

This instrument prepared by:
Susan Jernigan
4263 Cahaba Heights Court
Birmingham, Al 35243

COUNTY OF SHELBY)
STATE OF ALABAMA)



20091014000388040 1/4 \$1111.00
Shelby Cnty Judge of Probate, AL
10/14/2009 12:26:00 PM FILED/CERT

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE entered into as of the 30th day of September, 2009 (the "Execution Date") by and between **HELENA DEVELOPMENT, LLC**, an Alabama limited liability company ("Landlord") whose address is c/o Crow Real Estate, 2012 Sixth Avenue North, Birmingham, Alabama 35203 and **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 February 10, 2009 whereby Landlord agreed to lease to Tenant, and Tenant agreed to lease from Landlord, certain real estate located in the City of Helena, 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 **HELENA DEVELOPMENT, LLC**, an Alabama limited liability company.
2. The name of the Tenant is Tacala, LLC, a Delaware limited liability company.
3. The term of the Lease commences on August 19, 2009 and expires on August 18, 2029.
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: Tenant may extend the term of the Lease four (4) 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 any premises owned or leased by

Landlord within the scope of this three (3) anchored tenant development adjacent to the Premises to be occupied as a restaurant which prepares or sells Mexican style food products, including without limitation the following "quick casual" and "fast food" restaurants: Chipolte Grill, Baja Fresh, Moe's Southwest Grill, Taco Bueno, Del Taco, Taco John, or Qdobe Mexican Grill. If Landlord is a corporation, this covenant shall apply to its officers, directors, subsidiaries, and affiliates.

7. Landlord and Tenant have granted Taco Bell Corp., a California corporation, and its affiliates certain conditional rights, including possession, in and to the Premises, pursuant to that certain Addendum to Lease dated February 10, 2009, between Landlord and Tenant.

8. Landlord has granted Tenant certain easement rights contained in the lease as recorded in Map 40, Page 133.

9. 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.


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(Signature Page to Follow)

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:

Helena Development, LLC, a Alabama limited liability company

By: Helen Crow Mills
Helen Crow Mills
its: Managing Member

TENANT:

TACALA, LLC, a Delaware limited liability company

By: John Figert
John Figert
its: Vice President of Development

STATE OF ALABAMA)
COUNTY OF Jefferson)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Helen Crow Mills, whose name as Managing Member of Helena Development, 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 such instrument, he or she, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation. Given under my hand and seal, this 30th day of September, 2009.

Janice G. Kent
NOTARY PUBLIC

My Commission Expires: 8-12-2013 [SEAL]

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that John Figert, whose name as Vice President of Development of Tacala, LLC, a Delaware 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 such instrument, he or she, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation. Given under my hand and seal, this 23rd day of September, 2009.

Ann H. George
NOTARY PUBLIC

My Commission Expires: 1/23/11 [SEAL]

Exhibit A

To Memorandum of Lease
Legal Description of the Leased Premises

Lot#2

COMMENCING AT THE SOUTHEAST CORNER OF LOT 24, ACCORDING TO THE SURVEY OF ST. CHARLES PLACE, PHASE ONE SECTOR TWO, AS RECORDED IN MAP BOOK 22, PAGE 59, IN THE PROBATE OFFICE OF SHELBY COUNTY, ALABAMA; THENCE RUN SOUTH 23°52'19" EAST, A DISTANCE OF 42.57 FEET TO A POINT; THENCE NORTH 77°10'25" EAST, A DISTANCE OF 193.22 FEET; THENCE SOUTH 23°52'19" EAST, A DISTANCE OF 126.47 FEET TO THE POINT OF BEGINNING; THENCE NORTH 62°31'13" EAST, A DISTANCE OF 208.18 FEET; THENCE NORTH 39°06'58" EAST, A DISTANCE OF 94.23 FEET TO THE SOUTHWESTERLY ROAD RIGHT OF WAY OF SHELBY COUNTY ROAD NO. 52; THENCE SOUTH 46°43'46" EAST ALONG SAID ROAD RIGHT OF WAY, A DISTANCE OF 147.52 FEET TO A POINT; THENCE SOUTH 47°22'14" EAST ALONG SAID ROAD RIGHT OF WAY, A DISTANCE OF 21.91 FEET; THENCE SOUTH 62°52'46" WEST, A DISTANCE OF 358.33 FEET; THENCE NORTH 23°52'19" WEST, A DISTANCE OF 120.44 FEET TO THE POINT OF BEGINNING.

CONTAINING 42,233 SQUARE FEET OR 0.97 ACRES.



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