10/05/11 9:46:09
DK T BK 3,349 PG 277
DESOTO COUNTY, MS
W.E. DAVIS, CH CLERK

10/05/11 9:46:31
DK P BK 147 PG 246
DESOTO COUNTY, MS
W.E. DAVIS, CH CLERK

Instrument Prepared By and
After Recording Return To:

Harry E. Neblett, Jr. [MS Bar #3776]
Wyatt, Tarrant & Combs, LLP
1715 Aaron Brenner Drive, Suite 800
Memphis, Tennessee 38120
901-537-1000

Indexing Instruction:

NW ¼ of Section 28
Township 1 South, Range 6 West
DeSoto County, Mississippi

Grantor Name and Address:

Brown Bag Café
8177 Highway 178
Olive Branch, Mississippi 38654
Telephone: 662-895-6886

Beneficiary Name and Address:

The Metropolitan Bank
1661 Aaron Brenner Drive, Suite 100
Memphis, Tennessee 38120
Telephone: 901-969-8000

THIS INSTRUMENT MODIFIES AND EXTENDS THE DEED OF TRUST FILED FOR RECORD IN BOOK 2935, PAGE 711, AND THE ASSIGNMENT OF LEASES, RENTS AND INCOME FILED FOR RECORD IN BOOK 127, PAGE 622, IN THE OFFICE OF THE CHANCERY CLERK OF DESOTO COUNTY, MISSISSIPPI.

MODIFICATION OF DEED OF TRUST AND ASSIGNMENT

This Modification of Deed of Trust and Assignment ("Modification") is made and entered into with an effective date of September 5, 2011, by and between **BROWN BAG CAFÉ**, a Mississippi general partnership, with an address of 8177 Highway 178, Olive Branch, Mississippi 38654 (referred to herein as the "Grantor"), and **THE METROPOLITAN BANK**, a Mississippi banking corporation, with an address of 1661 Aaron Brenner Drive, Suite 100, Memphis, Tennessee 38120 (referred to herein as the "Bank" or as the "Beneficiary").

The Grantor has heretofore obtained a loan or extension of credit from the Bank evidenced by a Promissory Note dated August 5, 2008, in the original principal amount of $30,000.00 and payable to the order of the Bank (the "Note"). The Note is secured by the Deed of Trust dated August 5, 2008, recorded in **Book 2935**, at **Page 711**, in the Office of the Chancery Clerk of DeSoto County, Mississippi (the "Deed of Trust") and by the Assignment of Leases, Rents and Income dated August 5, 2008, recorded in **Book 127**, at **Page 622**, in the Office of the Chancery Clerk of DeSoto County, Mississippi (the "Assignment"). The Deed of Trust and the Assignment describe and cover certain real property and improvements located in DeSoto County, Mississippi, and more particularly described as follows:

See Exhibit "A" attached hereto and incorporated herein by reference.

The aforedescribed real property and improvements are referred to herein as the "Property." The Note, the Deed of Trust, the Assignment, and all other documents and instruments executed in connection with the Note are collectively referred to herein as the "Loan Documents." The Bank is the legal owner and holder of the Note and the Loan Documents. The Grantor and the Bank have agreed to modify and extend the Note and desire to modify and extend the lien of the Deed of Trust as set forth herein.

NOW, THEREFORE, for the mutual agreements herein contained, and other good and valuable considerations, including the Indebtedness as defined in the Deed of Trust, the receipt and sufficiency of which are hereby acknowledged, the Grantor and the Bank hereby covenant and agree as follows:

1. Modification of State of Incorporation of Bank. The Deed of Trust and the Assignment are modified and amended to correct the reference to the state of incorporation of the Bank to be the State of Mississippi and to reflect that the Bank is organized and existing under the laws of the State of Mississippi. All references in the Deed of Trust and the Assignment to the Bank being a Tennessee banking corporation are hereby modified and amended to reflect that the Bank is a Mississippi banking corporation.

2. Modification and Extension of Note Maturity Date. The Maturity Date of the Note is hereby modified and extended to be **September 5, 2016**. On the Maturity Date of September 5, 2016, the entire outstanding principal balance of the Note, together with accrued and unpaid interest, expenses, costs and other charges shall be due and payable in full.

3. Modification and Extension of Deed of Trust and Assignment. The Deed of Trust and the Assignment are hereby modified, renewed, and extended to reflect the modification and extension of the Note as set forth herein and the new Maturity Date of the Note as September 5, 2016. The liens and security interests of the Deed of Trust and the Assignment are hereby renewed and extended so that the liens and security interests of the Deed of Trust and the Assignment shall continue in full force and effect as first priority liens and security interests on the Property and the collateral described therein in favor of the Bank. Any subsequent encumbrancer of the Property is placed on notice that the Bank claims the priority of the liens and security interests of the Deed of Trust and the Assignment as to all amounts referenced herein and, in addition, for any future advances as set forth in the Deed of Trust and the Assignment. The Bank reserves the right to modify, extend, consolidate and renew the Note and the Indebtedness, or any portions thereof, without affecting the priority of the liens and security interests created by the Deed of Trust and the Assignment.

4. Authorization to Chancery Clerk to Make Marginal Notation. The Chancery Clerk of DeSoto County, Mississippi, is hereby authorized and requested, pursuant to § 89-5-19 of the Mississippi Code, as amended, to renew and extend the Deed of Trust recorded in Book 2935, at Page 711, and the Assignment recorded in Book 127, at Page 622, of the records on file in said Chancery Clerk's office by filing this instrument of record and noting and entering the Book and Page of this Modification on the margin of the record of the said Deed of Trust filed of record in Book 2935, at Page 711, and on the margin of the record of the said Assignment filed of record in Book 127, at Page 622, and attesting the same.

5. Grantor's Representations, Warranties and Covenants. In order to induce the Bank to enter into this Modification, the Grantor does hereby certify, represent and warrant to the Bank that: (a) all representations and warranties made by the Grantor in this Modification and the Loan Documents are true, correct and complete in all material respects as of the date hereof, and (b) there are no existing offsets, defenses or counterclaims to the respective obligations of the Grantor as set forth in this Modification and the Loan Documents. In consideration of the modification and extension granted herein, the Grantor promises to pay the Indebtedness evidenced by the Note and the Deed of Trust and the interest thereon, as set out therein

and above, and to keep and perform all the covenants, terms and conditions contained in the Note, the Deed of Trust, and the Loan Documents as modified herein. Upon the occurrence of any default or event of default under the Note, the Deed of Trust, the Assignment, or any of the Loan Documents, the Bank may, at its option, immediately exercise any and all rights and remedies available to the Bank in the Note, the Deed of Trust, the Assignment, and the Loan Documents, with all such rights and remedies being cumulative and not exclusive. The Note shall continue as evidence of said Indebtedness until the same is paid and the liens and security interests of the Deed of Trust and the Assignment shall in no manner whatsoever be affected by the execution of this instrument, except as the same are reaffirmed, ratified, modified, and extended herein.

6. Reaffirmation of Obligations. Except for the modifications and extensions set forth herein, all other conditions, representations, warranties, covenants, terms and provisions contained in the Note, the Deed of Trust, the Assignment, and the Loan Documents shall remain in full force and effect and are not modified, altered or amended in any respect. The Grantor hereby ratifies, reaffirms, approves and confirms the continuing validity and effectiveness of the Note, the Deed of Trust, the Assignment, and all of the Loan Documents, with said terms, covenants, conditions and provisions being restated and incorporated herein by reference. This Modification constitutes a modification, extension, and continuation of the indebtedness evidenced by the Note and the Loan Documents and does not constitute a novation. Nothing in this Modification shall constitute a satisfaction of the Note or a release of any makers, endorsers, guarantors or any other parties to the Note.

7. Miscellaneous Provisions. No failure on the part of the Bank to exercise and no delay in exercising any right hereunder or under any of the Loan Documents shall operate as a waiver thereof, nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and are not exclusive of any remedies provided by law. The Grantor agrees to pay to and/or reimburse the Bank any and all costs, expenses and fees incurred in connection with the preparation, execution, delivery, filing and recording of this Modification. This Modification shall be deemed a contract made under the laws of the State of Mississippi and shall be governed by and construed in accordance with the laws of the State of Mississippi. In the event that any term or provision contained in this Modification shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other terms or provisions of this Modification and such other terms and provisions shall survive and be enforceable in accordance with their terms. This Modification shall be binding upon and shall inure to the benefit of the Grantor and the Bank and their respective heirs, estates, executors, administrators, legal and personal representatives, successors and permitted transferees and assigns. This Modification may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original and all of which when taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Modification effective as of the day and year first above written.

BORROWER:

BROWN BAG CAFE
a Mississippi general partnership

By: Judith L Wingate
Judith Wingate
General Partner

BANK:

THE METROPOLITAN BANK
a Mississippi banking corporation

By: _____
Scott Hauss
Senior Managing Director

STATE OF Tennessee

COUNTY OF Shelby

Personally appeared before me, the undersigned authority in and for the said County and State, on this _____ day of September, 2011, within my jurisdiction, the within named **Judith Wingate**, who acknowledged that she is a General Partner of **Brown Bag Café**, a Mississippi general partnership, and that in said representative capacity as the General Partner for and on behalf of the said general partnership, and as its act and deed, she executed the above and foregoing instrument, after first having been duly authorized by said general partnership so to do.

My Commission Expires: 10-5-2013

Notary Public

RYAN M. BARNES
STATE OF TENNESSEE NOTARY PUBLIC
SHELBY COUNTY
My Commission Expires 10-05-2013

STATE OF Tennessee

COUNTY OF Shelby

Personally appeared before me, the undersigned authority in and for the said County and State, on this _____ day of September, 2011, within my jurisdiction, the within named **Scott Hauss**, who acknowledged that he is a Senior Managing Director of **The Metropolitan Bank**, a Mississippi banking corporation, and that for and on behalf of the said banking corporation, and as its act and deed, he executed the above and foregoing instrument, after first having been duly authorized by said banking corporation so to do.

My Commission Expires: 10-5-2013

Notary Public

RYAN M. BARNES
STATE OF TENNESSEE NOTARY PUBLIC
SHELBY COUNTY
My Commission Expires 10-05-2013

EXHIBIT "A" TO MODIFICATION OF DEED OF TRUST AND ASSIGNMENT

The following described real property and improvements located in DeSoto County, Mississippi:

.31 acres, more or less, situated in the Northwest Quarter of Section 28, Township 1 South, Range 6 West, City of Olive Branch, DeSoto County, Mississippi, described as follows, to-wit:

A 125.5 foot x 107.6 foot parcel of land lying Southwest of and fronting 125.5 feet on the Southwest line of Highway 78, 100 foot right of way at 40 feet Northwestwardly from the center line of Maywood Drive as measured along the Southwest line of Highway 78, and being in the Easternmost corner of the Millican 2.0 acre tract, more or less, said Millican 2.0 acres being situated in the Northwest Quarter of the Northwest Quarter of Section 28, Township 1, Range 6 West, DeSoto County, Mississippi and said Millican tract being shown by deed of record in Deed Book 59, at Page 59, in the Deed Records of DeSoto County, Mississippi, with said tract lying in Section 28, Township 1, Range 6 West, and being more particularly described as follows, to-wit: Beginning at the Easternmost corner of the Millican 2.0 acre tract (as above described), said Point of Beginning also being a point in the Southwest right of way line of U.S. Highway 78 100 foot right of way at 40 feet Northwestwardly from the center line of Maywood Drive as measured along the Southwest line of said Highway 78, thence Southwestwardly along the Southeast line of the Millican 2.0 acres a distance of 107.6 feet to a point, the Southernmost corner of this parcel; thence Northwestwardly, parallel to U.S. Highway 78, 125.5 feet to a point, the westernmost corner of this parcel; thence Northeastwardly, parallel to the East line of Millican 2.0 acres, 107.6 feet to a point in the Southwest line of U.S. Highway No. 78 at 125.5 feet Northwestwardly from the Point of Beginning and being the Northernmost corner of this parcel; thence Southeastwardly along the Southwest line of U.S. Highway 78 a distance of 125.5 feet to the Point of Beginning, subject to unrecorded easement 19.4 feet wide along the frontage of this parcel for utilities and parking. Also included in this conveyance is a one-story concrete block building located on the above-described premises with all fixtures located therein. This property being the same property conveyed to Beryl Pennington by Trustee's Deed of Record in Deed Book 235, at Page 78 in the Office of the Chancery Clerk of DeSoto County, Mississippi.

Street Address: 8177 Highway 178, Olive Branch, Mississippi 38654

Tax Parcel: 1.06.8.28.00.0.00024.00