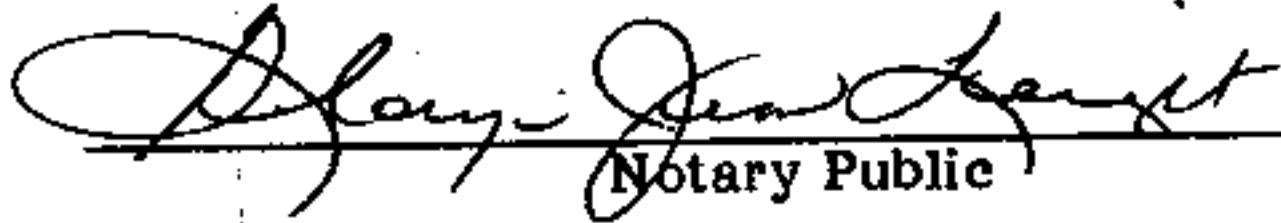
STATE OF ALABAMA)

COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for said county in said state, hereby certify that **Randall J. Gilmore**, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he executed the same voluntarily on the day the same bears date.

GIVEN under my hand and official seal of office, this 30 day of January, 1989.

[NOTARIAL SEAL]


Notary Public

My Commission Expires: 7-2-89

STATE OF ALABAMA)
 :
COUNTY OF JEFFERSON)

I, a Notary Public in and for said County in said State, hereby certify that Robert E. Nesbitt, whose name as Vice President of AmSouth Bank N.A., a national banking association, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day, that being informed of the contents of said instrument, he, as such officer, and with full authority, executed the same voluntarily for and as the act of said banking association.

Given under my hand and official seal this 30th day of January, 1989.

[NOTARIAL SEAL]

Lisa Ann Hartsfield
Notary Public

My Commission Expires: 4-18-90

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STATE OF ALA. SHELBY
I CERTIFY THIS
INSTRUMENT WAS FILED

89 FEB 10 AM 9:40

Thomas A. Snowden, Jr.
JUDGE OF PROBATE

1. Deed Tax	\$	_____
2. Mtg. Tax		<u>225.00</u>
3. Recording Fee		<u>17.50</u>
4. Indexing Fee		<u>5.00</u>
TOTAL		<u>247.50</u>