

STATE OF ALABAMA)

COUNTY OF SHELBY)

10/13/1994-31214
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SHELBY COUNTY JUDGE OF PROBATE
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**LOAN MODIFICATION AGREEMENT AND
AMENDMENT TO LOAN DOCUMENTS**

THIS LOAN MODIFICATION AGREEMENT AND AMENDMENT TO LOAN DOCUMENTS (this "Agreement") is being entered into as of the 31st day of October, 1993, by and between **GOLDOME CREDIT CORPORATION**, a Delaware corporation licensed to do business in Alabama ("GCC"), and **BROOKLINE, LTD.**, a Tennessee Limited Partnership ("Brookline"), **FREEMONT, INC.**, an Alabama corporation ("Freemont"), and individuals **BROOKSD. COLLIER** ("Collier"), **KIRBY O. FOSTER** ("Foster"), and **PHILLIP G. HAYDEN** ("Hayden") (hereinafter Collier, Foster and Hayden are sometimes collectively referred to as "Guarantors").

P R E A M B L E

Brookline, by and through its general partner, Vantage Capital, Inc., executed and delivered that certain Promissory Note dated as of July 28, 1989, in the original principal amount of NINE HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$950,000.00) (the "Note"), along with other loan documents and instruments evidencing, securing, relating to, guaranteeing or otherwise executed or delivered in connection with the Note (collectively with the Note, the "Loan Documents"), which evidences a \$950,000.00 loan from GCC to Brookline (the "Loan"). The Loan was extended by GCC to Brookline for construction financing of the Brookline Mobile Home Park located in Helena, Alabama, and is secured by, among other things, that certain Real Estate Mortgage by and between GCC and Brookline dated as of July 28, 1989, as recorded in Book 249, beginning at Page 287, in the Office of the

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Judge of Probate of Shelby County, Alabama (the "Mortgage"), that certain Security Agreement by and between GCC and Brookline dated as of July 28, 1989 (the "Security Agreement"), that certain Collateral Assignment of Rents and Leases by and between GCC and Brookline dated as of July 28, 1989, as recorded in Book 249, beginning at Page 303, in the Office of the Judge of Probate of Shelby County, Alabama (the "Assignment"), and that certain Guaranty Agreement by and between GCC and Collier, Foster and Hayden, dated as of July 28, 1989 ("Guaranty").

As a direct consequence of Brookline's Chapter 11 bankruptcy case pending in the Northern District of Alabama, Southern Division, Case Number 92-03962, GCC, Brookline, Freemont, Foster, Collier and Hayden have agreed to modify the Loan, and amend the Loan Documents and any instruments evidencing, securing, relating to, guaranteeing or executed or delivered in connection with the Loan. Accordingly, GCC and Brookline, Freemont, and individuals Foster, Collier and Hayden have agreed that the Loan shall be modified, and that the Loan Documents shall be modified as set forth below.

A G R E E M E N T

NOW, THEREFORE, for and in consideration of the foregoing premises, the mutual agreements of the parties as set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce GCC to modify the Loan, the parties, intending to be legally bound hereby, agree as follows:

1. **Acknowledgment of Indebtedness.** Brookline, Freemont and Guarantors acknowledge that as of the effective date of this Agreement, Brookline is indebted to GCC

under the Loan Documents in the amount of \$1,068,391.25. Brookline shall repay its indebtedness to GCC pursuant to the terms and conditions of this Agreement.

2. **Representations and Warranties.** By executing this Agreement, Brookline and Guarantors reaffirm all representations, covenants and warranties made in the Loan Documents. Brookline, Fremont, Foster, Collier and Hayden hereby represent and warrant to GCC that no event of default nor any condition or event that would constitute a breach of the terms, conditions or covenants of the Loan Documents, has occurred, exists and/or is continuing under any of the Loan Documents or the Loan, except for the Default as defined hereinafter. Brookline, Fremont and Guarantors represent and warrant to GCC that, as of the effective date of the Agreement, to the best of their knowledge, the property is not contaminated with Hazardous Materials.

3. **Releases.** Brookline and Guarantors release, relinquish and waive any and all claims from the inception of the Loan Documents they have or may have against GCC or its officers, directors, employees, representatives, agents, attorneys, parents, subsidiaries or affiliates, arising out of, or in connection with, the Loan, the Loan Documents, this Agreement or the transactions hereunder, whether known or unknown, as of the date hereof. Brookline and Guarantors covenant and agree that they will not assert or seek to assert any claim, offset, defense, counterclaim or cross-claim of any kind or nature whatsoever with respect to the unpaid indebtedness due under the Note, the Loan Documents or this Agreement.

4. **Modification of Loan.** The Borrower shall execute an amended and restated note in the amount of \$1,068,391.25. The maturity date of the Loan shall remain August 10, 1996. The applicable interest rate on the amended and restated note shall be eight percent

(8%) per annum and payments will be amortized over thirty (30) years. Payments of principal and interest will be due monthly on the tenth (10th) day of each month. The first payment will be due November 10, 1993. Together with, and in addition to, the monthly payments of principal and interest, and on the same date, Brookline shall deposit with GCC, in a non-interest bearing account, a sum equal to one-twelfth (1/12) of the annual taxes which may be levied against the real property. The new payment plus escrow is estimated to be \$8,239.48 per month. Nothing herein shall be deemed or construed as a waiver by GCC of its rights to require Brookline to escrow for any assessments levied upon the real property or for yearly premiums for insurance as permitted by the Loan Documents.

5. **Amended and Restated Note.** Brookline shall execute and deliver to GCC the Amended and Restated Note attached hereto which sets forth the amendments stated herein.

6. **Effect on Loan Documents.** Each of the Loan Documents shall be deemed amended as set forth hereinabove and to the extent necessary to carry out the intent of this Agreement. Without limiting the generality of the foregoing, each reference in the Loan Documents to the "Note" or any other "Loan Documents" shall be deemed to be references to said documents as amended hereby, and each reference to the amount of the Loan or Note shall be changed to \$1,068,391.25. Except as expressly set forth herein, all the Loan Documents shall remain in full force and effect in accordance with their respective terms and shall continue to evidence, secure, guarantee or relate to, as the case may be, the Loan and the Amended and Restated Note.

7. **Additional Documentation; Expenses.** Brookline and Freemont agree to provide GCC with certified resolutions properly authorizing the transaction contemplated hereby and

the execution of this Agreement and the Amended and Restated Note. Brookline, Freemont and Guarantors shall execute and deliver to GCC all such instruments, financing statements and other documents as GCC may request to effectuate, evidence, validate or perfect this modification. Brookline shall pay any recording fees and all other expenses incurred by GCC in connection with the modification of the Loan and the Loan Documents, including without limitation, title or other insurance premiums, survey costs, legal expenses, recording fees and taxes.

8. **Consent by Guarantors.** Guarantors hereby consent to the modification and amendments described herein, and acknowledge the continuing effect of their respective guaranty and the obligations contained therein. Guarantors hereby waive any defense to their obligations under the Guaranty based upon or arising out of this modification to the Note and Loan Documents.

9. **Reservation of Rights.** Nothing contained in this Agreement shall in any manner or way constitute or be deemed to be a release or impairment of the indebtedness evidenced by the Note or otherwise affect or impair the enforceability of the Note, as amended and restated, or the liens, assignments, security interests or guaranties securing the Note. Further, nothing in this Agreement shall preclude GCC from (a) foreclosing the Mortgage, (b) proceeding, without limitation, against any and all security or sources of payment held by GCC for the Note, as amended and restated, or (c) enforcing any of its rights and remedies in law or in equity, except as expressly provided in this Agreement. Brookline acknowledges and agrees that all property pledged or assigned to GCC as security for the Note has been pledged or assigned as security for the indebtedness evidenced by the Amended and Restated Note.

10. Temporary Forbearance Relating to Certain Loan Defaults. As of the date hereof, Brookline is in default of its payment obligations under the Note and the Loan Documents (the "Default"). Pursuant to the terms of one or more of the Loan Documents, upon the occurrence and continuance of the Default, GCC has the right, inter alia, to accelerate the indebtedness evidenced by the Note. Brookline and Guarantors have requested that GCC forbear from exercising its right of acceleration of the indebtedness evidenced by the Note arising as a result of the Default.

Subject to Brookline, Freemont and the Guarantors executing and delivering this Agreement and performing the terms and covenants of this Agreement and the Loan Documents, as amended, GCC hereby agrees to forbear from exercising its right to accelerate payment of the indebtedness evidenced by the Note arising by virtue of the Default (the "Forbearance"). Notwithstanding anything to the contrary contained or implied herein, this Forbearance shall not be construed as a waiver of any of GCC's rights or remedies under the Note, the other Loan Documents and the Amended and Restated Note. The Forbearance is effective only in the specific instance and for the purpose given, namely, to express GCC's temporary and conditional agreement to forbear from exercising its right to accelerate payment of the Note arising as a result of the Default, and nothing contained or implied herein shall be construed as granting Brookline or the Guarantors the right to otherwise fail to fully comply with the terms, covenants, or conditions set forth in one or more of the Loan Documents. Notwithstanding anything to the contrary contained or implied herein, the Forbearance shall not apply to the occurrence of any other default or event of default or breach of any term, condition or covenant of the Loan Documents, this Agreement, or the Amended and Restated Note. GCC forbearance against enforcement of the Guaranty against the Guarantors is

specifically conditioned on the Guarantors signing this Agreement. In the event the Guarantors fail or refuse to sign this Agreement, nothing herein shall constitute or be construed as a waiver or forbearance by GCC of its right and remedies against the Guarantors.

11. **Notices.** All notices or demands required or permitted under the Loan Documents or this Agreement shall be deemed to have been delivered, given or served when set forth in writing and addressed as follows:

To: Brookline, Ltd.	Brookline, Ltd. c/o B. N. Shirley Vantage Capital, Inc. P.O. Box 360867 Birmingham, Alabama 35236
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To: Goldome Credit Corporation	Goldome Credit Corporation 15660 N. Dallas Parkway Suite 600 Dallas, Texas 75248
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12. This Agreement may be executed in multiple counterparts, and each such counterpart shall be binding upon any party executing same, whether or not said counterpart is executed by any other party hereto, and shall enure to the benefit of the parties hereto, their respective successors and assigns.

IN WITNESS WHEREOF, the undersigned have caused this instrument to be duly executed as of the date first set forth above.

ATTEST:

ATTEST:

ATTEST:

By: Joan Gann
Its: Vice President

ATTEST:

ATTEST:

ATTEST:

BROOKLINE LTD., a Tennessee Limited Partnership

By: **VANTAGE CAPITAL, INC.**
Its: **General Partner**

By: B. N. Shirley
B. N. Shirley
Its: President

FREEMONT, INC., an Alabama Corporation

By: B. N. Shirley
B. N. SHIRLEY
Its: President

GOLDOME CREDIT CORPORATION, a Delaware Corporation

By: Paul Hopper
Its: Vice President

GUARANTORS:

KIRBY O. FOSTER

BROOKS D. COLLIER

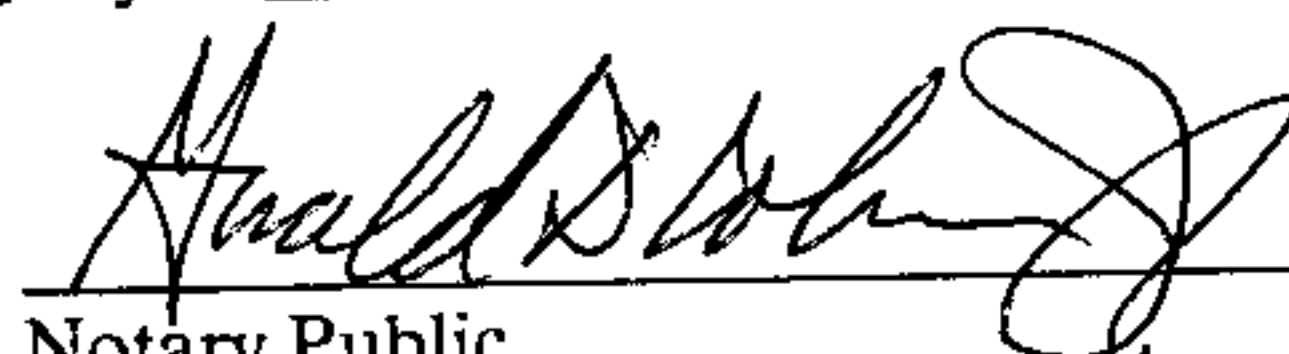
PHILLIP G. HAYDEN

STATE OF ALABAMA)

COUNTY OF SHELBY)

~~B.N. Shirley~~ I, the undersigned, Notary Public in and for said County in said State, hereby certify that ~~B.N. Shirley~~ whose name as President of **VANTAGE CAPITAL, INC.**, a general partner of **BROOKLINE, LTD.**, a Tennessee limited partnership, 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 the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this the 3rd day of November, 1993.



Notary Public

My commission expires: 10/17/95

[NOTARIAL SEAL]

STATE OF ALABAMA)

COUNTY OF SHELBY)

I, the undersigned, Notary Public in and for said County in said State, hereby certify that **B. N. SHIRLEY**, whose name as President of **FREEMONT, 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 the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this the 3rd day of November, 1993.



Notary Public

My commission expires: 10/17/95

[NOTARIAL SEAL]

STATE OF TEXAS)

COUNTY OF DALLAS)

I, the undersigned, Notary Public in and for said County in said State, hereby certify that JOAN HOOPER, whose name as Vice President of **GOLDOME CREDIT CORPORATION**, a Delaware 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 the instrument, she, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this the 5th day of JANUARY, ¹⁹⁹⁴~~1993~~.



PATRICIA A. MONROE
MY COMMISSION EXPIRES
September 26, 1997

Patricia A. Monroe

Notary Public

My commission expires: 9-26-97

[NOTARIAL SEAL]

STATE OF ALABAMA)

COUNTY OF SHELBY)

I, the undersigned, Notary Public in and for said County in said State, hereby certify that **KIRBY O. FOSTER**, 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 the instrument, he executed the same voluntarily.

Given under my hand this the ____ day of _____, 1993.

Notary Public

My commission expires: _____

[NOTARIAL SEAL]

STATE OF ALABAMA)

COUNTY OF SHELBY)

I, the undersigned, Notary Public in and for said County in said State, hereby certify that **BROOKS D. COLLIER**, 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 the instrument, he executed the same voluntarily.

Given under my hand this the ____ day of _____, 1993.

[NOTARIAL SEAL]

Notary Public

My commission expires: _____

STATE OF ALABAMA)

COUNTY OF SHELBY)

I, the undersigned, Notary Public in and for said County in said State, hereby certify that **PHILLIP G. HAYDEN**, 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 the instrument, he executed the same voluntarily.

Given under my hand this the ____ day of _____, 1993.

[NOTARIAL SEAL]

Notary Public

My commission expires: _____

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SHELBY COUNTY JUDGE OF PROBATE
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