

# UNOFFICIAL COPY



Doc#: 1027331100 Fee: \$50.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 09/30/2010 02:48 PM Pg: 1 of 8

WHEN RECORDED MAIL TO:

FIDELITY NATIONAL TITLE  
Attn: Kelli J. Vos  
1 East Washington Street, Ste. 450  
Phoenix, AZ 85004

Escrow No. Z1007485-KJV

*LTK # 1R37021*

---

DO NOT REMOVE THIS COVER SHEET. IT IS NOW PART OF THE RECORDED DOCUMENT.

DOCUMENT TO BE RECORDED: ASSIGNMENT AND ASSUMPTION OF LEASE  
FOR STORE 21545

Address of Real Estate: 1501 River Oaks Dr.  
Calumet City, IL  
Cook County  
Store #21545

Tax Parcel No.(s):29-24-200-039-0000

This Document was prepared by:  
Taco Bell Corp.  
1 Glen Bell Way  
Irvine, CA 92618

# UNOFFICIAL COPY

This instrument prepared by:  
 Taco Bell of Corp.  
 Yum! Brands, Inc.  
 1441 Gardiner Lane  
 Louisville, Kentucky 40213

After recording, return to:  
 Fidelity National Title  
 Phoenix National Title Services  
 1 East Washington Street, Suite 450  
 Phoenix, AZ 85004

## ASSIGNMENT AND ASSUMPTION OF LEASE FOR STORE 21545

This Assignment and Assumption of Lease (this "Agreement") is made and entered into as of ~~May 1~~<sup>June 1</sup>, 2010 by and between Taco Bell Corp., a California corporation ("Assignor"), and Windy Landings, Inc., a Michigan corporation ("Assignee"). This Agreement is being entered into in connection with that certain Asset Purchase Agreement dated ~~May 10~~<sup>May 10</sup>, 2010 (the "Asset Purchase Agreement"), by and among Assignor, Assignee and Peter Lyders-Petersen. This Agreement shall become effective on ~~May 1~~<sup>June 1</sup>, 2010 (the "Effective Date").

### RECITALS

WHEREAS, pursuant to a lease dated June 20, 2003 (which, together with all previously executed riders, amendments, extensions and renewals is known herein as (the "Lease"), KRC Calumet City 836, Inc. ("Landlord") leased to Taco Bell Corp. certain real property and the improvements located thereon generally known as Taco Bell Store 21545, located at 1501 River Oaks Drive, Calumet City, IL 60409 and more particularly described in the Lease and on Exhibit A hereto (the "Premises"); and

WHEREAS, Assignor desires to assign to Assignee and Assignee desires to assume from Assignor all of Assignor's rights, title, interest and liabilities in, to and under the Lease.

NOW, THEREFORE, in consideration of the mutual covenants and obligations set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as set forth below.

1. Assignment. Subject to the terms of this Agreement, and as of the Effective Date, Assignor hereby grants, assigns, transfers and conveys to Assignee, its successors and assigns, all of Assignor's rights, title, interest and liabilities in, to and under the Lease.

2. Assumption. Subject to the terms of this Agreement, and as of the Effective Date, Assignee hereby assumes Assignor's rights, title, interest and liabilities in, to and under the Lease and becomes liable for the full and timely performance of all obligations,

# UNOFFICIAL COPY

liabilities and covenants arising under the Lease, as the Lease may be amended after the Effective Date. Assignee accepts the Premises in "as is" condition.

3. Covenants of Assignee. Assignee covenants and agrees that, until Assignor is fully and finally released from all obligations under the Lease, (a) Assignee shall not assign, sublease or otherwise transfer any of its right, title or interest in the Lease to any other person or entity and (b) Assignee shall not amend, extend or otherwise modify any term or condition of the Lease, without the prior written consent of Assignor, which consent may be withheld in Assignor's sole discretion. Assignee shall indemnify, defend and hold harmless Assignor from and against any and all claims and liabilities arising from matters relating to the Lease or the Premises after the Effective Date. Any breach by Assignee of the Lease or this Agreement shall constitute a breach by Assignee of the franchise agreement entered into in connection with the restaurant operations at the Premises ("Franchise Agreement"), and a breach of such Franchise Agreement by Assignee shall constitute a breach of this Agreement. Notwithstanding any provision in the Lease to the contrary, Assignee shall use the Premises solely as permitted under the Franchise Agreement.

4. Terms of the Asset Purchase Agreement. The representations, warranties, covenants, indemnities and agreements of Assignee contained in the Asset Purchase Agreement ("APA") are incorporated herein by this reference. Such representations, warranties, covenants, indemnities and agreements shall not be superseded but shall remain in full force and effect to the full extent provided therein. In the event of any conflict or inconsistency between the terms of the Asset Purchase Agreement and the terms hereof, the terms of the Asset Purchase Agreement shall govern.

5. Default Under the Terms of this Agreement. If Assignee shall be in default with respect to any obligations, covenants, or agreements to be performed by Assignee as set forth in this Agreement, and if such default is not cured by Assignee within ten (10) days (except for monetary defaults, which shall be five (5) days) after Assignor has notified Assignee in writing of such default, Assignor may exercise any right or remedy provided by law or in equity including, but not limited to (a) termination of this Agreement and possession of the Premises, (b) Assignor's election to cure any monetary default not cured by Assignee within the time frame set forth above (and to charge Assignee interest at the lesser rate of twelve percent (12%) per annum or the maximum rate allowed by law), (c) without waiving such default, taking possession of the Premises and all books, records and accounts relating thereto and excluding Assignee and its agents and employees therefrom (without being liable for trespass or damages), and thereafter managing, operating or leasing the Premises on such terms and for such period of time as Assignor may deem appropriate.

6. Governing Law. This Agreement shall be deemed to be made under, construed in accordance with and governed by, the laws of the State of Illinois.

7. Successors and Assigns; Third-Party Beneficiaries. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors in interest and assigns. Nothing contained in this Agreement shall be deemed to confer upon any

# UNOFFICIAL COPY

person, other than the parties hereto and their respective successors and permitted assigns, any rights, remedies, claims, causes of action or obligations under, or by reason of this Agreement.

8. Execution in Counterparts; Facsimile. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement may be executed and delivered by facsimile transmissions, and a facsimile signature of any party shall be effective as an original signature.

[SIGNATURE PAGE FOLLOWS]

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed as of the date first set forth above.

**TACO BELL CORP.**

By: *Scott Catlett*

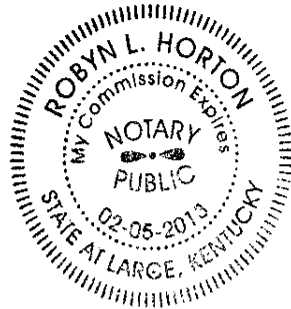
Name: Scott Catlett  
Title: Attorney-In-Fact

COMMONWEALTH OF KENTUCKY

COUNTY OF JEFFERSON

On the 27<sup>th</sup> day of May 2010 before me the undersigned, a Notary Public in and for said State, personally appeared Scott Catlett, personally known to be or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument and that such individual made such appearance before the undersigned in the City of Louisville, Jefferson County, State of Kentucky.

IN WITNESS WHEREOF, I hereunto set my hand and official seal



*Robyn Horton*  
NOTARY PUBLIC  
SEAL

# UNOFFICIAL COPY

WINDY LANDINGS, INC.

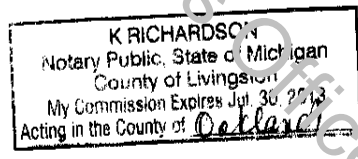
By: *Peter & De-Petersen*  
Name: *Peter Lyders-Petersen*  
Title: *President*

STATE of *Michigan*  
COUNTY of *Oakland*

On the *27<sup>th</sup>* day of May, 2010, before me the undersigned, a Notary Public in and for said State, personally appeared *Peter Lyders-Petersen*, personally known to be or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument and that such individual made such appearance before the undersigned in the City of *Farmington Hills, Oakland* County, State of *Michigan*.

IN WITNESS WHEREOF, I hereunto set my hand and official seal

*K. Richardson*  
NOTARY PUBLIC  
SEAL



# UNOFFICIAL COPY

**PARCEL 1A:**

LOTS 6 AND 7 (EXCEPT THE WEST 75.00 FEET THEREOF) IN VENTURE URBAN SUBDIVISION, BEING A RESUBDIVISION OF LOT 3 (EXCEPTING THEREFROM THAT PART TAKEN FOR ADDITIONAL RIGHT-OF-WAY FOR 159TH STREET IN CASE NO. 80L10516 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS) AND LOT 4 OF THE RESUBDIVISION OF LOT 2 IN RIVER OAKS WEST UNIT NO. 2, A SUBDIVISION OF PART OF THE NORTHEAST 1/4 OF SECTION 24, TOWNSHIP 36 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID VENTURE URBAN SUBDIVISION RECORDED JULY 22, 1981 AS DOCUMENT 25944971, IN COOK COUNTY, ILLINOIS BEING MORE PARTICULARLY DESCRIBED AS: BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 6 ON THE SOUTH LINE OF 159TH STREET AS WIDENED; THENCE SOUTH 00 DEGREES 00 MINUTES 56 SECONDS EAST 162.63 FEET ALONG THE EAST LINE OF SAID LOT 6; THENCE SOUTH 34 DEGREES 50 MINUTES 43 SECONDS WEST 36.38 FEET ALONG THE SOUTHEASTERLY LINE OF SAID LOT 6 TO A POINT ON A CURVE; THENCE NORTHWESTERLY ALONG SAID CURVE CONVEX TO THE NORTHEAST HAVING A RADIUS OF 111.25 FEET, AN ARC DISTANCE OF 67.75 FEET (70.02 FEET MEASURED) ALONG THE SOUTHERLY LINE OF SAID LOT 6; THENCE NORTH 89 DEGREES 52 MINUTES 52 SECONDS WEST 141.39 FEET ALONG THE SOUTH LINE OF SAID LOT 6 AND SAID LOT 7 TO THE EAST LINE OF THE WEST 75.00 FEET OF SAID LOT 7; THENCE NORTH 00 DEGREES 07 MINUTES 08 SECONDS EAST 181.33 FEET (181.42 FEET MEASURED) TO THE SOUTH LINE OF 159TH STREET AS WIDENED; THENCE SOUTH 87 DEGREES 00 MINUTES 58 SECONDS EAST 192.07 FEET ALONG THE SAID SOUTH LINE OF 159TH STREET AS WIDENED, TO THE POINT OF BEGINNING.

**PARCEL 2:**

THE RECIPROCAL AND NON-EXCLUSIVE EASEMENT, PRIVILEGES OF INGRESS AND EGRESS, PARKING AND FOR UTILITY AND MAINTENANCE PURPOSES CREATED AND GRANTED AS AN APPURTENANCE TO PARCEL 1A ABOVE BY THAT CERTAIN CONSTRUCTION, OPERATION AND RECIPROCAL EASEMENT AGREEMENT DATED AS OF THE 20TH DAY OF AUGUST 1973 BY AND BETWEEN THE MAY DEPARTMENT STORES COMPANY AND AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, A NATIONAL BANKING ASSOCIATION, AS TRUSTEE UNDER TRUST AGREEMENT DATED DECEMBER 21, 1964 AND KNOWN AS TRUST NUMBER 21073, RECORDED ON AUGUST 30, 1973 AS DOCUMENT NUMBER 22460033.

AS AMENDED BY FIRST AMENDMENT TO CONSTRUCTION OPERATION AND RECIPROCAL EASEMENT AGREEMENT RECORDED JULY 24, 1981 AS DOCUMENT 25948606;

AND AS AMENDED BY SECOND AMENDMENT RECORDED AS DOCUMENT 27499192 AT THE OFFICE OF THE RECORDER OF DEEDS, COOK COUNTY,

# UNOFFICIAL COPY

ILLINOIS

AS AMENDED AND SUPPLEMENTED IN, ON, OVER, UPON, AND UNDER CERTAIN ADJOINING REAL PROPERTY THEREIN MORE PARTICULARLY DESCRIBED, TOGETHER WITH ALL THE RIGHTS, POWERS, AND PRIVILEGES AND BENEFITS UNDER SAID EASEMENTS AGREEMENT ACCORDING TO THE OWNER, OF SAID PARCEL 1A ITS SUCCESSORS, LEGAL REPRESENTATIVES AND ASSIGNS;

AND FURTHER AMENDED BY THIRD AMENDMENT TO CONSTRUCTION, OPERATION AND RECIPROCAL EASEMENT AGREEMENT DATED AS OF NOVEMBER 3, 1992 AND RECORDED NOVEMBER 24, 1992 AS DOCUMENT 92883834, ALL IN COOK COUNTY, ILLINOIS.

Store No. 21545  
1501 River Oaks Dr.  
Calumet City, IL.

Property of Cook County Clerk's Office