

## SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (the "**Agreement**") is made by and among **RESTORE PROPERTIES, LLC**, an Alabama limited liability company (the "**Landlord**"), **CROSSMARK, INC.**, a Delaware corporation (the "**Tenant**"), and **REGIONS BANK**, an Alabama banking corporation (the "**Mortgagee**"), as of the 11<sup>th</sup> day of December, 2002.

### RECITALS:

A. Pursuant to a certain lease agreement dated April 1, 2001 as amended (the "**Lease**"), Landlord, or its predecessor in title, has demised and let to Tenant, and Tenant has taken and hired from Landlord, certain premises (the "**Premises**") located in Shelby County, Alabama, such Premises being more particularly described in the Lease and in Exhibit "A" attached hereto and made a part hereof.

B. Landlord has granted a certain mortgage in the Premises (the "**Mortgage**") to Mortgagee in order to secure a loan made by Mortgagee to Landlord.

C. Tenant desires that Mortgagee recognize Tenant's rights under the Lease in the event of foreclosure of Mortgagee's lien, and Tenant is willing to subordinate its rights under the Lease and to agree to attorn to the purchaser upon such foreclosure if Mortgagee will recognize Tenant's rights under the Lease.

NOW, THEREFORE, in consideration of the premises, the mutual promises and covenants of the parties hereunder, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

(1) Subject to the terms and conditions hereinafter set forth, the Lease is and shall at all times continue to be subject and subordinate in all respects to the Mortgage and to all renewals, replacements, consolidations, modifications, assignments and extensions thereof.

(2) So long as Tenant is not in default (beyond any period given by Landlord to Tenant to cure such default) in the payment of rent or additional rent or in the performance of any of the other terms, covenants or conditions of the Lease on Tenant's part to be performed, Tenant's possession under the Lease and Tenant's rights and privileges thereunder, or under any extensions, replacements, consolidations or renewals thereof which may be effected in accordance with any option therefor contained in the Lease, shall not be diminished or interfered with by Mortgagee, and Tenant's occupancy shall not be disturbed by Mortgagee during the term of the Lease or any such extensions or renewals thereof.

(3) If the interest of the Landlord shall be acquired by Mortgagee or any foreclosure sale purchaser (hereinafter collectively referred to as the "**Mortgagee**") by reason of foreclosure of the Mortgage or other proceedings brought to enforce the rights of the holder thereof, by deed in lieu of foreclosure or by any other method, or if Mortgagee otherwise succeeds to the interest of Landlord

under the Lease, the Lease and the rights of Tenant thereunder shall continue in full force and effect and shall not be terminated or disturbed except in accordance with the terms of the Lease, and Tenant shall be bound to Mortgagee under all of the terms, covenants and conditions of the Lease for the balance of the term thereof remaining, and any extensions or renewals thereof which may be effected in accordance with any option therefor contained in the Lease with the same force and effect as if Mortgagee were the lessor or landlord under the Lease, and Tenant does hereby attorn to Mortgagee as its lessor, said attornment to be effective and self-operative without the execution of any other instruments on the part of either party hereto immediately upon Mortgagee's succeeding to the interest of Landlord under the Lease; provided, however, that Tenant shall be under no obligation to pay rent to Mortgagee until Tenant receives written notice from Mortgagee that it has succeeded to the interest of Landlord under the Lease. The respective rights and obligations of Tenant and Mortgagee upon such attornment, to the extent of the then remaining balance of the term of the Lease and any extensions or renewals, shall be and are the same as now set forth in the Lease, it being the intention of the parties hereto for this purpose to incorporate the Lease into this Agreement by reference with the same force and effect as if set forth at length herein.

(4) If Mortgagee shall succeed to the interest of Landlord under the Lease, Mortgagee shall be bound to Tenant under all of the terms, covenants and conditions of the Lease, and Tenant shall, from and after Mortgagee's succession to the interest of Landlord under the Lease, have the same remedies against Mortgagee for the breach of any agreement contained in the Lease that Tenant might have had under the Lease against Landlord if Mortgagee had not succeeded to the interest of Landlord; provided, however, that Mortgagee shall not be:

(a) liable for any act or omission of any prior landlord (including Landlord);  
or

(b) subject to any offsets or defenses which Tenant might have against any prior landlord (including Landlord); or

(c) bound by any rent or additional rent which Tenant might have paid for more than the then current month to any prior landlord (including Landlord); or

(d) bound by any agreement or modification of the Lease made without Mortgagee's consent; or

(e) in any way responsible for any deposit or security which was delivered to Landlord, but which was not subsequently delivered to Mortgagee.

(5) Tenant shall give prompt written notice to Mortgagee of all defaults by Landlord of any obligations under the Lease which may be of such a nature as to give Tenant a right to terminate the Lease, to reduce rent, or to credit or offset any amounts against future rents, prior to exercise by Tenant of such rights.

(5.1) Landlord and Mortgagee acknowledge that Tenant has paid \$8,885.63 on or about April 1, 2001, as a Security Deposit, which shall be subject to return in accordance with the terms of the Lease.



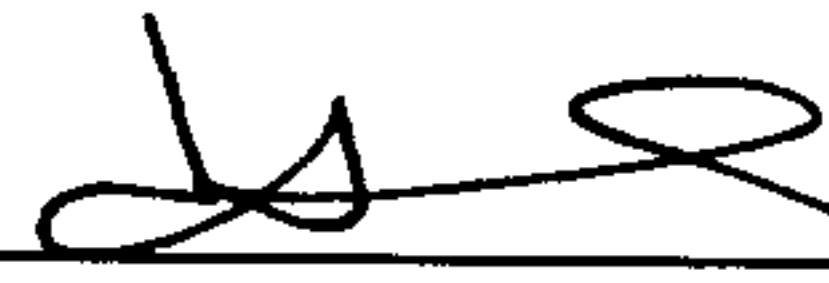
(6) This Agreement may not be altered, modified, or amended except by writing signed by all of the parties hereto.

(7) This Agreement shall be binding upon and inure to the benefit of the parties, their respective heirs, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed under seal by their respective duly authorized representatives as of the date first above written.

LANDLORD:

**RESTORE PROPERTIES, LLC**

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

Its: \_\_\_\_\_ 

**EXECUTION CONTINUED ON FOLLOWING PAGE.**

MORTGAGEE:

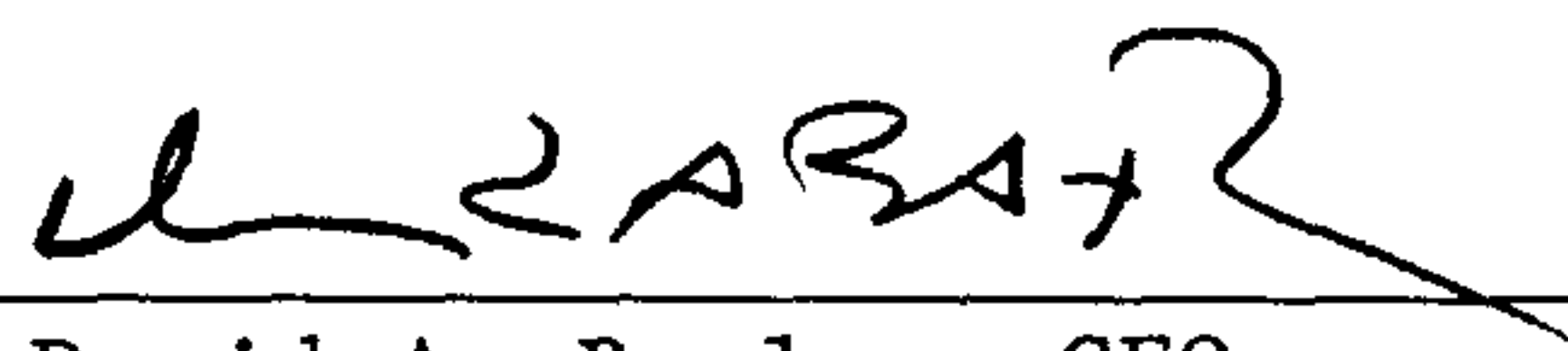
**REGIONS BANK**

By:   
H. Clayton Ingram, Jr.  
Its Executive Vice President

[SEAL]

TENANT:

**CROSSMARK, INC.**

By:   
Its: David A. Baxley, CEO

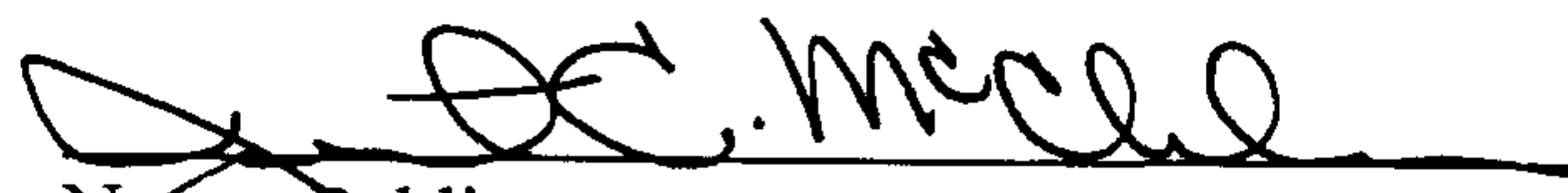
[SEAL]

STATE OF ALABAMA        )

JEFFERSON COUNTY        )

I, the undersigned Notary Public in and for said County in said State, hereby certify that R. Debra O. Delgado whose name as Chief Executive Officer of RESTORE PROPERTIES, LLC, an Alabama limited liability company, 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 this instrument, he, as such Chief Executive Officer and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal this the 11<sup>th</sup> day of December, 2002.

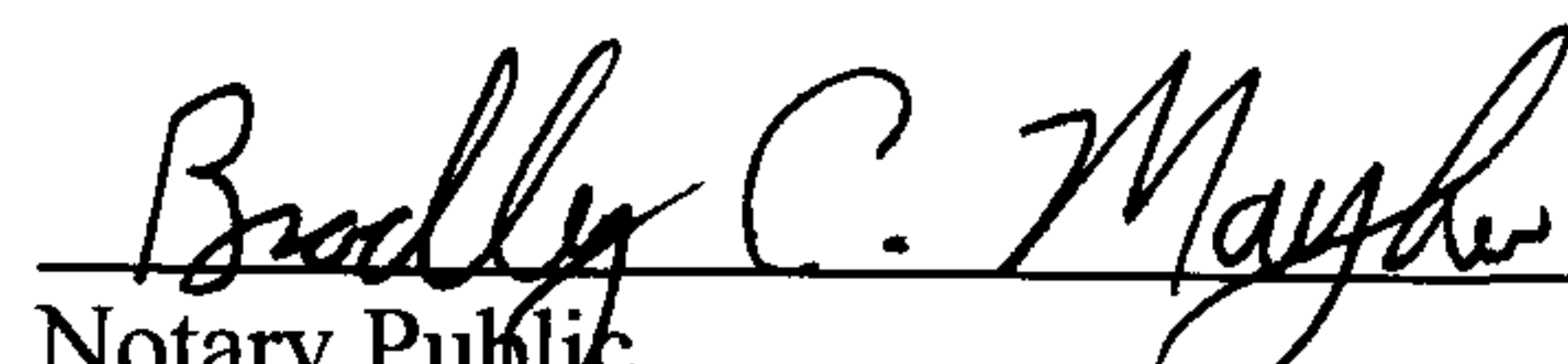
  
Notary Public  
My Commission Expires: 10/18/04  
NOTARY PUBLIC STATE OF ALABAMA AT LARGE  
MY COMMISSION EXPIRES: Oct 18, 2004  
BONDED THRU NOTARY PUBLIC UNDERWRITERS

STATE OF ALABAMA        )

JEFFERSON COUNTY        )

I, the undersigned Notary Public in and for said County in said State, hereby certify that H. Clayton Ingram, Jr., whose name as Executive Vice President of REGIONS BANK, an Alabama banking 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 this instrument, he, as authorized representative and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this the 11<sup>th</sup> day of December, 2002.

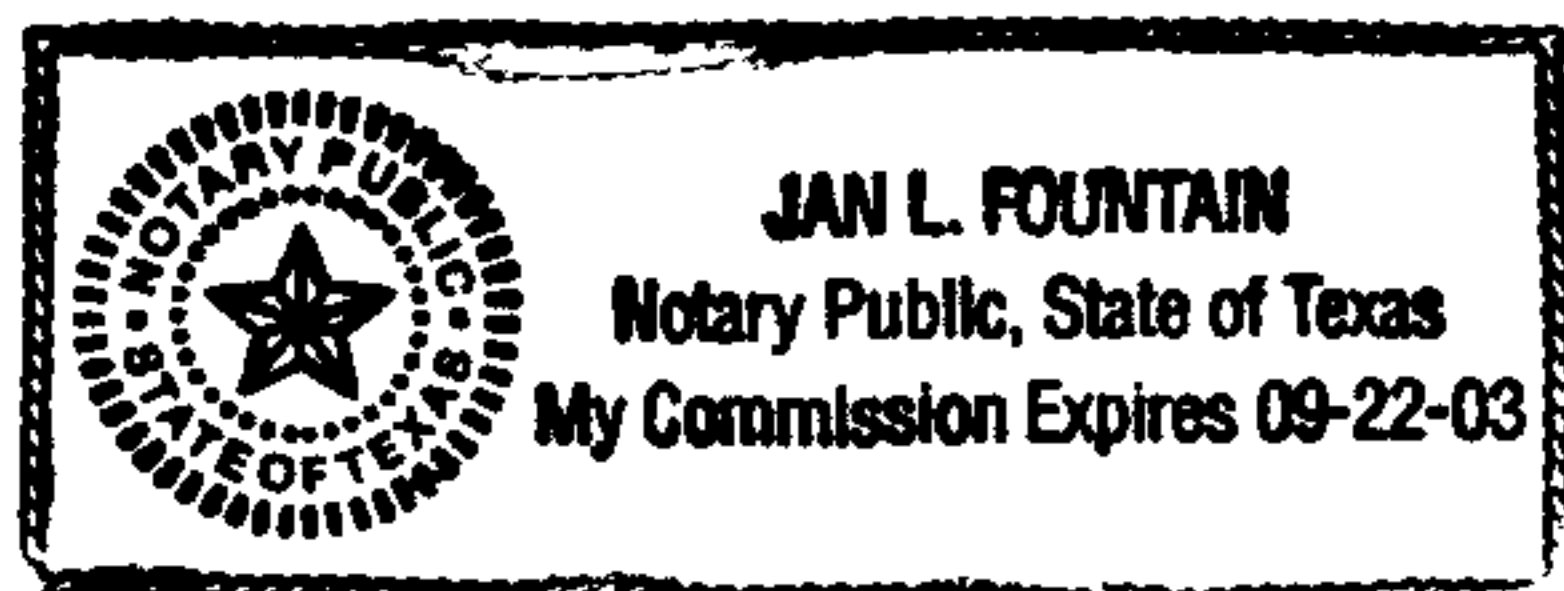
  
Notary Public  
My Commission Expires: 10/11/04

STATE OF TEXAS )

COLLIN COUNTY )

I, the undersigned Notary Public in and for said County in said State, hereby certify that David A. Baxley, whose name as CEO of CROSSMARK, INC., 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 this 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 and official seal this the 2nd day of December, 2002.



*Jan L. Fountain*  
Notary Public, State of Texas  
My Commission Expires: 9/22/03

## EXHIBIT A

Part of Block 2 of Cahaba Valley Park North as recorded in Map Book 13, Page 140, in the Probate Office of Shelby County, Alabama, being more particularly described as follows:

Commence at the centerline point of tangent station 43 + 18.73 of Cahaba Valley Parkway; thence run east along the centerline of said Cahaba Valley Parkway for 73.40 feet; thence 90 deg. 00 min. 00 sec. left and run northerly for 30.00 feet to a point on the north right of way line of said Cahaba Valley Parkway, said point being the SE corner of the Steely Enterprises Survey by Miller Triplett & Miller Engineers, Inc., dated February 14, 1990, and also the point of beginning of the parcel herein described; thence continue northerly along the last stated course and along the west line of said Steely Enterprises Survey for 300.00 feet to the NW corner of said survey, said point being on the north boundary of Block 2 of said Cahaba Valley Park North; thence 90 deg. 00 min 00 sec. left and run westerly along said north line of Block 2 for 568.66 feet measured, 568.11 record, to the NW corner of said Block 2, said point being also the NW corner of the Steve Boner Survey by Miller Triplett & Miller Engineers, Inc., dated May 16, 1995; thence 130 deg. 48 min. 19 sec. left and run southeasterly along the northerly property line of said Steve Boner Survey for 481.77 feet to the NE corner of said survey, said point being on the northerly right of way line of said Cahaba Valley Parkway; thence 88 deg. 39 min. 33 sec. left to become tangent to a curve to the right, said curve having a radius of 283.71 feet and subtending a central angle of 39 deg. 27 min. 52 sec.; thence run northeasterly along said right of way line and along the arc of said curve for 195.42 feet to the end of said curve; thence at tangent to said curve run east along said right of way line for 73.40 feet to the point of beginning; being situated in Shelby County, Alabama;

Subject to:

1. Taxes and assessments for the year 2003 and subsequent years, which are not yet due and payable;
2. Transmission Line Permits to Alabama Power Company as shown by instruments recorded in Deed Book 101, Page 520, in Deed Book 145, Page 378, and in Deed Book 113, Page 281 in the Probate Office of Shelby County, Alabama;
3. Declaration of Protective Covenants for Cahaba Valley Park North, as set out in Real 268, Page 140 in the Probate Office of Shelby County, Alabama;
4. Declaration of Restrictive Covenants in connection with sale to Taco Bell recorded in real 325, Page 929 in the Probate Office of Shelby County, Alabama;
5. Restrictive Covenants in connection with sale to Camps, Inc., as recorded in Real 290, Page 386 in the Probate Office of Shelby County, Alabama;
6. Restrictive Covenants in connection with sale to Pelham Hotel Investment, Inc., as recorded as Instrument #1992-15856 in the Probate Office of Shelby County, Alabama;
7. Restrictive Covenants in connection with sale to Baptist Medical Center, as recorded as Instrument #1993-25691 in the Probate Office of Shelby County, Alabama;
8. A 50-foot right of way to Alabama Power Company with overhead transmission lines as shown on the survey of Joseph A. Miller, last dated June 1, 2000.
9. Mineral and mining rights not owned by Grantor, matters of record and matters shown on survey prepared by Laurence Weygand dated November 25, 2002.

20021211000622560 Pg 7/7 29.00  
Shelby Cnty Judge of Probate, AL  
12/11/2002 16:01:00 FILED/CERTIFIED