FORM 10-Q

Quarterly report pursuant to sections 13 or 15(d)

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CKE RESTAURANTS INC
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UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-Q

(Mark One)

☑ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended May 21, 2012

OR

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from _____to_____.

Commission file number 1-11313 and 333-169977

CKE RESTAURANTS, INC.

(Exact name of registrant as specified in its charter)

Delaware	**33-0602639**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
6307 Carpinteria Avenue, Ste. A, Carpinteria, California	**93013**
(Address of principal executive offices)	(Zip Code)

Registrant's telephone number, including area code: (805) 745-7500

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.
Yes ☐ No ☑ Explanatory Note: While the registrant is not subject to the filing requirements of Section 13 or 15(d) of the Exchange Act, it has filed all reports pursuant to Section 13 or 15(d) of the Exchange Act during the preceding 12 months.

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☑ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer ☐ Accelerated filer ☐ Non-accelerated filer ☑ Smaller reporting company ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☑

The number of outstanding shares of the registrant's common stock was 100 shares as of June 22, 2012.

CKE RESTAURANTS, INC. AND SUBSIDIARIES
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PART I. FINANCIAL INFORMATION

ITEM 1. CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

CKE RESTAURANTS, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED BALANCE SHEETS
(In thousands, except shares and par values)
(Unaudited)

	May 21, 2012	January 31, 2012
ASSETS		
Current assets:		
Cash and cash equivalents	$ 125,422	$ 64,555
Accounts receivable, net of allowance for doubtful accounts of $24 as of May 21, 2012 and $38 as of January 31, 2012	21,274	24,099
Related party trade receivables	358	252
Inventories	15,728	16,144
Prepaid expenses	11,300	15,897
Advertising fund assets, restricted	18,822	18,407
Deferred income tax assets, net	25,265	25,140
Other current assets	3,830	3,695
Total current assets	221,999	168,189
Property and equipment, net of accumulated depreciation and amortization of $140,738 as of May 21, 2012 and $117,010 as of January 31, 2012	636,240	645,552
Goodwill	208,885	208,885
Intangible assets, net	428,399	433,139
Other assets, net	25,533	24,373
Total assets	$ 1,521,056	$ 1,480,138
LIABILITIES AND STOCKHOLDER'S EQUITY		
Current liabilities:		
Current portion of long-term debt	$ 3	$ 3
Current portion of capital lease obligations	7,951	7,988
Accounts payable	27,661	40,790
Advertising fund liabilities	18,822	18,407
Other current liabilities	107,726	85,169
Total current liabilities	162,163	152,357
Long-term debt, less current portion	523,930	523,638
Capital lease obligations, less current portion	32,651	34,981
Deferred income tax liabilities, net	151,143	156,656
Other long-term liabilities	225,504	197,767
Total liabilities	1,095,391	1,065,399
Commitments and contingencies (Notes 4, 5, 7 and 12)		
Stockholder's equity:		

Common stock, $0.01 par value; 100 shares authorized, issued and outstanding as of May 21, 2012 and January 31, 2012	—	—
Additional paid-in capital	458,669	457,252
Investment in CKE Inc. Toggle Notes	(8,362)	(8,362)
Accumulated deficit	(24,642)	(34,151)
Total stockholder's equity	425,665	414,739
Total liabilities and stockholder's equity	$ 1,521,056	$ 1,480,138

See Accompanying Notes to Condensed Consolidated Financial Statements

CKE RESTAURANTS, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(In thousands)
(Unaudited)

	Sixteen Weeks Ended May 21, 2012	Sixteen Weeks Ended May 23, 2011
Revenue:		
Company-operated restaurants	$ 361,466	$ 351,604
Franchised restaurants and other	50,865	48,979
Total revenue	412,331	400,583
Operating costs and expenses:		
Restaurant operating costs:		
Food and packaging	108,502	108,902
Payroll and other employee benefits	102,765	101,663
Occupancy and other	81,485	82,683
Total restaurant operating costs	292,752	293,248
Franchised restaurants and other	25,629	25,878
Advertising	20,852	20,061
General and administrative	41,716	40,960
Facility action charges, net	401	511
Other operating expenses	—	351
Total operating costs and expenses	381,350	381,009
Operating income	30,981	19,574
Interest expense	(23,799)	(24,395)
Other income, net	1,149	799
Income (loss) before income taxes	8,331	(4,022)
Income tax benefit	(1,178)	(1,421)
Net income (loss)	$ 9,509	$ (2,601)

See Accompanying Notes to Condensed Consolidated Financial Statements

CKE RESTAURANTS, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(In thousands)
(Unaudited)

	Sixteen Weeks Ended May 21, 2012	Sixteen Weeks Ended May 23, 2011
Cash flows from operating activities:		
Net income (loss)	$ 9,509	$ (2,601)
Adjustments to reconcile net income (loss) to net cash provided by operating activities:		
Depreciation and amortization	25,467	24,938
Amortization of deferred financing costs and discount on notes	1,328	1,244
Share-based compensation expense	1,417	1,469
(Recovery of) provision for losses on accounts and notes receivable	(11)	71
(Gain) loss on disposal of property and equipment	(13)	557
Deferred income taxes	(5,638)	(1,913)
Other non-cash charges (gains)	297	(55)
Net changes in operating assets and liabilities:		
Receivables, inventories, prepaid expenses and other current and non-current assets	6,735	2,071
Estimated liability for closed restaurants and estimated liability for self-insurance	152	834
Accounts payable and other current and long-term liabilities	19,131	27,683
Net cash provided by operating activities	58,374	54,298
Cash flows from investing activities:		
Purchases of property and equipment	(15,725)	(13,581)
Proceeds from sale of property and equipment	350	947
Collections of non-trade notes receivable	841	572
Other investing activities	73	57
Net cash used in investing activities	(14,461)	(12,005)
Cash flows from financing activities:		
Net change in bank overdraft	(8,790)	(6,382)
Proceeds from financing method sale-leaseback transactions	29,946	—
Payment of deferred financing costs	(1,676)	(44)
Repayments of other long-term debt	(2)	(9)
Repayments of capital lease obligations	(2,524)	(2,506)
Net cash provided by (used in) financing activities	16,954	(8,941)
Net increase in cash and cash equivalents	60,867	33,352
Cash and cash equivalents at beginning of period	64,555	42,586
Cash and cash equivalents at end of period	$ 125,422	$ 75,938

See Accompanying Notes to Condensed Consolidated Financial Statements

CKE RESTAURANTS, INC. AND SUBSIDIARIES
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Dollars in thousands)
(Unaudited)

NOTE 1 — BASIS OF PRESENTATION AND DESCRIPTION OF BUSINESS

Description of Business

CKE Restaurants, Inc. ("CKE Restaurants"), through its wholly-owned subsidiaries, owns, operates and franchises the Carl's Jr.®, Hardee's®, Green Burrito® and Red Burrito® concepts. References to CKE Restaurants and its consolidated subsidiaries (the "Company") throughout these Notes to Condensed Consolidated Financial Statements are made using the first person notations of "we," "us" and "our."

Domestic Carl's Jr. restaurants are predominately located in the Western United States, primarily in California, with a growing presence in Texas. International Carl's Jr. restaurants are located primarily in Mexico, with a growing presence in the rest of Latin America, Russia and Asia. Hardee's restaurants are primarily located throughout the Southeastern and Midwestern United States, with a growing international presence in the Middle East and Central Asia. Green Burrito restaurants are primarily located in dual-branded Carl's Jr. restaurants. The Red Burrito concept is located in dual-branded Hardee's restaurants. As of May 21, 2012, our system-wide restaurant portfolio consisted of:

	Carl's Jr.	Hardee's	Other	Total
Company-operated	424	468	—	892
Domestic franchised	694	1,227	9	1,930
International franchised	204	237	—	441
Total	1,322	1,932	9	3,263

As of May 21, 2012, 261 of our 424 company-operated Carl's Jr. restaurants were dual-branded with Green Burrito and 242 of our 468 company-operated Hardee's restaurants were dual-branded with Red Burrito.

Basis of Presentation and Fiscal Year

Our accompanying unaudited Condensed Consolidated Financial Statements include the accounts of CKE Restaurants, our wholly-owned subsidiaries and our consolidated variable interest entities ("VIE"). These unaudited Condensed Consolidated Financial Statements have been prepared in accordance with accounting principles generally accepted in the United States ("GAAP"), the instructions to Form 10-Q and Article 10 of Regulation S-X. CKE Restaurants does not have any non-controlling interests in other entities. These financial statements should be read in conjunction with the audited Consolidated Financial Statements presented in our Annual Report on Form 10-K for the fiscal year ended January 31, 2012. In our opinion, all adjustments considered necessary for a fair presentation of financial position and results of operations for this interim period have been included. The results of operations for such interim period are not necessarily indicative of results for the full year or for any future period.

We operate on a retail accounting calendar. Our fiscal year ends on the last Monday in January and typically has 13 four-week accounting periods. For clarity of presentation, we generally label all fiscal year ends as if the fiscal year ended January 31. Accordingly, the fiscal year ended January 30, 2012 is referred to herein as the fiscal year ended January 31, 2012 or fiscal 2012, and the fiscal year ending January 28, 2013 is referred to herein as the fiscal year ending January 31, 2013 or fiscal 2013. The first quarter of our fiscal year has four periods, or 16 weeks. All other quarters generally have three periods, or 12 weeks.

Our restaurant sales, and therefore our profitability, are subject to seasonal fluctuations and are traditionally higher during the spring and summer months because of factors such as increased travel during school vacations and improved weather conditions, which affect the public's dining habits.

Certain prior year amounts in these unaudited Condensed Consolidated Financial Statements have been reclassified to conform to the current year presentation.

CKE RESTAURANTS, INC. AND SUBSIDIARIES
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Dollars in thousands)
(Unaudited)

Variable Interest Entities

We consolidate one national and approximately 80 local co-operative advertising funds ("Hardee's Funds") as we have concluded that they are VIEs for which we are the primary beneficiary. We have included $18,822 and $18,407 of advertising fund assets, restricted, and advertising fund liabilities in our accompanying unaudited Condensed Consolidated Balance Sheets as of May 21, 2012 and January 31, 2012, respectively. Consolidation of the Hardee's Funds had no impact on our accompanying unaudited Condensed Consolidated Statements of Operations and Cash Flows. We have no rights to the assets, nor do we have any obligation with respect to the liabilities, of the Hardee's Funds, and none of our assets serve as collateral for the creditors of these VIEs.

NOTE 2 —ACCOUNTING PRONOUNCEMENTS NOT YET ADOPTED AND ADOPTION OF NEW ACCOUNTING PRONOUNCEMENTS

In September 2011, the FASB updated its guidance on the annual testing of goodwill for impairment to allow companies to first assess qualitative factors to determine whether it is necessary to perform the two-step goodwill impairment test. If an entity determines, based on qualitative factors, that it is not more likely than not that a reporting unit's fair value is less than its carrying amount, then it is not required to perform the quantitative two-step goodwill impairment test. This guidance is effective for annual and interim goodwill impairment tests performed for fiscal years beginning after December 15, 2011. The provisions of this guidance apply to CKE Restaurants beginning in fiscal 2013. The adoption of this guidance has not had, and is not expected to have, a material impact on our Condensed Consolidated Financial Statements.

NOTE 3 — PURCHASE OF ASSETS

During the sixteen weeks ended May 23, 2011, we purchased three Hardee's restaurants from one of our franchisees for the aggregate purchase price consideration of $1,500, which was reduced by the settlement of certain pre-existing liabilities, resulting in a net purchase price consideration of $1,207. As a result of this transaction, we recorded property and equipment (including capital lease assets) of $109, identifiable intangible assets of $85 and capital lease obligations of $55, resulting in $1,068 of additional goodwill in our Hardee's operating segment.

We did not purchase any restaurants from franchisees during the sixteen weeks ended May 21, 2012.

NOTE 4 — INDEBTEDNESS AND INTEREST EXPENSE

Our senior secured revolving credit facility (the "Credit Facility") provides for senior secured revolving facility loans, swingline loans and letters of credit in an aggregate amount of up to $100,000. As of May 21, 2012, we had no outstanding loan borrowings, $30,913 of outstanding letters of credit and remaining availability of $69,087 on our Credit Facility. The Credit Facility bears interest at a rate equal to, at our option, either: (1) the higher of Morgan Stanley's "prime rate" plus 2.75% or the federal funds rate, as defined in our Credit Facility, plus 3.25%, or (2) the London Interbank Offered Rate ("LIBOR") plus 3.75%.

The terms of our Credit Facility include financial performance covenants, which include a maximum secured leverage ratio and a specified minimum interest coverage ratio. As of May 21, 2012, our financial performance covenants did not limit our ability to draw on the remaining availability of $69,087 under our Credit Facility.

As of May 21, 2012, the carrying value of our senior secured second lien notes (the "Senior Secured Notes") was $523,544, which is presented net of the remaining unamortized portion of the original issue discount of $8,578 in our accompanying unaudited Condensed Consolidated Balance Sheet. The aggregate principal amount of the Senior Secured Notes outstanding was $532,122 as of May 21, 2012. The Senior Secured Notes bear interest at a rate of 11.375% per annum, payable semi-annually in arrears on January 15 and July 15.

Each of our wholly-owned domestic subsidiaries that guarantees indebtedness under the Credit Facility also guarantees the performance and punctual payment when due, whether at stated maturity, by acceleration or otherwise, of all our obligations under the Senior Secured Notes. Separate financial statements and other disclosures

CKE RESTAURANTS, INC. AND SUBSIDIARIES
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Dollars in thousands)
(Unaudited)

of each of the guarantors are not presented because CKE Restaurants, Inc. is a holding company with no material independent assets or operations, the guarantor subsidiaries are, directly or indirectly, wholly-owned subsidiaries of CKE Restaurants, Inc. and such guarantees are full, unconditional and joint and several. The aggregate assets, liabilities, earnings and equity of the guarantor subsidiaries are substantially equivalent to the assets, liabilities, earnings and equity of CKE Restaurants, Inc. on a consolidated basis. The one non-guarantor subsidiary is minor. There are no significant restrictions on the ability of CKE Restaurants, Inc. or any of the guarantors to obtain funds from its respective subsidiaries by dividend or loan.

On June 15, 2012, the holders of the Senior Secured Notes were notified that we will redeem $60,000 aggregate principal amount of Senior Secured Notes outstanding on July 16, 2012 at a redemption price of 103% of the aggregate principal amount of the Senior Secured Notes being redeemed pursuant to the terms of the indenture governing the Senior Secured Notes.

Interest Expense

Interest expense consisted of the following:

	Sixteen Weeks Ended May 21, 2012	Sixteen Weeks Ended May 23, 2011
Senior secured revolving credit facility	$ —	$ —
Senior secured second lien notes	18,624	21,116
Amortization of deferred financing costs and discount on notes	1,328	1,244
Capital lease obligations	1,280	1,462
Financing method sale-leaseback transactions[1]	2,090	—
Letter of credit fees and other	477	573
	$ 23,799	$ 24,395

(1) See Note 5.

As of May 21, 2012 and January 31, 2012, accrued interest was $21,377 and $2,650, respectively, which is included in other current liabilities in our accompanying unaudited Condensed Consolidated Balance Sheets.

CKE Inc. Senior Unsecured PIK Toggle Notes

During fiscal 2012, CKE Inc. (formerly known as CKE Holdings, Inc.), our parent, issued $200,000 aggregate principal amount of senior unsecured PIK toggle notes (the "Toggle Notes"). We have not guaranteed the Toggle Notes, nor have we pledged any of our assets or stock as collateral for the Toggle Notes. As a result, we have not reflected the Toggle Notes in our unaudited Condensed Consolidated Financial Statements.

The interest on the Toggle Notes, which is payable semi-annually on March 15 and September 15 of each year, can be paid (1) entirely in cash, at a rate of 10.50% ("Cash Interest"), (2) entirely by increasing the principal amount of the note or by issuing new notes for the entire amount of the interest payment, at a rate per annum equal to the cash interest rate of 10.50% plus 0.75% ("PIK Interest") or (3) with a 25%/75%, 50%/50% or 75%/25% combination of Cash Interest and PIK Interest. CKE Inc. paid the March 15, 2012, and will pay the September 15, 2012, interest payments entirely in PIK Interest.

As of May 21, 2012, the principal amount of CKE Inc.'s total long-term debt on a stand-alone basis was $223,199, which includes PIK Interest payments that have been added to the principal amount of the Toggle Notes. The principal amount of CKE Inc.'s long-term debt on a stand-alone basis has not been reduced by the $10,508 principal amount of Toggle Notes held by CKE Restaurants as of May 21, 2012 (the "Purchased Toggle Notes")

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(Unaudited)

since the Purchased Toggle Notes remain outstanding. As of May 21, 2012, the carrying amount of CKE Inc.'s total long-term debt on a stand-alone basis, including the current portion and the Purchased Toggle Notes, was $219,908, which is presented net of the unamortized portion of the original issue discount of $3,291.

NOTE 5 — SALE-LEASEBACK TRANSACTIONS

During the sixteen weeks ended May 21, 2012, we entered into agreements with independent third parties under which we sold and leased back 2 Carl's Jr. and 18 Hardee's restaurant properties. The initial minimum lease terms are 20 years, and the leases include renewal options and right of first offer provisions that, for accounting purposes, constitute continuing involvement with the associated restaurant properties. Due to this continuing involvement, these sale-leaseback transactions are accounted for under the financing method, rather than as completed sales. Under the financing method, we include the sales proceeds received in other long-term liabilities until our continuing involvement with the properties is terminated, report the associated property as owned assets, continue to depreciate the assets over their remaining useful lives, and record the rental payments as interest expense. Closing costs and other fees related to these sale-leaseback transactions are recorded as deferred financing costs and amortized to interest expense over the initial minimum lease term. When and if our continuing involvement with a property terminates and the sale of that property is recognized for accounting purposes, we expect to record a gain equal to the excess of the proceeds received over the remaining net book value of the associated restaurant property and any unamortized deferred financing costs. During the sixteen weeks ended May 21, 2012, we received proceeds of $29,946 and capitalized deferred financing costs of $1,766 in connection with these transactions.

The cumulative proceeds received in connection with financing method sale-leaseback transactions of $97,400 and $67,454 are included in other long-term liabilities in our accompanying unaudited Condensed Consolidated Balance Sheets as of May 21, 2012 and January 31, 2012, respectively. The net book value of the associated assets, which is included in property and equipment, net of accumulated depreciation and amortization in our accompanying unaudited Condensed Consolidated Balance Sheets, was $71,580 and $48,722 as of May 21, 2012 and January 31, 2012, respectively. With respect to the financing method sale-leaseback transactions, our future minimum cash obligations as of May 21, 2012 are $4,647, $6,970, $6,970, $6,970, $7,144, $7,633 and $117,701 for the period from May 22, 2012 through January 31, 2013, for fiscal 2014, 2015, 2016, 2017, 2018 and thereafter, respectively.

NOTE 6 — FAIR VALUE OF FINANCIAL INSTRUMENTS

The following table presents information on our financial instruments as of:

	May 21, 2012		January 31, 2012	
	Carrying Amount	Estimated Fair Value	Carrying Amount	Estimated Fair Value
Financial assets:				
Cash and cash equivalents	$ 125,422	$ 125,422	$ 64,555	$ 64,555
Notes receivable	752	879	1,696	2,050
Financial liabilities:				
Bank indebtedness and other long-term debt, including current portion	523,933	608,338	523,641	599,027

The fair value of cash and cash equivalents approximates its carrying amount due to its short maturity. The estimated fair value of notes receivable was determined by discounting future cash flows using current rates at which similar loans might be made to borrowers with similar credit ratings. The estimated fair value of the Senior Secured Notes was determined by using estimated market prices of our outstanding Senior Secured Notes. For all other long-term debt, the estimated fair value was determined by discounting future cash flows using rates currently available to us for debt with similar terms and remaining maturities.

CKE RESTAURANTS, INC. AND SUBSIDIARIES
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Dollars in thousands)
(Unaudited)

Our non-financial assets, which include long-lived assets, including goodwill, intangible assets and property and equipment, are reported at carrying value and are not required to be measured at fair value on a recurring basis. However, on a periodic basis, or whenever events or changes in circumstances indicate that their carrying value may not be recoverable, we assess our long-lived assets for impairment. When impairment has occurred, such long-lived assets are written down to fair value.

NOTE 7 — COMMITMENTS AND CONTINGENT LIABILITIES

Lease Commitments

Under various refranchising programs, we have sold restaurants to franchisees, some of which were on leased sites. We entered into sublease agreements with these franchisees but remained principally liable for the lease obligations. We account for the sublease payments received as franchising rental income in franchised restaurants and other revenue, and the payments on the leases as rental expense in franchised restaurants and other expense, in our accompanying unaudited Condensed Consolidated Statements of Operations. As of May 21, 2012, the present value of the lease obligations under the remaining master leases' primary terms is $124,349. Franchisees may, from time to time, experience financial hardship and may cease payment on their sublease obligations to us. The present value of the exposure to us from franchisees characterized as under financial hardship is $2,513.

Letters of Credit

Pursuant to our Credit Facility, we may borrow up to $100,000 for senior secured revolving facility loans, swingline loans and letters of credit (see Note 4). We have several standby letters of credit outstanding under our Credit Facility, which primarily secure our potential workers' compensation, general and auto liability obligations. We are required to provide letters of credit each year, or set aside a comparable amount of cash or investment securities in a trust account, based on our existing claims experience. As of May 21, 2012, we had outstanding letters of credit of $30,913, expiring at various dates through August 2012.

Unconditional Purchase Obligations

As of May 21, 2012, we had unconditional purchase obligations in the amount of $89,576, which consisted primarily of contracts for goods and services related to restaurant operations and contractual commitments for marketing and sponsorship arrangements.

Employment Agreements

We have entered into employment agreements with certain key executives (the "Employment Agreements"). Pursuant to the terms of the Employment Agreements, each executive is entitled to receive certain retention bonus payments that will be paid out in October 2012 and 2013, in accordance with such executive's Employment Agreement. In addition, each executive will be entitled to payments that may be triggered by the termination of employment under certain circumstances, as set forth in each Employment Agreement. If certain provisions are triggered, our Chief Executive Officer shall be entitled to receive an amount equal to his minimum base salary multiplied by six and our President and Chief Legal Officer and our Chief Financial Officer shall each be entitled to receive an amount equal to his respective minimum base salary multiplied by three plus a pro-rata portion of his then-current year bonus. The affected executive may also be entitled to receive a portion of his retention bonus. If all payment provisions of the Employment Agreements had been triggered as of May 21, 2012, we would have been required to make cash payments of approximately $12,301.

Litigation

We are currently involved in legal disputes related to employment claims, real estate claims and other business disputes. As of May 21, 2012, our accrued liability for litigation contingencies with a probable likelihood of loss was

CKE RESTAURANTS, INC. AND SUBSIDIARIES
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Dollars in thousands)
(Unaudited)

$2,395, with an expected range of losses from $2,395 to $5,530. With respect to employment matters, our most significant legal disputes relate to employee meal and rest break disputes, and wage and hour disputes. Several potential class action lawsuits have been filed in the State of California, regarding such employment matters, each of which is seeking injunctive relief and monetary compensation on behalf of current and former employees. The Company intends to vigorously defend against all claims in these lawsuits; however, we are presently unable to predict the ultimate outcome of these actions. As of May 21, 2012, we estimated the contingent liability of those losses related to litigation claims that are not accrued, but that we believe are reasonably possible to result in an adverse outcome and for which a range of loss can be reasonably estimated, to be in the range of $2,135 to $10,425. In addition, we are involved in legal matters where the likelihood of loss has been judged to be reasonably possible, but for which a range of the potential loss cannot be reasonably estimated based on current facts and circumstances.

NOTE 8 — SHARE-BASED COMPENSATION

Total share-based compensation expense and associated tax benefits recognized were as follows:

	Sixteen Weeks Ended May 21, 2012	Sixteen Weeks Ended May 23, 2011
Share-based compensation expense related to Units that contain performance conditions	$ 740	$ 767
Share-based compensation expense related to all other Units	677	702
Total share-based compensation expense	$ 1,417	$ 1,469
Associated tax benefits	$ —	$ —

Funds managed by Apollo Management VII, L.P., certain members of our senior management team and our board of directors formed Apollo CKE Holdings, L.P., a limited partnership (the "Partnership") to fund the equity contribution to CKE Restaurants, Inc. The Partnership granted profit sharing interests ("Units") in the Partnership to certain of our senior management team and directors in the form of time vesting and performance vesting Units. Under certain circumstances, a portion of the Units may become subject to both performance and market conditions. The maximum unrecognized compensation cost for the time and performance vesting Units was $8,747 as of May 21, 2012.

NOTE 9 — FACILITY ACTION CHARGES, NET

The components of facility action charges, net are as follows:

	Sixteen Weeks Ended May 21, 2012	Sixteen Weeks Ended May 23, 2011
Estimated liability for new restaurant closures	$ —	$ 133
Adjustments to estimated liability for closed restaurants	4	466
Impairment of assets to be held and used	109	58
Gain on disposal of property and equipment	(234)	(156)
Other losses (gains)	396	(116)
Amortization of discount related to estimated liability for closed restaurants	126	126
	$ 401	$ 511

We evaluate our restaurant-level long-lived assets for impairment whenever events or circumstances indicate that the carrying value of assets may be impaired. We determine whether the assets are recoverable by comparing the undiscounted future cash flows that we expect to generate from their use and disposal to their carrying value.

CKE RESTAURANTS, INC. AND SUBSIDIARIES
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(Dollars in thousands)
(Unaudited)

Restaurant-level assets that are not deemed to be recoverable are written down to their estimated fair value, which is determined by assessing the highest and best use of the assets and the amounts that would be received for such assets in an orderly transaction between market participants. The determination of fair value is dependent upon level 3 significant unobservable inputs.

Impairment charges recognized in facility action charges, net were recorded against the following asset category:

	Sixteen Weeks Ended May 21, 2012	Sixteen Weeks Ended May 23, 2011
Property and equipment:		
Carl's Jr.	$ —	$ —
Hardee's	109	58
	$ 109	$ 58

NOTE 10 — INCOME TAXES

Income tax benefit consisted of the following:

	Sixteen Weeks Ended May 21, 2012	Sixteen Weeks Ended May 23, 2011
Federal and state income taxes	$ (1,817)	$ (1,912)
Foreign income taxes	639	491
Income tax benefit	$ (1,178)	$ (1,421)

Our effective income tax rate for the sixteen weeks ended May 21, 2012 differs from the federal statutory rate primarily as a result of non-deductible share-based compensation expense, state income taxes, federal income tax credits and the release of $6,370 of valuation allowance on state income tax credit and net operating loss ("NOL") carryforwards. After considering all available evidence, both positive and negative, including future reversals of existing taxable temporary differences and estimated future taxable income exclusive of reversing temporary differences on a jurisdictional basis and statutory expiration dates of NOL carryforwards, we concluded that we will more likely than not realize future tax benefits related to certain of our state income tax credit and NOL carryforwards, for which an income tax benefit has not previously been recognized. As of May 21, 2012, we maintained a valuation allowance of $2,935 for a portion of our state NOL and income tax credit carryforwards. Realization of the tax benefit of such deferred income tax assets may remain uncertain for the foreseeable future, even if we generate consolidated taxable income, since they are subject to various limitations and may only be used to offset income of certain entities or in certain jurisdictions.

Our effective income tax rate for the sixteen weeks ended May 23, 2011 differs from the federal statutory rate primarily as a result of non-deductible share-based compensation expense, state income taxes and federal income tax credits.

We had $2,977 of unrecognized tax benefits as of January 31, 2012 that, if recognized, would affect our effective income tax rate. There were no material changes in the unrecognized tax benefits during the sixteen weeks ended May 21, 2012. We believe that it is reasonably possible that decreases in unrecognized tax benefits of up to $1,642 may be necessary within twelve months as a result of statutes closing on such items. In addition, we believe that it is reasonably possible that our unrecognized tax benefits may increase as a result of tax positions that may be taken during the next twelve months.

CKE RESTAURANTS, INC. AND SUBSIDIARIES
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Dollars in thousands)
(Unaudited)

NOTE 11 — SEGMENT INFORMATION

We are principally engaged in developing, operating, franchising and licensing our Carl's Jr. and Hardee's quick-service restaurant concepts, each of which is considered an operating segment that is managed and evaluated separately. The accounting policies of the segments are the same as those described in our summary of significant accounting policies (see Note 1 of Notes to Consolidated Financial Statements in our Annual Report on Form 10-K for the fiscal year ended January 31, 2012).

	Sixteen Weeks Ended May 21, 2012	Sixteen Weeks Ended May 23, 2011
Revenue:		
Carl's Jr.	$ 211,524	$ 206,134
Hardee's	200,665	194,216
Other	142	233
Total	$ 412,331	$ 400,583
Segment income:		
Carl's Jr.	$ 32,764	$ 27,421
Hardee's	40,195	33,842
Other	139	133
Total	73,098	61,396
Less: General and administrative expense	(41,716)	(40,960)
Less: Facility action charges, net	(401)	(511)
Less: Other operating expenses	—	(351)
Operating income	30,981	19,574
Interest expense	(23,799)	(24,395)
Other income, net	1,149	799
Income (loss) before income taxes	$ 8,331	$ (4,022)
Capital expenditures:		
Carl's Jr.	$ 7,522	$ 4,101
Hardee's	7,742	9,271
Other	461	209
Total	$ 15,725	$ 13,581
Depreciation and amortization:		
Depreciation and amortization included in segment income:		
Carl's Jr.	$ 11,560	$ 11,924
Hardee's	12,822	12,055
Other	—	—
Other depreciation and amortization[1]	1,085	959
Total depreciation and amortization	$ 25,467	$ 24,938

	May 21, 2012	January 31, 2012
Total assets:		
Carl's Jr.	$ 827,571	$ 779,970
Hardee's	626,882	633,127
Other	66,603	67,041
Total	$ 1,521,056	$ 1,480,138

(1) Represents depreciation and amortization excluded from the computation of segment income.

CKE RESTAURANTS, INC. AND SUBSIDIARIES
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Dollars in thousands)
(Unaudited)

NOTE 12 — RELATED PARTY TRANSACTIONS

Transactions with Apollo Management VII, L.P.

Pursuant to our management services agreement with Apollo Management VII, L.P. and in exchange for on-going investment banking, management, consulting and financial planning services that will be provided to us, we are obligated to pay Apollo Management VII, L.P. an aggregate annual management fee of $2,500, which may be increased at Apollo Management VII, L.P.'s sole discretion up to an amount equal to two percent of our Adjusted EBITDA, as defined in our Credit Facility. We recorded $765 and $767 in management fees, which are included in general and administrative expense in our accompanying unaudited Condensed Consolidated Statements of Operations for the sixteen weeks ended May 21, 2012 and May 23, 2011, respectively.

Transactions with Board of Directors

Certain members of our Board of Directors are also our franchisees. These franchisees regularly pay royalties and purchase equipment and other products from us on the same terms and conditions as our other franchisees. During the sixteen weeks ended May 21, 2012 and May 23, 2011, total revenue generated from related party franchisees was $2,087 and $3,361, respectively, which is included in franchised restaurants and other revenue in our accompanying unaudited Condensed Consolidated Statement of Operations. As of May 21, 2012 and January 31, 2012, our related party trade receivables from franchisees were $358 and $252, respectively.

NOTE 13 — SUPPLEMENTAL CASH FLOW INFORMATION

	Sixteen Weeks Ended May 21, 2012	Sixteen Weeks Ended May 23, 2011
Cash paid for:		
Interest, net of amounts capitalized	$ 3,549	$ 1,656
Income taxes paid (received), net	1,587	(727)
Non-cash investing and financing activities:		
Capital lease obligations incurred to acquire assets	576	1,665
Accrued property and equipment purchases	1,346	2,765

During the sixteen weeks ended May 23, 2011, we recorded a non-cash transaction to acquire three Hardee's restaurants from one of our franchisees for an aggregate purchase price of $1,500. The entire purchase price was applied as a reduction of outstanding promissory notes due to the Company. See Note 3 for additional discussion.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

Management's Discussion and Analysis of Financial Condition and Results of Operations ("MD&A") is intended to provide a reader of financial statements with a narrative from the perspective of management on the financial condition, results of operations, liquidity and certain other factors that may affect future results. MD&A is presented in the following sections:

- Overview
- Operating Review
- Liquidity and Capital Resources
- Critical Accounting Policies
- Significant Known Events, Trends, or Uncertainties Expected to Impact Fiscal 2013 Comparisons with Fiscal 2012
- New Accounting Pronouncements Not Yet Adopted and Adoption of New Accounting Pronouncements
- Presentation of Non-GAAP Measures
- Certain Financial Information of CKE Inc.

The MD&A should be read in conjunction with the unaudited Condensed Consolidated Financial Statements contained herein and the CKE Restaurants, Inc. Annual Report on Form 10-K for the fiscal year ended January 31, 2012 (the "2012 Annual Report").

Overview

CKE Restaurants, Inc. ("CKE Restaurants") and its subsidiaries (collectively referred to herein as the "Company", "we", "us" or "our"), is an owner, operator and franchisor of quick-service restaurants ("QSR") in the United States and 25 other countries, operating principally under the Carl's Jr.® and Hardee's® brand names. As of May 21, 2012, we operated 892 restaurants and our franchisees operated 1,930 domestic and 441 international restaurants, primarily under the Carl's Jr. and Hardee's brands. Domestic Carl's Jr. restaurants are predominately located in the Western United States, primarily in California, with a growing presence in Texas. International Carl's Jr. restaurants are located primarily in Mexico, with a growing presence in the rest of Latin America, Russia and Asia. Hardee's restaurants are located predominately throughout the Southeastern and Midwestern United States, with a growing international presence in the Middle East and Central Asia. Green Burrito restaurants are primarily located in dual-branded Carl's Jr. restaurants. The Red Burrito concept is located in dual-branded Hardee's restaurants.

CKE RESTAURANTS, INC. AND SUBSIDIARIES
MANAGEMENT'S DISCUSSIONS AND ANALYSIS
(Dollars in thousands)

Operating Review

The following tables present the change in our restaurant portfolios, consolidated and by brand, for the trailing-13 periods ended May 21, 2012:

Consolidated:	Company-operated	Domestic Franchised	International Franchised	Total
Open at May 23, 2011	895	1,915	372	3,182
New	4	39	79	122
Closed	(7)	(24)	(10)	(41)
Open at May 21, 2012	892	1,930	441	3,263

Carl's Jr.:	Company-operated	Domestic Franchised	International Franchised	Total
Open at May 23, 2011	424	680	158	1,262
New	3	26	49	78
Closed	(3)	(12)	(3)	(18)
Open at May 21, 2012	424	694	204	1,322

Hardee's:	Company-operated	Domestic Franchised	International Franchised	Total
Open at May 23, 2011	470	1,225	214	1,909
New	1	13	30	44
Closed	(3)	(11)	(7)	(21)
Open at May 21, 2012	468	1,227	237	1,932

CKE RESTAURANTS, INC. AND SUBSIDIARIES
MANAGEMENT'S DISCUSSIONS AND ANALYSIS
(Dollars in thousands)

Consolidated Fiscal Quarter

	Sixteen Weeks Ended May 21, 2012	Sixteen Weeks Ended May 23, 2011
Revenue:		
Company-operated restaurants	$ 361,466	$ 351,604
Franchised restaurants and other	50,865	48,979
Total revenue	412,331	400,583
Operating costs and expenses:		
Restaurant operating costs	292,752	293,248
Franchised restaurants and other	25,629	25,878
Advertising	20,852	20,061
General and administrative	41,716	40,960
Facility action charges, net	401	511
Other operating expenses	—	351
Total operating costs and expenses	381,350	381,009
Operating income	30,981	19,574
Interest expense	(23,799)	(24,395)
Other income, net	1,149	799
Income (loss) before income taxes	8,331	(4,022)
Income tax benefit	(1,178)	(1,421)
Net income (loss)	$ 9,509	$ (2,601)
Blended company-operated average unit volume (trailing-52 weeks)	$ 1,268	$ 1,231
Blended domestic franchise-operated average unit volume (trailing-52 weeks)	$ 1,080	$ 1,058
Blended company-operated same-store sales increase	2.6%	5.5%
Blended domestic franchise-operated same-store sales increase	2.1%	3.8%
Company-operated restaurant-level adjusted EBITDA[(1)]:		
Company-operated restaurants revenue	$ 361,466	$ 351,604
Less: restaurant operating costs	(292,752)	(293,248)
Add: depreciation and amortization expense	22,069	21,600
Less: advertising expense	(20,852)	(20,061)
Company-operated restaurant-level adjusted EBITDA	$ 69,931	$ 59,895
Company-operated restaurant-level adjusted EBITDA margin	19.3%	17.0%
Franchise restaurant adjusted EBITDA[(1)]:		
Franchised restaurants and other revenue	$ 50,865	$ 48,979
Less: franchised restaurants and other expense	(25,629)	(25,878)
Add: depreciation and amortization expense	2,313	2,379
Franchise restaurant adjusted EBITDA	$ 27,549	$ 25,480

(1) Refer to definitions of company-operated restaurant-level non-GAAP measures and franchise restaurant adjusted EBITDA under the heading “Presentation of Non-GAAP Measures” in this Item 2.

CKE RESTAURANTS, INC. AND SUBSIDIARIES
MANAGEMENT'S DISCUSSIONS AND ANALYSIS
(Dollars in thousands)

Carl's Jr. Fiscal Quarter

	Sixteen Weeks Ended May 21, 2012	Sixteen Weeks Ended May 23, 2011
Company-operated restaurants revenue	$ 192,916	$ 188,288
Franchised restaurants and other revenue	18,608	17,846
Total revenue	211,524	206,134
Restaurant operating costs:		
Food and packaging	57,263	57,556
Payroll and other employee benefits	54,580	53,679
Occupancy and other	45,231	46,318
Total restaurant operating costs	157,074	157,553
Franchised restaurants and other expense	10,111	9,985
Advertising expense	11,575	11,175
General and administrative expense	20,142	19,299
Facility action charges, net	32	359
Operating income	$ 12,590	$ 7,763
Company-operated average unit volume (trailing-52 weeks)	$ 1,424	$ 1,389
Domestic franchise-operated average unit volume (trailing-52 weeks)	$ 1,093	$ 1,102
Company-operated same-store sales increase	2.6 %	2.1 %
Domestic franchise-operated same-store sales (decrease) increase	(0.4)%	0.4 %
Company-operated same-store transaction increase (decrease)	2.8 %	(0.1)%
Company-operated average check (actual $)	$ 6.98	$ 6.97
Restaurant operating costs as a percentage of company-operated restaurants revenue:		
Food and packaging	29.7 %	30.6 %
Payroll and other employee benefits	28.3 %	28.5 %
Occupancy and other	23.4 %	24.6 %
Total restaurant operating costs	81.4 %	83.7 %
Advertising expense as a percentage of company-operated restaurants revenue	6.0 %	5.9 %
Company-operated restaurant-level adjusted EBITDA[(1)]:		
Company-operated restaurants revenue	$ 192,916	$ 188,288
Less: restaurant operating costs	(157,074)	(157,553)
Add: depreciation and amortization expense	10,498	10,836
Less: advertising expense	(11,575)	(11,175)
Company-operated restaurant-level adjusted EBITDA	$ 34,765	$ 30,396
Company-operated restaurant-level adjusted EBITDA margin	18.0 %	16.1 %
Franchise restaurant adjusted EBITDA[(1)]:		
Franchised restaurants and other revenue	$ 18,608	$ 17,846
Less: franchised restaurants and other expense	(10,111)	(9,985)

Add: depreciation and amortization expense	1,062	1,088
Franchise restaurant adjusted EBITDA	$ 9,559	$ 8,949

(1) Refer to definitions of company-operated restaurant-level non-GAAP measures and franchise restaurant adjusted EBITDA under the heading “Presentation of Non-GAAP Measures” in this Item 2.

CKE RESTAURANTS, INC. AND SUBSIDIARIES
MANAGEMENT'S DISCUSSIONS AND ANALYSIS
(Dollars in thousands)

Hardee's Fiscal Quarter

	Sixteen Weeks Ended May 21, 2012	Sixteen Weeks Ended May 23, 2011
Company-operated restaurants revenue	$ 168,550	$ 163,250
Franchised restaurants and other revenue	32,115	30,966
Total revenue	200,665	194,216
Restaurant operating costs:		
Food and packaging	51,239	51,317
Payroll and other employee benefits	48,185	47,941
Occupancy and other	36,254	36,337
Total restaurant operating costs	135,678	135,595
Franchised restaurants and other expense	15,515	15,893
Advertising expense	9,277	8,886
General and administrative expense	21,574	21,662
Facility action charges, net	369	151
Operating income	$ 18,252	$ 12,029
Company-operated average unit volume (trailing-52 weeks)	$ 1,128	$ 1,088
Domestic franchise-operated average unit volume (trailing-52 weeks)	$ 1,072	$ 1,035
Company-operated same-store sales increase	2.6 %	9.6%
Domestic franchise-operated same-store sales increase	4.0 %	5.9%
Company-operated same-store transaction (decrease) increase	(2.2)%	3.0%
Company-operated average check (actual $)	$ 5.57	$ 5.30
Restaurant operating costs as a percentage of company-operated restaurants revenue:		
Food and packaging	30.4 %	31.4%
Payroll and other employee benefits	28.6 %	29.4%
Occupancy and other	21.5 %	22.3%
Total restaurant operating costs	80.5 %	83.1%
Advertising expense as a percentage of company-operated restaurants revenue	5.5 %	5.4%
Company-operated restaurant-level adjusted EBITDA[(1)]:		
Company-operated restaurants revenue	$ 168,550	$ 163,250
Less: restaurant operating costs	(135,678)	(135,595)
Add: depreciation and amortization expense	11,571	10,764
Less: advertising expense	(9,277)	(8,886)
Company-operated restaurant-level adjusted EBITDA	$ 35,166	$ 29,533
Company-operated restaurant-level adjusted EBITDA margin	20.9 %	18.1%
Franchise restaurant adjusted EBITDA[(1)]:		
Franchised restaurants and other revenue	$ 32,115	$ 30,966
Less: franchised restaurants and other expense	(15,515)	(15,893)

Add: depreciation and amortization expense	1,251	1,291
Franchise restaurant adjusted EBITDA	$ 17,851	$ 16,364

(1) Refer to definitions of company-operated restaurant-level non-GAAP measures and franchise restaurant adjusted EBITDA under the heading “Presentation of Non-GAAP Measures” in this Item 2.

CKE RESTAURANTS, INC. AND SUBSIDIARIES
MANAGEMENT'S DISCUSSIONS AND ANALYSIS
(Dollars in thousands)

Consolidated

Total Revenue

Total revenue increased $11,748, or 2.9%, to $412,331 during the sixteen weeks ended May 21, 2012, as compared to the prior year period, due to the increase in company-operated restaurants revenue of $9,862 and the increase in franchised restaurants and other revenue of $1,886. Blended company-operated same-store sales increased 2.6% and blended domestic franchise-operated same-store sales increased 2.1%.

Restaurant Operating Costs

Restaurant operating costs decreased $496, or 0.2%, to $292,752 during the sixteen weeks ended May 21, 2012, as compared to the prior year period. Restaurant operating costs as a percentage of company-operated restaurants revenue were 81.0% during for the sixteen weeks ended May 21, 2012, as compared to 83.4% for the sixteen weeks ended May 23, 2011. This decrease in restaurant operating costs as a percentage of company-operated restaurants revenue was in part due to higher company-operated average unit volumes, which benefited from price increases taken over the past year. Occupancy and other expense decreased 100 basis points compared to the prior year period, primarily as a result of lower repairs and maintenance expense. Food and packaging costs decreased 100 basis points from the prior year period, primarily as a result of higher restaurant pricing and lower commodity costs for produce, pork, and dairy, partially offset by higher commodity costs for beef. Payroll and other employee benefits decreased 50 basis points from the prior year period.

Franchised Restaurants and Other Expense

During the sixteen weeks ended May 21, 2012, franchised restaurants and other expense of $25,629 was comparable with the prior year period.

Advertising Expense

Advertising expense increased $791, or 3.9%, to $20,852 during the sixteen weeks ended May 21, 2012, as compared to the prior year period. Advertising expense as a percentage of company-operated restaurants revenue was 5.8% during the sixteen weeks ended May 21, 2012, as compared to 5.7% during the prior year period.

General and Administrative Expense

General and administrative expense increased $756, or 1.8%, to $41,716 in the sixteen weeks ended May 21, 2012 from the prior year period. This increase was mainly due to an increase of $629 in bonus expense, which is based on our performance relative to executive management and operations bonus criteria.

Interest Expense

During the sixteen weeks ended May 21, 2012, interest expense decreased $596, or 2.4%, to $23,799, as compared to the prior year period. This decrease was primarily caused by the early extinguishment of $67,878 of the principal amount of our senior secured second lien notes (the "Senior Secured Notes") during fiscal 2012, partially offset by interest expense related to our financing method sale-leaseback transactions.

Income Tax Benefit

Our effective income tax rate for the sixteen weeks ended May 21, 2012 differs from the federal statutory rate primarily as a result of non-deductible share-based compensation expense, state income taxes, federal income tax credits and the release of $6,370 of valuation allowance on state income tax credit and net operating loss carryforwards. Our effective income tax rate for the sixteen weeks ended May 23, 2011 differs from the federal statutory rate primarily as a result of non-deductible share-based compensation expense, state income taxes and federal income tax credits.

CKE RESTAURANTS, INC. AND SUBSIDIARIES
MANAGEMENT'S DISCUSSIONS AND ANALYSIS
(Dollars in thousands)

Carl's Jr.

Company-Operated Restaurants Revenue

Revenue from company-operated Carl's Jr. restaurants increased $4,628, or 2.5%, to $192,916 during the sixteen weeks ended May 21, 2012, as compared to the sixteen weeks ended May 23, 2011. This increase was primarily due to the 2.6% increase in company-operated same-store sales for the quarter, which was driven, in part, by price increases taken over the past year.

Company-Operated Restaurant-Level Adjusted EBITDA Margin

The changes in the company-operated restaurant-level adjusted EBITDA margin are summarized as follows:

Company-operated restaurant-level adjusted EBITDA margin for the period ended May 23, 2011	16.1 %
Decrease in food and packaging costs	0.9
Payroll and other employee benefits:	
Decrease in workers' compensation expense	0.1
Decrease in labor costs, excluding workers' compensation	0.1
Occupancy and other (excluding depreciation and amortization):	
Decrease in repairs and maintenance expense	0.6
Decrease in utilities expense	0.2
Other, net	0.1
Increase in advertising expense	(0.1)
Company-operated restaurant-level adjusted EBITDA margin for the period ended May 21, 2012	18.0 %

Food and Packaging Costs

Food and packaging costs decreased as a percentage of company-operated restaurants revenue during the sixteen weeks ended May 21, 2012, as compared to the prior year period, mainly due to the impact of price increases taken over the past year and decreased commodity costs for produce, pork, chicken and cheese products, partially offset by increased commodity costs for beef and potato products.

Occupancy and Other Costs

Repairs and maintenance expense decreased as a percentage of company-operated restaurants revenue during the sixteen weeks ended May 21, 2012, as compared to the prior year period, mainly due to decreased spending on contract services, repairs of restaurant equipment and building maintenance.

Depreciation and amortization expense decreased as a percentage of company-operated restaurants revenue during the sixteen weeks ended May 21, 2012, as compared to the prior fiscal year, due primarily to sales leverage and the acceleration of depreciation expense in the prior year period for certain restaurants.

CKE RESTAURANTS, INC. AND SUBSIDIARIES
MANAGEMENT'S DISCUSSIONS AND ANALYSIS
(Dollars in thousands)

Franchised Restaurants

	Sixteen Weeks Ended May 21, 2012	Sixteen Weeks Ended May 23, 2011
Franchised restaurants and other revenue:		
Royalties	$ 11,655	$ 10,672
Rent and other occupancy	6,474	6,746
Franchise fees	479	428
Total franchised restaurants and other revenue	$ 18,608	$ 17,846
Franchised restaurants and other expense:		
Administrative expense (including provision for bad debts)	$ 3,607	$ 3,436
Rent and other occupancy	6,504	6,549
Total franchised restaurants and other expense	$ 10,111	$ 9,985

Franchised restaurants and other revenue increased $762, or 4.3%, to $18,608 during the sixteen weeks ended May 21, 2012, as compared to the prior year period. Royalty revenues increased $983, or 9.2%, to $11,655, due primarily to the net increase of 46 international and 14 domestic franchised restaurants since the end of the first quarter of fiscal 2012.

Franchised restaurants and other expense increased $126, or 1.3%, to $10,111 during the sixteen weeks ended May 21, 2012, from the comparable prior year period. Administrative expense increased $171, or 5.0%, from the comparable prior year period, due primarily to increased franchise operations and administration costs related to our international growth strategy.

Hardee's

Company-Operated Restaurants Revenue

Revenue from company-operated Hardee's restaurants increased $5,300, or 3.2%, to $168,550 during the sixteen weeks ended May 21, 2012, as compared to the sixteen weeks ended May 23, 2011. This increase was primarily due to the 2.6% increase in company-operated same-store sales for the quarter, which was driven, in part, by price increases taken over the past year and revenue generated from five restaurants opened or acquired during the sixteen weeks ended May 23, 2011 that were only open for a portion of the comparable prior year period.

CKE RESTAURANTS, INC. AND SUBSIDIARIES
MANAGEMENT'S DISCUSSIONS AND ANALYSIS
(Dollars in thousands)

Company-Operated Restaurant-Level Adjusted EBITDA Margin

The changes in the company-operated restaurant-level adjusted EBITDA margin are summarized as follows:

Company-operated restaurant-level adjusted EBITDA margin for the period ended May 23, 2011	18.1 %
Decrease in food and packaging costs	1.0
Payroll and other employee benefits:	
Decrease in labor costs, excluding workers' compensation	0.9
Increase in workers' compensation expense	(0.1)
Occupancy and other (excluding depreciation and amortization):	
Decrease in repairs and maintenance expense	0.4
Decrease in general liability insurance expense	0.3
Decrease in asset disposal expense	0.3
Other, net	0.1
Increase in advertising expense	(0.1)
Company-operated restaurant-level adjusted EBITDA margin for the period ended May 21, 2012	20.9 %

Food and Packaging Costs

Food and packaging costs decreased as a percentage of company-operated restaurants revenue during the sixteen weeks ended May 21, 2012, as compared to the prior year period, mainly due to the impact of price increases taken over the past year and decreased commodity costs for produce, pork, dairy and cheese products, partially offset by increased commodity costs for beef and potato products.

Labor Costs

Labor costs, excluding workers' compensation expense, decreased as a percentage of company-operated restaurants revenue during the sixteen weeks ended May 21, 2012, as compared to the prior year period, due primarily to more efficient use of labor in the restaurants and sales leverage resulting from the same-store sales increase.

Occupancy and Other Costs

Repairs and maintenance expense decreased as a percentage of company-operated restaurants revenue during the sixteen weeks ended May 21, 2012, as compared to the prior year period, mainly due to decreased spending on contract services, repairs of restaurant equipment and building maintenance.

General liability insurance expense decreased as a percentage of company-operated restaurants revenue during the sixteen weeks ended May 21, 2012, as compared to the prior year period, due primarily to favorable claims reserve adjustments as a result of actuarial analyses of outstanding claims reserves in the current year period and unfavorable claims reserve adjustments in the comparable prior year period.

Asset disposal expense decreased as a percentage of company-operated restaurants revenue during the sixteen weeks ended May 21, 2012, as compared to the prior year period, due primarily to lower asset disposals resulting from a reduction in restaurant remodels in the current year period.

Depreciation and amortization expense increased as a percentage of company-operated restaurants revenue during the sixteen weeks ended May 21, 2012, as compared to the prior year period, due primarily to the impact of fixed asset additions.

Franchised Restaurants

CKE RESTAURANTS, INC. AND SUBSIDIARIES
MANAGEMENT'S DISCUSSIONS AND ANALYSIS
(Dollars in thousands)

	Sixteen Weeks Ended May 21, 2012	Sixteen Weeks Ended May 23, 2011
Franchised restaurants and other revenue:		
Royalties	$ 19,435	$ 17,971
Equipment sales	8,367	8,571
Rent and other occupancy	3,828	4,023
Franchise fees	485	401
Total franchised restaurants and other revenue	$ 32,115	$ 30,966
Franchised restaurants and other expense:		
Administrative expense (including provision for bad debts)	$ 3,820	$ 3,964
Equipment distribution center	8,399	8,532
Rent and other occupancy	3,296	3,397
Total franchised restaurants and other expense	$ 15,515	$ 15,893

Total franchised restaurants and other revenue increased $1,149, or 3.7%, to $32,115 during the sixteen weeks ended May 21, 2012, as compared to the prior year period. Royalty revenues increased $1,464, or 8.1%, to $19,435 from the comparable prior year period, due primarily to a net increase of 23 international and 2 domestic franchised restaurants since the end of the first quarter of fiscal 2012 and an increase in domestic franchise-operated same-store sales of 4.0%. Equipment sales decreased $204, or 2.4%, to $8,367, from the comparable prior year period, primarily due to a decrease in equipment sales to franchisees.

Franchised restaurants and other expense decreased $378, or 2.4%, to $15,515, during the sixteen weeks ended May 21, 2012, as compared to the prior year period. The decrease in administrative expense of $144, or 3.6%, to $3,820 was primarily due to reduced travel and meeting costs. The decrease in equipment distribution center costs of $133, or 1.6%, resulted directly from the decrease in equipment sales to franchisees.

Liquidity and Capital Resources

Overview

Our cash requirements consist principally of our food and packaging purchases, labor, and occupancy costs; capital expenditures for restaurant remodels and refreshes, new restaurant construction and replacement of equipment; debt service requirements; advertising expenditures; and general and administrative expenses. In addition, on June 15, 2012, the holders of the Senior Secured Notes were notified that we will redeem $60,000 of the principal amount of our Senior Secured Notes on July 16, 2012 at a redemption price of 103% of the principal amount of the Senior Secured Notes being redeemed. On July 15, 2012, we will be required to make an interest payment of $30,264 on our Senior Secured Notes. Following the partial redemption of $60,000 of our Senior Secured Notes on July 16, 2012 and assuming no other redemptions, we will be required to make semi-annual interest payments on our Senior Secured Notes of approximately $26,852. As discussed below, our senior secured revolving credit facility (the “Credit Facility”) matures on July 12, 2015 and our Senior Secured Notes mature on July 15, 2018. Based on our current capital spending projections, we expect capital expenditures to be between $60,000 and $70,000 for fiscal 2013.

We expect that our cash on hand and future cash flows from operations will provide sufficient liquidity to allow us to meet our operating and capital requirements, service our existing debt and complete a partial redemption of our Senior Secured Notes on July 16, 2012. As of May 21, 2012, we have $125,422 in cash and cash equivalents and $69,087 in available commitments under our Credit Facility to help meet our operating and capital requirements.

Credit Facility

Our Credit Facility provides for senior secured revolving facility loans, swingline loans and letters of credit, in an aggregate amount of up to $100,000. The Credit Facility bears interest at a rate equal to, at our option, either: (1) the higher of Morgan Stanley's "prime rate" plus 2.75% or the federal funds rate, as defined in our Credit Facility, plus 3.25%, or (2) the LIBOR plus 3.75%. The Credit Facility matures on July 12, 2015, at which time all outstanding revolving facility loans and accrued and unpaid interest must be repaid. As of May 21, 2012, we had no outstanding loan borrowings, $30,913 of outstanding letters of credit, and remaining availability of $69,087 under our Credit Facility.

Pursuant to the terms of our Credit Facility, during each fiscal year our capital expenditures cannot exceed the sum of (1) the greater of (i) $100,000 and (ii) 8.5% of our consolidated gross total tangible assets as of the end of such fiscal year plus, without duplication, (2) 10% of certain assets acquired in permitted acquisitions during such fiscal year (the "Acquired Assets Amount") and (3) 5% of the Acquired Assets Amount for the preceding fiscal year, calculated on a cumulative basis. In addition, the annual base amount of permitted capital expenditures may be increased by an amount equal to any cumulative credit (as defined in the Credit Facility) which we elect to apply for this purpose and may be carried-back and/or carried-forward subject to the terms set forth in the Credit Facility.

The Credit Facility contains covenants that restrict our ability and the ability of our subsidiaries to: incur additional indebtedness; pay dividends on our capital stock or redeem, repurchase or retire our capital stock or indebtedness; make investments, loans, advances and acquisitions; create restrictions on the payment of dividends or other amounts to us from our subsidiaries; sell assets, including capital stock of our subsidiaries; consolidate or merge; create liens; enter into sale and leaseback transactions; amend, modify or permit the amendment or modification of any senior secured second lien note documents; engage in certain transactions with our affiliates; issue capital stock; create subsidiaries; and change the business conducted by us or our subsidiaries.

The terms of our Credit Facility also include financial performance covenants, which include a maximum secured leverage ratio and a specified minimum interest coverage ratio. Our Credit Facility defines our secured leverage ratio as the ratio of our: (1) Total Secured Debt plus eight times our Net Rent less Unrestricted Cash and Permitted Investments; over (2) Adjusted EBITDAR, each as defined in our Credit Facility. In determining our Total Secured Debt for the purpose of our financial covenants, we include our Senior Secured Notes and other long-term secured debt, capital lease obligations and the portion of the proceeds from financing method sale-leaseback transactions equal to the net book value of the associated properties. As of May 21, 2012, the net book value of the assets associated with financing method sale-leaseback transactions was $71,580. See Note 5 of Notes to Condensed Consolidated Financial Statements included herein for further discussion of these sale-leaseback transactions. Our Credit Facility defines our interest coverage ratio as the ratio of Adjusted EBITDA to Cash Interest Expense, each as defined in our Credit Facility. As of May 21, 2012, our financial performance covenants did not limit our ability to draw on the remaining availability of $69,087 under our Credit Facility.

We were in compliance with the covenants of our Credit Facility as of May 21, 2012.

The terms of our Credit Facility are not impacted by any changes in our credit rating. We believe the key company-specific factors affecting our ability to maintain our existing debt financing relationships and to access such capital in the future are our present and expected levels of profitability, cash flows from operations, capital expenditures, asset collateral bases and the level of our Adjusted EBITDA relative to our debt obligations. In addition, as noted above, our Credit Facility includes significant restrictions on future financings including, among others, limits on the amount of indebtedness we may incur or which may be secured by any of our assets.

Senior Secured Second Lien Notes

As of May 21, 2012, the principal amount of our Senior Secured Notes outstanding was $532,122. The Senior Secured Notes bear interest at a rate of 11.375% per annum, payable semi-annually in arrears on January 15 and July 15. As of May 21, 2012, the carrying value of the notes was $523,544, which is presented net of the remaining unamortized original issue discount of $8,578. The Senior Secured Notes mature on July 15, 2018.

The indenture governing the Senior Secured Notes contains restrictive covenants that limit our and our guarantor subsidiaries' ability to, among other things: incur or guarantee additional debt or issue certain preferred equity; pay dividends, make capital stock distributions or other restricted payments; make certain investments; sell certain assets; create or incur liens on certain assets to secure debt; consolidate, merge, sell or otherwise dispose of all or substantially all of our assets; enter into certain transactions with affiliates; and designate subsidiaries as unrestricted subsidiaries. Additionally, the indenture contains certain reporting covenants, which requires us to provide all such information required to be filed by the Securities and Exchange Commission ("SEC") in accordance with the reporting requirements of Section 13 or 15(d) of the Exchange Act, as a non-accelerated filer, even if we are not specifically required to comply with such sections of the Exchange Act. Failure to comply with these covenants constitutes a default and may lead to the acceleration of the principal amount and accrued but unpaid interest on the Senior Secured Notes.

We were in compliance with the covenants included in the indenture governing the Senior Secured Notes as of May 21, 2012.

On June 15, 2012, the holders of the Senior Secured Notes were notified that we will redeem $60,000 aggregate principal amount of Senior Secured Notes outstanding on July 16, 2012 at a redemption price of 103% of the principal amount of the Senior Secured Notes being redeemed pursuant to the terms of the indenture governing the Senior Secured Notes.

In accordance with the indenture governing the Senior Secured Notes, we are required to make offers to repurchase a portion of the Senior Secured Notes at a price of 103% of the principal amount of the Senior Secured Notes with a portion of the net proceeds received from sale-leaseback transactions. Pursuant to these requirements, on December 1, 2011, we commenced a tender offer to purchase up to $27,871 of the principal amount of the Senior Secured Notes, which tender offer expired on December 29, 2011, with no Senior Secured Notes tendered. As a result of further sale-leaseback transactions completed since the December 2011 tender offer and expected to be completed during the second quarter of fiscal 2013, we expect we will be required to commence a second tender offer to purchase Senior Secured Notes. However, this requirement is dependent upon the completion of future sale-leaseback transactions, which may or may not be completed.

We may redeem the Senior Secured Notes prior to the maturity date based upon the following conditions: (1) prior to July 15, 2013, we may redeem up to 35% of the original aggregate principal amount of the Senior Secured Notes (provided at least 65% of the original aggregate principal amount of the Senior Secured Notes remains outstanding after such redemption) with the proceeds of certain equity offerings at a redemption price of 111.375% of the aggregate principal amount of the Senior Secured Notes being redeemed plus accrued and unpaid interest, (2) during the 12-month period beginning July 15, 2013, we may elect to redeem up to $60,000 of the aggregate principal amount of the Senior Secured Notes at a redemption price of 103% of the aggregate principal amount of the Senior Secured Notes being redeemed plus accrued and unpaid interest, (3) on or after July 15, 2014, we may redeem all or any portion of the Senior Secured Notes during the 12-month periods commencing July 15, 2014, July 15, 2015, July 15, 2016 and July 15, 2017 and thereafter at redemption prices of 105.688%, 102.844%, 101.422% and 100%, respectively, of the aggregate principal amount of the Senior Secured Notes being redeemed plus accrued and unpaid interest, and (4) prior to July 15, 2014, we may redeem all or any portion of the Senior Secured Notes at a price equal to 100% of the aggregate principal amount of the Senior Secured Notes being redeemed plus a make-whole premium and accrued and unpaid interest. Upon a change in control, the holders of our Senior Secured Notes each have the right to require us to redeem their Senior Secured Notes at a redemption price of 101% of the aggregate principal amount of the Senior Secured Notes being redeemed plus accrued and unpaid interest.

Sale-Leaseback Transactions

During the sixteen weeks ended May 21, 2012, we entered into agreements with independent third parties under which we sold and leased back 20 restaurant properties. The initial minimum lease terms are 20 years, and the leases include renewal options and right of first offer provisions that, for accounting purposes, constitute continuing involvement with the associated restaurant properties. Due to this continuing involvement, these sale-leaseback transactions are accounted for under the financing method, rather than as completed sales. Under the financing

method, we include the sales proceeds received in other long-term liabilities until our continuing involvement with the properties is terminated, report the associated property as owned assets, continue to depreciate the assets over their remaining useful lives, and record the rental payments as interest expense. Closing costs and other fees related to these sale-leaseback transactions are recorded as deferred financing costs and amortized to interest expense over the initial minimum lease term. When and if our continuing involvement with a property terminates and the sale of that property is recognized for accounting purposes, we expect to record a gain equal to the excess of the proceeds received over the remaining net book value of the associated restaurant property and any unamortized deferred financing costs. During the sixteen weeks ended May 21, 2012, we received proceeds of $29,946 and capitalized deferred financing costs of $1,766 in connection with these transactions.

The cumulative proceeds received in connection with financing method sale-leaseback transactions of $97,400 and $67,454 are included in other long-term liabilities in our accompanying unaudited Condensed Consolidated Balance Sheets as of May 21, 2012 and January 31, 2012, respectively. The net book value of the associated assets, which is included in property and equipment, net of accumulated depreciation and amortization in our Condensed Consolidated Balance Sheets, was $71,580 and $48,722 as of May 21, 2012 and January 31, 2012, respectively.

We expect that we will sell and leaseback additional restaurant properties in the future; however, there can be no assurance as to the number of transactions we will be able to complete, the amount of proceeds we will generate or whether we will be able to complete additional sale-leaseback transactions at all. See Note 5 of Notes to Condensed Consolidated Financial Statements included herein for further discussion.

CKE Inc. Senior Unsecured PIK Toggle Notes

During fiscal 2012, our parent company, CKE Inc., formerly known as CKE Holdings, Inc., issued $200,000 aggregate principal amount of senior unsecured PIK toggle notes due March 14, 2016 (the “Toggle Notes”). The interest on the Toggle Notes, which is paid semi-annually on March 15 and September 15 of each year, can be paid (1) entirely in cash, at a rate of 10.50% (“Cash Interest”), (2) entirely by increasing the principal amount of the Toggle Notes or by issuing new notes for the entire amount of the interest payment, at a rate per annum equal to the cash interest rate of 10.50% plus 0.75% (“PIK Interest”) or (3) with a 25%/75%, 50%/50% or 75%/25% combination of Cash Interest and PIK Interest. CKE Inc. paid the September 15, 2011 and March 15, 2012 interest payments entirely in PIK Interest. CKE Inc. will also pay the September 15, 2012 interest payment entirely in PIK Interest.

We have not guaranteed the Toggle Notes, nor have we pledged any of our assets or stock as collateral for the Toggle Notes. The covenants included within the indenture governing our Senior Secured Notes and our Credit Facility are not directly impacted by the obligations of CKE Inc. Because the Toggle Notes contain a PIK feature, the interest obligations can be added to the principal amount of the Toggle Notes and CKE Inc. has the ability to defer cash payments of interest through March 14, 2016. At or prior to maturity, we expect CKE Inc. will evaluate all available options for redemption of the Toggle Notes, including refinancing the Toggle Notes, receiving dividends, and other options. Our Credit Facility and indenture governing our Senior Secured Notes contain restrictive covenants which limit our ability to pay dividends to CKE Inc.

Cash Flows

During the sixteen weeks ended May 21, 2012, cash provided by operating activities was $58,374, an increase of $4,076, or 7.5%, compared with the sixteen weeks ended May 23, 2011. Net income of $9,509 for the sixteen weeks ended May 21, 2012 includes certain income and expense items that are excluded in deriving cash flows from operations, including depreciation and amortization expense of $25,467, share-based compensation expense of $1,417, amortization of $1,328 for deferred financing costs and discount on notes and a deferred income tax benefit of $5,638. Additionally, changes in our operating assets and liabilities of $26,018 resulted in an increase to cash flows from operations. The amounts of our operating assets and liabilities can vary significantly from quarter to quarter, depending upon the timing of large customer receipts and payments to vendors, but they are not anticipated to be a significant source or use of cash over the long term.

CKE RESTAURANTS, INC. AND SUBSIDIARIES
MANAGEMENT'S DISCUSSIONS AND ANALYSIS
(Dollars in thousands)

Cash used in investing activities during the sixteen weeks ended May 21, 2012 totaled $14,461, which principally consisted of purchases of property and equipment of $15,725, partially offset by $841 of collections of non-trade notes receivable and $350 of proceeds from the sale of property and equipment.

Capital expenditures were as follows:

	Sixteen Weeks Ended May 21, 2012	Sixteen Weeks Ended May 23, 2011
Remodels:		
Carl's Jr.	$ 980	$ 44
Hardee's	2,148	4,282
Capital maintenance:		
Carl's Jr.	1,969	1,849
Hardee's	2,591	3,392
New restaurants and rebuilds:		
Carl's Jr.	4,538	1,968
Hardee's	138	1,190
Dual-branding:		
Carl's Jr.	16	244
Hardee's	772	234
Real estate	1,984	11
Corporate and other	589	367
Total	$ 15,725	$ 13,581

Capital expenditures for the sixteen weeks ended May 21, 2012 increased $2,144, or 15.8%, from the comparable prior year period mainly due to increases of $1,973 in real estate acquisitions and $1,518 in new restaurants and rebuilds, partially offset by decreases of $1,198 in remodels and $681 in capital maintenance. Based on our current capital spending projections, we expect capital expenditures to be between $60,000 and $70,000 for fiscal 2013.

Cash provided by financing activities during the sixteen weeks ended May 21, 2012 totaled $16,954, which principally consisted of proceeds of $29,946 from financing method sale-leaseback transactions, partially offset by $8,790 for net changes in bank overdraft, $2,524 for repayments of capital lease obligations and $1,676 for payment of deferred financing costs.

Critical Accounting Policies

Our reported results are impacted by the application of certain accounting policies that require us to make subjective or complex judgments. These judgments involve making estimates about the effect of matters that are inherently uncertain and may significantly impact our consolidated financial position and results of operations. See our 2012 Annual Report for a description of our critical accounting policies. Specific risks associated with these critical accounting policies are described in the following paragraphs.

Impairment of Restaurant-Level Long-Lived Assets

In connection with analyzing restaurant-level long-lived assets to determine if they have been impaired, we make certain estimates and assumptions, including estimates of future cash flows, assumptions of future same-store sales and projected operating expenses for each of our restaurants over their estimated useful lives in order to evaluate recoverability and estimate fair value. Future cash flows are estimated based upon experience gained, current intentions about refranchising restaurants and closures, recent and expected sales trends, internal plans, the

period of time since the restaurant was opened or remodeled and other relevant information. If our future cash flows or same-store sales do not meet or exceed our forecasted levels, or if restaurant operating cost increases exceed our forecast and we are unable to recover such costs through price increases, the carrying value of certain of our restaurants may prove to be unrecoverable, and we may incur additional impairment charges in the future.

Impairment of Goodwill and Indefinite-Lived Intangible Assets

As of May 21, 2012, our goodwill consisted of $199,166 for our Carl's Jr. reporting unit and $9,719 for our Hardee's reporting unit. During the fourth quarter of fiscal 2012, we performed our goodwill impairment test for our Carl's Jr. and Hardee's reporting units. As of the date of the annual impairment test, the fair value of the Carl's Jr. and Hardee's reporting units exceeded their respective carrying values by more than 20%. The excess of the fair value as compared to the carrying value was attributed primarily to the general improvement in financial markets between the date of the acquisition and the date of the impairment test, and improvements in operating results and cash flows. However, future declines in market conditions and the actual future performance of our reporting units could negatively impact the results of future impairment tests.

As of May 21, 2012, our indefinite-lived intangible assets consisted of Carl's Jr. trademarks / tradenames of $144,000 and Hardee's trademarks / tradenames of $134,000. During the fourth quarter of fiscal 2012, we performed our impairment test for trademarks / tradenames at both Carl's Jr. and Hardee's and concluded that no impairment charge was required. However, any future declines in our system-wide restaurant portfolio at either concept, declines in company-operated or franchised revenues or increases to the discount rate used in our impairment test could negatively impact the results of future impairment tests.

Estimated Liability for Closed Restaurants

In determining the amount of the estimated liability for closed restaurants, we estimate the cost to maintain leased vacant properties until the lease can be abated. If the costs to maintain properties increase, or it takes longer than anticipated to sublease or terminate leases, we may need to record additional estimated liabilities. If the leases on the vacant restaurants are not terminated or subleased on the terms that we used to estimate the liabilities, we may be required to record losses in future periods. Conversely, if the leases on the vacant restaurants are terminated or subleased on more favorable terms than we used to estimate the liabilities, we reverse previously established estimated liabilities, resulting in an increase in operating income.

Estimated Liability for Self-Insurance

If we experience a higher than expected number of claims or the costs of claims rise more than the estimates used by management, developed with the assistance of our actuary, our reserves would require adjustment and we would be required to adjust the expected losses upward and increase our future self-insurance expense.

Our actuary provides us with estimated unpaid losses for each loss category, upon which our analysis is based. As of May 21, 2012 and January 31, 2012, our estimated liability for self-insured workers' compensation, general and auto liability losses was $42,073 and $41,466, respectively.

Franchised Operations

We have sublease agreements with some of our franchisees on properties for which we remain principally liable for the lease obligations. If sales trends or economic conditions deteriorate for our franchisees, their financial health may worsen, our collection rates may decline and we may be required to assume the responsibility for additional lease payments on franchised restaurants.

Income Taxes

We are included in the consolidated federal income tax returns and combined state income tax returns of CKE Inc., our parent. For the purpose of determining the income taxes attributed to CKE Restaurants and its subsidiaries,

we prepare our income tax provision as if we were a separate taxpayer. As a result of this treatment, we make income tax payments to CKE Inc. based upon our separate return taxable income.

When necessary, we record a valuation allowance to reduce our net deferred tax assets to the amount that is more likely than not to be realized. In considering the need for a valuation allowance against some portion or all of our deferred tax assets, we must make certain estimates and assumptions regarding future taxable income, the feasibility of tax planning strategies and other factors. Changes in facts and circumstances or in the estimates and assumptions that are involved in establishing and maintaining a valuation allowance against deferred tax assets could result in adjustments to the valuation allowance in future quarterly or annual periods.

We use an estimate of our annual income tax rate to recognize a provision for income taxes in financial statements for interim periods. However, changes in facts and circumstances could result in adjustments to our effective tax rate in future quarterly or annual periods.

Significant Known Events, Trends, or Uncertainties Expected to Impact Fiscal 2013 Comparisons with Fiscal 2012

The factors discussed below impact comparability of operating performance for the sixteen weeks ended May 21, 2012 and May 23, 2011, and for the remainder of fiscal 2013.

Sale-Leaseback Transactions

During the sixteen weeks ended May 21, 2012 and fiscal 2012, we entered into agreements with independent third parties under which we sold and leased back 20 and 47 restaurant properties, respectively. The initial minimum lease terms are 20 years, and the leases include renewal options and right of first offer provisions that, for accounting purposes, constitute continuing involvement with the associated restaurant properties. Due to this continuing involvement, these sale-leaseback transactions are accounted for under the financing method, rather than as completed sales. Under the financing method, we include the sales proceeds received in other long-term liabilities until our continuing involvement with the properties is terminated, report the associated property as owned assets, continue to depreciate the assets over their remaining useful lives, and record the rental payments as interest expense. As of May 21, 2012, the net book value of the assets associated with these transactions was $71,580. When and if our continuing involvement with a property terminates and the sale of that property is recognized for accounting purposes, we expect to record a gain equal to the excess of the proceeds received over the remaining net book value of the associated restaurant property. As of May 21, 2012, the cumulative proceeds received of $97,400 exceeded the net book value of the associated restaurant properties by $25,820. We expect that we will sell and leaseback additional restaurant properties in future quarters; however, there can be no assurance as to the number of transactions we will be able to complete, the amount of proceeds we will generate or whether we will be able to complete additional sale-leaseback transactions at all. See Note 5 of Notes to Condensed Consolidated Financial Statements included herein for further discussion.

Fiscal Year and Seasonality

We operate on a retail accounting calendar. Our fiscal year ends the last Monday in January and typically has 13 four-week accounting periods. The first quarter of our fiscal year has four periods, or 16 weeks. All other quarters generally have three periods, or 12 weeks.

Our restaurant sales, and therefore our profitability, are subject to seasonal fluctuations and are traditionally higher during the spring and summer months because of factors such as increased travel upon school vacations and improved weather conditions, which affect the public’s dining habits.

CKE RESTAURANTS, INC. AND SUBSIDIARIES
MANAGEMENT'S DISCUSSIONS AND ANALYSIS
(Dollars in thousands)

New Accounting Pronouncements Not Yet Adopted and Adoption of New Accounting Pronouncements

See Note 2 of Notes to Condensed Consolidated Financial Statements for a description of new accounting pronouncements not yet adopted and the adoption of new accounting pronouncements.

Presentation of Non-GAAP Measures

We have included in this report measures of financial performance that are not defined by accounting principles generally accepted in the United States ("GAAP"). Company-operated restaurant-level adjusted EBITDA, company-operated restaurant-level adjusted EBITDA margin and franchise restaurant adjusted EBITDA are non-GAAP measures utilized by management internally to evaluate and compare our operating performance for company-operated restaurants and franchised restaurants between periods. In addition, management believes that these financial measures provide useful information to potential investors and analysts because they provide insight into management's evaluation of our results of operations. Each of these non-GAAP financial measures is derived from amounts reported within our Condensed Consolidated Financial Statements, and the computations of each of these measures have been included within our "Operating Review" section of MD&A.

These non-GAAP measures should be viewed in addition to, and not in lieu of, the comparable GAAP measures. These non-GAAP measures have certain limitations including the following:

- Because not all companies calculate these measures identically, our presentation of such measures may not be comparable to similarly titled measures of other companies;
- These measures exclude certain general and administrative and other operating costs, which should also be considered when assessing our operating performance; and
- These measures exclude depreciation and amortization, and although they are non-cash charges, the assets being depreciated or amortized will often have to be replaced and new investments made to support the operations of our restaurant portfolio.

Company-Operated Restaurant-Level Non-GAAP Measures

We define company-operated restaurant-level adjusted EBITDA, which is expressed in dollars, as company-operated restaurants revenue less restaurant operating costs excluding depreciation and amortization expense and including advertising expense. Restaurant operating costs are the expenses incurred directly by our company-operated restaurants in generating revenues and do not include advertising costs, general and administrative expenses or facility action charges. We define company-operated restaurant-level adjusted EBITDA margin, which is expressed as a percentage, as company-operated restaurant-level adjusted EBITDA divided by company-operated restaurants revenue.

Franchise Restaurant Adjusted EBITDA

We define franchise restaurant adjusted EBITDA, which is expressed in dollars, as franchised restaurants and other revenue less franchised restaurants and other expense excluding depreciation and amortization expense.

Certain Financial Information of CKE Inc.

During fiscal 2012, CKE Inc. issued $200,000 aggregate principal amount of Toggle Notes. CKE Inc. paid the September 15, 2011 and March 15, 2012 interest payments entirely in PIK Interest. CKE Inc. will also pay the September 15, 2012 interest payment entirely in PIK Interest. During fiscal 2012, CKE Restaurants purchased $9,948 principal amount of Toggle Notes for $8,362. As of May 21, 2012, CKE held a total of $10,508 principal amount of Toggle Notes (the "Purchased Toggle Notes") including PIK Interest payments after the initial purchase.

We have not guaranteed the obligations of CKE Inc. under the Toggle Notes, nor have we pledged any of our assets or stock as collateral for the Toggle Notes. The covenants included within the indenture governing our Senior Secured Notes and our Credit Facility are not directly impacted by the obligations of CKE Inc.

As of May 21, 2012, the principal amount of CKE Inc.'s total long-term debt on a stand-alone basis was $223,199, including the $10,508 principal amount of the Purchased Toggle Notes. As of May 21, 2012, the carrying amount of CKE Inc.'s total long-term debt

on a stand-alone basis, including the current portion and the Purchased Toggle Notes, was $219,908 which is presented net of the unamortized portion of the original issue discount of

$3,291. During the sixteen weeks ended May 21, 2012 and May 23, 2011, CKE Inc. incurred interest expense of $7,881 and $4,572, respectively, on a stand-alone basis. CKE Inc.'s consolidated interest expense was $31,310 and $28,967 during the sixteen weeks ended May 21, 2012 and May 23, 2011, respectively. Since the Purchased Toggle Notes continue to be held by CKE Restaurants, $370 of CKE Inc.'s stand-alone interest expense, which is associated with the Purchased Toggle Notes, has been eliminated in CKE Inc.'s consolidated interest expense during the sixteen weeks ended May 21, 2012.

Forward Looking Statements

This Quarterly Report on Form 10-Q includes statements relating to our future plans and developments, financial goals and operating performance that are based on our current beliefs and assumptions. Although we do not make forward-looking statements unless we believe we have a reasonable basis for doing so, we cannot guarantee their accuracy. Such statements are subject to risks and uncertainties that are often difficult to predict, are beyond our control, and which may cause results to differ materially from expectations. Factors that could cause our results to differ materially from those described include, but are not limited to, our ability to compete with other restaurants, supermarkets and convenience stores for customers, employees, restaurant locations and franchisees; changes in consumer preferences, perceptions and spending patterns; changes in food, packaging and supply costs; the ability of our key suppliers to continue to deliver premium-quality products to us at moderate prices; our ability to successfully enter new markets, complete construction of new restaurants and complete remodels of existing restaurants; changes in general economic conditions and the geographic concentration of our restaurants, which may affect our business; our ability to attract and retain key personnel; our franchisees' willingness to participate in our strategy; risks associated with implementing our growth strategy; the operational and financial success of our franchisees; the willingness of our vendors and service providers to supply us with goods and services pursuant to customary credit arrangements; risks associated with operating in international locations; the effect of the media's reports regarding food-borne illnesses, food tampering and other health-related issues on our reputation and our ability to procure or sell food products; the seasonality of our operations; the effect of increasing labor costs including health care related costs; increased insurance and/or self-insurance costs; our ability to comply with existing and future health, employment, environmental and other government regulations; our ability to adequately protect our intellectual property; the adverse affect of litigation in the ordinary course of business; a significant failure, interruption or security breach of our computer systems or information technology; catastrophic events including war, terrorism and other international conflicts, public health issues or natural causes; the potentially conflicting interests of our controlling stockholder and our creditors; our substantial leverage, which could limit our ability to raise capital, react to economic changes or meet obligations under our indebtedness; the effect of restrictive covenants in our indenture and credit facility on our business; and other factors as discussed under the heading "Risk Factors" in our Annual Report on Form 10-K, which was filed with the SEC on April 11, 2012, and in our other filings with the SEC.

You are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date of this Quarterly Report on Form 10-Q. We undertake no obligation to publicly update or revise any forward looking statement, whether as a result of new information, future events or circumstances arising after the date of this report, except as required by law.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

We are exposed to the impact of interest rate changes, foreign currency fluctuations and changes in commodity prices. In the normal course of business, we may employ policies and procedures to manage our exposure to these changes.

Interest Rate Risk

Our principal exposures to financial market risks relate to the impact that interest rate changes could have on our Credit Facility, which bears interest at a floating interest rate and, therefore, our results of operations and cash flows will be exposed to changes in interest rates. As of May 21, 2012, our Credit Facility remained undrawn. Accordingly, a hypothetical increase of 100 basis points in short-term interest rates in our floating rate would not have an impact on our interest expense. This sensitivity analysis assumes all other variables will remain constant in future periods.

Foreign Currency Risk

Our objective in managing our exposure to foreign currency fluctuations is to limit the impact of such fluctuations on earnings and cash flows. Our business at company-operated restaurants is transacted in U.S. dollars. Exposure outside of the United States relates primarily to the effect of foreign currency rate fluctuations on royalties paid to us by our international franchisees. As of May 21, 2012, our most significant exposure related to the Mexican Peso. Foreign exchange rate fluctuations have not historically had a significant impact on our results of operations. During the sixteen weeks ended May 21, 2012, if all foreign currencies had uniformly weakened 10% relative to the U.S. dollar, our franchised restaurants and other revenue would have decreased $591.

Commodity Price Risk

We, along with our franchisees, purchase large quantities of food, packaging and supplies. The predominant food commodities purchased by our restaurants include beef, chicken, potatoes, pork, dairy, cheese, produce, wheat flour and soybean oil. The cost of food commodities has increased markedly over the last two years, resulting in upward pricing pressure on many of our raw ingredients. Furthermore, we expect that there may be additional pricing pressure on beef costs during the remainder of fiscal 2013.

Like all restaurant companies, we are susceptible to commodity price risks as a result of factors beyond our control, such as general economic conditions, significant variations in supply and demand, seasonal fluctuations, weather conditions, food safety concerns, food-borne diseases, fluctuations in the value of the U.S. dollar, commodity market speculation and government regulations. To mitigate these risks, we routinely enter into purchasing contracts or pricing arrangements for certain commodities that contain commodity risk management techniques designed to minimize price volatility. The purchasing contracts and pricing arrangements we use for certain commodities set in advance the price of a given commodity for a fixed period of time, which helps to mitigate the effects of commodities price volatility. These purchasing contracts and pricing arrangements may result in unconditional purchase obligations, which are not reflected in our Condensed Consolidated Balance Sheets. Typically, we use these types of purchasing techniques to control costs as an alternative to directly managing financial instruments to hedge commodity prices. In many cases, we believe we will be able to address material commodity cost increases by adjusting our menu pricing, or changing our product delivery strategy. However, increases in commodity prices, without adjustments to our menu prices, could increase restaurant operating costs as a percentage of company-operated restaurants revenue, which could negatively impact our operating results.

ITEM 4. CONTROLS AND PROCEDURES

(a) Evaluation of Disclosure Controls and Procedures

We have established and maintain disclosure controls and procedures (as defined in Rule 13a-15(e) under the Exchange Act) that are designed to ensure that material information required to be disclosed in reports we file with or submit to the SEC under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and that such information is accumulated and communicated to management, including our principal executive officer and principal financial officer, to allow timely decisions regarding required disclosures. In designing and evaluating our disclosure controls and procedures, our management recognized that any system of controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives, as ours are designed to do, and management necessarily was required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

In connection with the preparation of this Quarterly Report on Form 10-Q, as of May 21, 2012, an evaluation was performed under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures. Based on that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective at the reasonable assurance level as of the end of the period covered by this Quarterly Report on Form 10-Q to ensure that the information required to be disclosed by us in reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and to ensure that the information required to be disclosed by us in reports that we file or submit under the Exchange Act is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure.

(b) Changes in Internal Control Over Financial Reporting

There have been no changes in our internal control over financial reporting during the fiscal quarter ended May 21, 2012, that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

We are subject to legal proceedings and claims in the ordinary course of our business. These claims potentially cover a variety of allegations spanning our entire business. The following is a brief discussion of the most significant categories of claims that have been brought or that we believe are likely to be brought against us in the operation of our business. To the extent applicable, we also discuss the nature of any currently pending claims relating to each category. We are currently vigorously defending these pending claims. See Note 7 of Notes to Condensed Consolidated Financial Statements included herein for additional discussion of legal matters.

Employees

We employ many thousands of persons in our company-operated restaurants and corporate offices, both by us and in restaurants owned and operated by our subsidiaries. In addition, thousands of persons from time to time seek employment in such restaurants. In the ordinary course of business, disputes arise regarding hiring, firing, harassment, rest breaks, promotion practices and other employee related matters. With respect to employment matters, our most significant legal disputes relate to employee meal and rest breaks, and wage and hour disputes. Several potential class action lawsuits have been filed in the State of California, each of which is seeking injunctive relief and monetary compensation on behalf of current and former employees.

Customers

Our restaurants serve a large cross-section of the public and, in the course of serving that many people, disputes arise as to products, services, accidents and other matters typical of an extensive restaurant business such as ours.

Suppliers

We rely on large numbers of suppliers who are required to meet and maintain our high standards. On occasion, disputes may arise with our suppliers on a number of issues including, but not limited to, compliance with product specifications and certain business concerns. Additionally, disputes may arise on a number of issues between us and individuals or entities who claim they should have been granted the approval or opportunity to supply products or services to our restaurants.

Franchising

A substantial number of our restaurants are franchised to independent entrepreneurs operating under contractual arrangements with us. In the course of the franchise relationship, disputes occasionally arise between us and our franchisees relating to a broad range of subjects including, without limitation, quality, service and cleanliness issues, contentions regarding terminations of franchises, and delinquent payments. Additionally, occasional disputes arise between us and individuals who claim they should have been granted a franchise.

Intellectual Property

We have registered trademarks and service marks, patents and copyrights, some of which are of material importance to our business. From time to time, we may become involved in litigation to defend and protect our use of our intellectual property.

Real Property

We have various leasing arrangements related to our company-operated restaurants, franchised restaurants and other properties. In the course of managing these various leasing arrangements, disputes occasionally arise with respect to rental payments, property improvements, abandonment of property and the interpretation of lease provisions.

ITEM 1A. RISK FACTORS

Item 1A Part I of our 2012 Annual Report includes a detailed discussion of the risk factors that we believe could materially affect our business, financial condition or results of operations. There have been no material changes in our risk factors from those disclosed in our 2012 Annual Report, except as set forth below. The risk factors discussed in the 2012 Annual Report (as updated by the information below) are not the only risks we face. Other factors that we do not anticipate or that we do not consider significant based on currently available information, may also have an adverse effect on our business, financial condition or results of operations. The information below updates, and should be read in conjunction with, the risk factors in our 2012 Annual Report.

Risk Factors Relating to our Company

If we fail to successfully implement our growth strategy, which includes opening new domestic and international restaurants, our ability to increase our revenues and operating profits could be adversely affected.

Our growth strategy relies in part upon new restaurant development by existing and new franchisees, or by us. We and our franchisees face many challenges in opening new restaurants, including:

- availability of financing;
- selection and availability of suitable restaurant locations;
- competition for restaurant sites;
- negotiation of acceptable lease and financing terms;
- securing required domestic or foreign governmental permits and approvals;
- consumer tastes in new geographic regions and acceptance of our products;
- employment and training of qualified personnel;
- impact of inclement weather, natural disasters and other acts of nature; and
- general economic and business conditions.

In particular, because the majority of our new restaurant development is likely to be funded by franchisee investment, our growth strategy is dependent on our franchisees' (or prospective franchisees') ability to access funds to finance such development. We do not provide our franchisees with direct financing and therefore their ability to access borrowed funds generally depends on their independent relationships with various financial institutions. If our franchisees (or prospective franchisees) are not able to obtain financing at commercially reasonable rates, or at all, they may be unwilling or unable to invest in the development of new restaurants, and our future growth could be adversely affected.

To the extent we or our franchisees are unable to open new stores as we anticipate, our revenue growth would come primarily from growth in comparable store sales. Our failure to add a significant number of new restaurants or grow comparable store sales would adversely affect our ability to increase our revenues and operating income and could materially and adversely impact our business and operating results.

ITEM 6. EXHIBITS

Exhibit No.	Description
10.1	Amended and Restated Limited Partnership Agreement of Apollo CKE Holdings, L.P., dated as of January 13, 2012, among Apollo CKE GP, LLC, as the General Partner, Apollo CKE Investors, L.P., as a Limited Partner, and the Management Limited Partners, each as a Limited Partner
10.2	Form of Carl's Jr. Restaurant Franchise Agreement
10.3	Form of Hardee's Restaurant Franchise Agreement
31.1	Certification of the Chief Executive Officer pursuant to Rule 13a-14(a)/15d-14(a) of the Securities Exchange Act of 1934.
31.2	Certification of the Chief Financial Officer pursuant to Rule 13a-14(a)/15d-14(a) of the Securities Exchange Act of 1934.
32.1	Certification of the Chief Executive Officer pursuant to Rule 13a-14(b)/15d-14(b) of the Securities Exchange Act of 1934 and 18 U.S.C. Section 1350.
32.2	Certification of the Chief Financial Officer pursuant to Rule 13a-14(b)/15d-14(b) of the Securities Exchange Act of 1934 and 18 U.S.C. Section 1350.
101.INS*	XBRL Instance Document
101.SCH*	XBRL Taxonomy Extension Schema Document
101.CAL*	XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF*	XBRL Taxonomy Extension Definition Linkbase Document
101.LAB*	XBRL Taxonomy Extension Label Linkbase Document
101.PRE*	XBRL Taxonomy Extension Presentation Linkbase Document

* The XBRL-related information in Exhibit 101 to this Quarterly Report on Form 10-Q shall not be deemed “filed” for the purposes of Section 18 of the Securities Exchange Act of 1934 or otherwise subject to the liability of that section, nor shall it be deemed incorporated by reference in any filing under the Securities Act of 1933 or the Securities Exchange Act of 1934.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

CKE RESTAURANTS, INC.

Date: June 27, 2012

/s/ Reese Stewart

Reese Stewart
Senior Vice President and Chief Accounting Officer
(Principal Accounting Officer)

EXHIBIT INDEX

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AMENDED AND RESTATED

LIMITED PARTNERSHIP AGREEMENT

OF

APOLLO CKE HOLDINGS, L.P.

JANUARY 13, 2012

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14.9 Article and Section Titles

EXHIBITS

AMENDED AND RESTATED

LIMITED PARTNERSHIP AGREEMENT

OF

APOLLO CKE HOLDINGS, L.P.

This AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT of APOLLO CKE HOLDINGS, L.P. (the "Partnership"), is made and entered into as of December __, 2011, by and among Apollo CKE Holdings GP, LLC, a Delaware limited liability company ("Apollo GP"), as the General Partner, Apollo CKE Investors, L.P., a Delaware limited partnership (the "Apollo Investor"), as a Limited Partner, and the Management Limited Partners, each as a Limited Partner. Capitalized terms used in this Agreement shall have the meanings ascribed to them in Article II.

WHEREAS, the Partnership was formed upon the filing of the Certificate of Limited Partnership by Apollo CKE GP, LLC, a Delaware limited liability company (the "Original GP") with the Secretary of State of the State of Delaware on June 23, 2010 and the Original GP subsequently assigned its general partnership interest to Apollo GP;

WHEREAS, Columbia Lake Acquisition Holdings, Inc., a Delaware corporation and Subsidiary of the Partnership ("Parent"), together with its Subsidiary, Columbia Lake Acquisition Corp., a Delaware corporation ("Merger Sub"), entered into that certain Agreement and Plan of Merger among Parent, Merger Sub and CKE Restaurants, Inc., a Delaware corporation (the "Company" or "CKE"), dated as of April 18, 2010 (the "Merger Agreement"), pursuant to which Merger Sub was merged with and into the Company, with the Company as the surviving entity, and as a result of which the Company became a wholly-owned Subsidiary of Parent;

WHEREAS, the Management Limited Partners are providing services for the benefit of the Partnership and its Subsidiaries;

WHEREAS, the Limited Partnership Agreement of the Partnership was amended and restated on July 15, 2010 to provide for, inter alia, the issuance of Class A Units and Class B Units;

WHEREAS, the General Partner wishes to amend and restate the Limited Partnership Agreement of the Partnership, dated as of July 15, 2010, in accordance with Section 14.2 thereof, to provide inter alia, that the Partnership shall have the authority to issue Class C Units on the terms and subject to the conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties to this Agreement hereby agree as follows:

ARTICLE I
FORMATION OF THE PARTNERSHIP

1.1 Name. The name of the Partnership shall be "Apollo CKE Holdings, L.P.", or such other name as the General Partner may hereafter designate by notice in writing to the Limited Partners.

1.2 Principal Place of Business. The principal place of business of the Partnership shall be 9 West 57th Street, New York, New York 10019, or such other place within or outside the State of Delaware as the General Partner may hereafter designate by notice in writing to the Limited Partners. The Partnership may maintain such other offices and places of business as the General Partner may deem advisable.

1.3 Certificate of Limited Partnership. The General Partner has caused to be executed and filed a Certificate of Limited Partnership in the Office of the Secretary of State of the State of Delaware on June 23, 2010, as required by Section 17-201 of the Act. The General Partner may execute and file any duly authorized amendments to the Certificate of Limited Partnership from time to time in a form prescribed by the Act. The General Partner will also cause to be made, on behalf of the Partnership, such additional filings and recordings as the General Partner deems necessary or advisable.

1.4 Designated Agent for Service of Process. The Corporation Trust Company is designated as the agent of the Partnership on whom process against the Partnership may be served. The address within the State of Delaware to which the Secretary of State shall mail a copy of any process against the Partnership served upon him is: The Corporation Trust Center, 1209 Orange Street, Wilmington, New Castle County, Delaware 19801.

1.5 Term. The term of the Partnership commenced on the date that the Certificate of Limited Partnership was filed with the Office of the Secretary of State of the State of Delaware and will continue until the first to occur of the events enumerated in Section 10.1.

1.6 Amendment and Restatement. This Agreement amends and restates the Limited Partnership Agreement of Apollo CKE Holdings, L.P., dated as of July 15, 2010, in accordance with Section 14.2 thereof.

ARTICLE II
DEFINED TERMS

The following defined terms shall, unless the context otherwise requires, have the meanings specified in this Article II. The singular shall be deemed to refer to the plural, the masculine gender shall be deemed to refer to the feminine and neuter, and vice versa, as the context may require. The terms "include" or "including" shall be deemed to be followed by the phrase "without limitation".

"1933 Act" shall mean the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"1934 Act" shall mean the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"Accountants" means a firm of independent accountants as may be engaged from time to time by the General Partner for the Partnership.

"Act" means the Revised Uniform Limited Partnership Act of the State of Delaware, as amended or modified from time to time.

"Actions" has the meaning set forth in Section 6.5.3.

"Additional Limited Partners" means those Persons admitted to the Partnership pursuant to Section 3.3.

"Adjusted Capital Account" means, with respect to any Partner, the balance in such Partner's Capital Account as of the end of the relevant fiscal year, after giving effect to the following adjustments:

Add to such Capital Account the following items:

(a) The amount which such Partner is obligated to contribute to the Partnership upon liquidation of such Partner's Interest; and

(b) The amount which such Partner is obligated to restore or is deemed to be obligated to restore to the Partnership pursuant to the penultimate sentences of Regulations Sections 1.704-2(i)(5) and 1.704-2(g)(1); and

Subtract from such Capital Account such Partner's share of the items described in Regulations Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5) and 1.704-1(b)(2)(ii)(d)(6).

"Adjusted Capital Account Deficit" means, with respect to any Partner, the deficit balance, if any, in such Partner's Adjusted Capital Account as of the end of the relevant fiscal year.

The foregoing definitions of Adjusted Capital Account and Adjusted Capital Account Deficit are intended to comply with the provisions of Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

"Affiliate" means, when used with reference to a specified Person, any Person who directly or indirectly controls, is controlled by or is under common control with the specified Person. For the purposes of clarity, a Person shall not be or be deemed to be an Affiliate of a member of the Apollo Group solely as a result of such Person being an officer or director of an Apollo Group portfolio company and/or a consultant to a member of the Apollo Group.

"Agreement" means this Limited Partnership Agreement, as amended or restated

from time to time.

"Apollo GP" has the meaning set forth in the preamble.

"Apollo Group" means Apollo Management VII, L.P., each Affiliate of Apollo Management VII, L.P. that is not a natural person, and each investment fund or vehicle managed or controlled by Apollo Management VII, L.P. or such Affiliates (including Apollo Investment Fund VII, L.P. and its related funds).

"Apollo Investor" has the meaning set forth in the preamble.

"Capital Account" means, with respect to each Partner, an account maintained for such Partner on the Partnership's books and records in accordance with the following provisions:

(a) To each Partner's Capital Account there shall be added (a) the amount of (i) Cash contributed to the Partnership by such Partner and (ii) the Gross Asset Value of any property contributed to the Partnership by such Partner, (b) such Partner's distributive share of (i) Profits and (ii) any items in the nature of income or gain which are specially allocated pursuant to Article V of this Agreement and (c) the amount of any Partnership liabilities assumed by such Partner or which are secured by any Partnership property distributed to such Partner.

(b) From each Partner's Capital Account there shall be subtracted (a) the amount of (i) Cash distributed to such Partner pursuant to any provision of this Agreement and (ii) the Gross Asset Value of any Partnership property distributed to such Partner pursuant to any provision of this Agreement (other than amounts paid as interest or in repayment of principal on any loan by a Partner to the Partnership), (b) such Partner's distributive share of (i) Losses and (ii) any items in the nature of expenses or losses which are specially allocated pursuant to Article V of this Agreement and (c) the amount of any liabilities of such Partner assumed by the Partnership or which are secured by any property contributed by such Partner to the Partnership.

(c) In determining the amount of any liability for purposes of clauses (a) and (b) of this definition, there shall be taken into account Code Section 752(c) and any other applicable provisions of the Code and the Regulations.

(d) If any Interest is transferred in accordance with the terms of this Agreement, the transferee shall succeed to a *pro rata* share of the transferor's Capital Account, based on the ratio that the portion of the Interest transferred bears to the total Interest of the transferor immediately before the transfer.

(e) A Partner who has more than one Interest shall have a single Capital Account that reflects all such Interests regardless of the class of Interests owned by such Partner and regardless of the time or manner in which such Interests were acquired.

(f) The provisions of this definition and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Regulations Sections 1.704-1(b) and 1.704-2 and shall be interpreted and applied in a manner consistent with such Regulations. In the event that the General Partner shall determine that it is prudent to modify the manner in which Capital Accounts, or any additions or subtractions thereto, are computed in order to comply with such Regulations, the General Partner shall be entitled to make such modification; provided that it is not likely to have a material effect on the amounts distributable to any Partner pursuant to Section 10.4 of this Agreement upon dissolution of the Partnership. The General Partner shall also make (a) any adjustments that are necessary or appropriate to maintain equality between the Capital Accounts of the Partners and the amount of Partnership capital reflected on the Partnership's balance sheet, as computed for book purposes, in accordance with Regulations Section 1.704-1(b)(2)(iv)(q), and (b) any appropriate modifications in the event that unanticipated events might otherwise cause this Agreement not to comply with Regulations Sections 1.704-1(b) and 1.704-2.

"Capital Contribution" means, with respect to any Partner, (i) the amount of Cash contributed to the Partnership by such Partner and (ii) the initial Gross Asset Value of any property (other than money) contributed to the Partnership by such Partner (in each case reduced by the amount of any liabilities of such Partner assumed by the Partnership or which are secured by any property contributed by such Partner to the Partnership).

"Call Right" has the meaning set forth in Section 8.2.1.

"Cash" means cash or Cash Equivalents.

"Cash Equivalents" means (i) securities issued or directly and fully guaranteed or insured by the full faith and credit of United States government, (ii) certificates of deposit or bankers acceptances with maturities of one year or less from institutions with at least $1 billion in capital and surplus and whose long-term debt is rated at least "A-1" by Moody's or the equivalent by Standard & Poor's; (iii) commercial paper issued by a corporation rated at least "A-1" by Moody's or the equivalent by Standard and Poor's and in each case maturing within one year; and (iv) investment funds investing at least ninety-five (95%) of their assets in cash or assets of the types described in clauses (i) through (iv) above.

"Catch-Up Amount" shall mean, with respect to a Class C Unit, the amount specified in the Grant Agreement as the "Catch-Up Amount" with respect to such Class C Unit, which may be zero or some greater amount.

"Cause", when used in connection with a Termination of Services of a Management Limited Partner, has the same meaning ascribed to such term in any written agreement relating to Services or any severance agreement then in effect between such Management Limited Partner and the Partnership or one of its Subsidiaries or, if no such agreement containing a definition of "Cause" is then in effect, means a Termination of Services of the Management Limited Partner due to the Management Limited Partner's (i) willful failure to perform the material duties of his or her position, adhere to the lawful direction from, or

the lawful policies and practices of, the Company or other entity for which he or she performs services, (ii) conviction of or plea of *nolo contendere* involving a felony or crime of moral turpitude under the laws of the United States or any state thereof that involves dishonesty or is otherwise detrimental to the Company or its Subsidiaries determined in the good faith of the governing body of such entity, or (iii) material breach of a provision of his employment or other written agreement; provided, however, that if the occurrence of an event described in (i) through (iii) above is curable, such event shall only constitute Cause if written notice specifying in reasonable detail the nature thereof shall be provided to such Management Limited Partner within ninety (90) days of the alleged event and such Management Limited Partner shall have substantially failed to cure such event within fourteen (14) days after receiving such notice.

"Change of Control" shall mean (i) the sale of (x) all or substantially all of the assets of the Company, (y) the Carl's Jr. business in its entirety, or (z) the Hardee's business in its entirety, in each case other than to a member of the Apollo Group or a group (as such term is used in the 1934 Act) controlled by one or more members of the Apollo Group (excluding any such member that is either an Apollo portfolio company or is not engaged in the investment of capital); (ii) a sale resulting in more than fifty percent (50%) of the voting stock of the Company directly or indirectly being held by a person or group (as such terms are used in the 1934 Act) that does not include a member of the Apollo Group or a member of a group (as such term is used in the 1934 Act) controlled by one or more members of the Apollo Group (excluding any such member that is either an Apollo portfolio company or is not engaged in the investment of capital); (iii) a merger or consolidation of the Company with or into another person which is not a member of the Apollo Group or a member of a group (as such term is used in the 1934 Act) controlled by one or more members of the Apollo Group (excluding any such member that is either an Apollo portfolio company or is not engaged in the investment of capital); if and only if any such event listed in (i) through (iii) above results in any person or group other than a member of the Apollo Group or a member of a group (as such term is used in the 1934 Act) controlled by one or more members of the Apollo Group (excluding any such member that is either an Apollo portfolio company or is not engaged in the investment of capital) becoming able to directly or indirectly elect a majority of the board of directors of the Company, or (iv) any event that results in any person or group other than a member of the Apollo Group or a member of a group (as such term is used in the 1934 Act) controlled by one or more members of the Apollo Group (excluding any such member that is either an Apollo portfolio company or is not engaged in the investment of capital) becoming able to directly or indirectly elect a majority of the board of directors of the Company. In elaboration of the foregoing, the definition of "Change of Control" shall not include either a sale of the Carl's Jr. business in its entirety or a sale of the Hardee's business in its entirety unless after such transaction, one or more members of the Apollo Group or an Affiliate of a member of the Apollo Group or a member of a group (as such term is used in the 1934 Act) controlled by one or more members of the Apollo Group (excluding any such member that is either an Apollo portfolio company or is not engaged in the investment of capital) do not have the ability to elect a majority of the members of the board of directors of both the sold business (or if the sold business then has a parent, the board of directors of such parent) and the Company. In the event that a transaction

(which shall include a series of related transactions) occurs that does not constitute a "Change of Control" as a result of which the business engaged in through the Company immediately prior to such transaction is now engaged in through another entity or entities, references to the "Company" shall mean that other entity or entities.

"CKE" has the meaning set forth in the preamble.

"CKE Stock Sale" means either (i) a sale by the Partnership of any shares of capital stock of Parent to an Independent Third Party or (ii) a sale by Parent of any shares of capital stock of CKE to an Independent Third Party.

"Class A Invested Capital" means, with respect to each Partner at any time, the aggregate amount of Capital Contributions made in respect of all Class A Units held by such Partner less all distributions made to such Partner pursuant to Section 4.1.1 and Section 4.1.2(b).

"Class A Unit" means an Interest in the Partnership designated as a Class A Unit.

"Class B Performance Unit" means an Interest in the Partnership designated as a Class B Performance Unit.

"Class B Target Unit Price" means an amount equal to $10.00, which is equal to the initial purchase price of a Class A Unit at the time of the formation of the Partnership, increased at annual rate of 22.5% from the Closing Date to the Measurement Date compounded annually; provided that the General Partner shall make such adjustment to the Class B Target Unit Price as it determines in good faith is equitable and appropriate to reflect changes to the outstanding Units or capital structure of the Partnership or its Subsidiaries, including contributions and distributions from or to Partners, and changes effected in connection with a Solvent Reorganization or an Initial Public Offering, provided, further, that if any adjustment is made pursuant to the preceding proviso, the General Partner shall make a corresponding adjustment to the Class B Threshold Unit Price.

"Class B Threshold Unit Price" means an amount equal to $10.00, which is equal to the initial purchase price of a Class A Unit at the time of the formation of the Partnership, increased at annual rate of 20% from the Closing Date to the Measurement Date compounded annually; provided that the General Partner shall make such adjustment to the Class B Threshold Unit Price as it determines in good faith is equitable and appropriate to reflect changes to the outstanding Units or capital structure of the Partnership or its Subsidiaries, including contributions and distributions from or to Partners, and changes effected in connection with a Solvent Reorganization or an Initial Public Offering, provided, further, that if any adjustment is made pursuant to the preceding proviso, the General Partner shall make a corresponding adjustment to the Class B Target Unit Price.

"Class B Time Unit" means an Interest in the Partnership designated as a Class B Time Unit.

"Class B Unit" means the Class B Time Units and the Class B Performance Units.

"Class C Performance Unit" means an Interest in the Partnership designated as a Class C Performance Unit.

"Class C Time Unit" means an Interest in the Partnership designated as a Class C Time Unit.

"Class C Unit" means the Class C Time Units and the Class C Performance Units.

"Closing Date" means July 12, 2010.

"Code" means the Internal Revenue Code of 1986, as amended (or any corresponding provision or provisions of succeeding law).

"Company" has the meaning set forth in the preamble.

"Competitive Opportunity" has the meaning set forth in Section 6.6.

"Disability" when used in connection with a Termination of Services of a Management Limited Partner, has the same meaning ascribed to such term in any written agreement relating to Services or any severance agreement then in effect between such Management Limited Partner and the Partnership or one of its Subsidiaries or, if no such agreement containing a definition of "Disability" is then in effect, means, with respect to each Management Limited Partner, that the Management Limited Partner's absence from his or her duties with the Partnership and its Subsidiaries for not less than six (6) consecutive months as a result of incapacity due to mental or physical illness.

"Drag-Along Notice" has the meaning set forth in Section 9.1.1.

"Drag-Along Participation Percentage" has the meaning set forth in Section 9.1.2.

"Drag-Along Right" has the meaning set forth in Section 9.1.1.

"Drag-Along Sale" has the meaning set forth in Section 9.1.1.

"Drag-Along Sellers" has the meaning set forth in Section 9.1.1.

"Dragged Seller" has the meaning set forth in Section 9.1.1.

"Drag-Along Transferee" has the meaning set forth in Section 9.1.1.

"Election Notice" has the meaning set forth in Section 8.2.2.

"Eligible Units" has the meaning set forth in Section 8.2.2.

"Fair Market Value" with respect to any asset, shall be the fair value of such asset based on the amount at which such asset could be bought or sold in a current transaction between willing parties, that is, other than in a forced or liquidation sale, as determined from time to time in good faith by the General Partner using its reasonable business judgment.

"Financing Default" shall mean an event which would constitute (or with notice or

lapse of time or both would constitute) an event of default (which event of default has not been cured) under or would otherwise violate or breach (i) any financing arrangement of the Partnership, any of its Subsidiaries or a Parent Issuer in effect as of the time of the aforementioned event, and any extensions, renewals, refinancings or refundings thereof in whole or in part; and (ii) any provision of the Partnership's, any of its Subsidiary's or Parent Issuer's constitutional documents.

"General Partner" means Apollo GP, or if a successor General Partner is appointed under Sections 7.1.1 or 7.1.2, then such successor General Partner.

"Good Reason", when used in connection with a Termination of Services of a Management Limited Partner, has the same meaning ascribed to such term in any written agreement relating to Services or any severance agreement then in effect between such Management Limited Partner and the Partnership or one of its Subsidiaries or, if no such agreement containing a definition of "Good Reason" is then in effect, means the occurrence of any of the following events, without the consent of such Management Limited Partner, (i) a material failure by the applicable entity to pay any compensation owed to such Management Limited Partner, (ii) a material reduction in such Management Limited Partner's base salary or target bonus percentage or (iii) a material diminution in such Management Limited Partner's responsibilities or authority; provided, however, that the events described in (i) through (iii) shall only constitute Good Reason if (A) such Management Limited Partner provides the General Partner and the applicable entity written notice within sixty (60) days following the occurrence of an event that allegedly constitutes Good Reason; (B) the General Partner and the applicable entity fails to substantially cure such event within thirty (30) days after receiving such notice; and (C) such Management Limited Partner resigns within thirty (30) days following such failure to cure.

"Grant Agreement" means a written agreement between the Partnership and a Management Limited Partner pursuant to which the Partnership awards Class B Units or Class C Units to such Management Limited Partner.

"Gross Asset Value" means, with respect to any asset, the asset's adjusted basis for federal income tax purposes, except as follows:

(a) The initial Gross Asset Value of any asset contributed by a Partner to the Partnership shall be the gross Fair Market Value of such asset, as determined by the contributing Partner and the Partnership.

(b) The Gross Asset Values of all Partnership assets shall be adjusted to equal their respective gross Fair Market Values, as determined by the General Partner, as of the following times:

(i) the acquisition of an additional Interest (other than in connection with the execution of this Agreement) by a new or existing Partner in exchange for a Capital Contribution, if the General Partner reasonably determines that such adjustment is necessary or appropriate to reflect the relative economic Interests of the Partners;

(ii) the distribution by the Partnership to a Partner of more than a *de minimis* amount of Partnership property as consideration for an Interest, if the General Partner reasonably determines that such adjustment is necessary or appropriate to reflect the relative economic Interests of the Partners in the Partnership;

(iii) the liquidation of the Partnership within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g); and

(iv) at such other times as the General Partner shall reasonably determine necessary or advisable in order to comply with Regulations Sections 1.704-1(b) and 1.704-2.

(c) The Gross Asset Value of any Partnership asset distributed to a Partner shall be the gross Fair Market Value of such asset on the date of distribution as determined in good faith by the General Partner.

(d) The Gross Asset Values of Partnership assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Regulations Section 1.704-1(b)(2)(iv)(m); provided that Gross Asset Values shall not be adjusted pursuant to this clause (d) to the extent that the General Partner determines that an adjustment pursuant to clause (b) of this definition is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this clause (d).

"Hurdle Amount" shall mean, with respect to a Class C Unit. the amount specified in the Grant Agreement as the "Hurdle Amount" with respect to such Class C Unit, which may be zero or some greater amount.

"Indemnitee" has the meaning set forth in Section 6.5.3.

"Independent Appraiser" has the meaning set forth in Section 8.2.3.

"Independent Third Party" means any Person who, immediately prior to the contemplated transaction, is not a member of the Apollo Group or a member of a group (as such term is used in the 1934 Act) controlled by one or more members of the Apollo Group (excluding any such member that is either an Apollo portfolio company or is not engaged in the investment of capital).

"Initial Public Offering" means the closing of the first underwritten (firm commitment) public offering of and sale of equity securities of the Partnership (or of any other entity or entities created through any Solvent Reorganization) or any issuer in a Subsidiary IPO in a primary or secondary offering pursuant to an effective registration statement filed by the Partnership (or the applicable entity) under the 1933 Act.

"Interest" means an ownership interest in the Partnership at any particular time,

including, without limitation, the right of to any and all benefits to which a Partner may be entitled as provided in this Agreement, together with the obligations to comply with all of the terms and provisions of this Agreement.

"IPO Entity" means the issuer in an Initial Public Offering, including a Qualified IPO.

"IPO Price" means the per share initial public offering price of Issuer Common Stock in the Qualified IPO (prior to any underwriting discounts and commissions).

"Issuer Common Stock" means common stock of the same class as that offered to the public either (a) with respect to an Initial Public Offering by the IPO Entity in an Initial Public Offering, including a Qualified IPO, or (b) with respect to a Subsidiary IPO, by such Subsidiary conducting such Initial Public Offering, or, in either case, any securities into which such common stock is exchanged, converted or reclassified, including pursuant to any merger, reorganization or reclassification.

"Limited Partner" means each of the Management Limited Partners, Apollo Investor, and each other Person admitted to the Partnership as an Additional Limited Partner.

"Liquidating Distribution" has the meaning set forth in Section 4.1.1.

"Management Limited Partner" means each Person who is listed as a Management Limited Partner on Exhibit A hereto.

"Manager Permitted Transferee" means, with respect to any Management Limited Partner, a transferee in (i) a Transfer upon the death of such Management Limited Partner to his/her executors, administrators, testamentary trustees, legatees or beneficiaries, (ii) a Transfer by such Management Limited Partner for estate planning purposes to a limited partnership, limited liability company, trust or custodianship, the beneficiaries of which may include only such Management Limited Partner, his/her spouse (or ex-spouse) or his/her lineal descendants (including adopted), but only if, (x) in the case of clauses (i) and (ii), such transferee becomes a party to, and is bound to the same extent as such Management Limited Partner by the terms of, this Agreement (and such transferee shall be considered a Management Limited Partner for the purposes of this Agreement) and (y) in the case of a Transfer described in clause (ii), the General Partner has given its prior, written approval to such Transfer (which approval shall not be unreasonably withheld).

"Measurement Date" means (1) prior to the 90th day after a Qualified IPO, the last day of any fiscal quarter of CKE, starting with the last day of the eighth full fiscal quarter of CKE after the Closing Date, (2) on or following the 90th day after a Qualified IPO, each trading day, or (3) the date of a Change of Control, whether before or after a Qualified IPO.

"Merger Agreement" has the meaning set forth in the preamble.

"Merger Sub" has the meaning set forth in the preamble.

"Net Equity Value" means (1) 8.0 multiplied by the Partnership's and its Subsidiaries'

consolidated earnings, before interest, income taxes, depreciation and amortization ("EBITDA") for the four fiscal quarters ending upon a Measurement Date, plus (2) the sum of Cash held by the Company and its Subsidiaries, in each case as of the Measurement Date, less (3) debt of the Company and its Subsidiaries as of the Measurement Date (without duplication). EBITDA, Cash and debt shall be determined by the General Partner in good faith based on the Partnership's financial statements for such period, subject to such adjustments to reflect unusual, nonrecurring or extraordinary events as the General Partner in good faith shall deem equitable and appropriate, after consultation with the Chief Executive Officer of the Company, and subject to the approval of the Compensation Committee of the Board of Directors of Parent.

"Non-Employee Director" means any Management Limited Partner who is (i) a member of the board of directors of a Subsidiary of the Partnership and (ii) not an employee of the Partnership or any of its Subsidiaries.

"Nonrecourse Deductions" has the meaning set forth in Regulations Sections 1.704-2(b)(1) and 1.704-2(c).

"Nonrecourse Liability" has the meaning set forth in Regulations Section 1.704-2(b)(3) and 1.752-1(a)(2).

"Notice" has the meaning set forth in Section 8.2.1.

"Notice Deadline" has the meaning set forth in Section 8.2.1.

"Parent" has the meaning set forth in the preamble.

"Parent Issuer" means any entity directly or indirectly holding equity interests in the Partnership if all or substantially all of the assets held by such entity constitute interests in the Partnership.

"Partner Minimum Gain" means an amount, with respect to each Partner Nonrecourse Debt, equal to the Partnership Minimum Gain that would result if such Partner Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with Regulations Section 1.704-2(i).

"Partner Nonrecourse Debt" has the meaning set forth in Regulations Section 1.704-2(b)(4).

"Partner Nonrecourse Deduction" has the meaning set forth in Regulations Section 1.704-2(i).

"Partners" means, collectively, the General Partner and the Limited Partners.

"Partnership" has the meaning set forth in the preamble.

"Partnership Minimum Gain" has the meaning set forth in Regulations Sections 1.704-2(b)(2) and 1.704-2(d)(1).

"Percentage Interest" means with respect to any Partner, such Partner's percentage interest in the Partnership calculated as a fraction, the numerator of which is the number of Units held by such Partner and the denominator of which is the total number of Units outstanding.

"Performance Vesting Percentage" has the meaning set forth in Section 3.8.3(b).

"Permitted Transfer" has the meaning set forth in Section 8.1.1.

"Permitted Transferee" means any Person who acquires Interests pursuant to a Permitted Transfer.

"Person" means any individual, partnership, corporation, limited liability company, association, trust, estate or other business entity.

"Profits" and "Losses" means an amount equal to the Partnership's taxable income or loss with respect to the relevant period, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:

(a) Any income of the Partnership that is exempt from federal income tax and not otherwise taken into account in computing Profits and Losses shall be added to such taxable income or loss.

(b) Any expenditures of the Partnership described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Regulations Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Profits or Losses, shall be subtracted from such taxable income or loss.

(c) If the Gross Asset Value of any Partnership asset is adjusted pursuant to clauses (b) or (c) of the definition of Gross Asset Value, the amount of such adjustment shall be taken into account in the taxable year of adjustment as gain or loss from the disposition of such asset for purposes of computing Profits or Losses.

(d) Gain or loss resulting from any disposition of Partnership property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Gross Asset Value of the property disposed of, notwithstanding that the adjusted tax basis of such property differs from its Gross Asset Value.

(e) Notwithstanding any other provision of this definition, any items which are specially allocated pursuant to Article V of this Agreement shall not be taken into account in computing Profits or Losses.

(f) To the extent an adjustment to the adjusted tax basis of any Partnership asset pursuant to Code Section 734(b) or Code Section 743(b) is required pursuant to Regulations Section 1.704-1(b)(2)(iv)(m)(4) to be taken into account in determining Capital Accounts

as a result of a distribution other than in liquidation of a Partner's Interest, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases the basis of the asset) from the disposition of the asset and shall be taken into account for the purposes of computing Profits and Losses.

"Profits Interest" has the meaning set forth in Section 5.8.

"Proscribed Conduct" means, as to any Management Limited Partner who is a party to any agreement with the Partnership or any of its Subsidiaries or Affiliates that contains any post-employment restrictive covenants, a substantially uncured breach of any such covenants as determined under the terms of such agreement that has resulted in or may reasonably be expected to result in a material detriment to the business or reputation of the Company. As to any Management Limited Partner who not a party to an agreement with the Partnership or any of its Subsidiaries or Affiliates that contains any post-employment restrictive covenants, "Proscribed Conduct" means (i) the Management Limited Partner's unauthorized disclosure of confidential information relating to the Partnership or its Affiliates, (ii) the Management Limited Partner's engaging, directly or indirectly, as an employee, partner, consultant, director, stockholder, owner, or agent in any business that owns, operates, franchises and/or licenses a chain of quick service restaurants, casual dining restaurants, fast casual dining restaurants or restaurants that primarily provide delivery of meals or take-out meals, in each case in any state where the Company (directly or through its subsidiaries) owns, operates, franchises and/or licenses a restaurant, or anywhere in the United States, or (iii) the Management Limited Partner's soliciting or inducing, directly or indirectly, any individual to terminate his or her employment with the Partnership or its Subsidiaries, in each case that has resulted in or may reasonably be expected to result in a material detriment to the business or reputation of the Company; provided that if the occurrence of an event described in (i) through (iii) above, is curable, such breach or event shall constitute Proscribed Conduct only if written notice specifying in reasonable detail the nature thereof shall be provided to such Management Limited Partner within ninety (90) days of the alleged breach or event and such Management Limited Partner shall have substantially failed to cure such breach or event within fourteen (14) days after receiving such notice.

"Proxy" has the meaning set forth in Section 12.2.1.

"Public Share FMV", as measured on a per share basis with respect to Issuer Common Stock, as of any determination date, shall mean the closing price as reported on the principal national securities exchange on which such shares are listed or admitted to trading, or, if the shares are not listed or admitted on a national securities exchange, the closing price as quoted on any market in which such shares are regularly quoted.

"Qualified IPO" means an Initial Public Offering pursuant to an effective registration statement (other than on Form S-4, S-8 or their equivalents) filed under the 1933 Act, which (i) results in the listing of the applicable stock on a national stock exchange and (ii) yields gross proceeds of $150 million or more and gross proceeds to the Apollo Group and Affiliates thereof of $100 million or more; provided, however, that in the event that an Initial Public

Offering is not a Qualified IPO as defined in the preceding clause, the gross proceeds from that Initial Public Offering shall be included in determining whether or not a subsequent offering is a Qualified IPO.

"QIPO Redemption" has the meaning set forth in Section 8.3.

"Redemption Notice" has the meaning set forth in Section 8.3.

"Regulations" means the Income Tax Regulations, including temporary regulations, promulgated under the Code, as such Regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

"Regulatory Allocations" has the meaning set forth in Section 5.5.

"Repurchase Deadline" shall, with respect to any Management Limited Partner, mean the later of (a) the twelve (12) month anniversary of the Termination of Services of such Management Limited Partner, and (b) if such Management Limited Partner has the right to elect a Valuation and does elect such Valuation within 30 days of delivery of the Notice (or if no Notice is delivered, delivery of the Election Notice), 30 days after the Fair Market Value is finally determined by the Independent Appraiser pursuant to Section 8.2.3.

"Repurchase Issue" shall mean (i) a purchase for cash of such Units (together with any other purchases of Units pursuant to Sections 8.2 or 9.2 hereof, or pursuant to similar provisions in any other agreements with other investors of which the Partnership has at such time been given or has given notice) that would result in (x) a violation of any law, statute, rule, regulation, policy, order, writ, injunction, decree or judgment promulgated or entered by any governmental authority applicable to the Partnership or any of its Subsidiaries or any of its or their assets, (y) after giving effect thereto (including any dividends or other distributions or loans from a Subsidiary of the Partnership to the Partnership in connection therewith), a Financing Default or (z) the Partnership or the Apollo Group being required to disgorge any profit pursuant to Section 16(b) of the 1934 Act, (ii) if immediately prior to such purchase of Units there exists a Financing Default which prohibits such issuance or purchase (including any dividends or other distributions or loans from a Subsidiary of the Partnership to the Partnership in connection therewith), or (iii) if the Partnership does not have funds available to effect such purchase of Units or if the Units Buyer is the Partnership and the Partnership is otherwise prohibited from paying cash by financing or liquidity constraints.

"Reserves" means funds set aside or amounts allocated to reserves that shall be maintained in amounts deemed sufficient by the General Partner for working capital, to pay expenses or as a provision for potential liabilities or to pay obligations of the Partnership.

"Restructuring Event" has the meaning set forth in Section 12.3.

"Services" means (i) a Management Limited Partner's employment if the Management Limited Partner is an employee of the Partnership or any of its Subsidiaries, (ii) a Management Limited Partner's services as a consultant, if the Management Limited Partner is a consultant to the Partnership or any of its Subsidiaries, and (iii) a Management

Limited Partner's services as a Non-Employee Director, if the Management Limited Partner is a non-employee member of the board of directors of a Subsidiary of the Partnership.

"Solvent Reorganization" means any solvent reorganization of the Partnership, including by merger, consolidation, recapitalization, Transfer or sale of shares or assets, or contribution of assets and/or liabilities, or any liquidation, exchange of securities, conversion of entity, migration of entity, formation of new entity, or any other transaction or group of related transactions (in each case other than to or with an unaffiliated third party), in which:

(a) all holders of the same class of equity securities of the Partnership are offered a substantially similar amount of consideration in respect of such equity securities;

(b) the Apollo Group's *pro rata* indirect and each Management Limited Partner's direct economic interests in the Partnership, relative to each other and all other holders of equity securities of the Partnership, are preserved in all material respects; and

(c) the rights and obligations of the Apollo Group and each Partner under this Agreement are preserved in all material respects.

"Subsidiary" or "Subsidiaries" means, with respect to any Person, (i) any corporation, limited liability company, association or other business entity of which more than fifty percent (50%) of the total voting power of the equity interests entitled (without regard to the occurrence of any contingency) to vote in the election of the board of directors (or the functional equivalent thereto) thereof are at the time owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person (or a combination thereof); and (ii) any partnership (a) the sole general partner or the sole managing general partner of which is such Person or a Subsidiary of such Person or (b) the only general partners of which are such Person or of one or more Subsidiaries of such Person (or any combination thereof).

"Subsidiary IPO" means the closing of an underwritten (firm commitment) public offering of and sale of equity securities of a Subsidiary of the Partnership or any successor corporation in any transaction or series of related transactions, pursuant to an effective registration statement (other than on Form S-4, S-8 or their equivalents) filed under the 1933 Act.

"Substantial Management Limited Partner" has the meaning set forth in Section 8.2.3.

"Tag-Along Election Period" has the meaning set forth in Section 9.2.2.

"Tag-Along Notice" has the meaning set forth in Section 9.2.1.

"Tag-Along Right" has the meaning set forth in Section 9.2.1.

"Tag-Along Sale" has the meaning set forth in Section 9.2.1.

"Tag-Along Transferee" has the meaning set forth in Section 9.2.1.

"Tag-Along Sellers" has the meaning set forth in Section 9.2.1.

"Tagging Partner" has the meaning set forth in Section 9.2.1.

"Tax Matters Partner" has the meaning set forth in Section 11.3.

"Term" has the meaning set forth in Section 12.2.

"Termination of Services" means the satisfaction of all of the following: (i) if the Management Limited Partner is an employee of the Partnership or any Subsidiary, the termination of the Management Limited Partner's employment with the Partnership and each Subsidiary as to which such Management Limited Partner is an employee for any reason, (ii) if the Management Limited Partner is a consultant to the Partnership or any Subsidiary, the termination of the Management Limited Partner's consulting relationship with the Partnership and each Subsidiary as to which such Management Limited Partner is a consultant for any reason, and (iii) if the Management Limited Partner is a Non-Employee Director of one or more Subsidiaries of the Partnership, the termination of the Management Limited Partner's directorship with each Subsidiary as to which such Management Limited Partner is a Non-Employee Director for any reason. The definition of Termination of Services shall apply to any Manager Permitted Transferee to the extent that such definition applies to the Person that Transferred Interests to such Manager Permitted Transferee.

"Transfer" has the meaning set forth in Section 8.1.1.

"Undistributed Profits" shall mean the excess, if any, of (i) cumulative Profits through the date of distribution over (ii) the sum of (a) cumulative Losses through the date of distribution and (b) distributions previously made pursuant to Section 4.1.2(a).

"Unit" or "Units" means, with respect to each Partner, the Class A Units, Class B Units and Class C Units held by such Partner. A Unit may represent a general partnership Interest if held by the General Partner or a limited partnership Interest if held by a Limited Partner.

"Units Buyer" has the meaning set forth in Section 8.2.3.

"Unvested Units" means, as of the date of any determination, with respect to the Class B Units or Class C Units held by a Management Limited Partner, the number of such Class B Units or Class C Units that are not Vested Units.

"Valuation" has the meaning set forth in Section 8.2.3.

"Value Per Class A Unit" means as of a Measurement Date that occurs (1) prior to the 90th day after a Qualified IPO, (x) the Net Equity Value less the amount that would be distributed to holders of Class B Units and Class C Units (other than such holders who are Non-Employee Directors) (assuming all such Class B Units and Class C Units were Vested Units) pursuant to Section 4.1.1 if the assets of the Partnership were liquidated for proceeds

equal to the Net Equity Value, plus all distributions made prior to such Measurement Date with respect to Class B Units and Class C Units held by Non-Employee Directors or Class A Units in each case under Sections 4.1.1 and 4.1.2, which sum is divided by (y) the number of Class A Units then outstanding, (2) on or following the 90th day after a Qualified IPO, the average Public Share FMV for the period of 90 consecutive trading days ending on the Measurement Date plus all distributions made prior to such Measurement Date with respect to a single Class A Unit under Sections 4.1.1 and 4.1.2, or (3) upon a Change of Control, the amount the holder of a Class A Unit would be entitled to receive for such Class A Unit if all of the Partnership's assets were sold for their Fair Market Value in connection with such Change of Control and the proceeds of such sale were distributed to the Partners in accordance with Section 4.1.1 (provided that, solely for the purposes of such calculation, any Class B Units and Class C Units held by Non-Employee Directors shall be deemed not to be outstanding) as determined by the General Partner in good faith, plus all distributions previously made prior to such Measurement Date with respect to a single Class A Unit under Sections 4.1.1 and 4.1.2.

"Vested Units" means the Class B Units and Class C Units that become Vested Units pursuant to Section 3.8.

ARTICLE III
PARTNERS; CAPITAL; VOTING

3.1 General Partner. The name, address, Capital Contribution, number of Units, and Percentage Interest of the General Partner are set forth on Exhibit A hereto.

3.2 Limited Partners. The name, address, Capital Contribution, number of Units (and, in the case of the Management Limited Partners, the number of Vested Units and Unvested Units), and Percentage Interest of a Limited Partner are set forth on Exhibit A hereto.

3.3 Additional Limited Partners. The General Partner is authorized to admit one or more Additional Limited Partners to the Partnership from time to time, on terms and conditions established by the General Partner. Subject to the terms and provisions contained in this Agreement, no action or consent by the Limited Partners shall be required in connection with the admission of any Additional Limited Partner. As a condition to being admitted to the Partnership, each Additional Limited Partner shall execute an agreement to be bound by the terms of this Agreement. The name, address, Capital Contribution, number of Units, if applicable the number of Vested Units and Unvested Units and Percentage Interest of any Additional Limited Partner shall be set forth in an amended Exhibit A hereto. Notwithstanding the foregoing or any other provision of this Agreement, any Person that is a member of the Apollo Group or an Affiliate of any member of the Apollo Group may become an Additional Limited Partner, and Units may be issued to such Additional Limited Partner, only upon arm's length terms and conditions that are no more favorable to such Additional Limited Partner than the terms and conditions that would be provided to an Independent Third Party that was seeking to become an Additional Limited Partner.

3.4 Partnership Capital; Units. The Partnership capital consists of Class A Units, Class B Units and Class C Units, each having the designations, powers, preferences, rights, qualifications, limitations and restrictions set forth or referred to in this Agreement. As of the date hereof, the Partnership has issued 45,000,000 Class A Units, 5,183,333 Class B Units and no Class C Units. The General Partner is authorized to cause the Partnership to issue (i) additional Class A Units, additional Class B Units and Class C Units (including additional Class A Units, additional Class B Units and Class C Units issued to Non-Employee Directors) and (ii) new classes of units (which new units may have rights and preferences different from and senior to the Units). No Partner shall be paid interest on any Capital Contribution or Capital Account. The Partnership shall not redeem or repurchase any Interest, and no Partner shall have the right to withdraw, or receive any return of, its Capital Contribution or Capital Account, except as specifically provided herein. The issuance of any additional Class B Units shall be subject to the approval of the Compensation Committee of the Board of Directors of Parent; provided that in no event shall any additional Class B Units be issued to any Person other than a Person providing Services in compensation for the performance of such Services without the approval of the Chief Executive Officer of the Company.

3.5 Liability of Partners. No Limited Partner shall be liable for the debts, liabilities, contracts or any other obligations of the Partnership, and a Limited Partner shall be liable only to make its Capital Contribution and shall not be required to lend any funds to the Partnership or, after its Capital Contribution has been paid, to make any further Capital Contribution to the Partnership. The General Partner shall have no personal liability for repayment to the Limited Partners of their Capital Contributions, or for repayment to the Partnership of the negative amounts of such Limited Partners' Capital Accounts, if any. Any Limited Partner may enforce its rights to payment of any distributions by the Partnership against the other Partners in the event that such distribution is made to the other Partners but such Limited Partner does not receive its share thereof as provided under the terms of this Agreement; provided, however, that such Limited Partner (i) may only seek to enforce such rights against those Partners that received such distribution and (ii) may not seek to enforce such rights against such other Partners unless it first uses its commercially reasonable efforts to obtain its share of the distribution from the Partnership.

3.6 Certificate of Interest.

3.6.1 Certificate. Interests may, at the discretion of the General Partner, be represented by a certificate of limited partnership. If issued, the exact contents of a certificate of limited partnership may be determined by action of the General Partner but shall be issued substantially in conformity with the following requirements: (i) the certificates of limited partnership shall be respectively numbered serially, as they are issued, shall be impressed with the seal of the Partnership, if any, and shall be signed by an officer of the General Partner on behalf of the Partnership; (ii) each certificate of limited partnership shall state the name of the Partnership, the fact that the Partnership is organized under the laws of the

State of Delaware as a limited partnership, the name of the Person to whom the certificate is issued, the date of issue and the class of Interests represented thereby and the number and class of Units represented thereby; (iii) each certificate of limited partnership shall be otherwise in such form as may be determined by the General Partner and (iv) each certificate shall be stamped or otherwise imprinted with a legend in substantially the following form, or such legend as may be specified in other agreements between the Partnership and its Limited Partners:

> "THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO CERTAIN TRANSFER AND OTHER RESTRICTIONS SET FORTH IN THE LIMITED PARTNERSHIP AGREEMENT OF APOLLO CKE HOLDINGS, L.P. DATED AS OF JULY 15, 2010 AND, AMONG OTHER THINGS, MAY NOT BE OFFERED OR SOLD EXCEPT IN COMPLIANCE WITH SUCH TRANSFER RESTRICTIONS. COPIES OF SUCH AGREEMENT ARE ON FILE AT THE OFFICES OF APOLLO CKE HOLDINGS, L.P. AND ARE AVAILABLE WITHOUT CHARGE UPON WRITTEN REQUEST THEREFOR. THE HOLDER OF THIS CERTIFICATE, BY ACCEPTANCE OF THIS CERTIFICATE, AGREES TO BE BOUND BY ALL OF THE PROVISIONS OF THE AFORESAID AGREEMENT AS THEY RELATE TO SUCH HOLDER."

3.6.2 Cancellation of Certificate. To the extent certificates are issued, except as herein provided with respect to lost, stolen, or destroyed certificates, no new certificates of limited partnership shall be issued in lieu of previously issued certificates of limited partnership until former certificates for a like number of limited partnership interests shall have been surrendered and cancelled. Upon any Transfer of Interests in accordance with the terms and provisions contained in this Agreement, the General Partner shall cause the Partnership to cancel certificate(s), if any, representing the Interests held by the transferring Partner and to issue or reissue, as the case may be, upon consummation of such Transfer new certificate(s) representing the Interests held by the assignee and the Interests held by the transferring Partner, as applicable.

3.6.3 Replacement of Lost, Stolen, or Destroyed Certificate. Any Partner claiming that his, her or its certificate of limited partnership is lost, stolen, or destroyed may make an affidavit or affirmation of that fact and request a new certificate. Upon the giving of a satisfactory indemnity, bond or other surety to the Partnership as required by the General Partner, a new certificate may be issued of the same tenor and representing the same Interests as was represented by the certificate alleged to be lost, stolen, or destroyed.

3.7 Voting Rights. Except as otherwise required by law, Partners holding Class A Units shall be entitled to one vote per Class A Unit for each matter on which the Partners are entitled to vote. Class B Units and Class C Units shall not have any voting rights, except as may otherwise be required by law.

3.8 Vesting and Forfeiture of Class B Units and Class C Units. Unless otherwise specified in a Grant Agreement, the provisions of this Section 3.8 shall govern the vesting and forfeiture of

all Class B Units and Class C Units.

3.8.1 Time and Performance Vesting.

(a) With respect to any grant of Class B Units to a Management Limited Partner (other than a Non-Employee Director), one-half of such Class B Units shall be Class B Time Units and one-half of such Class B Units shall be Class B Performance Units.

(b) With respect to any grant of Class C Units to a Management Limited Partner (other than a Non-Employee Director), the General Partner shall determine and set forth in the Grant Agreement the number of the Class C Units that shall be Class C Time Units and the number of such Class C Units that shall be Class C Performance Units, which need not be on a one-half basis.

3.8.2 Vesting of Class B Time Units and Class C Time Units.

(a) The Class B Time Units granted to a Management Limited Partner (other than a Non-Employee Director) shall become Vested Units in four equal or substantially equal annual installments on each of the first four anniversaries of the date of such grant as specified in the Grant Agreement.

(b) The Class C Time Units granted to a Management Limited Partner (other than a Non-Employee Director) shall become Vested Units as specified in the Grant Agreement.

3.8.3 Vesting of Class B Performance Units and Class C Performance Units.

(a) If, on any Measurement Date, the Value Per Class A Unit equals or exceeds the Class B Target Unit Price, then all of a Management Limited Partner's Class B Performance Units that have not previously converted to a time vesting schedule shall convert to a time vesting schedule (becoming Class B Time Units) and become Vested Units in two equal or substantially equal annual installments on each of the first two anniversaries of such Measurement Date. If the Measurement Date occurs after a Qualified IPO, then the applicable time vesting schedule shall provide that half of such converted Class B Performance Units shall become Vested Units on the Measurement Date and the other half shall become Vested Units in two equal semi-annual installments on each of the first two six (6) month anniversaries of such Measurement Date.

(b) If on any Measurement Date, the Value Per Class A Unit is less than the Class B Target Unit Price but equals or exceeds the Class B Threshold Unit Price then a number of each Management Limited Partner's Class B Performance Units equal to (i) the sum of the number of Class B Performance Units held by such Management Limited Partner on such Measurement Date and the number of such Management Limited Partner's Class B Performance Units that have previously converted to a time vesting schedule by operation of this Section 3.8.3 (thereby becoming Class B Time Units), multiplied by (ii) a percentage (a "Performance

Vesting Percentage") equal to (A) 50% plus (B) 50% times a fraction, expressed as a percentage, the numerator of which is the excess of the Value Per Class A Unit on such Measurement Date over the Class B Threshold Unit Price and the denominator of which is the excess of the Class B Target Unit Price over the Class B Threshold Unit Price less (C) the highest Performance Vesting Percentage computed on any previous Measurement Date pursuant to this Section 3.8.3(b) (which in no event shall result in a new Performance Vesting Percentage that is less than zero), shall convert to a time vesting schedule (becoming Class B Time Units) and become Vested Units in two equal or substantially equal annual installments on each of the first two anniversaries of such Measurement Date. If the Measurement Date occurs after a Qualified IPO, then the applicable time vesting schedule shall provide that half of such converted Class B Performance Units shall become Vested Units on the Measurement Date and the other half shall become Vested Units in two equal semi-annual installments on each of the first two six (6) month anniversaries of such Measurement Date.

(c) Once a Class B Performance Unit becomes a Vested Unit, the future application of the provisions of Section 3.8.3(a) and (b) shall not cause such Unit to become an Unvested Unit. Additionally, once a Class B Performance Unit becomes a Class B Time Unit, the future application of the provisions of Section 3.8.3(a) and (b) shall not cause such Unit to become a Class B Performance Unit.

(d) The Class C Performance Units granted to a Management Limited Partner (other than a Non-Employee Director) shall become Vested Units as specified in the Grant Agreement.

3.8.4 Non-Employee Director. Unless otherwise specified in a Grant Agreement, the Class B Units and Class C Units granted to Non-Employee Directors shall become Vested Units in four equal or substantially equal annual installments on each of the first four anniversaries of the date of such grant.

3.8.5 Impact of Change of Control. Upon a Change of Control, (i) all outstanding Class B Time Units and Class C Time Units that are Unvested Units shall become Vested Units, (ii) all outstanding Unvested Class B Performance Units and Unvested Class C Performance Units that were previously converted to a time vesting schedule pursuant to Section 3.8.3 shall become Vested Units, (iii) all outstanding Unvested Class B Performance Units and Unvested Class C Performance Units that were not previously converted to a time vesting schedule and that would, pursuant to Section 3.8.3, convert to a time vesting schedule upon the Change of Control, shall become Vested Units, and (iv) all other Unvested Units shall be forfeited and canceled.

3.8.6 Forfeiture. In the event of any Termination of Services of any Management Limited Partner, unless otherwise determined by the General Partner or as provided in any written agreement relating to Services or any severance agreement then in effect between such Management Limited Partner and the Partnership and one of its Subsidiaries, all Unvested Units held by such Management Limited Partner (or his or her Manager Permitted

Transferee) shall be forfeited and cancelled, provided that if such termination is by reason of the death or Disability of the Management Limited Partner, then (x) the number of Unvested Units subject to a time vesting schedule that would have become Vested Units during the one year period following such termination on account of death or Disability shall be treated as Vested Units and (y) such Management Limited Partner's Class B Performance Units and Class C Performance Units that are Unvested Units shall remain outstanding for the one year period following such termination on account of death or Disability. To the extent that the application of the provisions of Section 3.8.3 as of a Measurement Date during such one year period referred to in the preceding sentence shall result in some or all of such unvested Class B Performance Units and Class C Performance Units converting to a time vesting schedule, then the following rules shall apply: (i) if the Measurement Date occurs upon a Change of Control or after a Qualified IPO, then all such Units shall become Vested Units, and otherwise (ii) fifty percent (50%) of such Units shall become Vested Units. In addition, in the event that a Management Limited Partner (i) has a Termination of Services that is for Cause, or (ii) following any Termination of Services, engages in Proscribed Conduct during the two year period after Termination of Services, all Vested Units held by such Management Limited Partner (or his or her Permitted Transferee) shall be forfeited and cancelled.

ARTICLE IV
DISTRIBUTIONS

4.1 Distributions.

4.1.1 Liquidating Distributions. Upon dissolution of the Partnership pursuant to ARTICLE X, a CKE Stock Sale or a Change of Control, the proceeds of such dissolution, sale or Change of Control (a "Liquidating Distribution") shall be applied and distributed or deemed applied and distributed as follows:

(a) first, *pro rata* to the holders of Class A Units to the extent of the Class A Invested Capital;

(b) second, to the extent available and subject to Section 4.4, *pro rata* to the holders of the Units in proportion with their respective Percentage Interest.

4.1.2 Nonliquidating Distributions. Except as otherwise provided in Section 4.1.1 with respect to Liquidating Distributions, and subject to Section 4.4, distributions (a) out of Undistributed Profits shall be applied and distributed *pro rata* to the holders of the Units in proportion with their respective Percentage Interest and (b) not out of Undistributed Profits shall be applied in the same manner as distributions pursuant to Section 4.1.1.

4.1.3 Tax Distributions.

(a) Notwithstanding Section 4.1.1 above, so long as the General Partner has not determined in good faith that such distribution would be prohibited or create a default or event of default under the Act or any agreement to which the Partnership or any of its Subsidiaries is subject (including a Financing Default), then, to the

extent of available Cash (as determined by the General Partner in its reasonable discretion) the Partnership shall distribute to the holders of the Units with respect to each fiscal quarter (within 10 days following the end of such quarter) of the Partnership an amount of Cash which in the good faith judgment of the General Partner equals the excess, if any, of (i) the sum of, with respect to each fiscal quarter of the Partnership through the fiscal quarter just ended, the product of (A) the amount of taxable income (which may be negative) allocable to the Partners in respect of each such fiscal quarter, multiplied by (B) a rate to be determined with respect to each such fiscal quarter by the General Partner (which such rate shall be the highest marginal federal, state and local tax rate in effect from time to time for California, taking into account a deduction of state taxes in determining the U.S. federal income tax rate) over (ii) the aggregate amount of distributions made previously under this Section 4.1.3, with such distribution to be made to the holders in the same proportions that aggregate taxable income was allocated to the holders.

(b) Each distribution pursuant to Section 4.1.3 shall be made to the Persons shown on the Partnership's books and records as holders as of the date of such distribution and shall be treated as an advance distribution of amounts distributable to such Person pursuant to Sections 4.1.1 and 4.1.2. Each distribution pursuant to Section 4.1.3 made in connection with taxable income allocable to a holder relating to amounts payable under Section 4.1.1 or 4.1.2, as the case may be, shall result in a reduction of any future distributions to such Person pursuant to such section.

(c) In the event (i) of a Termination of Services of a Management Limited Partner for Cause, (ii) of a Termination of Services by a Management Limited Partner without Good Reason or (iii) a Management Limited Partner engages in Proscribed Conduct during the two-year period after any Termination of Services, then such Management Limited Partner shall, within 10 days of such termination (in the case of clause (i) or (ii)) or having engaged in Proscribed Conduct (in the case of clause (iii)), repay to the Partnership all amounts previously distributed to such Management Limited Partner pursuant to Section 4.1.3.

(d) In the event that a distribution had been made pursuant to this Section 4.1.3 with respect to Units held by a Management Limited Partner that are subsequently forfeited pursuant to Section 3.8.6 then, without duplication of the payment obligations of such Partner under 4.1.3(c), such Management Limited Partner shall promptly, following demand by the General Partner, pay to the Partnership the amount of any tax benefit actually realized by such Management Limited Partner as a result of such forfeiture. Within ten (10) days following written request by the Partnership, such Management Limited Partner shall furnish to the Partnership such information or documentation as may reasonably be requested (including copies of any tax returns prepared or filed) in order to determine the amount of any such tax benefit.

(e) Each Management Limited Partner hereby unconditionally and

irrevocably grants to the Partnership a security interest in such Partner's Interest in the Partnership to secure such Partner's obligation to pay to the Partnership any amounts required to be paid pursuant to Section 4.1.3(c) or (d). In the event that a Partner fails to pay any amounts owed to the Partnership pursuant to Section 4.1.3(c) or (d) when due, the remaining Partners may, in their respective sole and absolute discretion, elect to make the payment to the Partnership on behalf of such defaulting Partner, and in such event shall be deemed to have loaned such amount to such defaulting Partner and shall succeed to all rights and remedies of the Partnership as against such defaulting Partner (including the right to receive distributions). Any amounts payable by a Partner hereunder shall bear interest at the prime rate plus 2% as published from time to time in The Wall Street Journal (but not higher than the maximum lawful rate) from the date such amount is due (*i.e.*, fifteen (15) days after demand) until such amount is paid in full. Each Partner shall take such actions as the Partnership shall request in order to perfect or enforce the security interest created hereunder. A Partner's obligations hereunder shall survive the dissolution, liquidation, or winding up of the Partnership.

4.2 Withholding. Each Partner hereby authorizes the Partnership to withhold from or pay on behalf of or with respect to such Partner any amount of federal, state, local or foreign taxes that the General Partner determines that the Partnership is required to withhold or pay with respect to any amount distributable or allocable to such Partner pursuant to this Agreement. Any amount paid on behalf of or with respect to a Partner pursuant to this Section 4.2 shall constitute a loan by the Partnership to such Partner, which loan shall be repaid by such Partner within fifteen (15) days after such Partners ceases to be a Partner of the Partnership or the Partnership adopts a plan of dissolution, liquidation or winding up of the Partnership (unless the Partnership withholds such payment from a distribution which would otherwise be made to the Partner (including a distribution pursuant to Section 4.1.3)). Each Partner hereby unconditionally and irrevocably grants to the Partnership a security interest in such Partner's Interest in the Partnership to secure such Partner's obligation to pay to the Partnership any amounts required to be paid pursuant to this Section 4.2. Each Partner shall take such actions as the Partnership shall request in order to perfect or enforce the security interest created hereunder. A Partner's obligations hereunder shall survive the dissolution, liquidation, or winding up of the Partnership.

4.3 Distribution In Kind. If the Partnership makes a distribution in kind, for purposes of this Article IV, the value of all property distributed to any Partner shall be the Fair Market Value of such property on the date of distribution. The Partner's Capital Accounts and the Profits and Losses of each class of Units shall be adjusted to reflect the manner in which the unrealized income, gain, loss and deduction inherent in such securities or other property (that has not been previously reflected in the Capital Accounts) would be allocated among the relevant Partners if there were a taxable disposition of such securities or other property for the Gross Asset Value on the date of distribution, followed by a decrease in such Partner's Capital Accounts as if the distribution were a distribution of cash to the extent of the Gross Asset Value of such

securities of other property on the date of distribution. Securities distributed in kind pursuant to this Section 4.3 shall be subject to such conditions and restrictions as the General Partner determines are required or advisable to ensure compliance with applicable laws.

4.4 Limitation on Distributions. (a) Notwithstanding the distribution priority and entitlements set forth in Section 4.1, no distribution shall be made to any holder on account of an Unvested Unit, but the amount that otherwise would have been distributable in respect of such Units shall be paid to the holders of such Unvested Units as and when such Unvested Units become Vested Units. Amounts not distributed pursuant to this Section 4.4 shall be treated for purposes of applying Section 4.1 as having been distributed to the holder of the Unvested Unit.

(b) Notwithstanding the distribution priority and entitlements set forth in Section 4.1.1(b), (i) no distributions shall be made with respect to a Class C Unit until an amount has been distributed with respect to a Class B Unit pursuant to Section 4.1.1(b) equal to the Hurdle Amount (if any) for such Class C Unit, and (ii) once an amount has been distributed with respect to a Class B Unit equal to the Hurdle Amount (if any) for such for such Class C Unit, an amount equal to the Catch-Up Amount (if any) shall be distributed with respect to such Class C Unit in priority to further distributions pursuant to Section 4.1.1(b). Class C Units that are equally entitled to distributions pursuant to clause (ii) of the preceding sentence shall receive such distributions pro rata in accordance with their respective unpaid Catch-Up Amounts (if any).

ARTICLE V
ALLOCATIONS OF PROFITS AND LOSSES

5.1 In General. Profits and Losses of the Partnership shall be determined and allocated with respect to each fiscal year of the Partnership as of the end of such year and at such times as the Gross Asset Value of any Partnership property is adjusted pursuant to the definition of Gross Asset Value. Subject to the other provisions of this Article V, an allocation to a Partner of a share of Profits or Losses shall be treated as an allocation of the same share of each item of income, gain, loss and deduction that is taken into account in computing Profits or Losses.

5.2 Allocations of Profits and Losses. Except as otherwise provided in this Article V, Profits and Losses shall be allocated for each fiscal year or other period to the Partners such that the positive balance of the Adjusted Capital Account of each Partner (computed after taking into account all distributions with respect to such period and increased by such Partner's share of Partnership Minimum Gain and Partner Minimum Gain) immediately following such allocation is, as closely as possible, equal (proportionately) to the amount of the distributions that would be made to such Partner pursuant to Section 4.1.1 if the Partnership sold all of its assets for an amount equal to their Gross Asset Value and all Partnership liabilities were satisfied (limited with respect to each nonrecourse liability to the Gross Asset Value of the assets securing such liability) and the remaining cash was distributed in a Liquidating Distribution in accordance with the priority set forth in Section 4.1.1.

5.3 Limitation on Allocation of Losses. The Losses allocated to any Partner pursuant to Section 5.2 of this Agreement shall not exceed the maximum amount of Losses that can be so allocated without causing such Partner to have an Adjusted Capital Account Deficit at the end of any fiscal year. All Losses in excess of the limitation set forth in this Section 5.3 with respect to any Partner shall be allocated to other Partners in accordance with this Section 5.3 and to the extent Losses exceed the limitation set forth in this Section 5.3 with respect to each Limited Partner, such amount of any remaining Losses shall be allocated to the General Partner.

5.4 Special Allocation Provisions.

5.4.1 Minimum Gain Chargeback. Notwithstanding any other provision of this Article V, if there is a net decrease in Partnership Minimum Gain during any Partnership fiscal year, each Partner shall be specially allocated items of Partnership income and gain for such year (and, if necessary, subsequent years) in an amount equal to such Partner's share of the net decrease in Partnership Minimum Gain, determined in accordance with Regulations Section 1.704-2(g)(2). This Section 5.4.1 is intended to comply with the minimum gain chargeback requirement of Regulations Section 1.704-2(f) and shall be interpreted consistently therewith.

5.4.2 Partner Minimum Gain Chargeback. If there is a net decrease in Partner Minimum Gain attributable to a Partner Nonrecourse Debt during any Partnership fiscal year, each Partner who has a share of the Partner Minimum Gain attributable to such Partner Recourse Debt, determined in accordance with Regulations Section 1.704-2(i)(5), shall be specially allocated items of Partnership income and gain for such fiscal year (and, if necessary, subsequent years) in an amount equal to such Partner's share of the net decrease in Partner Minimum Gain attributable to such Partner Nonrecourse Debt, determined in a manner consistent with the provisions of Regulations Section 1.704-2(g)(2). This Section 5.4.2 is intended to comply with the partner nonrecourse debt minimum gain chargeback requirement of Regulations Section 1.704-2(i)(4) and shall be interpreted consistently therewith.

5.4.3 Qualified Income Offset. If any Partner unexpectedly receives any adjustment, allocation or distribution of the type contemplated by Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) or (6), items of Partnership income and gain shall be specially allocated to such Partner in an amount and manner sufficient to eliminate the Adjusted Capital Account Deficit of such Partner as quickly as possible. It is intended that this Section 5.4.3 qualify and be construed as a "qualified income offset" within the meaning of Regulations Section 1.704-1(b)(2)(ii)(d).

5.4.4 Adjusted Capital Account Deficit. If the allocation of Loss to a Partner as provided in Section 5.2 hereof would create or increase an Adjusted Capital Account Deficit, there shall be allocated to such Partner only that amount of Loss as will not create or increase an Adjusted Capital Account Deficit. The Loss that would, absent the application of the preceding sentence, otherwise be allocated to such Partner shall be allocated to the other Partners in accordance with their Interests, subject to the limitations of this Section 5.4.4

5.4.5 Section 754 Election. To the extent that an adjustment to the adjusted tax basis of any Partnership asset pursuant to Code Section 734(b) or Code Section 743(b) is required, pursuant to Regulations Section 1.704-1(b)(2)(iv)(m)(2) or Regulations Section 1.704-1(b)(2)(iv)(m)(4), to be taken into account in determining Capital Accounts as the result of a distribution to a Partner in complete liquidation of its Interest in the Partnership, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis), and such gain or loss shall be specially allocated to the Partners in accordance with their interests in the Partnership in the event that Regulations Section 1.704-1(b)(2)(iv)(m)(2) applies, or to the Partners to whom such distribution was made in the event that Regulations Section 1.704-1(b)(2)(iv)(m)(4) applies.

5.4.6 Nonrecourse Deductions. Nonrecourse Deductions for any fiscal year or other period shall be specially allocated to the Partners in proportion to their Percentage Interests.

5.4.7 Partner Nonrecourse Deductions. Partner Nonrecourse Deductions for any fiscal year or other period shall be specially allocated to the Partner who bears the economic risk of loss with respect to the Partner Nonrecourse Debt to which such Partner Nonrecourse Deductions are attributable.

5.4.8 Excess Nonrecourse Liabilities. Solely for purposes of determining a Partner's proportionate share of the "excess nonrecourse liabilities" of the Partnership within the meaning of Regulations Section 1.752-3(a)(3), the Partners' interests in Partnership profits are in proportion to their Percentage Interests.

5.5 Curative Allocations. The allocations set forth in Sections 5.3 and 5.4 of this Agreement (the "Regulatory Allocations") are intended to comply with certain requirements of Regulations Sections 1.704-1(b) and 1.704-2(i). Notwithstanding any other provisions of this Article V, the Regulatory Allocations shall be taken into account in allocating other Profits, Losses and items of income, gain, loss and deduction to the Partners so that, to the maximum extent possible, at any point in time the Partners' Capital Accounts shall reflect the manner in which distributions would be made to the Partners, if the Partnership were liquidated and the proceeds of such liquidation were distributed to the Partners in accordance with Section 10.4 of this Agreement.

5.6 Additional Provisions.

5.6.1 Except as otherwise provided in this Section 5.6.1 for income tax purposes, under the Code and Regulations, each Partnership item income, gain, loss and deduction shall be allocated between the Partners as its correlative item of "book" income, gain, loss or deduction is allocated pursuant to this Article V. Notwithstanding the foregoing provisions of this Article V, income, gain, loss and deduction with respect to property contributed to the Partnership by a Partner shall be allocated among the Partners, pursuant to Regulations promulgated under Code Section 704(c), so as to take account of the variation, if any, between the adjusted basis of such property to the Partnership and its initial Gross Asset Value

(computed in accordance with the definition of such term in this Agreement). In the event the Gross Asset Value of any Partnership asset is adjusted pursuant to clause (b) of the definition of Gross Asset Value, subsequent allocations of income, gain, loss and deduction with respect to such asset shall take account of the variation, if any, between the adjusted basis of such asset for federal income tax purposes and its Gross Asset Value in the same manner as under Code Section 704(c) and the applicable Regulations. Any elections or other decisions relating to the allocations pursuant to this Section 5.6.1 shall be made by the General Partner in its sole discretion. Allocations pursuant to this Section 5.6.1 are solely for purposes of federal, state and local income taxes and shall not affect, or in any way be taken into account in computing, any Partner's Capital Account or share of Profits, Losses, other tax items or distributions pursuant to any provision of this Agreement.

5.6.2 In the event that the Code or any Regulations require allocations of items of income, gain, loss, deduction or credit different from those set forth in this Agreement, upon the advice of the Partnership's Accountants, the General Partner is hereby authorized to make new allocations in reliance upon the Code, the Regulations and such advice of the Partnership's Accountants, such new allocations shall be deemed to be made pursuant to the fiduciary obligation of the General Partner to the Partnership and the Limited Partners, and no such new allocation shall give rise to any claim or cause of action by any Limited Partner.

5.7 Tax Reporting. The Partners acknowledge and are aware of the income tax consequences of the allocations made by this Article V and hereby agree to be bound by the provisions of this Article V in reporting their shares of Partnership income, gain, loss and deductions for federal, state and local income tax purposes.

5.8 Tax Treatment of Partnership Interests Subject to Vesting. The Partnership and each Partner agree to treat the Class B Units and the Class C Units as a separate "Profits Interest" within the meaning of Rev. Proc. 93-27, 1993-2 C.B. 343. Absent a change in law, the Partnership shall treat a Partner holding a Profits Interest as the owner of such Profits Interest from the date such Profits Interest is granted, and shall file its IRS form 1065, and issue appropriate Schedule K-1s to such Partner, allocating to such Partner its distributive share of all items of income, gain, loss, deduction and credit associated with such Profits Interest as if it were fully vested. Each such Partner agrees to take into account such distributive share in computing its Federal income tax liability for the entire period during which it holds the Profits Interest. Except as required pursuant to a "Determination" as defined in Code Section 1313(a) or a change in law, the Partnership and each Partner agree not to claim a deduction (as wages, compensation or otherwise) for the fair market value of such Profits Interest issued to a Partner, either at the time of grant of the Profits Interest, or at the time the Profits Interest becomes substantially vested. The undertakings contained in this Section 5.8 shall be construed in accordance with Section 4 of Rev. Proc. 2001-43, 2001-2 C.B. 191. The provisions of this Section 5.8 shall apply regardless of whether or not the holder of a Profits Interest files an election pursuant to Section 83(b) of the Code.

5.9 Proposed Regulations. Each Partner authorizes the General Partner to elect to apply the safe harbor set forth in Proposed Treasury Regulation § 1.83-3(l) (under which the fair market value of a partnership interest that is transferred in connection with the performance of services is treated as being equal to the liquidation value of that interest) if such proposed Treasury Regulation or a similar Treasury Regulation becomes a Regulation. If the General Partner determines that the Partnership should make such election, the Partners hereby authorize the General Partner to amend this Agreement to provide (i) the Partnership is authorized and directed to elect the safe harbor, (ii) the Partnership and each of its Partners (including any person to whom a partnership interest is transferred in connection with the performance of services) agrees to comply with all requirements of the safe harbor with respect to all interests transferred in connection with the performance of services while such election remains in effect and (iii) the Partnership and each of its Partners agree to take all actions necessary, including providing the Partnership with any required information, to permit the Partnership to comply with the requirements set forth or referred to in the applicable Regulations for such election to be effective. The Partners authorize the General Partner to amend this Agreement to modify Article V to the extent the General Partner determines in its discretion that such modification is necessary or desirable as a result of the issuance of Treasury Regulations relating to the tax treatment of the transfer of an interest in connection with the performance of services. Notwithstanding anything to the contrary in this Agreement, the General Partner shall not be required to obtain the Partner's consent to amend the agreement in accordance with this Section 5.9 and each Partner agrees that it will be legally bound by any such amendment.

ARTICLE VI
RIGHTS, POWERS AND DUTIES OF THE GENERAL PARTNER

6.1 Management of the Partnership.

6.1.1 The General Partner shall conduct, direct and exercise full control over all activities of the Partnership. Subject to the terms and provisions hereof, except as otherwise expressly provided in the Agreement, all management powers over the business and affairs of the Partnership shall be exclusively vested in the General Partner, and no Limited Partner shall have any rights of control or management power over the business and affairs of the Partnership. The General Partner shall, in addition to the powers now or hereafter granted a general partner of a limited partnership under applicable law or which are granted to the General Partner under any other provisions of this Agreement, have full power and authority to do all things deemed necessary, convenient or desirable by it to conduct the business of the Partnership (without any vote or consent of any Limited Partner, except as expressly provided herein), including:

(a) the making of any expenditures, the guaranteeing of liabilities and the incurring of any obligations not otherwise prohibited by Section 6.3 it deems necessary for the conduct of the activities of the Partnership;

(b) the acquisition, disposition, mortgage, pledge, encumbrance, hypothecation or exchange of any or all of the assets of the Partnership and the merger or other combination of the Partnership with or into another entity;

(c) the use of the assets of the Partnership (including cash on hand) for any Partnership purpose and on any terms it sees fit, including the financing of the conduct of the operations of the Partnership, the repayment of obligations of the Partnership, and the investing of funds in the operations of the Partnership and its Subsidiaries;

(d) the negotiation and execution of any terms deemed desirable in its sole discretion and the performance of any contracts, conveyances or other instruments that it considers useful or necessary for the conduct of the operations of the Partnership or the implementation of its powers under this Agreement;

(e) the setting of reserves or the making of distributions of cash or property under Article IV;

(f) the selection and dismissal of employees of the Partnership or outside attorneys, accountants, consultants, agents and contractors and the determination of their compensation and other terms of employment or hiring;

(g) the maintenance of such insurance for the benefit of the Partnership and the Partners as it deems necessary;

(h) the formation of, or acquisition of an interest in, and the contribution of property to, any Subsidiary;

(i) the control of any matters affecting the rights and obligations of the Partnership, including the conduct of litigation and the incurring of legal expense and the settlement (or the consent to judgment) of claims and litigation;

(j) the creation, sale or issuance of additional Interests (represented by Units or newly issued units) to any Limited Partners or Additional Limited Partners (including Non-Employee Directors) or the acceptance of additional Capital Contributions, in each case at such times and on such terms as it deems to be in the best interests of the Partnership (including amending this Agreement to give effect to same);

(k) the amending of this Agreement to reflect the addition of Additional Limited Partners or the reduction of Capital Accounts upon the return of capital to the Partners;

(l) the redemption or repurchase of Units;

(m) the incurrence of indebtedness for borrowed money or other debt;

(n) the lending of money, the guaranteeing of or other contracting for

indebtedness and other liabilities, the bringing and defending of actions at law or in equity and the indemnification of any Person against liabilities and contingencies to the extent permitted by law;

(o) the determination of the appropriate accounting method or methods to be used by the Partnership;

(p) the commencement of any case, proceeding or action under any laws relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to the Partnership or adjudicating the Partnership bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to the Partnership's debts, or the cooperation with any involuntary action or proceeding seeking the same with respect to the Partnership;

(q) implementing a Solvent Reorganization, including amending this Agreement to give effect to same; and

(r) to cause any of the foregoing actions with respect to the Subsidiaries.

6.1.2 No Limited Partner, in such capacity, shall execute any documents for the Partnership or transact any business on its account or its behalf.

6.2 Reliance by Third Parties. Notwithstanding any other provision of this Agreement to the contrary, any Person dealing with the Partnership shall be entitled to rely exclusively on the representations of the General Partner as to its power and authority to enter into arrangements and shall be entitled to deal with the General Partner as if it were the sole party in interest therein, both legally and beneficially. In no event shall any Person dealing with the General Partner or the General Partner's representative with respect to any business or property of the Partnership be obligated to ascertain that the terms of this Agreement have been complied with, or be obligated to inquire into the necessity or expedience of any act or action of the General Partner or the General Partner's representative; and every contract, agreement, instrument or document executed by the General Partner or the General Partner's representative with respect to any business or property of the Partnership shall be conclusive evidence in favor of any and every Person relying thereon or claiming thereunder that: (a) at the time of the execution and/or delivery thereof this Agreement was in full force and effect, (b) such instrument or document was duly executed in accordance with the terms and provisions of this Agreement and is binding upon the Partnership and (c) the General Partner or the General Partner's representative was duly authorized and empowered to execute and deliver any and every such instrument or document for and on behalf of the Partnership. The provisions of this Section 6.2 shall not extend to any member of the Apollo Group or any Affiliate of a member of the Apollo Group (excluding any such Affiliate that is either an Apollo portfolio company or is not engaged in the investment of capital).

6.3 Restrictions on Authority of General Partner.

6.3.1 Without the consent of all of the Partners, the General Partner shall not have the authority to:

(a) amend this Agreement in violation of Section 14.2;

(b) possess Partnership property for other than a Partnership purpose;

(c) admit a Person as a General Partner, except as provided in this Agreement;

(d) take any action, or fail to take any action in violation of the terms of this Agreement; or

(e) knowingly perform any act that would subject any Limited Partner to liability as a general partner in any jurisdiction.

6.4 Duties and Obligations of General Partner.

6.4.1 The General Partner shall take any and all actions which may be necessary, appropriate or advisable for the continuation of the Partnership's existence as a limited partnership under the laws of the State of Delaware (and under the laws of each other jurisdiction in which such existence is necessary to protect the limited liability of the Limited Partners or to enable the Partnership to conduct the business in which it is engaged) and activities related thereto.

6.4.2 The General Partner shall devote to the Partnership such time as may be necessary for the proper performance of its duties hereunder, but the officers and directors of the General Partner shall not be required to devote their full time to the performance of such duties.

6.4.3 The General Partner shall not participate in or consent to the purchase, sale, exchange or other trading of Interests in a manner that may reasonably be expected to result in the classification of the Partnership as a "publicly traded partnership" within the meaning of Code Section 7704(b).

6.4.4 The General Partner shall take such action as may be necessary or appropriate in order to form or qualify the Partnership under the laws of any jurisdiction in which the Partnership does business or in which such formation or qualification is necessary in order to protect the limited liability of the Limited Partners or in order to continue in effect such formation or qualification. The General Partner shall file or cause to be filed for recordation in the office of the appropriate authorities of the State of Delaware, and in each other jurisdiction in which the Partnership is formed or qualified, such certificates (including, without limitation, limited partnership and fictitious name certificates) and other documents as are required by the statutes, rules or regulations of such jurisdictions.

6.5 Liability of General Partner; Indemnification.

6.5.1 Exculpation. To the fullest extent permitted by law, neither the General

Partner nor its Affiliates, nor the officers, directors, employees, partners, stockholders, members or agents of any of the foregoing, shall be liable to the Partnership or to any Partner for any losses sustained or liabilities incurred as a result of any act or omission taken or suffered by the General Partner or any such other Person if (i) the act or failure to act of the General Partner or such other Person was in good faith and in a manner it believed to be in, or not contrary to, the best interests of the Partnership, and (ii) the conduct of the General Partner or such other Person did not constitute (a) any act or omission resulting in a criminal conviction therefor, (b) fraud, (c) willful misconduct or (d) gross negligence. The termination of an action, suit or proceeding by judgment, order, settlement or upon a plea of *nolo contendere* or its equivalent shall not, in and of itself, create a presumption or otherwise constitute evidence that the General Partner or such other Person is not entitled to exculpation hereunder.

6.5.2 Actions of Other Partners or Agents. The General Partner, in its capacity as General Partner of the Partnership, shall not be liable to the Partnership or any other Partner for any action taken by any other Partner, nor shall the General Partner (in the absence of fraud, willful misconduct, gross negligence or any act or omission resulting in a criminal conviction therefor) be liable to the Partnership or any other Partner for any action of any agent of the Partnership which has been selected in good faith by the General Partner with reasonable care.

6.5.3 Indemnification. The Partnership shall indemnify and hold harmless the General Partner and its Affiliates, the Limited Partners and all officers, directors, employees, partners, stockholders, members and agents of any of the foregoing (each, an "Indemnitee"), to the fullest extent permitted by law from and against any and all losses, claims, demands, costs, damages, liabilities, expenses (including costs of investigation and attorneys' fees and disbursements), judgments, fines, settlements and other amounts, of any nature whatever, known or unknown, liquidated or unliquidated arising out of, resulting from or relating or incidental to any and all claims, demands, actions, suits or proceedings, whether civil, criminal, administrative or investigative (collectively, "Actions"), in which the Indemnitee may be involved or threatened to be involved, as a party or otherwise, relating to the performance or nonperformance of any act concerning the activities of the Partnership or the performance by such Indemnitee of any of the General Partner's responsibilities hereunder, unless the Indemnitee's conduct constituted fraud, willful misconduct, gross negligence or any act or omission resulting in a criminal conviction therefor. The termination of an action, suit or proceeding by judgment, order, settlement or upon a plea of *nolo contendere* or its equivalent shall not, in and of itself, create a presumption or otherwise constitute evidence that the Indemnitee is not entitled to indemnification hereunder; provided that a final, non-appealable judgment or order adverse to the Indemnitee expressly covering the indemnification exceptions set forth above may constitute evidence that the Indemnitee is not so entitled to indemnification.

6.5.4 Advancement of Expenses. Expenses incurred by an Indemnitee in defending any Action subject to this Section 6.5 shall be advanced by the Partnership prior to any judgment or settlement of such Action (but not during any appeal therefrom) entered by any court of competent jurisdiction, which includes a finding that such Indemnitee's conduct

constituted fraud, willful misconduct, gross negligence or any act or omission resulting in a criminal conviction therefor, but only if the Partnership has received a written commitment by or on behalf of the Indemnitee to repay such advances to the extent that, and at such time as, it has been determined by a final, non-appealable judgment or settlement entered by any court of competent jurisdiction that the act or failure to act of the Indemnitee was not in good the indemnitee was not entitled to indemnification under Section 6.5.3. Notwithstanding the foregoing, no expenses shall be advanced if a court of competent jurisdiction determines that any indemnification or advance of expenses is unlawful.

6.5.5 Indemnitee Obligations. Each Indemnitee shall use commercially reasonable efforts to pursue any insurance, contribution or indemnity claims it may have against third parties with respect to the expenses incurred in defending any Action subject to this Section 6.5; provided that no such claims, nor any efforts or obligation hereunder, shall delay the availability of the advances provided in this Section 6.5.5. Each Indemnitee, other than the General Partner, shall obtain the written consent of the General Partner prior to entering into any compromise or settlement which would result in an obligation of the Partnership to indemnify such Indemnitee.

6.5.6 No Third-Party Beneficiaries. The provisions of this Section 6.5 are for the benefit of the Indemnitees and shall not be deemed to create any rights for the benefit of any other Person.

6.5.7 Good Faith Reliance. The General Partner and its Affiliates shall at all times act in a manner that is consistent with its implied contractual covenant of good faith and fair dealing. So long as the General Partner and its Affiliates act in a manner consistent with the implied contractual covenant of good faith and fair dealing and with the express provisions of this Agreement, the General Partner and its Affiliates shall not be in breach of any duties (including, without limitation, fiduciary duties) in respect of the Partnership and/or any Limited Partner otherwise applicable at law or in equity. The provisions of this Agreement, to the extent that they expand, restrict or eliminate the duties and liabilities of the General Partner and its Affiliates otherwise existing at law or in equity, are agreed by the Partners to replace fully and completely such other duties and liabilities of the General Partner and its Affiliates.

6.6 Competitive Opportunity. Subject to the last sentence of this Section 6.6, nothing in this Agreement shall restrict or prohibit (i) any of the Partners that are not Management Limited Partners, (ii) any Non-Employee Directors or (iii) any of Affiliate of a Person described in clause (i) or (ii), from having business interests and engaging in business activities in addition to those relating to the Partnership, including business interests and activities in direct competition with the Partnership or any of its Subsidiaries. None of the other Partners shall have any rights by virtue of this Agreement in any business ventures of any single Partner or any of such single Partner's Affiliates. None of the General Partner, as such, the Partners that are not Management Limited Partners and the Non-Employee Directors and none of their respective Affiliates shall be obligated to refer investment opportunities to the Partnership, and none of them shall be restricted in any investments it may make,

regardless of whether such investment opportunity or investment may be deemed to be a business venture or prospective business venture in which the Partnership could have an interest or expectancy, (a "Competitive Opportunity"). Each of the General Partner, as such, the Partners that are not Management Limited Partners, the Non-Employee Directors and their respective Affiliates shall have the right to take any investment opportunity for its own account (as a Partner or fiduciary), and to recommend, assign or otherwise transfer any investment opportunity to, or deal in any investment opportunity with, any other Person, regardless of whether such investment opportunity may be deemed to be a Competitive Opportunity. None of the General Partner, as such, the Partners that are not Management Limited Partners and none of their respective Affiliates shall be obligated to do or perform any act or thing in connection with the business of the Partnership not expressly set forth in this Agreement. Nothing in this Section 6.6 shall eliminate, limit or change the fiduciary duties of the General Partner under applicable law.

6.7 Voting of Subsidiary Stock. Notwithstanding anything in this Agreement to the contrary, so long as Andrew Puzder shall serve as the Chief Executive Officer of the Company, the Partnership shall (i) use commercially reasonable efforts to have Andrew Puzder nominated to serve as a director of Parent and the Company and (ii) vote all shares of capital stock of Parent and the Company owned by the Partnership, and to cause to be voted all shares of capital stock of Parent and the Company owned by any Subsidiary of the Partnership, to elect Andrew Puzder as a director of Parent and the Company. References to "Parent" and "Company" in this Section 6.7 shall also include their respective successors.

ARTICLE VII
ADMISSION OF SUCCESSOR AND ADDITIONAL GENERAL PARTNERS; WITHDRAWAL OF GENERAL PARTNER

7.1 Admission of Successor or Additional General Partners.

7.1.1 The General Partner may at any time designate one or more Persons to be its successor or to be an additional General Partner, in each case with such participation in the General Partner's Interest as it and such successors or additional General Partners may agree upon; provided that the Interests of the other Partners shall not be affected thereby.

7.1.2 Except in connection with a Transfer to a successor or additional General Partner pursuant to Section 7.1.1 of this Agreement, the General Partner shall not have any right to retire or withdraw voluntarily from the Partnership, or to sell, transfer or assign its Interest, except that it may cause to be admitted to the Partnership as an additional General Partner or Partners, or substitute in its stead as the General Partner, any entity which has, by merger, consolidation or otherwise, acquired substantially all of its assets or stock and continued its business; provided that the Interests of the other Partners shall not be affected thereby.

7.1.3 By execution of this Agreement, each of the Limited Partners hereby consents to the admission of any Person as a successor or additional General Partner pursuant to

Sections 7.1.1 and 7.1.2 of this Agreement. In each such case, such admission shall, without any further consent or approval of the Limited Partners, be deemed to be an act of all the Limited Partners.

7.1.4 Any voluntary withdrawal by the General Partner from the Partnership, or any Transfer by the General Partner of its Interest, shall be effective only upon the admission in accordance with Section 7.1.1 or 7.1.2 of this Agreement of a successor or additional General Partner, as the case may be.

7.2 Liability of a Withdrawn General Partner. Any General Partner who, for any reason, voluntarily or involuntarily withdraws from the Partnership, or Transfers its Interest, shall be and remain liable for all obligations and liabilities incurred by it as a General Partner prior to the time that such Transfer becomes effective as provided in Section 7.1 of this Agreement, but it shall be free of any obligation or liability as a General Partner incurred on account of the activities of the Partnership from and after the time that such Transfer becomes effective.

ARTICLE VIII
TRANSFERS OF LIMITED PARTNERS' INTERESTS

8.1 Restrictions on Transfers of Interests.

8.1.1 No Management Limited Partner may directly or indirectly, sell, contract to sell, give, assign, hypothecate, pledge, encumber, grant a security interest in, offer, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend, or otherwise transfer or dispose of any economic, voting or other rights in or to (collectively, "Transfer") any Units except pursuant to (i) Sections 3.8, 8.2, 8.3, 9.1 and 9.2 hereof or (ii) a Transfer to a Manager Permitted Transferee (each a "Permitted Transfer").

8.1.2 No Transfer by any Management Limited Partner may be made pursuant to this Article VIII or Article IX unless (i) the Transfer complies in all respects with the applicable provisions of this Agreement, (ii) the Transfer complies in all respects with applicable federal and state securities laws, including the 1933 Act and (iii) the Transfer is made in compliance with all applicable Partnership policies and restrictions (including any trading "window periods" or other policies regulating insider trading).

8.1.3 No Transfer by any Management Limited Partner to a Manager Permitted Transferee may be made pursuant to this Article VIII unless and until (i) the transferee has agreed in writing to be bound by the terms and conditions of this Agreement (as a Management Limited Partner) and (ii) if requested by the General Partner, such Management Limited Partner has first delivered to the Partnership an opinion of counsel (reasonably acceptable in form and substance to the Partnership) that neither registration nor qualification under the 1933 Act and applicable state securities laws is required in connection with such Transfer.

8.1.4 This Section 8.1 shall apply with respect to all Units held at any time by any

Management Limited Partner, regardless of the manner in which such Management Limited Partner initially acquired such Unit.

8.2 Call Option.

8.2.1 Without limitation of Section 3.8, in the event of any Termination of Services, the Partnership shall have the right but not the obligation to purchase (the "Call Right") from such Management Limited Partner whose Services terminated from time to time until the Repurchase Deadline, and such Management Limited Partner shall be required to sell to the Partnership, any or all of such Vested Units then held by such Management Limited Partner at a price per Unit equal to the applicable purchase price determined pursuant to Section 8.2.3; provided, however, that if such Termination of Services was by the Partnership or any of its Subsidiaries for Cause or by the Management Limited Partner without Good Reason, then such right shall also apply to any or all Class A Units then held by such Management Limited Partner. Any Units purchased by the Partnership shall be canceled. If the Partnership elects to exercise its rights under this Section 8.2.1, it shall provide written notice (the "Notice") either (a) to a Management Limited Partner who is not a Substantial Management Limited Partner prior to the end of the twelfth month immediately following such Termination of Services or (b) to a Management Limited Partner who is a Substantial Management Limited Partner prior to the forty-fifth day preceding the end of the twelfth month immediately following such Termination of Services (in each case, the "Notice Deadline"), of such election of the Call Right by the Partnership (which Notice shall include the purchase price to be paid for such Units as determined by the General Partner in accordance with Section 8.2.3), and the Management Limited Partner will be obligated to sell to the Partnership the number of Units elected to be purchased by the Partnership. Any such purchase must be completed on or before the Repurchase Deadline. All rights under this Section 8.2 shall expire upon the occurrence of a Qualified IPO.

8.2.2 In the event that the Partnership elects not to exercise its Call Right in full, the Partnership shall provide written notice to the Apollo Group on or at any time prior to the Notice Deadline of (i) its decision not to purchase some or all of such Units and (ii) the number of such Management Limited Partner's Eligible Units which the Partnership will not purchase, and the Apollo Group shall have the right but not the obligation to purchase and such Management Limited Partner shall be required to sell to the Apollo Group, any or all of such Class A Units and Vested Units subject to the Call Right that the Partnership has not elected to purchase under this Section 8.2 (the "Eligible Units") then held by such Management Limited Partner at a price per Unit equal to the applicable purchase price determined pursuant to Section 8.2.3. The Apollo Group's rights to provide an Election Notice shall terminate on the Notice Deadline. Upon receipt of the Apollo Group's notice to exercise its rights under this Section 8.2.2 prior to the termination of such right in accordance with this Section 8.2.2, the Partnership will notify (the "Election Notice") the Management Limited Partner of any election of the Call Right by the Apollo Group (which Election Notice shall include the purchase price to be paid for such Units as determined by the General Partner in accordance with Section 8.2.3), and the Management Limited Partner will be obligated to sell to the Apollo Group the number of Eligible Units elected to be purchased by the Apollo Group. Any such purchase must be completed on or before the

Repurchase Deadline.

8.2.3 In the event of a purchase by the Partnership pursuant to Section 8.2.1 and/or the Apollo Group pursuant to Section 8.2.2 (each a "Units Buyer"), the purchase price shall be a price per Unit equal to the amount the holder of such Unit would be entitled to receive for such Units if all of the Partnership's assets were sold for their Fair Market Value on the date of such Termination of Services and the proceeds of such sale were distributed to the Partners in accordance with Section 4.1.1 as determined by the General Partner in good faith; provided that, for purposes of this Section 8.2.3, if the affected Management Limited Partner holds Class B Units and Class C Units representing at least 0.75% of the total number of Units then outstanding (including the Units being purchased pursuant to this Section 8.2.3) (a "Substantial Management Limited Partner") and such Management Limited Partner disagrees with the General Partner's determination of the Fair Market Value of such assets, such Management Limited Partner may within 30 days of delivery of the Notice (or, if no Notice is delivered, the Election Notice) require the Partnership to retain an independent certified appraiser, investment banker or similar valuation specialist ("Independent Appraiser") as mutually agreed upon by the General Partner and such Management Limited Partner to determine the Fair Market Value of such assets (a "Valuation") (which determination by the Independent Appraiser shall be final and binding on the parties), the cost of which will be borne by the Partnership unless the Fair Market Value of the assets as determined by the Independent Appraiser is 110% or less of the Fair Market Value of such assets as determined by the General Partner, in which case, the Management Limited Partner shall bear the cost of such appraisal. If the Fair Market Value of such assets as determined by the Independent Appraiser is more than 110% of the Fair Market Value of such assets as determined by the General Partner, the General Partner may elect to rescind its exercise of the Call Right with respect to such Units.

8.2.4 The Units Buyer may pay the purchase price for such Units by delivery of funds deposited into an account designated by the Management Limited Partner, a bank cashier's check, a certified check or a company check of the Units Buyer for the purchase price; provided that if the Units Buyer is the Partnership and has the right to purchase such Units during the period following an Initial Public Offering or Subsidiary IPO, the Partnership shall have the right (but not the obligation) to pay for up to fifty percent (50%) of the purchase price for such Units through delivery of a number of shares of Issuer Common Stock determined by dividing (A) the portion of the aggregate purchase price of the Units being sold by such Management Limited Partner that is being paid in Issuer Common Stock by (B) the Public Share FMV as of the close of trading on the trading day immediately prior to the delivery thereof to the Management Limited Partner. Notwithstanding anything to the contrary in this Agreement, the Partnership may deduct and withhold from the amounts otherwise payable pursuant to this Agreement such amounts as necessary to comply with the Code, or any other provision of applicable law, with respect to the making of such payment.

8.2.5 In the event that following the exercise of the rights under this Section 8.2, the Partnership and/or the Apollo Group are unable to purchase any Units pursuant to this Section 8.2 prior to the Repurchase Deadline as a result of a Repurchase Issue for any of

the reasons set forth in the definition of Repurchase Issue, the Partnership's and the Apollo Group's (as applicable) obligation to purchase such Units, and the applicable Management Limited Partner's obligation to sell such Units, in each case pursuant to this Section 8.2, shall cease.

8.3 Redemption of Units.

8.3.1 In connection with any Change of Control transaction, the Partnership shall have the right to redeem, prior to such Change of Control transaction the Class B Units and Class C Units held by the Management Limited Partners in exchange for the consideration per Class B Unit or Class C Unit that the Partners would have been entitled to receive if all of the Partnership's assets were sold for their Fair Market Value following such Change of Control transaction and the proceeds of such sale were distributed to the Partners in accordance with Section 4.1.1 as determined by the General Partner in good faith. At least ten (10) days prior to the consummation of any such redemption, the Partnership shall provide written notice of such redemption (the "Redemption Notice"). The Redemption Notice shall set forth in reasonable detail the terms and conditions of such redemption including, (i) the number of Class B Units and Class C Units that would be redeemed, (ii) the consideration to be paid for such Class B Units and Class C Units shall, at the General Partner's election, be either cash, freely tradeable securities, the same type of consideration received by the Partnership in such Change of Control or some combination of the foregoing, (iii) all other material terms of the proposed redemption, and (iv) notice that the Partnership intends to redeem such Class B Units or Class C Units.

8.3.2 Immediately following the consummation of a Qualified IPO, the Partnership shall redeem or shall cause to have redeemed the Units held by the Management Limited Partners in exchange for a number of shares of Issuer Common Stock equal to (i) the consideration that such Management Limited Partner would have been entitled to receive if all of the Partnership's assets were sold for their Fair Market Value immediately following such Qualified IPO and the proceeds of such sale were distributed to the Partners in accordance with Section 4.1.1 as determined by the General Partner in good faith divided by (ii) the IPO Price (such a redemption, an "QIPO Redemption"). Any shares of Issuer Common Stock issued in connection with a QIPO Redemption in exchange for Unvested Shares shall be subject to the same vesting requirements as set forth in this Agreement. Any shares of Issuer Common Stock issued to a Management Limited Partner in connection with a QIPO Redemption shall be subject to the same forfeiture requirements set forth in Section 3.8 of this Agreement.

8.4 Redemptions. For purposes of this Article VIII, distributions to a Partner in redemption (in whole or in part) of a Partner's Units shall be treated as a distribution.

ARTICLE IX
DRAG-ALONG RIGHT AND TAG-ALONG RIGHT

9.1 Drag-Along Rights.

9.1.1 If, at any time prior to the earlier of a Qualified IPO or Change of Control,

the Apollo Group (collectively, the "Drag-Along Sellers") proposes a sale of Units then held by them to any Independent Third Party (a "Drag-Along Transferee") consisting of at least 4,358,450 Class A Units in a transaction or series of related transactions (including pursuant to a purchase of Units, tender offer, merger or other business combination transaction or otherwise) (a "Drag-Along Sale"), the Drag-Along Sellers may elect to require all other Partners (individually a "Dragged Seller" and collectively, the "Dragged Sellers") to sell their Units in the Drag-Along Sale pursuant to this Section 9.1 (the "Drag-Along Right"). At least twenty (20) days prior to the consummation of any such Drag-Along Sale, the Drag-Along Sellers shall provide written notice of their intention to exercise the Drag-Along Right to the Dragged Sellers (the "Drag-Along Notice"). The Drag-Along Notice shall set forth in reasonable detail the terms and conditions of the Drag-Along Sale, including (i) the number of Units that would be Transferred by the Drag-Along Sellers, (ii) the price to be paid for each class of Unit that would be Transferred (calculated in accordance with Section 9.1.3), (iii) all other material terms of the proposed Drag-Along Sale, and (iv) notice that the Drag-Along Sellers are electing to exercise the Drag-Along Right.

9.1.2 In the event the Drag-Along Sellers elect to exercise the Drag-Along Right, each Dragged Seller shall participate in the Drag-Along Sale by selling a number of Units equal to the product obtained by multiplying (i) the number of Units (regardless of whether such Units are Vested Units or Unvested Units, but excluding any Units not subject to the Drag-Along Right pursuant to the final sentence of this Section 9.1.2) owned by such Dragged Seller on the date of the Drag-Along Sale by (ii) a fraction, the numerator of which is equal to the number of Units proposed to be sold by the Drag-Along Sellers and the denominator of which is the aggregate number of Units owned by the Drag-Along Sellers prior to such sale (the "Drag-Along Participation Percentage"). Notwithstanding the foregoing, the Management Limited Partners shall only sell in a Drag-Along Sale Vested Units and if a Management Limited Partner owns fewer Vested Units than its Drag-Along Participation Percentage, then the number of Units to be sold by such Management Limited Partner in such Drag-Along Sale shall be reduced to the number of Vested Units owned by such Management Limited Partner. Notwithstanding any other provision of this Section 9.1, in no event shall any Class B Units or Class C Units be subject to the Drag-Along Right unless (x) the value to be provided to a Class B Unit or Class C Unit in the Drag-Along Sale is equal to the value to be provided to a Class A Unit in the Drag-Along Sale, (y) the Drag-Along Sellers are selling all of their Units in the Partnership in the Drag-Along Sale or (z) the Drag-Along Sellers are selling their Units in a transaction that constitutes a Change of Control.

9.1.3 The price to be paid to each Dragged Seller for each Unit in a Drag-Along Sale shall equal the consideration for such Unit that such Dragged Seller would have been entitled to receive if all of the Partnership's assets were sold for their Fair Market Value immediately prior to such Drag-Along Sale and the proceeds of such sale were distributed to the Partners in accordance with Section 4.1.1 as determined by the General Partner in good faith.

9.1.4 The Transfer of Units to the Drag-Along Transferee by the Drag-Along Sellers and the Dragged Seller pursuant to this Section 9.1 shall be consummated

simultaneously. The delivery by each selling Partner of a limited partnership interest power or such other instrument of Transfer reasonably acceptable to the Drag-Along Transferee shall be made at the time such Drag-Along Sale is consummated against payment of the purchase price for such Units. To the extent that the Partners (or any successors thereto) are to provide any indemnification or otherwise assume any other post-closing liabilities in connection with any Drag-Along Sale, the Drag-Along Sellers and all other Partners selling Units in a transaction under this Section 9.1 shall do so on a *pro rata* basis in an amount not to exceed the proceeds received by them individually in such Drag-Along Sale. Any such indemnification and/or assumption of liabilities shall be several and not joint and several in nature with respect to a Dragged Seller. Furthermore, each selling Partner shall be required to give customary representations and warranties, including title to Interests conveyed, legal authority, and non-contravention of other agreements to which it is a party. Each selling Partner shall be required to enter into any instrument, undertaking or obligation necessary or reasonably requested and deliver all documents necessary or reasonably requested in connection with such Drag-Along Sale (as specified in the Drag-Along Notice) in connection with this Section 9.1.

9.1.5 If, at any time prior to the earlier of a Qualified IPO and Change of Control, the Apollo Group proposes a sale of any of the equity of a Parent Issuer then held by the Apollo Group to any Independent Third Party in a transaction or series of related transactions (including, without limitation, pursuant to a purchase of Units, tender offer, merger or other business combination transaction or otherwise) that would otherwise qualify as a Drag-Along Sale were the transaction a sale of Units, the General Partner may elect to require all other Partners to sell their Units in the Drag-Along Sale pursuant to this Section 9.1 in an equivalent amount and at an equivalent price as if the Drag-Along Sellers proposed to sell the number of Units that indirectly correspond to the equity of the Parent Issuer so proposed to be sold and the Drag-Along Sellers had elected its Drag-Along Right pursuant to this Section 9.1.

9.2 Tag-Along Rights.

9.2.1 Subject to Section 9.2.5, if, at any time prior to the earlier of a Qualified IPO and a Change of Control (in each case other than in connection with a Initial Public Offering or Qualified IPO), all or any of the Apollo Group (the "Tag-Along Sellers") propose to Transfer Units held by them to any Independent Third Party (a "Tag-Along Transferee") constituting at least 4,358,450 Class A Units in a transaction or series of related transactions (including, without limitation, pursuant to a purchase of Units, tender offer, merger or other business combination transaction or otherwise), then, unless the Tag-Along Sellers previously elected to exercise the Drag-Along Right pursuant to Section 9.1, each other Partner (a "Tagging Partner") shall have the right to participate in such Transfer (a "Tag-Along Sale") pursuant to this Section 9.2 (the "Tag-Along Right"). At least twenty (20) days prior to the consummation of any such Tag-Along Sale, the transferring Tag-Along Sellers shall provide written notice of their intention to Transfer their Units to the other Partners (the "Tag-Along Notice"). The Tag-Along Notice shall set forth in reasonable detail the terms and conditions of the Tag-Along Sale, including, without limitation, (i) the aggregate number of Units that would be Transferred (or if greater, the aggregate number

of Units which the Tag-Along Transferee would be willing to purchase), (ii) the price to be paid for such Units, and (iii) all other material terms of the proposed Tag-Along Sale.

9.2.2 If any Tagging Partner elects to exercise the Tag-Along Right, each such Tagging Partner shall provide written notice of such election (including the number of Units proposed to be Transferred in the Tag Along Sale) to the transferring Tag-Along Sellers within ten (10) days of receipt of the Tag-Along Notice (the "Tag-Along Election Period"). Should any Tagging Partner fail to provide such written notice to the transferring Tag-Along Sellers by the end of the Tag-Along Election Period, then none of such Tagging Partner's Units will be included in the Tag-Along Sale and such Tagging Partner's Tag-Along Right with respect to such Tag-Along Sale shall terminate automatically. In the event the Tag-Along Transferee is not willing to purchase all of the Units that the Partners propose to Transfer in the Tag-Along Sale, then (a) each exercising Partner (other than the Tag-Along Sellers) shall have the right to Transfer in the Tag-Along Sale a number of Units equal to the product obtained by multiplying (i) the number of Units proposed to be purchased by or Transferred to the Tag-Along Transferee by (ii) a fraction, the numerator of which is equal to the number of Units owned by the exercising Partner and the denominator of which is the aggregate number of Units owned by Partners (including the Tag-Along Sellers) who propose to Transfer in the Tag-Along Sale and (b) the Tag-Along Sellers shall have the right to Transfer in the Tag-Along Sale all additional Units that the Tag-Along Transferee is willing to purchase. The only Class B Units or Class C Units that the Management Limited Partners shall be entitled to sell in a Tag-Along Sale are Vested Units.

9.2.3 The price to be paid for each Unit in a Tag-Along Sale shall equal the consideration for such Unit that such Partner would have been entitled to receive if all of the Partnership's assets were sold for their Fair Market Value immediately prior to such Tag-Along Sale and the proceeds of such sale were distributed to the Partners in accordance with Section 4.1.1 as determined by the General Partner in good faith.

9.2.4 The Tag-Along Sale of Units collectively by the transferring Partners to the Tag-Along Transferee pursuant to this Section 9.2 shall be consummated simultaneously. The delivery by the transferring Partners of a limited partnership interest power or such other instrument of Transfer reasonably acceptable to the Tag-Along Transferee shall be made at the time such Tag-Along Sale is consummated against payment of the purchase price for such Interests to the selling Partners. The consummation of such proposed Tag-Along Sale shall occur in the sole discretion of the selling Tag-Along Sellers, who shall have no liability or obligation whatsoever to any other Partner participating therein. To the extent that the transferring Partners are to provide any indemnification or otherwise assume any other post-closing liabilities in connection with a Tag-Along Sale pursuant to this Section 9.2, the selling Partners shall do so on a *pro rata* basis in an amount not to exceed the proceeds received by them in such Tag-Along Sale. Any such indemnification and/or assumption of liabilities shall be several and not joint and several in nature with respect to a Tagging Partner. Furthermore, each transferring Partner shall be required to give customary representations and warranties to the Tag-Along Transferee, including, without limitation, title to Interests conveyed, legal authority, and non-contravention of other agreements to which it is a party. Each selling Partner shall be required to enter into any instrument,

undertaking or obligation necessary or reasonably requested and deliver all documents necessary or reasonably requested in connection with such Tag-Along Sale in connection with this Section 9.2.

9.2.5 If, at any time prior to the earlier of a Qualified IPO and Change of Control, the Apollo Group proposes a Transfer for value to any Independent Third Party in a transaction or series of related transactions of any equity in a Parent Issuer then held by the Apollo Group and none of the Tag-Along Sellers previously elected to exercise the Drag-Along Right pursuant to Section 9.1.5 or no such Drag-Along Right was available, then each Tagging Partner shall have the right to participate in such Transfer for value with respect to its Units in an equivalent amount and at an equivalent price as if the Tag-Along Sellers proposed to Transfer the number of Units that indirectly correspond to the equity of the Parent Issuer so proposed to be Transferred and such other Partner had elected to participate in such Transfer for value pursuant to this Section 9.2.

9.2.6 Notwithstanding any provisions of this Section 9.2, during the first twelve (12) months of this Agreement, (i) the Apollo Group may Transfer up to an aggregate maximum of 14,528,166 Class A Units (in addition to any Class A Units Transferred pursuant to Section 9.2.6(ii)) without complying with any provisions of this Section 9.2 and (ii) the Apollo Group may Transfer Class A Units to employees of Parent and its Subsidiaries without complying with any provisions of this Section 9.2.

ARTICLE X
DISSOLUTION AND LIQUIDATION OF THE PARTNERSHIP

10.1 Events Causing Dissolution. The Partnership shall dissolve upon the happening of any of the following events:

10.1.1 The sale or other disposition of all of the property and assets of the Partnership;

10.1.2 The election by the General Partner to dissolve the Partnership;

10.1.3 Judicial dissolution; or

10.1.4 The removal of the General Partner or the occurrence of any other event that causes the General Partner to cease to be a general partner of the Partnership; provided that the Partnership shall not be dissolved or required to be wound up in connection with any of the events specified in this Section 10.1.4 if a successor or additional General Partner has been admitted to the Partnership in accordance with Sections 7.1.1 or 7.1.2.

10.2 Effect of Dissolution. The dissolution of the Partnership shall be effective on the day on which the event occurs giving rise to the dissolution, but the Partnership shall not terminate until this Agreement has been cancelled and the assets of the Partnership shall have been distributed as provided in Section 10.4 of this Agreement. Notwithstanding the dissolution of the Partnership, prior to the termination of the Partnership, the business of the Partnership and the affairs of the Partners, as such,

shall continue to be governed by this Agreement.

10.3 Capital Contribution upon Dissolution. Each Partner shall look solely to the assets of the Partnership for all distributions with respect to the Partnership, its Capital Contribution thereto, its Capital Account and its share of Profits or Losses and shall have no recourse therefor (upon dissolution or otherwise) against the General Partner or any Limited Partner.

10.4 Liquidation.

10.4.1 Upon dissolution of the Partnership, the General Partner shall liquidate the assets of the Partnership and, after allocating all income, gain, loss and deductions resulting therefrom to the Partners pursuant to Article V of this Agreement, shall apply and distribute the proceeds thereof, as promptly as reasonably practicable, but, subject to Section 10.4.2, within ninety (90) days following such dissolution, as follows:

(a) first, to the payment of the obligations of the Partnership to third parties, to the expenses of liquidation and to the setting up of any Reserves for contingencies which the General Partner may consider necessary or appropriate; and

(b) thereafter, to the Partners in accordance with Section 4.1.1.

10.4.2 Notwithstanding Section 10.4.1 of this Agreement, in the event that the General Partner determines that an immediate sale of all or any portion of the Partnership's assets would cause undue loss to the Partners, the General Partner, in order to avoid such loss, may, after giving notice to all of the Limited Partners, to the extent not then prohibited by the Act, either defer liquidation of and withhold from distributions for a reasonable time, any assets of the Partnership except those necessary to satisfy the Partnership's debts and obligations, or distribute the assets to the Partners in kind.

10.4.3 The General Partner shall cause the cancellation of this Agreement following the liquidation and distribution of all of the Partnership's assets.

ARTICLE XI
BOOKS AND RECORDS, ACCOUNTING, INFORMATION RIGHTS, TAX ELECTIONS, ETC.

11.1 Books and Records.

11.1.1 The books and records of the Partnership shall be maintained at the principal office of the Partnership and shall be available for examination there by any Partner or its duly authorized representatives at any and all reasonable times. To the extent permitted by law, the General Partner shall permit Limited Partners and their assignees to inspect and copy such books and records at the Partnership's expense. The Partnership shall maintain such books and records and provide such financial or other statements as the General Partner in its sole discretion deems advisable, subject to the requirements of this Agreement.

11.1.2 The Accountants shall review all annual financial statements of the

Partnership, which statements shall be prepared in accordance with generally accepted accounting principles, and shall review or prepare for execution by the General Partner all tax returns of the Partnership.

11.2 Accounting and Fiscal Year. Subject to Code Section 448, the books of the Partnership shall be kept on such method of accounting for tax and financial reporting purposes as may be determined by the General Partner. The fiscal year of the Partnership shall end on December 31 of each year or on such other date permitted under the Code as the General Partner shall determine.

11.3 Designation of Tax Matters Partner. The General Partner is hereby designated as the "Tax Matters Partner" of the Partnership under Code Section 6231(a)(7) to manage administrative tax proceedings conducted at the Partnership level by the Internal Revenue Service with respect to Partnership matters. Any Partner or assignee may participate in such administrative proceedings relating to the determination of Partnership items at the Partnership level, to the extent permitted by the Code. Expenses of such administrative proceedings undertaken by the Tax Matters Partner shall be paid from Partnership assets. Each Limited Partner or assignee that elects to participate in such proceedings shall be responsible for its own expenses incurred in connection with such participation. The cost of any adjustments to a Limited Partner or assignee, and the cost of any resulting audits or adjustments of a Limited Partner's or assignee's tax return, will be borne solely by the affected Limited Partner or assignee.

ARTICLE XII
CERTAIN RIGHTS AND AGREEMENTS OF THE PARTNERS

12.1 Registration Rights.

12.1.1 In connection with an Initial Public Offering, the Partnership shall cause the IPO Entity to grant to (a) the Apollo Group piggyback registration rights on such Initial Public Offering and (b) if any member of the Apollo Group is selling Units (or their equivalent in such Initial Public Offering, the Management Limited Partners customary piggyback registration rights on such Initial Public Offering, which rights shall provide that, subject to the underwriter cut-back provisions described below, each Management Limited Partner shall be entitled to register in such Initial Public Offering a number of Units (or their equivalent) up to but not greater than (i) the number of Class A Units and Vested Units (or their equivalent) then held by such Management Limited Partner multiplied by (ii) a fraction, the numerator of which is the number of Units (or their equivalent) held by the Apollo Group that are being registered in such Initial Public Offering and the denominator of which is the total number of Units (or their equivalent) then held by the Apollo Group. The Management Limited Partners hereby agree to enter into such "lock-up" agreements as may be reasonably requested by the underwriters of an Initial Public Offering. Any registration rights granted to the Management Limited Partners under this Section 12.1.1 shall be subject to any reduction of the Management Limited Partners' participation in such Initial Public Offering as may be reasonably requested by the underwriters of such Initial Public Offering (including

any such reduction that is *non-pro rata* among either the Partners or the Management Limited Partners; provided that neither the General Partner nor its Affiliates shall take any action the primary purpose of which is to result in a *non-pro rata* reduction).

12.1.2 In connection with a Qualified IPO, the Partnership shall cause the IPO Entity to grant to (i) the Apollo Group customary demand and piggyback registration rights (including piggyback registration rights on the Qualified IPO) and (ii) the Management Limited Partners customary piggyback registration rights (including piggyback registration rights on the Qualified IPO), which rights shall provide that, subject to the underwriter cut-back provisions described below, each Management Limited Partner shall be entitled to register in such Qualified IPO a number of Units (or their equivalent) up to but not greater than (i) the number of Class A Units and Vested Units (or their equivalent) then held by such Management Limited Partner multiplied by (ii) a fraction, the numerator of which is the number of Units (or their equivalent) held by the Apollo Group that are being registered in such Qualified IPO and the denominator of which is the total number of Units (or their equivalent) then held by the Apollo Group. The Management Limited Partners hereby agree to enter into such "lock-up" agreements as may be reasonably requested by the underwriters of a Qualified IPO. Any registration rights granted to the Management Limited Partners under this Section 12.1.2 shall be subject to any reduction of the Management Limited Partners' participation in such Qualified IPO as may be reasonably requested by the underwriters of such Qualified IPO (including any such reduction that is *non-pro rata* among either the Partners or the Management Limited Partners; provided that neither the General Partner nor its Affiliates shall take any action the primary purpose of which is to result in a *non-pro rata* reduction).

12.1.3 The Partners agree that, except as otherwise required by the underwriter, any underwriter cutbacks (other than in connection with the Initial Public Offering and the Qualified IPO) shall be (i) in the case of a registration initiated by the Apollo Group pursuant to the exercise of demand registration rights, first applied to reduce the number of shares requested to be included in such registration by the Management Limited Partners *pro rata* based on the total number of shares requested to be included by the Management Limited Partners before any shares requested to be included in such registration by the Apollo Group are reduced and (ii) in the case of any other registration, applied to reduce the number of shares requested to be included in such registration by the Management Limited Partners and the Apollo Group *pro rata* based on the total number of shares requested to be included by the Management Limited Partners and the Apollo Group.

12.2 Voting Agreement.

12.2.1 Each Management Limited Partner hereby revokes any and all prior proxies or powers of attorney in respect of any of such Management Limited Partner's Units and constitutes and appoints Apollo Management VII, L.P., or any nominee of Apollo Management VII, L.P., with full power of substitution and resubstitution, at any time from the date hereof until the earliest of (such earliest date, the "Term") (i) the termination of this Agreement pursuant to Section 1.6 hereof, (ii) the consummation of a Qualifying IPO or (iii) such time as the Apollo Group or a group (as such term is used in the 1934 Act) controlled

by one or more members of the Apollo Group owns less than a majority of the outstanding Units of the Partnership, as its true and lawful attorney and proxy (its "Proxy"), and in its name, place and stead, to vote each of such Units (whether such shares are currently held or may be acquired in the future by such Management Limited Partner) as its Proxy, at every annual, special, adjourned or postponed meeting of the limited Partners of the Partnership, including the right to sign its name (as member) to any consent, certificate or other document relating to the Partnership that the laws of the state of Delaware may permit or require with respect to any matter referred to be voted on by the limited Partners of the Partnership; provided that the Proxy does not apply to any matter as to which holders of Class A Units, Class B Units or Class C Units, as the case may be, are entitled to vote as a class or with respect to any amendment or waiver of this Agreement. THE FOREGOING PROXY AND POWER OF ATTORNEY ARE IRREVOCABLE AND COUPLED WITH AN INTEREST THROUGHOUT THE TERM.

12.2.2 Except pursuant to the terms of this Agreement, during the Term and prior to an Initial Public Offering, no Management Limited Partner shall, without the prior written consent of Apollo Management VII, L.P., directly or indirectly, grant any proxies (other than pursuant to Section 12.2.1 above) or enter into any voting trust or other agreement or arrangement with respect to the voting of any Units held by such Management Limited Partner.

12.3 Restructuring Event. The Partnership may, at the discretion of the General Partner and in accordance with applicable U.S. state and federal law (including the 1933 Act and the 1934 Act and the rules promulgated thereunder), effect a reorganization, reclassification, conversion, merger, recapitalization or restructuring (each, a "Restructuring Event") pursuant to which the Limited Partners would become limited partners or shareholders of a new partnership, limited liability company or corporation and cease to be Limited Partners of the Partnership or receive different securities of the Partnership. The units, shares or other equity interests provided to each Management Limited Partner pursuant to such Restructuring Event would provide each Management Limited Partner with substantially similar economic and other rights and privileges as such Management Limited Partner had as a Limited Partner of the Partnership prior to such Restructuring Event and which are consistent with the rights and preferences attendant to the Units held by the Management Limited Partners immediately prior to such Restructuring Event. It is contemplated that the Management Limited Partners, the company formed by such Restructuring Event and, in the discretion of the Apollo Group, the Apollo Group, would enter a partnership agreement, limited liability company agreement or management shareholders agreement, as the case may be, in conjunction with such Restructuring Event, containing provisions substantially similar to the provisions of this Agreement. The Management Limited Partners hereby agree to enter into any such Management Limited Partners agreement or management shareholders agreement.

ARTICLE XIII
INVESTMENT REPRESENTATIONS, WARRANTIES AND COVENANTS

13.1 Investment Intention and Restrictions on Disposition. Each Management Limited Partner represents and warrants that such Management Limited Partner is acquiring

the Units solely for such Management Limited Partner's own account for investment and not with a view to resale in connection with, any distribution thereof. Each Management Limited Partner agrees that such Management Limited Partner will not, directly or indirectly, Transfer any of the Units (or solicit any offers to buy, purchase or otherwise acquire or take a pledge of any of the Units) or any interest therein or any rights relating thereto or offer to Transfer, except in compliance with the 1933 Act, all applicable state securities or "blue sky" laws and this Agreement, as the same shall be amended from time to time. Any attempt by a Management Limited Partner, directly or indirectly, to Transfer, or offer to Transfer, any Units or any interest therein or any rights relating thereto without complying with the provisions of this Agreement, shall be void and of no effect.

13.2 Securities Laws Matters. Each Management Limited Partner acknowledges receipt of advice from the Partnership that (a) the Units have not been registered under the 1933 Act or qualified under any state securities or "blue sky" laws, (b) it is not anticipated that there will be any public market for the Units, (c) the Units must be held indefinitely and such Management Limited Partner must continue to bear the economic risk of the investment in the Units unless the Units are subsequently registered under the 1933 Act and such state laws or an exemption from registration is available, (d) Rule 144 promulgated under the 1933 Act is not presently available with respect to sales of any securities of the Partnership and the Partnership has made no covenant to make Rule 144 available and Rule 144 is not anticipated to be available in the foreseeable future, (e) when and if the Units may be disposed of without registration in reliance upon Rule 144, such disposition can be made only in limited amounts and in accordance with the terms and conditions of such Rule 144 and the provisions of this Agreement, (f) if the exemption afforded by Rule 144 is not available, public sale of the Units without registration will require the availability of an exemption under the 1933 Act, (g) restrictive legends shall be placed on any certificate representing the Units, and (h) a notation shall be made in the appropriate records of the Partnership indicating that the Units are subject to restrictions on transfer and, if the Partnership should in the future engage the services of a transfer agent, appropriate stop-transfer instructions will be issued to such transfer agent with respect to the Units.

13.3 Ability to Bear Risk. Each Management Limited Partner represents and warrants that (i) such Management Limited Partner's knowledge and experience in financial and business matters are such that such Management Limited Partner is capable of evaluating the merits and risks of the investment in the Units; (ii) such Management Limited Partner's financial situation is such that such Management Limited Partner can afford to bear the economic risk of holding the Units for an indefinite period; and (iii) such Management Limited Partner can afford to suffer the complete loss of such Management Limited Partner's investment in the Units.

13.4 Access to Information; Sophistication; Lack of Reliance. Each Management Limited Partner represents and warrants that (a) such Management Limited Partner is familiar with the business and financial condition, properties, operations and prospects of

the Partnership and its Subsidiaries and that such Management Limited Partner has been granted the opportunity to ask questions of, and receive answers from, representatives of the Partnership concerning the Partnership and its Subsidiaries and the terms and conditions of the purchase of the Units and to obtain any additional information that such Management Limited Partner deems necessary, (b) such Management Limited Partner's knowledge and experience in financial and business matters is such that such Management Limited Partner is capable of evaluating the merits and risk of the investment in the Units and (c) such Management Limited Partner has carefully reviewed the terms and provisions of this Agreement and has evaluated the restrictions and obligations contained therein. In furtherance of the foregoing, each Management Limited Partner represents and warrants that (i) no representation or warranty, express or implied, whether written or oral, as to the financial condition, results of operations, prospects, properties or business of the Partnership and its Subsidiaries or as to the desirability or value of an investment in the Partnership has been made to such Management Limited Partner by or on behalf of the Partnership, (ii) such Management Limited Partner has relied upon such Management Limited Partner's own independent appraisal and investigation, and the advice of such Management Limited Partner's own counsel, tax advisors and other advisors, regarding the risks of an investment in the Partnership and (iii) such Management Limited Partner will continue to bear sole responsibility for making its own independent evaluation and monitoring of the risks of its investment in the Partnership.

13.5 Accredited Investor; Exemption from Registration. Each Management Limited Partner represents and warrants that such Management Limited Partner is an "accredited investor" as such term is defined in Rule 501(a) of Regulation D promulgated under the 1933 Act and, in connection with the execution of this Agreement, agrees to deliver such certificates to that effect as the General Partner may request; provided that, to the extent that any such Management Limited Partner does not qualify as an "accredited investor," such Management Limited Partner acknowledges and agrees that the offering of the Units hereunder is intended to be exempt from registration under the 1933 Act, by virtue of Section 4(2) of the 1933 Act and/or the provisions of Regulation D and/or Rule 701 promulgated under the 1933 Act, or in reliance upon another specific exemption therefrom, which exemption may depend upon, among other things, the *bona fide* nature of the Management Limited Partner's investment intent, status as an employee, director or *bona fide* consultant of or to the Partnership or a Subsidiary, and representations as expressed herein.

13.6 Additional Representations and Warranties.

Each Management Limited Partner represents and warrants that (a) such Management Limited Partner has duly executed and delivered this Agreement; (b) all actions required to be taken by or on behalf of such Management Limited Partner to authorize it to execute, deliver and perform its obligations under this Agreement have been taken and this Agreement constitutes such Management Limited Partner's legal, valid and binding obligation, enforceable

against such Management Limited Partner in accordance with the terms hereof; (c) the execution and delivery of this Agreement and the consummation by such Management Limited Partner of the transactions contemplated hereby in the manner contemplated hereby do not and will not conflict with, or result in a breach of any terms of, or constitute a default under, any agreement or instrument or any statute, law, rule or regulation, or any judgment, decree, writ, injunction, order or award of any arbitrator, court or governmental authority which is applicable to such Management Limited Partner or by which such Management Limited Partner or any material portion of its properties is bound; (d) no consent, approval, authorization, order, filing, registration or qualification of or with any court, governmental authority or third person is required to be obtained by such Management Limited Partner in connection with the execution and delivery of this Agreement or the performance of such Management Limited Partner's obligations hereunder; (e) if such Management Limited Partner is an individual, such Management Limited Partner is a resident of the state set forth below such Management Limited Partner's name on the signature page hereof; and (f) if such Management Limited Partner is not an individual, such Management Limited Partner's principal place of business and mailing address is in the state or foreign jurisdiction set forth below the Management Limited Partner's signature on the signature page.

ARTICLE XIV
OTHER PROVISIONS

14.1 Appointment of General Partner as Attorney-in-Fact.

14.1.1 Each Limited Partner, including, without limitation, each Additional Limited Partner, by its execution of this Agreement, irrevocably constitutes and appoints the General Partner as its true and lawful attorney-in-fact with full power and authority in its name, place and stead to execute, acknowledge, deliver, swear to, file and record at the appropriate public offices such documents as may be necessary or appropriate to carry out the provisions of this Agreement, including:

(a) All certificates and other instruments (including, without limitation, counterparts of this Agreement), and all amendments thereto, which the General Partner deems appropriate to form, qualify or continue the Partnership as a limited partnership (or a partnership in which the Limited Partners will have limited liability comparable to that provided in the Act), in the jurisdictions in which the Partnership may conduct business or in which such formation, qualification or continuation is, in the opinion of the General Partner, necessary or desirable to protect the limited liability of the Limited Partners.

(b) All instruments which the General Partner deems appropriate to reflect a change or modification of the Partnership adopted in accordance with the terms of this Agreement.

(c) All conveyances of property, and all other instruments, which the General Partner reasonably deems necessary in order to complete a dissolution and termination of the Partnership pursuant to this Agreement.

14.1.2 The appointment by all Limited Partners of the General Partner as

attorney-in-fact shall be deemed to be a power coupled with an interest, in recognition of the fact that each of the Partners under this Agreement will be relying upon the power of the General Partner to act as contemplated by this Agreement in any filing and other action by it on behalf of the Partnership, shall survive the bankruptcy, death, adjudication of incompetence or insanity, other incapacity or dissolution of any Person hereby giving such power, and the transfer or assignment of all or any portion of the Interests of such Person, and shall not be affected by the subsequent incapacity of the principal; provided that in the event of the assignment by a Limited Partner of all of its Interests, the foregoing power of attorney of the assignor Limited Partner shall survive such assignment only until such time as the assignee shall have been admitted to the Partnership and all required documents and instruments shall have been duly executed, filed and recorded to effect such substitution.

14.2 Amendments.

14.2.1 Each Additional Limited Partner, additional General Partner and successor General Partner shall become a signatory hereto by signing such number of counterpart signature pages to this Agreement, a power of attorney to the General Partner, and such other instruments, in such manner, as the General Partner shall determine. By so signing, each Additional Limited Partner, additional General Partner or successor General Partner, as the case may be, shall be deemed to have adopted and to have agreed to be bound by all of the provisions of this Agreement.

14.2.2 In addition to other amendments authorized herein or required by law, amendments may be made to this Agreement from time to time by the General Partner with the consent of the Limited Partners holding a majority of the outstanding Units; provided that an amendment which adversely affects one or more Partners in a manner that does not similarly affect all other Partners (other than through economic or voting dilution) shall also require the consent of such Partner (or if more than one Partner is similarly adversely affected, then consent by the Partners holding a majority of the outstanding Units held by such similarly adversely affected Partners shall be required).

14.2.3 In addition to other amendments authorized herein, amendments may be made to this Agreement from time to time by the General Partner, without the consent of any of the Limited Partners: (a) to delete or add any provision of this Agreement required to be so deleted or added by any federal or state official, which addition or deletion is deemed by such official to be for the benefit or protection of the Limited Partners; (b) to alter the interest or rights of any Partner in profits, losses or distributions hereunder to reflect the issuance of additional Interests in accordance with the terms of this Agreement; (c) to take such actions as may be necessary (if any) to insure that the Partnership will be treated as a partnership, and that each Limited Partner will be treated as a limited partner, for federal income tax purposes; provided that no amendment shall be adopted pursuant to this Section 14.2.3 unless the adoption thereof does not affect the limited liability of the Limited Partners or the status of the Partnership as a partnership for federal income tax purposes; (d) to amend this Agreement and take such other action as it determines in good faith is required or advisable to permit one or more Partners to avoid adverse income tax consequences as a result of the implementation of any legislation or regulations that impose greater taxes on

investment services partnership interests (as such term is used in legislation currently being considered as of the date of this Agreement) or similar interests that are applicable to the Partnership; (e) to issue additional Units or new classes of units having rights and preferences different from the Units to Limited Partners or Additional Limited Partners; or (f) to implement a Solvent Reorganization or to otherwise implement any other matter specifically contemplated by this Agreement.

14.2.4 If this Agreement is amended as a result of adding or substituting a Limited Partner or increasing the investment of a Limited Partner, the amendment to this Agreement shall be sufficient when it is signed by the General Partner and by the Person to be substituted or added or who is increasing its investment in the Partnership, and, if a Limited Partner is to be substituted, by the assigning Limited Partner. If this Agreement is amended to reflect the designation of an additional General Partner, the amendment to this Agreement shall be sufficient when it is signed by the other General Partner or General Partners and by the additional General Partner. If this Agreement is amended to reflect the withdrawal of a General Partner and if the business of the Partnership is to be continued, the amendment to this Agreement shall be sufficient when it is signed by the withdrawing General Partner (and such General Partner hereby so agrees) and by the remaining or successor General Partner or General Partners.

14.2.5 In making any amendments, there shall be prepared and filed by the General Partner such documents and certificates as may be required under the Act and under the laws of any other jurisdiction applicable to the Partnership.

14.3 Right of Set-Off. As security for any withholding tax or other liability or obligation to which the Partnership may be subject as a result of any act or status of any Limited Partner, or to which the Partnership may become subject with respect to the Interest of any Limited Partner, the Partnership shall have (and each Limited Partner hereby grants to the Partnership) a security interest in all amounts distributable to such Limited Partner to the extent of the amount of such withholding tax or other liability or obligation. The Partnership shall have a right of set-off against such distributions in the amount of such withholding tax or other liability or obligation. Any amount withheld pursuant to the Code or any other provision of federal, state or local tax or other law with respect to any distribution to a Partner shall be treated as an amount distributed to such Partner for all purposes under this Agreement.

14.4 Binding Provisions. The covenants and agreements contained herein shall be binding upon, and inure to the benefit of, the heirs, executors, administrators, personal representatives, successors and permitted assigns of the respective parties hereto.

14.5 Applicable Law. This Agreement shall be construed and enforced in accordance with the Act and other laws of the State of Delaware.

14.6 Entire Agreement. This Agreement and any applicable subscription agreements constitute the entire agreement of the parties as to the subject matter hereof and supersede any and all prior agreements, understandings and negotiations relating to such subject matter.

14.7 Counterparts. This Agreement may be executed in several counterparts, all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all of the parties have not signed the same counterpart. This Agreement may be executed by fax or electronic means.

14.8 Separability of Provisions. Each provision of this Agreement shall be considered separable, and if for any reason any provision or provisions hereof are determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation or effect of those portions of this Agreement which are valid.

14.9 Article and Section Titles. Article and Section titles are for descriptive purposes only and shall not control or alter the meaning of this Agreement as set forth in the text.

14.10 Disputes; Attorneys' Fees. In the event that any dispute between the parties hereto should result in litigation or arbitration, (i) such dispute shall be brought in the courts of Wilmington, Delaware or in the United States District Court for the District of Delaware, or shall be conducted before an arbitrator in Wilmington, Delaware, as applicable, and (ii) the prevailing party in such dispute shall be entitled to recover from the other party all reasonable fees, costs and expenses of enforcing any right of the prevailing party, including without limitation, reasonable attorneys' fees and expenses, all of which shall be deemed to have accrued upon the commencement of such action and shall be paid whether or not such action is prosecuted to judgment. Any judgment or order entered in such action shall contain a specific provision providing for the recovery of attorneys' fees and costs incurred in enforcing such judgment and an award of prejudgment interest from the date of the breach at the maximum rate of interest allowed by law. For the purposes of this Section 14.10: (a) attorneys' fees shall include, without limitation, fees incurred in the following: (i) post-judgment motions, (ii) contempt proceedings, (iii) garnishment, levy, and debtor and third party examinations, (iv) discovery, and (v) bankruptcy litigation; and (b) "prevailing party" shall mean the party who is determined in the proceeding to have prevailed or who prevails by dismissal, default or otherwise.

14.11 Management Limited Partner's Services. Nothing contained in this Agreement shall be deemed to obligate the Partnership or any Subsidiary to employ or retain any Management Limited Partner in any capacity whatsoever or to prohibit or restrict the Partnership (or any Subsidiary) from terminating the Services of the Management Limited Partner at any time or for any reason whatsoever, with or without Cause.

14.12 Spousal Consent. The spouses of the individual Management Limited Partners are fully aware of, understand and fully consent and agree to the provisions of this Agreement and its binding effect upon any community property interests or similar marital property interests in the Units they may now or hereafter own, and agree that the termination of their marital relationship with any Management Limited Partner for any reason shall not have the effect of removing any Unit otherwise subject to this Agreement from the coverage of this Agreement and that their awareness,

understanding, consent and agreement are evidenced by their signing this Agreement. Furthermore, each individual Management Limited Partner agrees to cause his or her spouse (and any subsequent spouse) to execute and deliver, upon the request of the Partnership, a counterpart of this Agreement, or a spousal joinder to this Agreement.

14.13 Waiver of Jury Trial. BECAUSE DISPUTES ARISING IN CONNECTION WITH COMPLEX FINANCIAL TRANSACTIONS ARE MOST QUICKLY AND ECONOMICALLY RESOLVED BY AN EXPERIENCED AND EXPERT PERSON AND THE PARTIES WISH APPLICABLE STATE AND FEDERAL LAWS TO APPLY (RATHER THAN ARBITRATION RULES), THE PARTIES DESIRE THAT THEIR DISPUTES BE RESOLVED BY A JUDGE APPLYING SUCH APPLICABLE LAWS. THEREFORE, TO ACHIEVE THE BEST COMBINATION OF THE BENEFITS OF THE JUDICIAL SYSTEM AND OR ARBITRATION, THE PARTIES HERETO WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT OR PROCEEDING BROUGHT TO ENFORCE OR DEFEND ANY RIGHT OR REMEDIES UNDER THIS AGREEMENT OR ANY DOCUMENTS ENTERED INTO IN CONNECTION WITH THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREIN.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first written above.

GENERAL PARTNER

APOLLO CKE HOLDINGS GP, LLC

By: /s/ Lance Milken

Name: Lance Milken

Vice President

[Signature Page to Apollo CKE Holdings, L.P. Limited Partnership Agreement]

CARL'S JR. RESTAURANT FRANCHISE AGREEMENT

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CARL'S JR. RESTAURANT FRANCHISE AGREEMENT

THIS AGREEMENT is made as of _____ by and between Carl Karcher Enterprises, Inc. ("CKE"), a California corporation, and _____

_____ ("Franchisee").

RECITALS:

As a result of the expenditure of time, skill, effort and money, CKE has developed and owns a unique and distinctive system ("System") relating to the development, establishment and operation of fast service restaurants ("Carl's Jr. Restaurants").

The distinguishing characteristics of the System include, without limitation, uniform and distinctive exterior and interior design and layout, including specially designed decor and furnishings; a highly refined and efficient kitchen layout featuring an automatic charbroiling cooking process; special recipes and menu items; procedures and techniques for food and beverage preparation and service; automated management information and control systems for inventory controls, cash controls and sales analysis; technical assistance and training through course instruction and manuals; and advertising and promotional programs. The System and its components may be changed, improved, and further developed by CKE from time to time.

CKE identifies the System by means of certain names, marks, logos, insignias, slogans, emblems, symbols and designs (collectively "Proprietary Marks") which CKE has designated or may in the future designate for use with the System. The Proprietary Marks used to identify the System, including the principal Proprietary Marks, may be modified by CKE and/or its affiliates from time to time.

CKE continues to develop, use and control the use of these Proprietary Marks in order to identify for the public the source of services and products marketed under the Proprietary Marks and the System, and to represent the System's high standards of quality, appearance and service.

Franchisee desires to obtain a license to use the System and to continuously operate one Carl's Jr. Restaurant ("Franchised Restaurant") at the location specified in attached Appendix A ("Franchised Location"), subject to the terms and conditions of this Agreement and in strict compliance with the standards and specifications established by CKE.

Franchisee understands and acknowledges the importance of CKE's high and uniform standards of quality, operations and service and the necessity of developing and operating the Franchised Restaurant in strict conformity with this Agreement and the Operations Procedures Manual ("OPM").

CKE is willing to grant Franchisee a license to operate the Franchised Restaurant at the Franchised Location, subject to the terms and conditions of this Agreement.

NOW THEREFORE, in consideration of CKE's grant to Franchisee of the right to operate a Franchised Restaurant at the Franchised Location during the term of this Agreement, as well as the mutual covenants, agreements and obligations set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. GRANT OF FRANCHISE

A. Grant

Subject to the provisions of this Agreement, CKE hereby grants to Franchisee the nonexclusive right ("Franchise") to continuously operate the Franchised Restaurant at the Franchised Location and to use the Proprietary Marks in the operation of the Franchised Restaurant. Franchisee may not operate the Franchised Restaurant at any site other than the Franchised Location and may not relocate the Franchised Restaurant without CKE's prior written consent, which may be withheld by CKE in its sole discretion. If CKE approves a relocation of the Franchised Restaurant, it shall have the right to charge Franchisee for all reasonable expenses actually incurred in connection with consideration of the relocation request.

Franchisee agrees that it will at all times faithfully, honestly and diligently perform its obligations under this Agreement, that it will continuously exert its best efforts to promote and enhance the business of the Franchised Restaurant and that it will not engage in any other business or activity that may conflict with its obligations under this Agreement, except the operation of other Carl's Jr. Restaurants or other restaurants operated by Franchisee that are franchised by CKE or its affiliates.

B. No Exclusivity

This Agreement does not give Franchisee any exclusive rights to use the System or the Proprietary Marks in any geographic area. Nothing in this Agreement prohibits CKE from, among other things: **(1)** operating or licensing others to operate at any location, during or after the term of this Agreement, any type of restaurant other than Carl's Jr. Restaurants; **(2)** operating or licensing others to operate, during the term of this Agreement, Carl's Jr. Restaurants at any location other than the Franchised Location; **(3)** operating or licensing others to operate, after this Agreement terminates or expires, Carl's Jr. Restaurants at any location, including the Franchised Location; and **(4)** merchandising and distributing goods and services identified by the Proprietary Marks at any location through any other method or channel of distribution. CKE reserves to itself all rights to use and license the System and the Proprietary Marks other than those expressly granted under this Agreement.

C. Forms of Agreement

Franchisee acknowledges that, over time, CKE has entered, and will continue to enter, into agreements with other franchisees that may contain provisions, conditions and obligations that differ from those contained in this Agreement. The existence of different forms of agreement and the fact that CKE and other franchisees may have different rights and obligations does not affect the duties of the parties to this Agreement to comply with the terms of this Agreement.

2. TERM

A. Initial Term

The Initial Term of this Agreement and the Franchise granted by this Agreement begins on the date of this Agreement and, unless this Agreement is terminated at an earlier date pursuant to Section 18, terminates as of the earlier of: **(1)** midnight on the day preceding the 20th anniversary of the date the Franchised Restaurant first opened for business; or **(2)** the expiration of the final term of Franchisee's lease for the Franchised Location. CKE shall complete and forward to Franchisee a notice to memorialize the date the Franchised Restaurant first opened for business.

Notwithstanding the foregoing, if Franchisee loses the right to possession of the Franchised Location, the Initial Term of this Agreement shall expire as of the date possession is lost. However, if the loss of possession is

not the result of any act or failure to act on Franchisee's part (other than a failure to extend the lease term), Franchisee may relocate the Franchised Restaurant (without paying any additional initial franchise fee or transfer fee) at its expense and the Initial Term shall not expire if: **(A)** CKE approves the new location; **(B)** Franchisee constructs and equips a Franchised Restaurant at the new location in accordance with the then-current System standards and specifications; **(C)** a Franchised Restaurant at the new location is open to the public for business within 6 months after the loss of possession of the Franchised Location; and **(D)** Franchisee reimburses CKE for all reasonable expenses actually incurred by CKE in connection with the approval of the new location.

B. Renewal Term

(1) At the expiration of the Initial Term, Franchisee shall have an option to remain a franchisee at the Franchised Location for a Renewal Term of 10 years or, at Franchisee's option, 5 years. Franchisee must give CKE written notice of whether or not it intends to exercise its renewal option and the length of the proposed Renewal Term not less than 12 months, nor more than 24 months, before the expiration of the Initial Term. Notwithstanding the foregoing, if Franchisee subleases the Franchised Location from CKE, Franchisee must give CKE the notice described in the preceding sentence not less than 6 months, nor more than 12 months, before notice of renewal is required to be provided to the landlord under the master lease. Failure by Franchisee to timely provide CKE the required notice constitutes a waiver by Franchisee of its option to remain a franchisee beyond the expiration of the Initial Term.

(2) If Franchisee desires to continue as a franchisee for the Renewal Term, Franchisee must comply with all of the following conditions prior to and at the end of the Initial Term:

(a) Franchisee shall not be in default under this Agreement or any other agreements between Franchisee and CKE or its affiliates; Franchisee shall not be in default beyond the applicable cure period under any real estate lease, equipment lease or financing instrument relating to the Franchised Restaurant; Franchisee shall not be in default beyond the applicable cure period with any vendor or supplier to the Franchised Restaurant; and, for the 12 months before the date of Franchisee's notice and the 12 months before the expiration of the Initial Term, Franchisee shall not have been in default beyond the applicable cure period under this Agreement or any other agreements between Franchisee and CKE or its affiliates.

(b) Franchisee shall make the capital expenditures required to renovate and modernize the Franchised Restaurant to conform to the interior and exterior designs, decor, color schemes, furnishings and equipment and presentation of the Proprietary Marks consistent with the image of the System for new Carl's Jr. Restaurants at the time Franchisee provides CKE the renewal notice, including such structural changes, remodeling, redecoration and modifications to existing improvements as may be necessary to do so.

(c) Franchisee and its employees at the Franchised Restaurant shall be in compliance with CKE's then-current training requirements.

(d) Franchisee shall have the right to remain in possession of the Franchised Location, or other premises acceptable to CKE, for the Renewal Term and all monetary obligations owed to Franchisee's landlord, if any, must be current.

(e) Franchisee, all individuals who executed this Agreement and all guarantors of Franchisee's obligations shall have executed a general release and a covenant not to sue, in a form satisfactory to CKE, of any and all claims against CKE and its affiliates and their respective past and present officers, directors, shareholders, agents and employees, in their corporate and individual capacities, including, without limitation, claims arising under federal, state and local laws, rules and ordinances, and claims arising out of, or relating to, this Agreement, any other agreements between Franchisee and CKE or its affiliates and Franchisee's operation of the Franchised Restaurant, other Carl's Jr. Restaurants operated by Franchisee and all other restaurants operated by Franchisee that are franchised by CKE or its affiliates.

(f) As determined by CKE in its sole discretion, Franchisee has operated the Franchised Restaurant and all of its other franchised Carl's Jr. Restaurants in accordance with the applicable franchise agreements and with the System (as set forth in the OPM or otherwise and as revised from time to time by CKE) and has operated each of its other restaurants that are franchised by CKE or its affiliates in accordance with the applicable franchise agreement.

(3) Within 4 months after CKE's receipt of Franchisee's written notice of its desire to renew, CKE shall advise Franchisee whether or not Franchisee is entitled to remain a franchisee for the Renewal Term. If CKE intends to permit Franchisee to remain a franchisee for the Renewal Term, CKE's notice will contain preliminary information regarding actions Franchisee must take to satisfy Sections 2.B.(2)(b) and (c). If CKE does not intend to permit Franchisee to remain a franchisee for the Renewal Term, CKE's notice shall specify the reasons for non-renewal. If CKE chooses not to permit Franchisee to remain a franchisee for the Renewal Term, it shall have the right to unilaterally extend the Initial Term of this Agreement as necessary to comply with any applicable laws.

(4) If Franchisee will remain a franchisee for the Renewal Term, CKE shall forward to Franchisee a new franchise agreement for the Renewal Term for Franchisee's signature at least 4 months prior to the expiration of the Initial Term. The form of renewal franchise agreement shall be the form then in general use by CKE for Carl's Jr. Restaurants (or, if CKE is not then granting franchises for Carl's Jr. Restaurants, that form of agreement as specified by CKE) and likely will differ from this Agreement, including, but not limited to, provisions relating to the royalty fee and advertising obligations.

(5) Franchisee shall pay CKE a renewal fee in the amount of $5,000 for a Renewal Term of 5 years or less or $10,000 for a Renewal Term greater than 5 years, but no more than 10 years.

(6) Franchisee shall execute the renewal franchise agreement for the Renewal Term and return the signed agreement to CKE, along with the renewal fee, at least one month prior to the expiration of the Initial Term. Failure by Franchisee to sign the renewal franchise agreement and return it to CKE (along with the renewal fee) within this time shall be deemed an election by Franchisee not to renew the Franchise and shall result in termination of this Agreement and the Franchise granted by this Agreement at the expiration of the Initial Term. Provided Franchisee has timely complied with all of the conditions set forth in this Section 2.B., CKE shall execute the renewal franchise agreement and promptly return a fully-executed copy to Franchisee.

3. FEES

A. Initial Franchise Fee

Franchisee has paid CKE an Initial Franchise Fee in the amount specified in Appendix A. Any Commitment Fee previously paid by Franchisee to CKE with respect to the Franchised Restaurant shall be credited against the Initial Franchise Fee. Franchisee acknowledges and agrees that the Initial Franchise Fee was paid in consideration of CKE initially granting this Franchise, it was fully earned at the time paid, and it is not refundable for any reason whatsoever.

B. Royalty Fee

In addition to all other amounts to be paid by Franchisee to CKE, Franchisee shall pay CKE a nonrefundable and continuing royalty fee in an amount set forth in attached Appendix B, which shall not exceed 4% of the Gross Sales of the Franchised Restaurant, for the right to use the System and the Proprietary Marks at the Franchised Location. If any taxes, fees or assessments are imposed on CKE by reason of its acting as franchisor or licensing the Proprietary Marks under this Agreement, Franchisee shall reimburse CKE the amount of those taxes, fees or assessments within 30 days after receipt of an invoice from CKE.

Gross Sales shall include all revenue from the sale of all services and products (except CKE approved promotional items) and all other income of every kind and nature (including gift certificates when redeemed but not when purchased) related to the Franchised Restaurant, whether for cash or credit and regardless of collection in the case of credit; provided, however, that Gross Sales shall not include any sales taxes or other taxes collected from customers by Franchisee for transmittal to the appropriate taxing authority.

C. Advertising Fees

Franchisee also shall spend and/or contribute for advertising between 4% and 7% of the Gross Sales of the Franchised Restaurant. The exact amount of the advertising fees to be spent and/or contributed by Franchisee, and the allocation of the advertising fees, as of the date of this Agreement, is set forth in Section 5 and attached Appendix C.

D. Remittance Reports

Within 5 business days after the end of each fiscal week (as defined by CKE from time to time), Franchisee shall submit to CKE in writing (or by electronic mail, polling by computer or such other form or method as CKE may designate) the amount of Gross Sales from the Franchised Restaurant during the preceding fiscal week and such other data or information as CKE may require.

E. Payment of Fees

Within 10 business days after the end of each fiscal week, Franchisee shall pay CKE (by check or by such other form or method as CKE may designate) the royalty fee, and the advertising fees required by Sections 5.B.-D. applicable to the Gross Sales for the fiscal week.

In the alternative, upon receipt of written notice from CKE, Franchisee shall pay CKE the royalty fee applicable to the Gross Sales and other amounts under this Agreement, including advertising fees and interest charges, by electronic funds transfer. In connection with payment of these fees by electronic funds transfer, CKE may designate a day for payment ("Due Date") different than that provided in the preceding paragraph. On each Due Date, CKE will transfer from the Franchised Restaurant's bank operating account ("Account") the amount reported to CKE in Franchisee's remittance report or determined by CKE by the records contained in the cash registers/computer terminals of the Franchised Restaurant. If Franchisee has not reported Gross Sales to CKE for any fiscal period, CKE will transfer from the Account an amount calculated in accordance with its estimate of the Gross Sales during the fiscal period. If, at any time, CKE determines that Franchisee has underreported the Gross Sales of the Franchised Restaurant, or underpaid the royalty fee or other amounts due to CKE under this Agreement, or any other agreement, CKE shall initiate an immediate transfer from the Account in the appropriate amount in accordance with the foregoing procedure, including interest as provided in this Agreement. Any overpayment will be credited to the Account effective as of the first reporting date after CKE and Franchisee determine that such credit is due.

In connection with payment of the royalty fee by electronic funds transfer, Franchisee shall: **(1)** comply with procedures specified by CKE in the OPM or otherwise in writing; **(2)** perform those acts and sign and deliver those documents as may be necessary to accomplish payment by electronic funds transfer as described in this Section 3.E.; **(3)** give CKE an authorization in the form designated by CKE to initiate debit entries and/or credit correction entries to the Account for payments of the royalty fee and other amounts payable under this Agreement, including any interest charges; and **(4)** make sufficient funds available in the Account for withdrawal by electronic funds transfer no later than the Due Date for payment thereof.

Failure by Franchisee to have sufficient funds in the Account shall constitute a default of this Agreement pursuant to Section 18.B.(2). Franchisee shall not be entitled to set off, deduct or otherwise withhold any royalty fees, advertising contributions, interest charges or any other monies payable by Franchisee under this Agreement

on grounds of any alleged non-performance by CKE of any of its obligations or for any other reason.

F. Interest

If any payments by Franchisee due to CKE are not received by CKE by the date due, Franchisee, in addition to paying the amount owed, shall pay CKE interest on the amount owed from the date due until paid at the maximum rate permitted for indebtedness of this nature in the state in which the Franchised Restaurant is located, not to exceed 1.5% per fiscal period (as defined by CKE from time to time) or a portion of a fiscal period. Payment of interest by Franchisee on past due obligations is in addition to all other remedies and rights available to CKE pursuant to this Agreement or under applicable law.

G. Partial Payments

No payment by Franchisee or acceptance by CKE of any monies under this Agreement for a lesser amount than due shall be treated as anything other than a partial payment on account. Franchisee's payment of a lesser amount than due with an endorsement, statement or accompanying letter to the effect that payment of the lesser amount constitutes full payment shall be given no effect and CKE may accept the partial payment without prejudice to any rights or remedies it may have against Franchisee. Acceptance of payments by CKE other than as set forth in this Agreement shall not constitute a waiver of CKE's right to demand payment in accordance with the requirements of this Agreement or a waiver by CKE of any other remedies or rights available to it pursuant to this Agreement or under applicable law. Notwithstanding any designation by Franchisee, CKE shall have sole discretion to apply any payments by Franchisee to any of its past due indebtedness for royalty fees, advertising contributions, purchases from CKE or its affiliates, interest or any other indebtedness. CKE has the right to accept payment from any other entity as payment by Franchisee. Acceptance of that payment by CKE will not result in that other entity being substituted for Franchisee.

H. Collection Costs and Expenses

Franchisee agrees to pay to CKE on demand any and all costs and expenses incurred by CKE in enforcing the terms of this Agreement, including, without limitation, collecting any monies owed by Franchisee to CKE. These costs and expenses include, but are not limited to, costs and commissions due a collection agency, reasonable attorneys' fees (including attorneys' fees for in-house counsel employed by CKE or its affiliates and any attorneys' fees incurred by CKE in bankruptcy proceedings), costs incurred in creating or replicating reports demonstrating Gross Sales of the Franchised Restaurant, court costs, expert witness fees, discovery costs and reasonable attorneys' fees and costs on appeal, together with interest charges on all of the foregoing.

4. RECORDKEEPING AND REPORTS

A. Recordkeeping

Franchisee agrees to use computerized cash and data capture and retrieval systems that meet CKE's specifications and to record sales of the Franchised Restaurant electronically or on tape for all sales at or from the Franchised Location. Franchisee shall keep and maintain, in accordance with any procedures set forth in the OPM, complete and accurate books and records pertaining to the Franchised Restaurant sufficient to fully report to CKE. Franchisee's books and records shall be kept and maintained using generally accepted accounting principles ("GAAP"), if Franchisee uses GAAP in any of its other operations, or using other recognized accounting principles applied on a consistent basis which accurately and completely reflect the financial condition of Franchisee. Franchisee will preserve all of its books, records and state and federal tax returns for at least 5 years after the later of preparation or filing (or such longer period as may be required by any governmental entity) and make them available and provide duplicate copies to CKE within 5 days after CKE's written request.

B. Periodic Reports

Franchisee shall, at Franchisee's expense, submit to CKE, in the form prescribed by CKE, a quarterly profit and loss statement and balance sheet (both of which may be unaudited) within 30 days after the end of each fiscal quarter (as defined by CKE from time to time) during each fiscal year (as defined by CKE from time to time). CKE shall have the right, to be exercised in its sole discretion, to require that Franchisee provide CKE profit and loss statements and balance sheets at other times requested by CKE. Each statement and balance sheet shall be signed by Franchisee or by Franchisee's treasurer or chief financial officer attesting that it is true, correct and complete and uses accounting principles applied on a consistent basis which accurately and completely reflect the financial condition of Franchisee.

C. Annual Reports

At CKE's request, Franchisee shall, at its expense, provide to CKE either a reviewed or audited profit and loss statement and balance sheet for the Franchised Restaurant within 60 days after the end of each fiscal year to be signed by Franchisee or by Franchisee's treasurer or chief financial officer attesting that the financial statements present fairly the financial position of Franchisee and the results of operations of the Franchised Restaurant during the period covered. CKE shall have the right, in its reasonable discretion, to require that Franchisee, at Franchisee's expense, submit audited financial statements prepared by a certified public accounting firm acceptable to CKE for any fiscal year or any period or periods of a fiscal year.

D. Other Reports

Franchisee shall submit to CKE, for review or auditing, such other forms, reports, records, information and data as CKE may reasonably designate, in the form and at the times and places reasonably required by CKE, upon request and as specified from time to time in the OPM or otherwise in writing.

E. Public Filings

If Franchisee is or becomes a publicly-held entity in accordance with other provisions of this Agreement, Franchisee shall send to CKE copies of all reports (including responses to comment letters) or schedules Franchisee may file with the U.S. Securities and Exchange Commission (certified by Franchisee's chief executive officer to be true, correct, complete and accurate) and copies of any press releases it may issue, within 3 days of the filing of those reports or schedules or the issuance of those releases.

F. Audit Rights

CKE or its designee shall have the right at all reasonable times, both during and after the term of this Agreement, to inspect, copy and audit Franchisee's books, records, and federal, state and local tax returns, and such other forms, reports, information and data as CKE reasonably may designate, applicable to the operation of the Franchised Restaurant. If an inspection or audit discloses an understatement of Gross Sales, Franchisee shall pay CKE, within 10 days after receipt of the inspection or audit report, the deficiency in the royalty fees and advertising contributions plus interest (at the rate and on the terms provided in Section 3.F.) from the date originally due until the date of payment. If an inspection or audit is made necessary by Franchisee's failure to furnish reports or supporting records as required under this Agreement, or to furnish such reports, records or information on a timely basis, or if an understatement of Gross Sales for the period of any audit is determined by any audit or inspection to be greater than 2%, Franchisee also shall reimburse CKE for the reasonable cost of the audit or inspection including, without limitation, the charges of attorneys and independent accountants, and the travel expenses, room, board and compensation of CKE's employees or designees involved in the audit or inspection. The foregoing remedies shall be in addition to all other remedies and rights available to CKE under this Agreement or applicable law.

If Franchisee fails to provide CKE on a timely basis with the records, reports and other information required by this Agreement or, upon request of CKE, with copies of same, CKE or its designee shall have access at all

reasonable times (and as often as necessary) to Franchisee's books and records for the purpose, among other things, of preparing the required records, reports and other information. Franchisee promptly shall reimburse CKE or its designee for all costs and expenses associated with CKE obtaining such records, reports or other information.

5. ADVERTISING AND PROMOTION

A. Contributions/Expenditures by Franchisee

During the term of this Agreement, Franchisee shall have a weekly advertising and promotion obligation ("APO") in the amount set forth in Section 3.C. and Appendix C. Following written notice to Franchisee, CKE may modify the amount and allocation of the APO subject to the provisions of Section 5.F. Franchisee shall pay, at the same time and in the same manner as the royalty fee, that portion of the APO as CKE may direct to the Production Fund in accordance with Section 5.B. The remainder of the APO shall be paid, at the same time and in the same manner as the royalty fee, to a DMA Fund in accordance with Section 5.C.

B. Production Fund

CKE has established, and will maintain and administer a fund for the creation and development of advertising, marketing and public relations, research and related programs, activities and materials that CKE, in its sole discretion, deems appropriate ("Production Fund"). Franchisee shall contribute to the Production Fund the amount set forth in Appendix C, as subsequently modified pursuant to Section 5.F. Carl's Jr. Restaurants operated by CKE and its affiliates shall contribute to the Production Fund on the same basis as comparable franchisees.

CKE or its designee shall direct all advertising, marketing, and public relations programs and activities financed by the Production Fund, with sole discretion over the creative concepts, materials and endorsements used in those programs and activities, and the geographic, market and media placement and allocation of advertising and marketing materials. Franchisee agrees that the Production Fund may be used among other things to pay the costs of preparing and producing such associated materials and programs as CKE or its designee may determine, including video, audio and written advertising materials; employing advertising agencies; sponsorship of sporting, charitable or similar events; administering regional and multi-regional advertising programs, including, without limitation, purchasing direct mail and other media advertising and employing advertising agencies to assist with these efforts; and supporting public relations, market research and other advertising, promotional and marketing activities. Franchisee agrees to participate in all advertising, marketing, promotions, research and public relations programs instituted by the Production Fund. From time to time, CKE or its designee may furnish Franchisee with marketing, advertising and promotional materials at the cost of producing them, plus any related shipping, handling and storage charges.

C. DMA Fund

CKE has established and will maintain and administer a regional advertising fund for Carl's Jr. Restaurants in the regional area in which the Franchised Restaurant is located ("DMA Fund"). Franchisee shall contribute to the DMA Fund the amount set forth in Appendix C, as subsequently modified pursuant to Section 5.F. Carl's Jr. Restaurants operated by CKE and its affiliates in an area covered by a DMA Fund shall contribute to the DMA Fund on the same basis as comparable franchisees.

CKE or its designee shall direct all advertising, marketing, and public relations programs and activities financed by the DMA Fund, with sole discretion over the creative concepts, materials and endorsements used in those programs and activities, and the geographic, market and media placement and allocation of advertising and marketing materials. Franchisee agrees that the DMA Fund may be used to pay the costs of preparing and producing such associated materials and programs as CKE or its designee may determine, including video, audio and written advertising materials; employing advertising agencies; sponsorship of sporting, charitable or similar events; administering regional and multi-regional advertising programs, including, without limitation, purchasing direct

mail and other media advertising and employing advertising agencies to assist with these efforts; and supporting public relations, market research and other advertising, promotional and marketing activities. Franchisee agrees to participate in all advertising, marketing, promotions, research and public relations programs instituted by the DMA Fund. From time to time, CKE or its designee may furnish Franchisee with marketing, advertising and promotional materials at the cost of producing them, plus any related shipping, handling and storage charges.

D. Local Store Marketing

Franchisee may conduct approved local store marketing ("LSM") at its own expense. CKE or its designee periodically shall advise Franchisee of the advertising and sales promotions approved by CKE.

Franchisee may, during the period beginning 30 days before the scheduled opening of the Franchised Restaurant and continuing for 90 days after the Franchised Restaurant first opens for business ("Grand Opening Period"), conduct such grand opening advertising as CKE and Franchisee deem appropriate. CKE will reimburse Franchisee up to $5,000 for expenditures made for grand opening advertising during the Grand Opening Period if those expenditures were pre-approved by CKE and comply with this Section and if Franchisee submits written proof to CKE of the grand opening advertising and the expense for that advertising no later than 60 days after the end of the Grand Opening Period.

Local advertising and promotion materials may be purchased from any CKE approved source. If purchased from a source other than CKE or its affiliates, these materials shall comply with federal and local laws and regulations and with the guidelines for advertising and promotions promulgated from time to time by CKE or its designee and shall be submitted to CKE or its designee at least 30 days prior to first use for its approval, which CKE may grant or withhold in its sole discretion. In no event shall Franchisee's advertising contain any statement or material which, in the sole discretion of CKE, may be considered: **(1)** in bad taste or offensive to the public or to any group of persons; **(2)** defamatory of any person or an attack on any competitor; **(3)** to infringe upon the use, without permission, of any other persons' trade name, trademark, service mark or identification; or **(4)** inconsistent with the public image of CKE or the System.

E. Treatment of Payments to CKE

CKE shall separately account for the Production Fund and the DMA Funds, but none of the funds shall be required to be segregated from CKE's other monies. None of the funds shall be used to defray any of CKE's general operating expenses. Each fund may hire employees, either full-time or part-time, for its administration. CKE and its affiliates may be reimbursed by each fund for expenses directly related to the fund's marketing programs including, without limitation, conducting market research, preparing advertising and marketing materials, and collecting and accounting for contributions to each fund. CKE may spend in any fiscal year an amount greater or less than the aggregate contribution of all Carl's Jr. Restaurants to each fund during that year or cause each fund to invest any surplus for future use by the fund. A statement of monies collected and costs incurred by each fund shall be prepared annually and shall be furnished to Franchisee within a reasonable period of time following a written request. CKE or its designee will have the right to cause each fund to be incorporated or operated through an entity separate from CKE at such time as CKE or its designee deems appropriate, and such successor entity shall have all rights and duties of CKE pursuant to this Section 5.

Franchisee understands and acknowledges that each fund is intended to enhance recognition of the Proprietary Marks and patronage of Carl's Jr. Restaurants. CKE will endeavor to utilize each fund to develop advertising and marketing materials and programs, and to place advertising that will benefit the System and all Carl's Jr. Restaurants contributing to the fund. However, Franchisee agrees that CKE is not liable to Franchisee and Franchisee forever covenants not to sue and holds CKE harmless of any liability or obligation to ensure that expenditures by each fund in or affecting any geographic area (including the Franchised Location) are proportionate or equivalent to the contributions to the fund by Carl's Jr. Restaurants operating in that geographic area, or that any Carl's Jr. Restaurant will benefit directly or in

proportion to its contribution to each fund from the development of advertising and marketing materials or the placement of advertising. Except as expressly provided in this Section 5, neither CKE nor its designee assumes any direct or indirect liability to Franchisee with respect to the maintenance, direction or administration of each fund.

CKE reserves the right, in its sole discretion, to: **(1)** suspend contributions to and operations of each fund for one or more periods that it determines to be appropriate; **(2)** terminate any fund upon 30 days' written notice to Franchisee and establish, if CKE so elects, one or more new advertising funds; and **(3)** upon the written request of any franchised or company restaurants, defer or waive, in whole or in part, any advertising fees required by this Section if, in CKE's sole judgment, there has been demonstrated unique, objective circumstances justifying any such waiver or deferral. On termination of a fund, all monies in the fund shall be spent for advertising and/or promotional purposes. CKE has the right to reinstate any fund upon the same terms and conditions set forth in this Agreement upon 30 days' prior written notice to Franchisee. CKE, in its sole discretion as it deems appropriate in order to maximize media effectiveness, may transfer monies from the Production Fund to any DMA Fund or from all DMA Funds to the Production Fund.

F. Changes in the APO

CKE has the right, following written notice to Franchisee, to reallocate the APO and to increase the APO; however, CKE will not increase the APO by more than ½% of Gross Sales in any 12 month period.

6. OPERATIONS PROCEDURES MANUAL

CKE shall loan to Franchisee during the term of this Agreement one copy of, or electronic access to, CKE's confidential and proprietary OPM which contains information and knowledge that is unique, necessary and material to the System. (As used in this Agreement, the term "OPM" also includes all written correspondence from CKE regarding the System, other publications, materials, drawings, memoranda, videotapes, CDs, DVDs, audio tapes, and electronic media that CKE from time to time may provide to Franchisee.) The OPM may be supplemented or amended from time to time by letter, electronic mail, bulletin, videotapes, audio tapes, CDs, DVDs, software or other communications concerning the System to reflect changes in the image, specifications and standards relating to developing, equipping, furnishing and operating a Carl's Jr. Restaurant. CKE reserves the right to furnish all or part of the OPM to Franchisee in electronic form or online (including by Intranet) and establish terms of use for access to any restricted portion of CKE's web site. Franchisee shall keep its copy of the OPM current and up-to-date with all additions and deletions provided by or on behalf of CKE and shall purchase whatever equipment and related services (including, without limitation, a video cassette recorder, DVD player, computer system, Internet service, dedicated phone line, facsimile machine, etc.) as may be necessary to receive these communications. If a dispute relating to the contents of the OPM develops, the master copy maintained by CKE at its principal offices shall control.

The OPM contains detailed standards, specifications, instructions, requirements, methods and procedures for management and operation of the Franchised Restaurant. The OPM also may relate to the selection, purchase, storage, preparation, packaging, ingredients, recipes, service and sale of all products and beverages sold at the Franchised Restaurant; management and employee training; marketing, advertising and sales promotions; maintenance and repair of the Franchised Restaurant building, grounds, equipment, graphics, signs, interior and exterior decor items, fixtures and furnishings; employee dress attire and appearance standards; menu concept and graphics; and accounting, bookkeeping, records retention and other business systems, procedures and operations. Franchisee agrees at all times to operate the Franchised Restaurant in strict conformity with the OPM; to maintain the OPM at the Franchised Restaurant; to not reproduce the OPM or any part of it; and to treat the OPM as confidential and proprietary, and; to disclose the contents of the OPM only to those employees of Franchisee who have a need to know.

7. MODIFICATIONS OF THE SYSTEM

A. CKE, in its sole discretion, shall be entitled from time to time to change or modify the System, including modifications to the OPM, the menu and menu formats, the required equipment, the signage, the building and premises of the Franchised Restaurant (including the trade dress, decor and color schemes), the presentation of the Proprietary Marks, the adoption of new administrative forms and methods of reporting and of payment of any monies owed to CKE (including electronic means of reporting and payment) and the adoption and use of new or modified Proprietary Marks or copyrighted materials. Franchisee shall accept and use or display in the Franchised Restaurant any such changes or modifications in the System as if they were a part of the System at the time this Agreement was executed, and Franchisee will make such expenditures as the changes or modifications in the System may reasonably require.

B. Within 30 days after receipt of written notice from CKE, Franchisee shall begin selling any newly authorized menu items and cease selling any menu items that are no longer authorized. All food, beverage and merchandise items authorized for sale at the Franchised Restaurant shall be offered for sale under the specific name designated by CKE. CKE, in its sole discretion, may restrict sales of menu items to certain time periods during the day. Franchisee shall establish menu prices in its sole and absolute discretion. If Franchisee has a suggestion for a new menu item or for a change to an authorized menu item or Franchisee desires to participate in a test market program, Franchisee shall provide CKE written notice prior to implementation. Franchisee shall not add or modify any menu item or participate in a test market program without first having obtained CKE's prior written approval. Franchisee shall purchase any additional equipment and smallwares as CKE deems reasonably necessary in connection with new menu items. If CKE requires Franchisee to begin offering a new menu item which requires the purchase of additional equipment, a reasonable period of time, as determined in the sole discretion of CKE, shall be provided for the financing, purchase and installation of any such equipment before such new menu items must be offered for sale at the Franchised Restaurant.

C. Extensive structural changes, major remodeling and renovations, and substantial modifications to existing equipment and improvements to modernize and conform the Franchised Restaurant to the image of the System for new franchised and company restaurants shall be required at CKE's request (but not more often than every 5 years). Capital expenses necessary for the repair and maintenance of the Franchised Location are not subject to the time limitations described in the preceding sentence. Within 60 days after receipt of CKE's written notice regarding the required modernization, Franchisee shall prepare and complete drawings and plans for the required modernization. These drawings and plans must be submitted to, and their use approved by, CKE prior to the commencement of work. Franchisee shall complete the required modernization within the time reasonably specified by CKE in its written notice.

D. CKE has the right, in its sole discretion, to waive, defer or permit variations from the standards of the System or the applicable agreement to any franchisee or prospective franchisee based on the peculiarities of a particular site, existing building configuration or circumstance, density of population, business potential, trade area population or any other condition or circumstance. CKE shall have the right, in its sole discretion, to deny any such request CKE believes would not be in the best interests of the System.

E. If Franchisee develops any new concepts, processes or improvements relating to the System, whether or not pursuant to a CKE authorized test, Franchisee promptly shall notify CKE and provide CKE with all information regarding the new concept, process or improvement, all of which shall become the property of CKE and its affiliates and which may be incorporated into the System without any payment to Franchisee. Franchisee, at its expense, promptly shall take all actions deemed necessary or desirable by CKE to vest in CKE ownership of such concepts, processes or improvements.

8. TRAINING

A. Franchise Management Training Program ("FMTP")

CKE shall provide Franchisee and certain designated employees the FMTP in the operation of a Carl's Jr.

Restaurant at those times and those places designated by CKE. The FMTP will include classroom instruction and training at CKE's designated training facilities and at a Carl's Jr. Restaurant designated by CKE. Franchisee (or, if Franchisee is owned by more than one individual, Franchisee's Operating Principal, defined in Section 13.G.), Franchisee's Restaurant Manager and any other person designated by CKE shall attend and satisfactorily complete each element of the FMTP.

Franchisee shall pay CKE, for each person attending the FMTP, a tuition fee as established by CKE from time to time. Franchisee will be required to pay all travel, living and other expenses incurred by Franchisee's employees while attending the training. CKE reserves the right to dismiss from the training program any person whom CKE does not believe will perform acceptably in the position for which he has been hired by Franchisee and Franchisee shall provide a suitable replacement within one month of such dismissal.

B. Additional Training

CKE shall have the right (which may be exercised at any time and in CKE's sole discretion) to require that Franchisee, the Operating Principal, Franchisee's Restaurant Manager and any other employees designated by CKE take and successfully complete other training courses in addition to the FMTP. CKE reserves the right to require Franchisee to pay a tuition fee for these additional training programs as established by CKE from time to time. Franchisee will be required to pay all travel, living and other expenses incurred by Franchisee's employees while attending the training.

C. Training by Franchisee

Franchisee shall conduct such initial and continuing training programs for its employees as CKE may require from time to time.

9. ADDITIONAL SERVICES BY CKE

In addition to the services described elsewhere in this Agreement, during the term of this Agreement, CKE shall make the following services available to Franchisee at no additional cost:

A. Pre-Opening Assistance

CKE shall provide consultation and advice to Franchisee as CKE deems appropriate with regard to construction or renovation and operation of the Franchised Restaurant, building layout, furnishings, fixtures and equipment plans and specifications, training, purchasing and inventory control and those other matters as CKE deems appropriate.

B. Opening of the Franchised Restaurant

Upon Franchisee's reasonable request, or at CKE's discretion, CKE shall provide assistance in opening the Franchised Restaurant and in training Franchisee's employees as CKE deems appropriate in light of Franchisee's needs and the availability of CKE personnel.

C. Post-Opening Assistance

CKE periodically, as it deems appropriate, shall advise and consult with Franchisee in connection with the operation of the Franchised Restaurant. CKE, as it deems appropriate, shall provide to Franchisee its knowledge and expertise regarding the System and pertinent new developments, techniques and improvements in the areas of restaurant design, management, food and beverage preparation, sales promotion, service concepts and other areas. CKE may provide these services through visits by CKE's representatives to the Franchised Restaurant or Franchisee's offices, the distribution of printed or filmed material or electronic information, meetings or seminars,

telephone communications, email communications or other communications.

D. CKE's Right to Inspect the Franchised Restaurant

To determine whether Franchisee and the Franchised Restaurant are in compliance with this Agreement and with all specifications, quality standards and operating procedures prescribed by CKE for the operation of Carl's Jr. Restaurants, CKE or its designees shall have the right at any reasonable time and without prior notice to Franchisee to: **(1)** inspect the Franchised Location; **(2)** observe, photograph and videotape the operations of the Franchised Restaurant for such consecutive or intermittent periods as CKE deems necessary; **(3)** remove samples of any food and beverage product, material or other products for testing and analysis (without paying for the samples); **(4)** interview personnel of the Franchised Restaurant; **(5)** interview customers of the Franchised Restaurant; and **(6)** inspect and copy any books, records and documents relating to the operation of the Franchised Restaurant or, upon the request of CKE or its designee, require Franchisee to send copies thereof to CKE or its designee. Franchisee agrees to cooperate fully with CKE or its designee in connection with any such inspections, observations, videotaping, product removal and interviews. Franchisee shall take all necessary steps to immediately correct any deficiencies detected during these inspections, including, without limitation, ceasing further sale of unauthorized menu items and ceasing further use of any equipment, advertising materials or supplies that do not conform with the standards and requirements promulgated by CKE from time to time. Franchisee shall present to its customers such evaluation forms as are periodically prescribed by CKE and shall participate and/or request its customers to participate in any surveys performed by or on behalf of CKE as CKE may direct.

E. Delegation

CKE has the right, from time to time, to delegate the performance of any portion or all of its obligations and duties under this Agreement to designees, whether affiliates or agents of CKE or independent contractors with which CKE has contracted to provide this service.

10. PERFORMANCE STANDARDS AND UNIFORMITY OF OPERATION

Products sold and services performed under the Proprietary Marks have a reputation for quality. This reputation has been developed and maintained by CKE, and it is of the utmost importance to CKE, Franchisee and all other franchisees of CKE that this reputation be maintained. In recognition of the mutual benefits that come from maintaining the reputation for quality enjoyed by the System, Franchisee covenants and agrees, with respect to the operation of the Franchised Restaurant, that Franchisee and its employees shall comply with all of the requirements of the System as set forth in the OPM or otherwise, and Franchisee additionally shall comply with the following:

A. Standards, Specifications and Procedures

Franchisee acknowledges that each and every detail of the appearance, layout, decor, services and operation of the Franchised Restaurant is important to CKE and other Carl's Jr. Restaurants. Franchisee agrees to cooperate with CKE by maintaining these high standards in the operation of the Franchised Restaurant. Franchisee further agrees to comply with all System specifications, recipes, standards and operating procedures (whether contained in the OPM or any other written communication to Franchisee) relating to the appearance, function, cleanliness and operation of a Carl's Jr. Restaurant, including, but not limited to: **(1)** type, quality, taste, weight, dimensions, ingredients, uniformity, manner of preparation, and sale of all food products and beverages sold at the Franchised Restaurant and all other products used in the packaging and sale of those products and beverages; **(2)** sales and marketing procedures and customer service; **(3)** advertising and promotional programs; **(4)** layout, decor and color scheme of the Franchised Restaurant; **(5)** appearance and dress of employees; **(6)** safety, maintenance, appearance, cleanliness, sanitation, standards of service, and operation of the Franchised Restaurant; **(7)** submission of requests for approval of brands of products, supplies and suppliers; **(8)** use and illumination of signs, posters, displays, standard formats and similar items; **(9)** identification of Franchisee as the owner of the Franchised Restaurant;

(10) types of fixtures, furnishings, equipment, smallwares and packaging; and **(11)** the make, type, location and decibel level of any game, entertainment or vending machine. Mandatory specifications, standards and operating procedures, including upgraded or additional equipment, that CKE prescribes from time to time in the OPM or otherwise communicates to Franchisee in writing, shall constitute provisions of this Agreement as if fully set forth in this Agreement.

B. Approved Products, Distributors and Suppliers

Franchisee acknowledges that the reputation and goodwill of Carl's Jr. Restaurants are based upon, and can only be maintained by, the sale of distinctive, high quality food products and beverages, and the presentation, packaging and service of such products and beverages in an efficient and appealing manner. CKE may develop certain proprietary food products that will be prepared by or for CKE according to CKE's proprietary special recipes and formulas. CKE also has developed standards and specifications for other food products, ingredients, seasonings, mixes, beverages, materials and supplies incorporated or used in the preparation, cooking, serving, packaging and delivery of prepared food products authorized for sale at Carl's Jr. Restaurants. Franchisee agrees that the Franchised Restaurant will: **(1)** purchase those food products developed by CKE pursuant to a special recipe or formula only from CKE, an affiliate of CKE or a third party designated and licensed by CKE to prepare and sell such products; and **(2)** purchase from manufacturers, distributors, vendors and suppliers (collectively "suppliers") approved by CKE all other goods, food products, ingredients, spices, seasonings, mixes, beverages, materials and supplies used in the preparation of products (collectively "goods"), as well as advertising materials, furniture, fixtures, equipment, smallwares, menus, forms, paper and plastic products, packaging or other materials (collectively "materials") that meet the standards and specifications promulgated by CKE from time to time. CKE has the right to require that Franchisee use only certain brands and to prohibit Franchisee from using other brands. CKE may from time to time modify the list of approved brands and/or suppliers, and Franchisee shall not, after receipt of such modification in writing, reorder any brand from any supplier that is no longer approved.

CKE may approve one or more suppliers for any goods or materials and may approve a supplier only as to certain goods or materials. CKE may concentrate purchases with one or more suppliers to obtain lower prices and/or the best advertising support and/or services for any group of Carl's Jr. Restaurants or any other group of restaurants franchised or operated by CKE or its affiliates. Approval of a supplier may be conditioned on requirements relating to the frequency of delivery, reporting capabilities, standards of service, including prompt attention to complaints, or other criteria, and concentration of purchases, as set forth above, and may be temporary pending a further evaluation of such supplier by CKE. CKE may establish commissaries and distribution facilities owned and operated by CKE or an affiliate that CKE shall designate as an approved supplier.

If Franchisee proposes to purchase any goods or materials (that Franchisee is not required to purchase from CKE, an affiliate of CKE or a designated supplier) from a supplier that CKE has not previously approved, Franchisee shall submit to CKE a written request for such approval, or shall request the supplier to do so itself. CKE has the right to require, as a condition of its approval, that its representatives be permitted to inspect the supplier's facilities, and that such information, specifications and samples as CKE reasonably designates be delivered to CKE and/or to an independent, certified laboratory designated by CKE for testing prior to granting approval. A charge not to exceed the reasonable cost of the inspection and the actual cost of the test shall be paid by Franchisee. CKE reserves the right, at its option, to re-inspect the facilities and products of any such approved supplier and to revoke its approval upon the suppliers' failure to continue to meet any of the foregoing criteria.

Franchisee shall at all times maintain an inventory of approved goods and materials sufficient in quality and variety to realize the full potential of the Franchised Restaurant. CKE may, from time to time, conduct market research and testing to determine consumer trends and the salability of new food products and services. Franchisee agrees to cooperate in these efforts by participating in CKE's customer surveys and market research programs if requested by CKE. All customer surveys and market research programs will be at CKE's sole cost and expense, unless such survey or program has been approved by Franchisee and Franchisee has approved its proportionate

cost. Franchisee shall not be allowed to test anything without first being requested to by CKE and signing a test letter agreement in a form satisfactory to CKE.

CKE and its affiliates disclaim all express or implied warranties concerning any approved goods, materials or services, including, without limitation, any warranties as to merchantability, fitness for a particular purpose, availability, quality, pricing or profitability. Franchisee acknowledges that CKE and its affiliates may, under appropriate circumstances, receive fees, commissions, field-of-use license royalties, or other consideration from approved suppliers based on sales to franchisees, and that CKE may charge non-approved suppliers reasonable testing or inspection fees.

C. Menu Boards and Formats

CKE shall have the right to prescribe, and subsequently vary, one or more menu boards and formats to be utilized in the Franchised Restaurant. The menu boards and formats may include requirements concerning organization, graphics, product descriptions, illustrations and other matters (except prices) related to the menu. Prescribed menu boards and formats may vary depending on region, market size or other factors deemed relevant by CKE. If any menu board and format utilized by Franchisee ceases to be an authorized menu board and format, Franchisee shall have a reasonable period of time (not to exceed 6 months) to discontinue use of the old menu board and format and begin using an authorized menu board and format.

D. Hardware and Software

Franchisee agrees to procure and install such data processing equipment computer hardware and software, required dedicated telephone, DSL and power lines, high speed Internet connections, modems, printers and other computer-related accessory or peripheral equipment as CKE specifies in the OPM or otherwise. All of the foregoing must be able to provide CKE that information, in that format/medium, as CKE reasonably may specify from time to time. Franchisee shall provide all assistance required by CKE to bring Franchisee's computer system on-line with the computer system designated by CKE and maintained by CKE or its affiliates at the earliest possible time. Franchisee agrees that CKE shall have the free and unfettered right to retrieve any data and information from Franchisee's computers as CKE, in its sole discretion, deems appropriate, including electronically polling the daily sales, menu mix and other data of the Franchised Restaurant. All of the hardware and software specified to be installed or purchased, or activities Franchisee is to accomplish, and the delivery cost of all hardware and software, shall be at Franchisee's expense.

Franchisee shall: **(1)** use the proprietary software program, system documentation manuals and other proprietary materials now and hereafter required by CKE in connection with the operation of the Franchised Restaurant; **(2)** if requested by CKE, execute CKE's standard software license or similar agreement; **(3)** input and maintain in Franchisee's computer such data and information as CKE prescribes in the OPM, software programs, documentation or otherwise; and **(4)** purchase new or upgraded software programs, system documentation manuals and other proprietary materials at then-current prices whenever adopted system-wide by CKE.

Franchisee acknowledges that computer systems are designed to accommodate a finite amount of data and terminals, and that, as these limits are reached, or as technology or software is developed in the future, CKE may, in its sole discretion, mandate that Franchisee: **(A)** add memory, ports and other accessories or peripheral equipment or additional, new or substitute software to the original computer system purchased by Franchisee; and **(B)** replace or upgrade the entire computer system with a larger system capable of assuming and discharging the computer-related tasks and functions specified by CKE. Franchisee also acknowledges that computer designs and functions change periodically and that CKE may desire to make substantial modifications to its computer specifications or to require installation of entirely different systems during the term of this Agreement or upon renewal of this Agreement.

To ensure full operational efficiency and communication capability between CKE's computers and those

of all Carl's Jr. Restaurants, Franchisee agrees, at its expense, to keep its computer system in good maintenance and repair and to make additions, changes, modifications, substitutions and replacements to its computer hardware, software, telephone and power lines and other computer-related facilities as directed by CKE, and on the dates and within the times specified by CKE in its sole discretion. Upon termination or expiration of this Agreement, all computer software, disks, tapes and other magnetic storage media shall be returned to CKE in good operating condition, excepting normal wear and tear.

E. Upkeep of the Franchised Restaurant

Franchisee shall constantly maintain and continuously operate the Franchised Restaurant and all furniture, fixtures, equipment, furnishings, floor coverings, interior and exterior signage, the building interior and exterior, interior and exterior lighting, landscaping and parking lot surfaces in first-class condition and repair in accordance with the requirements of the System, including all ongoing necessary remodeling, redecorating, refurbishing and repairs. In addition, Franchisee shall promptly and diligently perform all necessary maintenance, repairs and replacements to the Franchised Restaurant as CKE may prescribe from time to time including periodic interior and exterior painting; resurfacing of the parking lot; roof repairs; and replacement of obsolete or worn out signage, floor coverings, furnishings, equipment and decor.

Franchisee shall not make any material alterations to the Franchised Restaurant that affect operations or the image of the System without CKE's prior written approval. Franchisee acknowledges and agrees that the requirements of this Section are both reasonable and necessary to ensure continued public acceptance and patronage of Carl's Jr. Restaurants, to assist the Franchised Restaurant to compete effectively in the marketplace and to avoid deterioration or obsolescence of the operation of the Franchised Restaurant.

If the Franchised Restaurant is leased or subleased and the lease/sublease is renewed or extended (or a new lease/ sublease is executed) during the Initial Term of this Agreement, Franchisee shall exercise good faith efforts to obtain the landlord's consent to inclusion of the lease provisions required by CKE's then-current form of Commitment Agreement (currently Section 8) in the lease/sublease.

F. Maximum Operation of the Franchised Restaurant

During the term of this Agreement, Franchisee shall use the Franchised Location solely for the operation of the Franchised Restaurant and shall maintain sufficient inventories, adequately staff each shift with qualified employees and continuously operate the Franchised Restaurant at its maximum capacity and efficiency for the minimum number of days and hours set forth in the OPM or as CKE otherwise prescribes in writing (subject to the requirements of local laws and licensing requirements).

Franchisee shall immediately resolve any customer complaints regarding the quality of food or beverages, service and/or cleanliness of the Franchised Restaurant or any similar complaints. When any customer complaints cannot be immediately resolved, Franchisee shall use best efforts to resolve the customer complaints as soon as practical and shall, whenever feasible, give the customer the benefit of the doubt. If CKE, in its sole discretion, determines that its intervention is necessary or desirable to protect the System or the goodwill associated with the System, or if CKE, in its sole discretion, believes that Franchisee has failed adequately to address or resolve any customer complaints, CKE may, without Franchisee's consent, resolve any complaints and charge Franchisee an amount sufficient to cover CKE's reasonable costs and expenses in resolving the customer complaints, which amount Franchisee shall pay CKE immediately on demand.

G. Franchised Restaurant Management and Personnel

The Franchised Restaurant shall at all times be under the on-site supervision of the Operating Principal or a Restaurant Manager who must meet, to the satisfaction of CKE, CKE's applicable training qualifications for their designated position. Franchisee must, at all times, employ at least 2 management personnel for the Franchised

Restaurant who have successfully completed the FMTP. If, at any time, Franchisee ceases to employ 2 management personnel as described above, Franchisee has 30 days (from the date on which Franchisee has less than 2 specified management personnel) to hire and enroll replacement personnel in the FMTP. At Franchisee's option, one person may hold more than one of the above positions.

Franchisee (or, if Franchisee is owned by more than one individual, the Operating Principal) shall remain active in overseeing the operations of the Franchised Restaurant, including, without limitation, regular, periodic visits to the Franchised Restaurant and sufficient communications with CKE to ensure that the Franchised Restaurant's operations comply with the operating standards as promulgated by CKE from time to time in the OPM or otherwise in written or oral communications.

Franchisee shall hire all employees of the Franchised Restaurant and be exclusively responsible for the terms of their employment and compensation, and for the proper training of such employees in the operation of the Franchised Restaurant, in human resources and customer relations. Franchisee shall establish at the Franchised Restaurant a training program for all employees that meets the standards prescribed by CKE.

Franchisee shall employ only suitable persons of good character and reputation who will at all times conduct themselves in a competent and courteous manner in accordance with the image and reputation of CKE and the System and, while on duty, comply with the dress attire, personal appearance and hygiene standards set forth in the OPM. Franchisee shall use its best efforts to ensure that Franchisee's employees maintain a neat and clean appearance and render competent and courteous service to all customers and fellow employees of the Franchised Restaurant.

H. Signs and Logos

Subject to local ordinances, Franchisee shall prominently display in and upon the land and buildings of the Franchised Restaurant interior and exterior signs and logos using the name "Carl's Jr.", without any prefix or suffix, and those other names, marks, advertising signs and logos, of such nature, form, color, number, location and size, and containing that material as CKE may from time to time direct. Franchisee shall not display in or upon the Franchised Location any sign, logo or advertising media of any kind to which CKE objects.

I. Coin Operated Equipment

Franchisee shall not permit at the Franchised Restaurant any juke box, vending or game machine, gum machine, game, ride, gambling or lottery device, coin or token operated machine, or any other music, film or video device not authorized by CKE.

J. Compliance with Laws and Good Business Practices

Franchisee shall secure and maintain in force in its name all required licenses, permits and certificates relating to the operation of the Franchised Restaurant. Franchisee shall operate the Franchised Restaurant in full compliance with all applicable laws, ordinances and regulations including, without limitation, all laws or regulations governing or relating to the handling of food products, immigration and discrimination, occupational hazards and health insurance, employment laws, including, without limitation, workers' compensation insurance, unemployment insurance, and the withholding and payment of federal and state income taxes, social security taxes and sales taxes. Franchisee shall timely pay all obligations relating to the Franchised Restaurant. All advertising and promotion by Franchisee shall be completely factual and shall conform to the highest standards of ethical advertising. Franchisee shall, in all dealings with Franchisee's customers, suppliers and the public, adhere to the highest standards of honesty, integrity, fair dealing and ethical conduct. Franchisee agrees to refrain from any business or advertising practice that may be injurious to the goodwill associated with the Proprietary Marks or the business of CKE or its affiliates, the System or other restaurants operated or franchised by CKE or its affiliates.

Franchisee shall notify CKE in writing within 5 days after the commencement of: **(1)** any action, suit or proceeding, or the issuance of any order, writ, injunction, award or decree of any court, agency or other governmental instrumentality, which may adversely affect the operation or financial condition of Franchisee or the Franchised Restaurant; or **(2)** of any notice of violation of any law, ordinance or regulation relating to health or sanitation at the Franchised Restaurant.

K. Non-Cash Payment Systems

Franchisee shall accept debit cards, credit cards, stored value gift cards or other non-cash payment systems specified by CKE to enable customers to purchase authorized products and shall obtain all necessary hardware and/or software used in connection with these non-cash payment systems. Franchisee shall reimburse CKE for all costs associated with such non-cash payment systems as they pertain to the Franchised Restaurant.

L. 800 Number, Secret Shoppers

In order to (among other things) maintain and enhance the goodwill associated with the Proprietary Marks, the System and each Carl's Jr. Restaurant, Franchisee agrees to participate in programs initiated to verify customer satisfaction and/or Franchisee's compliance with all operational and other aspects of the System, including (but not limited to) an 800 number, secret shoppers or other programs as CKE may require. CKE will share the results of these programs, as they pertain to the Franchised Restaurant, with Franchisee. Franchisee will reimburse CKE for all costs related to the Franchised Restaurant associated with any and all of these programs.

11. PROPRIETARY MARKS

The term "Proprietary Marks" as used in this Agreement refers to all words, symbols, insignia, devices, designs, trade names, service marks or combinations thereof designated by CKE as identifying the System and the products sold and services provided in connection with the System. CKE shall, from time to time, advise Franchisee as to any additions or deletions to the Proprietary Marks and Franchisee's right to use the Proprietary Marks shall be deemed modified by those additions or deletions.

Franchisee's right to use the Proprietary Marks is limited to its use of the Proprietary Marks in the operation of the Franchised Restaurant at the Franchised Location and as expressly provided in this Agreement and the OPM. Franchisee shall not use the Proprietary Marks on any vehicles without CKE's prior written approval. Franchisee shall not use the Proprietary Marks or any variations of the Proprietary Marks or marks or names confusingly similar to the Proprietary Marks in any manner not authorized by CKE or in any corporate, limited liability company, partnership or other business entity name and shall not use any other trade names, service marks or trademarks in conjunction with the Franchised Restaurant. If local laws or ordinances require that Franchisee file an affidavit of doing business under an assumed name or otherwise make a filing indicating that the Proprietary Marks are being used as a fictitious or assumed name, Franchisee shall include in such filing or application an indication that the filing is made "as a franchisee of Carl Karcher Enterprises, Inc." Franchisee shall use the symbol ® with all registered marks and the symbol ™ with all pending registrations or other marks.

Franchisee shall not use the Proprietary Marks in any Internet domain name or e-mail address, in the operation of any Internet web site, or on a social networking site or other future technological avenue without CKE's prior written consent. CKE may grant or withhold its consent in its sole discretion and may condition its consent on such requirements as CKE deems appropriate, including, among other things, that Franchisee obtain CKE's written approval of: **(A)** any and all Internet domain names and home page addresses related to the Franchised Restaurant; **(B)** the proposed form and content of any web site related to the Franchised Restaurant; **(C)** Franchisee's use of any hyperlinks or other links; **(D)** Franchisee's use of any materials (including text, video clips, photographs, images and sound bites) in which any third party has an ownership interest; and **(E)** any proposed modification of Franchisee's web site. CKE may designate the form and content of Franchisee's web site and/or require that any such web site be hosted by CKE or a third party who CKE designates, using one or more web sites that CKE owns

and/or controls. CKE may charge Franchisee a fee for developing, reviewing and approving Franchisee's web site and/or for hosting the web site.

If CKE should elect to use a principal name other than "Carl's Jr." to identify the System, CKE may select another name and notify Franchisee to change all or some items bearing the Proprietary Marks to the new name within a reasonable period of time as determined by CKE without any liability to Franchisee, and Franchisee promptly shall adopt that name. Franchisee agrees that nothing in this Agreement gives it any right, title or interest in the Proprietary Marks (except the right to use the Proprietary Marks in accordance with the terms of this Agreement), that the Proprietary Marks are the sole property of CKE and its affiliates, that Franchisee shall not directly or indirectly contest the validity or ownership of the Proprietary Marks or CKE's right to license the Proprietary Marks, and that any and all uses by Franchisee of the Proprietary Marks and the goodwill arising therefrom shall inure exclusively to the benefit of CKE and its affiliates. Franchisee will not seek to register, reregister, assert claim to ownership of, license or allow others to use, or otherwise appropriate to itself any of the Proprietary Marks or any mark or name confusingly similar thereto, or the goodwill symbolized by any of the foregoing except to the extent this action inures to the benefit of, and has the prior written approval of, CKE. Any unauthorized use of the Proprietary Marks by Franchisee or attempt by Franchisee, directly or indirectly, to register the Proprietary Marks in any jurisdiction shall constitute a breach of this Agreement and an infringement of CKE's rights in and to the Proprietary Marks.

Franchisee promptly shall inform CKE in writing as to any infringement of the Proprietary Marks of which it has knowledge. Franchisee shall not make any demand or serve any notice, orally or in writing, or institute any legal action or negotiate, compromise or settle any controversy with respect to any such infringement without first obtaining CKE's written approval. CKE shall have the right, but not the obligation, to bring such action or take such steps as it may deem advisable to prevent any such infringement and to join Franchisee as a party to any action in which CKE is or may be a party and as to which Franchisee is or would be a necessary or proper party. Franchisee also shall promptly notify CKE of any litigation (including administrative or arbitration proceedings) of which Franchisee is aware instituted against CKE, its affiliates or Franchisee relating to the Proprietary Marks. Franchisee shall execute any and all instruments and documents, render such other assistance and do any acts and things as may, in the opinion of CKE's counsel, be necessary or advisable to protect and maintain CKE's interests in the Proprietary Marks, including, without limitation, CKE's interests in litigation or proceedings before the U.S. Patent and Trademark Office or other tribunal relating to the Proprietary Marks.

12. INSURANCE

A. Franchisee shall be responsible for all loss or damage arising from or related to Franchisee's development and operation of the Franchised Restaurant, and for all demands or claims with respect to any loss, liability, personal injury, death, property damage, or expense whatsoever occurring upon the premises of, or in connection with the development or operation of, the Franchised Restaurant. Franchisee shall maintain in full force and effect throughout the term of this Agreement that insurance which Franchisee determines is necessary or appropriate for liabilities caused by or occurring in connection with the development or operation of the Franchised Restaurant which shall include, at a minimum, insurance policies of the kinds, and in the amounts, required by Section 12.B. CKE, and any entity with an insurable interest designated by CKE, shall be an additional insured in such policies to the extent each has an insurable interest.

B. All insurance policies shall be written by an insurance company or companies satisfactory to CKE, in compliance with the standards, specifications, coverages and limits set forth in the OPM or otherwise provided to Franchisee in writing. These policies shall include, at a minimum, the following:

(1) Comprehensive general liability insurance including coverage for bodily injury, personal injury, products liability, blanket contractual liability, broad form property damage, non-owned automobiles, completed operations and property damage on an occurrence basis with policy limits of not less than $1,000,000 per occurrence and $2,000,000 in the aggregate.

(2) Property Insurance written on an "All Risks" policy for fire and related peril (including floods and earthquakes where applicable) with limits of insurance of not less than the full replacement value of the Franchised Restaurant, and its furniture, fixtures, equipment, inventory and other tangible property.

(3) Business Interruption and Extra Expense coverage to include rental payment continuation for a minimum of 12 months, loss of profits and other extra expenses experienced during the recovery from property loss.

(4) Plate glass coverage for replacement of glass from breakage.

(5) Employer's Liability coverage in the amount of $500,000.

(6) Workers' compensation and such other insurance as may be required by statute or rule of the state or locality in which the Franchised Restaurant is located. This coverage shall also be in effect for all of Franchisee's employees who participate in any of the training programs described in Section 8.

(7) In connection with any construction, renovation, refurbishment, or remodeling of the Franchised Restaurant, Franchisee shall maintain Builder's All Risks insurance and in connection with new construction or substantial renovation, refurbishment or remodeling of the Franchised Restaurant, Franchisee shall maintain performance and completion bonds in forms and amounts, and written by carrier(s), reasonably satisfactory to CKE.

CKE may reasonably increase the minimum coverage required and require different or additional kinds of insurance to reflect inflation, changes in standards of liability, higher damage awards or other relevant changes in circumstances. Franchisee shall receive written notice of such modifications and shall take prompt action to secure the additional coverage or higher policy limits.

C. The following general requirements shall apply to each insurance policy that Franchisee is required to maintain under this Agreement:

(1) Each insurance policy shall be specifically endorsed to provide that the coverages shall be primary and that any insurance carried by any additional insured shall be excess and non-contributory.

(2) No insurance policy shall contain a provision that in any way limits or reduces coverage for Franchisee in the event of a claim by CKE or its affiliates.

(3) Each insurance policy shall extend to, and provide indemnity for, all obligations and liabilities of Franchisee to third parties and all other items for which Franchisee is required to indemnify CKE under this Agreement.

(4) Each insurance policy shall be written by an insurance company that has received and maintains an "A+" or better rating by the latest edition of Best's Insurance Rating Service.

(5) No insurance policy shall provide for a deductible amount that exceeds $5,000, unless otherwise approved in writing by CKE, and Franchisee's co-insurance under any insurance policy shall be 80% or greater.

D. All required insurance policies shall be in full force and effect and Franchisee shall submit to CKE evidence of satisfactory insurance and proof of payment therefore no later than the date the first of the following occurs: (1) 30 days' prior to the scheduled opening date of the Franchised Restaurant; (2) the date Franchisee takes possession of the Franchised Location; or (3) the date construction commences at the Franchised Location, if Franchisee is contractually obligated for the construction. On each policy renewal date thereafter, Franchisee shall

again submit evidence of satisfactory insurance and proof of payment therefor to CKE. The evidence of insurance shall include a statement by the insurer that the policy or policies will not be canceled or materially altered without at least 30 days' prior written notice to CKE. Upon request, Franchisee also shall provide to CKE copies of all or any policies, and policy amendments and riders.

E. Franchisee acknowledges that no requirement for insurance contained in this Agreement constitutes advice or a representation by CKE that only such policies, in such amounts, are necessary to protect Franchisee from losses in connection with its business under this Agreement. Maintenance of this insurance, and the performance by Franchisee of its obligations under this Section, shall not relieve Franchisee of liability under the indemnification provisions of this Agreement.

F. Should Franchisee, for any reason, fail to procure or maintain at least the insurance required by this Section 12, as revised from time to time pursuant to the OPM or otherwise in writing, CKE shall have the immediate right and authority, but not the obligation, to procure such insurance and charge its cost to Franchisee. All out-of-pocket costs incurred by CKE in obtaining such insurance on behalf of Franchisee shall be reimbursed to CKE by Franchisee immediately upon Franchisee's receipt of an invoice therefore.

13. ORGANIZATION OF FRANCHISEE

A. Representations

If Franchisee is a corporation, a limited liability company, a partnership or any other type of organization (collectively, "business entity"), Franchisee makes the following representations and warranties: **(1)** it is duly organized and validly existing under the laws of the state of its formation; **(2)** it is qualified to do business in the state or states in which the Franchised Restaurant is located; **(3)** execution of this Agreement and the development and operation of the Franchised Restaurant is permitted by its governing documents; and **(4)** unless waived in writing by CKE, Franchisee's Articles of Incorporation, Articles of Organization, written partnership agreement or other organizational or governing documents shall at all times provide that the activities of Franchisee are limited exclusively to the development and operation of Carl's Jr. Restaurants and other restaurants operated by Franchisee that are franchised by CKE or its affiliates.

If Franchisee is an individual, or a partnership comprised solely of individuals, Franchisee makes the following additional representations and warranties: **(A)** each individual has executed this Agreement; **(B)** each individual shall be jointly and severally bound by, and personally liable for the timely and complete performance and a breach of, each and every provision of this Agreement; and **(C)** notwithstanding any transfer for convenience of ownership, pursuant to Section 15.D., each individual shall continue to be jointly and severally bound by, and personally liable for the timely and complete performance and a breach of, each and every provision of this Agreement.

B. Governing Documents

If Franchisee is a corporation, copies of Franchisee's Articles of Incorporation, bylaws, other governing documents and any amendments, including the resolution of the Board of Directors authorizing entry into and performance of this Agreement, and all shareholder agreements, including buy/sell agreements, have been furnished to CKE. If Franchisee is a limited liability company, copies of Franchisee's Articles of Organization, Management Agreement, other governing documents and any amendments, including the resolution of the Managers authorizing entry into and performance of this Agreement, and all agreements, including buy/sell agreements, among the members have been furnished to CKE. If Franchisee is a partnership, copies of Franchisee's written partnership agreement, other governing documents and any amendments, as well as all agreements, including buy/sell agreements, among the partners have been furnished to CKE, in addition to evidence of consent or approval of the entry into and performance of this Agreement by the requisite number or percentage of partners, if that approval or consent is required by Franchisee's written partnership agreement. When any of these governing documents are

modified or changed, Franchisee promptly shall provide copies to CKE. If Franchisee is any other type of business entity, copies of its organizational and governing documents have been furnished to CKE.

C. Ownership Interests

If Franchisee is a business entity, all interests in Franchisee are owned as set forth in attached Appendix D. In addition, if Franchisee is a corporation, Franchisee shall maintain a current list of all owners of record and all beneficial owners of any class of voting securities of the corporation (and the number of shares owned by each). If Franchisee is a limited liability company, Franchisee shall maintain a current list of all members (and the percentage membership interest of each member). If Franchisee is a partnership, Franchisee shall maintain a current list of all owners of an interest in the partnership (and the percentage ownership of each owner). Franchisee shall comply with Section 15 prior to any change in ownership interests and shall execute addenda to Appendix D as changes occur in order to ensure the information contained in Appendix D is true, accurate and complete at all times.

The requirements of this Section 13.C. shall apply only to Franchisee's Continuity Group (defined in Section 13.E.) if, as of the date of the first franchise-related agreement between Franchisee and CKE or one of its affiliates, Franchisee was a publicly-held entity (*i.e.*, an entity that has a class of securities traded on a recognized securities exchange or quoted on the inter-dealer quotation sheets known as the "pink sheets"). If Franchisee becomes a publicly-held entity after that date, it shall thereafter be required to execute addenda to Appendix D only with respect to changes in ownership interests of members of the Continuity Group.

D. Restrictive Legend

If Franchisee is a corporation, Franchisee shall maintain stop-transfer instructions against the transfer on its records of any voting securities, and each stock certificate of the corporation shall have conspicuously endorsed upon its face the following statement: "Any assignment or transfer of this stock is subject to the restrictions imposed on assignment by the Carl's Jr. Restaurant Franchise Agreement(s) to which the corporation is a party." If Franchisee is a publicly-held corporation these requirements shall apply only to the stock owned by Franchisee's Continuity Group. If Franchisee is a limited liability company, each membership or management certificate or other evidence of interest in Franchisee shall have conspicuously endorsed upon its face the following statement: "Any assignment or transfer of an interest in this limited liability company is subject to the restrictions imposed on assignment by the Carl's Jr. Restaurant Franchise Agreement(s) to which the limited liability company is a party." If Franchisee is a partnership, its written partnership agreement shall provide that ownership of an interest in the partnership is held subject to, and that further assignment or transfer is subject to, all restrictions imposed on assignment by this Agreement. If Franchisee is any other type of business entity, its organizational and governing documents shall provide that an ownership interest in the business entity is held subject to, and further assignment or transfer is subject to, all restrictions imposed on assignment by this Agreement.

E. Continuity Group

If Franchisee is a business entity, Appendix D lists those persons who comprise Franchisee's "Continuity Group." CKE and Franchisee acknowledge and agree that it is their intent that the members of the Continuity Group include the Operating Principal (defined in Section 13.G.) and **(1)** all holders of a legal or beneficial interest of 10% or more ("10% Owners") in Franchisee; **(2)** if Franchisee is a limited partnership, all 10% Owners of Franchisee's general partner; and **(3)** all 10% Owners of a corporation or limited liability company that owns a controlling interest in Franchisee. In the event of any change in the Continuity Group or in the ownership interests of any member of the Continuity Group, Franchisee shall execute addenda to Appendix D to reflect the change. If Franchisee is a corporation, the Continuity Group shall at all times own at least 51% of the voting securities of Franchisee; if Franchisee is a limited liability company, the Continuity Group shall at all times own at least 51% of the membership interests in Franchisee; and if Franchisee is any other type of business entity, the Continuity Group shall at all times have at least a 51% interest in the operating profits and losses and at least a 51% ownership

interest in Franchisee.

F. Guarantees

All members of the Continuity Group and their spouses, if applicable, shall jointly and severally guarantee Franchisee's payment and performance under this Agreement and shall bind themselves to the terms of this Agreement pursuant to the attached Guarantee and Assumption of Franchisee's Obligations ("Guarantee"). Unless Franchisee is a publicly-held entity, all of Franchisee's officers and directors and their spouses, if applicable, shall jointly and severally guarantee Franchisee's payment and performance under this Agreement and also shall bind themselves to the terms of this Agreement pursuant to the attached Guarantee. Notwithstanding the foregoing, CKE reserves the right, in its sole discretion, to waive the requirement that some or all of the previously described individuals execute the attached Guarantee and/or to limit the scope of the Guarantee. CKE reserves the right to require any guarantor to provide personal financial statements to CKE from time to time.

With respect to 10% Owners, Franchisee acknowledges that, unless otherwise agreed to in writing by CKE, it is CKE's intent to have individuals (and not corporations, limited liability companies or other entities) execute the Guarantee. Accordingly, if any 10% Owner is not an individual, CKE shall have the right to have the Guarantee executed by individuals who have only an indirect ownership interest in Franchisee and their spouses, if applicable. (By way of example, if a 10% Owner of Franchisee is a corporation, CKE has the right to require that the Guarantee be executed by individuals who have an ownership interest in that corporation.)

If Franchisee, any guarantor or any parent, subsidiary or affiliate of Franchisee holds any interest in other restaurants that are franchised by CKE or its affiliates, the party who owns that interest shall execute, concurrently with this Agreement, a form of cross-guarantee to CKE and its affiliates for the payment of all obligations for such restaurants, unless waived in writing by CKE in its sole discretion. For purposes of this Agreement, an affiliate of Franchisee is any company controlled, directly or indirectly, by Franchisee or Franchisee's parent or subsidiary.

G. Operating Principal

If Franchisee is owned by more than one individual, Franchisee shall designate and retain an individual to serve as the Operating Principal. The Operating Principal as of the date of this Agreement is identified in Appendix D. The Operating Principal shall meet all of the following qualifications:

(1) The Operating Principal shall have at least a 10% equity ownership interest in Franchisee or, if Franchisee is a limited partnership, in Franchisee's general partner, unless this requirement is modified by CKE in its sole discretion. This Section 13.G.(1) shall not apply if Franchisee was a publicly-held entity or a wholly-owned subsidiary of a publicly-held entity as of the date of the first franchise-related agreement between Franchisee and CKE.

(2) The Operating Principal, at all times, shall be a member of the Continuity Group and, at a minimum, have full control over the day-to-day activities of the Franchised Restaurant and those other restaurants (that are franchised by CKE or its affiliates) operated by Franchisee in the same geographic area as the Franchised Restaurant, including control over the standards of operation and financial performance.

(3) The Operating Principal shall devote full-time and best efforts to supervising the operation of the Franchised Restaurant and those other restaurants (that are franchised by CKE or its affiliates) operated by Franchisee in the same geographic area as the Franchised Restaurant and shall not engage in any other business or activity, directly or indirectly, that requires substantial management responsibility.

(4) Unless waived in writing by CKE, the Operating Principal shall maintain his primary residence within a reasonable driving distance of the Franchised Restaurant.

(5) The Operating Principal shall successfully complete the FMTP (either the full FMTP or a modified version of the FMTP to meet the specific needs of the candidate, as deemed appropriate by CKE in its sole discretion) and any additional training required by CKE.

(6) CKE shall have approved the Operating Principal, and not have later withdrawn that approval.

If the Operating Principal no longer meets these qualifications, Franchisee must provide CKE written notice designating a qualified person to act as Operating Principal within 30 days after the date the prior Operating Principal ceases to be qualified. CKE shall advise Franchisee whether it has approved the new Operating Principal within a reasonable time after receipt of Franchisee's notice. If CKE does not approve the proposed Operating Principal, Franchisee will have 15 days from its receipt of notice of the decision to advise CKE in writing of another person to act as Operating Principal who satisfies the preceding qualifications.

14. TRANSFERS BY CKE

CKE shall have the absolute, unrestricted right, exercisable at any time, to transfer and assign all or any part of its rights and obligations under this Agreement to any person or legal entity without the consent of Franchisee.

15. TRANSFERS BY FRANCHISEE

A. Franchisee understands and acknowledges that the rights and duties set forth in this Agreement are personal to Franchisee and that CKE has entered into this Agreement in reliance on Franchisee's business skill, financial capacity, personal character, experience and demonstrated or purported ability in developing and operating high quality foodservice operations. Accordingly, neither Franchisee nor any immediate or remote successor to any part of Franchisee's interest in this Agreement, nor any individual, partnership, corporation or other legal entity which directly or indirectly has an interest in Franchisee shall sell, assign, transfer, convey, give away, pledge, mortgage, or otherwise encumber any interest in Franchisee, this Agreement, the Franchise, the Franchised Restaurant, the assets of the Franchised Restaurant, the Franchised Location or any other assets pertaining to Franchisee's operations under this Agreement (collectively "Transfer") without the prior written consent of CKE, unless otherwise permitted by this Section.

Except as otherwise provided in this Agreement, any purported Transfer, by operation of law or otherwise, not having the prior written consent of CKE shall be null and void and shall constitute a material breach of this Agreement, for which CKE may terminate this Agreement without providing Franchisee an opportunity to cure the breach.

B. Franchisee shall advise CKE in writing of any proposed Transfer, submit (or cause the proposed transferee to submit) a franchise application for the proposed transferee, submit a copy of all contracts and all other agreements or proposals and submit all other information requested by CKE relating to the proposed Transfer. If CKE does not exercise its right of first refusal, the decision as to whether or not to approve a proposed Transfer shall be made by CKE in its sole discretion and shall include numerous factors deemed relevant by CKE. These factors may include, but will not be limited to, the following:

(1) The proposed transferee (and if the proposed transferee is not a natural person, all persons that have any direct or indirect interest in the transferee as CKE may require) must demonstrate to CKE's satisfaction extensive experience in high quality restaurant operations of a character and complexity similar to Carl's Jr. Restaurants; must meet the managerial, operational, experience, quality, character and business standards for a franchisee promulgated by CKE from time to time; must possess a good character, business reputation and credit rating; must have an organization whose management culture is compatible with CKE's management culture; and must have adequate financial resources and working capital to meet Franchisee's obligations under this Agreement.

(2) If the Transfer is a sale, the sales price shall not be so high, in CKE's reasonable judgment, as to jeopardize the ability of the transferee to develop, maintain, operate and promote the Franchised Restaurant and meet financial obligations to CKE, third party suppliers and creditors. CKE's decision with respect to a proposed Transfer shall not create any liability on the part of CKE: (a) to the transferee, if CKE approves the Transfer and the transferee experiences financial difficulties; or (b) to Franchisee or the proposed transferee, if CKE disapproves the Transfer. CKE, without any liability to Franchisee or the proposed transferee, has the right, in its sole discretion, to communicate and counsel with Franchisee and the proposed transferee regarding any aspect of the proposed Transfer.

(3) All of Franchisee's accrued monetary obligations to CKE and its affiliates (whether arising under this Agreement or otherwise) and all other outstanding obligations related to the Franchised Restaurant (including, but not limited to, bills from suppliers, taxes, judgments and any required governmental reports, returns, affidavits or bonds) have been satisfied or, in the reasonable judgment of CKE, adequately provided for. CKE reserves the right to require that a reasonable sum of money be placed in escrow to ensure that all of these obligations are satisfied.

(4) Franchisee is not then in material default of any provision of this Agreement or any other agreement between Franchisee and CKE or its affiliates, is in good standing as a franchisee with CKE and its affiliates, is not in default beyond the applicable cure period under any real estate lease, equipment lease or financing instrument relating to the Franchised Restaurant and is not in default beyond the applicable cure period with any vendor or supplier to the Franchised Restaurant.

(5) Franchisee, all individuals who executed this Agreement and all guarantors of Franchisee's obligations must execute a general release and a covenant not to sue, in a form satisfactory to CKE, of any and all claims against CKE and its affiliates and their respective past and present officers, directors, shareholders, agents and employees, in their corporate and individual capacities, including, without limitation, claims arising under federal, state and local laws, rules and ordinances, and claims arising out of, or relating to, this Agreement, any other agreements between Franchisee and CKE or its affiliates and Franchisee's operation of the Franchised Restaurant and all other restaurants operated by Franchisee that are franchised by CKE or its affiliates.

(6) Unless waived by CKE in its sole discretion, the transferee and those employees of the transferee designated by CKE shall complete the training provided in Sections 8.A.-B.

C. If CKE approves a proposed Transfer, prior to the Transfer becoming effective:

(1) The transferor shall pay CKE a nonrefundable Transfer fee in an amount not to exceed $2,500 in connection with CKE's review of the Transfer application.

(2) Franchisee and the proposed transferee shall execute, at CKE's election, an assignment agreement and any amendments to this Agreement deemed necessary or desirable by CKE to reflect the Transfer and/or CKE's then-current standard form of franchise agreement for an initial term ending on the expiration date of the Initial Term of this Agreement. In either event, a guarantee of the type required by Section 13.F. shall be executed by those individuals identified in Section 13.F. In addition, Franchisee, the proposed transferor and the proposed transferee shall sign all other documents and take such actions as CKE may require to protect CKE's rights under this Agreement.

(3) The transferor shall remain liable for all obligations to CKE incurred before the date of the Transfer and shall execute any and all instruments reasonably requested by CKE to evidence that liability.

D. If Franchisee is an individual or a partnership and desires to Transfer this Agreement to a corporation (or limited liability company) formed for the convenience of ownership, the requirements of Section 15.B. shall

apply to such a Transfer; however, Franchisee will not be required to pay a Transfer fee. CKE's approval also will be conditioned on the following: (1) the corporation (or limited liability company) must be newly organized; (2) prior to the Transfer, CKE must receive a copy of the documents specified in Section 13.B. and the transferee shall comply with the remaining provisions of Section 13; and (3) Franchisee must own all voting securities of the corporation (or membership interests of the limited liability company) or, if Franchisee is owned by more than one individual, each person shall have the same proportionate ownership interest in the corporation (or the limited liability company) as prior to the Transfer.

E. Notwithstanding the provisions of Sections 15.A. and B., the issuance of options or the exercise of options pursuant to a qualified stock option plan or a qualified employee stock ownership plan shall not be considered a Transfer and shall not require the prior written approval of CKE; provided no more than a total of 49% of Franchisee's outstanding voting securities are subject to the qualified stock option plan or qualified employee stock ownership plan.

F. If Franchisee was a publicly-held entity as of the date of the first franchise-related agreement between Franchisee and CKE or its affiliates, Section 15.B. shall be applicable to transfers of ownership interests in Franchisee only if the proposed Transfer would result in: (1) 50% or more of Franchisee's voting securities being held by different shareholders than as of the date of the first franchise-related agreement between Franchisee and CKE or its affiliates; or (2) any change in ownership of Franchisee's voting securities whereby any existing shareholder of Franchisee acquires an additional 10% or more of Franchisee's voting securities; or (3) any change in the membership of the Continuity Group (unless such change is a permitted Transfer pursuant to Section 15.G.).

G. Notwithstanding the provisions of Sections 15.A. and B., CKE agrees that certain Transfers shall be permitted without CKE's prior written approval, provided all of the following conditions are satisfied:

(1) The Transfer is a transfer of:

(a) An ownership interest in Franchisee of 20% or less, provided that after the Transfer the Continuity Group owns at least 66% of all ownership interests in Franchisee; or

(b) Ownership interests in Franchisee following the death or permanent incapacity of a person with an ownership interest in Franchisee, provided that the Transfer is to the parent, sibling, spouse or children of that person or to a member of the Continuity Group.

(2) Franchisee provides CKE written notice of its intent to undertake the Transfer at least 30 days prior to the effective date of the Transfer, together with documents demonstrating that the Transfer meets this Section.

(3) At the time of Franchisee's notice to CKE, Franchisee is not in default of this Agreement or any other agreements between Franchisee and CKE or its affiliates.

(4) In connection with the Transfer, Franchisee and all persons who will have an ownership interest in Franchisee after the Transfer fully comply with the requirements of Section 13.

H. Franchisee shall not grant any security interest in its business, the Franchised Restaurant, the Franchised Location or the assets used in the operation of the Franchised Restaurant without CKE's prior written approval, which will not be unreasonably withheld. CKE's approval may be conditioned, in its sole discretion, on the written agreement by the secured party that, in the event of a default by Franchisee under any agreement related to the security interest, CKE shall have the right and option (but not the obligation) to purchase the rights of the secured party upon payment of all sums then due to the secured party. If Franchisee (or any person with a direct or indirect interest in Franchisee) finances any part of the price paid in connection with the Transfer, the person or entity providing the financing must agree that all obligations of the proposed transferee and any security interests

retained in the assets being transferred, will be subordinate to the proposed transferee's obligations to: (1) pay all amounts due to CKE and its affiliates; and (2) otherwise comply with this Agreement and all other agreements with CKE or its affiliates.

I. Securities or partnership interests in Franchisee may be sold, by private or public offering, only with CKE's prior written consent (whether or not CKE's consent is required under any other provision of this Section). In addition to the requirements of Section 15.B., prior to the time that any public offering or private placement of securities or partnership interests in Franchisee is made available to potential investors, Franchisee, at its expense, shall deliver to CKE a copy of the offering documents. Franchisee, at its expense, also shall deliver to CKE an opinion of Franchisee's legal counsel and an opinion of one other legal counsel selected by CKE (both of which shall be addressed to CKE and in a form acceptable to CKE) that the offering documents properly use the Proprietary Marks and accurately describe Franchisee's relationship with CKE and/or its affiliates. The indemnification provisions of Section 22 shall also include any losses or expenses incurred by CKE and/or its affiliates in connection with any statements made by or on behalf of Franchisee in any public offering or private placement of Franchisee's securities.

J. If any party holding any interest in Franchisee or in this Agreement receives a bona fide offer (as determined by CKE in its reasonable discretion) from a third party or otherwise desires to undertake any Transfer that would require CKE's approval (other than a Transfer for convenience of ownership pursuant to Section 15.D. or a Transfer of ownership interests to a parent, sibling, spouse or child), it shall notify CKE in writing of the terms of the proposed Transfer, and shall provide such information and documentation relating to the proposed Transfer as CKE may reasonably require. CKE or its designee may elect to purchase the interest that the seller proposes to Transfer any time within 30 days after receipt of written notification, and all documents and other information required by Section 15.B., by sending written notice to the seller that CKE or its designee intends to purchase the seller's interest on the same financial terms and conditions offered by the third party (except that CKE or its designee shall not be obligated to pay any finder's or broker's fees). In purchasing the interest, CKE or its designee shall be entitled to set off any monies owed to CKE or its affiliates by Franchisee and CKE or its designee shall be entitled to all customary representations and warranties that the assets are free and clear (or, if not, accurate and complete disclosure) as to: (1) ownership, condition and title; (2) liens and encumbrances; (3) environmental and hazardous substances; and (4) validity of contracts inuring to the purchaser or affecting the assets, whether contingent or otherwise.

If the offer to Franchisee involves assets in addition to this Agreement, the Franchised Location, the Franchised Restaurant and other restaurants operated by Franchisee that are franchised by CKE or its affiliates, Franchisee's notice to CKE shall state the cash value of that portion of the offer received by Franchisee relating to this Agreement, the Franchised Location, the Franchised Restaurant and those other restaurants. If the proposed Transfer provides for payment of consideration other than cash or it involves intangible benefits, CKE or its designee may elect to purchase the interest proposed to be sold for the reasonable equivalent in cash. If the parties are unable to agree within 30 days on the reasonable equivalent in cash of the non-cash part of the offer received by Franchisee or the cash value of that portion of the offer received by Franchisee relating to this Agreement, the Franchised Location, the Franchised Restaurant and those other restaurants, the amount shall be determined by two professionally certified appraisers, Franchisee selecting one and CKE or its designee selecting one. If the higher appraisal is more than 10% greater than the other appraisal, the two appraisers shall select a third professionally certified appraiser who also shall determine the amount. The average value set by the appraisers (whether two or three appraisers as the case may be) shall be conclusive and CKE or its designee may exercise its right of first refusal within 30 days after being advised in writing of the decision of the appraisers. The cost of the appraisers shall be shared equally by the parties.

CKE's failure to exercise its right of first refusal shall not constitute approval of the proposed Transfer nor a waiver of any other provision of this Section 15 with respect to a proposed Transfer. If CKE does not exercise its right of first refusal, Franchisee may not thereafter Transfer the interest at a lower price or on more favorable

terms than those that have been offered to CKE. CKE shall again be given a right of first refusal if a transaction does not close within 6 months after CKE elected not to exercise its right of first refusal. In no event shall Franchisee offer the interest for sale or transfer at public auction, nor at any time shall an offer be made to the public to sell, transfer or assign, through any advertisement, either in the newspapers or otherwise, without first having obtained the written approval of CKE to the auction or advertisement.

K. CKE's consent to any Transfer shall not constitute a waiver of any claims CKE may have against the transferring party, nor shall it be deemed a waiver of CKE's right to demand exact compliance with any of the terms of this Agreement by the transferee, nor will it be deemed a waiver of CKE's right to give or withhold approval to future Transfers.

16. GENERAL RELEASE

Franchisee (on behalf of itself and its subsidiaries and affiliates), all individuals who execute this Agreement and all guarantors of Franchisee's obligations under this Agreement freely and without any influence forever release and covenant not to sue CKE, its parent, subsidiaries and affiliates and their respective past and present officers, directors, shareholders, agents and employees, in their corporate and individual capacities, from any and all claims, demands, liabilities and causes of action of whatever kind or nature, whether known or unknown, vested or contingent, suspected or unsuspected (collectively "claims"), which Franchisee or any guarantor now own or hold or may in the future own or hold based on, arising out of or relating to, in whole or in part, any fact, event, conduct or omission occurring on or before the date of this Agreement, including, without limitation, claims arising under federal, state and local laws, rules and ordinances, claims for contribution, indemnity and/or subrogation and claims arising out of, or relating to this Agreement and all other agreements between Franchisee and/or any guarantor and CKE or its parent, subsidiaries or affiliates, the sale of a franchise to Franchisee, the development and operation of the Franchised Restaurant and the development and operation of all other restaurants operated by Franchisee or any guarantor that are franchised by CKE or its parent, subsidiaries or affiliates. Franchisee and all guarantors expressly agree that fair consideration has been given by CKE for this release and they fully understand that this is a negotiated, complete and final release of all claims. Franchisee and all guarantors also expressly agree that, with respect to this release, any and all rights granted under Section 1542 of the California Civil Code are expressly waived. That Section reads as follows: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release which if known by him must have materially affected his settlement with the debtor." This release does not include a release of claims arising from representations in CKE's Franchise Disclosure Document provided to Franchisee.

17. COVENANTS

A. Best Efforts

During the term of this Agreement, Franchisee and the Operating Principal shall devote their best efforts to the development, management and operation of the Franchised Restaurant.

B. Confidentiality

Franchisee acknowledges and agrees that: (**1**) CKE owns all right, title and interest in and to the System; **(2)** the System includes trade secrets and confidential and proprietary information and know-how that gives CKE a competitive advantage; **(3)** CKE has taken all measures appropriate to protect the trade secrets and the confidentiality of the proprietary information and know-how of the System; **(4)** all material or other information now or hereafter provided or disclosed to Franchisee regarding the System is disclosed in confidence; **(5)** Franchisee has no right to disclose any part of the System to anyone who is not an employee of Franchisee; **(6)** Franchisee will disclose to its employees only those parts of the System that an employee needs to know; **(7)** Franchisee will have a system in place to ensure that its employees keep confidential CKE' trade secrets and confidential and

proprietary information, and, if requested by CKE, Franchisee shall obtain from those of its employees designated by CKE an executed Confidential Disclosure Agreement in the form prescribed by CKE; **(8)** by entering into this Agreement, Franchisee does not acquire any ownership interest in the System; and **(9)** Franchisee's use or duplication of the System or any part of the System in any other business, or disclosure of any part of the System to others for use or duplication in any other business, would constitute an unfair method of competition, for which CKE would be entitled to all legal and equitable remedies, including injunctive relief, without posting a bond.

Franchisee shall not, during the term of this Agreement or at any time thereafter, communicate or disclose any trade secrets or confidential or proprietary information or know-how of the System to any unauthorized person, or do or perform, directly or indirectly, any other acts injurious or prejudicial to any of the Proprietary Marks or the System. Any and all information, knowledge, know-how and techniques, including all drawings, materials, equipment, specifications, recipes, techniques and other data that CKE or its affiliates designate as confidential shall be deemed confidential for purposes of this Agreement.

C. Restrictions

(1) Franchisee acknowledges and agrees that: (a) pursuant to this Agreement, Franchisee will have access to valuable trade secrets, specialized training and other confidential information from CKE and/or its affiliates regarding the development, operation, product preparation and sale, market and operations research, advertising and marketing plans and strategies, purchasing, sales and marketing methods and techniques of CKE and its affiliates and the System; (b) the know-how regarding the System and the opportunities, associations and experience acquired by Franchisee pursuant to this Agreement are of substantial value; (c) in developing the System, CKE and its affiliates have made substantial investments of time, effort, and money; (d) CKE would be unable adequately to protect the System and its trade secrets and confidential and proprietary information against unauthorized use or disclosure and would be unable adequately to encourage a free exchange of ideas and information among operators of Carl's Jr. Restaurants if franchisees or developers were permitted to engage in the activities described in Section 17C.(2)(a) and (b) or to hold interests in the businesses described in Section 17.C.(2)(c) and (3); (e) all restaurants operating in a quick-service format are substantial and direct competitors of the System; and (f) the restrictions on Franchisee's right to hold interests in, or perform services for, the businesses described in Section 17.C.(2)(c) and (3) will not unduly limit its activities.

(2) Accordingly, Franchisee covenants and agrees that, except with CKE' prior written consent, during the term of this Agreement, and for a period of 2 years following its expiration, transfer, or termination, Franchisee shall not, either directly or indirectly, for itself, or through, on behalf of, or in conjunction with, any person, firm, partnership, corporation, or other entity:

(a) Divert or attempt to divert any business or customer, or potential business or customer, of any Carl's Jr. Restaurant to any competitor, by direct or indirect inducement or otherwise.

(b) Knowingly employ or seek to employ any person then employed by CKE or any franchisee of CKE as a shift leader or higher, or otherwise directly or indirectly induce such person to leave his or her employment.

(c) Own, maintain, operate, engage in, grant a franchise to, advise, help, make loans to, lease property to or have any interest in, either directly or indirectly, any restaurant business: (i) whose sales of Designated Entrée Items (as defined below) during any daypart are reasonably likely to account collectively for 20% or more of the restaurant's sales of all entrée items during that daypart; (ii) that features or promotes any Designated Entrée Item in its advertising; or (iii) that operates in a quick-service format (with or without table service). For purposes of the previous sentence, the term "Designated Entrée Items" means any hamburger sandwich, chicken sandwich, breakfast sandwich and any other entrée item of a type designated by CKE as part of the System at any time during the term of this Agreement. During the term of this Agreement, there is no

geographical limitation on this restriction. Following the expiration, transfer or termination of this Agreement, this restriction shall apply to any restaurant business located within a 2 mile radius of the Franchised Location or within a 2 mile radius of any then-existing Carl's Jr. Restaurant. This restriction shall not apply to Franchisee's existing restaurant or foodservice operations, if any, which are identified in Appendix A, nor shall it apply to other restaurants operated by Franchisee that are franchised by CKE or its affiliates.

If any part of these restrictions is found to be unreasonable in time or distance, each month of time or mile of distance may be deemed a separate unit so that the time or distance may be reduced by appropriate order of the court to that deemed reasonable. If, at any time during the 2 year period following the expiration or earlier termination of this Agreement, Franchisee fails to comply with its obligations under this Section, that period of noncompliance will not be credited toward Franchisee's satisfaction of the 2 year obligation.

(3) Franchisee acknowledges that the Franchised Location will itself acquire goodwill associated with the System and that it would be difficult for CKE to ascertain that Franchisee has no interest in the operation by a third party of a restaurant concept at that location that would, if operated by Franchisee, violate the restriction of this Section 17. Accordingly, Franchisee further covenants and agrees that, during the term of this Agreement and for a period of 2 years following the expiration or earlier termination of this Agreement, Franchisee shall not, either directly or indirectly, for itself, or through, on behalf of, or in conjunction with any person, firm, partnership, corporation, or other entity, sell, assign, lease or transfer the Franchised Location to any person, firm, partnership, corporation, or other entity which Franchisee knows, or has reason to know, intends to operate a restaurant business at the Franchised Location that would violate Section 17.C.(2)(c) if operated by Franchisee. Franchisee, by the terms of any conveyance selling, assigning, leasing or transferring its interest in the Franchised Location, shall include such restrictive covenants as are necessary to ensure that a restaurant business that would violate Section 17.C.(2)(c) if operated by Franchisee is not operated at the Franchised Location for this 2 year period, and Franchisee shall take all steps necessary to ensure that these restrictive covenants become a matter of public record.

D. Modification

CKE shall have the right, in its sole discretion, to reduce the scope of any covenant in this Section 17 effective immediately upon Franchisee's receipt of written notice, and Franchisee agrees that it shall comply forthwith with any covenant as so modified, which shall be fully enforceable notwithstanding the provisions of Section 25.

E. Applicability

The restrictions contained in this Section 17 shall apply to Franchisee and all guarantors of Franchisee's obligations. With respect to each guarantor, these restrictions shall apply until 2 years after the earlier of: **(i)** the expiration, transfer, or termination of this Agreement; or **(ii)** the date the guarantor ceases to be the Operating Principal, an officer, stockholder, director, member of the Continuity Group or a 10% Owner (or, if a guarantor is the spouse of a person holding one or more of these positions, the date the person ceases to hold the applicable positions). The restrictions contained in this Section 17 shall not apply to ownership of less than a 5% legal or beneficial ownership in the outstanding equity securities of any publicly held corporation. The existence of any claim Franchisee or any guarantor of Franchisee's obligations may have against CKE or its affiliates, whether or not arising from this Agreement, shall not constitute a defense to the enforcement by CKE of the covenants in this Section 17.

At CKE' request, unless otherwise prohibited by law, Franchisee will obtain covenants similar in substance to those set forth in this Section 17 from any of its stockholders, directors, officers, or restaurant managers and from family members of guarantors.

F. Injunctive Relief.

Franchisee acknowledges and agrees that violation of the covenants contained in this Section 17 will result in immediate and irreparable injury to CKE for which money damages are not an adequate remedy. Therefore, in addition to being responsible for any damages caused to CKE arising from Franchisee's violation of this Section 17, CKE shall be entitled to seek the entry of an injunction prohibiting any conduct by Franchisee in violation of this Section 17.

18. TERMINATION

A. Termination Without Cure Period

In addition to the grounds for termination that may be stated elsewhere in this Agreement, CKE may terminate this Agreement, and the rights granted by this Agreement, upon written notice to Franchisee without an opportunity to cure upon the occurrence of any of the following events:

(1) Franchisee ceases to continuously operate the Franchised Restaurant for a period in excess of 5 consecutive days, unless the closing is due to an act of God, fire or other natural disaster or is approved in writing in advance by CKE.

(2) Franchisee is insolvent or is unable to pay its creditors (including CKE); files a petition in bankruptcy, an arrangement for the benefit of creditors or a petition for reorganization; there is filed against Franchisee a petition in bankruptcy, an arrangement for the benefit of creditors or petition for reorganization, which is not dismissed within 60 days of the filing; Franchisee makes an assignment for the benefit of creditors; or a receiver or trustee is appointed for Franchisee and not dismissed within 60 days of the appointment.

(3) Execution is levied against Franchisee's business or property; suit to foreclose any lien or mortgage against the premises or equipment of the Franchised Restaurant is instituted against Franchisee and is not dismissed within 60 days; or the real or personal property of the Franchised Restaurant shall be sold after levy thereupon by any sheriff, marshal or constable.

(4) There is a material breach by Franchisee of any obligation under Section 17.

(5) Any Transfer that requires CKE's prior written approval occurs without Franchisee having obtained that prior written approval.

(6) CKE discovers that Franchisee made a material misrepresentation or omitted a material fact in the information that was furnished to CKE in connection with its decision to enter into this Agreement.

(7) Franchisee knowingly falsifies any report required to be furnished CKE or makes any material misrepresentation in its dealings with CKE or fails to disclose any material facts to CKE.

(8) Franchisee fails to open the Franchised Restaurant for business within 60 days after CKE first authorizes the opening of the Franchised Restaurant.

(9) CKE makes a reasonable determination that continued operation of the Franchised Restaurant by Franchisee will result in an imminent danger to public health or safety.

(10) Franchisee loses possession of the Franchised Location through its own fault or its failure to extend the lease for the Franchised Location through the Initial Term of this Agreement.

(11) Franchisee, the Operating Principal, any stockholder, member, partner, director or officer of Franchisee, any member of the Continuity Group or any 10% Owner is convicted of, or pleads no contest to, a felony charge; a crime involving moral turpitude; or any other crime or offense that is reasonably likely, in the sole opinion of CKE, to adversely affect CKE, its affiliates or the System.

(12) There is a material breach of any representation or warranty set forth in Section 29.G.-H.

(13) Franchisee, the Operating Principal, any member of the Continuity Group or any 10% Owner remains in default beyond the applicable cure period under any other agreement with CKE or its affiliates (provided that, if the default is not by Franchisee, Franchisee is given written notice of the default and a 30 day period to cure the default), or Franchisee remains in default beyond the applicable cure period under any real estate lease, equipment lease, or financing instrument relating to the Franchised Restaurant, or Franchisee remains in default beyond the applicable cure period with any vendor or supplier to the Franchised Restaurant, or Franchisee fails to pay when due any taxes or assessments relating to the Franchised Restaurant or its employees, unless Franchisee is actively prosecuting or defending the claim or suit in a court of competent jurisdiction or by appropriate government administrative procedure or by arbitration or mediation conducted by a recognized alternative dispute resolution organization.

B. Termination Following Expiration of Cure Period

(1) Except for those items listed in preceding Section 18.A., Franchisee shall have 30 days after written notice of default from CKE within which to remedy the default and provide evidence of that remedy to CKE. If any such default is not cured within that time, this Agreement shall terminate without further notice to Franchisee effective immediately upon expiration of that time, unless CKE notifies Franchisee otherwise in writing. Notwithstanding the foregoing, if the default cannot be corrected within 30 days, Franchisee shall have such additional time to correct the default as reasonably required (not to exceed 90 days) provided that Franchisee begins taking the actions necessary to correct the default during the 30 day cure period and diligently and in good faith pursues those actions to completion. Franchisee will be in default under this Section 18.B.(1) for any failure to materially comply with any of the requirements imposed by this Agreement, the OPM or otherwise in writing, or to carry out the terms of this Agreement in good faith.

(2) Notwithstanding the provisions of preceding Section 18.B.(1), if Franchisee defaults in the payment of any monies owed to CKE or its affiliates when such monies become due and payable and Franchisee fails to pay such monies within 10 days after receiving written notice of default, then this Agreement will terminate effective immediately upon expiration of that time, unless CKE notifies Franchisee otherwise in writing.

(3) If Franchisee has received 2 or more notices of default within the previous 12 months, CKE shall be entitled to send Franchisee a notice of termination upon Franchisee's next default within that 12 month period under this Section 18.B. without providing Franchisee an opportunity to remedy the default.

(4) In addition to the other provisions of this Section 18.B, if CKE reasonably determines that Franchisee becomes or will become unable to meet its obligations to CKE or its affiliates under this Agreement, CKE may provide Franchisee written notice to that effect and demand that Franchisee provide those assurances reasonably designated by CKE, which may include security or letters of credit for the payment of Franchisee's obligations to CKE and its affiliates. If Franchisee fails to provide the assurances demanded by CKE within 30 days after its receipt of written notice from CKE, this Agreement shall terminate without further notice to Franchisee effective immediately upon expiration of that time, unless CKE notifies Franchisee otherwise in writing.

C. Termination Following Inspection

CKE shall have the right to periodically conduct inspections of the Franchised Restaurant to evaluate Franchisee's compliance with the System and this Agreement. Following each inspection, CKE will provide

Franchisee an inspection report listing Franchisee's score on the inspection and those conditions at the Franchised Restaurant that must be rectified. If Franchisee fails to achieve a passing score on an inspection, the inspection report shall constitute a notice of default. If Franchisee fails to achieve a passing score on the next inspection (which shall be conducted at least 30 days after Franchisee's receipt of the inspection report for the prior inspection), CKE may terminate this Agreement, without opportunity to cure, by providing Franchisee written notice of termination along with the inspection report.

D. Statutory Limitations

If any valid, applicable law or regulation of a competent governmental authority with jurisdiction over this Agreement requires a notice or cure period prior to termination longer than set forth in this Section, this Agreement will be deemed amended to conform to the minimum notice or cure period required by the applicable law or regulation.

19. OBLIGATIONS ON TERMINATION OR EXPIRATION

Upon termination or expiration of this Agreement:

A. Franchisee immediately shall cease operating the Franchised Restaurant.

B. Franchisee immediately shall: (1) pay CKE and its affiliates all sums due and owing CKE or its affiliates related to the Franchised Restaurant; and (2) if this Agreement is terminated following Franchisee's default, pay CKE the net present value of the royalty fee that Franchisee would have paid during the balance of the Initial Term but for the termination (calculated based on the average weekly royalty fee owed by Franchisee for the past 52 weeks multiplied by the number of weeks remaining in the Initial Term), unless waived by CKE in its sole discretion. The obligation to pay this royalty fee survives termination of this Agreement and is in addition to, and not in lieu of, Franchisee's obligation to fully comply with its obligations under Section 17.C. following termination of this Agreement.

C. Franchisee promptly shall return to CKE the OPM, any copies of the OPM and all other materials and information furnished by CKE and Franchisee promptly shall return to CKE, in good condition and repair excepting normal wear and tear, all computer software, disks, tapes and other magnetic storage media.

D. Franchisee and all persons and entities subject to the covenants contained in Section 17 shall continue to abide by those covenants and shall not, directly or indirectly, take any action that violates those covenants.

E. Franchisee immediately shall discontinue all use of the Proprietary Marks in connection with the Franchised Restaurant and of any and all items bearing the Proprietary Marks; remove the Proprietary Marks from the Franchised Restaurant and from clothing, signs, materials, motor vehicles and other items owned or used by Franchisee in the operation of the Franchised Restaurant; cancel all advertising for the Franchised Restaurant that contains the Proprietary Marks (including telephone directory listings); and take such action as may be necessary to cancel any filings or registrations for the Franchised Restaurant that contain any Proprietary Marks.

F. Franchisee promptly shall make such alterations and modifications to the Franchised Location as may be necessary to clearly distinguish to the public the Franchised Location from its former appearance and also make those specific additional changes as CKE may request for that purpose. If Franchisee fails to promptly make these alterations and modifications, CKE shall have the right (at Franchisee's expense, to be paid upon Franchisee's receipt of an invoice from CKE) to do so without being guilty of trespass or other tort.

G. Franchisee shall furnish CKE, within 30 days after the effective date of termination or expiration, evidence (certified to be true, complete, accurate and correct by the chief executive officer of Franchisee, if Franchisee is a corporation; by a manager of Franchisee, if Franchisee is a limited liability company; by a general

partner of Franchisee, if Franchisee is a partnership; or by a person authorized in Franchisee's organizational documents if Franchisee is any other type of business entity) satisfactory to CKE of Franchisee's compliance with Sections 19.A. through 19.F.

H. Franchisee shall not, except with respect to a restaurant franchised by CKE or its affiliates which is then open and operating pursuant to an effective franchise agreement or a restaurant franchised by CKE or its affiliates for which there is an effective commitment agreement: (1) operate or do business under any name or in any manner that might tend to give the public the impression that Franchisee is connected in any way with CKE or its affiliates or has any right to use the System or the Proprietary Marks; (2) make, use or avail itself of any of the materials or information furnished or disclosed by CKE or its affiliates under this Agreement or disclose or reveal any such materials or information or any portion thereof to anyone else; or (3) assist anyone not licensed by CKE or its affiliates to construct or equip a foodservice outlet substantially similar to a Carl's Jr. Restaurant.

20. OPTION TO PURCHASE

A. Upon the expiration or termination of this Agreement for any reason, CKE will have the option to purchase from Franchisee some or all of the assets used in the Franchised Restaurant ("Assets"). CKE may exercise its option by giving written notice to Franchisee at any time following expiration or termination up until 30 days after the later of: (1) the effective date of termination or expiration; or (2) the date Franchisee ceases to operate the Franchised Restaurant. As used in this Section 20, "Assets" shall mean and include, without limitation, leasehold improvements, equipment, vehicles, furnishings, fixtures, signs and inventory (non-perishable products, materials and supplies) used in the Franchised Restaurant, and the real estate fee simple or the lease or sublease for the Franchised Location. CKE shall be entitled to the entry of interlocutory and permanent orders of specific performance by a court of competent jurisdiction if Franchisee fails or refuses to timely meet its obligations under this Section 20.

B. CKE shall have the unrestricted right to assign this option to purchase the Assets. CKE or its assignee shall be entitled to all customary representations and warranties that the Assets are free and clear (or, if not, accurate and complete disclosure) as to: (1) ownership, condition and title; (2) liens and encumbrances; (3) environmental and hazardous substances; and (4) validity of contracts and liabilities inuring to CKE or affecting the Assets, whether contingent or otherwise.

C. The purchase price for the Assets ("Purchase Price") shall be their fair market value, (or, for leased assets, the fair market value of Franchisee's lease) determined as of the effective date of purchase in a manner that accounts for reasonable depreciation and condition of the Assets; provided, however, that the Purchase Price shall take into account the termination of this Agreement. Further, the Purchase Price for the Assets shall not contain any factor or increment for any trademark, service mark or other commercial symbol used in connection with the operation of the Franchised Restaurant nor any goodwill or "going concern" value for the Franchised Restaurant. CKE may exclude from the Assets purchased in accordance with this Section any equipment, vehicles, furnishings, fixtures, signs, and inventory that are not approved as meeting then-current standards for a Carl's Jr. Restaurant or for which Franchisee cannot deliver a Bill of Sale in a form satisfactory to CKE.

D. If CKE and Franchisee are unable to agree on the fair market value of the Assets within 30 days after Franchisee's receipt of CKE's notice of its intent to exercise its option to purchase the Assets, the fair market value shall be determined by two professionally certified appraisers, Franchisee selecting one and CKE selecting one. If the higher appraisal is more than 10% greater than the other appraisal, the two appraisers shall select a third professionally certified appraiser who also shall appraise the fair market value of the Assets. The average value set by the appraisers (whether two or three appraisers as the case may be) shall be conclusive and shall be the Purchase Price.

E. The appraisers shall be given full access to the Franchised Restaurant, the Franchised Location and Franchisee's books and records during customary business hours to conduct the appraisal and shall value the

leasehold improvements, equipment, furnishings, fixtures, signs and inventory in accordance with the standards of this Section 20. The appraisers' fees and costs shall be borne equally by CKE and Franchisee.

F. Within 10 days after the Purchase Price has been determined, CKE may exercise its option to purchase the Assets by so notifying Franchisee in writing ("CKE's Purchase Notice"). The Purchase Price shall be paid in cash or cash equivalents at the closing of the purchase ("Closing"), which shall take place no later than 60 days after the date of CKE's Purchase Notice. From the date of CKE's Purchase Notice until Closing:

(1) Franchisee shall operate the Franchised Restaurant and maintain the Assets in the usual and ordinary course of business and maintain in full force all insurance policies required under this Agreement; and

(2) CKE shall have the right to appoint a manager, at CKE's expense, to control the day-to-day operations of the Franchised Restaurant and Franchisee shall cooperate, and instruct its employees to cooperate, with the manager appointed by CKE. Alternatively, CKE may require Franchisee to close the Franchised Restaurant during such time period without removing any Assets from the Franchised Restaurant.

G. For a period of 30 days after the date of CKE's Purchase Notice ("Due Diligence Period"), CKE shall have the right to conduct such investigations as it seems necessary and appropriate to determine: **(1)** the ownership, condition and title of the Assets; **(2)** liens and encumbrances on the Assets; **(3)** environmental and hazardous substances at or upon the Franchised Location; and **(4)** the validity of contracts and liabilities inuring to CKE or affecting the Assets, whether contingent or otherwise. Franchisee will afford CKE and its representatives access to the Franchised Restaurant and the Franchised Location at all reasonable times for the purpose of conducting inspections of the Assets; provided that such access does not unreasonably interfere with Franchisee's operations of the Franchised Restaurant.

H. During the Due Diligence Period, at its sole option and expense, CKE may **(1)** cause the title to the Assets that consist of real estate interests ("Real Estate Assets") to be examined by a nationally recognized title company and conduct lien searches as to the other Assets; **(2)** procure "AS BUILT" surveys of the Real Estate Assets; **(3)** procure environmental assessments and testing with respect to the Real Estate Assets; and/or **(4)** inspect the Assets that consist of leasehold improvements, equipment, vehicles, furnishings, fixtures, signs and inventory ("Fixed Assets") to determine if the Fixed Assets are in satisfactory working condition. Prior to the end of the Due Diligence Period, CKE shall notify Franchisee in writing of any objections that CKE has to any finding disclosed in any title to lien search, survey, environmental assessment or inspection. If Franchisee cannot or elects not to correct any such title defect, environmental objection or defect in the working condition of the Fixed Assets, CKE will have the option to either accept the condition of the Assets as they exist or rescind its option to purchase on or before the Closing.

I. Prior to the Closing, Franchisee and CKE shall comply with all applicable legal requirements, including the bulk sales provisions of the Uniform Commercial Code of the state in which the Franchised Restaurant is located and the bulk sales provisions of any applicable tax laws and regulations. Franchisee shall, prior to or simultaneously with the Closing, pay all tax liabilities incurred in connection with the operation of the Franchised Restaurant prior to Closing. CKE shall have the right to set off against and reduce the Purchase Price by any and all amounts owed by Franchisee to CKE, and the amount of any encumbrances or liens against the Assets or any obligations assumed by CKE.

J. If the Franchised Location is leased, CKE agrees to use reasonable efforts to effect a termination of the existing lease for the Franchised Location. If the lease for the Franchised Location is assigned to CKE or CKE subleases the Franchised Location from Franchisee, CKE will indemnify and hold Franchisee harmless from any ongoing liability under the lease from the date CKE assumes possession of the Franchised Location, and Franchisee will indemnify and hold CKE harmless from any liability under the lease prior to and including that date.

K. If Franchisee owns the Franchised Location, CKE, at its option, will either purchase the fee simple interest or, upon purchase of the other Assets, enter into a standard lease with Franchisee on terms comparable to those for which similar commercial properties in the area are then being leased. The initial term of this lease with Franchisee shall be at least 10 years with 4 options to renew of 5 years each and the rent shall be the fair market rental value of the Franchised Location. If Franchisee and CKE cannot agree on the fair market rental value of the Franchised Location, then appraisers (selected in the manner described in Section 20.D.) shall determine the rental value.

L. At the Closing, Franchisee shall deliver instruments transferring to CKE or its assignee: (1) good and merchantable title to the Assets purchased, free and clear of all liens and encumbrances (other than liens and security interests acceptable to CKE or its assignee), with all sales and other transfer taxes paid by the Franchisee; (2) all licenses and permits for the Franchised Restaurant that may be assigned or transferred, with appropriate consents, if required; and (3) the lease or sublease for the Franchised Location, with appropriate consents, if required. If Franchisee cannot deliver clear title to all of the purchased Assets as indicated in this Section, or if there are other unresolved issues, the Closing shall be accomplished through an escrow.

21. RELATIONSHIP OF THE PARTIES

This Agreement does not create a fiduciary or other special relationship between the parties. No agency, employment, or partnership is created or implied by the terms of this Agreement, and Franchisee is not and shall not hold itself out as agent, legal representative, partner, subsidiary, joint venturer or employee of CKE or its affiliates. Franchisee shall have no right or power to, and shall not, bind or obligate CKE or its affiliates in any way or manner, nor represent that Franchisee has any right to do so. Franchisee shall not issue any press releases without the prior written approval of CKE.

Franchisee is an independent contractor and is solely responsible for all aspects of the development and operation of the Franchised Restaurant, subject only to the conditions and covenants established by this Agreement. Without limiting the generality of the foregoing, Franchisee acknowledges that CKE has no responsibility to ensure that the Franchised Restaurant is developed and operated in compliance with all applicable laws, ordinances and regulations and that CKE shall have no liability in the event the development or operation of the Franchised Restaurant violates any law, ordinance or regulation.

The sole relationship between Franchisee and CKE is a commercial, arms' length business relationship and, except as provided in Section 22, there are no third party beneficiaries to this Agreement. Franchisee's business is, and shall be kept, totally separate and apart from any that may be operated by CKE. In all public records, in relationships with other persons, and on letterheads and business forms, Franchisee shall indicate its independent ownership of the Franchised Restaurant and that Franchisee is solely a franchisee of CKE. Franchisee shall post a sign in a conspicuous location in the Franchised Restaurant which will contain Franchisee's name and state that the Franchised Restaurant is independently owned and operated by Franchisee under a franchise agreement with CKE.

22. INDEMNIFICATION

A. Franchisee and all guarantors of Franchisee's obligations under this Agreement shall, at all times, indemnify, defend (with counsel reasonably acceptable to CKE), and hold harmless (to the fullest extent permitted by law) CKE and its affiliates, and their respective successors, assigns, past and present stockholders, directors, officers, employees, agents and representatives (collectively "Indemnitees") from and against all "losses and expenses" (as defined below) incurred in connection with any action, suit, proceeding, claim, demand, investigation, inquiry (formal or informal), judgment or appeal thereof by or against CKE and/or Indemnitees or any settlement thereof (whether or not a formal proceeding or action had been instituted), arising out of or resulting from or connected with Franchisee's activities under this Agreement, excluding the gross negligence or willful misconduct of CKE. Franchisee promptly shall give CKE written notice of any such action, suit, proceeding, claim, demand,

inquiry or investigation filed or instituted against Franchisee and, upon request, shall furnish CKE with copies of any documents from such matters as CKE may request.

At Franchisee's expense and risk, CKE may elect to assume (but under no circumstances will CKE be obligated to undertake) the defense and/or settlement of any action, suit, proceeding, claim, demand, investigation, inquiry, judgment or appeal thereof subject to this indemnification. Such an undertaking shall, in no manner or form, diminish Franchisee's obligation to indemnify and hold harmless CKE and Indemnitees. CKE shall not be obligated to seek recoveries from third parties or otherwise mitigate losses.

B. As used in this Section, the phrase "losses and expenses" shall include, but not be limited to, all losses; compensatory, exemplary and punitive damages; fines; charges; costs; expenses; lost profits; reasonable attorneys' fees; expert witness fees; court costs; settlement amounts; judgments; compensation for damages to CKE's reputation and goodwill; costs of or resulting from delays; financing; costs of advertising material and media time/space and the costs of changing, substituting or replacing the same; and any and all expenses of recall, refunds, compensation, public notices and other such amounts incurred in connection with the matters described.

23. CONSENTS, APPROVALS AND WAIVERS

A. Whenever this Agreement requires the prior approval or consent of CKE, Franchisee shall make a timely written request to CKE therefor; and any approval or consent received, in order to be effective and binding upon CKE, must be obtained in writing and be signed by an authorized officer of CKE.

B. CKE makes no warranties or guarantees upon which Franchisee may rely by providing any waiver, approval, consent or suggestion to Franchisee in connection with this Agreement, and assumes no liability or obligation to Franchisee therefor, or by reason of any neglect, delay, or denial of any request therefor. CKE shall not, by virtue of any approvals, advice or services provided to Franchisee, assume responsibility or liability to Franchisee or to any third parties to which CKE would not otherwise be subject.

C. No failure of CKE to exercise any power reserved to it by this Agreement or to insist upon strict compliance by Franchisee with any obligation or condition hereunder, and no custom or practice of the parties at variance with the terms of this Agreement, shall constitute a waiver of CKE's right to demand exact compliance with any of the terms of this Agreement. A waiver by CKE of any particular default by Franchisee shall not affect or impair CKE's rights with respect to any subsequent default of the same, similar or different nature, nor shall any delay, forbearance or omission of CKE to exercise any power or right arising out of any breach or default by Franchisee of any of the terms, provisions or covenants of this Agreement affect or impair CKE's right to exercise the same, nor shall such constitute a waiver by CKE of any right hereunder, or the right to declare any subsequent breach or default and to terminate this Agreement prior to the expiration of its term. Subsequent acceptance by CKE of any payments due to it hereunder shall not be deemed to be a waiver by CKE of any preceding breach by Franchisee of any terms, covenants or conditions of this Agreement.

24. NOTICES

No notice, demand, request or other communication to the parties shall be binding upon the parties unless the notice is in writing, refers specifically to this Agreement and is addressed to: **(A)** if to Franchisee, addressed to Franchisee at the notice address set forth in Appendix A; and **(B)** if to CKE, addressed to CKE at: 6307 Carpinteria Avenue, Suite A, Carpinteria, California 93013-2901 (marked Attn: Franchise Department) (Facsimile: 714-780-6348). Any party may designate a new address for notices by giving written notice of the new address pursuant to this Section. Notices shall be effective upon receipt or first rejection and may be: **(1)** delivered personally; **(2)** transmitted by facsimile or electronic mail to the number(s) set forth above (or in Appendix A) with electronic confirmation of receipt; **(3)** mailed in the United States mail, postage prepaid, certified mail, return receipt requested; or **(4)** mailed via overnight courier.

25. ENTIRE AGREEMENT

CKE and Franchisee acknowledge that each element of this Agreement is essential and material and that, except as otherwise provided in this Agreement, the parties shall deal with each other in good faith. This Agreement, the OPM, the documents referred to herein, and the attachments hereto, constitute the entire, full and complete agreement between the parties concerning Franchisee's rights, and supersede any and all prior or contemporaneous negotiations, discussions, understandings or agreements. There are no other representations, inducements, promises, agreements, arrangements, or undertakings, oral or written, between the parties relating to the matters covered by this Agreement other than those set forth in this Agreement and in the attachments. No obligations or duties that contradict or are inconsistent with the express terms of this Agreement may be implied into this Agreement. Except as expressly set forth herein, no amendment, change or variance from this Agreement shall be binding on either party unless mutually agreed to by the parties and executed in writing. Notwithstanding the foregoing, nothing in this Agreement is intended to disclaim any representation made in CKE's Franchise Disclosure Document provided to Franchisee.

26. SEVERABILITY AND CONSTRUCTION

A. Each article, paragraph, subparagraph, term and condition of this Agreement, and any portions thereof, will be considered severable. If, for any reason, any portion of this Agreement is determined to be invalid, contrary to, or in conflict with, any applicable present or future law, rule or regulation in a final, unappealable ruling issued by any court, agency or tribunal with valid jurisdiction in a proceeding to which CKE is a party, that ruling will not impair the operation of, or have any other effect upon, any other portions of this Agreement; all of which will remain binding on the parties and continue to be given full force and effect.

B. Except as otherwise provided in Section 22, nothing in this Agreement is intended, nor shall be deemed, to confer upon any person or legal entity other than Franchisee and CKE and its affiliates and such of their heirs, successors and assigns, any rights or remedies under or by reason of this Agreement.

C. Franchisee expressly agrees to be bound by any promise or covenant imposing the maximum duty permitted by law that is subsumed within the terms of any provision of this Agreement, as though it were separately articulated in and made a part of this Agreement, that may result from striking from any of the provisions of this Agreement any portion or portions which a court may hold to be unreasonable and unenforceable in a final decision to which CKE is a party, or from reducing the scope of any promise or covenant to the extent required to comply with such a court order.

D. No provision of this Agreement shall be interpreted in favor of, or against, any party because of the party that drafted this Agreement.

E. Whenever CKE has expressly reserved in this Agreement a right and/or discretion to take or withhold an action, or to grant or decline to grant Franchisee a right to take or withhold an action, except as otherwise expressly and specifically provided in this Agreement, CKE may make such decision or exercise its right and/or discretion on the basis of its judgment of what is in its best interests. This also applies if CKE is deemed to have a right and/or discretion. CKE's judgment of what is in the best interests of the System, at the time its decision is made or its right or discretion is exercised, can be made without regard to whether: (1) other reasonable alternative decisions or actions, or even arguably preferable alternative decisions or actions, could have been made by CKE; (2) CKE's decision or the action taken promotes its financial or other individual interest; (3) CKE's decision or the action taken applies differently to Franchisee and one or more other Franchisees or franchisees or CKE company-operated or affiliate-operated operations; or (4) CKE's decision or the action taken is adverse to Franchisee's interests. CKE will have no liability to Franchisee for any such decision or action. CKE and Franchisee intend that the exercise of CKE's right or discretion will not be subject to limitation or review. If applicable law implies a covenant of good faith and fair dealing in this Agreement, CKE and Franchisee agree that such covenant will not imply any rights or obligations that are inconsistent with a fair construction of the terms of this Agreement and

that this Agreement grants CKE the right to make decisions, take actions and/or refrain from taking actions not inconsistent with Franchisee's rights and obligations under this Agreement.

27. GOVERNING LAW, FORUM AND LIMITATIONS

A. This Agreement and any claim or controversy arising out of, or relating to, rights and obligations of the parties under this Agreement and any other claim or controversy between the parties shall be governed by and construed in accordance with the laws of the State of California without regard to conflicts of laws principles; provided, however, that the provisions of Section 17 shall be interpreted and construed under the laws of the jurisdiction in which the Franchised Restaurant is located. Nothing in this Section is intended, or shall be deemed, to make any California law regulating the offer or sale of franchises or the franchise relationship applicable to this Agreement if such law would not otherwise be applicable.

B. The parties agree that, to the extent any disputes cannot be resolved directly between them, Franchisee shall file any suit against CKE only in the federal or state court having jurisdiction where CKE's principal offices are located at the time suit is filed. CKE may file suit in the federal or state court located in the jurisdiction where its principal offices are located at the time suit is filed or in the jurisdiction where Franchisee resides or does business or where the Franchised Restaurant is or was located or where the claim arose. Franchisee consents to the personal jurisdiction of those courts over Franchisee and to venue in those courts.

C. Except for payments owed by one party to the other, and unless prohibited by applicable law, any legal action or proceeding (including the offer and sale of a franchise to Franchisee) brought or instituted with respect to any dispute arising from or related to this Agreement or with respect to any breach of the terms of this Agreement must be brought or instituted within a period of 2 years after the initial occurrence of any act or omission that is the basis of the legal action or proceeding, whenever discovered.

D. Franchisee and CKE waive, to the fullest extent permitted by law, any right or claim of any punitive or exemplary damages against each other and agree that, in the event of a dispute between them, each shall be limited to the recovery of actual damages sustained by it. Franchisee and CKE waive, to the fullest extent permitted by law, the right to bring, or be a class member in, any class action suits and the right to trial by jury.

E. If either party brings an action to enforce this Agreement in a judicial proceeding, the party prevailing in that proceeding shall be entitled to reimbursement of costs and expenses, including, but not limited to, reasonable accountants', attorneys', attorneys' assistants' and expert witness fees, the cost of investigation and proof of facts, court costs, other litigation expenses, and travel and living expenses, whether incurred prior to, in preparation for, or in contemplation of the filing of, the proceeding. If CKE utilizes legal counsel (including in-house counsel employed by CKE) in connection with any failure by Franchisee to comply with this Agreement, Franchisee shall reimburse CKE for any of the above-listed costs and expenses incurred by CKE. In any judicial proceeding, the amount of these costs and expenses will be determined by the court and not by a jury.

F. No right or remedy conferred upon or reserved to CKE or Franchisee by this Agreement is intended to be, nor shall be deemed, exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy. The provisions of this Section 27 shall survive the expiration or earlier termination of this Agreement.

28. MISCELLANEOUS

A. Gender and Number

All references to gender and number shall be construed to include such other gender and number as the context may require.

B. Captions

All captions in this Agreement are intended solely for the convenience of the parties and none shall be deemed to affect the meaning or construction of any provision of this Agreement.

C. Counterparts

This Agreement may be executed in counterparts, and each copy so executed and delivered shall be deemed an original.

D. Time

Time is of the essence of this Agreement for each provision in which time is a factor. Whenever this Agreement refers to a period of days or months, the first day or month to be counted shall be the day or month of the designated action, event or notice. Except where otherwise noted, days shall be measured by calendar days, provided that if the last day of a period is a Saturday, Sunday or national holiday, the period automatically shall be extended to the next day that is not a Saturday, Sunday or national holiday.

E. Injunctive Relief

Franchisee recognizes that its failure to comply with the terms of this Agreement, including, but not limited to, the failure to fully comply with all post-termination obligations, is likely to cause irreparable harm to CKE, its affiliates and the System. Therefore, Franchisee agrees that, in the event of a breach or threatened breach of any of the terms of this Agreement by Franchisee, CKE shall be entitled to injunctive relief (both preliminary and permanent) restraining that breach and/or to specific performance without showing or proving actual damages and without posting any bond or security. Any equitable remedies sought by CKE shall be in addition to, and not in lieu of, all remedies and rights that CKE otherwise may have arising under applicable law or by virtue of any breach of this Agreement.

F. Control During Crisis Situation

If an event occurs at the Franchised Restaurant that has or reasonably may cause harm or injury to customers, guests or employees (*i.e.*, food spoilage/poisoning, food tampering/sabotage, slip and fall injuries, natural disasters, robberies, shootings, etc.) or may damage the Proprietary Marks, the System or the reputation of CKE (collectively "Crisis Situation"), Franchisee shall: **(1)** immediately contact appropriate emergency care providers to assist it in curing the harm or injury; and **(2)** immediately inform CKE by telephone of the Crisis Situation. Franchisee shall refrain from making any internal or external announcements (*i.e.*, no communication with the news media) regarding the Crisis Situation (unless otherwise directed by CKE or public health officials).

To the extent CKE deems appropriate, in its sole and absolute discretion, CKE or its designee may control the manner in which the Crisis Situation is handled by the parties, including, without limitation, conducting all communication with the news media, providing care for injured persons and/or temporarily closing the Franchised Restaurant. The parties acknowledge that, in directing the management of any Crisis Situation, CKE or its designee may engage the services of attorneys, experts, doctors, testing laboratories, public relations firms and those other professionals as it deems appropriate. Franchisee and its employees shall cooperate fully with CKE or its designee in its efforts and activities in this regard and shall be bound by all further Crisis Situation procedures developed by CKE from to time hereafter. The indemnification under Section 22 shall include all losses and expenses that may result from the exercise by CKE or its designee of the management rights granted in this Section 28.F.

G. Compliance with U.S. Laws

Franchisee acknowledges that under applicable U.S. law, including, without limitation, Executive Order

13224, signed on September 23, 2001 ("Order"), CKE is prohibited from engaging in any transaction with any person engaged in, or with a person aiding any person engaged in, acts of terrorism, as defined in the Order. Accordingly, Franchisee represents and warrants to CKE that as of the date of this Agreement, neither Franchisee nor any person holding any ownership interest in Franchisee, controlled by Franchisee, or under common control with Franchisee is designated under the Order as a person with whom business may not be transacted by CKE, and that Franchisee: (1) does not, and hereafter shall not, engage in any terrorist activity; (2) is not affiliated with and does not support any individual or entity engaged in, contemplating, or supporting terrorist activity; and (3) is not acquiring the rights granted under this Franchise Agreement with the intent to generate funds to channel to any individual or entity engaged in, contemplating, or supporting terrorist activity, or to otherwise support or further any terrorist activity.

29. REPRESENTATIONS

Franchisee represents, acknowledges and warrants to CKE (and Franchisee agrees that these representations, acknowledgments and warranties shall survive termination of this Agreement) that:

A. This Agreement involves significant legal and business rights and risks. CKE does not guarantee Franchisee's success. Franchisee has read this Agreement in its entirety, conducted an independent investigation of the business contemplated by this Agreement, has been thoroughly advised with regard to the terms and conditions of this Agreement by legal counsel or other advisors of Franchisee's choosing, recognizes that the nature of the business conducted by Carl's Jr. Restaurants may change over time, has had ample opportunity to investigate all representations made by or on behalf of CKE, and has had ample opportunity to consult with current and former franchisees of CKE. The prospect for success of the business undertaken by Franchisee is speculative and depends to a material extent upon Franchisee's personal commitment, capability and direct involvement in the day-to-day management of the business.

B. CKE makes no express or implied warranties or representations that Franchisee will achieve any degree of success in the development or operation of the Franchised Restaurant and that success in the development and operation of the Franchised Restaurant depends ultimately on Franchisee's efforts and abilities and on other factors, including, but not limited to, market and other economic conditions, Franchisee's financial condition and competition.

C. CKE has entered, and will continue to enter, into agreements with other franchisees. The manner in which CKE enforces its rights and the franchisees' obligations under any of those other agreements shall not affect the ability of CKE to enforce its rights or Franchisee's obligations under this Agreement.

D. The Initial Franchise Fee is not refundable for any reason.

E. CKE may change or modify the System, from time to time, including the OPM, and Franchisee will be required to make such expenditures as such changes or modifications in the System may require.

F. Nothing in this Agreement prohibits CKE or its affiliates from: (1) operating or licensing others to operate Carl's Jr. Restaurants at any location other than the Franchised Location; (2) operating or licensing others to operate restaurants, other than Carl's Jr. Restaurants, at any location; (3) utilizing the System or any part of the System in any manner other than operation by CKE or its affiliates of a Carl's Jr. Restaurant at the Franchised Location; and (4) merchandising and distributing goods and services identified by the Proprietary Marks at any location through any other method or channel of distribution.

G. All information Franchisee provided to CKE in connection with Franchisee's franchise application and CKE's grant of this Franchise is truthful, complete and accurate.

H. The persons signing this Agreement on behalf of Franchisee have full authority to enter into this Agreement and the other agreements contemplated by the parties. Execution of this Agreement or such other agreements by Franchisee does not and will not conflict with or interfere with, directly or indirectly, intentionally or otherwise, with the terms of any other agreement with any other third party to which Franchisee or any person with an ownership interest in Franchisee is a party.

I. Franchisee has not received from CKE or its affiliates or anyone acting on their behalf, any representation of Franchisee's potential sales, expenses, income, profit or loss.

J. Franchisee has not received from CKE or its affiliates or anyone acting on their behalf, any representations other than those contained in CKE's Franchise Disclosure Document provided to Franchisee as inducements to enter this Agreement.

K. Even though this Agreement contains provisions requiring Franchisee to operate the Franchised Restaurant in compliance with the System: (1) CKE and its affiliates do not have actual or apparent authority to control the day-to-day conduct and operation of Franchisee's business or employment decisions; and (2) Franchisee and CKE do not intend for CKE or its affiliates to incur any liability in connection with or arising from any aspect of the System or Franchisee's use of the System, whether or not in accordance with the requirements of the OPM.

L. In the event of a dispute between CKE and Franchisee, the parties have waived their right to a jury trial.

IN WITNESS WHEREOF, the parties have duly executed, sealed and delivered this Agreement as of the day and year first above written.

CKE:

ATTEST: **CARL KARCHER ENTERPRISES, INC.**

By: _____ By: _____

Print Name: _____ Print Name: _____

Title: _____ Title: _____

Date: _____

ATTEST/WITNESS: **FRANCHISEE:**

_____ _____

_____ _____

_____ _____

_____ _____

Date:_____

GUARANTEE AND ASSUMPTION OF FRANCHISEE'S OBLIGATIONS

In consideration of, and as an inducement to, the execution of the Carl's Jr. Restaurant Franchise Agreement dated as of _____ ("Agreement") by Carl Karcher Enterprises, Inc. ("CKE"), entered into with _____ ("Franchisee"), the undersigned ("Guarantors"), each of whom is an officer, director, member of Franchisee's Continuity Group or a 10% Owner, or the spouse thereof, hereby personally and unconditionally agree as follows:

1. Guarantee To Be Bound By Certain Obligations. Guarantors hereby personally and unconditionally guarantee to CKE and its successors and assigns, for the term of the Agreement and thereafter as provided in the Agreement or at law or in equity, that each will be personally bound by the restrictions contained in Section 17 of the Agreement.

2. Guarantee and Assumption of Franchisee's Obligations. Guarantors hereby: **(A)** guarantee to CKE and its successors and assigns, for the term of the Agreement and thereafter as provided in the Agreement or at law or in equity, that Franchisee and any assignee of Franchisee's interest under the Agreement shall: **(1)** punctually pay and perform each and every undertaking, agreement and covenant set forth in the Agreement and **(2)** punctually pay all other monies owed to CKE and/or its affiliates; **(B)** agree to be personally bound by each and every provision in the Agreement, including, without limitation, the provisions of Sections 17 and 22; and **(C)** agree to be personally liable for the breach of each and every provision in the Agreement.

3. General Terms and Conditions. The following general terms and conditions shall apply to this Guarantee:

A. Each of the undersigned waives: **(1)** acceptance and notice of acceptance by CKE of the foregoing undertakings; **(2)** notice of demand for payment of any indebtedness or nonperformance of any obligations hereby guaranteed; **(3)** protest and notice of default to any party with respect to the indebtedness or nonperformance of any obligations hereby guaranteed; **(4)** any right he may have to require that an action be brought against Franchisee or any other person as a condition of liability; **(5)** all rights to payments and claims for reimbursement or subrogation which any of the undersigned may have against Franchisee arising as a result of the execution of and performance under this Guarantee by the undersigned; **(6)** any law or statute which requires that CKE make demand upon, assert claims against or collect from Franchisee or any others, foreclose any security interest, sell collateral, exhaust any remedies or take any other action against Franchisee or any others prior to making any demand upon, collecting from or taking any action against the undersigned with respect to this Guarantee; **(7)** any and all other notices and legal or equitable defenses to which he may be entitled; and **(8)** any and all right to have any legal action under this Guarantee decided by a jury.

B. Each of the undersigned consents and agrees that: **(1)** his direct and immediate liability under this Guarantee shall be joint and several; **(2)** he shall render any payment or performance required under the Agreement upon demand if Franchisee fails or refuses punctually to do so; **(3)** such liability shall not be contingent or conditioned upon pursuit by CKE of any remedies against Franchisee or any other person; **(4)** such liability shall not be diminished, relieved or otherwise affected by any amendment of the Agreement, any extension of time, credit or other indulgence which CKE may from time to time grant to Franchisee or to any other person including, without limitation, the acceptance of any partial payment or performance or the compromise or release of any claims, none of which shall in any way modify or amend this Guarantee, which shall be continuing and irrevocable during the term of the Agreement and for so long thereafter as there are monies or obligations owing from Franchisee to CKE or its affiliates under the Agreement; and **(5)** monies received from any source by CKE for application toward payment of the obligations under the Agreement and under this Guarantee may be applied in any manner or order deemed appropriate by CKE. In addition, if any of the undersigned ceases to be a member of the Continuity Group, a 10% Owner, an officer or director of Franchisee or own any interest in Franchisee or the Franchised Restaurant, that person (and his spouse, if the spouse is also a guarantor) agrees that the obligations under this

Guarantee shall continue to remain in force and effect unless CKE in its sole discretion, in writing, releases those person(s) from this Guarantee. Notwithstanding the provisions of the previous sentence, unless prohibited by applicable law, the obligations contained in Section 17.C. of the Agreement shall remain in force and effect for a period of 2 years after any such release by CKE. A release by CKE of any of the undersigned shall not affect the obligations of any other Guarantor.

C. If CKE brings an action to enforce this Guarantee in a judicial proceeding or arbitration, the prevailing party in such proceeding shall be entitled to reimbursement of its costs and expenses, including, but not limited to, reasonable accountants', attorneys', attorneys' assistants' and expert witness fees, cost of investigation and proof of facts, court costs, other litigation expenses and travel and living expenses, whether incurred prior to, in preparation for or in contemplation of the filing of any such proceeding. In any judicial proceeding, these costs and expenses shall be determined by the court and not by a jury.

D. If CKE utilizes legal counsel (including in-house counsel employed by CKE or its affiliates) in connection with any failure by the undersigned to comply with this Guarantee, the undersigned shall reimburse CKE for any of the above-listed costs and expenses incurred by it.

E. If any of the following events occur, a default ("Default") under this Guarantee shall exist: **(1)** failure of timely payment or performance of the obligations under this Guarantee; **(2)** breach of any agreement or representation contained or referred to in this Guarantee; **(3)** the dissolution of, termination of existence of, loss of good standing status by, appointment of a receiver for, assignment for the benefit of creditors of, or the commencement of any insolvency or bankruptcy proceeding by or against, any of the undersigned; and/or **(4)** the entry of any monetary judgment or the assessment against, the filing of any tax lien against, or the issuance of any writ of garnishment or attachment against any property of or debts due any of the undersigned. If a Default occurs, the obligations of the undersigned shall be due immediately and payable without notice. Upon the death of one of the undersigned, the estate shall be bound by this Guarantee for all obligations existing at the time of death. The obligations of the surviving Guarantors shall continue in full force and effect.

F. This Guarantee shall inure to the benefit of and be binding upon the parties and their respective heirs, legal representatives, successors and assigns. CKE's interests in and rights under this Guarantee are freely assignable, in whole or in part, by CKE. Any assignment shall not release the undersigned from this Guarantee.

G. Sections 27.A. through 27.D. of the Agreement are incorporated by reference into this Guarantee and all capitalized terms that are not defined in this Guarantee shall have the meaning given them in the Agreement.

[SIGNATURES ARE ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, each of the undersigned has hereunto affixed his signature, under seal.

GUARANTORS:

Date: _____ _____

Print Name: _____

Address: _____

Date: _____ _____

Print Name: _____

Address: _____

Date: _____ _____

Print Name: _____

Address: _____

Date: _____ _____

Print Name: _____

Address: _____

APPENDIX A

FRANCHISE INFORMATION

1. **Franchised Location (Recitals):**

2. **Initial Franchise Fee (Section 3.A.):**

3. **Interests in Other Restaurants (Section 17.C.(2)(c)):** _____

4. **Franchisee's Notice Address (Section 24):** _____

APPENDIX B

WEEKLY ROYALTY FEE

The weekly royalty fee as provided for in Section 3.B. of the Franchise Agreement is as follows:

Year of Operation of the Franchised Restaurant		Percentage of Gross Sales

APPENDIX C

FRANCHISEE'S ADVERTISING AND PROMOTION OBLIGATION

Franchisee's APO under Section 5 of the Franchise Agreement shall be as set forth below, unless and until modified by CKE as provided in Section 5:

1. Production Fund (Section 5.B.) __ % of Gross Sales

2. DMA Fund (Section 5.C.) __ % of Gross Sales

TOTAL APO: __ % of Gross Sales (not more than 7%)

The Franchised Restaurant is located in the following Designated Market Area:

_____

APPENDIX D

OWNERSHIP INTERESTS
(Section 13.C)

CORPORATE FRANCHISEE

If Franchisee is a corporation, the number of authorized shares of Franchisee that have been issued is _____ and the name, address, number of shares owned (legally or beneficially) and office held by each shareholder is as follows:

Name	Address	No. of Shares	Office Held

LIMITED LIABILITY COMPANY FRANCHISEE

If Franchisee is a limited liability company, the name, address and percentage interest of each member is as follows:

Name	Address	Percentage Interest

OTHER BUSINESS ENTITY FRANCHISEE

If Franchisee is some other business entity, the type of business entity and the name, address and ownership interest (including for a limited partnership, whether a general or limited partner) of each owner is as follows:

Type of Business Entity:_____

Name	Address	Ownership Interest

CONTINUITY GROUP AND OPERATING PRINCIPAL

(Section 13.E. and Section 13.G.)

Franchisee's Continuity Group shall be comprised of the following persons:

_____

Franchisee's Operating Principal is: _____

FRANCHISEE:

By: _____

Title: _____ Date: _____

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HARDEE'S RESTAURANT FRANCHISE AGREEMENT

THIS AGREEMENT is made as of _____ by and between Hardee's Food Systems, Inc. ("HFS"), a North Carolina corporation, and _____

_____ ("Franchisee").

RECITALS:

As a result of the expenditure of time, skill, effort and money, HFS has developed and owns a unique and distinctive system ("System") relating to the development, establishment and operation of fast service restaurants ("Hardee's Restaurants").

Pursuant to a Master License Agreement with Carl Karcher Enterprises, Inc. ("CKE"), an affiliate of HFS, HFS has the right to use and permit its franchisees and licensees to utilize certain elements and menu items of CKE's Carl's Jr. Restaurant System in the establishment and operation of Hardee's Restaurants.

HFS has incorporated certain of those elements and menu items of the Carl's Jr. Restaurant System into the operation of Hardee's Restaurants ("Star Hardee's Program").

The distinguishing characteristics of the System include, without limitation, uniform and distinctive building designs, interior and exterior layout and trade dress; standards and specifications for equipment, equipment layouts, supplies and menus (including food and beverage designations, special recipes and quality and quantity standards); operating procedures for sanitation, maintenance, and food and beverage storage, preparation and service; and methods and techniques for inventory and cost controls, recordkeeping and reporting, personnel management, purchasing, sales, promotion, and advertising. The System and its components may be changed, improved, and further developed by HFS from time to time.

HFS identifies the System by means of certain names, marks, logos, insignias, slogans, emblems, symbols and designs (collectively "Proprietary Marks") which HFS has designated or may in the future designate for use with the System. The Proprietary Marks used to identify the System, including the principal Proprietary Marks, may be modified by HFS and/or its affiliates from time to time.

HFS continues to develop, use and control the use of these Proprietary Marks in order to identify for the public the source of services and products marketed under the Proprietary Marks and the System, and to represent the System's high standards of quality, appearance and service.

Franchisee desires to obtain a license to use the System and to continuously operate one Hardee's Restaurant ("Franchised Restaurant") at the location specified in attached Appendix A ("Franchised Location"), subject to the terms and conditions of this Agreement and in strict compliance with the standards and specifications established by HFS.

Franchisee understands and acknowledges the importance of HFS' high and uniform standards of quality, operations and service and the necessity of developing and operating the Franchised Restaurant in strict conformity with this Agreement and the Confidential Operating Manual ("Manual").

HFS is willing to grant Franchisee a license to operate the Franchised Restaurant at the Franchised Location, subject to the terms and conditions of this Agreement.

NOW THEREFORE, in consideration of HFS' grant to Franchisee of the right to operate a Franchised Restaurant at the Franchised Location during the term of this Agreement, as well as the mutual covenants, agreements and obligations set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. GRANT OF FRANCHISE

A. Grant

Subject to the provisions of this Agreement, HFS hereby grants to Franchisee the nonexclusive right ("Franchise") to continuously operate the Franchised Restaurant at the Franchised Location and to use the Proprietary Marks in the operation of the Franchised Restaurant. Franchisee may not operate the Franchised Restaurant at any site other than the Franchised Location and may not relocate the Franchised Restaurant without HFS' prior written consent, which may be withheld by HFS in its sole discretion. If HFS approves a relocation of the Franchised Restaurant, it shall have the right to charge Franchisee for all reasonable expenses actually incurred in connection with consideration of the relocation request.

Franchisee agrees that it will at all times faithfully, honestly and diligently perform its obligations under this Agreement, that it will continuously exert its best efforts to promote and enhance the business of the Franchised Restaurant and that it will not engage in any other business or activity that may conflict with its obligations under this Agreement, except the operation of other Hardee's Restaurants or other restaurants operated by Franchisee that are franchised by HFS or its affiliates.

B. No Exclusivity

This Agreement does not give Franchisee any exclusive rights to use the System or the Proprietary Marks in any geographic area. Nothing in this Agreement prohibits HFS from, among other things: **(1)** operating or licensing others to operate at any location, during or after the term of this Agreement, any type of restaurant other than Hardee's Restaurants; **(2)** operating or licensing others to operate, during the term of this Agreement, Hardee's Restaurants at any location other than the Franchised Location; **(3)** operating or licensing others to operate, after this Agreement terminates or expires, Hardee's Restaurants at any location, including the Franchised Location; and **(4)** merchandising and distributing goods and services identified by the Proprietary Marks at any location through any other method or channel of distribution. HFS reserves to itself all rights to use and license the System and the Proprietary Marks other than those expressly granted under this Agreement.

C. Forms of Agreement

Franchisee acknowledges that, over time, HFS has entered, and will continue to enter, into agreements with other franchisees that may contain provisions, conditions and obligations that differ from those contained in this Agreement. The existence of different forms of agreement and the fact that HFS and other franchisees may have different rights and obligations does not affect the duties of the parties to this Agreement to comply with the terms of this Agreement.

2. TERM

A. Initial Term

The Initial Term of this Agreement and the Franchise granted by this Agreement shall begin on the date of this Agreement and terminate at midnight on the day preceding the 20th anniversary of the date the Franchised Restaurant first opened for business, unless this Agreement is terminated at an earlier date pursuant to Section 18. HFS shall complete and forward to Franchisee a notice to memorialize the date the Franchised Restaurant first opened for business.

Notwithstanding the foregoing, if, during the term of this Agreement, Franchisee, through no act or failure to act on its part (except the failure to extend the lease for the Franchised Location through the Initial Term of this Agreement), loses the right to possession of the Franchised Location, the Initial Term shall expire as of the date of the loss of the right to possession. However, if the right to possession is lost through no act or failure to act on Franchisee's part, Franchisee may relocate the Franchised Restaurant (without paying any additional initial franchise fee or transfer fee) at its expense and the Initial Term shall not expire if: **(1)** HFS approves the new location; **(2)** Franchisee constructs and equips a Franchised Restaurant at the new location in accordance with the then-current System standards and specifications; **(3)** a Franchised Restaurant at the new location is open to the public for business within 6 months after the loss of possession of the Franchised Location; and **(4)** Franchisee reimburses HFS for all reasonable expenses actually incurred by HFS in connection with the approval of the new location.

B. Renewal Term

(1) At the expiration of the Initial Term, Franchisee shall have an option to remain a franchisee at the Franchised Location for a Renewal Term of 10 years or, at Franchisee's option, 5 years. Franchisee must give HFS written notice of whether or not it intends to exercise its renewal option and the length of the proposed Renewal Term not less than 12 months, nor more than 24 months, before the expiration of the Initial Term. Notwithstanding the foregoing, if Franchisee subleases the Franchised Location from HFS, Franchisee must give HFS the notice described in the preceding sentence not less than 6 months, nor more than 12 months, before notice of renewal is required to be provided to the landlord under the master lease. Failure by Franchisee to timely provide HFS the required notice constitutes a waiver by Franchisee of its option to remain a franchisee beyond the expiration of the Initial Term.

(2) If Franchisee desires to continue as a franchisee for the Renewal Term, Franchisee must comply with all of the following conditions prior to and at the end of the Initial Term:

(a) Franchisee shall not be in default under this Agreement or any other agreements between Franchisee and HFS or its affiliates; Franchisee shall not be in default beyond the applicable cure period under any real estate lease, equipment lease or financing instrument relating to the Franchised Restaurant; Franchisee shall not be in default beyond the applicable cure period with any vendor or supplier to the Franchised Restaurant; and, for the 12 months before the date of Franchisee's notice and the 12 months before the expiration of the Initial Term, Franchisee shall not have been in default beyond the applicable cure period under this Agreement or any other agreements between Franchisee and HFS or its affiliates.

(b) Franchisee shall make the capital expenditures required to renovate and modernize the Franchised Restaurant to conform to the interior and exterior designs, decor, color schemes, furnishings and equipment and presentation of the Proprietary Marks consistent with the image of the System for new Hardee's Restaurants at the time Franchisee provides HFS the renewal notice, including such structural changes, remodeling, redecoration and modifications to existing improvements as may be necessary to do so.

(c) Franchisee and its employees at the Franchised Restaurant shall be in compliance with HFS' then-current training requirements.

(d) Franchisee shall have the right to remain in possession of the Franchised Location, or other premises acceptable to HFS, for the Renewal Term and all monetary obligations owed to Franchisee's landlord, if any, must be current.

(e) Franchisee, all individuals who executed this Agreement and all guarantors of Franchisee's obligations shall have executed a general release and a covenant not to sue, in a form satisfactory to HFS, of any and all claims against HFS and its affiliates and their respective past and present officers, directors, shareholders, agents and employees, in their corporate and individual capacities, including, without limitation, claims arising under federal, state and local laws, rules and ordinances, and claims arising out of, or relating to,

this Agreement, any other agreements between Franchisee and HFS or its affiliates and Franchisee's operation of the Franchised Restaurant, other Hardee's Restaurants operated by Franchisee and all other restaurants operated by Franchisee that are franchised by HFS or its affiliates.

(f) As determined by HFS in its sole discretion, Franchisee has operated the Franchised Restaurant and all of its other franchised Hardee's Restaurants in accordance with the applicable franchise agreements and with the System (as set forth in the Manual or otherwise and as revised from time to time by HFS) and has operated each of its other restaurants that are franchised by HFS or its affiliates in accordance with the applicable franchise agreement.

(3) Within 4 months after HFS' receipt of Franchisee's written notice of its desire to renew, HFS shall advise Franchisee whether or not Franchisee is entitled to remain a franchisee for the Renewal Term. If HFS intends to permit Franchisee to remain a franchisee for the Renewal Term, HFS' notice will contain preliminary information regarding actions Franchisee must take to satisfy Sections 2.B.(2)(b) and (c). If HFS does not intend to permit Franchisee to remain a franchisee for the Renewal Term, HFS' notice shall specify the reasons for non-renewal. If HFS chooses not to permit Franchisee to remain a franchisee for the Renewal Term, it shall have the right to unilaterally extend the Initial Term of this Agreement as necessary to comply with any applicable laws.

(4) If Franchisee will remain a franchisee for the Renewal Term, HFS shall forward to Franchisee a new franchise agreement for the Renewal Term for Franchisee's signature at least 4 months prior to the expiration of the Initial Term. The form of renewal franchise agreement shall be the form then in general use by HFS for Hardee's Restaurants (or, if HFS is not then granting franchises for Hardee's Restaurants, that form of agreement as specified by HFS) and likely will differ from this Agreement, including, but not limited to, provisions relating to the royalty fee and advertising obligations.

(5) Franchisee shall pay HFS a renewal fee in the amount of $5,000 for a Renewal Term of 5 years or less or $10,000 for a Renewal Term greater than 5 years, but no more than 10 years.

(6) Franchisee shall execute the renewal franchise agreement for the Renewal Term and return the signed agreement to HFS, along with the renewal fee, at least one month prior to the expiration of the Initial Term. Failure by Franchisee to sign the renewal franchise agreement and return it to HFS (along with the renewal fee) within this time shall be deemed an election by Franchisee not to renew the Franchise and shall result in termination of this Agreement and the Franchise granted by this Agreement at the expiration of the Initial Term. Provided Franchisee has timely complied with all of the conditions set forth in this Section 2.B., HFS shall execute the renewal franchise agreement and promptly return a fully-executed copy to Franchisee.

3. FEES

A. Initial Franchise Fee

Franchisee has paid HFS an Initial Franchise Fee in the amount specified in Appendix A. Any Commitment Fee previously paid by Franchisee to HFS with respect to the Franchised Restaurant shall be credited against the Initial Franchise Fee. Franchisee acknowledges and agrees that the Initial Franchise Fee was paid in consideration of HFS initially granting this Franchise, it was fully earned at the time paid, and it is not refundable for any reason whatsoever.

B. Royalty Fee

In addition to all other amounts to be paid by Franchisee to HFS, Franchisee shall pay HFS a nonrefundable and continuing royalty fee in an amount set forth in attached Appendix B, which shall not exceed 4% of the Gross Sales of the Franchised Restaurant, for the right to use the System, the Star Hardee's Program and the Proprietary Marks at the Franchised Location. If any taxes, fees or assessments are imposed on HFS by reason of its acting as franchisor or licensing the Proprietary Marks under this Agreement, Franchisee shall reimburse HFS the amount

of those taxes, fees or assessments within 30 days after receipt of an invoice from HFS.

Gross Sales shall include all sales or other income arising at or from the Franchised Restaurant, less sales tax actually collected and paid to the taxing authority and any amounts received from sales of non-food items approved for use in connection with such promotional campaigns, if any, as approved from time to time by HFS in its discretion.

C. Advertising Fees

Franchisee also shall spend and/or contribute for advertising approved by HFS or its designee a minimum of 5% of the Gross Sales of the Franchised Restaurant. The exact amount of the advertising fees to be spent and/or contributed by Franchisee, and the allocation of the advertising fees, as of the date of this Agreement, is set forth in Section 5 and attached Appendix C.

D. Remittance Reports

Within 5 business days after the end of each fiscal week (as defined by HFS from time to time), Franchisee shall submit to HFS in writing (or by electronic mail, polling by computer or such other form or method as HFS may designate) the amount of Gross Sales from the Franchised Restaurant during the preceding fiscal week and such other data or information as HFS may require.

E. Payment of Fees

Within 10 calendar days after the end of each fiscal week, Franchisee shall pay HFS (by check or by such other form or method as HFS may designate) the royalty fee, and the advertising fees required by Section 3.C., applicable to the Gross Sales for the fiscal week. In the alternative, upon receipt of written notice from HFS, Franchisee shall pay HFS the royalty fee applicable to the Gross Sales and other amounts under this Agreement, including advertising fees and interest charges, by electronic funds transfer. In connection with payment of these fees by electronic funds transfer, HFS may designate a day for payment ("Due Date") different than that provided in the preceding paragraph. On each Due Date, HFS will transfer from the Franchised Restaurant's bank operating account ("Account") the amount reported to HFS in Franchisee's remittance report or determined by HFS by the records contained in the cash registers/computer terminals of the Franchised Restaurant. If Franchisee has not reported Gross Sales to HFS for any fiscal period, HFS will transfer from the Account an amount calculated in accordance with its estimate of the Gross Sales during the fiscal period. If, at any time, HFS determines that Franchisee has underreported the Gross Sales of the Franchised Restaurant, or underpaid the royalty fee or other amounts due to HFS under this Agreement, or any other agreement, HFS shall initiate an immediate transfer from the Account in the appropriate amount in accordance with the foregoing procedure, including interest as provided in this Agreement. Any overpayment will be credited to the Account effective as of the first reporting date after HFS and Franchisee determine that such credit is due.

In connection with payment of the royalty fee by electronic funds transfer, Franchisee shall: **(1)** comply with procedures specified by HFS in the Manual or otherwise in writing; **(2)** perform those acts and sign and deliver those documents as may be necessary to accomplish payment by electronic funds transfer as described in this Section 3.E.; **(3)** give HFS an authorization in the form designated by HFS to initiate debit entries and/or credit correction entries to the Account for payments of the royalty fee and other amounts payable under this Agreement, including any interest charges; and **(4)** make sufficient funds available in the Account for withdrawal by electronic funds transfer no later than the Due Date for payment thereof.

Failure by Franchisee to have sufficient funds in the Account shall constitute a default of this Agreement pursuant to Section 18.B.(2). Franchisee shall not be entitled to set off, deduct or otherwise withhold any royalty fees, advertising contributions, interest charges or any other monies payable by Franchisee under this Agreement on grounds of any alleged non-performance by HFS of any of its obligations or for any other reason.

F. Interest

If any payments by Franchisee due to HFS are not received by HFS by the date due, Franchisee, in addition to paying the amount owed, shall pay HFS interest on the amount owed from the date due until paid at the maximum rate permitted for indebtedness of this nature in the state in which the Franchised Restaurant is located, not to exceed 1.5% per fiscal period (as defined by HFS from time to time) or a portion of a fiscal period. Payment of interest by Franchisee on past due obligations is in addition to all other remedies and rights available to HFS pursuant to this Agreement or under applicable law.

G. Partial Payments

No payment by Franchisee or acceptance by HFS of any monies under this Agreement for a lesser amount than due shall be treated as anything other than a partial payment on account. Franchisee's payment of a lesser amount than due with an endorsement, statement or accompanying letter to the effect that payment of the lesser amount constitutes full payment shall be given no effect and HFS may accept the partial payment without prejudice to any rights or remedies it may have against Franchisee. Acceptance of payments by HFS other than as set forth in this Agreement shall not constitute a waiver of HFS' right to demand payment in accordance with the requirements of this Agreement or a waiver by HFS of any other remedies or rights available to it pursuant to this Agreement or under applicable law. Notwithstanding any designation by Franchisee, HFS shall have sole discretion to apply any payments by Franchisee to any of its past due indebtedness for royalty fees, advertising contributions, purchases from HFS or its affiliates, interest or any other indebtedness. HFS has the right to accept payment from any other entity as payment by Franchisee. Acceptance of that payment by HFS will not result in that other entity being substituted for Franchisee.

H. Collection Costs and Expenses

Franchisee agrees to pay to HFS on demand any and all costs and expenses incurred by HFS in enforcing the terms of this Agreement, including, without limitation, collecting any monies owed by Franchisee to HFS. These costs and expenses include, but are not limited to, costs and commissions due a collection agency, reasonable attorneys' fees (including attorneys' fees for in-house counsel employed by HFS or its affiliates and any attorneys' fees incurred by HFS in bankruptcy proceedings), costs incurred in creating or replicating reports demonstrating Gross Sales of the Franchised Restaurant, court costs, expert witness fees, discovery costs and reasonable attorneys' fees and costs on appeal, together with interest charges on all of the foregoing.

4. RECORDKEEPING AND REPORTS

A. Recordkeeping

Franchisee agrees to use computerized cash and data capture and retrieval systems that meet HFS' specifications and to record sales of the Franchised Restaurant electronically or on tape for all sales at or from the Franchised Location. Franchisee shall keep and maintain, in accordance with any procedures set forth in the Manual, complete and accurate books and records pertaining to the Franchised Restaurant sufficient to fully report to HFS. Franchisee's books and records shall be kept and maintained using generally accepted accounting principles ("GAAP"), if Franchisee uses GAAP in any of its other operations, or using other recognized accounting principles applied on a consistent basis which accurately and completely reflect the financial condition of Franchisee. Franchisee will preserve all of its books, records and state and federal tax returns for at least 5 years after the later of preparation or filing (or such longer period as may be required by any governmental entity) and make them available and provide duplicate copies to HFS within 5 days after HFS' written request.

B. Periodic Reports

Franchisee shall, at Franchisee's expense, submit to HFS, in the form prescribed by HFS, a quarterly profit and loss statement and balance sheet (both of which may be unaudited) within 30 days after the end of each fiscal

quarter (as defined by HFS from time to time) during each fiscal year (as defined by HFS from time to time). HFS shall have the right, to be exercised in its sole discretion, to require that Franchisee provide HFS profit and loss statements and balance sheets at other times requested by HFS. Each statement and balance sheet shall be signed by Franchisee or by Franchisee's treasurer or chief financial officer attesting that it is true, correct and complete and uses accounting principles applied on a consistent basis which accurately and completely reflect the financial condition of Franchisee.

C. Annual Reports

At HFS' request, Franchisee shall, at its expense, provide to HFS either a reviewed or audited profit and loss statement and balance sheet for the Franchised Restaurant within 60 days after the end of each fiscal year to be signed by Franchisee or by Franchisee's treasurer or chief financial officer attesting that the financial statements present fairly the financial position of Franchisee and the results of operations of the Franchised Restaurant during the period covered. HFS shall have the right, in its reasonable discretion, to require that Franchisee, at Franchisee's expense, submit audited financial statements prepared by a certified public accounting firm acceptable to HFS for any fiscal year or any period or periods of a fiscal year.

D. Other Reports

Franchisee shall submit to HFS, for review or auditing, such other forms, reports, records, information and data as HFS may reasonably designate, in the form and at the times and places reasonably required by HFS, upon request and as specified from time to time in the Manual or otherwise in writing.

E. Public Filings

If Franchisee is or becomes a publicly-held entity in accordance with other provisions of this Agreement, Franchisee shall send to HFS copies of all reports (including responses to comment letters) or schedules Franchisee may file with the U.S. Securities and Exchange Commission (certified by Franchisee's chief executive officer to be true, correct, complete and accurate) and copies of any press releases it may issue, within 3 days of the filing of those reports or schedules or the issuance of those releases.

F. Audit Rights

HFS or its designee shall have the right at all reasonable times, both during and after the term of this Agreement, to inspect, copy and audit Franchisee's books, records, federal, state and local tax returns, and such other forms, reports, information and data as HFS reasonably may designate, applicable to the operation of the Franchised Restaurant. If an inspection or audit discloses an understatement of Gross Sales, Franchisee shall pay HFS, within 10 days after receipt of the inspection or audit report, the deficiency in the royalty fees and advertising contributions plus interest (at the rate and on the terms provided in Section 3.F.) from the date originally due until the date of payment. If an inspection or audit is made necessary by Franchisee's failure to furnish reports or supporting records as required under this Agreement, or to furnish such reports, records or information on a timely basis, or if an understatement of Gross Sales for the period of any audit is determined by any audit or inspection to be greater than 2%, Franchisee also shall reimburse HFS for the reasonable cost of the audit or inspection including, without limitation, the charges of attorneys and independent accountants, and the travel expenses, room, board and compensation of HFS' employees or designees involved in the audit or inspection. The foregoing remedies shall be in addition to all other remedies and rights available to HFS under this Agreement or applicable law.

If Franchisee fails to provide HFS on a timely basis with the records, reports and other information required by this Agreement or, upon request of HFS, with copies of same, HFS or its designee shall have access at all reasonable times (and as often as necessary) to Franchisee's books and records for the purpose, among other things, of preparing the required records, reports and other information. Franchisee promptly shall reimburse HFS or its

designee for all costs and expenses associated with HFS obtaining such records, reports or other information.

5. ADVERTISING AND PROMOTION

A. Contributions/Expenditures by Franchisee

During the term of this Agreement, Franchisee shall have a weekly advertising and promotion obligation ("APO") in the amount set forth in Section 3.C. and Appendix C. Following written notice to Franchisee, HFS may modify the amount and allocation of the APO subject to the provisions of Section 5.E. Franchisee shall pay that portion of the APO as HFS may direct to the Hardee's National Advertising Fund ("HNAF") in accordance with Section 5.B. The remainder of the APO shall be paid, as directed by HFS, at the same time and in the same manner as the royalty fee, to a Regional Co-op in accordance with Section 5.C., and/or spent by Franchisee for local store marketing ("LSM") in accordance with Section 5.D.

B. Hardee's National Advertising Fund

HFS has established, and will maintain and administer HNAF for the creation and development of advertising, marketing and public relations, research and related programs, activities and materials that HFS, in its sole discretion, deems appropriate. Franchisee shall contribute to HNAF the amount set forth in Appendix C, as may subsequently be modified pursuant to Section 5.E. Hardee's Restaurants operated by HFS and its affiliates shall contribute to HNAF on the same basis as comparable franchisees. Unless modified in writing by HFS, HNAF contributions are due on the first day of each month.

HFS or its designee shall direct all advertising, marketing, and public relations programs and activities financed by HNAF, with sole discretion over the creative concepts, materials and endorsements used in those programs and activities, and the geographic, market and media placement and allocation of advertising and marketing materials. Franchisee agrees that HNAF may be used, among other things, to pay the costs of preparing and producing such associated materials and programs as HFS or its designee may determine, including video, audio and written advertising materials; employing advertising agencies; sponsorship of sporting, charitable or similar events; administering regional and multi-regional advertising programs, including, without limitation, purchasing direct mail and other media advertising and employing advertising agencies to assist with these efforts; and supporting public relations, market research and other advertising, promotional and marketing activities. Franchisee agrees to participate in all advertising, marketing, promotions, research and public relations programs instituted by HNAF. From time to time, HFS or its designee may furnish Franchisee with marketing, advertising and promotional materials at the cost of producing them, plus any related shipping, handling and storage charges.

HFS shall separately account for payments to HNAF but it shall not be required to segregate HNAF funds from its other monies. HFS shall not use HNAF funds to defray any of its general operating expenses. HNAF may hire employees, either full-time or part-time, for its administration. HFS and its affiliates may be reimbursed by HNAF for expenses related to its marketing programs including, without limitation, conducting market research, preparing advertising and marketing materials, and collecting and accounting for contributions. HFS may spend in any fiscal year an amount greater or less than the aggregate contribution of all Hardee's Restaurants to HNAF during that year or cause HNAF to invest any surplus for its future use. A statement of monies collected and costs incurred by HNAF shall be prepared annually and shall be furnished to Franchisee within a reasonable period of time following a written request. HFS or its designee will have the right to cause HNAF to be incorporated or operated through an entity separate from HFS at such time as HFS or its designee deems appropriate, and such successor entity shall have all rights and duties of HFS pursuant to this Section 5.

Franchisee understands and acknowledges that HNAF is intended to enhance recognition of the Proprietary Marks and patronage of Hardee's Restaurants. HFS will endeavor to utilize HNAF to develop advertising and marketing materials and programs, and to place advertising that will benefit the System and all Hardee's Restaurants contributing to HNAF. However, Franchisee agrees that HFS is not liable to

Franchisee and Franchisee forever covenants not to sue and holds HFS harmless of any liability or obligation to ensure that expenditures by HNAF in or affecting any geographic area (including the Franchised Location) are proportionate or equivalent to the contributions to HNAF by Hardee's Restaurants operating in that geographic area, or that any Hardee's Restaurant will benefit directly or in proportion to its contribution to HNAF from the development of advertising and marketing materials or the placement of advertising. Except as expressly provided in this Section 5, neither HFS nor its designee assumes any direct or indirect liability to Franchisee with respect to the maintenance, direction or administration of HNAF.

HFS reserves the right, in its sole discretion, to: **(1)** suspend contributions to and operations of HNAF for one or more periods that it determines to be appropriate; **(2)** terminate HNAF upon 30 days' written notice to Franchisee and establish, if HFS so elects, a different advertising fund; and **(3)** upon the written request of any franchised or company restaurants, defer or waive, in whole or in part, any advertising fees required by this Section if, in HFS' sole judgment, there has been demonstrated unique, objective circumstances justifying any such waiver or deferral. On termination, all monies in HNAF shall be spent for advertising and/or promotional purposes. HFS has the right to reinstate HNAF upon the same terms and conditions set forth in this Agreement upon 30 days' prior written notice to Franchisee.

C. Regional Co-op

HFS, in its sole discretion, may establish a regional advertising and sales promotion cooperative ("Regional Co-op") in the regional area in which the Franchised Restaurant is located ("Designated Market Area" or "DMA"). Franchisee shall be a member of and contribute to the Regional Co-op such amount as is determined from time to time by HFS and/or the Regional Co-op, which, as of the date of this Agreement, is the amount specified in Appendix C. The Regional Co-op may be incorporated by HFS and will be operated in accordance with its charter, which HFS shall have the right to modify from time to time in its sole discretion.

HFS or its designee shall have the right to terminate (and subsequently restart) the Regional Co-op. Upon termination, all monies in the Regional Co-op shall be spent for advertising and/or promotional purposes. HFS or its designee shall have the sole right, but not the obligation, to enforce the obligations of franchisees who are members of the Regional Co-op to contribute to the Regional Co-op and neither Franchisee nor any other franchisees who contribute to the Regional Co-op shall be deemed a third party beneficiary with respect to the Regional Co-op obligations of other franchisees or have any right to enforce the obligation of any franchisee to contribute to the Regional Co-op.

D. Local Store Marketing

Franchisee shall spend for approved LSM, on a monthly basis, the difference between Franchisee's APO and the amount Franchisee contributes to HNAF, a Regional Co-op or some other advertising fund as HFS may direct Franchisee to pay. As of the date of this Agreement, that amount is specified in Appendix C. HFS or its designee periodically shall advise Franchisee of the advertising and sales promotions authorized by HFS. Within 30 days after the end of each fiscal quarter, Franchisee shall provide HFS or its designee copies of all documentation demonstrating the amount and types of LSM expenditures made by Franchisee in the prior fiscal quarter.

Franchisee's LSM expenditures shall not include payments for items that HFS, in its sole discretion, deems inappropriate to meet the minimum advertising requirements. As of the date of this Agreement, inappropriate expenditures for which Franchisee cannot spend LSM monies include, without limitation, free or discounted food, employee incentive programs, charitable contributions, payments in connection with permanent on-premises menu boards, lighting, yellow pages, entertainment discount books, the purchase or maintenance of vehicles, and other similar payments.

Local advertising and promotion materials may be purchased from any approved source. If purchased from a source other than HFS or its affiliates, these materials shall comply with federal and local laws and regulations

and with the guidelines for advertising and promotions promulgated from time to time by HFS or its designee and shall be submitted to HFS or its designee prior to first use for its approval. In no event shall Franchisee's advertising contain any statement or material which, in the sole discretion of HFS, may be considered: **(1)** in bad taste or offensive to the public or to any group of persons; **(2)** defamatory of any person or an attack on any competitor; **(3)** to infringe upon the use, without permission, of any other persons' trade name, trademark, service mark or identification; or **(4)** inconsistent with the public image of HFS or the System.

If, in any fiscal year, Franchisee spends less than the required amount for the Franchised Restaurant for authorized LSM advertising and sales promotions expenditures, the difference between the required amount and the amount actually spent in that fiscal year shall be paid to HNAF within 10 days after demand for payment is sent to Franchisee. In determining whether Franchisee has spent the required amount for the Franchised Restaurant for these purposes in any fiscal year, only expenditures made in that fiscal year will be counted and there will be no carryover from a previous fiscal year of any expenditures.

E. Changes in the APO

HFS has the right, following written notice to Franchisee, to reallocate the APO and to increase the APO; however, HFS will not increase the APO by more than ½% of Gross Sales in any 12 month period. In addition, HFS may not increase the APO above 6% of Gross Sales; however, this limitation on HFS does not prevent the Franchised Restaurant's Regional Co-op from requiring a contribution, that when added to Franchisee's HNAF contribution, results in a total APO in excess of 6% of Gross Sales.

6. MANUAL

HFS shall loan to Franchisee during the term of this Agreement one copy of, or electronic access to, HFS' confidential and proprietary Manual which contains information and knowledge that is unique, necessary and material to the System. (As used in this Agreement, the term "Manual" also includes all written correspondence from HFS regarding the System, other publications, materials, drawings, memoranda, videotapes, audio tapes, CDs, DVDs and electronic media that HFS from time to time may provide to Franchisee.) The Manual may be supplemented or amended from time to time by letter, electronic mail, bulletin, videotapes, CDs, DVDs, audio tapes, software or other communications concerning the System to reflect changes in the image, specifications and standards relating to developing, equipping, furnishing and operating a Hardee's Restaurant. HFS reserves the right to furnish all or part of the Manual to Franchisee in electronic form or online (including by Intranet) and establish terms of use for access to any restricted portion of HFS' web site. Franchisee shall keep its copy of the Manual current and up-to-date with all additions and deletions provided by or on behalf of HFS and shall purchase whatever equipment and related services (including, without limitation, a video cassette recorder, DVD player, computer system, Internet service, dedicated phone line, facsimile machine, etc.) as may be necessary to receive these communications. If a dispute relating to the contents of the Manual develops, the master copy maintained by HFS at its principal offices shall control.

The Manual contains detailed standards, specifications, instructions, requirements, methods and procedures for management and operation of the Franchised Restaurant. The Manual also may relate to the selection, purchase, storage, preparation, packaging, ingredients, recipes, service and sale of all products and beverages sold at the Franchised Restaurant; management and employee training; marketing, advertising and sales promotions; maintenance and repair of the Franchised Restaurant building, grounds, equipment, graphics, signs, interior and exterior decor items, fixtures and furnishings; employee dress attire and appearance standards; menu concept and graphics; and accounting, bookkeeping, records retention and other business systems, procedures and operations. Franchisee agrees at all times to operate the Franchised Restaurant in strict conformity with the Manual; to maintain the Manual at the Franchised Restaurant; to not reproduce the Manual or any part of it; and to treat the Manual as confidential and proprietary, and, to disclose the contents of the Manual only to those employees of Franchisee who have a need to know.

7. MODIFICATIONS OF THE SYSTEM

A. HFS, in its sole discretion, shall be entitled from time to time to change or modify the System, including modifications to the Manual, the menu and menu formats, the required equipment, the signage, the building and premises of the Franchised Restaurant (including the trade dress, decor and color schemes), the presentation of the Proprietary Marks, the adoption of new administrative forms and methods of reporting and of payment of any monies owed to HFS (including electronic means of reporting and payment) and the adoption and use of new or modified Proprietary Marks or copyrighted materials. Franchisee shall accept and use or display in the Franchised Restaurant any such changes or modifications in the System as if they were a part of the System at the time this Agreement was executed, and Franchisee will make such expenditures as the changes or modifications in the System may reasonably require.

B. Within 30 days after receipt of written notice from HFS, Franchisee shall begin selling any newly authorized menu items and cease selling any menu items that are no longer authorized. All food, beverage and merchandise items authorized for sale at the Franchised Restaurant shall be offered for sale under the specific name designated by HFS. HFS, in its sole discretion, may restrict sales of menu items to certain time periods during the day. Franchisee shall establish menu prices in its sole and absolute discretion. If Franchisee has a suggestion for a new menu item or for a change to an authorized menu item or Franchisee desires to participate in a test market program, Franchisee shall provide HFS written notice prior to implementation. Franchisee shall not add or modify any menu item or participate in a test market program without first having obtained HFS' prior written approval. Franchisee shall purchase any additional equipment and smallwares as HFS deems reasonably necessary in connection with new menu items. If HFS requires Franchisee to begin offering a new menu item which requires the purchase of additional equipment, a reasonable period of time, as determined in the sole discretion of HFS, shall be provided for the financing, purchase and installation of any such equipment before such new menu items must be offered for sale at the Franchised Restaurant.

C. Extensive structural changes, major remodeling and renovations, and substantial modifications to existing equipment and improvements to modernize and conform the Franchised Restaurant to the image of the System for new franchised and company restaurants shall be required at HFS' request (but not more often than every 5 years). Capital expenses necessary for the repair and maintenance of the Franchised Location are not subject to the time limitations described in the preceding sentence. Within 60 days after receipt of HFS' written notice regarding the required modernization, Franchisee shall prepare and complete drawings and plans for the required modernization. These drawings and plans must be submitted to, and their use approved by, HFS prior to the commencement of work. Franchisee shall complete the required modernization within the time reasonably specified by HFS in its written notice.

D. HFS has the right, in its sole discretion, to waive, defer or permit variations from the standards of the System or the applicable agreement to any franchisee or prospective franchisee based on the peculiarities of a particular site, existing building configuration or circumstance, density of population, business potential, trade area population or any other condition or circumstance. HFS shall have the right, in its sole discretion, to deny any such request HFS believes would not be in the best interests of the System.

E. If Franchisee develops any new concepts, processes or improvements relating to the System, whether or not pursuant to an HFS authorized test, Franchisee promptly shall notify HFS and provide HFS with all information regarding the new concept, process or improvement, all of which shall become the property of HFS and its affiliates and which may be incorporated into the System without any payment to Franchisee. Franchisee, at its expense, promptly shall take all actions deemed necessary or desirable by HFS to vest in HFS ownership of such concepts, processes or improvements.

8. TRAINING

A. Franchise Management Training Program

HFS shall provide Franchisee and certain designated employees the Franchise Management Training Program ("FMTP") in the operation of a Hardee's Restaurant at those times and those places designated by HFS. The FMTP will include classroom instruction and training at HFS' designated training facilities and at a Hardee's Restaurant designated by HFS. Franchisee (or, if Franchisee is owned by more than one individual, Franchisee's Operating Principal, defined in Section 13.G.), Franchisee's Restaurant Manager and any other person designated by HFS shall attend and satisfactorily complete each element of the FMTP specified by HFS. If the Operating Principal elects not to attend the full training program, he shall attend a modified FMTP and Franchisee's Multi-Unit Manager (defined in Section 13.H.) shall attend and successfully complete the FMTP.

Franchisee shall pay HFS for each person attending the FMTP a tuition fee as established by HFS from time to time. Franchisee will be required to pay all travel, living and other expenses incurred by Franchisee's employees while attending the training. HFS reserves the right to dismiss from the training program any person whom HFS does not believe will perform acceptably in the position for which he has been hired by Franchisee and Franchisee shall provide a suitable replacement within one month of such dismissal.

B. Additional Training

HFS shall have the right (which may be exercised at any time and in HFS' sole discretion) to require that Franchisee, the Operating Principal, the Multi-Unit Manager, Franchisee's Restaurant Manager and any other employees designated by HFS take and successfully complete other training courses. HFS reserves the right to require Franchisee to pay a tuition fee for these additional training programs as established by HFS from time to time. Franchisee will be required to pay all travel, living and other expenses incurred by Franchisee's employees while attending the training.

C. Training by Franchisee

Franchisee shall conduct such initial and continuing training programs for its employees as HFS may require from time to time.

9. ADDITIONAL SERVICES BY HFS

In addition to the services described elsewhere in this Agreement, during the term of this Agreement, HFS shall make the following services available to Franchisee at no additional cost:

A. Pre-Opening Assistance

HFS shall provide consultation and advice to Franchisee as HFS deems appropriate with regard to construction or renovation and operation of the Franchised Restaurant, building layout, furnishings, fixtures and equipment plans and specifications, employee selection and training, purchasing and inventory control and those other matters as HFS deems appropriate.

B. Opening of the Franchised Restaurant

Upon Franchisee's reasonable request, or at HFS' discretion, HFS shall provide assistance in opening the Franchised Restaurant and in training Franchisee's employees as HFS deems appropriate in light of Franchisee's needs and the availability of HFS personnel.

C. Post-Opening Assistance

HFS periodically, as it deems appropriate, shall advise and consult with Franchisee in connection with the operation of the Franchised Restaurant. HFS, as it deems appropriate, shall provide to Franchisee its knowledge and expertise regarding the System and pertinent new developments, techniques and improvements in the areas of restaurant design, management, food and beverage preparation, sales promotion, service concepts and other areas.

HFS may provide these services through visits by HFS' representatives to the Franchised Restaurant or Franchisee's offices, the distribution of printed or filmed material or electronic information, meetings or seminars, telephone communications, email communications or other communications.

D. HFS' Right to Inspect the Franchised Restaurant

To determine whether Franchisee and the Franchised Restaurant are in compliance with this Agreement and with all specifications, quality standards and operating procedures prescribed by HFS for the operation of Hardee's Restaurants, HFS or its designees shall have the right at any reasonable time and without prior notice to Franchisee to: **(1)** inspect the Franchised Location; **(2)** observe, photograph and videotape the operations of the Franchised Restaurant for such consecutive or intermittent periods as HFS deems necessary; **(3)** remove samples of any food and beverage product, material or other products for testing and analysis (without paying for the samples); **(4)** interview personnel of the Franchised Restaurant; **(5)** interview customers of the Franchised Restaurant; and **(6)** inspect and copy any books, records and documents relating to the operation of the Franchised Restaurant or, upon the request of HFS or its designee, require Franchisee to send copies thereof to HFS or its designee. Franchisee agrees to cooperate fully with HFS or its designee in connection with any such inspections, observations, videotaping, product removal and interviews. Franchisee shall take all necessary steps to immediately correct any deficiencies detected during these inspections, including, without limitation, ceasing further sale of unauthorized menu items and ceasing further use of any equipment, advertising materials or supplies that do not conform with the standards and requirements promulgated by HFS from time to time. Franchisee shall present to its customers such evaluation forms as are periodically prescribed by HFS and shall participate and/or request its customers to participate in any surveys performed by or on behalf of HFS as HFS may direct.

E. Delegation

HFS has the right, from time to time, to delegate the performance of any portion or all of its obligations and duties under this Agreement to designees, whether affiliates or agents of HFS or independent contractors with which HFS has contracted to provide this service.

10. PERFORMANCE STANDARDS AND UNIFORMITY OF OPERATION

Products sold and services performed under the Proprietary Marks have a reputation for quality. This reputation has been developed and maintained by HFS, and it is of the utmost importance to HFS, Franchisee and all other franchisees of HFS that this reputation be maintained. In recognition of the mutual benefits that come from maintaining the reputation for quality enjoyed by the System, Franchisee covenants and agrees, with respect to the operation of the Franchised Restaurant, that Franchisee and its employees shall comply with all of the requirements of the System as set forth in the Manual or otherwise, and Franchisee additionally shall comply with the following:

A. Standards, Specifications and Procedures

Franchisee acknowledges that each and every detail of the appearance, layout, decor, services and operation of the Franchised Restaurant is important to HFS and other Hardee's Restaurants. Franchisee agrees to cooperate with HFS by maintaining these high standards in the operation of the Franchised Restaurant. Franchisee further agrees to comply with all System specifications, recipes, standards and operating procedures (whether contained in the Manual or any other written communication to Franchisee) relating to the appearance, function, cleanliness and operation of a Hardee's Restaurant, including, but not limited to: **(1)** type, quality, taste, weight, dimensions, ingredients, uniformity, manner of preparation, and sale of all food products and beverages sold at the Franchised Restaurant and all other products used in the packaging and sale of those products and beverages; **(2)** sales and marketing procedures and customer service; **(3)** advertising and promotional programs; **(4)** layout, decor and color scheme of the Franchised Restaurant; **(5)** appearance and dress of employees; **(6)** safety, maintenance, appearance, cleanliness, sanitation, standards of service, and operation of the Franchised Restaurant; **(7)** submission of requests

for approval of brands of products, supplies and suppliers; **(8)** use and illumination of signs, posters, displays, standard formats and similar items; **(9)** identification of Franchisee as the owner of the Franchised Restaurant; **(10)** types of fixtures, furnishings, equipment, smallwares and packaging; and **(11)** the make, type, location and decibel level of any game, entertainment or vending machine. Mandatory specifications, standards and operating procedures, including upgraded or additional equipment, that HFS prescribes from time to time in the Manual, or otherwise communicates to Franchisee in writing, shall constitute provisions of this Agreement as if fully set forth in this Agreement.

B. Approved Products, Distributors and Suppliers

Franchisee acknowledges that the reputation and goodwill of Hardee's Restaurants are based upon, and can only be maintained by, the sale of distinctive, high quality food products and beverages, and the presentation, packaging and service of such products and beverages in an efficient and appealing manner. HFS may develop certain proprietary food products that will be prepared by or for HFS according to HFS' proprietary special recipes and formulas. HFS also has developed standards and specifications for other food products, ingredients, seasonings, mixes, beverages, materials and supplies incorporated or used in the preparation, cooking, serving, packaging and delivery of prepared food products authorized for sale at Hardee's Restaurants. Franchisee agrees that the Franchised Restaurant will: **(1)** purchase those food products developed by HFS pursuant to a special recipe or formula only from HFS, an affiliate of HFS or a third party designated and licensed by HFS to prepare and sell such products; and **(2)** purchase from manufacturers, distributors, vendors and suppliers (collectively "suppliers") approved by HFS all other goods, food products, ingredients, spices, seasonings, mixes, beverages, materials and supplies used in the preparation of products (collectively "goods"), as well as advertising materials, furniture, fixtures, equipment, smallwares, menus, forms, paper and plastic products, packaging or other materials (collectively "materials") that meet the standards and specifications promulgated by HFS from time to time. HFS has the right to require that Franchisee use only certain brands and to prohibit Franchisee from using other brands. HFS may from time to time modify the list of approved brands and/or suppliers, and Franchisee shall not, after receipt of such modification in writing, reorder any brand from any supplier that is no longer approved.

HFS may approve one or more suppliers for any goods or materials and may approve a supplier only as to certain goods or materials. HFS may concentrate purchases with one or more suppliers to obtain lower prices and/or the best advertising support and/or services for any group of Hardee's Restaurants or any other group of restaurants franchised or operated by HFS or its affiliates. Approval of a supplier may be conditioned on requirements relating to the frequency of delivery, reporting capabilities, standards of service, including prompt attention to complaints, or other criteria, and concentration of purchases, as set forth above, and may be temporary pending a further evaluation of such supplier by HFS. HFS may establish commissaries and distribution facilities owned and operated by HFS or an affiliate that HFS shall designate as an approved supplier.

If Franchisee proposes to purchase any goods or materials (that Franchisee is not required to purchase from HFS, an affiliate of HFS or a designated supplier) from a supplier that HFS has not previously approved, Franchisee shall submit to HFS a written request for such approval, or shall request the supplier to do so itself. HFS has the right to require, as a condition of its approval, that its representatives be permitted to inspect the supplier's facilities, and that such information, specifications and samples as HFS reasonably designates be delivered to HFS and/or to an independent, certified laboratory designated by HFS for testing prior to granting approval. A charge not to exceed the reasonable cost of the inspection and the actual cost of the test shall be paid by Franchisee. HFS reserves the right, at its option, to re-inspect the facilities and products of any such approved supplier and to revoke its approval upon the suppliers' failure to continue to meet any of the foregoing criteria.

Franchisee shall at all times maintain an inventory of approved goods and materials sufficient in quality and variety to realize the full potential of the Franchised Restaurant. HFS may, from time to time, conduct market research and testing to determine consumer trends and the salability of new food products and services. Franchisee agrees to cooperate in these efforts by participating in HFS' customer surveys and market research programs if requested by HFS. All customer surveys and market research programs will be at HFS' sole cost and expense,

unless such survey or program has been approved by Franchisee and Franchisee has approved its proportionate cost. Franchisee shall not be allowed to test anything without first being requested to by HFS and signing a test letter agreement in a form satisfactory to HFS.

HFS and its affiliates disclaim all express or implied warranties concerning any approved goods, materials or services, including, without limitation, any warranties as to merchantability, fitness for a particular purpose, availability, quality, pricing or profitability. Franchisee acknowledges that HFS and its affiliates may, under appropriate circumstances, receive fees, commissions, field-of-use license royalties, or other consideration from approved suppliers based on sales to franchisees, and that HFS may charge non-approved suppliers reasonable testing or inspection fees.

C. Menu Boards and Formats

HFS shall have the right to prescribe, and subsequently vary, one or more menu boards and formats to be utilized in the Franchised Restaurant. The menu boards and formats may include requirements concerning organization, graphics, product descriptions, illustrations and other matters (except prices) related to the menu. Prescribed menu boards and formats may vary depending on region, market size or other factors deemed relevant by HFS. If any menu board and format utilized by Franchisee ceases to be an authorized menu board and format, Franchisee shall have a reasonable period of time (not to exceed 6 months) to discontinue use of the old menu board and format and begin using an authorized menu board and format.

D. Hardware and Software

Franchisee agrees to procure and install such data processing equipment, computer hardware and software, required dedicated telephone, DSL and power lines, high speed Internet connections, modems, printers and other computer-related accessory or peripheral equipment as HFS specifies in the Manual or otherwise. All of the foregoing must be able to provide HFS that information, in that format/medium, as HFS reasonably may specify from time to time. Franchisee shall provide all assistance required by HFS to bring Franchisee's computer system on-line with the computer system designated by HFS and maintained by HFS or its affiliates at the earliest possible time. Franchisee agrees that HFS shall have the free and unfettered right to retrieve any data and information from Franchisee's computers as HFS, in its sole discretion, deems appropriate, including electronically polling the daily sales, menu mix and other data of the Franchised Restaurant. All of the hardware and software specified to be installed or purchased, or activities Franchisee is to accomplish, and the delivery cost of all hardware and software, shall be at Franchisee's expense.

Franchisee shall: **(1)** use the proprietary software program, system documentation manuals and other proprietary materials now and hereafter required by HFS in connection with the operation of the Franchised Restaurant; **(2)** if requested by HFS, execute HFS' software license or similar Agreement; **(3)** input and maintain in Franchisee's computer such data and information as HFS prescribes in the Manual, software programs, documentation or otherwise; and **(4)** purchase new or upgraded software programs, system documentation manuals and other proprietary materials at then-current prices whenever adopted system-wide by HFS.

Franchisee acknowledges that computer systems are designed to accommodate a finite amount of data and terminals, and that, as these limits are reached, or as technology or software is developed in the future, HFS may, in its sole discretion, mandate that Franchisee: **(A)** add memory, ports and other accessories or peripheral equipment or additional, new or substitute software to the original computer system purchased by Franchisee; and **(B)** replace or upgrade the entire computer system with a larger system capable of assuming and discharging the computer-related tasks and functions specified by HFS. Franchisee also acknowledges that computer designs and functions change periodically and that HFS may desire to make substantial modifications to its computer specifications or to require installation of entirely different systems during the term of this Agreement or upon renewal of this Agreement.

To ensure full operational efficiency and communication capability between HFS' computers and those of all Hardee's Restaurants, Franchisee agrees, at its expense, to keep its computer system in good maintenance and repair and to make additions, changes, modifications, substitutions and replacements to its computer hardware, software, telephone and power lines and other computer-related facilities as directed by HFS, and on the dates and within the times specified by HFS in its sole discretion. Upon termination or expiration of this Agreement, all computer software, disks, tapes and other magnetic storage media shall be returned to HFS in good operating condition, excepting normal wear and tear.

E. Upkeep of the Franchised Restaurant

Franchisee shall constantly maintain and continuously operate the Franchised Restaurant and all furniture, fixtures, equipment, furnishings, floor coverings, interior and exterior signage, the building interior and exterior, interior and exterior lighting, landscaping and parking lot surfaces in first-class condition and repair in accordance with the requirements of the System, including all ongoing necessary remodeling, redecorating, refurbishing and repairs. In addition, Franchisee shall promptly and diligently perform all necessary maintenance, repairs and replacements to the Franchised Restaurant as HFS may prescribe from time to time including periodic interior and exterior painting; resurfacing of the parking lot; roof repairs; and replacement of obsolete or worn out signage, floor coverings, furnishings, equipment and decor.

Franchisee shall not make any material alterations to the Franchised Restaurant that affect operations or the image of the System without HFS' prior written approval. Franchisee acknowledges and agrees that the requirements of this Section are both reasonable and necessary to ensure continued public acceptance and patronage of Hardee's Restaurants, to assist the Franchised Restaurant to compete effectively in the marketplace and to avoid deterioration or obsolescence of the operation of the Franchised Restaurant.

F. Maximum Operation of the Franchised Restaurant

During the term of this Agreement, Franchisee shall use the Franchised Location solely for the operation of the Franchised Restaurant and shall maintain sufficient inventories, adequately staff each shift with qualified employees and continuously operate the Franchised Restaurant at its maximum capacity and efficiency for the minimum number of days and hours set forth in the Manual or as HFS otherwise prescribes in writing (subject to the requirements of local laws and licensing requirements).

Franchisee shall immediately resolve any customer complaints regarding the quality of food or beverages, service and/or cleanliness of the Franchised Restaurant or any similar complaints. When any customer complaints cannot be immediately resolved, Franchisee shall use best efforts to resolve the customer complaints as soon as practical and shall, whenever feasible, give the customer the benefit of the doubt. If HFS, in its sole discretion, determines that its intervention is necessary or desirable to protect the System or the goodwill associated with the System, or if HFS, in its sole discretion, believes that Franchisee has failed adequately to address or resolve any customer complaints, HFS may, without Franchisee's consent, resolve any complaints and charge Franchisee an amount sufficient to cover HFS' reasonable costs and expenses in resolving the customer complaints, which amount Franchisee shall pay HFS immediately on demand.

G. Franchised Restaurant Management and Personnel

The Franchised Restaurant shall at all times be under the on-site supervision of one of the following designated individuals, who must meet, to the satisfaction of HFS, HFS' applicable training qualifications for their designated position title: a Restaurant Manager, a Multi-Unit Manager, or, for specific, limited periods of time as authorized by HFS, a Shift Leader. Franchisee must, at all times, employ at least 2 management personnel for the Franchised Restaurant who have successfully completed the FMTP. If at any time Franchisee ceases to employ 2 management personnel as described above, Franchisee has 30 days (from the date on which Franchisee has less than 2 specified management personnel) to hire and enroll replacement personnel in the FMTP. At Franchisee's

option, one person may hold more than one of the above positions.

Franchisee (or, if Franchisee is owned by more than one individual, the Operating Principal or Multi-Unit Manager) shall remain active in overseeing the operations of the Franchised Restaurant, including without limitation, regular, periodic visits to the Franchised Restaurant and sufficient communications with HFS to ensure that the Franchised Restaurant's operations comply with the operating standards as promulgated by HFS from time to time in the Manual or otherwise in written or oral communications.

Franchisee shall hire all employees of the Franchised Restaurant and be exclusively responsible for the terms of their employment and compensation, and for the proper training of such employees in the operation of the Franchised Restaurant, in human resources and customer relations. Franchisee shall establish at the Franchised Restaurant a training program for all employees that meets the standards prescribed by HFS.

Franchisee shall employ only suitable persons of good character and reputation who will at all times conduct themselves in a competent and courteous manner in accordance with the image and reputation of HFS and the System and, while on duty, comply with the dress attire, personal appearance and hygiene standards set forth in the Manual. Franchisee shall use its best efforts to ensure that Franchisee's employees maintain a neat and clean appearance and render competent and courteous service to all customers and fellow employees of the Franchised Restaurant.

H. Signs and Logos

Subject to local ordinances, Franchisee shall prominently display in and upon the land and buildings of the Franchised Restaurant interior and exterior signs and logos using the name "Hardee's", without any prefix or suffix, and those other names, marks, advertising signs and logos, of such nature, form, color, number, location and size, and containing that material as HFS may from time to time direct. Franchisee shall not display in or upon the Franchised Location any sign, logo or advertising media of any kind to which HFS objects.

I. Coin Operated Equipment

Franchisee shall not permit at the Franchised Restaurant any juke box, vending or game machine, gum machine, game, ride, gambling or lottery device, coin or token operated machine, or any other music, film or video device not authorized by HFS.

J. Compliance with Laws and Good Business Practices

Franchisee shall secure and maintain in force in its name all required licenses, permits and certificates relating to the operation of the Franchised Restaurant. Franchisee shall operate the Franchised Restaurant in full compliance with all applicable laws, ordinances and regulations including, without limitation, all laws or regulations governing or relating to the handling of food products, immigration and discrimination, occupational hazards and health insurance, employment laws, including, without limitation, workers' compensation insurance, unemployment insurance, and the withholding and payment of federal and state income taxes, social security taxes and sales taxes. Franchisee shall timely pay all obligations relating to the Franchised Restaurant. All advertising and promotion by Franchisee shall be completely factual and shall conform to the highest standards of ethical advertising. Franchisee shall, in all dealings with Franchisee's customers, suppliers and the public, adhere to the highest standards of honesty, integrity, fair dealing and ethical conduct. Franchisee agrees to refrain from any business or advertising practice that may be injurious to the goodwill associated with the Proprietary Marks or the business of HFS, its affiliates, the System or other restaurants operated or franchised by HFS or its affiliates.

Franchisee shall notify HFS in writing within 5 days after the commencement of: **(1)** any action, suit or proceeding, or the issuance of any order, writ, injunction, award or decree of any court, agency or other governmental instrumentality, which may adversely affect the operation or financial condition of Franchisee or the Franchised Restaurant; or **(2)** of any notice of violation of any law, ordinance or regulation relating to health or sanitation at

the Franchised Restaurant.

K. Non-Cash Payment Systems

Franchisee shall accept debit cards, credit cards, stored value gift cards or other non-cash payment systems specified by HFS to enable customers to purchase authorized products and shall obtain all necessary hardware and/or software used in connection with these non-cash payment systems. Franchisee shall reimburse HFS for all costs associated with such non-cash payment systems as they pertain to the Franchised Restaurant.

L. 800 Number, Secret Shoppers

In order to (among other things) maintain and enhance the goodwill associated with the Proprietary Marks, the System and each Hardee's Restaurant, Franchisee agrees to participate in programs initiated to verify customer satisfaction and/or Franchisee's compliance with all operational and other aspects of the System, including (but not limited to) an 800 number, secret shoppers or other programs as HFS may require. HFS will share the results of these programs, as they pertain to the Franchised Restaurant, with Franchisee. Franchisee will reimburse HFS for all costs related to the Franchised Restaurant associated with any and all of these programs.

11. PROPRIETARY MARKS

The term "Proprietary Marks" as used in this Agreement refers to all words, symbols, insignia, devices, designs, trade names, service marks or combinations thereof designated by HFS as identifying the System and the products sold and services provided in connection with the System. HFS shall, from time to time, advise Franchisee as to any additions or deletions to the Proprietary Marks and Franchisee's right to use the Proprietary Marks shall be deemed modified by those additions or deletions.

Franchisee's right to use the Proprietary Marks is limited to its use of the Proprietary Marks in the operation of the Franchised Restaurant at the Franchised Location and as expressly provided in this Agreement and the Manual. Franchisee shall not use the Proprietary Marks on any vehicles without HFS' prior written approval. Franchisee shall not use the Proprietary Marks or any variations of the Proprietary Marks or marks or names confusingly similar to the Proprietary Marks in any manner not authorized by HFS or in any corporate, limited liability company, partnership or other business entity name and shall not use any other trade names, service marks or trademarks in conjunction with the Franchised Restaurant. If local laws or ordinances require that Franchisee file an affidavit of doing business under an assumed name or otherwise make a filing indicating that the Proprietary Marks are being used as a fictitious or assumed name, Franchisee shall include in such filing or application an indication that the filing is made "as a franchisee of Hardee's Food Systems, Inc." Franchisee shall use the symbol ® with all registered marks and the symbol ™ with all pending registrations or other marks.

Franchisee shall not use the Proprietary Marks in any Internet domain name or e-mail address, in the operation of any Internet web site or on a social networking site or other future technological avenue without HFS' prior written consent. HFS may grant or withhold its consent in its sole discretion and may condition its consent on such requirements as HFS deems appropriate, including, among other things, that Franchisee obtain HFS' written approval of: **(A)** any and all Internet domain names and home page addresses related to the Franchised Restaurant; **(B)** the proposed form and content of any web site related to the Franchised Restaurant; **(C)** Franchisee's use of any hyperlinks or other links; **(D)** Franchisee's use of any materials (including text, video clips, photographs, images and sound bites) in which any third party has an ownership interest; and **(E)** any proposed modification of Franchisee's web site. HFS may designate the form and content of Franchisee's web site and/or require that any such web site be hosted by HFS or a third party who HFS designates, using one or more web sites that HFS owns and/or controls. HFS may charge Franchisee a fee for developing, reviewing and approving Franchisee's web site and/or for hosting the web site.

If HFS should elect to use a principal name other than "Hardee's" to identify the System, HFS may select

another name and notify Franchisee to change all or some items bearing the Proprietary Marks to the new name within a reasonable period of time as determined by HFS without any liability to Franchisee, and Franchisee promptly shall adopt that name. Franchisee agrees that nothing in this Agreement gives it any right, title or interest in the Proprietary Marks (except the right to use the Proprietary Marks in accordance with the terms of this Agreement), that the Proprietary Marks are the sole property of HFS and its affiliates, that Franchisee shall not directly or indirectly contest the validity or ownership of the Proprietary Marks or HFS' right to license the Proprietary Marks, and that any and all uses by Franchisee of the Proprietary Marks and the goodwill arising therefrom shall inure exclusively to the benefit of HFS and its affiliates. Franchisee will not seek to register, reregister, assert claim to ownership of, license or allow others to use, or otherwise appropriate to itself any of the Proprietary Marks or any mark or name confusingly similar thereto, or the goodwill symbolized by any of the foregoing except to the extent this action inures to the benefit of, and has the prior written approval of, HFS. Any unauthorized use of the Proprietary Marks by Franchisee or attempt by Franchisee, directly or indirectly, to register the Proprietary Marks in any jurisdiction shall constitute a breach of this Agreement and an infringement of HFS' rights in and to the Proprietary Marks.

Franchisee promptly shall inform HFS in writing as to any infringement of the Proprietary Marks of which it has knowledge. Franchisee shall not make any demand or serve any notice, orally or in writing, or institute any legal action or negotiate, compromise or settle any controversy with respect to any such infringement without first obtaining HFS' written approval. HFS shall have the right, but not the obligation, to bring such action or take such steps as it may deem advisable to prevent any such infringement and to join Franchisee as a party to any action in which HFS is or may be a party and as to which Franchisee is or would be a necessary or proper party. Franchisee also shall promptly notify HFS of any litigation (including administrative or arbitration proceedings) of which Franchisee is aware instituted against HFS, its affiliates or Franchisee relating to the Proprietary Marks. Franchisee shall execute any and all instruments and documents, render such other assistance and do any acts and things as may, in the opinion of HFS' counsel, be necessary or advisable to protect and maintain HFS' interests in the Proprietary Marks, including, without limitation, HFS' interests in litigation or proceedings before the U.S. Patent and Trademark Office or other tribunal relating to the Proprietary Marks.

12. INSURANCE

A. Franchisee shall be responsible for all loss or damage arising from or related to Franchisee's development and operation of the Franchised Restaurant, and for all demands or claims with respect to any loss, liability, personal injury, death, property damage, or expense whatsoever occurring upon the premises of, or in connection with the development or operation of, the Franchised Restaurant. Franchisee shall maintain in full force and effect throughout the term of this Agreement that insurance which Franchisee determines is necessary or appropriate for liabilities caused by or occurring in connection with the development or operation of the Franchised Restaurant which shall include, at a minimum, insurance policies of the kinds, and in the amounts, required by Section 12.B. HFS, and any entity with an insurable interest designated by HFS, shall be an additional insured in such policies to the extent each has an insurable interest.

B. All insurance policies shall be written by an insurance company or companies satisfactory to HFS, in compliance with the standards, specifications, coverages and limits set forth in the Manual or otherwise provided to Franchisee in writing. These policies shall include, at a minimum, the following:

(1) Comprehensive general liability insurance including coverage for bodily injury, personal injury, products liability, blanket contractual liability, broad form property damage, non-owned automobiles, completed operations and property damage on an occurrence basis with policy limits of not less than $1,000,000 per occurrence and $2,000,000 in the aggregate.

(2) Property Insurance written on an "All Risks" policy for fire and related peril (including floods and earthquakes where applicable) with limits of insurance of not less than the full replacement value of the Franchised Restaurant, and its furniture, fixtures, equipment, inventory and other tangible property.

(3) Business Interruption and Extra Expense coverage to include rental payment continuation for a minimum of 12 months, loss of profits and other extra expenses experienced during the recovery from property loss.

(4) Plate glass coverage for replacement of glass from breakage.

(5) Employer's Liability coverage in the amount of $500,000.

(6) Workers' compensation and such other insurance as may be required by statute or rule of the state or locality in which the Franchised Restaurant is located. This coverage shall also be in effect for all of Franchisee's employees who participate in any of the training programs described in Section 8.

(7) In connection with any construction, renovation, refurbishment or remodeling of the Franchised Restaurant, Franchisee shall maintain Builder's All Risks insurance and in connection with new construction or substantial renovation, refurbishment or remodeling of the Franchised Restaurant, Franchisee shall maintain performance and completion bonds in forms and amounts, and written by carrier(s), reasonably satisfactory to HFS.

HFS may reasonably increase the minimum coverage required and require different or additional kinds of insurance to reflect inflation, changes in standards of liability, higher damage awards or other relevant changes in circumstances. Franchisee shall receive written notice of such modifications and shall take prompt action to secure the additional coverage or higher policy limits.

C. The following general requirements shall apply to each insurance policy that Franchisee is required to maintain under this Agreement:

(1) Each insurance policy shall be specifically endorsed to provide that the coverages shall be primary and that any insurance carried by any additional insured shall be excess and non-contributory.

(2) No insurance policy shall contain a provision that in any way limits or reduces coverage for Franchisee in the event of a claim by HFS or its affiliates.

(3) Each insurance policy shall extend to, and provide indemnity for, all obligations and liabilities of Franchisee to third parties and all other items for which Franchisee is required to indemnify HFS under this Agreement.

(4) Each insurance policy shall be written by an insurance company that has received and maintains an "A+" or better rating by the latest edition of Best's Insurance Rating Service.

(5) No insurance policy shall provide for a deductible amount that exceeds $5,000, unless otherwise approved in writing by HFS, and Franchisee's co-insurance under any insurance policy shall be 80% or greater.

D. All required insurance policies shall be in full force and effect and Franchisee shall submit to HFS evidence of satisfactory insurance and proof of payment therefore no later than the date the first of the following occurs: (1) 30 days' prior to the scheduled opening date of the Franchised Restaurant; (2) the date Franchisee takes possession of the Franchised Location, or (3) the date construction commences at the Franchised Location, if Franchisee is contractually obligated for the construction. On each policy renewal date thereafter, Franchisee shall again submit evidence of satisfactory insurance and proof of payment therefor to HFS. The evidence of insurance shall include a statement by the insurer that the policy or policies will not be canceled or materially altered without at least 30 days' prior written notice to HFS. Upon request, Franchisee also shall provide to HFS copies of all or any policies, and policy amendments and riders.

E. Franchisee acknowledges that no requirement for insurance contained in this Agreement constitutes advice or a representation by HFS that only such policies, in such amounts, are necessary to protect Franchisee from losses in connection with its business under this Agreement. Maintenance of this insurance, and the performance by Franchisee of its obligations under this Section, shall not relieve Franchisee of liability under the indemnification provisions of this Agreement.

F. Should Franchisee, for any reason, fail to procure or maintain at least the insurance required by this Section 12, as revised from time to time pursuant to the Manual or otherwise in writing, HFS shall have the immediate right and authority, but not the obligation, to procure such insurance and charge its cost to Franchisee. All out-of-pocket costs incurred by HFS in obtaining such insurance on behalf of Franchisee shall be reimbursed to HFS by Franchisee immediately upon Franchisee's receipt of an invoice therefore.

13. ORGANIZATION OF FRANCHISEE

A. Representations

If Franchisee is a corporation, a limited liability company, a partnership or any other type of organization (collectively, "business entity"), Franchisee makes the following representations and warranties: **(1)** it is duly organized and validly existing under the laws of the state of its formation; **(2)** it is qualified to do business in the state or states in which the Franchised Restaurant is located; **(3)** execution of this Agreement and the development and operation of the Franchised Restaurant is permitted by its governing documents; and **(4)** unless waived in writing by HFS, Franchisee's Articles of Incorporation, Articles of Organization, written partnership agreement or other organizational or governing documents shall at all times provide that the activities of Franchisee are limited exclusively to the development and operation of Hardee's Restaurants and other restaurants operated by Franchisee that are franchised by HFS or its affiliates.

If Franchisee is an individual, or a partnership comprised solely of individuals, Franchisee makes the following additional representations and warranties: **(A)** each individual has executed this Agreement; **(B)** each individual shall be jointly and severally bound by, and personally liable for the timely and complete performance and a breach of, each and every provision of this Agreement; and **(C)** notwithstanding any transfer for convenience of ownership, pursuant to Section 15.D., each individual shall continue to be jointly and severally bound by, and personally liable for the timely and complete performance and a breach of, each and every provision of this Agreement.

B. Governing Documents

If Franchisee is a corporation, copies of Franchisee's Articles of Incorporation, bylaws, other governing documents and any amendments, including the resolution of the Board of Directors authorizing entry into and performance of this Agreement, and all shareholder agreements, including buy/sell agreements, have been furnished to HFS. If Franchisee is a limited liability company, copies of Franchisee's Articles of Organization, Management Agreement, other governing documents and any amendments, including the resolution of the Managers authorizing entry into and performance of this Agreement, and all agreements, including buy/sell agreements, among the members have been furnished to HFS. If Franchisee is a partnership, copies of Franchisee's written partnership agreement, other governing documents and any amendments, as well as all agreements, including buy/sell agreements, among the partners have been furnished to HFS, in addition to evidence of consent or approval of the entry into and performance of this Agreement by the requisite number or percentage of partners, if that approval or consent is required by Franchisee's written partnership agreement. When any of these governing documents are modified or changed, Franchisee promptly shall provide copies to HFS. If Franchisee is any other type of business entity, copies of its organizational and governing documents have been furnished to HFS

C. Ownership Interests

If Franchisee is a business entity, all interests in Franchisee are owned as set forth in attached Appendix D. In addition, if Franchisee is a corporation, Franchisee shall maintain a current list of all owners of record and all beneficial owners of any class of voting securities of the corporation (and the number of shares owned by each). If Franchisee is a limited liability company, Franchisee shall maintain a current list of all members (and the percentage membership interest of each member). If Franchisee is a partnership, Franchisee shall maintain a current list of all owners of an interest in the partnership (and the percentage ownership of each owner). Franchisee shall comply with Section 15 prior to any change in ownership interests and shall execute addenda to Appendix D as changes occur in order to ensure the information contained in Appendix D is true, accurate and complete at all times.

The requirements of this Section 13.C. shall apply only to Franchisee's Continuity Group (defined in Section 13.E.) if, as of the date of the first franchise-related agreement between Franchisee and HFS or one of its affiliates, Franchisee was a publicly-held entity (*i.e.*, an entity that has a class of securities traded on a recognized securities exchange or quoted on the inter-dealer quotation sheets known as the "pink sheets"). If Franchisee becomes a publicly-held entity after that date, it shall thereafter be required to execute addenda to Appendix D only with respect to changes in ownership interests of members of the Continuity Group.

D. Restrictive Legend

If Franchisee is a corporation, Franchisee shall maintain stop-transfer instructions against the transfer on its records of any voting securities, and each stock certificate of the corporation shall have conspicuously endorsed upon its face the following statement: "Any assignment or transfer of this stock is subject to the restrictions imposed on assignment by the Hardee's Restaurant Franchise Agreement(s) to which the corporation is a party." If Franchisee is a publicly-held corporation these requirements shall apply only to the stock owned by Franchisee's Continuity Group. If Franchisee is a limited liability company, each membership or management certificate or other evidence of interest in Franchisee shall have conspicuously endorsed upon its face the following statement: "Any assignment or transfer of an interest in this limited liability company is subject to the restrictions imposed on assignment by the Hardee's Restaurant Franchise Agreement(s) to which the limited liability company is a party." If Franchisee is a partnership, its written partnership agreement shall provide that ownership of an interest in the partnership is held subject to, and that further assignment or transfer is subject to, all restrictions imposed on assignment by this Agreement. If Franchisee is any other type of business entity, its organizational documents shall provide that an ownership interest in the business entity is held subject to, and further assignment or transfer is subject to, all restrictions imposed on assignment by this Agreement.

E. Continuity Group

If Franchisee is a business entity, Appendix D lists those persons who comprise Franchisee's "Continuity Group." HFS and Franchisee acknowledge and agree that it is their intent that the members of the Continuity Group include the Operating Principal (as defined in Section 13.G.) and **(1)** all holders of a legal or beneficial interest of 10% or more ("10% Owners") in Franchisee; **(2)** if Franchisee is a limited partnership, all 10% Owners of Franchisee's general partner; and **(3)** all 10% Owners of a corporation or limited liability company that owns a controlling interest in Franchisee. In the event of any change in the Continuity Group or in the ownership interests of any member of the Continuity Group, Franchisee shall execute addenda to Appendix D to reflect the change. If Franchisee is a corporation, the Continuity Group shall at all times own at least 51% of the voting securities of Franchisee; if Franchisee is a limited liability company, the Continuity Group shall at all times own at least 51% of the membership interests in Franchisee; and if Franchisee is any other type of business entity, the Continuity Group shall at all times have at least a 51% interest in the operating profits and losses and at least a 51% ownership interest in Franchisee.

F. Guarantees

All members of the Continuity Group and their spouses, if applicable, shall jointly and severally guarantee

Franchisee's payment and performance under this Agreement and shall bind themselves to the terms of this Agreement pursuant to the attached Guarantee and Assumption of Franchisee's Obligations ("Guarantee"). Unless Franchisee is a publicly-held entity, all of Franchisee's officers and directors and their spouses, if applicable, shall jointly and severally guarantee Franchisee's payment and performance under this Agreement and also shall bind themselves to the terms of this Agreement pursuant to the attached Guarantee. Notwithstanding the foregoing, HFS reserves the right, in its sole discretion, to waive the requirement that some or all of the previously described individuals execute the attached Guarantee and/or to limit the scope of the Guarantee. HFS reserves the right to require any guarantor to provide personal financial statements to HFS from time to time.

With respect to 10% Owners, Franchisee acknowledges that, unless otherwise agreed to in writing by HFS, it is HFS' intent to have individuals (and not corporations, limited liability companies or other entities) execute the Guarantee. Accordingly, if any 10% Owner is not an individual, HFS shall have the right to have the Guarantee executed by individuals who have only an indirect ownership interest in Franchisee and their spouses, if applicable. (By way of example, if a 10% Owner of Franchisee is a corporation, HFS has the right to require that the Guarantee be executed by individuals who have an ownership interest in that corporation and their spouses, if applicable.)

If Franchisee, any guarantor or any parent, subsidiary or affiliate of Franchisee holds any interest in other restaurants that are franchised by HFS or its affiliates, the party who owns that interest shall execute, concurrently with this Agreement, a form of cross-guarantee to HFS and its affiliates for the payment of all obligations for such restaurants, unless waived in writing by HFS in its sole discretion. For purposes of this Agreement, an affiliate of Franchisee is any company controlled, directly or indirectly, by Franchisee or Franchisee's parent or subsidiary.

G. Operating Principal

If Franchisee is owned by more than one individual, Franchisee shall designate and retain an individual to serve as the Operating Principal. The Operating Principal as of the date of this Agreement is identified in Appendix D. The Operating Principal shall meet all of the following qualifications:

(1) The Operating Principal shall have at least a 10% equity ownership interest in Franchisee or, if Franchisee is a limited partnership, in Franchisee's general partner, unless this requirement is modified by HFS in its sole discretion. This Section 13.G.(1) shall not apply if Franchisee was a publicly-held entity or a wholly-owned subsidiary of a publicly-held entity as of the date of the first franchise-related agreement between Franchisee and HFS.

(2) The Operating Principal, at all times, shall be a member of the Continuity Group and, at a minimum, have full control over the day-to-day activities, including control over the standards of operations and financial performance, of the Franchised Restaurant and those other restaurants (that are franchised by HFS or its affiliates) operated by Franchisee in the same geographic area as the Franchised Restaurant.

(3) Unless Franchisee has named, and HFS has approved, a Multi-Unit Manager, the Operating Principal shall devote full-time and best efforts to supervising the operation of the Franchised Restaurant and other restaurants operated by Franchisee in the same geographic area that are franchised by HFS or its affiliates and shall not engage in any other business or activity, directly or indirectly, that requires substantial management responsibility.

(4) Unless waived in writing by HFS, the Operating Principal shall maintain his primary residence within a reasonable driving distance of the Franchised Restaurant.

(5) The Operating Principal shall successfully complete the FMTP (either the full program or a modified version of the FMTP to meet the specific needs of the candidate, as deemed appropriate by HFS in its sole discretion) and any additional training required by HFS.

(6) HFS shall have approved the Operating Principal, and not have later withdrawn that approval.

If the Operating Principal no longer meets these qualifications, Franchisee must provide HFS written notice designating a qualified person to act as Operating Principal within 30 days after the date the prior Operating Principal ceases to be qualified. HFS shall advise Franchisee whether it has approved the new Operating Principal within a reasonable time after receipt of Franchisee's notice. If HFS does not approve the proposed Operating Principal, Franchisee will have 15 days from its receipt of notice of the decision to advise HFS in writing of another person to act as Operating Principal who satisfies the preceding qualifications.

H. Multi-Unit Manager

If the Operating Principal devotes less than full time to supervising the operation of Franchisee's Franchised Restaurants and the other restaurants operated by Franchisee that are franchised by HFS or its affiliates in a particular geographic area, Franchisee also shall designate and retain one individual to serve as Multi-Unit Manager of Franchisee's Franchised Restaurants in the same geographic area under the supervision of the Operating Principal. The Multi-Unit Manager shall meet all of the following qualifications:

(1) The Multi-Unit Manager shall devote full time and best efforts to supervising the operation of the Franchised Restaurant, Franchisee's other Franchised Restaurants and other restaurants operated by Franchisee that are franchised by HFS or its affiliates in the same geographic area and shall not engage in any other business or activity, directly or indirectly, that requires substantial management responsibility.

(2) The Multi-Unit Manager shall successfully complete the FMTP and any additional training required by HFS.

(3) Unless waived in writing by HFS, the Multi-Unit Manager shall maintain his primary residence within a reasonable driving distance of the Franchised Restaurants he is supervising.

(4) HFS shall have approved the Multi-Unit Manager, and not have later withdrawn that approval.

If the Multi-Unit Manager no longer qualifies as such, Franchisee shall designate another qualified person to act as Multi-Unit Manager within 30 days after the date the prior Multi-Unit Manager ceases to be qualified. Franchisee's designee to become the Multi-Unit Manager must successfully complete the FMTP and any additional training required by HFS.

14. TRANSFERS BY HFS

HFS shall have the absolute, unrestricted right, exercisable at any time, to transfer and assign all or any part of its rights and obligations under this Agreement to any person or legal entity without the consent of Franchisee.

15. TRANSFERS BY FRANCHISEE

A. Franchisee understands and acknowledges that the rights and duties set forth in this Agreement are personal to Franchisee and that HFS has entered into this Agreement in reliance on Franchisee's business skill, financial capacity, personal character, experience and demonstrated or purported ability in developing and operating high quality foodservice operations. Accordingly, neither Franchisee nor any immediate or remote successor to any part of Franchisee's interest in this Agreement, nor any individual, partnership, corporation or other legal entity which directly or indirectly has an interest in Franchisee shall sell, assign, transfer, convey, give away, pledge, mortgage, or otherwise encumber any interest in Franchisee, this Agreement, the Franchise, the Franchised Restaurant, the assets of the Franchised Restaurant, the Franchised Location or any other assets pertaining to Franchisee's operations under this Agreement (collectively "Transfer") without the prior written consent of HFS, unless otherwise permitted by this Section.

Except as otherwise provided in this Agreement, any purported Transfer, by operation of law or otherwise,

not having the prior written consent of HFS shall be null and void and shall constitute a material breach of this Agreement, for which HFS may terminate this Agreement without providing Franchisee an opportunity to cure the breach.

B. Franchisee shall advise HFS in writing of any proposed Transfer, submit (or cause the proposed transferee to submit) a franchise application for the proposed transferee, submit a copy of all contracts and all other agreements or proposals and submit all other information requested by HFS relating to the proposed Transfer. If HFS does not exercise its right of first refusal, the decision as to whether or not to approve a proposed Transfer shall be made by HFS in its sole discretion and shall include numerous factors deemed relevant by HFS. These factors may include, but will not be limited to, the following:

(1) The proposed transferee (and if the proposed transferee is not a natural person, all persons that have any direct or indirect interest in the transferee as HFS may require) must demonstrate to HFS' satisfaction extensive experience in high quality restaurant operations of a character and complexity similar to Hardee's Restaurants; must meet the managerial, operational, experience, quality, character and business standards for a franchisee promulgated by HFS from time to time; must possess a good character, business reputation and credit rating; must have an organization whose management culture is compatible with HFS' management culture; and must have adequate financial resources and working capital to meet Franchisee's obligations under this Agreement.

(2) If the Transfer is a sale, the sales price shall not be so high, in HFS' reasonable judgment, as to jeopardize the ability of the transferee to develop, maintain, operate and promote the Franchised Restaurant and meet financial obligations to HFS, third party suppliers and creditors. HFS' decision with respect to a proposed Transfer shall not create any liability on the part of HFS: (a) to the transferee, if HFS approves the Transfer and the transferee experiences financial difficulties; or (b) to Franchisee or the proposed transferee, if HFS disapproves the Transfer. HFS, without any liability to Franchisee or the proposed transferee, has the right, in its sole discretion, to communicate and counsel with Franchisee and the proposed transferee regarding any aspect of the proposed Transfer.

(3) All of Franchisee's accrued monetary obligations to HFS and its affiliates (whether arising under this Agreement or otherwise) and all other outstanding obligations related to the Franchised Restaurant (including, but not limited to, bills from suppliers, taxes, judgments and any required governmental reports, returns, affidavits or bonds) have been satisfied or, in the reasonable judgment of HFS, adequately provided for. HFS reserves the right to require that a reasonable sum of money be placed in escrow to ensure that all of these obligations are satisfied.

(4) Franchisee is not then in material default of any provision of this Agreement or any other agreement between Franchisee and HFS or its affiliates, is in good standing as a franchisee with HFS and its affiliates, is not in default beyond the applicable cure period under any real estate lease, equipment lease or financing instrument relating to the Franchised Restaurant and is not in default beyond the applicable cure period with any vendor or supplier to the Franchised Restaurant.

(5) Franchisee, all individuals who executed this Agreement and all guarantors of Franchisee's obligations must execute a general release and a covenant not to sue, in a form satisfactory to HFS, of any and all claims against HFS and its affiliates and their respective past and present officers, directors, shareholders, agents and employees, in their corporate and individual capacities, including, without limitation, claims arising under federal, state and local laws, rules and ordinances, and claims arising out of, or relating to, this Agreement, any other agreements between Franchisee and HFS or its affiliates and Franchisee's operation of the Franchised Restaurant and all other restaurants operated by Franchisee that are franchised by HFS or its affiliates.

(6) Unless waived by HFS in its sole discretion, the transferee and those employees of the transferee designated by HFS shall complete the training provided in Sections 8.A.-B.

C. If HFS approves a proposed Transfer, prior to the Transfer becoming effective:

(1) The transferor shall pay HFS a nonrefundable Transfer fee in an amount not to exceed $2,500 in connection with HFS' review of the Transfer application.

(2) Franchisee and the proposed transferee shall execute, at HFS' election, an assignment agreement and any amendments to this Agreement deemed necessary or desirable by HFS to reflect the Transfer and/or HFS' then-current standard form of franchise agreement for an initial term ending on the expiration date of the Initial Term of this Agreement. In either event, a guarantee of the type required by Section 13.F. shall be executed by those individuals identified in Section 13.F. In addition, Franchisee, the proposed transferor and the proposed transferee shall sign all other documents and take such actions as HFS may require to protect HFS' rights under this Agreement.

(3) The transferor shall remain liable for all obligations to HFS incurred before the date of the Transfer and shall execute any and all instruments reasonably requested by HFS to evidence that liability.

D. If Franchisee is an individual or a partnership and desires to Transfer this Agreement to a corporation (or limited liability company) formed for the convenience of ownership, the requirements of Section 15.B. shall apply to such a Transfer; however, Franchisee will not be required to pay a Transfer fee. HFS' approval also will be conditioned on the following: (1) the corporation (or limited liability company) must be newly organized; (2) prior to the Transfer, HFS must receive a copy of the documents specified in Section 13.B. and the transferee shall comply with the remaining provisions of Section 13; and (3) Franchisee must own all voting securities of the corporation (or membership interests of the limited liability company) or, if Franchisee is owned by more than one individual, each person shall have the same proportionate ownership interest in the corporation (or the limited liability company) as prior to the Transfer.

E. Notwithstanding the provisions of Sections 15.A.and B., the issuance of options or the exercise of options pursuant to a qualified stock option plan or a qualified employee stock ownership plan shall not be considered a Transfer and shall not require the prior written approval of HFS; provided no more than a total of 49% of Franchisee's outstanding voting securities are subject to the qualified stock option plan or qualified employee stock ownership plan.

F. If Franchisee was a publicly-held entity as of the date of the first franchise-related agreement between Franchisee and HFS or its affiliates, Section 15.B. shall be applicable to transfers of ownership interests in Franchisee only if the proposed Transfer would result in: (1) 50% or more of Franchisee's voting securities being held by different shareholders than as of the date of the first franchise-related agreement between Franchisee and HFS or its affiliates; or (2) any change in ownership of Franchisee's voting securities whereby any existing shareholder of Franchisee acquires an additional 10% or more of Franchisee's voting securities; or (3) any change in the membership of the Continuity Group (unless such change is a permitted Transfer pursuant to Section 15.G.).

G. Notwithstanding the provisions of Sections 15.A. and B., HFS agrees that certain Transfers shall be permitted without HFS' prior written approval, provided all of the following conditions are satisfied:

(1) The Transfer is a transfer of:

(a) An ownership interest in Franchisee of 20% or less, provided that after the Transfer the Continuity Group owns at least 66% of all ownership interests in Franchisee; or

(b) Ownership interests in Franchisee following the death or permanent incapacity of a person with an ownership interest in Franchisee, provided that the Transfer is to the parent, sibling, spouse or children of that person or to a member of the Continuity Group.

(2) Franchisee provides HFS written notice of its intent to undertake the Transfer at least 30 days prior to the effective date of the Transfer, together with documents demonstrating that the Transfer meets this Section.

(3) At the time of Franchisee's notice to HFS, Franchisee is not in default of this Agreement or any other agreements between Franchisee and HFS or its affiliates.

(4) In connection with the Transfer, Franchisee and all persons who will have an ownership interest in Franchisee after the Transfer fully comply with the requirements of Section 13.

H. Franchisee shall not grant any security interest in its business, the Franchised Restaurant, the Franchised Location or the assets used in the operation of the Franchised Restaurant without HFS' prior written approval, which will not be unreasonably withheld. HFS' approval may be conditioned, in its sole discretion, on the written agreement by the secured party that, in the event of a default by Franchisee under any agreement related to the security interest, HFS shall have the right and option (but not the obligation) to purchase the rights of the secured party upon payment of all sums then due to the secured party. If Franchisee (or any person with a direct or indirect interest in Franchisee) finances any part of the price paid in connection with the Transfer, the person or entity providing the financing must agree that all obligations of the proposed transferee and any security interests retained in the assets being transferred, will be subordinate to the proposed transferee's obligations to: (1) pay all amounts due to HFS and its affiliates; and (2) otherwise comply with this Agreement and all other agreements with HFS or its affiliates.

I. Securities or partnership interests in Franchisee may be sold, by private or public offering, only with HFS' prior written consent (whether or not HFS' consent is required under any other provision of this Section). In addition to the requirements of Section 15.B., prior to the time that any public offering or private placement of securities or partnership interests in Franchisee is made available to potential investors, Franchisee, at its expense, shall deliver to HFS a copy of the offering documents. Franchisee, at its expense, also shall deliver to HFS an opinion of Franchisee's legal counsel and an opinion of one other legal counsel selected by HFS (both of which shall be addressed to HFS and in a form acceptable to HFS) that the offering documents properly use the Proprietary Marks and accurately describe Franchisee's relationship with HFS and/or its affiliates. The indemnification provisions of Section 22 shall also include any losses or expenses incurred by HFS and/or its affiliates in connection with any statements made by or on behalf of Franchisee in any public offering or private placement of Franchisee's securities.

J. If any party holding any interest in Franchisee or in this Agreement receives a bona fide offer (as determined by HFS in its reasonable discretion) from a third party or otherwise desires to undertake any Transfer that would require HFS' approval (other than a Transfer for convenience of ownership pursuant to Section 15.D. or a Transfer of ownership interests to a parent, sibling, spouse or child), it shall notify HFS in writing of the terms of the proposed Transfer, and shall provide such information and documentation relating to the proposed Transfer as HFS may reasonably require. HFS or its designee may elect to purchase the interest that the seller proposes to Transfer any time within 30 days after receipt of written notification, and all documents and other information required by Section 15.B., by sending written notice to the seller that HFS or its designee intends to purchase the seller's interest on the same financial terms and conditions offered by the third party (except that HFS or its designee shall not be obligated to pay any finder's or broker's fees). In purchasing the interest, HFS or its designee shall be entitled to set off any monies owed to HFS or its affiliates by Franchisee and HFS or its designee shall be entitled to all customary representations and warranties that the assets are free and clear (or, if not, accurate and complete disclosure) as to: (1) ownership, condition and title; (2) liens and encumbrances; (3) environmental and hazardous substances; and (4) validity of contracts inuring to the purchaser or affecting the assets, whether contingent or otherwise.

If the offer to Franchisee involves assets in addition to this Agreement, the Franchised Location, the Franchised Restaurant and other restaurants operated by Franchisee that are franchised by HFS or its affiliates,

Franchisee's notice to HFS shall state the cash value of that portion of the offer received by Franchisee relating to this Agreement, the Franchised Location, the Franchised Restaurant and those other restaurants. If the proposed Transfer provides for payment of consideration other than cash or it involves intangible benefits, HFS or its designee may elect to purchase the interest proposed to be sold for the reasonable equivalent in cash. If the parties are unable to agree within 30 days on the reasonable equivalent in cash of the non-cash part of the offer received by Franchisee or the cash value of that portion of the offer received by Franchisee relating to this Agreement, the Franchised Location, the Franchised Restaurant and those other restaurants, the amount shall be determined by two professionally certified appraisers, Franchisee selecting one and HFS or its designee selecting one. If the higher appraisal is more than 10% greater than the other appraisal, the two appraisers shall select a third professionally certified appraiser who also shall determine the amount. The average value set by the appraisers (whether two or three appraisers as the case may be) shall be conclusive and HFS or its designee may exercise its right of first refusal within 30 days after being advised in writing of the decision of the appraisers. The cost of the appraisers shall be shared equally by the parties.

HFS' failure to exercise its right of first refusal shall not constitute approval of the proposed Transfer nor a waiver of any other provision of this Section 15 with respect to a proposed Transfer. If HFS does not exercise its right of first refusal, Franchisee may not thereafter Transfer the interest at a lower price or on more favorable terms than those that have been offered to HFS. HFS shall again be given a right of first refusal if a transaction does not close within 6 months after HFS elected not to exercise its right of first refusal. In no event shall Franchisee offer the interest for sale or transfer at public auction, nor at any time shall an offer be made to the public to sell, transfer or assign, through any advertisement, either in the newspapers or otherwise, without first having obtained the written approval of HFS to the auction or advertisement.

K. HFS' consent to any Transfer shall not constitute a waiver of any claims HFS may have against the transferring party, nor shall it be deemed a waiver of HFS' right to demand exact compliance with any of the terms of this Agreement by the transferee, nor will it be deemed a waiver of HFS' right to give or withhold approval to future Transfers.

16. GENERAL RELEASE

Franchisee (on behalf of itself and its subsidiaries and affiliates), all individuals who execute this Agreement and all guarantors of Franchisee's obligations under this Agreement freely and without any influence forever release and covenant not to sue HFS, its parent, subsidiaries and affiliates and their respective past and present officers, directors, shareholders, agents and employees, in their corporate and individual capacities, from any and all claims, demands, liabilities and causes of action of whatever kind or nature, whether known or unknown, vested or contingent, suspected or unsuspected (collectively "claims"), which Franchisee or any guarantor now own or hold or may in the future own or hold based on, arising out of or relating to, in whole or in part, any fact, event, conduct or omission occurring on or before the date of this Agreement, including, without limitation, claims arising under federal, state and local laws, rules and ordinances, claims for contribution, indemnity and/or subrogation and claims arising out of, or relating to this Agreement and all other agreements between Franchisee and/or any guarantor and HFS or its parent, subsidiaries or affiliates, the sale of a franchise to Franchisee, the development and operation of the Franchised Restaurant and the development and operation of all other restaurants operated by Franchisee or any guarantor that are franchised by HFS or its parent, subsidiaries or affiliates. Franchisee and all guarantors agree that fair consideration has been given by HFS for this release and they fully understand that this is a negotiated, complete and final release of all claims. This release does not include a release of claims arising from representations in the Hardee's Franchise Disclosure Document provided to Franchisee.

17. COVENANTS

A. Best Efforts

During the term of this Agreement, Franchisee and the Operating Principal shall devote their best efforts

to the development, management and operation of the Franchised Restaurant.

B. Confidentiality

Franchisee acknowledges and agrees that: (**1**) HFS owns all right, title and interest in and to the System; **(2)** the System includes trade secrets and confidential and proprietary information and know-how that gives HFS a competitive advantage; **(3)** HFS has taken all measures appropriate to protect the trade secrets and the confidentiality of the proprietary information and know-how of the System; **(4)** all material or other information now or hereafter provided or disclosed to Franchisee regarding the System is disclosed in confidence; **(5)** Franchisee has no right to disclose any part of the System to anyone who is not an employee of Franchisee; **(6)** Franchisee will disclose to its employees only those parts of the System that an employee needs to know; **(7)** Franchisee will have a system in place to ensure that its employees keep confidential HFS' trade secrets and confidential and proprietary information, and, if requested by HFS, Franchisee shall obtain from those of its employees designated by HFS an executed Confidential Disclosure Agreement in the form prescribed by HFS; **(8)** by entering into this Agreement, Franchisee does not acquire any ownership interest in the System; and **(9)** Franchisee's use or duplication of the System or any part of the System in any other business, or disclosure of any part of the System to others for use or duplication in any other business, would constitute an unfair method of competition, for which HFS would be entitled to all legal and equitable remedies, including injunctive relief, without posting a bond.

Franchisee shall not, during the term of this Agreement or at any time thereafter, communicate or disclose any trade secrets or confidential or proprietary information or know-how of the System to any unauthorized person, or do or perform, directly or indirectly, any other acts injurious or prejudicial to any of the Proprietary Marks or the System. Any and all information, knowledge, know-how and techniques, including all drawings, materials, equipment, specifications, recipes, techniques and other data that HFS or its affiliates designate as confidential shall be deemed confidential for purposes of this Agreement.

C. Restrictions

(1) Franchisee acknowledges and agrees that: (a) pursuant to this Agreement, Franchisee will have access to valuable trade secrets, specialized training and other confidential information from HFS and/or its affiliates regarding the development, operation, product preparation and sales, market and operations research, advertising and marketing plans and strategies, purchasing, sales and marketing methods and techniques of HFS and its affiliates and the System; (b) the know-how regarding the System and the opportunities, associations and experience acquired by Franchisee pursuant to this Agreement are of substantial value; (c) in developing the System, HFS and its affiliates have made substantial investments of time, effort, and money; (d) HFS would be unable adequately to protect the System and its trade secrets and confidential and proprietary information against unauthorized use or disclosure and would be unable adequately to encourage a free exchange of ideas and information among operators of Hardee's Restaurants if franchisees or developers were permitted to engage in the activities described in Sections 17.C.(2)(a) and (b) or to hold interests in the businesses described in Sections 17.C.(2)(c) and (3); (e) all restaurants operating in a quick-service format are substantial and direct competitors of the System; and (f) the restrictions on Franchisee's right to hold interests in, or perform services for, the businesses described in Sections 17.C.(2)(c) and (3) will not unduly limit its activities.

(2) Accordingly, Franchisee covenants and agrees that, except with HFS' prior written consent, during the term of this Agreement, and for a period of 2 years following its expiration, transfer, or termination, Franchisee shall not, either directly or indirectly, for itself, or through, on behalf of, or in conjunction with, any person, firm, partnership, corporation, or other entity:

(a) Divert or attempt to divert any business or customer, or potential business or customer, of any Hardee's Restaurant to any competitor, by direct or indirect inducement or otherwise.

(b) Knowingly employ or seek to employ any person then employed by HFS or any

franchisee of HFS as a shift leader or higher, or otherwise directly or indirectly induce such person to leave his or her employment.

(c) Own, maintain, operate, engage in, grant a franchise to, advise, help, make loans to, lease property to or have any interest in, either directly or indirectly, any restaurant business: (i) whose sales of Designated Entrée Items (as defined below) during any daypart are reasonably likely to account collectively for 20% or more of the restaurant's sales of all entrée items during that daypart; (ii) that features or promotes any Designated Entrée Item in its advertising; or (iii) that operates in a quick-service format (with or without table service). For purposes of the previous sentence, the term "Designated Entrée Items" means any hamburger sandwich, chicken sandwich, breakfast sandwich and any other entrée item of a type designated by HFS as part of the System at any time during the term of this Agreement. During the term of this Agreement, there is no geographical limitation on this restriction. Following the expiration, transfer or termination of this Agreement, this restriction shall apply to any restaurant business located within a 2-mile radius of the Franchised Location or within a 2-mile radius of any then-existing Hardee's Restaurant. This restriction shall not apply to Franchisee's existing restaurant or foodservice operations, if any, which are identified in Appendix A, nor shall it apply to other restaurants operated by Franchisee that are franchised by HFS or its affiliates.

If any part of these restrictions is found to be unreasonable in time or distance, each month of time or mile of distance may be deemed a separate unit so that the time or distance may be reduced by appropriate order of the court to that deemed reasonable. If, at any time during the 2-year period following the expiration or earlier termination of this Agreement, Franchisee fails to comply with its obligations under this Section, that period of noncompliance will not be credited toward Franchisee's satisfaction of the 2-year obligation.

(3) Franchisee acknowledges that the Franchised Location will itself acquire goodwill associated with the System and that it would be difficult for HFS to ascertain that Franchisee has no interest in the operation by a third party of a restaurant concept at that location that would, if operated by Franchisee, violate the restrictions of this Section 17. Accordingly, Franchisee further covenants and agrees that, during the term of this Agreement and for a period of 2 years following the expiration or earlier termination of this Agreement, Franchisee shall not, either directly or indirectly, for itself, or through, on behalf of, or in conjunction with any person, firm, partnership, corporation, or other entity, sell, assign, lease or transfer the Franchised Location to any person, firm, partnership, corporation, or other entity which Franchisee knows, or has reason to know, intends to operate a restaurant business at the Franchised Location that would violate Section 17.C.(2)(c) if operated by Franchisee. Franchisee, by the terms of any conveyance selling, assigning, leasing or transferring its interest in the Franchised Location, shall include such restrictive covenants as are necessary to ensure that a restaurant business that would violate Section 17.C.(2)(c) if operated by Franchisee is not operated at the Franchised Location for this 2 year period, and Franchisee shall take all steps necessary to ensure that these restrictive covenants become a matter of public record.

D. Modification

HFS shall have the right, in its sole discretion, to reduce the scope of any covenant in this Section 17 effective immediately upon Franchisee's receipt of written notice, and Franchisee agrees that it shall comply forthwith with any covenant as so modified, which shall be fully enforceable notwithstanding the provisions of Section 25.

E. Applicability

The restrictions contained in this Section 17 shall apply to Franchisee and all guarantors of Franchisee's obligations. With respect to each guarantor, these restrictions shall apply until 2 years after the earlier of: **(i)** the expiration, transfer, or termination of this Agreement; or **(ii)** the date the guarantor ceases to be the Operating Principal or an officer, stockholder, director, member of the Continuity Group or a 10% Owner (or, if a guarantor is the spouse of a person holding one or more of these positions, the date the person ceases to hold the applicable

positions). The restrictions contained in this Section 17 shall not apply to ownership of less than a 5% legal or beneficial ownership in the outstanding equity securities of any publicly held corporation. The existence of any claim Franchisee or any guarantor of Franchisee's obligations may have against HFS or its affiliates, whether or not arising from this Agreement, shall not constitute a defense to the enforcement by HFS of the covenants in this Section 17.

At HFS' request, unless otherwise prohibited by law, Franchisee will obtain covenants similar in substance to those set forth in this Section 17 from any of its stockholders, directors, officers, or restaurant managers and from family members of guarantors.

F. Injunctive Relief

Franchisee acknowledges and agrees that violation of the covenants contained in this Section 17 will result in immediate and irreparable injury to HFS for which money damages are not an adequate remedy. Therefore, in addition to being responsible for any damages caused to HFS arising from Franchisee's violation of this Section 17, HFS shall be entitled to seek the entry of an injunction prohibiting any conduct by Franchisee in violation of this Section 17.

18. TERMINATION

A. Termination Without Cure Period

In addition to the grounds for termination that may be stated elsewhere in this Agreement, HFS may terminate this Agreement, and the rights granted by this Agreement, upon written notice to Franchisee without an opportunity to cure upon the occurrence of any of the following events:

(1) Franchisee ceases to continuously operate the Franchised Restaurant for a period in excess of 5 consecutive days, unless the closing is due to an act of God, fire or other natural disaster or is approved in writing in advance by HFS.

(2) Franchisee is insolvent or is unable to pay its creditors (including HFS); files a petition in bankruptcy, an arrangement for the benefit of creditors or a petition for reorganization; there is filed against Franchisee a petition in bankruptcy, an arrangement for the benefit of creditors or petition for reorganization, which is not dismissed within 60 days of the filing; Franchisee makes an assignment for the benefit of creditors; or a receiver or trustee is appointed for Franchisee and not dismissed within 60 days of the appointment.

(3) Execution is levied against Franchisee's business or property; suit to foreclose any lien or mortgage against the premises or equipment of the Franchised Restaurant is instituted against Franchisee and is not dismissed within 60 days; or the real or personal property of the Franchised Restaurant shall be sold after levy thereupon by any sheriff, marshal or constable.

(4) There is a material breach by Franchisee of any obligation under Section 17.

(5) Any Transfer that requires HFS' prior written approval occurs without Franchisee having obtained that prior written approval.

(6) HFS discovers that Franchisee made a material misrepresentation or omitted a material fact in the information that was furnished to HFS in connection with its decision to enter into this Agreement.

(7) Franchisee knowingly falsifies any report required to be furnished HFS or makes any material misrepresentation in its dealings with HFS or fails to disclose any material facts to HFS.

(8) Franchisee fails to open the Franchised Restaurant for business within 60 days after HFS

first authorizes the opening of the Franchised Restaurant.

(9) HFS makes a reasonable determination that continued operation of the Franchised Restaurant by Franchisee will result in an imminent danger to public health or safety.

(10) Franchisee loses possession of the Franchised Location through its own fault or its failure to extend the lease for the Franchised Location through the Initial Term of this Agreement.

(11) Franchisee, the Operating Principal, any stockholder, member, partner, director or officer of Franchisee, any member of the Continuity Group or any 10% Owner is convicted of, or pleads no contest to, a felony charge; a crime involving moral turpitude; or any other crime or offense that is reasonably likely, in the sole opinion of HFS, to adversely affect HFS, its affiliates or the System.

(12) There is a material breach of any representation or warranty set forth in Section 29.G.-H.

(13) Franchisee, the Operating Principal, any member of the Continuity Group or any 10% Owner remains in default beyond the applicable cure period under any other agreement with HFS or its affiliates (provided that, if the default is not by Franchisee, Franchisee is given written notice of the default and a 30 day period to cure the default), or Franchisee remains in default beyond the applicable cure period under any real estate lease, equipment lease, or financing instrument relating to the Franchised Restaurant, or Franchisee remains in default beyond the applicable cure period with any vendor or supplier to the Franchised Restaurant, or Franchisee fails to pay when due any taxes or assessments relating to the Franchised Restaurant or its employees, unless Franchisee is actively prosecuting or defending the claim or suit in a court of competent jurisdiction or by appropriate government administrative procedure or by arbitration or mediation conducted by a recognized alternative dispute resolution organization.

B. Termination Following Expiration of Cure Period

(1) Except for those items listed in preceding Section 18.A., Franchisee shall have 30 days after written notice of default from HFS within which to remedy the default and provide evidence of that remedy to HFS. If any such default is not cured within that time, this Agreement shall terminate without further notice to Franchisee effective immediately upon expiration of that time, unless HFS notifies Franchisee otherwise in writing. Notwithstanding the foregoing, if the default cannot be corrected within 30 days, Franchisee shall have such additional time to correct the default as reasonably required (not to exceed 90 days) provided that Franchisee begins taking the actions necessary to correct the default during the 30 day cure period and diligently and in good faith pursues those actions to completion. Franchisee will be in default under this Section 18.B.(1) for any failure to materially comply with any of the requirements imposed by this Agreement, the Manual or otherwise in writing, or to carry out the terms of this Agreement in good faith.

(2) Notwithstanding the provisions of preceding Section 18.B.(1), if Franchisee defaults in the payment of any monies owed to HFS or its affiliates when such monies become due and payable and Franchisee fails to pay such monies within 10 days after receiving written notice of default, then this Agreement will terminate effective immediately upon expiration of that time, unless HFS notifies Franchisee otherwise in writing.

(3) If Franchisee has received 2 or more notices of default within the previous 12 months, HFS shall be entitled to send Franchisee a notice of termination upon Franchisee's next default within that 12 month period under this Section 18.B. without providing Franchisee an opportunity to remedy the default.

(4) In addition to the other provisions of this Section 18.B, if HFS reasonably determines that Franchisee becomes or will become unable to meet its obligations to HFS or its affiliates under this Agreement, HFS may provide Franchisee written notice to that effect and demand that Franchisee provide those assurances reasonably designated by HFS, which may include security or letters of credit for the payment of Franchisee's obligations to HFS and its affiliates. If Franchisee fails to provide the assurances demanded by HFS within 30

days after its receipt of written notice from HFS, this Agreement shall terminate without further notice to Franchisee effective immediately upon expiration of that time, unless HFS notifies Franchisee otherwise in writing.

C. Termination Following Inspection

HFS shall have the right to periodically conduct inspections of the Franchised Restaurant to evaluate Franchisee's compliance with the System and this Agreement. Following each inspection, HFS will provide Franchisee an inspection report listing Franchisee's score on the inspection and those conditions at the Franchised Restaurant that must be rectified. If Franchisee fails to achieve a passing score on an inspection, the inspection report shall constitute a notice of default. If Franchisee fails to achieve a passing score on the next inspection (which shall be conducted at least 30 days after Franchisee's receipt of the inspection report for the prior inspection), HFS may terminate this Agreement, without opportunity to cure, by providing Franchisee written notice of termination along with the inspection report.

D. Statutory Limitations

If any valid, applicable law or regulation of a competent governmental authority with jurisdiction over this Agreement requires a notice or cure period prior to termination longer than set forth in this Section, this Agreement will be deemed amended to conform to the minimum notice or cure period required by the applicable law or regulation.

19. OBLIGATIONS ON TERMINATION OR EXPIRATION

Upon termination or expiration of this Agreement:

A. Franchisee shall immediately cease operating the Franchised Restaurant.

B. Franchisee immediately shall: (1) pay HFS and its affiliates all sums due and owing HFS or its affiliates related to the Franchised Restaurant; and (2) if this Agreement is terminated following Franchisee's default, pay HFS the net present value of the royalty fee that Franchisee would have paid during the balance of the Initial Term but for the termination (calculated based on the average weekly royalty fee owed by Franchisee for the past 52 weeks multiplied by the number of weeks remaining in the Initial Term), unless waived by HFS in its sole discretion. The obligation to pay this royalty fee survives termination of this Agreement and is in addition to, and not in lieu of, Franchisee's obligation to fully comply with its obligations under Section 17.C. following termination of this Agreement.

C. Franchisee promptly shall return to HFS the Manual, any copies of the Manual and all other materials and information furnished by HFS and Franchisee promptly shall return to HFS, in good condition and repair excepting normal wear and tear, all computer software, disks, tapes and other magnetic storage media.

D. Franchisee and all persons and entities subject to the covenants contained in Section 17 shall continue to abide by those covenants and shall not, directly or indirectly, take any action that violates those covenants.

E. Franchisee immediately shall discontinue all use of the Proprietary Marks in connection with the Franchised Restaurant and of any and all items bearing the Proprietary Marks; remove the Proprietary Marks from the Franchised Restaurant and from clothing, signs, materials, motor vehicles and other items owned or used by Franchisee in the operation of the Franchised Restaurant; cancel all advertising for the Franchised Restaurant that contains the Proprietary Marks (including telephone directory listings); and take such action as may be necessary to cancel any filings or registrations for the Franchised Restaurant that contain any Proprietary Marks.

F. Franchisee promptly shall make such alterations and modifications to the Franchised Location as may be necessary to clearly distinguish to the public the Franchised Location from its former appearance and also make those specific additional changes as HFS may request for that purpose. If Franchisee fails to promptly make

these alterations and modifications, HFS shall have the right (at Franchisee's expense, to be paid upon Franchisee's receipt of an invoice from HFS) to do so without being guilty of trespass or other tort.

G. Franchisee shall furnish HFS, within 30 days after the effective date of termination or expiration, evidence (certified to be true, complete, accurate and correct by the chief executive officer of Franchisee, if Franchisee is a corporation; by a manager of Franchisee, if Franchisee is a limited liability company; or by a general partner of Franchisee, if Franchisee is a partnership; or by a person authorized in Franchisee's organizational documents, if Franchisee is any other type of business entity) satisfactory to HFS of Franchisee's compliance with Sections 19.A. through 19.F.

H. Franchisee shall not, except with respect to a restaurant franchised by HFS or its affiliates which is then open and operating pursuant to an effective franchise agreement or a restaurant franchised by HFS or its affiliates for which there is an effective commitment agreement: (1) operate or do business under any name or in any manner that might tend to give the public the impression that Franchisee is connected in any way with HFS or its affiliates or has any right to use the System or the Proprietary Marks; (2) make, use or avail itself of any of the materials or information furnished or disclosed by HFS or its affiliates under this Agreement or disclose or reveal any such materials or information or any portion thereof to anyone else; or (3) assist anyone not licensed by HFS or its affiliates to construct or equip a foodservice outlet substantially similar to a Hardee's Restaurant.

20. OPTION TO PURCHASE

A. Upon the expiration or termination of this Agreement for any reason, HFS will have the option to purchase from Franchisee some or all of the assets used in the Franchised Restaurant ("Assets"). HFS may exercise its option by giving written notice to Franchisee at any time following such expiration or termination up until 30 days after the later of: (1) the effective date of termination or expiration; or (2) the date Franchisee ceases to operate the Franchised Restaurant. As used in this Section 20, "Assets" shall mean and include, without limitation, leasehold improvements, equipment, vehicles, furnishings, fixtures, signs and inventory (non-perishable products, materials and supplies) used in the Franchised Restaurant, and the real estate fee simple or the lease or sublease for the Franchised Location. HFS shall be entitled to the entry of interlocutory and permanent orders of specific performance by a court of competent jurisdiction if Franchisee fails or refuses to timely meet its obligations under this Section 20.

B. HFS shall have the unrestricted right to assign this option to purchase the Assets. HFS or its assignee shall be entitled to all customary representations and warranties that the Assets are free and clear (or, if not, accurate and complete disclosure) as to: (1) ownership, condition and title; (2) liens and encumbrances; (3) environmental and hazardous substances; and (4) validity of contracts and liabilities inuring to HFS or affecting the Assets, whether contingent or otherwise.

C. The purchase price for the Assets ("Purchase Price") shall be their fair market value, (or, for leased assets, the fair market value of Franchisee's lease) determined as of the effective date of purchase in a manner that accounts for reasonable depreciation and condition of the Assets; provided, however, that the Purchase Price shall take into account the termination of this Agreement. Further, the Purchase Price for the Assets shall not contain any factor or increment for any trademark, service mark or other commercial symbol used in connection with the operation of the Franchised Restaurant nor any goodwill or "going concern" value for the Franchised Restaurant. HFS may exclude from the Assets purchased in accordance with this Section any equipment, vehicles, furnishings, fixtures, signs, and inventory that are not approved as meeting then-current standards for a Hardee's Restaurant or for which Franchisee cannot deliver a Bill of Sale in a form satisfactory to HFS.

D. If HFS and Franchisee are unable to agree on the fair market value of the Assets within 30 days after Franchisee's receipt of HFS' notice of its intent to exercise its option to purchase the Assets, the fair market value shall be determined by two professionally certified appraisers, Franchisee selecting one and HFS selecting one. If the higher appraisal is more than 10% greater than the other appraisal, the two appraisers shall select a third

professionally certified appraiser who also shall appraise the fair market value of the Assets. The average value set by the appraisers (whether two or three appraisers as the case may be) shall be conclusive and shall be the Purchase Price.

E. The appraisers shall be given full access to the Franchised Restaurant, the Franchised Location and Franchisee's books and records during customary business hours to conduct the appraisal and shall value the leasehold improvements, equipment, furnishings, fixtures, signs and inventory in accordance with the standards of this Section 20. The appraisers' fees and costs shall be borne equally by HFS and Franchisee.

F. Within 10 days after the Purchase Price has been determined, HFS may exercise its option to purchase the Assets by so notifying Franchisee in writing ("HFS' Purchase Notice"). The Purchase Price shall be paid in cash or cash equivalents at the closing of the purchase ("Closing"), which shall take place no later than 60 days after the date of HFS' Purchase Notice. From the date of HFS' Purchase Notice until Closing:

(1) Franchisee shall operate the Franchised Restaurant and maintain the Assets in the usual and ordinary course of business and maintain in full force all insurance policies required under this Agreement; and

(2) HFS shall have the right to appoint a manager, at HFS' expense, to control the day-to-day operations of the Franchised Restaurant and Franchisee shall cooperate, and instruct its employees to cooperate, with the manager appointed by HFS. Alternatively, HFS may require Franchisee to close the Franchised Restaurant during such time period without removing any Assets from the Franchised Restaurant.

G. For a period of 30 days after the date of HFS' Purchase Notice ("Due Diligence Period"), HFS shall have the right to conduct such investigations as it deems necessary and appropriate to determine: (1) the ownership, condition and title of the Assets; (2) liens and encumbrances on the Assets; (3) environmental and hazardous substances at or upon the Franchised Location; and (4) the validity of contracts and liabilities inuring to HFS or affecting the Assets, whether contingent or otherwise. Franchisee will afford HFS and its representatives access to the Franchised Restaurant and the Franchised Location at all reasonable times for the purpose of conducting inspections of the Assets; provided that such access does not unreasonably interfere with Franchisee's operation of the Franchised Restaurant.

H. During the Due Diligence Period, at its sole option and expense, HFS may (1) cause the title to the Assets that consist of real estate interests ("Real Estate Assets") to be examined by a nationally recognized title company and conduct lien searches as to the other Assets; (2) procure "AS BUILT" surveys of the Real Estate Assets; (3) procure environmental assessments and testing with respect to the Real Estate Assets; and/or (4) inspect the Assets that consist of leasehold improvements, equipment, vehicles, furnishings, fixtures, signs and inventory ("Fixed Assets") to determine if the Fixed Assets are in satisfactory working condition. Prior to the end of the Due Diligence Period, HFS shall notify Franchisee in writing of any objections that HFS has to any finding disclosed in any title or lien search, survey, environmental assessment or inspection. If Franchisee cannot or elects not to correct any such title defect, environmental objection or defect in the working condition of the Fixed Assets, HFS will have the option to either accept the condition of the Assets as they exist or rescind its option to purchase on or before the Closing.

I. Prior to the Closing, Franchisee and HFS shall comply with all applicable legal requirements, including the bulk sales provisions of the Uniform Commercial Code of the state in which the Franchised Restaurant is located and the bulk sales provisions of any applicable tax laws and regulations. Franchisee shall, prior to or simultaneously with the Closing, pay all tax liabilities incurred in connection with the operation of the Franchised Restaurant prior to Closing. HFS shall have the right to set off against and reduce the Purchase Price by any and all amounts owed by Franchisee to HFS, and the amount of any encumbrances or liens against the Assets or any obligations assumed by HFS.

J. If the Franchised Location is leased, HFS agrees to use reasonable efforts to effect a termination

of the existing lease for the Franchised Location. If the lease for the Franchised Location is assigned to HFS or HFS subleases the Franchised Location from Franchisee, HFS will indemnify and hold Franchisee harmless from any ongoing liability under the lease from the date HFS assumes possession of the Franchised Location, and Franchisee will indemnify and hold HFS harmless from any liability under the lease prior to and including that date.

K. If Franchisee owns the Franchised Location, HFS, at its option, will either purchase the fee simple interest or, upon purchase of the other Assets, enter into a standard lease with Franchisee on terms comparable to those for which similar commercial properties in the area are then being leased. The initial term of this lease with Franchisee shall be at least 10 years with 4 options to renew of 5 years each and the rent shall be the fair market rental value of the Franchised Location. If Franchisee and HFS cannot agree on the fair market rental value of the Franchised Location, then appraisers (selected in the manner described in Section 20.D.) shall determine the rental value.

L. At the Closing, Franchisee shall deliver instruments transferring to HFS or its assignee: (1) good and merchantable title to the Assets purchased, free and clear of all liens and encumbrances (other than liens and security interests acceptable to HFS or its assignee), with all sales and other transfer taxes paid by the Franchisee; (2) all licenses and permits for the Franchised Restaurant that may be assigned or transferred, with appropriate consents, if required; and (3) the lease or sublease for the Franchised Location, with appropriate consents, if required. If Franchisee cannot deliver clear title to all of the purchased Assets as indicated in this Section, or if there are other unresolved issues, the Closing shall be accomplished through an escrow.

21. RELATIONSHIP OF THE PARTIES

This Agreement does not create a fiduciary or other special relationship between the parties. No agency, employment, or partnership is created or implied by the terms of this Agreement, and Franchisee is not and shall not hold itself out as agent, legal representative, partner, subsidiary, joint venturer or employee of HFS or its affiliates. Franchisee shall have no right or power to, and shall not, bind or obligate HFS or its affiliates in any way or manner, nor represent that Franchisee has any right to do so. Franchisee shall not issue any press releases without the prior written approval of HFS.

Franchisee is an independent contractor and is solely responsible for all aspects of the development and operation of the Franchised Restaurant, subject only to the conditions and covenants established by this Agreement. Without limiting the generality of the foregoing, Franchisee acknowledges that HFS has no responsibility to ensure that the Franchised Restaurant is developed and operated in compliance with all applicable laws, ordinances and regulations and that HFS shall have no liability in the event the development or operation of the Franchised Restaurant violates any law, ordinance or regulation.

The sole relationship between Franchisee and HFS is a commercial, arms' length business relationship and, except as provided in Section 22, there are no third party beneficiaries to this Agreement. Franchisee's business is, and shall be kept, totally separate and apart from any that may be operated by HFS. In all public records, in relationships with other persons, and on letterheads and business forms, Franchisee shall indicate its independent ownership of the Franchised Restaurant and that Franchisee is solely a franchisee of HFS. Franchisee shall post a sign in a conspicuous location in the Franchised Restaurant which will contain Franchisee's name and state that the Franchised Restaurant is independently owned and operated by Franchisee under a franchise agreement with HFS.

22. INDEMNIFICATION

A. Franchisee and all guarantors of Franchisee's obligations under this Agreement shall, at all times, indemnify, defend (with counsel reasonably acceptable to HFS), and hold harmless (to the fullest extent permitted by law) HFS and its affiliates, and their respective successors, assigns, past and present stockholders, directors,

officers, employees, agents and representatives (collectively "Indemnitees") from and against all "losses and expenses" (as defined below) incurred in connection with any action, suit, proceeding, claim, demand, investigation, inquiry (formal or informal), judgment or appeal thereof by or against Indemnitees or any settlement thereof (whether or not a formal proceeding or action had been instituted), arising out of or resulting from or connected with Franchisee's activities under this Agreement. Franchisee promptly shall give HFS written notice of any such action, suit, proceeding, claim, demand, inquiry or investigation filed or instituted against Franchisee and, upon request, shall furnish HFS with copies of any documents from such matters as HFS may request.

At Franchisee's expense and risk, HFS may elect to assume (but under no circumstances will HFS be obligated to undertake), the defense and/or settlement of any action, suit, proceeding, claim, demand, investigation, inquiry, judgment or appeal thereof subject to this indemnification. Such an undertaking shall, in no manner or form, diminish Franchisee's obligation to indemnify and hold harmless HFS and Indemnitees. HFS shall not be obligated to seek recoveries from third parties or otherwise mitigate losses.

B. As used in this Section, the phrase "losses and expenses" shall include, but not be limited to, all losses; compensatory, exemplary and punitive damages; fines; charges; costs; expenses; lost profits; reasonable attorneys' fees; expert witness fees; court costs; settlement amounts; judgments; compensation for damages to HFS' reputation and goodwill; costs of or resulting from delays; financing; costs of advertising material and media time/space and the costs of changing, substituting or replacing the same; and any and all expenses of recall, refunds, compensation, public notices and other such amounts incurred in connection with the matters described.

23. CONSENTS, APPROVALS AND WAIVERS

A. Whenever this Agreement requires the prior approval or consent of HFS, Franchisee shall make a timely written request to HFS therefor; and any approval or consent received, in order to be effective and binding upon HFS, must be obtained in writing and be signed by an authorized officer of HFS.

B. HFS makes no warranties or guarantees upon which Franchisee may rely by providing any waiver, approval, consent or suggestion to Franchisee in connection with this Agreement, and assumes no liability or obligation to Franchisee therefor, or by reason of any neglect, delay, or denial of any request therefor. HFS shall not, by virtue of any approvals, advice or services provided to Franchisee, assume responsibility or liability to Franchisee or to any third parties to which HFS would not otherwise be subject.

C. No failure of HFS to exercise any power reserved to it by this Agreement or to insist upon strict compliance by Franchisee with any obligation or condition hereunder, and no custom or practice of the parties at variance with the terms of this Agreement, shall constitute a waiver of HFS' right to demand exact compliance with any of the terms of this Agreement. A waiver by HFS of any particular default by Franchisee shall not affect or impair HFS' rights with respect to any subsequent default of the same, similar or different nature, nor shall any delay, forbearance or omission of HFS to exercise any power or right arising out of any breach or default by Franchisee of any of the terms, provisions or covenants of this Agreement affect or impair HFS' right to exercise the same, nor shall such constitute a waiver by HFS of any right hereunder, or the right to declare any subsequent breach or default and to terminate this Agreement prior to the expiration of its term. Subsequent acceptance by HFS of any payments due to it hereunder shall not be deemed to be a waiver by HFS of any preceding breach by Franchisee of any terms, covenants or conditions of this Agreement.

24. NOTICES

No notice, demand, request or other communication to the parties shall be binding upon the parties unless the notice is in writing, refers specifically to this Agreement and is addressed to: **(A)** if to Franchisee, addressed to Franchisee at the notice address set forth in Appendix A; and **(B)** if to HFS, addressed to HFS at its principal offices, current address: 100 N. Broadway, Suite 1200, St. Louis, Missouri 63102 (marked Attn: General Counsel) (Facsimile: (314) 621-3715). Any party may designate a new address for notices by giving written notice of the

new address pursuant to this Section. Notices shall be effective upon receipt (or first rejection) and may be: **(1)** delivered personally; **(2)** transmitted by facsimile or electronic mail to the number(s) set forth above (or in Appendix A) with electronic confirmation of receipt; **(3)** mailed in the United States mail, postage prepaid, certified mail, return receipt requested; or **(4)** mailed via overnight courier.

25. ENTIRE AGREEMENT

HFS and Franchisee acknowledge that each element of this Agreement is essential and material and that, except as otherwise provided in this Agreement, the parties shall deal with each other in good faith. This Agreement, the Manual, the documents referred to herein, and the attachments hereto, constitute the entire, full and complete agreement between the parties concerning Franchisee's rights, and supersede any and all prior or contemporaneous negotiations, discussions, understandings or agreements. There are no other representations, inducements, promises, agreements, arrangements, or undertakings, oral or written, between the parties relating to the matters covered by this Agreement other than those set forth in this Agreement and in the attachments. No obligations or duties that contradict or are inconsistent with the express terms of this Agreement may be implied into this Agreement. Except as expressly set forth herein, no amendment, change or variance from this Agreement shall be binding on either party unless mutually agreed to by the parties and executed in writing. Notwithstanding the foregoing, nothing in this Agreement is intended to disclaim any representation made in the Hardee's Franchise Disclosure Document provided to Franchisee.

26. SEVERABILITY AND CONSTRUCTION

A. Each article, paragraph, subparagraph, term and condition of this Agreement, and any portions thereof, will be considered severable. If, for any reason, any portion of this Agreement is determined to be invalid, contrary to, or in conflict with, any applicable present or future law, rule or regulation in a final, unappealable ruling issued by any court, agency or tribunal with valid jurisdiction in a proceeding to which HFS is a party, that ruling will not impair the operation of, or have any other effect upon, any other portions of this Agreement; all of which will remain binding on the parties and continue to be given full force and effect.

B. Except as otherwise provided in Section 22, nothing in this Agreement is intended, nor shall be deemed, to confer upon any person or legal entity other than Franchisee and HFS and its affiliates and such of their heirs, successors and assigns, any rights or remedies under or by reason of this Agreement.

C. Franchisee expressly agrees to be bound by any promise or covenant imposing the maximum duty permitted by law that is subsumed within the terms of any provision of this Agreement, as though it were separately articulated in and made a part of this Agreement, that may result from striking from any of the provisions of this Agreement any portion or portions which a court may hold to be unreasonable and unenforceable in a final decision to which HFS is a party, or from reducing the scope of any promise or covenant to the extent required to comply with such a court order.

D. No provision of this Agreement shall be interpreted in favor of, or against, any party because of the party that drafted this Agreement.

E. Whenever HFS has expressly reserved in this Agreement a right and/or discretion to take or withhold an action, or to grant or decline to grant Franchisee a right to take or withhold an action, except as otherwise expressly and specifically provided in this Agreement, HFS may make such decision or exercise its right and/or discretion on the basis of its judgment of what is in its best interests. This also applies if HFS is deemed to have a right and/or discretion. HFS' judgment of what is in the best interests of the System, at the time its decision is made or its right or discretion is exercised, can be made without regard to whether: (1) other reasonable alternative decisions or actions, or even arguably preferable alternative decisions or actions, could have been made by HFS; (2) HFS' decision or the action taken promotes its financial or other individual interest; (3) HFS' decision or the action taken applies differently to Franchisee and one or more other franchisees or HFS company-operated or

affiliate-operated operations; or (4) HFS' decision or the action taken is adverse to Franchisee's interests. HFS will have no liability to Franchisee for any such decision or action. HFS and Franchisee intend that the exercise of HFS' right or discretion will not be subject to limitation or review. If applicable law implies a covenant of good faith and fair dealing in this Agreement, HFS and Franchisee agree that such covenant will not imply any rights or obligations that are inconsistent with a fair construction of the terms of this Agreement and that this Agreement grants HFS the right to make decisions, take actions and/or refrain from taking actions not inconsistent with Franchisee's rights and obligations under this Agreement.

27. GOVERNING LAW, FORUM AND LIMITATIONS

A. This Agreement and any claim or controversy arising out of, or relating to, rights and obligations of the parties under this Agreement and any other claim or controversy between the parties shall be governed by and construed in accordance with the laws of the State of Missouri without regard to conflicts of laws principles. Nothing in this Section is intended, or shall be deemed, to make any Missouri law regulating the offer or sale of franchises or the franchise relationship applicable to this Agreement if such law would not otherwise be applicable.

B. The parties agree that, to the extent any disputes cannot be resolved directly between them, Franchisee shall file any suit against HFS only in the federal or state court having jurisdiction where HFS' principal offices are located at the time suit is filed. HFS may file suit in the federal or state court located in the jurisdiction where its principal offices are located at the time suit is filed or in the jurisdiction where Franchisee resides or does business or where the Franchised Restaurant is or was located or where the claim arose. Franchisee consents to the personal jurisdiction of those courts over Franchisee and venue in those courts.

C. Except for payments owed by one party to the other, and unless prohibited by applicable law, any legal action or proceeding (including the offer and sale of a franchise to Franchisee) brought or instituted with respect to any dispute arising from or related to this Agreement or with respect to any breach of the terms of this Agreement must be brought or instituted within a period of 2 years after the initial occurrence of any act or omission that is the basis of the legal action or proceeding, whenever discovered.

D. Franchisee and HFS waive, to the fullest extent permitted by law, any right or claim of any consequential, punitive or exemplary damages against each other and agree that, in the event of a dispute between them, each shall be limited to the recovery of actual damages sustained by it. Franchisee and HFS waive, to the fullest extent permitted by law, the right to bring, or be a class member in, any class action suits and the right to trial by jury.

E. If either party brings an action to enforce this Agreement in a judicial proceeding, the party prevailing in that proceeding shall be entitled to reimbursement of costs and expenses, including, but not limited to, reasonable accountants', attorneys', attorneys' assistants' and expert witness fees, the cost of investigation and proof of facts, court costs, other litigation expenses, and travel and living expenses, whether incurred prior to, in preparation for, or in contemplation of the filing of, the proceeding. If HFS utilizes legal counsel (including in-house counsel employed by HFS) in connection with any failure by Franchisee to comply with this Agreement, Franchisee shall reimburse HFS for any of the above-listed costs and expenses incurred by HFS. In any judicial proceeding, the amount of these costs and expenses will be determined by the court and not by a jury.

F. No right or remedy conferred upon or reserved to HFS or Franchisee by this Agreement is intended to be, nor shall be deemed, exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy. The provisions of this Section 27 shall survive the expiration or earlier termination of this Agreement.

28. MISCELLANEOUS

A. Gender and Number

All references to gender and number shall be construed to include such other gender and number as the context may require.

B. Captions

All captions in this Agreement are intended solely for the convenience of the parties and none shall be deemed to affect the meaning or construction of any provision of this Agreement.

C. Counterparts

This Agreement may be executed in counterparts, and each copy so executed and delivered shall be deemed an original.

D. Time

Time is of the essence of this Agreement for each provision in which time is a factor. Whenever this Agreement refers to a period of days or months, the first day or month to be counted shall be the day or month of the designated action, event or notice. Days shall be measured by calendar days, except that if the last day of a period is a Saturday, Sunday or national holiday, the period automatically shall be extended to the next day that is not a Saturday, Sunday or national holiday.

E. Injunctive Relief

Franchisee recognizes that its failure to comply with the terms of this Agreement, including, but not limited to, the failure to fully comply with all post-termination obligations, is likely to cause irreparable harm to HFS, its affiliates and the System. Therefore, Franchisee agrees that, in the event of a breach or threatened breach of any of the terms of this Agreement by Franchisee, HFS shall be entitled to injunctive relief (both preliminary and permanent) restraining that breach and/or to specific performance without showing or proving actual damages and without posting any bond or security. Any equitable remedies sought by HFS shall be in addition to, and not in lieu of, all remedies and rights that HFS otherwise may have arising under applicable law or by virtue of any breach of this Agreement.

F. Control During Crisis Situation

If an event occurs at the Franchised Restaurant that has or reasonably may cause harm or injury to customers, guests or employees (*i.e.*, food spoilage/poisoning, food tampering/sabotage, slip and fall injuries, natural disasters, robberies, shootings, etc.) or may damage the Proprietary Marks, the System or the reputation of HFS (collectively "Crisis Situation"), Franchisee shall: **(1)** immediately contact appropriate emergency care providers to assist it in curing the harm or injury; and **(2)** immediately inform HFS by telephone of the Crisis Situation. Franchisee shall refrain from making any internal or external announcements (*i.e.*, no communication with the news media) regarding the Crisis Situation (unless otherwise directed by HFS or public health officials).

To the extent HFS deems appropriate, in its sole and absolute discretion, HFS or its designee may control the manner in which the Crisis Situation is handled by the parties, including, without limitation, conducting all communication with the news media, providing care for injured persons and/or temporarily closing the Franchised Restaurant. The parties acknowledge that, in directing the management of any Crisis Situation, HFS or its designee may engage the services of attorneys, experts, doctors, testing laboratories, public relations firms and those other professionals as it deems appropriate. Franchisee and its employees shall cooperate fully with HFS or its designee in its efforts and activities in this regard and shall be bound by all further Crisis Situation procedures developed by HFS from to time hereafter. The indemnification under Section 22 shall include all losses and expenses that may result from the exercise by HFS or its designee of the management rights granted in this Section 28.F.

G. Compliance with U.S. Laws

Franchisee acknowledges that under applicable U.S. law, including, without limitation, Executive Order 13224, signed on September 23, 2001 ("Order"), HFS is prohibited from engaging in any transaction with any person engaged in, or with a person aiding any person engaged in, acts of terrorism, as defined in the Order. Accordingly, Franchisee represents and warrants to HFS that as of the date of this Agreement, neither Franchisee nor any person holding any ownership interest in Franchisee, controlled by Franchisee, or under common control with Franchisee is designated under the Order as a person with whom business may not be transacted by HFS, and that Franchisee: (1) does not, and hereafter shall not, engage in any terrorist activity; (2) is not affiliated with and does not support any individual or entity engaged in, contemplating, or supporting terrorist activity; and (3) is not acquiring the rights granted under this Franchise Agreement with the intent to generate funds to channel to any individual or entity engaged in, contemplating, or supporting terrorist activity, or to otherwise support or further any terrorist activity.

29. REPRESENTATIONS

Franchisee represents, acknowledges and warrants to HFS (and Franchisee agrees that these representations, acknowledgments and warranties shall survive termination of this Agreement) that:

A. This Agreement involves significant legal and business rights and risks. HFS does not guarantee Franchisee's success. Franchisee has read this Agreement in its entirety, conducted an independent investigation of the business contemplated by this Agreement, has been thoroughly advised with regard to the terms and conditions of this Agreement by legal counsel or other advisors of Franchisee's choosing, recognizes that the nature of the business conducted by Hardee's Restaurants may change over time, has had ample opportunity to investigate all representations made by or on behalf of HFS, and has had ample opportunity to consult with current and former franchisees of HFS. The prospect for success of the business undertaken by Franchisee is speculative and depends to a material extent upon Franchisee's personal commitment, capability and direct involvement in the day-to-day management of the business.

B. HFS makes no express or implied warranties or representations that Franchisee will achieve any degree of success in the development or operation of the Franchised Restaurant and that success in the development and operation of the Franchised Restaurant depends ultimately on Franchisee's efforts and abilities and on other factors, including, but not limited to, market and other economic conditions, Franchisee's financial condition and competition.

C. HFS has entered, and will continue to enter, into agreements with other franchisees. The manner in which HFS enforces its rights and the franchisees' obligations under any of those other agreements shall not affect the ability of HFS to enforce its rights or Franchisee's obligations under this Agreement.

D. The Initial Franchise Fee is not refundable for any reason.

E. HFS may change or modify the System, from time to time, including the Manual, and Franchisee will be required to make such expenditures as such changes or modifications in the System may require.

F. Nothing in this Agreement prohibits HFS or its affiliates from: (1) operating or licensing others to operate Hardee's Restaurants at any location other than the Franchised Location; (2) operating or licensing others to operate restaurants, other than Hardee's Restaurants, at any location; (3) utilizing the System or any part of the System in any manner other than operation by HFS or its affiliates of a Hardee's Restaurant at the Franchised Location; and (4) merchandising and distributing goods and services identified by the Proprietary Marks at any location through any other method or channel of distribution.

G. All information Franchisee provided to HFS in connection with Franchisee's franchise

application and HFS' grant of this Franchise is truthful, complete and accurate.

H. The persons signing this Agreement on behalf of Franchisee have full authority to enter into this Agreement and the other agreements contemplated by the parties. Execution of this Agreement or such other agreements by Franchisee does not and will not conflict with or interfere with, directly or indirectly, intentionally or otherwise, with the terms of any other agreement with any other third party to which Franchisee or any person with an ownership interest in Franchisee is a party.

I. Franchisee has not received from HFS or its affiliates or anyone acting on their behalf, any representation of Franchisee's potential sales, expenses, income, profit or loss.

J. Franchisee has not received from HFS or its affiliates or anyone acting on their behalf, any representations other than those contained in the Hardee's Franchise Disclosure Document provided to Franchisee as inducements to enter this Agreement.

K. Even though this Agreement contains provisions requiring Franchisee to operate the Franchised Restaurant in compliance with the System: (1) HFS and its affiliates do not have actual or apparent authority to control the day-to-day conduct and operation of Franchisee's business or employment decisions; and (2) Franchisee and HFS do not intend for HFS or its affiliates to incur any liability in connection with or arising from any aspect of the System or Franchisee's use of the System, whether or not in accordance with the requirements of the Manual.

L. In the event of a dispute between HFS and Franchisee, the parties have waived their right to a jury trial.

IN WITNESS WHEREOF, the parties have duly executed, sealed and delivered this Agreement as of the day and year first above written.

ATTEST: **HFS:**

HARDEE'S FOOD SYSTEMS, INC.

By: _____ By: _____

Print Name: _____ Print Name: _____

Title: _____ Title: _____

Date: _____

[Corporate Seal]

ATTEST/WITNESS: **FRANCHISEE:**

_____ _____

_____ _____

_____ _____

_____ _____

Date: _____

GUARANTEE AND ASSUMPTION OF FRANCHISEE'S OBLIGATIONS

In consideration of, and as an inducement to, the execution of the Hardee's Restaurant Franchise Agreement dated as of _____ ("Agreement") by Hardee's Food Systems, Inc. ("HFS"), entered into with _____ ("Franchisee"), the undersigned ("Guarantors"), each of whom is an officer, director, member of Franchisee's Continuity Group or a 10% Owner, or the spouse thereof, hereby personally and unconditionally agree as follows:

1. Guarantee To Be Bound by Certain Obligations. Guarantors hereby personally and unconditionally guarantee to HFS and its successors and assigns, for the term of the Agreement and thereafter as provided in the Agreement or at law or in equity, that each will be personally bound by the restrictions contained in Section 17 of the Agreement.

2. Guarantee and Assumption of Franchisee's Obligations. Guarantors hereby: **(A)** guarantee to HFS and its successors and assigns, for the term of the Agreement and thereafter as provided in the Agreement or at law or in equity, that Franchisee and any assignee of Franchisee's interest under the Agreement shall: **(1)** punctually pay and perform each and every undertaking, agreement and covenant set forth in the Agreement and **(2)** punctually pay all other monies owed to HFS and/or its affiliates; **(B)** agree to be personally bound by each and every provision in the Agreement, including, without limitation, the provisions of Sections 16 and 22; and **(C)** agree to be personally liable for the breach of each and every provision in the Agreement.

3. General Terms and Conditions. The following general terms and conditions shall apply to this Guarantee:

A. Each of the undersigned waives: **(1)** acceptance and notice of acceptance by HFS of the foregoing undertakings; **(2)** notice of demand for payment of any indebtedness or nonperformance of any obligations hereby guaranteed; **(3)** protest and notice of default to any party with respect to the indebtedness or nonperformance of any obligations hereby guaranteed; **(4)** any right he may have to require that an action be brought against Franchisee or any other person as a condition of liability; **(5)** all rights to payments and claims for reimbursement or subrogation which any of the undersigned may have against Franchisee arising as a result of the execution of and performance under this Guarantee by the undersigned; **(6)** any law or statute which requires that HFS make demand upon, assert claims against or collect from Franchisee or any others, foreclose any security interest, sell collateral, exhaust any remedies or take any other action against Franchisee or any others prior to making any demand upon, collecting from or taking any action against the undersigned with respect to this Guarantee; **(7)** any and all other notices and legal or equitable defenses to which he may be entitled; and **(8)** any and all right to have any legal action under this Guarantee decided by a jury.

B. Each of the undersigned consents and agrees that: **(1)** his direct and immediate liability under this Guarantee shall be joint and several; **(2)** he shall render any payment or performance required under the Agreement upon demand if Franchisee fails or refuses punctually to do so; **(3)** such liability shall not be contingent or conditioned upon pursuit by HFS of any remedies against Franchisee or any other person; **(4)** such liability shall not be diminished, relieved or otherwise affected by any amendment of the Agreement, any extension of time, credit or other indulgence which HFS may from time to time grant to Franchisee or to any other person including, without limitation, the acceptance of any partial payment or performance or the compromise or release of any claims, none of which shall in any way modify or amend this Guarantee, which shall be continuing and irrevocable during the term of the Agreement and for so long thereafter as there are monies or obligations owing from Franchisee to HFS or its affiliates under the Agreement; and **(5)** monies received from any source by HFS for application toward payment of the obligations under the Agreement and under this Guarantee may be applied in any manner or order deemed appropriate by HFS. In addition, if any of the undersigned ceases to be a member of the Continuity Group, a 10% Owner, an officer or director of Franchisee or own any interest in Franchisee or the Franchised Restaurant, that person (and his spouse, if the spouse is also a guarantor) agrees that the obligations under this Guarantee shall continue to remain in force and effect unless HFS in its sole discretion, in writing, releases those person(s) from this Guarantee.

Notwithstanding the provisions of the previous sentence, unless prohibited by applicable law, the obligations contained in Section 17.C. of the Agreement shall remain in force and effect for a period of 2 years after any such release by HFS. A release by HFS of any of the undersigned shall not affect the obligations of any other Guarantor.

C. If HFS brings an action to enforce this Guarantee in a judicial proceeding or arbitration, the prevailing party in such proceeding shall be entitled to reimbursement of its costs and expenses, including, but not limited to, reasonable accountants', attorneys', attorneys' assistants' and expert witness fees, cost of investigation and proof of facts, court costs, other litigation expenses and travel and living expenses, whether incurred prior to, in preparation for or in contemplation of the filing of any such proceeding. In any judicial proceeding, these costs and expenses shall be determined by the court and not by a jury.

D. If HFS utilizes legal counsel (including in-house counsel employed by HFS or its affiliates) in connection with any failure by the undersigned to comply with this Guarantee, the undersigned shall reimburse HFS for any of the above-listed costs and expenses incurred by it.

E. If any of the following events occur, a default ("Default") under this Guarantee shall exist: **(1)** failure of timely payment or performance of the obligations under this Guarantee; **(2)** breach of any agreement or representation contained or referred to in this Guarantee; **(3)** the dissolution of, termination of, existence of, loss of good standing status by, appointment of a receiver for, assignment for the benefit of creditors of, or the commencement of any insolvency or bankruptcy proceeding by or against, any of the undersigned; and/or **(4)** the entry of any monetary judgment or the assessment against, the filing of any tax lien against, or the issuance of any writ of garnishment or attachment against any property of or debts due any of the undersigned. If a Default occurs, the obligations of the undersigned shall be due immediately and payable without notice. Upon the death of one of the undersigned, the estate shall be bound by this Guarantee for all obligations existing at the time of death. The obligations of the surviving Guarantors shall continue in full force and effect.

F. This Guarantee shall inure to the benefit of and be binding upon the parties and their respective heirs, legal representatives, successors and assigns. HFS' interests in and rights under this Guarantee are freely assignable, in whole or in part, by HFS. Any assignment shall not release the undersigned from this Guarantee.

G. Sections 27.A. through 27.F. of the Agreement are incorporated by reference into this Guarantee and all capitalized terms that are not defined in this Guarantee shall have the meaning given them in the Agreement.

IN WITNESS WHEREOF, each of the undersigned has hereunto affixed his signature, under seal.

GUARANTORS:

Date: _____ _____

Print Name: _____

Address: _____

Date: _____ _____

Print Name: _____

Address: _____

Date: _____ _____

Print Name: _____

Address: _____

Date: _____ _____

Print Name: _____

Address: _____

APPENDIX A

FRANCHISE INFORMATION

1. **Franchised Location (Recitals): _____**

2. **Initial Franchise Fee (Section 3.A.): _____**

3. **Interests in Other Restaurants (Section 17.C.(2)(c)): _____**

4. **Franchisee's Notice Address (Section 24): _____**

APPENDIX B

WEEKLY ROYALTY FEE

The weekly royalty fee as provided for in Section 3.B. of the Franchise Agreement is as follows:

Year of Operation of the Franchised Restaurant		Percentage of Gross Sales

APPENDIX C

FRANCHISEE'S ADVERTISING AND PROMOTION OBLIGATION

Franchisee's APO under Sections 5.B. through 5.D. of the Franchise Agreement and its allocation shall be as set forth below, unless and until modified by HFS as provided in Section 5:

1. HNAF (Section 5.B.) 0.8 % of Gross Sales
2. Regional Co-op (Section 5.C.) ____% of Gross Sales
3. LSM allocation (Section 5.D.) ____% of Gross Sales

TOTAL APO: ____% of Gross Sales

The Franchised Restaurant is located in the following Designated Market Area: __

NOTES:

(a) While the HNAF payment rate is 0.8% of Gross Sales, the minimum monthly payment for the Franchised Restaurant is $475 and the maximum monthly payment for the Franchised Restaurant is $850. Accordingly, the percentage rate of HNAF contributions may be higher or lower than 0.8% of Gross Sales in which event, the actual APO may be more or less than what is listed above.

(b) As noted in Section 5.E, Franchisee's actual APO may be more than what is listed above if the Franchised Restaurant's Regional Co-op increases the regional Co-op contribution.

(c) HFS has the right to eliminate the LSM allocation.

APPENDIX D

OWNERSHIP INTERESTS

CORPORATE FRANCHISEE

If Franchisee is a corporation, the number of authorized shares of Franchisee that have been issued is _____ and the name, address, number of shares owned (legally or beneficially) and office held by each shareholder is as follows:

Name	Address	No. of Shares	Office Held

LIMITED LIABILITY COMPANY FRANCHISEE

If Franchisee is a limited liability company, the name, address and percentage interest of each member is as follows:

Name	Address	Percentage Interest

OTHER BUSINESS ENTITY FRANCHISEE

If Franchisee is some other business entity, the type of business entity and the name, address and ownership interest (including for a limited partnership, whether a general or limited partner), is as follows:

Type of Business Entity:_____

Name	Address	Ownership Interest

CONTINUITY GROUP, OPERATING PRINCIPAL AND MULTI-UNIT MANAGER

Franchisee's Continuity Group shall be comprised of the following persons:

_____

Franchisee's Operating Principal and Multi-Unit Manager (if applicable) are:

_____

FRANCHISEE:

By: _____

Title: _____ Date _____

Exhibit 31.1

CERTIFICATION

I, Andrew F. Puzder, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q for the period ended May 21, 2012, of CKE Restaurants, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

(a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

(a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

(b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: June 27, 2012

/s/ Andrew F. Puzder

Andrew F. Puzder
Chief Executive Officer
(Principal Executive Officer)

Exhibit 31.2

CERTIFICATION

I, Theodore Abajian, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q for the period ended May 21, 2012, of CKE Restaurants, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

(a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

(a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

(b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: June 27, 2012

/s/ Theodore Abajian

Theodore Abajian
Executive Vice President and Chief Financial Officer
(Principal Financial Officer)

Exhibit 32.1

CERTIFICATION

I, Andrew F. Puzder, certify pursuant to Rule 13a-14(b) or Rule 15d-14(b) of the Securities Exchange Act of 1934 and 18 U.S.C. Section 1350 that:

1. The Quarterly Report on Form 10-Q for the quarterly period ended May 21, 2012 (the "Quarterly Report") complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 780(d)); and
2. The information contained in the Quarterly Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: June 27, 2012

/s/ Andrew F. Puzder

Andrew F. Puzder
Chief Executive Officer
(Principal Executive Officer)

This certification accompanies the Quarterly Report pursuant to Rule 13a-14(b) or Rule 15d-14(b) under the Securities Exchange Act of 1934 and 18 U.S.C. Section 1350 and shall not be deemed filed by the Company for purposes of Section 18 of the Securities Exchange Act of 1934 or otherwise subject to the liability of that section. This certification will not be deemed to be incorporated by reference into any filing under the Securities Act of 1933 or the Securities Exchange Act of 1934, except to the extent that the registrant specifically incorporates it by reference.

Exhibit 32.2

CERTIFICATION

I, Theodore Abajian, certify pursuant to Rule 13a-14(b) or Rule 15d-14(b) of the Securities Exchange Act of 1934 and 18 U.S.C. Section 1350 that:

1. The Quarterly Report on Form 10-Q for the quarterly period ended May 21, 2012 (the "Quarterly Report") complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 780(d)); and
2. The information contained in the Quarterly Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Theodore Abajian

Date: June 27, 2012

Theodore Abajian
Executive Vice President and Chief Financial Officer
(Principal Financial Officer)

This certification accompanies the Quarterly Report pursuant to Rule 13a-14(b) or Rule 15d-14(b) under the Securities Exchange Act of 1934 and 18 U.S.C. Section 1350 and shall not be deemed filed by the Company for purposes of Section 18 of the Securities Exchange Act of 1934 or otherwise subject to the liability of that section. This certification will not be deemed to be incorporated by reference into any filing under the Securities Act of 1933 or the Securities Exchange Act of 1934, except to the extent that the registrant specifically incorporates it by reference.

Indebtedness And Interest Expense

Debt Disclosure [Abstract]

Indebtedness And Interest Expense

4 Months Ended May 21, 2012

INDEBTEDNESS AND INTEREST EXPENSE

Our senior secured revolving credit facility (the "Credit Facility") provides for senior secured revolving facility loans, swingline loans and letters of credit in an aggregate amount of up to $100,000. As of May 21, 2012, we had no outstanding loan borrowings, $30,913 of outstanding letters of credit and remaining availability of $69,087 on our Credit Facility. The Credit Facility bears interest at a rate equal to, at our option, either: (1) the higher of Morgan Stanley's "prime rate" plus 2.75% or the federal funds rate, as defined in our Credit Facility, plus 3.25%, or (2) the London Interbank Offered Rate ("LIBOR") plus 3.75%.

The terms of our Credit Facility include financial performance covenants, which include a maximum secured leverage ratio and a specified minimum interest coverage ratio. As of May 21, 2012, our financial performance covenants did not limit our ability to draw on the remaining availability of $69,087 under our Credit Facility.

As of May 21, 2012, the carrying value of our senior secured second lien notes (the "Senior Secured Notes") was $523,544, which is presented net of the remaining unamortized portion of the original issue discount of $8,578 in our accompanying unaudited Condensed Consolidated Balance Sheet. The aggregate principal amount of the Senior Secured Notes outstanding was $532,122 as of May 21, 2012. The Senior Secured Notes bear interest at a rate of 11.375% per annum, payable semi-annually in arrears on January 15 and July 15.

Each of our wholly-owned domestic subsidiaries that guarantees indebtedness under the Credit Facility also guarantees the performance and punctual payment when due, whether at stated maturity, by acceleration or otherwise, of all our obligations under the Senior Secured Notes. Separate financial statements and other disclosures of each of the guarantors are not presented because CKE Restaurants, Inc. is a holding company with no material independent assets or operations, the guarantor subsidiaries are, directly or indirectly, wholly-owned subsidiaries of CKE Restaurants, Inc. and such guarantees are full, unconditional and joint and several. The aggregate assets, liabilities, earnings and equity of the guarantor subsidiaries are substantially equivalent to the assets, liabilities, earnings and equity of CKE Restaurants, Inc. on a consolidated basis. The one non-guarantor subsidiary is minor. There are no significant restrictions on the ability of CKE Restaurants, Inc. or any of the guarantors to obtain funds from its respective subsidiaries by dividend or loan.

On June 15, 2012, the holders of the Senior Secured Notes were notified that we will redeem $60,000 aggregate principal amount of Senior Secured Notes outstanding on July 16, 2012 at a redemption price of 103% of the aggregate principal amount of the Senior Secured Notes being redeemed pursuant to the terms of the indenture governing the Senior Secured Notes.

Interest Expense

Interest expense consisted of the following:

	Sixteen Weeks Ended May 21, 2012	Sixteen Weeks Ended May 23, 2011
Senior secured revolving credit facility	$ —	$ —
Senior secured second lien notes	18,624	21,116

Amortization of deferred financing costs and discount on notes	1,328	1,244
Capital lease obligations	1,280	1,462
Financing method sale-leaseback transactions[(1)]	2,090	—
Letter of credit fees and other	477	573
	$ 23,799	$ 24,395

(1) See Note 5.

As of May 21, 2012 and January 31, 2012, accrued interest was $21,377 and $2,650, respectively, which is included in other current liabilities in our accompanying unaudited Condensed Consolidated Balance Sheets.

CKE Inc. Senior Unsecured PIK Toggle Notes

During fiscal 2012, CKE Inc. (formerly known as CKE Holdings, Inc.), our parent, issued $200,000 aggregate principal amount of senior unsecured PIK toggle notes (the "Toggle Notes"). We have not guaranteed the Toggle Notes, nor have we pledged any of our assets or stock as collateral for the Toggle Notes. As a result, we have not reflected the Toggle Notes in our unaudited Condensed Consolidated Financial Statements.

The interest on the Toggle Notes, which is payable semi-annually on March 15 and September 15 of each year, can be paid (1) entirely in cash, at a rate of 10.50% ("Cash Interest"), (2) entirely by increasing the principal amount of the note or by issuing new notes for the entire amount of the interest payment, at a rate per annum equal to the cash interest rate of 10.50% plus 0.75% ("PIK Interest") or (3) with a 25%/75%, 50%/50% or 75%/25% combination of Cash Interest and PIK Interest. CKE Inc. paid the March 15, 2012, and will pay the September 15, 2012, interest payments entirely in PIK Interest.

As of May 21, 2012, the principal amount of CKE Inc.'s total long-term debt on a stand-alone basis was $223,199, which includes PIK Interest payments that have been added to the principal amount of the Toggle Notes. The principal amount of CKE Inc.'s long-term debt on a stand-alone basis has not been reduced by the $10,508 principal amount of Toggle Notes held by CKE Restaurants as of May 21, 2012 (the "Purchased Toggle Notes") since the Purchased Toggle Notes remain outstanding. As of May 21, 2012, the carrying amount of CKE Inc.'s total long-term debt on a stand-alone basis, including the current portion and the Purchased Toggle Notes, was $219,908, which is presented net of the unamortized portion of the original issue discount of $3,291.

Purchase of Assets

4 Months Ended
May 21, 2012

Purchase of Assets [Abstract]

Purchase of Assets

PURCHASE OF ASSETS

During the sixteen weeks ended May 23, 2011, we purchased three Hardee's restaurants from one of our franchisees for the aggregate purchase price consideration of $1,500, which was reduced by the settlement of certain pre-existing liabilities, resulting in a net purchase price consideration of $1,207. As a result of this transaction, we recorded property and equipment (including capital lease assets) of $109, identifiable intangible assets of $85 and capital lease obligations of $55, resulting in $1,068 of additional goodwill in our Hardee's operating segment.

We did not purchase any restaurants from franchisees during the sixteen weeks ended May 21, 2012.

Condensed Consolidated Balance Sheets (USD $) In Thousands, unless otherwise specified	May 21, 2012	Jan. 30, 2012
ASSETS		
Cash and cash equivalents	$ 125,422	$ 64,555
Accounts receivable, net of allowance for doubtful accounts of $24 as of May 21, 2012 and $38 as of January 31, 2012	21,274	24,099
Related party trade receivables	358	252
Inventories	15,728	16,144
Prepaid expenses	11,300	15,897
Advertising fund assets, restricted	18,822	18,407
Deferred income tax assets, net	25,265	25,140
Other current assets	3,830	3,695
Total current assets	221,999	168,189
Property and equipment, net of accumulated depreciation and amortization of $140,738 as of May 21, 2012 and $117,010 as of January 31, 2012	636,240	645,552
Goodwill	208,885	208,885
Intangible assets, net	428,399	433,139
Other assets, net	25,533	24,373
Total assets	1,521,056	1,480,138
LIABILITIES AND STOCKHOLDER'S EQUITY		
Current portion of long-term debt	3	3
Current portion of capital lease obligations	7,951	7,988
Accounts payable	27,661	40,790
Advertising fund liabilities	18,822	18,407
Other current liabilities	107,726	85,169
Total current liabilities	162,163	152,357
Long-term debt, less current portion	523,930	523,638
Capital lease obligations, less current portion	32,651	34,981
Deferred income tax liabilities, net	151,143	156,656
Other long-term liabilities	225,504	197,767
Total liabilities	1,095,391	1,065,399
Commitments and contingencies (Notes 4, 5, 7 and 12)		
Stockholder's equity:		
Common stock, $0.01 par value; 100 shares authorized, issued and outstanding as of May 21, 2012 and January 31, 2012	0	0
Additional paid-in capital	458,669	457,252
Investment in CKE Inc. Toggle Notes	(8,362)	(8,362)
Accumulated deficit	(24,642)	(34,151)
Total stockholder's equity	425,665	414,739
Total liabilities and stockholder's equity	$ 1,521,056	$ 1,480,138

Basis Of Presentation And Description Of Business

Organization, Consolidation and Presentation of Financial Statements [Abstract]

Basis Of Presentation And Description Of Business

4 Months Ended May 21, 2012

BASIS OF PRESENTATION AND DESCRIPTION OF BUSINESS

Description of Business

CKE Restaurants, Inc. ("CKE Restaurants"), through its wholly-owned subsidiaries, owns, operates and franchises the Carl's Jr.®, Hardee's®, Green Burrito® and Red Burrito® concepts. References to CKE Restaurants and its consolidated subsidiaries (the "Company") throughout these Notes to Condensed Consolidated Financial Statements are made using the first person notations of "we," "us" and "our."

Domestic Carl's Jr. restaurants are predominately located in the Western United States, primarily in California, with a growing presence in Texas. International Carl's Jr. restaurants are located primarily in Mexico, with a growing presence in the rest of Latin America, Russia and Asia. Hardee's restaurants are primarily located throughout the Southeastern and Midwestern United States, with a growing international presence in the Middle East and Central Asia. Green Burrito restaurants are primarily located in dual-branded Carl's Jr. restaurants. The Red Burrito concept is located in dual-branded Hardee's restaurants. As of May 21, 2012, our system-wide restaurant portfolio consisted of:

	Carl's Jr.	Hardee's	Other	Total
Company-operated	424	468	—	892
Domestic franchised	694	1,227	9	1,930
International franchised	204	237	—	441
Total	1,322	1,932	9	3,263

As of May 21, 2012, 261 of our 424 company-operated Carl's Jr. restaurants were dual-branded with Green Burrito and 242 of our 468 company-operated Hardee's restaurants were dual-branded with Red Burrito.

Basis of Presentation and Fiscal Year

Our accompanying unaudited Condensed Consolidated Financial Statements include the accounts of CKE Restaurants, our wholly-owned subsidiaries and our consolidated variable interest entities ("VIE"). These unaudited Condensed Consolidated Financial Statements have been prepared in accordance with accounting principles generally accepted in the United States ("GAAP"), the instructions to Form 10-Q and Article 10 of Regulation S-X. CKE Restaurants does not have any non-controlling interests in other entities. These financial statements should be read in conjunction with the audited Consolidated Financial Statements presented in our Annual Report on Form 10-K for the fiscal year ended January 31, 2012. In our opinion, all adjustments considered necessary for a fair presentation of financial position and results of operations for this interim period have been included. The results of operations for such interim period are not necessarily indicative of results for the full year or for any future period.

We operate on a retail accounting calendar. Our fiscal year ends on the last Monday in January and typically has 13 four-week accounting periods. For clarity of presentation, we generally label all fiscal year ends as if the fiscal year ended January 31. Accordingly, the fiscal year ended January 30, 2012 is referred to herein as the fiscal year ended January 31, 2012 or fiscal 2012, and the fiscal year ending January 28, 2013 is referred to herein as the fiscal year

ending January 31, 2013 or fiscal 2013. The first quarter of our fiscal year has four periods, or 16 weeks. All other quarters generally have three periods, or 12 weeks.

Our restaurant sales, and therefore our profitability, are subject to seasonal fluctuations and are traditionally higher during the spring and summer months because of factors such as increased travel during school vacations and improved weather conditions, which affect the public's dining habits.

Certain prior year amounts in these unaudited Condensed Consolidated Financial Statements have been reclassified to conform to the current year presentation.

Variable Interest Entities

We consolidate one national and approximately 80 local co-operative advertising funds ("Hardee's Funds") as we have concluded that they are VIEs for which we are the primary beneficiary. We have included $18,822 and $18,407 of advertising fund assets, restricted, and advertising fund liabilities in our accompanying unaudited Condensed Consolidated Balance Sheets as of May 21, 2012 and January 31, 2012, respectively. Consolidation of the Hardee's Funds had no impact on our accompanying unaudited Condensed Consolidated Statements of Operations and Cash Flows. We have no rights to the assets, nor do we have any obligation with respect to the liabilities, of the Hardee's Funds, and none of our assets serve as collateral for the creditors of these VIEs.

Accounting Pronouncements Not Yet Adopted And Adoption Of New Accounting Pronouncements

4 Months Ended

May 21, 2012

Accounting Pronouncements Not Yet Adopted and Adoption of New Accounting Prounoucements [Abstract]

Accounting Pronouncements Not Yet Adopted And Adoption Of New Accounting Pronouncements

ACCOUNTING PRONOUNCEMENTS NOT YET ADOPTED AND ADOPTION OF NEW ACCOUNTING PRONOUNCEMENTS

In September 2011, the FASB updated its guidance on the annual testing of goodwill for impairment to allow companies to first assess qualitative factors to determine whether it is necessary to perform the two-step goodwill impairment test. If an entity determines, based on qualitative factors, that it is not more likely than not that a reporting unit's fair value is less than its carrying amount, then it is not required to perform the quantitative two-step goodwill impairment test. This guidance is effective for annual and interim goodwill impairment tests performed for fiscal years beginning after December 15, 2011. The provisions of this guidance apply to CKE Restaurants beginning in fiscal 2013. The adoption of this guidance has not had, and is not expected to have, a material impact on our Condensed Consolidated Financial Statements.

Condensed Consolidated Balance Sheets (Parenthetical) (USD $) In Thousands, except Share data, unless otherwise specified	May 21, 2012	Jan. 30, 2012
Accounts receivable, allowance for doubtful accounts	$ 24	$ 38
Property and equipment, accumulated depreciation and amortization	$ 140,738	$ 117,010
Common stock, par value	$ 0.01	$ 0.01
Common stock, shares authorized	100	100
Common stock, shares issued	100	100
Common stock, shares outstanding	100	100

Related Party Transactions

4 Months Ended
May 21, 2012

Related Party Transactions [Abstract]

Related Party Transactions

RELATED PARTY TRANSACTIONS

Transactions with Apollo Management VII, L.P.

Pursuant to our management services agreement with Apollo Management VII, L.P. and in exchange for on-going investment banking, management, consulting and financial planning services that will be provided to us, we are obligated to pay Apollo Management VII, L.P. an aggregate annual management fee of $2,500, which may be increased at Apollo Management VII, L.P.'s sole discretion up to an amount equal to two percent of our Adjusted EBITDA, as defined in our Credit Facility. We recorded $765 and $767 in management fees, which are included in general and administrative expense in our accompanying unaudited Condensed Consolidated Statements of Operations for the sixteen weeks ended May 21, 2012 and May 23, 2011, respectively.

Transactions with Board of Directors

Certain members of our Board of Directors are also our franchisees. These franchisees regularly pay royalties and purchase equipment and other products from us on the same terms and conditions as our other franchisees. During the sixteen weeks ended May 21, 2012 and May 23, 2011, total revenue generated from related party franchisees was $2,087 and $3,361, respectively, which is included in franchised restaurants and other revenue in our accompanying unaudited Condensed Consolidated Statement of Operations. As of May 21, 2012 and January 31, 2012, our related party trade receivables from franchisees were $358 and $252, respectively.

Document And Entity Information	4 Months Ended	
	May 21, 2012	Jun. 22, 2012
Document And Entity Information [Abstract]		
Document Type	10-Q	
Amendment Flag	false	
Document Period End Date	May 21, 2012	
Document Fiscal Year Focus	2013	
Document Fiscal Period Focus	Q1	
Entity Registrant Name	CKE RESTAURANTS INC	
Entity Central Index Key	0000919628	
Current Fiscal Year End Date	--01-28	
Entity Filer Category	Non-accelerated Filer	
Entity Common Stock, Shares Outstanding		100

Supplemental Cash Flow Information

4 Months Ended May 21, 2012

Supplemental Cash Flow Elements [Abstract]

Supplemental Cash Flow Information

SUPPLEMENTAL CASH FLOW INFORMATION

	Sixteen Weeks Ended May 21, 2012	Sixteen Weeks Ended May 23, 2011
Cash paid for:		
Interest, net of amounts capitalized	$ 3,549	$ 1,656
Income taxes paid (received), net	1,587	(727)
Non-cash investing and financing activities:		
Capital lease obligations incurred to acquire assets	576	1,665
Accrued property and equipment purchases	1,346	2,765

During the sixteen weeks ended May 23, 2011, we recorded a non-cash transaction to acquire three Hardee's restaurants from one of our franchisees for an aggregate purchase price of $1,500. The entire purchase price was applied as a reduction of outstanding promissory notes due to the Company. See Note 3 for additional discussion.

Condensed Consolidated Statements Of Operations (USD $) In Thousands, unless otherwise specified	4 Months Ended	
	May 21, 2012	May 23, 2011
Revenue:		
Company-operated restaurants	$ 361,466	$ 351,604
Franchised restaurants and other	50,865	48,979
Total revenue	412,331	400,583
Operating costs and expenses:		
Food and packaging	108,502	108,902
Payroll and other employee benefits	102,765	101,663
Occupancy and other	81,485	82,683
Total restaurant operating costs	292,752	293,248
Franchised restaurants and other	25,629	25,878
Advertising	20,852	20,061
General and administrative	41,716	40,960
Facility action charges, net	401	511
Other operating expenses	0	351
Total operating costs and expenses	381,350	381,009
Operating income	30,981	19,574
Interest expense	(23,799)	(24,395)
Other income, net	1,149	799
Income (loss) before income taxes	8,331	(4,022)
Income tax benefit	(1,178)	(1,421)
Net income (loss)	$ 9,509	$ (2,601)

Commitments And Contingent Liabilities	4 Months Ended May 21, 2012
Commitments and Contingencies Disclosure [Abstract]	
Commitments And Contingent Liabilities	

COMMITMENTS AND CONTINGENT LIABILITIES

Lease Commitments

Under various refranchising programs, we have sold restaurants to franchisees, some of which were on leased sites. We entered into sublease agreements with these franchisees but remained principally liable for the lease obligations. We account for the sublease payments received as franchising rental income in franchised restaurants and other revenue, and the payments on the leases as rental expense in franchised restaurants and other expense, in our accompanying unaudited Condensed Consolidated Statements of Operations. As of May 21, 2012, the present value of the lease obligations under the remaining master leases' primary terms is $124,349. Franchisees may, from time to time, experience financial hardship and may cease payment on their sublease obligations to us. The present value of the exposure to us from franchisees characterized as under financial hardship is $2,513.

Letters of Credit

Pursuant to our Credit Facility, we may borrow up to $100,000 for senior secured revolving facility loans, swingline loans and letters of credit (see Note 4). We have several standby letters of credit outstanding under our Credit Facility, which primarily secure our potential workers' compensation, general and auto liability obligations. We are required to provide letters of credit each year, or set aside a comparable amount of cash or investment securities in a trust account, based on our existing claims experience. As of May 21, 2012, we had outstanding letters of credit of $30,913, expiring at various dates through August 2012.

Unconditional Purchase Obligations

As of May 21, 2012, we had unconditional purchase obligations in the amount of $89,576, which consisted primarily of contracts for goods and services related to restaurant operations and contractual commitments for marketing and sponsorship arrangements.

Employment Agreements

We have entered into employment agreements with certain key executives (the "Employment Agreements"). Pursuant to the terms of the Employment Agreements, each executive is entitled to receive certain retention bonus payments that will be paid out in October 2012 and 2013, in accordance with such executive's Employment Agreement. In addition, each executive will be entitled to payments that may be triggered by the termination of employment under certain circumstances, as set forth in each Employment Agreement. If certain provisions are triggered, our Chief Executive Officer shall be entitled to receive an amount equal to his minimum base salary multiplied by six and our President and Chief Legal Officer and our Chief Financial Officer shall each be entitled to receive an amount equal to his respective minimum base salary multiplied by three plus a pro-rata portion of his then-current year bonus. The affected executive may also be entitled to receive a portion of his retention bonus. If all payment provisions of the Employment Agreements had been triggered as of May 21, 2012, we would have been required to make cash payments of approximately $12,301.

Litigation

We are currently involved in legal disputes related to employment claims, real estate claims and other business disputes. As of May 21, 2012, our accrued liability for litigation contingencies

with a probable likelihood of loss was $2,395, with an expected range of losses from $2,395 to $5,530. With respect to employment matters, our most significant legal disputes relate to employee meal and rest break disputes, and wage and hour disputes. Several potential class action lawsuits have been filed in the State of California, regarding such employment matters, each of which is seeking injunctive relief and monetary compensation on behalf of current and former employees. The Company intends to vigorously defend against all claims in these lawsuits; however, we are presently unable to predict the ultimate outcome of these actions. As of May 21, 2012, we estimated the contingent liability of those losses related to litigation claims that are not accrued, but that we believe are reasonably possible to result in an adverse outcome and for which a range of loss can be reasonably estimated, to be in the range of $2,135 to $10,425. In addition, we are involved in legal matters where the likelihood of loss has been judged to be reasonably possible, but for which a range of the potential loss cannot be reasonably estimated based on current facts and circumstances.

Fair Value Of Financial Instruments

Fair Value Disclosures [Abstract]

Fair Value Of Financial Instruments

4 Months Ended May 21, 2012

FAIR VALUE OF FINANCIAL INSTRUMENTS

The following table presents information on our financial instruments as of:

	May 21, 2012		January 31, 2012	
	Carrying Amount	Estimated Fair Value	Carrying Amount	Estimated Fair Value
Financial assets:				
Cash and cash equivalents	$ 125,422	$ 125,422	$ 64,555	$ 64,555
Notes receivable	752	879	1,696	2,050
Financial liabilities:				
Bank indebtedness and other long-term debt, including current portion	523,933	608,338	523,641	599,027

The fair value of cash and cash equivalents approximates its carrying amount due to its short maturity. The estimated fair value of notes receivable was determined by discounting future cash flows using current rates at which similar loans might be made to borrowers with similar credit ratings. The estimated fair value of the Senior Secured Notes was determined by using estimated market prices of our outstanding Senior Secured Notes. For all other long-term debt, the estimated fair value was determined by discounting future cash flows using rates currently available to us for debt with similar terms and remaining maturities.

Our non-financial assets, which include long-lived assets, including goodwill, intangible assets and property and equipment, are reported at carrying value and are not required to be measured at fair value on a recurring basis. However, on a periodic basis, or whenever events or changes in circumstances indicate that their carrying value may not be recoverable, we assess our long-lived assets for impairment. When impairment has occurred, such long-lived assets are written down to fair value.

Income Taxes

Income Tax Disclosure [Abstract]
Income Taxes

4 Months Ended
May 21, 2012

INCOME TAXES

Income tax benefit consisted of the following:

	Sixteen Weeks Ended May 21, 2012	Sixteen Weeks Ended May 23, 2011
Federal and state income taxes	$ (1,817)	$ (1,912)
Foreign income taxes	639	491
Income tax benefit	$ (1,178)	$ (1,421)

Our effective income tax rate for the sixteen weeks ended May 21, 2012 differs from the federal statutory rate primarily as a result of non-deductible share-based compensation expense, state income taxes, federal income tax credits and the release of $6,370 of valuation allowance on state income tax credit and net operating loss ("NOL") carryforwards. After considering all available evidence, both positive and negative, including future reversals of existing taxable temporary differences and estimated future taxable income exclusive of reversing temporary differences on a jurisdictional basis and statutory expiration dates of NOL carryforwards, we concluded that we will more likely than not realize future tax benefits related to certain of our state income tax credit and NOL carryforwards, for which an income tax benefit has not previously been recognized. As of May 21, 2012, we maintained a valuation allowance of $2,935 for a portion of our state NOL and income tax credit carryforwards. Realization of the tax benefit of such deferred income tax assets may remain uncertain for the foreseeable future, even if we generate consolidated taxable income, since they are subject to various limitations and may only be used to offset income of certain entities or in certain jurisdictions.

Our effective income tax rate for the sixteen weeks ended May 23, 2011 differs from the federal statutory rate primarily as a result of non-deductible share-based compensation expense, state income taxes and federal income tax credits.

We had $2,977 of unrecognized tax benefits as of January 31, 2012 that, if recognized, would affect our effective income tax rate. There were no material changes in the unrecognized tax benefits during the sixteen weeks ended May 21, 2012. We believe that it is reasonably possible that decreases in unrecognized tax benefits of up to $1,642 may be necessary within twelve months as a result of statutes closing on such items. In addition, we believe that it is reasonably possible that our unrecognized tax benefits may increase as a result of tax positions that may be taken during the next twelve months.

Share-Based Compensation

4 Months Ended
May 21, 2012

Disclosure of Compensation Related Costs, Share-based Payments [Abstract]

Share-Based Compensation

SHARE-BASED COMPENSATION

Total share-based compensation expense and associated tax benefits recognized were as follows:

	Sixteen Weeks Ended May 21, 2012	Sixteen Weeks Ended May 23, 2011
Share-based compensation expense related to Units that contain performance conditions	$ 740	$ 767
Share-based compensation expense related to all other Units	677	702
Total share-based compensation expense	$ 1,417	$ 1,469
Associated tax benefits	$ —	$ —

Funds managed by Apollo Management VII, L.P., certain members of our senior management team and our board of directors formed Apollo CKE Holdings, L.P., a limited partnership (the "Partnership") to fund the equity contribution to CKE Restaurants, Inc. The Partnership granted profit sharing interests ("Units") in the Partnership to certain of our senior management team and directors in the form of time vesting and performance vesting Units. Under certain circumstances, a portion of the Units may become subject to both performance and market conditions. The maximum unrecognized compensation cost for the time and performance vesting Units was $8,747 as of May 21, 2012.

Facility Action Charges, Net

4 Months Ended May 21, 2012

Facility Action Charges, Net [Abstract]

Facility Action Charges, Net

FACILITY ACTION CHARGES, NET

The components of facility action charges, net are as follows:

	Sixteen Weeks Ended May 21, 2012	Sixteen Weeks Ended May 23, 2011
Estimated liability for new restaurant closures	$ —	$ 133
Adjustments to estimated liability for closed restaurants	4	466
Impairment of assets to be held and used	109	58
Gain on disposal of property and equipment	(234)	(156)
Other losses (gains)	396	(116)
Amortization of discount related to estimated liability for closed restaurants	126	126
	$ 401	$ 511

We evaluate our restaurant-level long-lived assets for impairment whenever events or circumstances indicate that the carrying value of assets may be impaired. We determine whether the assets are recoverable by comparing the undiscounted future cash flows that we expect to generate from their use and disposal to their carrying value. Restaurant-level assets that are not deemed to be recoverable are written down to their estimated fair value, which is determined by assessing the highest and best use of the assets and the amounts that would be received for such assets in an orderly transaction between market participants. The determination of fair value is dependent upon level 3 significant unobservable inputs.

Impairment charges recognized in facility action charges, net were recorded against the following asset category:

	Sixteen Weeks Ended May 21, 2012	Sixteen Weeks Ended May 23, 2011
Property and equipment:		
Carl's Jr.	$ —	$ —
Hardee's	109	58
	$ 109	$ 58

Segment Information

4 Months Ended
May 21, 2012

Segment Reporting [Abstract]
Segment Information

SEGMENT INFORMATION

We are principally engaged in developing, operating, franchising and licensing our Carl's Jr. and Hardee's quick-service restaurant concepts, each of which is considered an operating segment that is managed and evaluated separately. The accounting policies of the segments are the same as those described in our summary of significant accounting policies (see Note 1 of Notes to Consolidated Financial Statements in our Annual Report on Form 10-K for the fiscal year ended January 31, 2012).

	Sixteen Weeks Ended May 21, 2012	Sixteen Weeks Ended May 23, 2011
Revenue:		
Carl's Jr.	$ 211,524	$ 206,134
Hardee's	200,665	194,216
Other	142	233
Total	$ 412,331	$ 400,583
Segment income:		
Carl's Jr.	$ 32,764	$ 27,421
Hardee's	40,195	33,842
Other	139	133
Total	73,098	61,396
Less: General and administrative expense	(41,716)	(40,960)
Less: Facility action charges, net	(401)	(511)
Less: Other operating expenses	—	(351)
Operating income	30,981	19,574
Interest expense	(23,799)	(24,395)
Other income, net	1,149	799
Income (loss) before income taxes	$ 8,331	$ (4,022)
Capital expenditures:		
Carl's Jr.	$ 7,522	$ 4,101
Hardee's	7,742	9,271
Other	461	209
Total	$ 15,725	$ 13,581
Depreciation and amortization:		
Depreciation and amortization included in segment income:		
Carl's Jr.	$ 11,560	$ 11,924
Hardee's	12,822	12,055
Other	—	—
Other depreciation and amortization[1]	1,085	959

Total depreciation and amortization	$ 25,467	$ 24,938

	May 21, 2012	January 31, 2012
Total assets:		
Carl's Jr.	$ 827,571	$ 779,970
Hardee's	626,882	633,127
Other	66,603	67,041
Total	$ 1,521,056	$ 1,480,138

(1) Represents depreciation and amortization excluded from the computation of segment income.

Condensed Consolidated Statements Of Cash Flows (USD $) In Thousands, unless otherwise specified	4 Months Ended	
	May 21, 2012	May 23, 2011
Cash flows from operating activities:		
Net income (loss)	$ 9,509	$ (2,601)
Adjustments to reconcile net income (loss) to net cash provided by operating activities:		
Depreciation and amortization	25,467	24,938
Amortization of deferred financing costs and discount on notes	1,328	1,244
Share-based compensation expense	1,417	1,469
(Recovery of) provision for losses on accounts and notes receivable	(11)	71
(Gain) loss on disposal of property and equipment	(13)	557
Deferred income taxes	(5,638)	(1,913)
Other non-cash charges (gains)	297	(55)
Net changes in operating assets and liabilities:		
Receivables, inventories, prepaid expenses and other current and non-current assets	6,735	2,071
Estimated liability for closed restaurants and estimated liability for self-insurance	152	834
Accounts payable and other current and long-term liabilities	19,131	27,683
Net cash provided by operating activities	58,374	54,298
Cash flows from investing activities:		
Purchases of property and equipment	(15,725)	(13,581)
Proceeds from sale of property and equipment	350	947
Collections of non-trade notes receivable	841	572
Other investing activities	73	57
Net cash used in investing activities	(14,461)	(12,005)
Cash flows from financing activities:		
Net change in bank overdraft	(8,790)	(6,382)
Proceeds from financing method sale-leaseback transactions	29,946	0
Payment of deferred financing costs	(1,676)	(44)
Repayments of other long-term debt	(2)	(9)
Repayments of capital lease obligations	(2,524)	(2,506)
Net cash provided by (used in) financing activities	16,954	(8,941)
Net increase in cash and cash equivalents	60,867	33,352
Cash and cash equivalents at beginning of period	64,555	42,586
Cash and cash equivalents at end of period	$ 125,422	$ 75,938

Sale-Leaseback Transactions

	4 Months Ended May 21, 2012
Sale-Leaseback Transactions [Abstract]	
Sale-Leaseback Transactions	**SALE-LEASEBACK TRANSACTIONS**

During the sixteen weeks ended May 21, 2012, we entered into agreements with independent third parties under which we sold and leased back 2 Carl's Jr. and 18 Hardee's restaurant properties. The initial minimum lease terms are 20 years, and the leases include renewal options and right of first offer provisions that, for accounting purposes, constitute continuing involvement with the associated restaurant properties. Due to this continuing involvement, these sale-leaseback transactions are accounted for under the financing method, rather than as completed sales. Under the financing method, we include the sales proceeds received in other long-term liabilities until our continuing involvement with the properties is terminated, report the associated property as owned assets, continue to depreciate the assets over their remaining useful lives, and record the rental payments as interest expense. Closing costs and other fees related to these sale-leaseback transactions are recorded as deferred financing costs and amortized to interest expense over the initial minimum lease term. When and if our continuing involvement with a property terminates and the sale of that property is recognized for accounting purposes, we expect to record a gain equal to the excess of the proceeds received over the remaining net book value of the associated restaurant property and any unamortized deferred financing costs. During the sixteen weeks ended May 21, 2012, we received proceeds of $29,946 and capitalized deferred financing costs of $1,766 in connection with these transactions.

The cumulative proceeds received in connection with financing method sale-leaseback transactions of $97,400 and $67,454 are included in other long-term liabilities in our accompanying unaudited Condensed Consolidated Balance Sheets as of May 21, 2012 and January 31, 2012, respectively. The net book value of the associated assets, which is included in property and equipment, net of accumulated depreciation and amortization in our accompanying unaudited Condensed Consolidated Balance Sheets, was $71,580 and $48,722 as of May 21, 2012 and January 31, 2012, respectively. With respect to the financing method sale-leaseback transactions, our future minimum cash obligations as of May 21, 2012 are $4,647, $6,970, $6,970, $6,970, $7,144, $7,633 and $117,701 for the period from May 22, 2012 through January 31, 2013, for fiscal 2014, 2015, 2016, 2017, 2018 and thereafter, respectively.