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17.50  
5.00

Annual Rental  
46,444.00

## MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE (this "Memorandum") is executed effective as of September 29, 1995 (the "Effective Date"), by and between FFCA ACQUISITION CORPORATION, a Delaware corporation ("Lessor"), whose address is 17207 North Perimeter Drive, Scottsdale, Arizona 85255, and MRS. WINNER'S L.P., a Georgia limited partnership ("Lessee"), whose address is 5995 Barfield Road, Atlanta, Georgia, 30328.

### 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 September 30, 2015, 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 (2) additional successive periods of five (5) 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 elected 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 (as applicable, the "Window") and must be closed within 90 days following such

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FFCA No. 8000-3861  
Site No. 5702  
RTM/Shoney's  
Alabaster, AL  
Sale-Leaseback  
09/22/95

Inst # 1995-28900

10/11/1995-28900  
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007 MCD 556.00

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applicable Window; and any termination of the Lease automatically terminates Lessee's right to purchase the Premises.

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 or certain Affiliates of Lessee, 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 VOIDABLE AT THE SOLE OPTION OF LESSOR.

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, beneficiary, mortgagee or trustee under any ground lease, mortgage, deed of trust 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, deeds of trust 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.

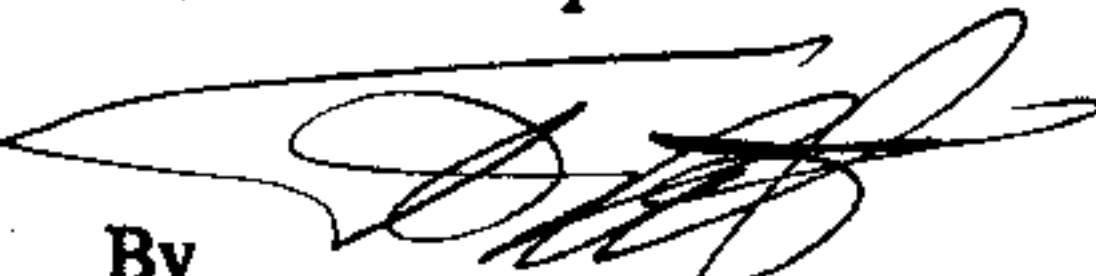
11. Lessee agrees that Lessor shall have a landlord's lien, and a security interest in, on and against all personal property, appliances, furniture and equipment of Lessee from time to time situated on the Premises, which lien and security interest shall secure the payment of all rental and other charges payable by Lessee to Lessor under the terms of the Lease and all other obligations of Lessee to Lessor under the Lease; provided, however, such landlord's lien and security interest shall be subordinated or released as contemplated by 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

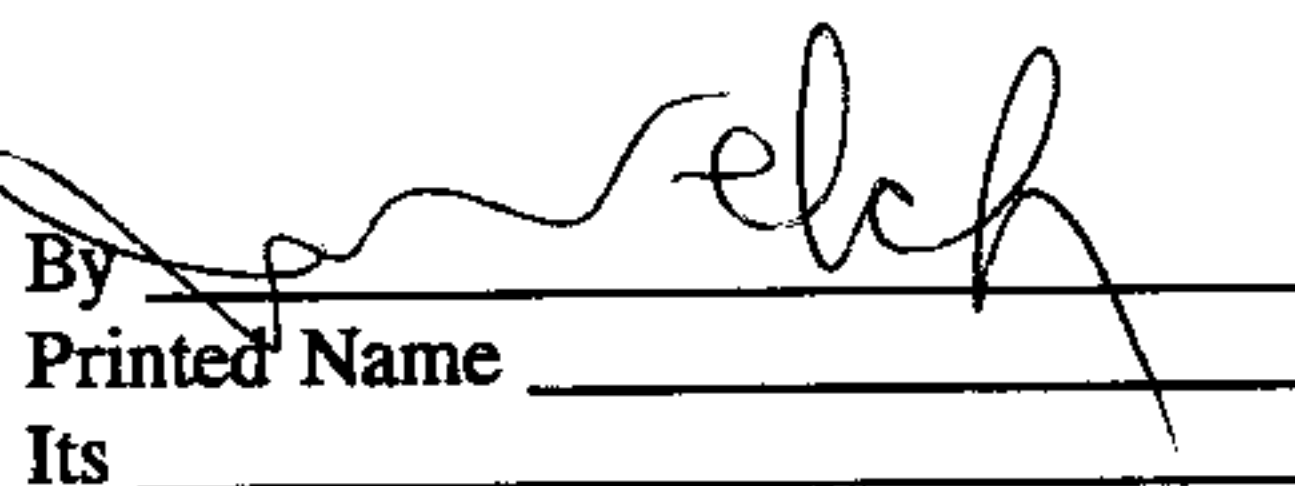


By \_\_\_\_\_  
Printed Name Stephen A. Schnitz  
Its S.V.P.

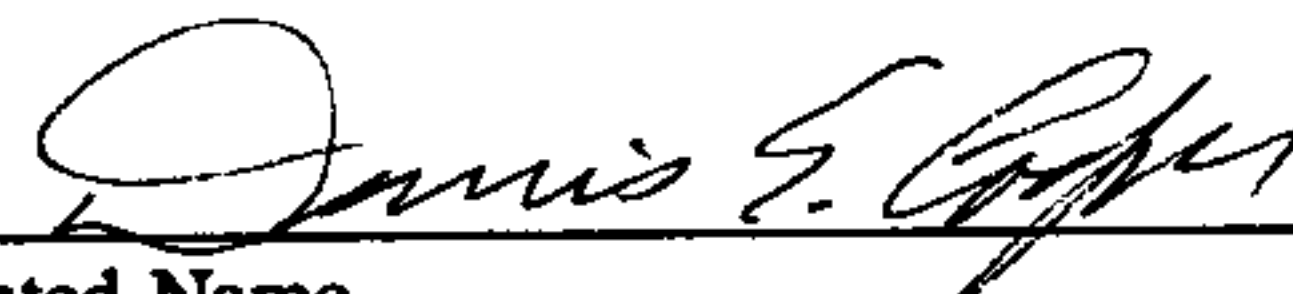
LESSEE:

MRS. WINNERS'S L.P., a Georgia limited  
partnership

By Winner's Corporation, a Georgia corporation,  
its general partner



By \_\_\_\_\_  
Printed Name \_\_\_\_\_  
Its \_\_\_\_\_



By \_\_\_\_\_  
Printed Name \_\_\_\_\_  
Its \_\_\_\_\_



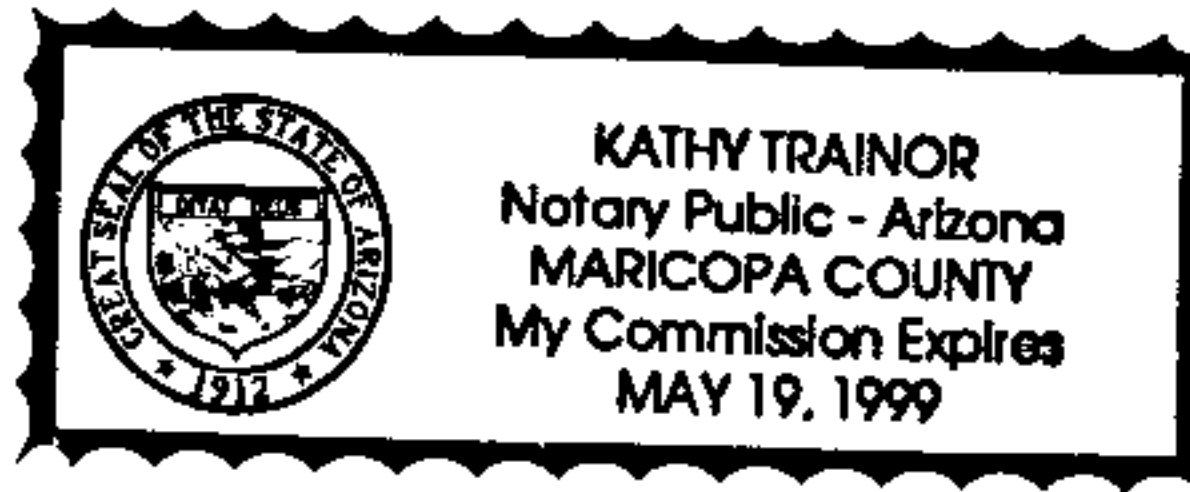
STATE OF ARIZONA                   )  
  )  
COUNTY OF MARICOPA            )

I, the undersigned Notary Public in and for said County in said State, hereby certify that Stephen G. Schmitz, 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/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 22nd day of September, 1995.

  
\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_



STATE OF GEORGIA )  
COUNTY OF FULTON )

I, the undersigned Notary Public in and for said County in said State, hereby certify that Dennis E. Cooper & Russell, Welch, whose name as Sr VP and Secretary of Winner's Corporation, a Georgia corporation, general partner of Mrs. Winner's, L.P., a Georgia limited partnership, 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/she, as such officer and with full authority, executed the same voluntarily for and as the act of said limited partnership.

Given under my hand and seal this 26<sup>th</sup> day of Sept, 1995.

Lisa W. Blackwell  
Notary Public

My Commission Expires:



LISA W. BLACKWELL  
Notary Public, Fulton County, Georgia.  
My Commission Expires Dec. 29, 1997.

## **EXHIBIT A**

### **LEGAL DESCRIPTION**

A parcel of land located in the SW 1/4 of Section 25, the SE 1/4 of Section 26, the NE 1/4 of Section 35, and the NW 1/4 of Section 36, all in township 20 South, Range 3 West, Shelby County, Alabama, more particularly described as follows:

Commence at the Southwest corner of said Section 25; thence in an Easterly direction, along the South line of said Section 25, a distance of 130.60 feet to the point of beginning, said point being on the Northwestern right of way line of U.S. Highway 31; thence 74° 13' 10" left in a Northeasterly direction, along said Highway right of way line, a distance of 26.0 feet; thence 107° 34' 41" left, in a Southwesterly direction, a distance of 248.11 feet to the Southeasterly right of way line of the L and N Railroad; thence 80° 19' 19" left, in a Southwesterly direction, along said railroad right of way line, a distance of 112.0 feet; thence 97° 14' 55" left, in an Easterly direction, a distance of 229.09 feet to the Northwestern right of way line of said Highway 31; thence 74° 08' 55" left, in a Northeasterly direction, along said right of way line, a distance of 100.0 feet to the point of beginning.

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