

PK1003

LEASE AGREEMENT  
CITY OF CORAL GABLES, LESSOR  
TLT STAR, LLC LESSEE

THIS LEASE AGREEMENT ("Lease"), made and entered into this 26 day of October 2006, by and between the CITY OF CORAL GABLES, a municipal corporation of Florida, hereinafter referred to as LESSOR and/or CITY and TLT STAR, LLC. a Florida corporation, hereinafter referred to as LESSEE.

WITNESSETH:

That for and in consideration of the rental hereinafter set forth the parties mutually agree as follows:

1. The LESSOR agrees to lease and the LESSEE agrees to lease from the LESSOR upon the terms and conditions hereinafter set forth, that certain parking area owned by the LESSOR located in Coral Gables, Dade County, Florida, to-wit.

LOTS 18 and 19 of a re-subdivision of a portion of Block 36-A, Revised, of Coral Gables Riviera Section Part 2, according to the plat thereof in Plat Book 57 at Page 13, Dade County Florida, records (the "Property")

2. The term of this Lease is for a period of ten (10) years commencing on the date (the "Commencement Date") which shall be the closing of the property adjacent to the Property located at 475 So. Dixie Highway (the "Adjacent Property") (which Adjacent Property is expected to be leased to Starbucks Corporation ("Tenant")) between the current owner and occupant thereof, Texas Taco, and LESSEE and terminating ten (10) years later, with provision for three (3) consecutive five (5) year renewals by and between parties, provided that the LESSEE is not in default of any of the provisions of this Lease. In order to be entitled to the extension, LESSEE must provide LESSOR in writing, ninety (90) days prior to the expiration of this Lease, a statement of the intention to exercise the right to an extension of the Lease. LESSEE shall provide LESSOR written notification within thirty (30) days of the occurrence of the closing of LESSEE's purchase of the Adjacent Property, establishing the Commencement Date (the "Rent Commencement Date") which shall be the closing of LESSEE's purchase of the Adjacent Property.

3. LESSEE agrees to pay an initial rate of Twenty Seven Thousand Seven Hundred Twenty Dollars (\$27,720.00) annual rent for twenty-four (24) parking spaces with the provision that the RENTAL RATE will be adjusted on each fifth year anniversary date to reflect the City's standard parking rates in effect at the time or a 10% increase whichever is greater. All payments shall be made in monthly installments and shall be due on or before the first of each month.

4. The Property is to be used solely and exclusively for parking facilities and drive-through for patrons and employees of the Tenant business being operated on the Adjacent Property.

5. LESSEE agrees that upon the execution hereof the LESSEE will make all necessary physical improvements including landscaping, lighting, and drainage to meet all necessary and applicable codes, and be responsible for all maintenance of the Property during the Term of this Lease.

6. All improvements on the Property will belong to the CITY at the end of the Lease Term.

7. LESSEE further agrees at the termination of this Lease, it will return the Property to the LESSOR in good and usable condition, reasonable wear and tear excluded.

8. a. The LESSEE shall have the right, upon sixty (60) calendar days written notice to the LESSOR, to terminate this Lease at any time there is a breach by the LESSOR of any of the terms, covenants or conditions contained in this Lease through no fault of the LESSEE, and the failure of the LESSOR to remedy such breach for a period of thirty (30) calendar days after receipt of written notice from the LESSEE of the existence of such breach, but not longer than sixty (60) days if not curable within such thirty (30) day period unless otherwise approved in writing by the CITY.

b. This Lease may be terminated, upon thirty (30) calendar days written notice, in whole or in part by the LESSOR in the event of substantial failure by the LESSEE to fulfill its obligations through no fault of the LESSOR, and the LESSEE's failure to cure such failure within thirty (30) calendar days after receipt of written notice from the CITY, but not longer than sixty (60) days if not curable within such thirty (30) day period unless otherwise approved in writing by the CITY. If LESSEE is in default of this Lease, LESSOR shall notify the Tenant and the Tenant shall have the right to cure such default as provided herein.

9. The happening of any of the following shall cause this Lease to be terminated if any of the following are not cured within the applicable notice and cure periods set forth in Section 8.b. above and Section 9.G. below:

- A. Failure to pay rent within ten (10) days of its being due or to comply with the provisions of Section 16 herein.
- B. Institution of proceedings in involuntary bankruptcy against the LESSEE if such proceedings continue unopposed for a period of ninety (90) days.
- C. Assignment by the LESSEE for the benefit of creditors.
- D. If the Tenant of the Adjacent Property:
  - (1) Fails to take possession and open for business within one hundred twenty (120) days from Tenant's receipt of permits, or
  - (2) Should vacate, abandon, or desert the Property for a period of thirty (30) consecutive days (excluding Permitted Closures as defined below), or
  - (3) Ceases the continual operation of Tenant's business on the Property for a period of thirty (30) consecutive days in any one year during the Lease Term (excluding Permitted Closures as defined below).
  - (4) Notwithstanding the foregoing, provided that neither the LESSEE nor the Tenant are in default under this Lease beyond applicable notice and cure periods, the Tenant or its Permitted Transferees (as defined in Section 15.b. below) (or other transferees which have been approved by the CITY and LESSEE as further described below) shall have the right to close for business on the Adjacent Property and cease use of the Property in the event the closure is a result of one of the following ("Permitted Closures"): (i) acts of god, Force Majeure, casualty or condemnation for a period of up to one (1) year; or (ii) remodeling, repair, or assignment/subletting to a Permitted Transferee or other transferee approved by CITY and LESSEE for a period of up to ninety (90) days (provided Tenant or LESSEE is diligently pursuing such remodeling or repair to completion).

E. If the Tenant shall vacate or abandon the Property prior to the end of the Term hereof for a period exceeding thirty (30) consecutive days (excluding Permitted Closures) then: in any such event, (an "Event of Default") the LESSOR may, at the LESSOR's option, terminate and end this Lease upon written notice to LESSEE and Tenant and reenter upon the Property, where upon the term hereby granted, and at the LESSOR's option, all of the Tenant's and LESSEE's right, title and interest in this Lease shall end and the Tenant and LESSEE shall become tenants at sufferance ; or else the LESSOR may, at the LESSOR's option, elect to declare the entire rent for the balance of the Term, or any part thereof, due and payable forthwith, and may proceed to collect the same by distress or otherwise, and thereupon the term hereof shall terminate, at the option of the LESSOR, or else the LESSOR may take possession of the Property and rent the same for the account of the LESSEE. The exercise of any options herein contained shall not be deemed to be exclusive and the LESSOR shall at all times in the event of the Tenant's or LESSEE'S default hereunder, have such remedies as may be provided by the laws of the State of Florida; the expression "entire rent for the balance of the term" as used herein, shall mean all of the rent prescribed to be paid by the LESSEE unto the LESSOR for the full term of the Lease, less, however, any payments that shall have been made on account of any rent due pursuant to the terms of the Lease.

F. In the event of the occurrence of any of the foregoing listed in Sections 9D and/or 9E, in conjunction with any re-letting of the building located on the Adjacent Property, LESSEE shall not have the right to re-instate this LEASE without the full consent of the City Commission and provided that the use does not violate any city ordinances or zoning laws or any other provision of this Lease. However, the foregoing shall not apply to an assignment or subletting to a Permitted Transferee or to a transferee approved by the CITY and LESSEE as described herein below.

G. In the event or occurrence of any default listed herein, LESSOR shall give written notice to LESSEE and Tenant, and LESSEE and/or Tenant and/or its Permitted Transferees or other transferees approved by the CITY and LESSEE shall have ten (10) business days to cure the default.

10. Provided CITY has not terminated this LEASE pursuant to paragraph 8b and/or paragraph 9, LESSEE and Tenant shall peaceably and quietly hold and enjoy the property against CITY and all persons claiming by, through, or under, CITY for the term and any extensions hereof herein described, subject to the terms, provisions and conditions of the LEASE.

11 All notices required under this Lease shall be sent by registered mail or certified mail to the parties set forth below. Either party may change its address by written notice to the other party.

City of Coral Gables  
ATTN: Mr. David Brown, City Manager  
405 Biltmore Way  
Coral Gables, FL 33134

TLT Star, LLC  
ATTN: Anthony V. Cervone  
4770 Biscayne Blvd., Suite 590  
Miami, FL 33137

With Copy to:  
Elizabeth M. Hernandez, Esq., City Attorney  
405 Biltmore Way  
Coral Gables, FL 33134

With a Copy to:  
Starbucks Corporation  
Attn: Property Management Department  
RE: Starbucks Coffee Company Store #  
Mailstop S-RE3

By mail to:  
P.O. Box 34067  
Seattle, WA 98124-1067

Or by overnight delivery to:  
2401 Utah Avenue South, Suite 800  
Seattle, WA 98134

12 That the LESSEE for itself, and successors, in interest, as part of the construction hereof, does hereby covenant and agrees that no person, on the grounds of race, religion, color, age, national origin, sex or physical handicap shall be excluded from participation in, be denied the benefits, or be otherwise subject to discrimination in the use of the facility covered by this Lease.

13 LESSEE shall indemnify and save the CITY harmless from any said and all claims, liabilities, losses and causes of actions to any person or any property which may arise of out any negligent, or unlawful acts or omissions of LESSEE whether such claims, liabilities, losses and causes of action shall be caused by or in any way result from or arise out of any act, omission, negligence or unlawful act of the LESSEE, its agents or assignees, trespassers, visitors, tenants or sub-tenants, invitees or guests or any other users of any portion of the leased premises, and shall pay all claims and losses of any nature whatsoever in connection therewith and shall defend all suits, in the name of the CITY where applicable and shall pay all judgments and costs which may arise there from including attorney's fees and court costs and shall obtain insurance which provides for indemnification of the CITY as provided in this section, which all insurance shall be primary over any other collectible insurance or self-insurance acceptable to the CITY.

14 Insurance Requirements. LESSEE shall carry the following insurance with respect to the Property during the Term:

- a. Comprehensive general liability insurance with broad form endorsement, completed operations and products liability, contractual liability severability of interests with cross liability provision, and personal injury property damage liability with limits of \$1,000,000 combined single limit per occurrence for bodily injury and property damage. Said policy or policies shall be endorsed to name CITY as additional insured and shall reflect the hold harmless provision contained in 12 above.
- b. Automobile insurance including comprehensive automobile property damage insurance \$300,000 per occurrence.
- c. Worker's Compensation for all employees of LESSEE as required by Florida Statutes Section 440, and employer's liability insurance with limits of not less than \$100,000.
- d. All policies shall contain waiver of subrogation against CITY where applicable, shall expressly provide such policy or policies are primary over any other insurance that CITY may have.
- e. All of the above insurance is to be placed with Best-rated A+ or better insurance companies.
- f. The CITY shall be named as an additional insured under such policies. Said policies shall contain a "severability of interest" or "cross liability" clause without obligation for premium payment of the CITY. The CITY reserves the right to request a copy of required policies for review.
- g. All policies shall provide for 30 days written notice to CITY prior to cancellation or material change in policy.

h. The LESSEE shall furnish certificates of insurance to CITY at least fifteen (15) days prior to commencement of operations or policy termination, which certificates shall clearly indicate that the CITY is named as an additional insured and the LESSEE has obtained insurance of the type, amount and the classification as required for the strict compliance with this Lease and that the material change or cancellation of the insurance shall be effective without thirty (30) days prior notice to the CITY.

15. a. LESSEE may not assign this Lease to any person or entity that is the purchaser of the Adjacent Property without first obtaining the consent of the CITY unless the Tenant of the Adjacent Property is Starbucks, a Permitted Transferee, or another transferee approved by the CITY and the LESSEE. Other than as set forth herein, LESSEE shall not assign this Lease, in whole or in part, to any other person or firm without first obtaining the CITY'S written approval. It is agreed that all covenants, conditions, agreements, and undertakings contained in this Lease shall extend to and be binding on the respective successors and assignees accepted by the CITY.

b. Notwithstanding anything contained to the contrary herein, and provided that neither the LESSEE nor the Tenant are in default under this Lease beyond applicable notice and cure periods, the Tenant shall have the right without LESSOR'S or LESSEE'S consent, to sublet all or a portion of the Adjacent Property or assign its lease (including the parking and drive through rights under this Lease) to any of the following (each a "Permitted Transferee"): (a) a parent, subsidiary, affiliate, division, or other entity controlling, controlled by, or under common control with the Tenant; and (b) a successor entity related to the Tenant by merger, consolidation, reorganization, or government action; provided, however, in the event that the use changes as a result of such transfer to a Permitted Transferee as set forth above, then Lessee must obtain the prior written consent of LESSOR to such use.

16. LESSEE further agrees that if under the law the property covered hereby the LESSOR, is or becomes liable for the payment of taxes, impositions or charges of any kind, that the said LESSEE, as part of the consideration for the continuance of this lease, including its execution, will agree promptly herewith to pay said taxes or impositions, or if paid by the LESSOR, to reimburse the LESSOR immediately upon demand.

17. This Agreement and all Exhibits and documents incorporated herein by reference constitute the entire Agreement, understanding and representations between the parties and supersede and replace all prior Agreements, written or oral. No modifications or representations to the Agreement shall be valid unless made in writing and signed by duly authorized representatives of both the CITY and the LESSEE, and incorporated as an Addendum hereto.

18. The parties shall not be liable for any act or failure to act attributable to a Force Majeure. Force Majeure shall be limited to acts of God, acts of public enemy, war, blockages, insurrection, riots, epidemic, landslides, lightning, earthquakes, fires, storms, floods, washout, tornadoes, hurricanes, arrests and restraints of government and people, strikes and labor disputes, explosions, breakage or damage to machinery or equipment and any other inability of either party, whether or similar to those enumerated or otherwise, and not within the control of the party claiming such inability, which by the exercise of due diligence and due care by such party could not have been avoided.

19. The parties hereto agree that any dispute arising hereunder shall be governed by Florida Law and the parties also agree to waive trial by jury on any issues so triable as a matter of right.

20. Remedies provided under this Lease shall not be deemed as exclusive and shall not exclude any remedy otherwise provided by law. The exercise of any remedy under this Lease shall not preclude the LESSOR from exercising any other rights under this Lease or under the law.

21. Indulgences granted with regard to breach of failure to perform under any provisions of this Lease or amendment to this Lease, either initial occurrence or any time thereafter, shall not constitute a waiver of the rights of the CITY under this Lease.

22. This writing embodies the entire agreement and understanding between the parties hereto, and there are no other agreements or understandings, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby. No alternatives, changes, or modifications of the terms of this agreement shall be valid unless made in writing and signed by both parties and incorporated as an Addendum hereto.

23. Severability Survival: If any provisions of this Lease are found to be void and unenforceable by a court of competent jurisdiction, the remaining provisions of this Lease shall nevertheless be binding upon the parties with the same effect as though the void or unenforceable provision had been severed or deleted.

24. RELATIONSHIP OF THE PARTIES: Nothing herein contained to the contrary shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent or of partnership or of joint venture or of any association whatsoever between LESSOR and LESSEE, it being expressly understood and agreed that neither the computation of rent nor any other provisions contained in this Lease nor any act or acts of the parties hereto shall be deemed to create any relations between LESSOR and LESSEE other than the relationship of landlord and tenant. Notwithstanding the fact that the City of Coral Gables "CITY" is the LESSOR under this Lease and there exists a landlord/tenant relationship between LESSOR and LESSEE, LESSEE acknowledges that this Lease does not grant LESSEE any rights or create any exceptions to its obligation to comply with and meet the requirements of all the CITY's ordinances, resolutions and codes, and that the landlord/tenant relationship shall have no effect upon the jurisdiction and governing rights of the City over the Property and the LESSEE shall be required to fulfill and comply with all applicable laws, rules and regulations, ordinances and resolutions of the CITY as though no such landlord/tenant relationship existed, including, without limitation, all requirements of the City's building and zoning department.

*[Signatures and acknowledgements appear on the following page.]*

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed as of the day and year first above written.

CITY OF CORAL GABLES

Resolution No. 2006-18  
Authority of Resolution No. 2006-18 duly  
Passed and adopted by Coral Gables City  
Commission on October 10, 2006,  
and filed 11/2006

Attest:

*Walter Foeman*

Walter Foeman, City Clerk

By: *David Brown*  
David Brown, City Manager

By: *Anthony V. Cervone*  
TLT STAR, LLC  
(Corporate Seal) Anthony V. Cervone, President

WITNESS:

SIGNATURE: *Lindsey Pankey*

PRINT NAME: *Lindsey Pankey*

SIGNATURE: *Lindsey Pankey*

PRINT NAME: *LINDSEY PANKEY*

STATE OF FLORIDA )

) SS Acknowledgment of the City of Coral Gables

COUNTY OF DADE )

The foregoing instrument was acknowledged before me this 26 day of October, 2006 by DAVID BROWN and WALTER FOEMAN, City Manager and City Clerk respectively, of the CITY OF CORAL GABLES, on behalf of the CITY, who is personally known to me.



*Susan Franqui*  
Notary Public, State of Florida  
Print Name: Susan Franqui  
Commission No.: DD513671

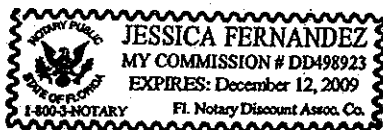
My Commission Expires:

STATE OF FLORIDA )

) SS Acknowledgment of the Centre-Line Real Estate Services.

COUNTY OF DADE )

The foregoing instrument was acknowledged before me this 3rd day of October, 2006 by ANTHONY V. CERVONE, President of TLT STAR, LLC on behalf of the Corporation. He has produced FLORIDA DRIVERS LICENSE # 2615018699210 (type of information), as identification.



*Jessica Fernandez*  
Notary Public, State of Florida  
Print Name: Jessica Fernandez  
Commission No.: DD498923

My Commission Expires:

APPROVED AS TO FORM:

*Elizabeth M. Hernandez*  
Elizabeth M. Hernandez, Esq.  
City Attorney

Or by overnight delivery to:  
2401 Utah Avenue South, Suite 800  
Seattle, WA 98134

12 That the LESSEE for itself, and successors, in interest, as part of the construction hereof, does hereby covenant and agrees that no person, on the grounds of race, religion, color, age, national origin, sex or physical handicap shall be excluded from participation in, be denied the benefits, or be otherwise subject to discrimination in the use of the facility covered by this Lease.

13 LESSEE shall indemnify and save the CITY harmless from any said and all claims, liabilities, losses and causes of actions to any person or any property which may arise of out any negligent, or unlawful acts or omissions of LESSEE whether such claims, liabilities, losses and causes of action shall be caused by or in any way result from or arise out of any act, omission, negligence or unlawful act of the LESSEE, its agents or assignees, trespassers, visitors, tenants or sub-tenants, invitees or guests or any other users of any portion of the leased premises, and shall pay all claims and losses of any nature whatsoever in connection therewith and shall defend all suits, in the name of the CITY where applicable and shall pay all judgments and costs which may arise there from including attorney's fees and court costs and shall obtain insurance which provides for indemnification of the CITY as provided in this section, which all insurance shall be primary over any other collectible insurance or self-insurance acceptable to the CITY.

14 Insurance Requirements. LESSEE shall carry the following insurance with respect to the Property during the Term:

a. Comprehensive general liability insurance with broad form endorsement, completed operations and products liability, <sup>①</sup>contractual liability severability of interests with cross liability provision and personal injury property damage liability with limits of \$1,000,000 combined single limit per occurrence for bodily injury and property damage. Said policy or policies shall be endorsed to name CITY as additional insured and shall reflect the hold harmless provision contained in 12 above.

b. <sup>③</sup> Automobile insurance including comprehensive automobile property damage insurance \$300,000 per occurrence.

← c. <sup>④</sup> Worker's Compensation for all employees of LESSEE as required by Florida Statutes Section 440, and employer's liability insurance with limits of not less than \$100,000.

d. <sup>⑤</sup> All policies shall contain waiver of subrogation against CITY where applicable, shall expressly provide such policy or policies are primary over any other insurance that CITY may have.

← e. <sup>⑥</sup> All of the above insurance is to be placed with Best-rated A+ or better insurance companies.

f. The CITY shall be named as an additional insured under such policies. Said policies shall contain <sup>②</sup>"severability of interest" or "cross liability" clause without obligation for premium payment of the CITY. The CITY reserves the right to request a copy of required policies for review.

g. <sup>⑦</sup> All policies shall provide for 30 days written notice to CITY prior to cancellation or material change in policy. *Cross out "endeavor to" & "but failure to do..."*

or Write letter to Risk Management <sup>4</sup>officed requesting waiver of insurance requirements



h. The LESSEE shall furnish certificates of insurance to CITY at least fifteen (15) days prior to commencement of operations or policy termination, which certificates shall clearly indicate that the CITY is named as an additional insured and the LESSEE has obtained insurance of the type, amount and the classification as required for the strict compliance with this Lease and that the material change or cancellation of the insurance shall be effective without thirty (30) days prior notice to the CITY.

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b. Notwithstanding anything contained to the contrary herein, and provided that neither the LESSEE nor the Tenant are in default under this Lease beyond applicable notice and cure periods, the Tenant shall have the right without LESSOR's or LESSEE's consent, to sublet all or a portion of the Adjacent Property or assign its lease (including the parking and drive through rights under this Lease) to any of the following (each a "Permitted Transferee"): (a) a parent, subsidiary, affiliate, division, or other entity controlling, controlled by, or under common control with the Tenant; and (b) a successor entity related to the Tenant by merger, consolidation, reorganization, or government action; provided, however, in the event that the use changes as a result of such transfer to a Permitted Transferee as set forth above, then Lessee must obtain the prior written consent of LESSOR to such use.

16. LESSEE further agrees that if under the law the property covered hereby the LESSOR, is or becomes liable for the payment of taxes, impositions or charges of any kind, that the said LESSEE, as part of the consideration for the continuance of this lease, including its execution, will agree promptly herewith to pay said taxes or impositions, or if paid by the LESSOR, to reimburse the LESSOR immediately upon demand.

17. This Agreement and all Exhibits and documents incorporated herein by reference constitute the entire Agreement, understanding and representations between the parties and supersede and replace all prior Agreements, written or oral. No modifications or representations to the Agreement shall be valid unless made in writing and signed by duly authorized representatives of both the CITY and the LESSEE, and incorporated as an Addendum hereto.

18. The parties shall not be liable for any act or failure to act attributable to a Force Majeure. Force Majeure shall be limited to acts of God, acts of public enemy, war, blockages, insurrection, riots, epidemic, landslides, lightning, earthquakes, fires, storms, floods, washout, tornadoes, hurricanes, arrests and restraints of government and people, strikes and labor disputes, explosions, breakage or damage to machinery or equipment and any other inability of either party, whether or similar to those enumerated or otherwise, and not within the control of the party claiming such inability, which by the exercise of due diligence and due care by such party could not have been avoided.

19. The parties hereto agree that any dispute arising hereunder shall be governed by Florida Law and the parties also agree to waive trial by jury on any issues so triable as a matter of right.

20. Remedies provided under this Lease shall not be deemed as exclusive and shall not exclude any remedy otherwise provided by law. The exercise of any remedy under this Lease shall not preclude the LESSOR from exercising any other rights under this Lease or under the law.