

This instrument prepared by:
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Shelby Cnty Judge of Probate, AL
06/16/2003 10:00:00 FILED/CERTIFIED

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE entered into as of the 13th day of June, 2003 (the "Execution Date") by and between TACALERA, LLC, an Alabama limited liability company ("Landlord") whose address is 3500 Blue Lake Drive, Suite 200, Birmingham, Alabama 35243 and SOUTH TACALA, LLC, a Delaware limited liability company ("Tenant") whose address is 4268 Cahaba Heights Court, Birmingham, Alabama 35243.

RECITALS:

Landlord and Tenant entered into that certain lease agreement (the "Lease") dated May 15, 2003 whereby Landlord agreed to lease to Tenant, and Tenant agreed to lease from Landlord, certain real estate located in the City of Calera, Shelby County, Alabama.

WITNESSETH:

NOW, THEREFORE, pursuant to the provisions of the Lease, Landlord and Tenant mutually desire to execute this Memorandum of Lease in order to provide notice under the recording statutes of the State of Alabama:

1. The name of the Landlord is Tacalera, LLC.
2. The name of the Tenant is South Tacala, LLC.
3. The term of the Lease commences on the earlier to occur of (i) the date Tenant's restaurant opens for business or (ii) thirty (30) days after the date on which the Improvements have been completed in accordance with the provisions of Article 5 of the Lease, and expires on the last day of the month following the twentieth (20th) anniversary of the Commencement Date.
4. The specific legal description of the leased premises is set forth in Exhibit A attached hereto and made a part hereof.
5. The options to renew or extend the term of this lease are as follows: three (3) additional consecutive periods of five (5) years each.
6. The lease contains a covenant not to compete as follows:

Landlord covenants and agrees that, during the term of this lease, Landlord shall not, except with the written consent of Tenant, directly or indirectly, engage in or lease or permit to be occupied as a restaurant which prepares or sells Mexican style food products on any premises owned or leased by Landlord within a radius of three (3) miles from the Premises. If Landlord is a corporation, this covenant shall apply to its officers, directors, subsidiaries, and affiliates.

This covenant shall be inapplicable to the holder of a first mortgage covering the Leased Premises, a nominee of such holder, or any other person, firm, or corporation, which shall acquire the Leased Premises upon a foreclosure of such mortgage or upon delivery of a deed in lieu of such foreclosure. This covenant shall be inapplicable if no portion of the Leased Premises is used as a restaurant for a period exceeding twelve (12) consecutive months, which period shall not include any period during which the Leased Premises are being constructed, altered, remodeled, or renovated, any period after damage or destruction by fire or other casualty or a taking prior to full repair of the Leased Premises, or any period during which the use of the Leased Premises as a restaurant is affected by an unavoidable delay.

7. Landlord and Tenant have granted Taco Bell Corp. certain conditional rights, including possession in and to the Premises.

8 This Memorandum of Lease is subject to all the terms and conditions of the Lease which are hereby incorporated herein by this reference, and in the event of any conflict between the terms of this Memorandum of Lease and the Lease, the terms of the Lease shall control. The Lease sets forth the entire agreement of the parties thereto and this Memorandum of Lease does not alter, amend or change the Lease in any way.

IN WITNESS WHEREOF, the parties hereto have each caused this Memorandum of Lease to be executed, under seal, as of the date hereinabove written.

LANDLORD:

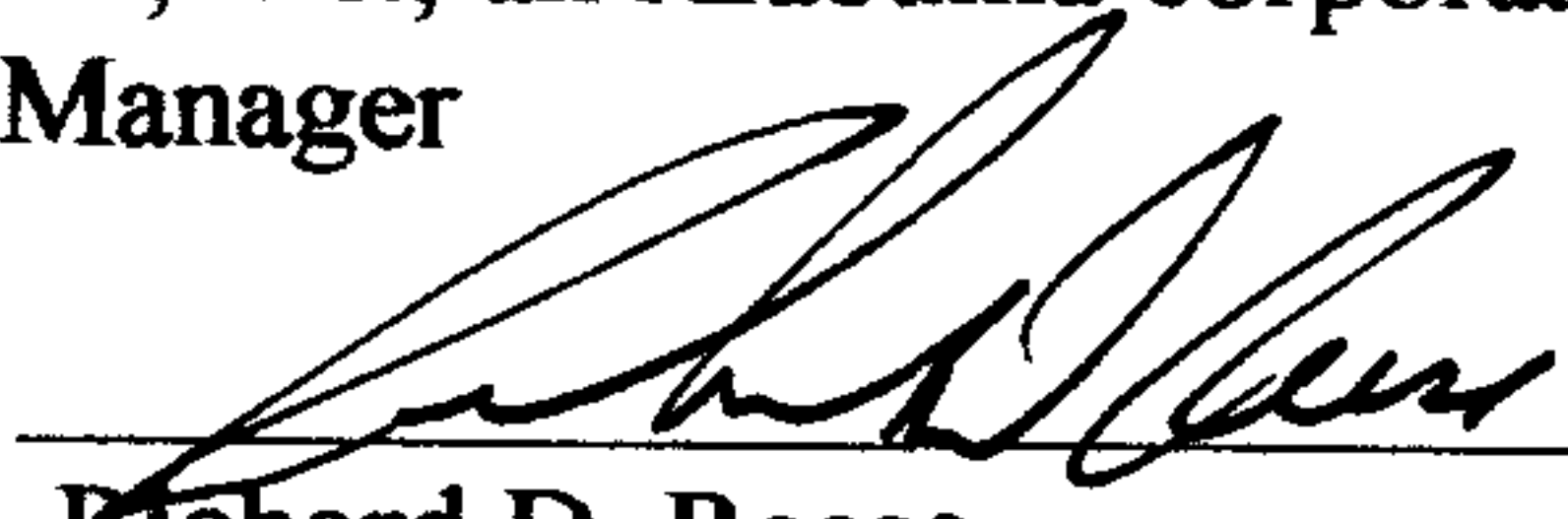
TACALERA, LLC, an Alabama limited liability company

By: 

Derek R. Waltchack
Its: Manager

TENANT:
SOUTH TACALA, LLC,
a Delaware limited liability company

By: Tacala, Inc., an Alabama corporation
Its: Manager

By: 
Richard D. Reese
Its: Chief Executive Officer

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that **DEREK R. WALTCHACK**, whose name as Manager of Tacalera, 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 said instrument, he, as such Manager and with full authority, executed the same voluntarily for and as the act of said limited liability company as of the day the same bears date.

Given under my hand this 13th day of June, 2003.


Notary Public
My Commission Expires: 12/28/07

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that **RICHARD D. REESE**, whose name as Chief Executive Officer of Tacala, Inc., an Alabama corporation, in its capacity as Manager of South Tacala, LLC 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 said instrument, he, as such officer, and with full authority, executed the same voluntarily for and as the act of said corporation, acting in its capacity as Manager of South Tacala, LLC, as aforesaid.

Given under my hand this the 12th day of June, 2003.

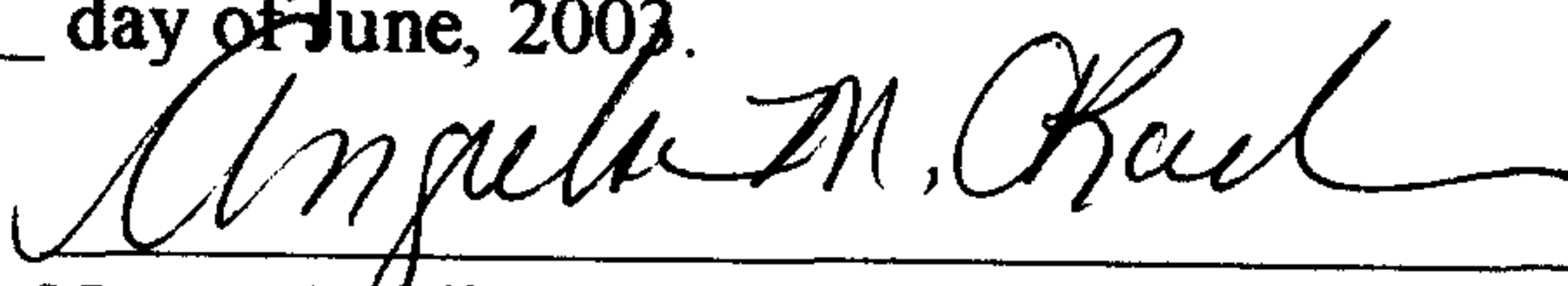

Notary Public
My Commission Expires: _____

EXHIBIT A
TO
MEMORANDUM OF LEASE

Anything to the contrary in the Lease notwithstanding, the Premises are as set forth hereinbelow:

Parcel 1:

Lot 5A according to Baker Seafood, Inc Resurvey (Being a Resurvey of Lots 4 and 5, Wal-Mart Supercenter #3271 Subdivision, as recorded in Map Book 27, page 117) as recorded in Map Book 31 page 92, in the Office of the Judge of Probate of Shelby County, Alabama, also being situated in the Northwest Quarter of the Southeast Quarter of Section 4, Township 22 South, Range 2 West, St. Stephens Meridian, Shelby County, Alabama, and being more particularly described as follows:

Commence at an axle found at the southwest corner of the Southwest Quarter of the Northeast Quarter, of Section 4, Township 22 South, Range 2 West, St. Stephens Meridian, Shelby County, Alabama; thence run North 02°06'24" West along the west line of said quarter, for a distance of 512.99 feet; thence leaving said quarter line, run South 89°47'07" East for a distance of 1036.65 feet to the west right-of-way line of Highway 31(right-of-way width 100 feet); thence run South 10°16'53" East along said right-of-way line, for a distance of 466.48 feet to a point (50 feet left of 290+25.0) at the intersection of said right-of-way line and the west right-of-way line of I-65 (right-of-way width varies); thence run South 79°34'19" West continuing along said right-of-way line, for a distance of 49.72 feet to a point (100 feet left of 290+25.0) to the Point of Curvature of a curve to the right, having a radius of 854.81 feet, a central angle of 05° 36' 58", a chord length of 83.76 feet and a chord bearing of South 07° 31' 03" East; thence continue along the arc of said curve and said right-of-way for a distance of 83.79 feet to a capped iron found (PLS #19262) and the **POINT OF BEGINNING**; said point also being the Point of Curvature of a curve to the right, having a radius of 854.81 feet, a central angle of 10° 08' 50", a chord length of 151.19 feet and a chord bearing of South 00° 21' 51" West; thence continue along the arc of said curve and right-of-way for a distance of 151.39 feet to the Point of Curvature of a non-tangent curve to the left, having a radius of 121.50 feet, a central angle of 20° 57' 11", a chord length of 44.19 feet and a chord bearing of North 79° 08' 51" West; thence, leaving said right-of-way, continue along the arc of said curve for a distance of 44.43 feet to the Point of Tangency of said curve; thence run North 89° 37' 26" West for a distance of 121.82 feet to the Point of Curvature of a curve to the right, having a radius of 23.50 feet, a central angle of 90° 00' 00", a chord length of 33.23 feet and a chord bearing of North 44° 37' 26" West; thence continue along the arc of said curve for a distance of 36.91 feet to the Point of Tangency of said curve; thence run North 00° 22' 34" East for a distance of 119.55 feet to a capped iron found (PLS #19262); thence run South 89° 39' 17" East for a distance of 188.73 feet to the **POINT OF BEGINNING**; being situated in Shelby County, Alabama.

Parcel 2:

Together with a non-exclusive access easement as conveyed to Baker Seafood, Inc., on May 29, 2001, and recorded in Inst. # 2001-25731, including ingress and egress across the following described property:

Line description of 25 feet ingress and egress easement:

Commence at the SW corner of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 4, Township 22 North, Range 2 West, Shelby County, Alabama; thence North 02 deg. 06 min. 24 sec. West 512.99 feet; thence South 89 deg. 47 min. 07 sec. East 1036.65 feet; thence South 10 deg. 16 min. 53 sec. East 396.25 feet to the Westerly margin of U. S. Highway 31; thence continue along said road South 10 deg. 16 min. 53 sec. East 80.24 feet; thence continue along said right of way South 79 deg. 34 min. 19 sec. West 49.72 feet; thence continue along said right of way on a curve said curve concave to the West having a radius of 854.82 feet along a chord bearing and distance South 02 deg. 26 min. 38 sec. East for a chord distance of 234.44 feet to the beginning of a 25 foot ingress and egress easement; Thence leaving said right of way along a curve said curve concave to the South having a radius of 121.50 feet along a chord bearing north 79 deg. 08 min. 51 sec. West for a distance of 44.19 feet; thence North 89 deg. 37 min. 26 sec. West 121.82 feet to the beginning of a curve said curve concave to the northeast having a radius 23.50 feet along a chord bearing North 44 deg. 37 min. 26 sec. West a chord distance of 33.23 feet; thence north 00 deg. 23 min. 01 sec. East 230.63 feet to the beginning of a curve said curve concave to the Southeast having a radius of 43.50 feet on a chord bearing North 40 deg. 02 min. 50 sec. East a chord distance of 55.54 feet; thence North 79 deg. 43 min. 07 sec. East 120.73 feet; thence South 10 deg. 16 min. 53 sec. East 5.0 feet; thence North 79 deg. 43 min. 07 sec. East 40.25 feet; thence South 65 deg. 30 min. 48 sec. East 18.21 feet to the point of beginning, said easement being 25 feet left of the above described line begin a 25 foot ingress and egress easement; being situated in Shelby County, Alabama.