

95,886.00 per year
20 year lease

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE (this "Memorandum") is executed effective as of *October 31*, 1994 (the "Effective Date") by and between FFCA ACQUISITION CORPORATION, a Delaware corporation ("Lessor"), whose address is 17207 North Perimeter Drive, Scottsdale, Arizona 85255, and WEN-ALABAMA, INC., an Alabama corporation ("Lessee"), whose address is, 202 North Loudoun Street, Suite 309 Winchester, Virginia 22602.

PRELIMINARY STATEMENT:

Lessor and Lessee entered into that certain lease (the "Lease") dated as of the Effective Date, the terms, provisions and conditions of which are incorporated herein by this reference to the same extent as if recited in their entirety herein, whereby Lessor has leased to Lessee, and Lessee has rented and leased from Lessor, on and subject to the terms, provisions and conditions of the Lease, the real property, together with all buildings, structures, fixtures and improvements thereon, described more particularly in the legal description attached hereto as Exhibit A and incorporated herein by this reference (the "Premises"). Unless otherwise expressly provided herein, all defined terms used in this Memorandum shall have the same meanings as are ascribed to such terms in the Lease.

NOW, THEREFORE, Lessor and Lessee hereby make specific reference to the following terms, provisions and conditions of the Lease:

1. In consideration of the rentals and other sums to be paid by Lessee and of the other terms, covenants and conditions on Lessee's part to be kept and performed pursuant to the Lease, Lessor leases to Lessee, and Lessee takes and hires, the Premises. The term of the Lease commences as of the Effective Date and expires on *October 30*, 2014, unless extended as provided below or terminated sooner as provided in the Lease.
2. Provided Lessee is not in default under the terms of the Lease, Lessee has a right to extend the term of the Lease for up to two additional successive periods of five years each, by written notice to Lessor not more than 270 days or less than 210 days prior to the expiration of the term of the Lease.
3. Lessee has been granted the right to purchase the Premises upon the terms and conditions set forth in the Lease. The option to purchase the Premises may be exercised at any time during the 90 days immediately preceding the tenth, fifteenth and twentieth anniversaries of the Lease and, if applicable, during the 90-day period immediately preceding the end of the first and second optional extension periods of the Lease; and any termination of the Lease automatically terminates Lessee's right to purchase the Premises.

Inst # 1994-32578

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SHELBY COUNTY JUDGE OF PROBATE
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4. NOTICE IS HEREBY GIVEN THAT, WITHOUT THE PRIOR WRITTEN CONSENT OF LESSOR, LESSEE IS NOT AUTHORIZED TO PLACE OR ALLOW TO BE PLACED ANY LIEN, MORTGAGE, DEED OF TRUST OR ENCUMBRANCE OF ANY KIND UPON ALL OR ANY PART OF THE PREMISES OR LESSEE'S LEASEHOLD INTEREST THEREIN. ANY SUCH PURPORTED TRANSACTION WHICH IS NOT APPROVED BY LESSOR SHALL BE VOID. FURTHERMORE, ANY SUCH PURPORTED TRANSACTION SHALL BE DEEMED TO CONSTITUTE TORTIOUS INTERFERENCE WITH LESSOR'S RELATIONSHIP WITH LESSEE AND LESSOR'S FEE OWNERSHIP OF THE PREMISES.

5. Except for an assignment of Lessee's interest under the Lease to Franchisor, Lessee may not assign its interest in the Lease in any manner whatsoever without the prior written consent of Lessor. ANY SUCH PURPORTED TRANSACTION WHICH IS NOT APPROVED BY LESSOR SHALL BE VOID.

6. Any addition to or alteration of the Premises shall automatically be deemed part of the Premises and belong to Lessor.

7. Unless the landlord, mortgagee or trustee under any ground lease, mortgage or trust deed, as applicable, now or hereafter placed on the Premises by Lessor elects otherwise by notice given to Lessee, the Lease at all times shall automatically be subordinate to any and all ground leases and the liens of any and all mortgages and trust deeds now or hereafter placed on the Premises by Lessor.

8. The Lease is a "true lease"; the only relationship created thereby is that of landlord and tenant. Lessee is not an agent, legal representative, partner, subsidiary, or employee of Lessor. Lessor is not responsible for any of the debts, obligations or losses of Lessee.

9. Original copies of the Lease are in the possession of Lessor and Lessee. The Lease contains other terms not herein set forth but which are incorporated by reference herein for all purposes, and this Memorandum is executed for the purpose of placing parties dealing with the Premises on notice of the existence of the Lease and, where appropriate, its contents, and shall ratify and confirm all other terms of the Lease as fully as if the same had been set forth herein. Additional information concerning the terms of the Lease can be obtained from Lessor or Lessee at the addresses set forth above.

10. This Memorandum is intended for recording purposes only, and does not modify, supersede, diminish, add to or change all or any of the terms of the Lease in any respect.

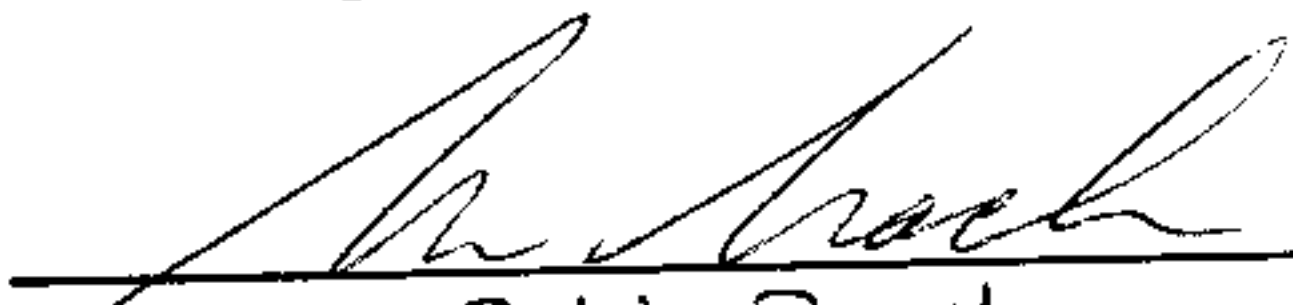
11. Lessor shall have a landlord's lien and security interest, and Lessee does hereby grant a landlord's lien and security interest to Lessor, in and upon all furnishings, fixtures, equipment, decorations, supplies, accessories and other personal property which Lessee owns or in which it has an interest located on the Premises to secure the payment of all rental and other sums due under the Lease and the performance of all obligations of Lessee under the Lease.

12. This Memorandum may be executed in one or more counterparts, each of which shall be deemed an original.

IN WITNESS WHEREOF, the parties hereto have caused this Memorandum to be duly executed as of the Effective Date.

LESSOR:


FFCA ACQUISITION CORPORATION, a
Delaware corporation

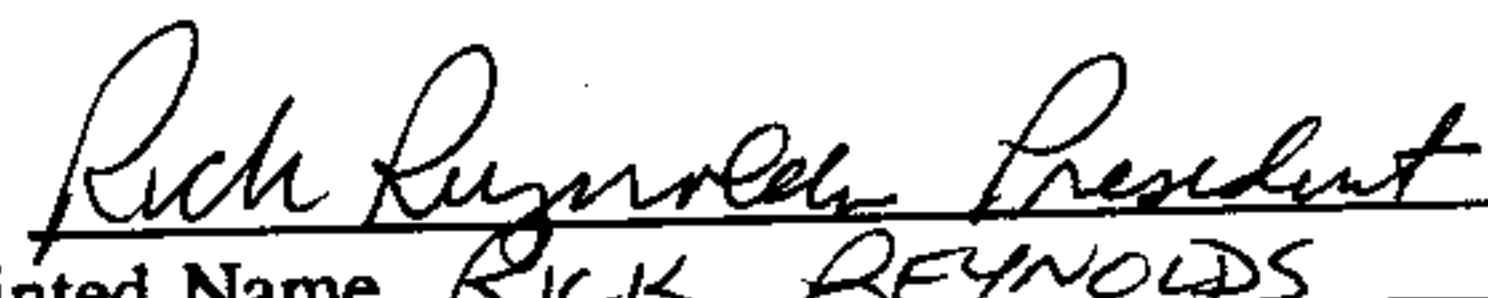
By 
Printed Name Robin Roach
Its SVP

LESSEE:

WEN-ALABAMA, INC., an Alabama corporation

ATTEST:

By 
Printed Name RIK LYNCH
Its VP - FINANCE

By 
Printed Name RICK REYNOLDS
Its PRESIDENT

STATE OF ARIZONA]
] SS.
 COUNTY OF MARICOPA]

I, _____, a Notary Public in and for said County in said State, hereby certify that _____, whose name as _____ of FFCA Acquisition Corporation, a Delaware corporation, 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 the instrument, he as such officer of FFCA Acquisition Corporation, executed the same voluntarily on the day the same bears date.

Given under my hand this the _____ day of _____, 1994.

 NOTARY PUBLIC

My Commission Expires:

STATE OF Virginia]
City] SS.
 COUNTY OF Winchester]

I, Denise Bayne, a Notary Public in and for said County in said State, hereby certify that Rich Reynolds whose name as President of Wen-Alabama, Inc., an Alabama corporation, 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 the instrument, he as such officer of Wen-Alabama, Inc., executed the same voluntarily on the day the same bears date.

Given under my hand this the 21st day of October, 1994.

Denise Bayne
 NOTARY PUBLIC

My Commission Expires:

March 31, 1996

Prepared By:
 KUTAK ROCK
 1650 Farnam Street
 Omaha, NE 68102

STATE OF ARIZONA]
] SS.
 COUNTY OF MARICOPA]

I, Michelle D. Stewart, a Notary Public in and for said County in said State, hereby certify that Robin Roach, whose name as S.V.P. of FFCA Acquisition Corporation, a Delaware corporation, 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 the instrument, he as such officer of FFCA Acquisition Corporation, executed the same voluntarily on the day the same bears date.

Given under my hand this the 25th day of October, 1994.

Michelle D. Stewart
 NOTARY PUBLIC



STATE OF _____]
] SS.
 COUNTY OF _____]

I, _____, a Notary Public in and for said County in said State, hereby certify that _____, whose name as _____ of Wen-Alabama, Inc., an Alabama corporation, 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 the instrument, he as such officer of Wen-Alabama, Inc., executed the same voluntarily on the day the same bears date.

Given under my hand this the _____ day of _____, 1994.

 NOTARY PUBLIC

My Commission Expires:

Prepared By:
 KUTAK ROCK
 1650 Farnam Street
 Omaha, NE 68102

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 Salt/Lenschack
 Pelham, Alabama
 8000-3161

EXHIBIT A

LEGAL DESCRIPTION

PARCEL I

Commence at the Northwest corner of the Southeast $\frac{1}{4}$ of Section 31, Township 19 South, Range 2 West, thence run in an Easterly direction along the North line of the Southeast $\frac{1}{4}$ for a distance of 329.53', thence turn an angle to the right of 60 degrees 17' 38" and run in a Southeasterly direction for a distance of 1009.25' to the point of beginning, from the point of beginning thus obtained continue along the last described course for a distance of 250.00' to a point on the Northwest right of way of Alabama Highway No. 119, thence run an angle to the right of 88 degrees 6' 12" and run in a Southwesterly direction along the Northwest right of way for a distance of 160.00' thence turn an angle to the right of 91 degrees 53' 48" and run in a Northwesterly direction for a distance of 250.00', thence turn an angle to the right of 88 degrees 6' 12" and run in a Northeasterly direction for a distance of 160.00' to the point of beginning.

PARCEL II

A SLOPE EASEMENT OVER THE FOLLOWING DESCRIBED PARCEL: Commence at the Northwest corner of the Southeast $\frac{1}{4}$ of Section 31, Township 19 South, Range 2 West, thence run in an Easterly direction along the North line of the Southeast $\frac{1}{4}$ for a distance of 329.53 feet; thence turn an angle to the right of 60 degrees, 17 minutes, 38 seconds and run in a Southeasterly direction for a distance of 979.25 feet to the point of beginning; thence 88 degrees 06 minutes, 12 seconds right in a Southwesterly direction for a distance of 220 feet; thence 88 degrees, 06 minutes, 12 seconds left in a Southeasterly direction for a distance of 280 feet to a point on the Northwesterly right of way line of Alabama Hwy #119; thence 91 degrees, 53 minutes, 48 seconds left in a Northeasterly direction and along said right of way line for a distance of 60 feet; thence 88 degrees 06 minutes, 12 seconds left in a Northwesterly direction for a distance of 250 feet; thence 88 degrees, 06 minutes, 12 seconds right in a Northeasterly direction for a distance of 160 feet; thence 88 degrees, 06 minutes, 12 seconds left in a Northwesterly direction for a distance of 30 feet to the point of beginning.

PARCEL III

A PERPETUAL NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS OVER THE FOLLOWING DESCRIBED PARCEL: Commence at the Northwest corner of the Southeast $\frac{1}{4}$ of Section 31, Township 19 South, Range 2 West, thence run in an Easterly direction along the North line of the Southeast $\frac{1}{4}$ for a distance of 329.53 feet; thence turn an angle to the right of 60 degrees, 17 minutes, 38 seconds and run in a Southeasterly direction for a distance of 979.25 feet; thence 88 degrees, 06 minutes, 12 seconds right in a Southwesterly direction for a distance of 220 feet; thence 88 degrees 06 minutes 12 seconds left in a Southeasterly direction for a distance of 215 feet to the point of beginning; thence continue along last described course a distance of 65 feet to a point on the Northwesterly right of way line of Alabama Hwy #119; thence 91 degrees, 53 minutes, 48 seconds left in a Northeasterly direction and along said right

of way line for a distance of 60 feet; thence 88 degrees, 06 minutes, 12 seconds left in a Northwesterly direction for a distance of 65 feet; thence 91 degrees, 53 minutes, 48 seconds left in a Southwesterly direction for a distance of 60 feet to the point of beginning.

Together with rights granted pursuant to that certain Declaration of Easements, Covenants and Restrictions recorded at Real Instrument # 1994-08120, and that certain agreement for Easement Appurtenant and Profit A Prendre recorded in Instrument # 1994-08121, all in the Office of the Judge of Probate, Shelby County, Alabama.

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