

THIS INSTRUMENT PREPARED BY: Richard W. Theibert, Attorney  
Najjar Denaburg, P.C.  
2125 Morris Avenue, Birmingham, Alabama 35203

MORTGAGE MODIFICATION AGREEMENT

24,750.00

THE STATE OF ALABAMA )  
COUNTY OF SHELBY )

This Agreement is by and between Compass Bank f/k/a Central Bank of the South, (hereinafter referred to as "Bank") and Vestbrook Building Company, Inc., (hereinafter referred to as "Borrower").

WHEREAS, Borrower is indebted to Bank as evidenced by a Promissory Note dated October 18, 1993, ("Note"); and secured by a Future Advance Mortgage on real property situated in Shelby County, Alabama, such Mortgage being recorded in Instrument # 1993-33598, in the Office of the Judge of Probate of Shelby County, Alabama, ("Mortgage"); and

WHEREAS, Borrower and Bank desire to modify the terms of said Mortgage set forth herein.

NOW, THEREFORE, for and in consideration of the premises, Borrower and Bank agree that the Mortgage is modified as follows:

A renewal Promissory Note, which is hereby attached and incorporated by reference, dated June 15, 1994 in the amount of \$163,500.00 increasing the loan amount and extending the maturity date of that certain Promissory Note in the amount of \$138,750.00, as mentioned above, in which has been executed by the above referenced Borrower to be secured by the above referenced Mortgage.

Except as modified herein, all of the terms and conditions of the Mortgage shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed effective this 15th day of June, 1994.

LENDER:

Compass Bank

BY: Billy West  
ITS: Real Estate Officer

BORROWER:

Vestbrook Building Company, Inc.

BY: Donald Hopton-Jones, Jr.  
ITS: President

THE STATE OF ALABAMA )  
COUNTY OF JEFFERSON )

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Billy West whose name as Real Estate Officer of Compass Bank, a Bank, is signed to the foregoing conveyance, and who is known to me, acknowledged before me and with full authority, executed the same voluntarily for and as the act of said Bank.

Given under my hand and official seal this 15th day June, 1994.

Rae Sue Underwood  
Notary Public

My commission expires: MY COMMISSION EXPIRES JUNE 23, 1997

THE STATE OF ALABAMA )  
COUNTY OF JEFFERSON )

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Donald Hopton-Jones, Jr. whose name as President of Vestbrook Building Company, Inc., a corporation, is signed to the foregoing conveyance, and who is known to me, acknowledged before me and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 15th day June, 1994.

Rae Sue Underwood  
Notary Public

My commission expires: MY COMMISSION EXPIRES JUNE 23, 1997

Inst # 1994-19797  
06/22/1994-19797  
10:05 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
003 MCB 50.70

# PROMISSORY NOTE (Construction Loan Master Note)

FILE UNDER	
Birmingham ALABAMA	\$ 163,500.00
June 15 19 94	LOAN OFFICER B. West

FOR VALUE RECEIVED, the undersigned Borrower (jointly and severally, if more than one) promises to pay to the order of COMPASS BANK \_\_\_\_\_, herein called the "Bank" or collectively with any other holder of this note, the "Holder," at the office of Bank or at such other place as Holder may from time to time designate,

the sum of One Hundred Sixty-Three Thousand Five Hundred and NO/100----- Dollars (\$ 163,500.00) with interest thereon, to be repaid as follows:

On demand.

Interest from date on the outstanding unpaid principal balance, which shall in no event exceed the maximum amount permissible by law, shall be computed as follows:

USING A 360 DAY ACCRUAL BASIS, AT A PER ANNUM RATE EQUAL TO 1 % ABOVE THE PRIME LENDING RATE FROM TIME TO TIME PREVAILING AT THE BANK. IN NO EVENT SHALL THE INTEREST RATE BE LESS THAN 7.00 %, NOR EXCEED N/A. ANY CHANGE IN SAID RATE DUE TO A CHANGE IN THE PRIME LENDING RATE SHALL TAKE EFFECT IMMEDIATELY AS PRIME MOVES, AND INTEREST BILLED MONTHLY.

Any scheduled payment of principal or principal plus interest in default ten (10) days or more will be subject to a late charge of five percent (5%) of such scheduled payment. The late charge shall be charged only once for any late payment.

Contemporaneously herewith, the undersigned have executed with the Holder hereof a mortgage, which secures this note with interest, and a construction loan agreement. A default in any of the provisions of said mortgage or construction loan agreement shall constitute a default of this note.

Bank may but shall not be required to, apply, on or after demand, to the payment of this debt, any funds, credit or property held by or in possession of Bank, on deposit, in trust or otherwise, for account of any Borrower.

In the event Borrower (which shall mean and include any maker, endorser, surety or guarantor hereof) fails to pay when due or perform any of the Obligations (meaning thereby this note and any and all renewals and extensions thereof and all other liabilities and indebtedness of Borrower to Holder now existing or hereinafter incurred or arising, direct or indirect, and however incurred) or any part thereof or fails to pay when due any other liability to Holder or in the event Holder deems itself insecure for any reason and Borrower fails to deposit additional collateral satisfactory to Holder or on the happening of any one or more of said events, Holder shall have the right at its election and without notice to Borrower to declare the obligations immediately due and payable with interest to date. No delay in making such election shall be construed as a waiver of the right to make such election. Holder may note the fact of acceleration hereon without stating the ground therefor, and whether or not noted hereon such election to accelerate shall be effective. In the event of the death of, insolvency of, general assignment by, judgment against, filing of petition in bankruptcy by or against, filing of application in any court for receiver for, or issuance of writ of garnishment or attachment in a suit or action against any of the assets of Borrower, or on the happening of any one or more of said events, the Obligations shall immediately become due and payable with interest to date, unless Holder shall, on notice of such event, elect to waive such acceleration by written notation hereon. Upon any such acceleration, whether automatic or at the election of Holder, both principal and accrued interest shall bear interest from the accelerated date of maturity at the rate first stated above, or at the maximum legal rate, if less.

Each of the Borrowers hereby severally (a) waives as to this debt or any renewal thereof all rights of exemption under the Constitution or laws of Alabama or any other state as to real or personal property; (b) waives demand, presentment, protest, notice of protest, notice of dishonor, suit against any party and all other requirements necessary to hold him; (c) agrees that time of payment may be extended or renewal notes taken or other indulgence granted without notice of or consent to such action and without release of liability as to any Borrower; (d) agrees to pay all costs of collecting or attempting to collect or secure this note, including reasonable attorneys' fees not exceeding 15% of the unpaid debt. This note shall be construed in accordance with the laws of the State of Alabama.

The undersigned have subscribed their names hereto without condition that anyone else should sign or become bound hereon and without any other condition whatever being made. The provisions hereof are binding on the heirs, executors, administrators, assigns and successors of each and every Borrower and shall inure to the benefit of Bank, its successors and assigns, and every subsequent holder of this note. Borrower acknowledges receipt of a completed copy hereof and of any other instrument executed by Borrower before this transaction is consummated.

**CAUTION — IT IS IMPORTANT THAT YOU THOROUGHLY READ THE CONTRACT BEFORE YOU SIGN IT.**

Attest:

Vestbrook Building Company, Inc.

By: \_\_\_\_\_

By: Donald Hopton-Jones, Jr.  
President

Its \_\_\_\_\_

Its \_\_\_\_\_

By: \_\_\_\_\_

Its \_\_\_\_\_

(Seal)

(Seal)

## GUARANTY OF PAYMENT

For value received, the undersigned (who if more than one shall be jointly and severally liable hereunder) hereby unconditionally guarantees the payment of the note set forth on the reverse side hereof and all extensions or renewals thereof and all expenses (including attorney's fees as provided therein) incurred in the collection thereof, the enforcement of rights under any security therefor and the enforcement hereof, and waives presentment, demand, notice of dishonor, protest and all other notices and actions otherwise necessary to hold him or them as guarantors, and agrees that the holder of said note may from time to time accept prepayment on or extend or renew said note for any period (whether or not longer than the original period of said note), and may from time to time and without notice surrender, release, compromise, substitute or exchange all or any part of the Collateral, or real property securing said note, all without notice to or consent

of any of the undersigned and without affecting the liability of the undersigned hereunder. The undersigned further waives all rights of exemption under the Constitution and laws of the State of Alabama or any other state as to personal or real property. The undersigned further agrees to pay all costs that may be incurred in the enforcement of this guaranty, including a reasonable attorney's fee not to exceed 15% of the unpaid debt, where the original amount financed exceeds \$300.00 and this note is after default referred to an attorney not a salaried employee of Bank for collection or other enforcement proceedings. The undersigned waives all guaranty and suretyship defenses, including without limitation unenforceability of the obligation guaranteed, and agrees that the Bank or other holder hereof has no obligation to proceed first against the Borrower or any collateral or to first pursue any other remedy.

**CAUTION — IT IS IMPORTANT THAT YOU THOROUGHLY READ THE CONTRACT BEFORE YOU SIGN IT.**

\_\_\_\_\_  
Address

\_\_\_\_\_  
Guarantor's Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
Guarantor's Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
Guarantor's Signature

**NOTICE: SEE REVERSE SIDE FOR IMPORTANT INFORMATION**

**Inst # 1994-19797**

**06/22/1994-19797  
10:05 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
003 MCD 50.70**