



THIS INSTRUMENT PREPARED BY:  
**Merchants & Farmers Bank**  
P.O. Box 520  
KOSCIUSKO, MS 39090  
(662)289-5121

AFTER RECORDING RETURN TO:  
**Merchants & Farmers Bank**  
P.O. Box ~~520~~  
KOSCIUSKO, MS 39090

(Space Above This Line For Recording Data)

### ASSIGNMENT OF LEASES AND RENTS

THIS ASSIGNMENT OF LEASES AND RENTS ("Assignment") is made on **January 25, 2012**, between **EBI HOLDING, LLC a Mississippi Limited Liability Company**, a Mississippi Limited Liability Company, whose address is **498 West Bankhead, NEW ALBANY, Mississippi 38652** ("Assignor") and **Merchants & Farmers Bank** whose address is **6543 GOODMAN ROAD, Olive Branch, Mississippi 38654** ("Assignee"), which is organized and existing under the laws of the State of Mississippi. Assignor, in consideration of loans extended by Assignee up to a maximum principal amount of **One Million Eight Hundred Forty-nine Thousand Two Hundred Twenty-five and 00/100 Dollars (\$1,849,225.00)** and for other valuable consideration, the receipt of which is acknowledged, hereby grants, transfers, assigns and sets over to Assignee all right, title and interest in and to all rents, issues, profits and privileges (now due or which may hereafter become due) of the following described real property:

Address: **4850 GOODMAN RD, OLIVE BRANCH, Mississippi 38654**

Legal Description: **SEE ATTACHED EXHIBIT "A"**

Indexing Instructions: **SECTION 26, TOWNSHIP 1 SOUTH, RANGE 7 WEST, DESOTO COUNTY, MISSISSIPPI - SE 1/4 and SW 1/4 ; <sup>AND</sup> Lots 1-7 Windstone Office Park East**

("Property") which secures the following:

- Loan with a principal amount of **\$1,849,225.00**

Assignor further grants all leases now or hereafter existing on all or any part of the Property, whether written or oral, or any letting or any agreement for the use of occupancy of any part of the Property which may have been or which may hereafter be made or agreed to between Assignor and any other present, prior, or subsequent owner of the Property, or any interest therein, or which may be made or agreed to by Assignee, its successors or assigns, under the powers herein granted, and any tenant or occupant of all or any part of the Property (collectively, the "Leases" and each, a "Lease"), including without limitation any leases existing as of the date of this Assignment ("Existing Leases") and described further as:

**ALL ASSIGNMENT OF RENTS AND LEASES NOW OWNED OR HEREAFTER ACQUIRED BY DEBTOR LOCATED AT 4850 GOODMAN ROAD, OLIVE BRANCH, MS 38668**

**RELATED DOCUMENTS.** The words "Related Documents" mean all promissory notes, security agreements, prior mortgages, prior deeds of trust, business loan agreements, construction loan agreements, resolutions,

\*  
**RETURN TO:**  
**JONES WALKER**  
**P. O. BOX 1456**  
**OLIVE BRANCH, MS 38654-1456**  
**(662) 895-2996**

8

guaranties, environmental agreements, subordination agreements, assignments of leases and rents and any other documents or agreements executed in connection with this Assignment whether now or hereafter existing. The Related Documents are hereby made a part of this Assignment by reference thereto, with the same force and effect as if fully set forth herein.

**INDEBTEDNESS.** This Assignment secures the principal amount shown above as may be evidenced by a promissory note or notes of even, prior or subsequent date hereto, including future advances and every other indebtedness of any and every kind now or hereafter owing from Borrower to Assignee, howsoever created or arising, whether primary, secondary or contingent, together with any interest or charges provided in or arising out of such indebtedness, as well as the agreements and covenants of this Assignment and all Related Documents (hereinafter all referred to as the "Indebtedness").

**AMENDMENT OR MODIFICATION OF LEASES.** With respect to any Existing Leases or any Leases executed upon the Property after the creation of this Assignment and so long as the Indebtedness remains unpaid, Assignor shall not, without the written consent of Assignee: (a) cancel any Leases; (b) accept the surrender of any Leases; (c) modify or alter any Leases in any way, either orally or in writing; (d) reduce the rental set forth in any Leases; (e) consent to the assignment of any lessee's interest under any Leases, or to any subletting thereunder; or (f) make any other assignment, pledge, encumbrance, or any other disposition of any Leases, or of the rentes, issues and profits derived from the use of the Property. Any of the above acts, if done without the written consent of Assignee, shall be null and void, and shall constitute a default under the Assignment and the Related Documents.

**REPRESENTATIONS OF ASSIGNOR.** Assignor hereby represents: (a) except for the Existing Leases, there are no leases, subleases or agreements to lease or sublease all of or any part of the Property; (b) the Existing Leases are valid and enforceable and no default exists under the Existing Leases; (c) Assignor is entitled to receive all the rents, issues and profits and to enjoy all the rents and benefits mentioned herein and assigned hereby; (d) said rents, issues and profits have not been sold, assigned, transferred or set over by any instrument now in force and shall not at any time during the life of this Assignment be sold, assigned, transferred or set over by Assignor, or any other person taking under or through Assignor except as pursuant to this Assignment; and (e) Assignor has the sole right to sell, assign, transfer, and set over the same and to grant and confer upon Assignee the rights, interests, powers, and authorities herein granted and conferred.

**COLLECTION OF RENTS.** Provided no Event of Default exists under the Indebtedness or any of the Related Documents, Assignee agrees not to demand from any lessor or lessee under the Existing Leases or from any other persons liable therefor, any of the rents, issues or profits hereby assigned, but shall permit Assignor to collect all such rents, issues and profits from the Property and the Existing Leases, so long as not collected more than one (1) month in advance of their due date.

**EVENTS OF DEFAULT.** The following events shall constitute default under this Assignment (each an "Event of Default"):

- (a) Failure to make required payments when due under Indebtedness;
- (b) Failure to perform or keep any of the covenants of this Assignment or a default under any of the Related Documents;
- (c) The making of any oral or written statement or assertion to Assignee that is false or misleading in any material respect by Assignor or any person obligated on the Indebtedness;
- (d) The death, dissolution, insolvency, bankruptcy or receivership proceeding of Assignor or of any person or entity obligated on the Indebtedness;
- (e) Any assignment by Assignor for the benefit of Assignor's creditors;
- (f) A material adverse change occurs in the financial condition, ownership or management of Borrower or any person obligated on the Indebtedness; or
- (g) Assignee deems itself insecure for any reason whatsoever.

**REMEDIES.** Upon the occurrence of an Event of Default under this Assignment, the Indebtedness or the Related Documents, Assignee may declare all sums secured hereby immediately due and payable and may, at Assignee's

option, without notice, either in Assignee's person or by agent and with or without bringing any action or proceeding, or by any receiver appointed by the court, enter upon, take possession of, and manage and operate the Property, and each and every part thereof, and in connection therewith, Assignee may make, enforce, and modify any of the Leases; fix or modify rents; repair, maintain and improve the Property; employ contractors, subcontractors, and workmen in and about the Property; obtain and evict tenants; in its own name, sue for and otherwise collect or reserve any and all rents, issues and profits, including those past due and unpaid; employ leasing agents, managing agents, attorneys and accountants in connection with the enforcement of Assignee's rights hereunder and pay the reasonable fees and expenses thereof; and otherwise do and perform any and all acts which Assignee may deem necessary and appropriate in and about the Property for the protection thereof and of Assignee's rights hereunder and under the Related Documents, and any and all amounts expended by Assignee in connection with the foregoing shall constitute additional Indebtedness secured hereby to the extent permitted by law. Assignee shall apply any moneys collected, as aforesaid, less costs and expenses incurred, upon any Indebtedness secured hereby in such order and manner as Assignee may determine and to the extent permitted by law.

**NOTICES AND WAIVER OF NOTICE.** Unless otherwise required by applicable law, any notice or demand given by Assignee to any party is considered effective when it is deposited in the United States Mail with the appropriate postage, mailed to the address of the party given at the beginning of this Assignment unless an alternative address has been provided to Assignee in writing. To the extent permitted by law, Assignor waives notice of Assignee's acceptance of this Assignment, defenses based on suretyship, any defense arising from any election by Assignee under the United States Bankruptcy Code, Uniform Commercial Code, as enacted in the state where Assignee is located or other applicable law or in equity, demand, notice of acceleration, notice of nonpayment, presentment, protest, notice of dishonor and any other notice.

**TO THE EXTENT PERMITTED BY LAW, ASSIGNOR WAIVES ANY RIGHT TO NOTICE, OTHER THAN THE NOTICE PROVIDED ABOVE, AND WAIVES ANY RIGHT TO ANY HEARING, JUDICIAL OR OTHERWISE, PRIOR TO THE ASSIGNEE EXERCISING ITS RIGHTS UNDER THIS ASSIGNMENT.**

**PAYMENT OF RENTS TO ASSIGNEE.** All tenants or occupants of any part of the Property (including without limitation, all persons claiming any interest as lessor or lessee under any Leases) are hereby authorized to recognize the claims and demands of Assignee without investigation as to the reason for any action taken by Assignee or the validity of the amount of indebtedness owing to or the existence of any default hereunder or under the Related Documents, or the application of payments made by Assignee, of any amounts to be paid to Assignee. Assignee's sole signature shall be sufficient for the exercise of any right under this Assignment and Assignee's sole receipt given for any sums received shall be a full discharge and release therefor to any such tenant or occupant of the Property. Checks for all or any part of the rental collected under this Assignment shall be made to the exclusive order of Assignee.

**ASSIGNABILITY.** Assignee may assign or otherwise transfer this Assignment or any of Assignee's rights under this Assignment without notice to Assignor. Assignor may not assign this Assignment or any part of the Assignment without the express written consent of Assignee.

**ASSIGNEE'S RIGHTS AND REMEDIES.** The rights and remedies of the Assignee under this Assignment are cumulative, and are not in lieu of, but are in addition to all other rights and remedies which Assignee has under this Assignment and the Related Documents.

**SUCCESSORS AND ASSIGNS.** All covenants and agreements contained in this Assignment shall bind, and the rights hereunder shall inure to the respective successors and assigns of the Assignor and the Assignee.

**ENTIRE AGREEMENT; MODIFICATIONS; SEVERABILITY.** This Assignment shall constitute the entire agreement between Assignee and Assignor. Any modification of this Assignment shall be binding only if placed in writing and signed by the Assignee and Assignor. The invalidity of any provision of this Assignment shall not affect the validity of any other provision.

**PARAGRAPH HEADINGS; SINGULAR AND PLURAL TERMS.** The titles to the paragraphs of this Assignment are solely for the convenience of the parties and shall not be used to interpret this Assignment. Whenever used, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be applicable to all genders.

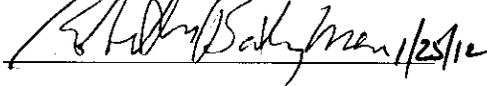
**GOVERNING LAW.** This Assignment will be governed by the laws of the State of Mississippi including all proceedings arising from this Assignment.

**WAIVER OF JURY TRIAL.** All parties to this Assignment hereby knowingly and voluntarily waive, to the fullest extent permitted by law, any right to trial by jury of any dispute, whether in contract, tort, or otherwise, arising out of, in connection with, related to, or incidental to the relationship established between them in this Assignment or any other instrument, document or agreement executed or delivered in connection with this Assignment or the related transactions.

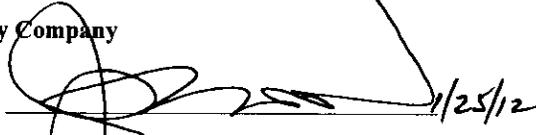
**ORAL AGREEMENTS DISCLAIMER.** This Assignment represents the final agreement between the parties and may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements of the parties. There are no unwritten oral agreements between the parties.

By signing this Assignment, Assignor acknowledges reading, understanding, and agreeing to all its provisions.

**EBI HOLDINGS, LLC a Mississippi Limited Liability Company**

  
\_\_\_\_\_ 1/25/12

By: Robert M. Bailey Date  
Its: Manager

  
\_\_\_\_\_ 1/25/12

By: James W. Eubanks, Jr. Date  
Its: Manager

  
\_\_\_\_\_ 1/25/12

By: EBI, Inc. A MS Date  
Corporations, Member Robert  
M. Bailey  
Its: President

**BUSINESS ACKNOWLEDGMENT**

STATE OF MISSISSIPPI )  
 )  
COUNTY OF *DeSoto* )

Personally appeared before me, the undersigned authority in and for the said county and state, on this *25<sup>th</sup>*  
*day of JANUARY, 2012*, within my jurisdiction, the within named **Robert M. Bailey**, who  
acknowledged to me that (he)(she) is the **Manager of EBI HOLDINGS, LLC a Mississippi Limited Liability  
Company**, a Mississippi Limited Liability Company, and that in said representative capacity, (he)(she) executed  
the above and foregoing instrument, after first having been duly authorized so to do.

My commission expires:

*James E. Woods*

Identification Number

(Affix official seal, if applicable)



**BUSINESS ACKNOWLEDGMENT**

STATE OF MISSISSIPPI )  
 )  
COUNTY OF *DeSoto* )

Personally appeared before me, the undersigned authority in and for the said county and state, on this *25<sup>th</sup>*  
*day of JANUARY, 2012*, within my jurisdiction, the within named **James W. Eubanks, Jr.**, who  
acknowledged to me that (he)(she) is the **Manager of EBI HOLDINGS, LLC a Mississippi Limited Liability  
Company**, a Mississippi Limited Liability Company, and that in said representative capacity, (he)(she) executed  
the above and foregoing instrument, after first having been duly authorized so to do.

My commission expires:

*James E. Woods*

Identification Number

(Affix official seal, if applicable)



STATE OF MISSISSIPPI  
COUNTY OF DESOTO

This day personally appeared before me, the undersigned authority, in and for the said County and State, on this 25<sup>th</sup> day of January, 2012, the within named, ROBERT M. BAILEY, who acknowledged that he is President of EBI, INC., a Mississippi corporation, and that for and on behalf of said corporation and as its act and deed he executed the above and foregoing instrument after first having been duly authorized by said corporation so to do.

James E. Woods  
NOTARY PUBLIC

My Commission Expires: 7-19-15

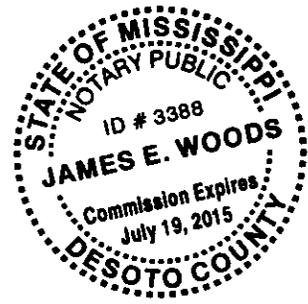


EXHIBIT "A"

## TRACT I:

Survey and description of a 1.06 acre tract in the South <sup>East 1/4 and South west 1/4</sup> of Section 26, Township 1 South, Range 7 West, DeSoto County, Mississippi, being part of the EBI, Inc., a Mississippi corporation 45.33 acre tract as recorded in Warranty Deed Book 314, Page 110, being the same 45.33 as recorded in Deed of Trust recorded in Book 2155, Page 640-644, being more particularly described as follows:

Beginning at a ½ inch re-bar with Tom King cap (set) in the north right-of-way of Goodman Road (MS. Highway #302 Federal Aid Project # FAP-19-0021-01-018-10) at the southwest corner of Lot 3 of Wind stone Commercial Subdivision as recorded in Plat Book 107, Page 37, said point being N 88°37'17" E 4368.59 feet from a mag nail (found) at the southwest corner of said Section 26 per Deed Book 323, Page 620; thence S 88°16'13" W along the north right-of-way of Goodman Road 122.56 feet to a concrete right-of-way monument (found); thence continuing along said right-of-way S 89°48'15" W 40.08 feet to a ½ inch re-bar w/Tom King cap (set); thence N 00°07'34" W along the east line of Lot 5 of Windstone Commercial Subdivision as recorded in Plat Book 109, Page 45 a distance of 285.21 feet to a ½ inch re-bar w/Tom King cap (set); thence S 89°57'45" E along the south line of Lot 2 of Windstone Commercial Subdivision as recorded in Plat Book 90, Page 35 a distance of 162.74 feet to a ½ inch re-bar w/Tom King cap (set); thence S 00°05'45" E along the west line of said Lot 3 a distance of 281.27 feet to the point of beginning, containing 46,139.36 square feet or 1.06 acres, more or less. Subject to Olive Branch and DeSoto County subdivision and zoning regulations. Subject to any easements for utilities, drainage, Road right-of-ways and mineral rights.

## TRACT II:

Survey and description of a 2.07 acre tract in the South <sup>East 1/4 and South west 1/4</sup> of Section 26, Township 1 South, Range 7 West, County, Mississippi being part of the EBI, Inc., a Mississippi corporation 45.33 acre tract as recorded in Warranty Deed Book 314, Page 110, being the same 45.33 as recorded in Deed of Trust recorded in Book 2155, Pages 640-644, being more particularly described as follows:

Beginning at a ½ inch re-bar (set) at the intersection of the north right-of-way of Goodman Road (Mississippi Highway #302 Federal Aid Project # FAP-19-0021-01-018-10) and the east right-of-way of Windstone Blvd. (80 foot right-of-way), said point being N 88°26'09" E 3581.75 feet from a mag nail (found) at the southwest corner of said Section 26, per Deed Book 323, Page 620; thence N 00°16'44" E along the east line of Windstone Blvd. 214.28 feet to an "X" cut on the concrete curb at the southwest corner of Lot 9 of Windstone Office Park East as recorded in Plat Book 89, Page 16; thence N 88°37'25" E along the south line of said Lot 9 a distance of 400.17 feet to a mag nail (set) at the southeast corner of said Lot 9; thence N 00°16'44" E along the east line of said Lot 9 a distance of 369.97 feet to a chisel mark on a curb the northeast corner of Lot 9; thence N 88°59'49" e along the south line of the 1st Revision of Phase 1 of Windstone Subdivision as recorded in Plat Book 70, Pages 40-42, a distance of 5.69 feet to a chisel mark on the curb at the northwest corner of Lot 5A of Windstone Commercial Subdivision as recorded in Plat Book 109, Page 45; thence S 00°16'44" W along the west line of said Lot 5A a distance of 366.63 feet to a mag nail (set); thence S 88°36'28" W along the north line of Lot 5A a distance of 0.27 feet to a mag nail (set); thence S 00°24'34" W along the west line Lot 5A a distance of

224.58 feet to a ½ inch re-bar w/Tom King cap (set); thence S 89°48'15" W along the north line of said Goodman Road as monumented 350.30 feet to a concrete monument (found); thence continuing along the right-of-way S 88°21'58" W 54.65 feet to the point of beginning, containing 90,096.63 square feet or 2.07 acres, more or less. Subject to Olive Branch and DeSoto County subdivision and zoning regulations. Subject to any easements for utilities, drainage, road right-of-ways and mineral rights.

TRACT III:

Survey and description of a 26.95 acre tract in the South <sup>East 1/4 and SW 1/4</sup> of Section 26, Township 1 South, Range 7 West, County, Mississippi, being part of the EBI, Inc., a Mississippi corporation 45.33 acre tract as recorded in Warranty Deed Book 314, Page 110, being the same 45.33 as recorded in Deed of Trust recorded in Book 2155, Pages 640-644, being more particularly described as follows:

Beginning at a ½ inch re-bar (found) in the north right-of-way of Goodman Road (Mississippi Highway #302 Federal Aid Project # FAP 19-0021-01-018-10) at the intersection of the east line of the Home Telephone Company 0.14 acre tract as recorded in Correction Warranty Deed in Book 212, Page 44, and the north right-of-way of Goodman Road, said point being N 86°12'05" E 1499.92 feet from a mag nail (found) at the southwest corner of said Section 26, per Deed Book 323, Page 620; thence N 00°45'31" W along the east line of the said 0.14 acre tract 65.18 feet (deed call = 65.68 feet) to a ½ inch re-bar w/Russell cap (found); thence N 89°55'05" W along the north line of the said 0.14 acre tract 50.36 feet (deed call = 50.39 feet) to a ½ inch re-bar w/Russell cap (found); thence N 00°42'44" W along the west line of the said 45.33 acre tract 482.51 feet (deed call = 482.52 feet) to a ½ inch re-bar w/Russell cap (found); thence N 88°59'49" E along the south line of the Wedge, LLC, a Mississippi limited liability company 171.25 acre tract as recorded in Warranty Deed Book 314, Pages 107-109, a distance of 2064.17 feet to a ½ inch re-bar w/Tom King cap (set); thence S 00°16'44" W along the west right-of-way of Windstone Blvd. (80' right-of-way) 587.74 feet to a ½ inch re-bar w/Tom King cap (set); thence westwardly along the north right-of-way of said Goodman Road as monumented the following courses to concrete right-of-way monuments (found) set metal "T" post as witness; S 88°21'58" W 66.46 feet, S 89°44'49" W 798.99 feet, S 86°55'42" W 100.07 feet, S 89°46'01" W 299.92 feet, N 84°29'19" W 201.39 feet to a ½ inch re-bar w/Tom King cap (set), continuing along said right-of-way S 89°46'38" W 500.0 feet to a concrete right-of-way monument found; thence continuing along said right-of-way S 87° 44'14" W 38.10 feet to the point of beginning, containing 1,173,827.31 square feet or 26.95 acres, more or less. Subject to Olive Branch and DeSoto County subdivision and zoning regulations. Subject to any easements for utilities, drainage, road right-of-ways and mineral rights.

TRACT IV:

Lots 1-7, Windstone Office Park East, situated in Section 26, Township 1 South, Range 7 West, DeSoto County, Mississippi as per plat thereof recorded in Plat Book 89, Page 16, Chancery Clerk's Office, DeSoto County, Mississippi.