

# POPEYES LOUISIANA KITCHEN, INC.

## FORM 10-Q (Quarterly Report)

Filed 08/20/14 for the Period Ending 07/13/14

Address	400 PERIMETER CENTER TERRACE, SUITE 1000 ATLANTA, GA 30346
Telephone	4044594450
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Industry	Restaurants
Sector	Services
Fiscal Year	12/30

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549**

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**FORM 10-Q**

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

For the quarterly period ended July 13, 2014

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 000-32369

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**Popeyes Louisiana Kitchen, Inc.**

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**Minnesota**

*(State or other jurisdiction of  
incorporation or organization)*

**58-2016606**

*(IRS Employer  
Identification No.)*

**400 Perimeter Center Terrace, Suite 1000  
Atlanta, Georgia**

*(Address of principal executive offices)*

**30346**

*(Zip code)*

**(404) 459-4450**

**(Registrant's telephone number, including area code)**

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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

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 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 (check one):

Large accelerated filer  - Accelerated filer

Non-accelerated filer  - (Do not check if a smaller reporting company) 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

As of August 8, 2014 there were 23,510,197 shares of the registrant's common stock, par value \$.01 per share, outstanding.

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### Part 1. FINANCIAL INFORMATION

#### Item 1. Financial Statements

##### Popeyes Louisiana Kitchen, Inc.

Condensed Consolidated Balance Sheets (unaudited)

(In millions, except share data)

	7/13/2014	12/29/2013
<b>Current assets:</b>		
Cash and cash equivalents	\$ 10.5	\$ 9.6
Accounts and current notes receivable, net	8.6	8.9
Other current assets	5.3	9.8
Advertising cooperative assets, restricted	29.1	27.8
Total current assets	<u>53.5</u>	<u>56.1</u>
<b>Long-term assets:</b>		
Property and equipment, net	83.4	77.6
Goodwill	11.1	11.1
Trademarks and other intangible assets, net	94.9	53.4
Other long-term assets, net	1.9	2.3
Total long-term assets	<u>191.3</u>	<u>144.4</u>
Total assets	<u>\$ 244.8</u>	<u>\$ 200.5</u>
<b>Current liabilities:</b>		
Accounts payable	\$ 5.4	\$ 8.5
Other current liabilities	6.8	8.1
Current debt maturities	0.3	0.3
Advertising cooperative liabilities	29.1	27.8
Total current liabilities	<u>41.6</u>	<u>44.7</u>
<b>Long-term liabilities:</b>		
Long-term debt	109.8	66.9
Deferred credits and other long-term liabilities	30.7	30.1
Total long-term liabilities	<u>140.5</u>	<u>97.0</u>
<b>Commitments and contingencies</b>		
<b>Shareholders' equity:</b>		
Preferred stock (\$.01 par value; 2,500,000 shares authorized; 0 shares issued and outstanding)	—	—
Common stock (\$.01 par value; 150,000,000 shares authorized; 23,507,519 and 23,784,041 shares issued and outstanding at July 13, 2014 and December 29, 2013, respectively)	0.2	0.2
Capital in excess of par value	62.1	77.9
Accumulated earnings (deficit)	0.7	(18.7)
Accumulated other comprehensive loss	(0.3)	(0.6)
Total shareholders' equity	<u>62.7</u>	<u>58.8</u>
Total liabilities and shareholders' equity	<u>\$ 244.8</u>	<u>\$ 200.5</u>

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

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### Popeyes Louisiana Kitchen, Inc.

Condensed Consolidated Statements of Operations (unaudited)

(In millions, except per share data)

	12 Weeks Ended		28 Weeks Ended	
	7/13/2014	7/14/2013	7/13/2014	7/14/2013
<b>Revenues:</b>				
Sales by company-operated restaurants	\$ 22.3	\$ 17.5	\$ 51.7	\$ 41.4
Franchise royalties and fees	30.0	29.1	68.8	64.3
Rent from franchised restaurants	1.4	1.3	3.3	2.6
Total revenues	53.7	47.9	123.8	108.3
<b>Expenses:</b>				
Restaurant food, beverages and packaging	7.3	5.8	16.9	13.7
Restaurant employee, occupancy and other expenses	10.8	8.5	24.6	19.8
General and administrative expenses	17.4	16.8	41.8	38.8
Occupancy expenses - franchise restaurants	0.7	0.8	1.6	1.9
Depreciation and amortization	2.0	1.5	4.6	3.3
Other expenses (income), net	1.4	—	1.5	0.1
Total expenses	39.6	33.4	91.0	77.6
<b>Operating profit</b>	14.1	14.5	32.8	30.7
Interest expense, net	0.7	0.9	1.6	2.0
<b>Income before income taxes</b>	13.4	13.6	31.2	28.7
Income tax expense	5.1	5.1	11.8	10.6
<b>Net income</b>	<u>\$ 8.3</u>	<u>\$ 8.5</u>	<u>\$ 19.4</u>	<u>\$ 18.1</u>
<b>Earnings per common share, basic:</b>	<u>\$ 0.36</u>	<u>\$ 0.36</u>	<u>\$ 0.83</u>	<u>\$ 0.77</u>
<b>Earnings per common share, diluted:</b>	<u>\$ 0.35</u>	<u>\$ 0.35</u>	<u>\$ 0.82</u>	<u>\$ 0.75</u>
<b>Weighted-average shares outstanding:</b>				
Basic	23.3	23.6	23.4	23.6
Diluted	23.7	24.1	23.8	24.2

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

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### Popeyes Louisiana Kitchen, Inc.

Condensed Consolidated Statements of Comprehensive Income (unaudited)  
(In millions)

	12 Weeks Ended		28 Weeks Ended	
	7/13/2014	7/14/2013	7/13/2014	7/14/2013
<b>Net income</b>	\$ 8.3	\$ 8.5	\$ 19.4	\$ 18.1
<b>Other comprehensive income</b>				
Net change in fair value of cash flow hedge	—	0.1	—	0.3
Reclassification adjustments for derivative losses included in earnings	0.1	—	0.4	—
Other comprehensive income, before income taxes	0.1	0.1	0.4	0.3
Income tax on other comprehensive income	—	—	(0.1)	(0.1)
Other comprehensive income, net of income taxes	0.1	0.1	0.3	0.2
<b>Comprehensive income</b>	<b>\$ 8.4</b>	<b>\$ 8.6</b>	<b>\$ 19.7</b>	<b>\$ 18.3</b>

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

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### Popeyes Louisiana Kitchen, Inc.

Condensed Consolidated Statement of Changes in Shareholders' Equity (unaudited)

(In millions, except share data)

	<u>Common Stock</u>		<u>Capital in Excess of Par</u>	<u>Accumulated Earnings (Deficit)</u>	<u>Accumulated Other Comprehensive (Loss)</u>	<u>Total</u>
	<u>Number of Shares</u>	<u>Amount</u>				
<b>Balance at December 29, 2013</b>	23,784,041	\$ 0.2	\$ 77.9	\$ (18.7)	\$ (0.6)	\$ 58.8
Net income	—	—	—	19.4	—	19.4
Other comprehensive income, net of income tax	—	—	—	—	0.3	0.3
Repurchases and retirement of shares	(461,959)	—	(20.0)	—	—	(20.0)
Issuance of common stock under stock option plan	106,728	—	1.3	—	—	1.3
Issuance of restricted stock awards, net of forfeitures	78,709	—	(1.9)	—	—	(1.9)
Excess tax benefits from stock-based compensation	—	—	1.9	—	—	1.9
Stock-based compensation expense	—	—	2.9	—	—	2.9
<b>Balance at July 13, 2014</b>	<u>23,507,519</u>	<u>\$ 0.2</u>	<u>\$ 62.1</u>	<u>\$ 0.7</u>	<u>\$ (0.3)</u>	<u>\$ 62.7</u>

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.



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### Popeyes Louisiana Kitchen, Inc.

Condensed Consolidated Statements of Cash Flows (unaudited)

(In millions)

	28 Weeks Ended	
	7/13/2014	7/14/2013
<b>Cash flows provided by (used in) operating activities:</b>		
Net income	\$ 19.4	\$ 18.1
Adjustments to reconcile net income to net cash provided by (used in) operating activities:		
Depreciation and amortization	4.6	3.3
Asset write-downs	0.2	0.2
Net gain on sale of assets	(0.1)	(0.1)
Deferred income taxes	—	0.4
Non-cash interest expense, net	0.6	0.2
Provision for credit losses	—	0.1
Excess tax benefits from stock-based payment arrangements	(1.9)	(1.9)
Stock-based compensation expense	2.9	2.9
Change in operating assets and liabilities:		
Accounts receivable	0.4	(0.4)
Other operating assets	6.3	1.0
Accounts payable and other operating liabilities	(2.7)	(0.5)
Net cash provided by operating activities	29.7	23.3
<b>Cash flows used in investing activities:</b>		
Capital expenditures	(12.9)	(15.6)
Purchase of recipes and formulas	(41.8)	—
Net cash used in investing activities	(54.7)	(15.6)
<b>Cash flows provided by (used in) financing activities:</b>		
Principal payments — 2010 credit facility (term loan)	—	(4.3)
Borrowings under 2013 credit facility	43.0	—
Share repurchases	(20.0)	(8.4)
Proceeds from exercise of employee stock options	1.3	1.5
Excess tax benefits from stock-based payment arrangements	1.9	1.9
Other financing activities, net	(0.3)	(0.2)
Net cash provided by (used in) financing activities	25.9	(9.5)
Net increase (decrease) in cash and cash equivalents	0.9	(1.8)
Cash and cash equivalents at beginning of year	9.6	17.0
Cash and cash equivalents at end of quarter	\$ 10.5	\$ 15.2

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

**Popeyes Louisiana Kitchen, Inc.**  
**Notes to Unaudited Condensed Consolidated Financial Statements**

**Note 1 — Description of Business**

Popeyes Louisiana Kitchen, Inc. ("PLKI" or the "Company") develops, operates and franchises quick-service restaurants under the trade names Popeyes<sup>®</sup> Chicken & Biscuits and Popeyes<sup>®</sup> Louisiana Kitchen (collectively "Popeyes") in 47 states, the District of Columbia, three territories, and 26 foreign countries.

**Note 2 — Significant Accounting Policies**

The Company's significant accounting policies are presented in Note 2 to the Company's consolidated financial statements for the fiscal year ended December 29, 2013, which are contained in the Company's 2013 Annual Report on Form 10-K ("2013 Form 10-K"). The significant accounting policies that are most critical and aid in fully understanding and evaluating the reported financial results include the following:

**Basis of Presentation.** The accompanying condensed consolidated financial statements have been prepared in accordance with the rules and regulations of the Securities and Exchange Commission (the "SEC") for interim financial information. Accordingly, certain information required by generally accepted accounting principles in the United States ("GAAP") for complete financial statements is not included. The Consolidated Balance Sheet data as of December 29, 2013 that is presented herein was derived from the Company's audited consolidated financial statements for the fiscal year then ended. The condensed consolidated financial statements as of July 13, 2014, have not been audited by the Company's independent registered public accountants, but in the opinion of management, they contain all normal recurring adjustments necessary for a fair statement of the Company's financial condition and results of operations for the interim periods presented. Interim period operating results are not necessarily indicative of the results expected for the full fiscal year. The Company suggests that the accompanying financial statements be read in conjunction with the consolidated financial statements and notes thereto included in the 2013 Form 10-K. Except as disclosed herein, there has been no material change in the information disclosed in the notes to our consolidated financial statements included in the 2013 Form 10-K.

**Use of Estimates.** The preparation of condensed consolidated financial statements in conformity with GAAP requires the Company's management to make estimates and assumptions that affect the reported amounts of assets and liabilities. These estimates affect the disclosure of contingent assets and liabilities as of the date of the condensed consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

**Accumulated Other Comprehensive Income (Loss).** Comprehensive income is net income plus the change in fair value of the Company's cash flow hedge plus derivative losses realized in earnings during the period. Amounts included in accumulated other comprehensive income (loss) for the Company's derivative instruments are recorded net of the related income tax effects.

As of July 13, 2014, accumulated other comprehensive loss consisted of net unrealized losses on interest rate swap agreements settled in cash. Unrealized derivative gains or losses on terminated swap agreements are amortized as interest expense over the remaining term of the original swap agreement. The Company expects approximately \$ 0.5 million of net pre-tax derivative losses included in accumulated other comprehensive income at July 13, 2014 will be reclassified into earnings within the next nine months.

**Reclassifications.** The Company has certain non-cash operating and investing activities related to accrued purchases of property and equipment. A revision was made to the condensed consolidated statement of cash flow for the twenty-eight week period ended July 14, 2013 which decreased operating cash flows related to the change in accounts payable and other operating liabilities \$ 0.2 million and increased investing cash flows related to capital expenditures \$ 0.2 million. The reclassification in the condensed consolidated statement of cash flows noted above represent errors that are not deemed material, individually or in the aggregate, to the prior period consolidated financial statements.

In the accompanying condensed consolidated financial statements and in these notes, "Rent from franchised restaurants" and "Occupancy expenses - franchise restaurants" on the condensed consolidated statements of operations were "Rent and other revenues" and "Rent and other occupancy expenses", respectively, in prior years.

**Popeyes Louisiana Kitchen, Inc.**  
**Notes to Unaudited Condensed Consolidated Financial Statements (continued)**

**Note 3 — Other Current Assets**

(in millions)	7/13/2014	12/29/2013
Prepaid income taxes	\$ 2.0	\$ 5.2
Prepaid expenses and other current assets	3.3	4.6
	\$ 5.3	\$ 9.8

**Note 4 — Trademarks and Other Intangible Assets, Net**

(in millions)	7/13/2014	12/29/2013
Non-amortizable intangible assets:		
Trademarks	\$ 50.0	\$ 50.0
Recipes and formulas	41.8	—
Other	0.6	0.6
	92.4	50.6
Amortizable intangible assets:		
Re-acquired franchise rights	7.1	7.1
Accumulated amortization	(4.6)	(4.3)
	2.5	2.8
	\$ 94.9	\$ 53.4

On June 16, 2014, the Company purchased the recipes and formulas (the "formulas") it uses in the preparation of many of its core menu items from Diversified Foods and Seasonings, L.L.C. for \$43.0 million. The Company recorded an intangible asset of \$41.8 million, net of royalties due under a 2010 Royalty and Supply Agreement ("2010 Agreement") plus transaction costs.

The formulas were previously licensed to the Company pursuant to the terms of the 2010 Agreement. See Note 10 for further discussion on this commitment.

**Note 5 — Other Current Liabilities**

(In millions)	7/13/2014	12/29/2013
Accrued wages, bonuses and severances	\$ 3.7	\$ 6.0
Other	3.1	2.1
Other current liabilities	\$ 6.8	\$ 8.1

The decrease in accrued wages, bonuses and severances during 2014 is primarily due to the timing of annual and quarterly bonus payments.

**Note 6 — Fair Value Measurements**

The following table reflects assets that are measured at fair value on a recurring basis as of July 13, 2014 and December 29, 2013 :

**Popeyes Louisiana Kitchen, Inc.**  
**Notes to Unaudited Condensed Consolidated Financial Statements (continued)**

(In millions)	Quoted Prices in Active Markets for Identical Asset or Liability (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	Carrying Value
<b>July 13, 2014</b>				
Financial Assets				
Cash equivalents	\$ 10.4	\$ —	\$ —	\$ 10.4
Restricted cash (advertising cooperative assets)	4.3	—	—	4.3
<b>Total assets at fair value</b>	<b>\$ 14.7</b>	<b>\$ —</b>	<b>\$ —</b>	<b>\$ 14.7</b>
<b>December 29, 2013</b>				
Financial Assets				
Cash equivalents	\$ 10.6	\$ —	\$ —	\$ 10.6
Restricted cash (advertising cooperative assets)	4.3	—	—	4.3
<b>Total assets at fair value</b>	<b>\$ 14.9</b>	<b>\$ —</b>	<b>\$ —</b>	<b>\$ 14.9</b>

There were no transfers among levels within the fair value hierarchy during the twenty-eight weeks ended July 13, 2014 .

At July 13, 2014 and December 29, 2013 , the fair value of the Company's current assets and current liabilities approximates carrying value because of the short-term nature of these instruments.

The fair value of the Company's long-term debt was approximately \$116.6 million and \$72.2 million on July 13, 2014 and December 29, 2013 , respectively. The carrying value of our long-term debt, as discussed in Note 7, was \$110.1 million and \$67.2 million on July 13, 2014 and December 29, 2013 , respectively. The fair value of each of the Company's long-term debt instruments is based on the amount of future cash flows associated with each instrument, discounted using the Company's current borrowing rate for a similar debt instrument of comparable maturity and is considered a Level 2 valuation.

**Note 7 — Long-term Debt**

(In millions)	7/13/2014	12/29/2013
2013 Credit Facility	\$ 106.0	\$ 63.0
Capital lease obligations	2.2	2.2
Other notes	1.9	2.0
	110.1	67.2
Less current portion	(0.3)	(0.3)
Long-term debt	\$ 109.8	\$ 66.9

**2013 Credit Facility.** On December 18, 2013, the Company entered into a bank credit facility with a group of lenders consisting of a five year \$125.0 million revolving credit facility. The Company drew \$63.0 million under the revolving credit facility which was used to retire the Company's 2010 Credit Facility.

Under the terms of the 2013 Credit Facility, the Company can request additional revolving loan commitments of up to \$125.0 million . During the second quarter 2014, the Company increased its revolving credit capacity by \$10.0 million , to \$135.0 million , and borrowed \$43.0 million .

Under the terms of the revolving credit facility, the Company may obtain other short-term borrowings up to \$10.0 million and letters of credit up to \$20.0 million . Collectively, these other borrowings and letters of credit may not exceed the amount of unused borrowings under the 2013 Credit Facility. As of July 13, 2014 , the Company had \$0.4 million of outstanding letters of credit. Availability for short-term borrowings and letters of credit under the revolving credit facility was \$28.6 million .



**Popeyes Louisiana Kitchen, Inc.**  
**Notes to Unaudited Condensed Consolidated Financial Statements (continued)**

As of July 13, 2014, the Company was in compliance with the financial and other covenants of the 2013 Credit Facility. The Company's weighted average interest rate for all outstanding indebtedness under the 2013 Credit Facility was 1.4% as of July 13, 2014.

**Note 8 — Deferred Credits and Other Long-Term Liabilities**

(In millions)	7/13/2014	12/29/2013
Deferred franchise revenues	\$ 4.2	\$ 3.5
Deferred gains on unit conversions	0.8	1.0
Deferred rentals	7.1	7.4
Above-market rent obligations	2.5	2.6
Deferred income taxes	13.8	13.6
Other	2.3	2.0
Deferred credits and other long-term liabilities	\$ 30.7	\$ 30.1

**Note 9 — Other Expenses (Income), Net**

(in millions)	12 Weeks Ended		28 Weeks Ended	
	7/13/2014	7/14/2013	7/13/2014	7/14/2013
Disposals of property and equipment	\$ 0.1	\$ 0.1	\$ 0.2	\$ 0.2
Net gain on sale of assets	(0.1)	(0.1)	(0.1)	(0.1)
Executive transition expenses	1.4	—	1.4	—
Other expenses (income), net	\$ 1.4	\$ —	\$ 1.5	\$ 0.1

In the twelve week period ending July 13, 2014, the Company incurred \$1.4 million in other expenses related to transition expenses with a former executive.

**Note 10 — Commitments and Contingencies**

**Formula and Supply Agreements with Former Owner.** Under a 2010 Royalty and Supply Agreement (the "2010 Agreement") with the estate of Alvin C. Copeland, the founder of Popeyes and the primary owner of Diversified Foods and Seasonings, Inc. ("Diversified"), the Company had the worldwide exclusive rights to the Popeyes recipes and formulas (the "formulas") the Company uses in the preparation on many of its core menu items. The 2010 Agreement required the Company to pay the estate of Mr. Copeland approximately \$3.1 million annually until March 2029. Under the 2010 Agreement the Company also purchased certain proprietary spices and other products made exclusively by Diversified.

On June 16, 2014, the Company purchased the formulas from Diversified Foods and Seasonings, L.L.C., formerly Diversified Foods and Seasonings, Inc., for \$43.0 million. In connection with the formula purchase, the Company and Diversified terminated the 2010 Agreement and replaced it with a new 2014 Supply Agreement (the "New Supply Agreement"). The term of the new supply agreement continues until March 2034, unless earlier terminated in accordance with the terms of the agreement. See Note 4 for additional detail.

**Litigation.** The Company is a defendant in various legal proceedings arising in the ordinary course of business, including claims resulting from "slip and fall" accidents, employment-related claims, claims from guests or employees alleging illness, injury or other food quality, health or operational concerns and claims related to franchise matters. The Company establishes reserves to provide for the settlement of such matters when payment is probable and reasonably estimable. The Company's management believes their ultimate resolution will not have a material adverse effect on the Company's financial condition or its results of operations.

**Insurance Programs.** The Company carries property, general liability, business interruption, crime, directors and officers liability, employment practices liability, environmental and workers' compensation insurance policies which it believes are customary for businesses of its size and type. Pursuant to the terms of their franchise agreements, the Company's franchisees are also required to maintain certain types and levels of insurance coverage, including commercial general liability insurance, workers' compensation insurance, all risk property and automobile insurance.

**Popeyes Louisiana Kitchen, Inc.**  
**Notes to Unaudited Condensed Consolidated Financial Statements (continued)**

The Company has established reserves with respect to the programs described above based on the estimated total losses the Company will experience. At July 13, 2014, the Company's insurance reserves of approximately \$0.2 million were collateralized by letters of credit of \$0.4 million.

**Note 11 — Interest Expense, Net**

(In millions)	12 Weeks Ended		28 Weeks Ended	
	7/13/2014	7/14/2013	7/13/2014	7/14/2013
Interest on debt	\$ 0.5	\$ 0.6	\$ 1.1	\$ 1.5
Amortization and write-offs of debt issuance costs	0.1	0.1	0.2	0.2
Other debt related charges	0.1	0.2	0.3	0.3
Interest expense, net	\$ 0.7	\$ 0.9	\$ 1.6	\$ 2.0

The decrease in interest expense on debt for the twelve and twenty-eight week periods ending July 13, 2014 compared to the twelve and twenty-eight week periods ending July 14, 2013 is primarily due to the lower effective interest rate under the 2013 Credit Facility partially offset by reclassification adjustments for derivative losses on terminated interest rate swap agreements classified in accumulated other comprehensive loss.

**Note 12 — Income Taxes**

The Company's effective tax rates were 38.1% and 37.5% for the twelve week periods ended July 13, 2014 and July 14, 2013, respectively. The Company's effective tax rates were 37.8% and 36.9% for the twenty-eight week periods ended July 13, 2014 and July 14, 2013, respectively. Higher state income tax obligations and expiration of certain tax credits have resulted in a higher effective tax rate in 2014. The effective tax rates differ from statutory rates due to adjustments to estimated tax reserves, tax credits and permanent differences between reported income and taxable income for tax purposes.

As of July 13, 2014 and December 29, 2013, the amount of unrecognized tax benefits were approximately \$1.3 million and \$1.4 million, respectively, of which approximately \$0.1 million and \$0.2 million, respectively, if recognized, would affect the effective income tax rate.

The Company files income tax returns in the United States and various state jurisdictions. The U.S. federal tax years 2010 through 2012 are open to audit. In general, the state tax years open to audit range from 2009 through 2012.

**Note 13 — Components of Earnings Per Common Share Computation**

The Company's basic earnings per share calculation is computed based on the weighted-average number of common shares outstanding. Diluted earnings per share calculation is computed based on the weighted-average number of common shares outstanding adjusted by the number of additional shares that would have been outstanding had the potentially dilutive common shares been issued. Potentially dilutive common shares include employee stock options, non-vested restricted stock awards and non-vested restricted share units. Performance based awards are included in the average diluted shares outstanding each period if the performance criteria have been met at the end of the respective periods.

Potentially dilutive shares are excluded from the diluted earnings per share computation in periods in which they have an anti-dilutive effect. There were approximately 0.1 million potentially dilutive shares excluded from the computation of diluted earnings per share for the twelve and twenty-eight week periods ended July 13, 2014 and July 14, 2013.

**Popeyes Louisiana Kitchen, Inc.**  
**Notes to Unaudited Condensed Consolidated Financial Statements (continued)**

(In millions)	12 Weeks Ended		28 Weeks Ended	
	7/13/2014	7/14/2013	7/13/2014	7/14/2013
Numerator for earnings per share computation:				
Net Income	\$ 8.3	\$ 8.5	\$ 19.4	\$ 18.1
Denominator for basic earnings per share — weighted average shares				
	23.3	23.6	23.4	23.6
Dilutive employee stock awards				
	0.4	0.5	0.4	0.6
Denominator for diluted earnings per share				
	23.7	24.1	23.8	24.2

**Note 14 — Segment Information**

The Company is engaged in developing, operating and franchising Popeyes Louisiana Kitchen quick-service restaurants. Based on its internal reporting and management structure, the Company has determined that it has two reportable segments: franchise operations and company-operated restaurants. The company-operated restaurant segment derives its revenues from the operation of company owned restaurants. The franchise segment consists of domestic and international franchising activities and derives its revenues principally from (1) ongoing royalty payments that are determined based on a percentage of franchisee sales; (2) franchise fees associated with new restaurant openings; (3) development fees associated with the opening of new franchised restaurants in a given market; and (4) rental income associated with properties leased or subleased to franchisees.

(In millions)	12 Weeks Ended		28 Weeks Ended	
	7/13/2014	7/14/2013	7/13/2014	7/14/2013
<b>Revenues</b>				
Franchise operations	\$ 31.4	\$ 30.4	\$ 72.1	\$ 66.9
Company-operated restaurants	22.3	17.5	51.7	41.4
	<u>\$ 53.7</u>	<u>\$ 47.9</u>	<u>\$ 123.8</u>	<u>\$ 108.3</u>
<b>Operating profit</b>				
Franchise operations	\$ 14.8	\$ 13.6	\$ 31.4	\$ 28.2
Company-operated restaurants	2.7	2.4	7.5	5.9
	17.5	16.0	38.9	34.1
Less unallocated expenses				
Depreciation and amortization	2.0	1.5	4.6	3.3
Other expenses (income), net	1.4	—	1.5	0.1
<b>Operating Profit</b>	<u>14.1</u>	<u>14.5</u>	<u>32.8</u>	<u>30.7</u>
Interest expense, net	0.7	0.9	1.6	2.0
<b>Income before income taxes</b>	<u>\$ 13.4</u>	<u>\$ 13.6</u>	<u>\$ 31.2</u>	<u>\$ 28.7</u>
<b>Capital expenditures</b>				
Franchise operations	\$ 1.2	\$ 3.0	3.9	\$ 6.8
Company-operated restaurants	5.1	4.3	9.0	8.8
	<u>\$ 6.3</u>	<u>\$ 7.3</u>	<u>\$ 12.9</u>	<u>\$ 15.6</u>





**Item 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations**

The following discussion and analysis for Popeyes Louisiana Kitchen, Inc. (“PLKI”, “Popeyes” or the “Company”) should be read in conjunction with our condensed consolidated financial statements included in Part 1, Item 1 of this quarterly report and in conjunction with the Company’s Annual Report on Form10-K for the fiscal year ended December 29, 2013 (the “ 2013 Form 10-K”).

**Popeyes Profile**

Popeyes was founded in New Orleans, Louisiana in 1972 and is the world’s second largest quick-service chicken concept based on the number of units. Within the QSR industry, Popeyes distinguishes itself with a unique “Louisiana” style menu that features spicy chicken, chicken tenders, fried shrimp and other seafood, red beans and rice and other regional items. Popeyes is a highly differentiated QSR brand with a passion for its Louisiana heritage and flavorful authentic food.

As of July 13, 2014 , we operated and franchised 2,262 Popeyes restaurants in 47 states, the District of Columbia, three territories, and 26 foreign countries.

<b>Total Operating Restaurants as of:</b>	<b>7/13/2014</b>	<b>12/29/2013</b>
<b>Domestic restaurants:</b>		
Company-Operated	56	53
Franchised	1,745	1,716
<b>International restaurants:</b>		
Franchised	461	456
<b>Total</b>	<b>2,262</b>	<b>2,225</b>

**Our Business Strategy**

The Company’s Strategic Roadmap, launched in 2008, focuses exclusively on growing the value of our single brand, Popeyes Louisiana Kitchen. There are four organizing pillars to our strategy which we use to select priorities and allocate resources. These pillars are:

- Build a Distinctive Brand
- Create Memorable Experiences
- Grow Restaurant Profits
- Accelerate Quality Restaurant Openings

Within each pillar we develop strategies, determine goals and set performance metrics by which we measure our progress.

Our people are critical to this long-term strategy and include our franchisees, restaurant crews and corporate employees. As such, going-forward we will invest in developing our talent- welcoming, inspiring, growing and celebrating our people. Our goal is to create a culture of servant leadership which is ultimately reflected in the positive experience of our employees and our guests. The measure of our success will be improved employee and guest engagement - which yields improved sales and profits to the enterprise.

**Second Quarter 2014 Overview**

Our 2014 second quarter results and highlights include the following:

- Reported net income was \$8.3 million , or \$0.35 per diluted share.
- Adjusted earnings per diluted share were \$0.39 compared to \$0.35 in 2013, representing an increase of 11.4%. Adjusted earnings per diluted share is a supplemental non-GAAP measure of performance. See the heading entitled “Management’s Use of Non-GAAP Financial Measures.”
- Total system-wide sales increased by 9.5%.

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- Global same-store sales increased 3.6% in 2014, for a two-year growth rate of 8.0%.
  - Total domestic same-store sales increased 3.8%, compared to 4.3% last year.
  - International same-store sales increased 2.2%, compared to 5.8% last year.
- Popeyes domestic same-store sales have outpaced the chicken-QSR segment for 25 consecutive quarters and overall QSR for 11 consecutive quarters according to independent data.
- Popeyes market share of the domestic chicken-QSR segment reached 23.1%, compared to 20.5% in the prior year.
- The Popeyes system opened 36 restaurants which included 20 domestic and 16 international restaurants, compared to 44 openings in the prior year. Included in second quarter 2013 domestic openings were the conversion of eight properties acquired in 2012 in Minnesota and California.
- Net restaurant openings were 21, compared to 28 net restaurant openings last year.
- Total revenues increased 12% to \$53.7 million in 2014 from \$47.9 million in the prior year.
- Through the end of the second quarter, Operating EBITDA was \$38.9 million, or 31.4% of total revenue, compared to \$34.1 million, or 31.5% of total revenue, last year, a 14% increase. Operating EBITDA is a supplemental non-GAAP measure of performance. See the heading entitled “Management’s Use of Non-GAAP Financial Measures.”
- Company-operated restaurant operating profit was \$4.2 million, or 18.8% of sales, compared to \$3.2 million, or 18.3% of sales in 2013. The restaurant operating profit of company restaurants through the end of the second quarter was \$10.2 million, or 19.7% of sales, compared to \$7.9 million, or 19.1% of sales last year.
- Through the end of the second quarter, free cash flow was \$24.2 million in 2014, compared to \$22.0 million in 2013. Free cash flow is a supplemental non-GAAP measure of performance. See the heading entitled “Management’s Use of Non-GAAP Financial Measures.”
- The Company repurchased approximately 222,000 shares of its common stock for approximately \$10.0 million. Through the second quarter, total shares repurchased were 462,000, for approximately \$20.0 million.
- Average restaurant operating profit margins of Popeyes domestic freestanding franchised restaurants before rent was 23.4% in the first quarter 2014 compared to 22.2% last year.
- On June 16, 2014, the Company announced the purchase of the recipes and formulas (the "formulas") it uses in the preparation of many of its core menu items from Diversified Foods and Seasonings, L.L.C. (“Diversified”) for \$43 million. In connection with the purchase of the formulas, the Company and Diversified entered into a new supply agreement whereby Diversified continues as the exclusive supplier of certain agreed upon core products in the Company’s domestic markets through March 2034. Going forward, the \$3.1 million royalty that would otherwise have been paid to Diversified had the prior agreement remained in effect, will be reinvested annually, net of incremental interest expense, into various growth initiatives.

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A summary of our financial results and key operational metrics is presented below:

(Dollars in millions except per share data)	12 Weeks Ended		28 Weeks Ended	
	7/13/2014	7/14/2013	7/13/2014	7/14/2013
<b>Revenues:</b>				
Sales by company-operated restaurants	\$ 22.3	\$ 17.5	\$ 51.7	\$ 41.4
Franchise royalties and fees (a)	30.0	29.1	68.8	64.3
Rent from franchised restaurants	1.4	1.3	3.3	2.6
<b>Total revenues</b>	<b>\$ 53.7</b>	<b>\$ 47.9</b>	<b>\$ 123.8</b>	<b>\$ 108.3</b>
<b>Operating profit</b>	<b>\$ 14.1</b>	<b>\$ 14.5</b>	<b>\$ 32.8</b>	<b>\$ 30.7</b>
<b>Net income</b>	<b>\$ 8.3</b>	<b>\$ 8.5</b>	<b>\$ 19.4</b>	<b>\$ 18.1</b>
Earnings per common share, basic	\$ 0.36	\$ 0.36	\$ 0.83	\$ 0.77
Earnings per common share, diluted	\$ 0.35	\$ 0.35	\$ 0.82	\$ 0.75
<b><u>Global system-wide sales increase</u></b>	<b>9.5%</b>	<b>11.6%</b>	<b>10.3%</b>	<b>10.8%</b>
<b><u>Same-store sales increase (b)</u></b>				
Company-operated restaurants	1.6%	1.7%	4.0%	2.5%
Domestic franchised restaurants	3.9%	4.3%	4.1%	4.5%
Total domestic (company-operated and franchised restaurants)	3.8%	4.3%	4.1%	4.4%
International franchised restaurants	2.2%	5.8%	4.1%	4.8%
Total global system	3.6%	4.4%	4.1%	4.5%
<b><u>Company-operated restaurants (all domestic)</u></b>				
Restaurants at beginning of period	53	46	53	45
New restaurant openings	3	2	4	3
Permanent closings	—	(1)	(1)	(1)
<b>Restaurants at quarter-end</b>	<b>56</b>	<b>47</b>	<b>56</b>	<b>47</b>
<b><u>Franchised restaurants (domestic and international)</u></b>				
Restaurants at beginning of period	2,195	2,073	2,172	2,059
New restaurant openings	33	42	59	81
Permanent closings	(15)	(15)	(30)	(39)
Temporary (closings)/re-openings, net	(7)	6	5	5
<b>Restaurants at quarter-end</b>	<b>2,206</b>	<b>2,106</b>	<b>2,206</b>	<b>2,106</b>
<b>Total system restaurants</b>	<b>2,262</b>	<b>2,153</b>	<b>2,262</b>	<b>2,153</b>

(a) Franchise revenues are principally comprised of royalty payments from franchisees that are based upon franchisee sales. While franchisee sales are not recorded as revenue by the Company, we believe they are important in understanding the Company's financial performance and overall financial health, given the Company's strategic focus on growing its overall business through franchising. For the second quarter of 2014 and 2013, franchisee sales, as reported by our franchisees, were approximately \$603.5 million and \$554.0 million, respectively. For the twenty-eight weeks ended July 13, 2014 and July 14, 2013, franchisee sales, as reported by our franchisees, were approximately \$1,384.3 million and \$1,260.6 million.

(b) Same-store sales statistics exclude temporarily and permanently closed restaurants and stores that have been open for less than 65 weeks. Unit conversions are included immediately upon conversion. Temporary closings are excluded from same store sales for the period they are closed.

### Looking Forward to the Remainder of 2014

Based on performance through the second quarter, the Company reiterates the following guidance:

- Same-store sales growth of 3.0% to 4.0%.
- Adjusted earnings per diluted share in the range of \$1.58 to \$1.63.
- New restaurant openings of 180 to 200, with net restaurant openings of 100 to 130, for a system growth rate of approximately 5%. During 2014, the Company expects to open 10 to 15 new company-operated restaurants.
- General and administrative expenses of approximately 3.0% of system-wide sales.
- An effective income tax rate in 2014 of approximately 38%.
- Capital expenditures for the year of \$30 to \$35 million.
- Share repurchases of \$20 to \$30 million.

### Comparisons of the Second Quarter for 2014 and 2013

#### Sales by Company-operated Restaurants

Sales by Company-operated restaurants were \$22.3 million in the second quarter of 2014, a \$4.8 million increase from the second quarter of 2013. The increase was primarily due nine net openings over the last four consecutive quarters and a same-store sales increase of 1.6% in the second quarter of 2014.

#### Franchise Royalties and Fees

Franchise royalties and fees have three basic components: (1) royalties that are based on a percentage (typically 5%) of franchisee sales; (2) franchise fees associated with new unit openings and renewals; and (3) development fees associated with the agreement pursuant to which a franchisee may develop new restaurants in a given market. Royalties are the largest component of franchise revenues, generally constituting more than 90% of franchise revenues.

Franchise royalties and fees were \$30.0 million in the second quarter of 2014, a \$0.9 million increase from the second quarter of 2013. The increase was primarily due to a \$2.4 million increase in royalty revenue from positive same-store sales and new franchised restaurants and a \$0.3 million increase in renewal, transfer and other franchise revenues partially offset by \$1.8 million one-time franchise fees associated with the conversion and franchising of eight restaurant properties in Minnesota and California recognized in second quarter 2013.

#### Rent from Franchised Restaurants

Rent from franchised restaurants was \$1.4 million in the second quarter 2014, a \$0.1 million increase from the second quarter 2013. The increase was primarily due to \$0.1 million in rents from twenty-six restaurant properties converted and leased to franchisees in Minnesota and California under percentage rent arrangements.

#### Company-operated Restaurant Operating Profit

Company-operated restaurant operating profit ("ROP") was \$4.2 million, or 18.8% of sales, compared to \$3.2 million, or 18.3% of sales last year. The \$1.0 million increase in ROP was primarily due to higher revenues resulting from net restaurant openings and positive same-store sales. The improvement in ROP margin was primarily attributable to lower commodity cost. Company-operated restaurant operating profit margin is a supplemental non-GAAP measure of performance. See the heading entitled "Management's Use of Non-GAAP Financial Measures."

#### General and Administrative Expenses

General and administrative expenses were \$17.4 million, or 2.8% of system-wide sales, compared to \$16.8 million, or 2.9% of system-wide sales last year.

The \$0.6 million increase in general and administrative expenses was primarily attributable to a:

- \$0.7 million increase in company-operated restaurant management expenses,



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- \$0.4 million increase in global supply chain, marketing, menu development, information technology and other expenses, net, and
  - \$0.2 million increase in domestic franchisee restaurant support services and assessments,
- partially offset by a \$0.7 million decrease in performance based incentive compensation expense.

### Depreciation and amortization

Depreciation and amortization was \$2.0 million compared to \$1.5 million last year. The \$0.5 million increase in depreciation and amortization is primarily attributable to depreciation associated with acquired restaurant properties converted and leased to franchisees in Minnesota and California and company-operated restaurant openings.

### Other Expenses (Income), Net

Other expense for the twelve weeks ended July 13, 2014 was \$1.4 million compared to zero last year. The \$1.4 million increase related to transition expenses associated with a former executive.

### Operating Profit

Operating profit was \$14.1 million , a \$0.4 million decrease compared to 2013 . Fluctuations in the components of revenue and expense giving rise to this change are discussed above. The following is an analysis of the fluctuations in operating profit by business segment. Operating profit for each reportable segment includes operating results directly attributable to each segment.

(Dollars in millions)	12 Weeks Ended		Fluctuation	As a Percent
	7/13/2014	7/14/2013		
Franchise operations	\$ 14.8	\$ 13.6	\$ 1.2	8.8 %
Company-operated restaurants	2.7	2.4	0.3	12.5 %
Operating profit before unallocated expenses	17.5	16.0	1.5	9.4 %
Less unallocated expenses:				
Depreciation and amortization	2.0	1.5	0.5	33.3 %
Other expenses (income), net	1.4	—	1.4	—
Operating profit	\$ 14.1	\$ 14.5	\$ (0.4)	(2.8)%

Franchise operations segment operating profit was \$14.8 million for the twelve weeks ended July 13, 2014 , a \$1.2 million or 8.8% increase from 2013 . The \$1.2 million growth in franchise operations was primarily due to the \$0.9 million increase in franchise royalties and fees, a \$0.2 million increase in rents from franchised restaurants net of lower occupancy expenses - franchise restaurants and \$0.1 million lower general and administrative expenses, net.

Company-operated restaurants segment operating profit was \$2.7 million for the twelve weeks ended July 13, 2014 , a \$0.3 million or 12.5% increase from 2013 . The increase was attributable to the \$1.0 million increase in restaurant operating profit less a \$0.7 million increase in company-operated restaurant management expenses.

### Interest Expense, net

Interest expense, net for the twelve weeks ended July 13, 2014 was \$0.7 million compared to \$0.9 million in 2013. The \$0.2 million decrease was primarily due to \$0.3 million from lower effective interest rates under the 2013 Credit Facility partially offset by \$0.1 million reclassification adjustments for derivative losses on terminated interest rate swap agreements classified in accumulated other comprehensive loss.

### Income Tax Expense

Income tax expense was \$5.1 million at an effective tax rate of 38.1% , compared to an effective tax rate of 37.5% in 2013 . Higher state income tax obligations and expiration of certain tax credits have resulted in a higher effective tax rate in 2014. The effective tax rates differ from statutory rates due to adjustments to estimated tax reserves, tax credits and permanent differences between reported income and taxable income for tax purposes.





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### Comparisons of the 28 Weeks Ended July 13, 2014 and July 14, 2013

#### Sales by Company-operated Restaurants

Sales by Company-operated restaurants were \$ 51.7 million in the twenty-eight weeks ended July 13, 2014 , a \$10.3 million increase from 2013 . The increase was primarily due to nine net openings over the last four consecutive quarters and a same-store sales increase of 4.0% in 2014.

#### Franchise Royalties and Fees

Franchise royalties and fees were \$ 68.8 million in the twenty-eight weeks ended July 13, 2014 , a \$4.5 million increase from 2013 . The increase was primarily due to a \$6.1 million increase in royalty revenue from positive same-store sales and new franchised restaurants and a \$0.9 million increase in renewal, transfer and other franchise revenues partially offset by \$2.5 million one-time franchise fees associated with the conversion and franchising of eleven restaurant properties in Minnesota and California recognized in 2013.

#### Rent from Franchised Restaurants

Rent from franchised restaurants was \$3.3 million for the twenty-eight weeks ended July 13, 2014 , compared to \$2.6 million in 2013. The \$0.7 million increase was primarily due to increased rents from twenty-six restaurant properties converted and leased to franchisees in Minnesota and California under percentage rent arrangements.

#### Company-operated Restaurant Operating Profit

Company-operated restaurant operating profit (“ROP”) was \$10.2 million , or 19.7% of sales for the twenty-eight weeks ended July 13, 2014 , compared to \$7.9 million , or 19.1% of sales last year. The \$2.3 million increase in ROP was primarily due to higher revenues resulting from net restaurant openings and positive same-store sales. The improvement in ROP margin was primarily attributable to lower commodity cost. Company-operated restaurant operating profit margin is a supplemental non-GAAP measure of performance. See the heading entitled “Management’s Use of Non-GAAP Financial Measures.”

#### General and Administrative Expenses

General and administrative expenses were \$41.8 million , or 2.9% of system-wide sales for the twenty-eight weeks ended July 13, 2014 , compared to \$38.8 million , or 3.0% of system-wide sales last year.

The \$3.0 million increase in general and administrative expenses was primarily attributable to a:

- \$0.7 million increase in domestic franchisee restaurant support services and assessments,
- \$0.7 million increase in company-operated restaurant management expenses,
- \$0.5 million increase in leadership development expenses,
- \$0.4 million increase in domestic franchise restaurant development expenses, and
- \$0.7 million increase in global supply chain, marketing, menu development and other expenses, net.

#### Depreciation and amortization

Depreciation and amortization was \$4.6 million compared to \$3.3 million last year. The \$1.3 million increase in depreciation and amortization is primarily attributable to depreciation associated with new company-operated restaurant openings and acquired restaurant properties converted and leased to franchisees in Minnesota and California.

#### Other Expenses (Income), Net

Other expense for the twenty-eight weeks ended July 13, 2014 was \$1.5 million compared to \$0.1 million last year. The \$1.4 million increase related to transition expenses associated with a former executive.

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### Operating Profit

Operating profit was \$32.8 million , a \$2.1 million increase compared to 2013 . Fluctuations in the components of revenue and expense giving rise to this change are discussed above. The following is an analysis of the fluctuations in operating profit by business segment. Operating profit for each reportable segment includes operating results directly attributable to each segment.

(Dollars in millions)	28 Weeks Ended		Fluctuation	As a Percent
	7/13/2014	7/14/2013		
Franchise operations	\$ 31.4	\$ 28.2	\$ 3.2	11.3%
Company-operated restaurants	7.5	5.9	1.6	27.1%
Operating profit before unallocated expenses	38.9	34.1	4.8	14.1%
Less unallocated expenses:				
Depreciation and amortization	4.6	3.3	1.3	39.4%
Other expenses (income), net	1.5	0.1	1.4	—
Operating profit	\$ 32.8	\$ 30.7	\$ 2.1	6.8%

Franchise operations segment operating profit was \$31.4 million for the twenty-eight weeks ended July 13, 2014 , a \$3.2 million or 11.3% increase from 2013. The increase in franchise operations was primarily due to the \$4.5 million increase in franchise royalties and fees and the \$1.0 million increase in rents from franchised restaurants net of lower occupancy expenses - franchise restaurants partially offset by \$2.3 million increases in general and administrative expenses related domestic franchisee restaurant support services and assessments, leadership development expenses, domestic franchise restaurant development expenses and other general and administrative expenses, net.

Company-operated restaurants segment operating profit was \$7.5 million for the twenty-eight weeks ended July 13, 2014 , a \$1.6 million or 27.1% increase from 2013. The increase was attributable to the \$2.3 million increase in restaurant operating profit partially offset by a \$0.7 million increase in company-operated restaurant management expenses.

### Interest Expense, net

Interest expense, net for the twenty-eight weeks ended July 13, 2014 was \$1.6 million compared to \$2.0 million in 2013. The \$0.4 million decrease was primarily due to \$0.8 million from lower effective interest rates under the 2013 Credit Facility partially offset by \$0.4 million reclassification adjustments for derivative losses on terminated interest rate swap agreements classified in accumulated other comprehensive loss.

### Income Tax Expense

Income tax expense was \$11.8 million at an effective tax rate of 37.8% , compared to an effective tax rate of 36.9% in 2013 . Higher state income tax obligations and expiration of certain tax credits have resulted in a higher effective tax rate in 2014. The effective tax rates differ from statutory rates due to adjustments to estimated tax reserves, tax credits and permanent differences between reported income and taxable income for tax purposes.

### Liquidity and Capital Resources

We finance our business activities with cash flows generated from our operating activities and borrowings under our credit facility.

Based primarily upon our generation of cash flow from operations, our existing cash reserves (approximately \$10.5 million available as of July 13, 2014 ), available borrowings under our credit facility (approximately \$28.6 million available as of July 13, 2014 ) and the ability to request incremental revolving credit commitments up to an additional \$115 million under the credit facility, we believe that we will have adequate cash flow to meet our anticipated future requirements for working capital, including various contractual obligations and expected capital expenditures.

Our franchise model provides diverse and reliable cash flows. Net cash provided by operating activities of the Company was \$29.7 million and \$23.3 million for the twenty-eight weeks ended July 13, 2014 and July 14, 2013 , respectively. The \$6.4 million increase in cash flows from operating activities was primarily due to a \$2.5 million increase in net income after non-cash adjustments and a \$3.9 million change in operating assets and liabilities primarily due to the timing of income tax payments.



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Our cash flows from operating activities and available borrowings allow us to reinvest in our core business activities that promote the Company's strategic initiatives. Our priorities in the use of available cash after investment in growth strategies are the repurchase shares of our common stock and reduction of long-term debt.

On June 16, 2014, the Company purchased the formulas it uses in the preparation of many of its core menu items from Diversified for \$43.0 million. The Company recorded an intangible asset of \$41.8 million, net of royalties due under the former formula licensing agreement plus transaction costs.

Net cash used in investing activities was \$54.7 million and \$15.6 million for the twenty-eight weeks ended July 13, 2014 and July 14, 2013, respectively. Cash used in investing activities during the twenty-eight weeks ended July 13, 2014 consisted of \$41.8 million for the purchase of the formulas from Diversified and \$12.9 million of capital expenditures. The table below summarizes our capital expenditures:

(dollars in millions)	28 Weeks Ended	
	7/13/2014	7/14/2013
Construction of new company-operated restaurants	\$ 7.7	\$ 7.2
Conversion of restaurants in Minnesota and California	2.5	6.1
Reimaging activities at company-operated restaurants	0.6	1.2
Information technology and corporate office expansion	1.4	0.5
Other capital assets	0.7	0.6
Total capital expenditures	\$ 12.9	\$ 15.6

Net cash provided by financing activities was \$25.9 million for the twenty-eight weeks ended July 13, 2014 compared to net cash used by financing activities of \$9.5 million for the twenty-eight weeks ended July 14, 2013. The \$35.4 million increase in cash provided by financing activities was primarily due to \$47.3 million increase in net borrowing under revolving credit facilities partially offset by a \$11.6 million increase of share repurchases and \$0.3 million net cash used by all other financing activities, net.

The Company is in compliance with all debt covenant requirements.

We repurchased 461,959 shares of our common stock for approximately \$20.0 million during the twenty-eight weeks ended July 13, 2014. The remaining value of shares that may be repurchased under the Company's current share repurchase program is approximately \$11.6 million.

### Critical Accounting Policies and Significant Estimates

There have been no material changes to the Company's critical accounting policies and estimates from the information provided in Item 7, "Management's Discussion and Analysis of Financial Condition and Results of Operations", included in the 2013 Form 10-K.

### Contractual Obligations

The Company's material contractual obligations are summarized and included in our 2013 Form 10-K.

In connection with the purchase of formulas from Diversified on June 16, 2014, the Company terminated the formula licensing agreement with the estate of Alvin C. Copeland, the founder of Popeyes and the primary owner of Diversified Foods and Seasonings, Inc. The formula licensing agreement provided that the Company pay the estate of Mr. Copeland approximately \$3.1 million annually until March 2029.

## Long-Term Debt

For a discussion of our long-term debt, see Note 7 to our condensed consolidated financial statements at Part 1, Item 1 to this quarterly report. That note is hereby incorporated by reference into this Item 2. See Note 9 in the 2013 Form 10-K for more information about the Company's long-term debt.

## Impact of Inflation

The impact of inflation on the cost of food, labor, fuel and energy costs, and other commodities has impacted our operating expenses. To the extent permitted by the competitive environment in which we operate, increased costs are partially recovered through menu price increases coupled with purchasing prices and productivity improvements.

## Accounting Pronouncements That We Have Not Yet Adopted

Accounting standards that have been issued by the FASB or other standards-setting bodies that do not require adoption until a future date are expected to have an immaterial impact on the financial statements upon adoption.

## Management's Use of Non-GAAP Financial Measures

Adjusted earnings per diluted share, operating EBITDA, Company-operated restaurant operating profit and free cash flow are supplemental non-GAAP financial measures. The Company uses adjusted earnings per diluted share, operating EBITDA, Company-operated restaurant operating profit and free cash flow, in addition to net income, operating profit and cash flows from operating activities to assess its performance and believes it is important for investors to be able to evaluate the Company using the same measures used by management. The Company believes these measures are important indicators of its operational strength and the performance of its business. Adjusted earnings per diluted share, operating EBITDA, Company-operated restaurant operating profit and free cash flow as calculated by the Company are not necessarily comparable to similarly titled measures reported by other companies. In addition, adjusted earnings per diluted share, operating EBITDA, Company-operated restaurant operating profit and free cash flow: (a) do not represent net income, cash flows from operations or earnings per share as defined by GAAP; (b) are not necessarily indicative of cash available to fund cash flow needs; and (c) should not be considered as an alternative to net income, earnings per share, operating profit, cash flows from operating activities or other financial information determined under GAAP.

### *Adjusted earnings per diluted share: Calculation and Definition*

The Company defines adjusted earnings for the periods presented as the Company's reported net income after adjusting for certain non-operating items consisting of the following:

- i. other expense (income), net, which included \$0.1 million in asset write downs net of gains on disposals of fixed assets for both the twenty-eight week periods ended July 13, 2014 and July 14, 2013, respectively; and \$1.4 million in transition expenses associated with a former executive in the twelve and twenty-eight week periods ended July 13, 2014, and
- ii. the tax effect of these adjustments at the effective statutory rates.

Adjusted earnings per diluted share provides the per share effect of adjusted net income on a diluted basis. The following table reconciles on a historical basis for the twelve and twenty-eight week periods ended July 13, 2014 and July 14, 2013, respectively, the Company's adjusted earnings per diluted share on a consolidated basis to the line on its condensed consolidated statement of operations entitled net income, which the Company believes is the most directly comparable GAAP measure on its condensed consolidated statement of operations to adjusted earnings per diluted share:

(in millions, except per share data)	12 Weeks Ended		28 Weeks Ended	
	7/13/2014	7/14/2013	7/13/2014	7/14/2013
Net income	\$ 8.3	\$ 8.5	\$ 19.4	\$ 18.1
Other expense (income), net	1.4	—	1.5	0.1
Tax effect	(0.5)	—	(0.6)	(0.1)
Adjusted earnings	\$ 9.2	\$ 8.5	\$ 20.3	\$ 18.1
Adjusted earnings per diluted share	\$ 0.39	\$ 0.35	\$ 0.85	\$ 0.75
Weighted average diluted shares outstanding	23.7	24.1	23.8	24.2



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### *Operating EBITDA: Calculation and Definition*

The Company defines operating EBITDA as earnings before interest expense, taxes, depreciation and amortization, and other expenses (income), net. The following table reconciles on a historical basis for the twenty-eight week periods ended July 13, 2014 and July 14, 2013, respectively, the Company's operating EBITDA on a consolidated basis to the line on its condensed consolidated statement of operations entitled net income, which the Company believes is the most directly comparable GAAP measure on its condensed consolidated statement of operations. Operating EBITDA margin is defined as operating EBITDA divided by total revenues.

(in millions)	28 Weeks Ended	
	7/13/2014	7/14/2013
Net income	\$ 19.4	\$ 18.1
Interest expense, net	1.6	2.0
Income tax expense	11.8	10.6
Depreciation and amortization	4.6	3.3
Other expenses (income), net	1.5	0.1
Operating EBITDA	\$ 38.9	\$ 34.1
Total revenues	\$ 123.8	\$ 108.3
Operating EBITDA margin	31.4%	31.5%

### *Company-operated restaurant operating profit: Calculation and Definition*

The Company defines company-operated restaurant operating profit as sales by company-operated restaurants minus restaurant food, beverages and packaging minus restaurant employee, occupancy and other expenses. The following table reconciles on a historical basis for the twelve and twenty-eight week periods ended July 13, 2014 and July 14, 2013, respectively, company-operated restaurant operating profit to the line item on its condensed consolidated statement of operations entitled sales by company-operated restaurants, which the Company believes is the most directly comparable GAAP measure on its condensed consolidated statements of operations. Company-operated restaurant operating profit margin is defined as company-operated restaurant operating profit divided by sales by company-operated restaurants.

(in millions)	12 Weeks Ended		28 Weeks Ended	
	7/13/2014	7/14/2013	7/13/2014	7/14/2013
Sales by company-operated restaurants	\$ 22.3	\$ 17.5	\$ 51.7	\$ 41.4
Restaurant food, beverages and packaging	7.3	5.8	16.9	13.7
Restaurant employee, occupancy and other expenses	10.8	8.5	24.6	19.8
Company-operated restaurant operating profit	\$ 4.2	\$ 3.2	\$ 10.2	\$ 7.9
Company-operated restaurant operating profit margin	18.8%	18.3%	19.7%	19.1%

### *Free cash flow: Calculation and Definition*

The Company defines free cash flow as net income plus depreciation and amortization plus stock-based compensation expense, minus maintenance capital expenditures which includes: for the twenty-eight weeks ended July 13, 2014, \$0.6 million in company-operated restaurant reimages, \$1.4 million of information technology and corporate office expansion, and \$0.7 million in other capital assets to maintain, replace and extend the lives of company-operated restaurant facilities and equipment; and for the twenty-eight weeks ended July 14, 2013, \$1.2 million in Company-operated restaurant reimagining and \$0.6 million in other capital assets to maintain, replace and extend the lives of Company-operated restaurant facilities and \$0.5 million of information technology and other corporate assets.

The following table reconciles on a historical basis for the twenty-eight week periods ended July 13, 2014 and July 14, 2013, respectively, the Company's free cash flow on a consolidated basis to the line on its consolidated statements of operations entitled net income, which the Company believes is the most directly comparable GAAP measure on its consolidated statements of operations.

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(in millions)	28 Weeks Ended	
	7/13/2014	7/14/2013
Net income	\$ 19.4	\$ 18.1
Depreciation and amortization	4.6	3.3
Stock-based compensation expense	2.9	2.9
Maintenance capital expenditures <sup>(1)</sup>	(2.7)	(2.3)
Free cash flow	\$ 24.2	\$ 22.0

(1) For the twenty-eight weeks ended July 14, 2013, maintenance capital expenditures have been revised to conform with the current year presentation. Information technology expenditures decreased \$0.2 million which increased free cash flow by \$0.2 million.

### Forward-Looking Statements

This quarterly report on Form 10-Q contains “forward-looking statements” within the meaning of the federal securities laws. Statements regarding future events and developments and our future performance, as well as management’s current expectations, beliefs, plans, estimates or projections relating to the future, are forward-looking statements within the meaning of these laws. These forward-looking statements are subject to a number of risks and uncertainties. Examples of such statements in this quarterly report on Form 10-Q include discussions regarding the Company’s planned implementation of its strategic plan, planned share repurchases, projections and expectations regarding same-store sales for fiscal 2014 and beyond, expectations regarding future growth and commodity costs, expectations regarding restaurant reimaging, guidance for new restaurant openings and closures, effective income tax rate, and the Company’s anticipated 2014 and long-term performance, including projections regarding general and administrative expenses, capital expenditures, and adjusted earnings per diluted share, and similar statements of belief or expectation regarding future events. Among the important factors that could cause actual results to differ materially from those indicated by such forward-looking statements are: competition from other restaurant concepts and food retailers, continued disruptions in the financial markets, the loss of franchisees and other business partners, labor shortages or increased labor costs, increased costs of our principal food products, changes in consumer preferences and demographic trends, as well as concerns about health or food quality, instances of avian flu or other food-borne illnesses, general economic conditions, the loss of senior management and the inability to attract and retain additional qualified management personnel, limitations on our business under our 2013 Credit Facility, our ability to comply with the repayment requirements, covenants, tests and restrictions contained in our 2013 Credit Facility, failure of our franchisees, a decline in the number of franchised units, a decline in our ability to franchise new units, slowed expansion into new markets, unexpected and adverse fluctuations in quarterly results, increased government regulation, effects of volatile gasoline prices, supply and delivery shortages or interruptions, currency, economic and political factors that affect our international operations, inadequate protection of our intellectual property and liabilities for environmental contamination and the other risk factors detailed in the Company’s 2013 Annual Report on Form 10-K and other documents we file with the Securities and Exchange Commission. Therefore, you should not place undue reliance on any forward-looking statements.



**Item 3. Quantitative and Qualitative Disclosures About Market Risk**

**Commodity Market Risk.** We are exposed to market risk from changes in poultry and other commodity prices. Chicken is the principal raw material for our Popeyes operations, constituting approximately 40% of our combined “Restaurant food, beverages and packaging” costs. Food costs are significantly affected by increases in the cost of chicken, which can result from a number of factors, including increases in the cost of corn and soy, disease, declining market supply of fast-food sized chickens and other factors that affect availability. Restaurant food, beverages and packaging costs are further affected by increases in the cost of other commodities including shortening, wheat, gas and utility price fluctuations. Our ability to recover increased costs through higher pricing is limited by the competitive environment in which we operate.

In order to ensure favorable pricing for fresh chicken purchases and to maintain an adequate supply of fresh chicken for the Popeyes system, Supply Management Services, Inc. (a not-for-profit purchasing cooperative of which we are a member) has entered into chicken pricing contracts with chicken suppliers. The contracts, which pertain to a vast majority of our system-wide purchases for Popeyes, are “cost-plus” contracts that utilize prices based upon the cost of feed grains plus certain agreed upon non-feed and processing costs. In order to stabilize pricing for the Popeyes system, Supply Management Services, Inc. has entered into commodity pricing agreements for 2014 for certain commodities including corn and soy, which impact the price of poultry and other food cost.

Instances of food-borne illness or avian flu could adversely affect the price and availability of poultry. In addition to losses associated with higher prices and a lower supply of our food ingredients, instances of food-borne illnesses could result in negative publicity for us and could result in a decline in our sales.

**Foreign Currency Exchange Rate Risk.** We are exposed to foreign currency exchange rate risk associated with our international franchise operations. Foreign currency exchange rate changes directly impact our revenues and cash flows from these operations. For the twenty-eight weeks ended July 13, 2014 and July 14, 2013 , foreign currency revenues represented approximately 4.2% and 4.4%, respectively, of our total revenues. All other things being equal, for the twenty-eight weeks ended July 13, 2014 , operating profit would have decreased by approximately \$0.5 million if all foreign currencies uniformly weakened 10% relative to the U.S. dollar.

As of July 13, 2014 , approximately \$1.2 million of our accounts receivable were denominated in foreign currencies. Our international franchised operations are in 26 foreign countries with approximately 47% of our revenues from international royalties originating from restaurants in Korea, Canada and Turkey.

**Interest Rate Risk With Respect to our 2013 Credit Facility.** We have a market risk exposure to changes in interest rates. Borrowings made pursuant to the 2013 Credit Facility include interest rates that are benchmarked to U.S. and European short-term floating-rate interest rates. As of July 13, 2014 , we had outstanding borrowings under our 2013 Credit Facility of \$ 106.0 million .

As of July 13, 2014 , the Company’s weighted average interest rate for all outstanding indebtedness under the 2013 Credit Facility was approximately 1.4% . The impact on our annual results of operations of a hypothetical one-point interest rate change on the outstanding borrowings under the 2013 Credit Facility would be approximately \$1.1 million .

**Item 4. Controls and Procedures**

**(a) Disclosure Controls and Procedures**

Disclosure controls and procedures are controls and other procedures of a registrant designed to ensure that information required to be disclosed by the registrant in the reports that it files or submits under the Securities Exchange Act of 1934 (the “Exchange Act”) are properly recorded, processed, summarized and reported, within the time periods specified in the Securities and Exchange Commission’s (“SEC”) rules and forms. Disclosure controls and procedures include processes to accumulate and evaluate relevant information and communicate such information to a registrant’s management, including its principal executive and financial officers, as appropriate, to allow for timely decisions regarding required disclosures.

**(b) CEO and CFO Certifications**

Attached as Exhibit 31.1 and 31.2 to this quarterly report are certifications by our Chief Executive Officer (“CEO”) and Interim Chief Financial Officer (“CFO”). These certifications are required in accordance with Section 302 of the Sarbanes-Oxley Act of 2002. This portion of our quarterly report describes the results of our controls evaluation referred to in those certifications.

**(c) Our Evaluation of Popeyes’s Disclosure Controls and Procedures**

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As of the end of the period covered by this report, we evaluated the effectiveness of the design and operation of Popeyes's disclosure controls and procedures, as required by Rule 13a-15 of the Exchange Act. This evaluation was carried out under the supervision and with the participation of our management, including our CEO and Interim CFO. Based on the evaluation as of the end of the period covered by this report, our CEO and Interim CFO concluded that our disclosure controls and procedures were effective to ensure that information required to be disclosed by us in the reports 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.

### *(d) Changes in Internal Control Over Financial Reporting*

There were no changes to our internal control over financial reporting or in other factors that materially affected, or are reasonably likely to materially affect, our internal control over financial reporting during the twenty-eight week period ended July 13, 2014 covered by this report.

### *(e) Inherent Limitations of Any Control System*

We do not expect that our disclosure controls and procedures or our internal control over financial reporting will prevent all error and all fraud. A control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that the control system's objectives will be met. However, the control system has been designed to provide reasonable assurance of the control objectives are met. Further, the design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, within the company have been detected.

**PART 2. OTHER INFORMATION**

**Item 1. Legal Proceedings**

For a discussion of our legal matters, see Note 10 to our condensed consolidated financial statements at Part 1, Item 1 to this quarterly report. That note is hereby incorporated by reference into this Part 2, Item 1.

**Item 1A. Risk Factors**

There have been no material changes to the risk factors presently disclosed in our 2013 Form 10-K.

**Item 2. Unregistered Sales of Equity Securities and Use of Proceeds**

During the second quarter of 2014, we repurchased 221,864 of our common shares as scheduled below:

<b>Period</b>	<b>Number of Shares Repurchased</b>	<b>Average Price Paid Per Share</b>	<b>Total Number of Shares Repurchased as Part of a Publicly Announced Plan</b>	<b>Maximum Value of Shares that May Yet Be Repurchased Under the Plan</b>
Period 5 (4/21/14 — 5/18/14)	—	\$ —	—	\$ 21,543,453
Period 6 (5/19/14 — 6/15/14)	—	\$ —	—	\$ 21,543,453
Period 7 (6/16/14 — 7/13/14)	221,864	\$ 45.02	221,864	\$ 11,555,074
Total	221,864	\$ 45.02	221,864	\$ 11,555,074

All shares were purchased pursuant to the Company's share repurchase program previously announced on July 22, 2002.

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### Item 6. Exhibits

#### (a) Exhibits

Exhibit 3.1	Articles of Incorporation of Popeyes Louisiana Kitchen, Inc. (the "Company") (f/k/a AFC Enterprises, Inc.), as amended (incorporated by reference to Exhibit 3.1 of the Registrant's Quarterly Report on Form 10-Q for the quarterly period ended July 14, 2002).
Exhibit 3.2	Articles of Incorporation of the Company, as amended, dated June 24, 2002 (incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K filed January 21, 2014).
Exhibit 3.3	Amended and Restated Bylaws of the Company (incorporated by reference to Exhibit 3.1 of the Registrant's Current Report on Form 8-K filed April 16, 2008).
Exhibit 3.4	Amendment No. 2 to Amended and Restated Bylaws of the Company, dated January 17, 2014 (incorporated by reference to Exhibit 3.2 to the Company's Current Report on Form 8-K filed January 21, 2014).
Exhibit 10.1	Employment Term Letter to Tony Woodard, dated May 13, 2014 (incorporated by reference to Exhibit 10.1 to the Registrant's Quarterly Report on Form 10-Q for the quarterly period ended April 20, 2014).
Exhibit 10.2	Letter re Severance Agreement to Tony Woodard, dated May 13, 2014 (incorporated by reference to Exhibit 10.2 to the Registrant's Quarterly Report on Form 10-Q for the quarterly period ended April 20, 2014).
Exhibit 10.3	Indemnification Agreement to Tony Woodard (incorporated by reference to Exhibit 10.3 to the Registrant's Quarterly Report on Form 10-Q for the quarterly period ended April 20, 2014).
Exhibit 10.4	Recipe and Formula Purchase Agreement between the Company and Diversified Foods and Seasonings, L.L.C. ("DFS"), dated June 13, 2014.
Exhibit 10.5†	Supply Agreement between the Company and Diversified, dated June 13, 2014.
Exhibit 10.6	Separation Agreement and General Release between the Company and H. Melville Hope, III.
Exhibit 10.7	Independent Contractor Agreement between the Company and H. Melville Hope, III.
Exhibit 11.1*	Statement Regarding Composition of Per Share Earnings.
Exhibit 31.1	Certification pursuant to Rule 13a — 14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
Exhibit 31.2	Certification pursuant to Rule 13a — 14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
Exhibit 32.1	Certification pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
Exhibit 32.2	Certification pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
Exhibit 101	The following financial information for the Company, formatted in XBRL (Extensible Business Reporting Language): (i) the Condensed Consolidated Balance Sheets, (ii) the Condensed Consolidated Statements of Operations, (iii) the Condensed Consolidated Statement of Changes in Shareholders' Equity, (iv) the Condensed Consolidated Statements of Cash Flows, and (v) the Notes to the Unaudited Condensed Consolidated Financial Statements.

† The Company has requested that certain portions of this exhibit be granted confidential treatment

\* Data required by FASB authoritative guidance for Earnings per Share, is provided in Note 13 to our condensed consolidated financial statements in Part 1, Item 1 to this quarterly report.

**SIGNATURE**

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.

Popeyes Louisiana Kitchen, Inc.

Date: August 20, 2014

By: /s/ Tony Woodard  
Tony Woodard  
Interim Chief Financial Officer  
(Duly Authorized Officer and Principal Financial Officer)

**RECIPE AND FORMULA PURCHASE AGREEMENT**

**between**

**POPEYES LOUISIANA KITCHEN, INC.**

**and**

**DIVERSIFIED FOODS AND SEASONINGS, L.L.C.**

**June 13, 2014**

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Exhibits

Exhibit A – List of Products

Exhibit B – Form of Confidentiality Agreement

**THIS RECIPE AND FORMULA PURCHASE AGREEMENT** (this “*Agreement*”) is made and entered into as of June 13, 2014, between Popeyes Louisiana Kitchen, Inc., a Minnesota corporation, successor by name change to AFC Enterprises, Inc. (“*Buyer*”), and Diversified Foods and Seasonings, L.L.C., a Louisiana limited liability company (“*Seller*”), which is the successor by conversion of Diversified Foods and Seasonings, Inc., a Louisiana corporation. Buyer and Seller are sometimes hereinafter collectively called the “*Parties*” and individually called a “*Party*.”

## RECITALS

**WHEREAS**, the Parties are party to that certain Royalty and Supply Agreement dated as of July 15, 2010 (the “*R&S Agreement*”);

**WHEREAS**, Seller desires to sell, and Buyer desires to purchase (the “*Sale*”), the Acquired Assets (as defined below) for the consideration and on the terms and subject to the conditions set forth in this Agreement; and

**WHEREAS**, simultaneously with the Closing, the Parties desire to terminate the R&S Agreement and enter into a new supply agreement dated the same date as this Agreement (such new supply agreement as executed and delivered, the “*New Supply Agreement*”).

**NOW, THEREFORE**, in consideration of the premises and representations, warranties, and covenants set forth in this Agreement, the Parties, intending to be legally bound, agree as follows:

### Article 1 DEFINITIONS AND USAGE

#### 1.1 Definitions.

For purposes of this Agreement, the following terms and variations thereof have the meanings specified or referred to in this Section 1.1:

“*Acquired Assets*” has the meaning set forth in Section 2.1.

“*Acquired Formulas*” means collectively, the recipes, formulas, and such other information that is expressly set forth on the Batch Tickets.

“*Agreement*” has the meaning set forth in the first paragraph of this Agreement.

“*Batch Ticket*” means a written recipe and formula, including specifications for ingredients, instructions for producing the product, and updated end-product specifications for each Product, but excluding the Manufacturing Techniques. The Batch Tickets are included in the Trade Secrets Disclosure Documents delivered by Seller to Buyer at the Closing.

“*Bill of Sale*” has the meaning set forth in Section 2.6(a)(i).

“*Business Day*” means any day other than (a) Saturday or Sunday, or (b) any other day on which banks in New Orleans, Louisiana are permitted or required to be closed.

“*Buyer*” has the meaning set forth in the first paragraph of this Agreement.

“ **Buyer Indemnified Persons** ” has the meaning set forth in Section 6.2.

“ **Closing** ” has the meaning set forth in Section 2.5 .

“ **Closing Date** ” means the date on which the Closing actually takes place.

“ **Code** ” means the Internal Revenue Code of 1986.

“ **Confidential Information** ” has the meaning set forth in Section 7.1(a).

“ **Consent** ” means any approval, consent, ratification, waiver or other authorization.

“ **Contemplated Transactions** ” means all of the transactions contemplated by this Agreement, but excluding the New Supply Agreement and the transactions more specifically contemplated therein.

“ **Contract** ” means any agreement, contract, consensual obligation, or legally-binding promise or undertaking (whether written or oral and whether express or implied).

“ **Damages** ” has the meaning set forth in Section 6.2.

“ **Disclosure Letter** ” means the disclosure letter delivered by Seller to Buyer concurrently with the execution and delivery of this Agreement.

“ **Due Diligence Documents** ” means the copies of sample receiving paperwork, sample production documentation, sources for ingredients, and historical actual yield figures relating to the Products.

“ **Effective Time** ” means the time at which the Closing is consummated.

“ **Encumbrance** ” means any charge, claim, community or other marital property interest, equitable interest, lien, option, pledge, security interest, mortgage, right of way, easement, encroachment, servitude, right of first option, right of first refusal, or similar restriction, including any similar restriction on use, transfer, receipt of income or exercise of any other attribute of ownership inherent in the type of property in question, but , excluding (i) any liens for Taxes not yet due and payable, (ii) any security interests, UCC financing statements, or other liens that are terminated at Closing, (iii) any security interests or other liens created by or through Buyer, and (iv) any restrictions imposed by the federal Food, Drug & Cosmetics Act, any federal regulatory agency regulating food or drugs, or similar federal statutes or regulations.

“ **Governing Documents** ” means, with respect to any particular entity, (a) if a corporation, the articles or certificate of incorporation and the bylaws; (b) if a limited liability company, the articles of organization and operating agreement; and (c) any amendment or supplement to any of the foregoing.

“ **Governmental Authorization** ” means any Consent, license, registration or permit issued, granted, given or otherwise made available by or under the authority of any Governmental Body or pursuant to any Legal Requirement.

“ ***Governmental Body*** ” means any:

- (a) nation, state, county, city, town, borough, village, district or other governmental jurisdiction;

(b) federal, state, local, municipal, foreign or other government;

(c) governmental authority of any nature (including any agency, branch, department, board, commission, court, tribunal or other entity exercising governmental powers); or

(d) official of any of the foregoing.

“ **Indemnified Person** ” has the meaning set forth in Section 6.6.

“ **Indemnifying Person** ” has the meaning set forth in Section 6.6.

“ **Intellectual Property Assets** ” has the meaning set forth in Section 3.10(a).

“ **IRS** ” means the United States Internal Revenue Service.

“ **Knowledge** ” means an individual will be deemed to have Knowledge of a particular fact or other matter if that individual has actual knowledge of that fact or matter after reasonable inquiry.

Seller will be deemed to have Knowledge of a particular fact or other matter if Al Copeland, Jr., Peter F. Smith, Bryan M. White, Dwayne Eymard, or Tommy Trueting has Knowledge of that fact or other matter (as set forth in in the preceding paragraph). Buyer will be deemed to have Knowledge of a particular fact or other matter if Cheryl A. Bachelder, Harold (“Sonny”) M. Cohen, Alice Leblanc, or H. Melville Hope, III has Knowledge of that fact or other matter (as set forth in the preceding paragraph).

“ **Legal Requirement** ” means any federal, state, local, municipal, foreign, or international constitution, law, ordinance, principle of common law, code, regulation, statute, or treaty.

“ **Liability** ” or “ **Liabilities** ” means, with respect to any Person, any liability or obligation of such Person of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise, and whether or not the same is required to be accrued on the financial statements of such Person.

“ **Manufacturing Techniques** ” means the manufacturing, production, preparation, processing, handling, and storage techniques, processes, and methods, including specific steam pressure levels, sequential timing and staging information, speeds of agitated pack tanks and mixing paddles, pick heater processes, processes for blanching, including retention times and water absorption levels, ham fat processing, plating processes, and blending times, used by Seller, together with the Acquired Formulas and other Seller assets (for example, expertise and facilities), to produce the Products. The Manufacturing Techniques are not being sold to Buyer under this Agreement and are not part of the Acquired Assets. The Manufacturing Techniques do not include the Batch Tickets or the Due Diligence Documents or any part thereof.

“ **New Supply Agreement** ” has the meaning set forth in the third Recital to this Agreement.

“ **Order** ” means any order, injunction, judgment, decree, ruling, assessment, or arbitration award of any Governmental Body or arbitrator.

“ **Part** ” means a part or section of the Disclosure Letter.

“ **Party** ” has the meaning set forth in the first paragraph of this Agreement.





“ **Person** ” means an individual, partnership, corporation, business trust, limited liability company, limited liability partnership, joint stock company, trust, unincorporated association, joint venture, or other entity or a Governmental Body.

“ **Proceeding** ” means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena, or investigation of any nature, civil, criminal, administrative, regulatory or otherwise, whether at law or in equity.

“ **Products** ” means the products listed on *Exhibit A* .

“ **Purchase Price** ” has the meaning set forth in Section 2.2.

“ **R&S Agreement** ” has the meaning set forth in the first Recital to this Agreement.

“ **Record** ” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

“ **Related Person** ” means:

With respect to a particular individual:

- (a) each other member of such individual’s Family;
- (b) any Person that is directly or indirectly controlled by any one or more members of such individual’s Family;
- (c) any Person in which members of such individual’s Family hold (individually or in the aggregate) a Material Interest; and
- (d) any Person with respect to which one or more members of such individual’s Family serves as a director, officer, partner, executor, or trustee (or in a similar capacity).

With respect to a specified Person other than an individual:

- (i) any Person that directly or indirectly controls, is directly or indirectly controlled by or is directly or indirectly under common control with such specified Person;
- (ii) any Person that holds a Material Interest in such specified Person;
- (iii) each Person that serves as a director, officer, partner, executor, or trustee of such specified Person (or in a similar capacity);
- (iv) any Person in which such specified Person holds a Material Interest; and
- (v) any Person with respect to which such specified Person serves as a general partner or a trustee (or in a similar capacity).

For purposes of this definition, (i) “ **control** ” (including “ **controlling** ,” “ **controlled by** ,” and “ **under common control with** ”) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities,



by contract, or otherwise; (ii) the “**Family**” of an individual includes (A) the individual, (B) the individual’s spouse, (C) any other natural person who is related to the individual or the individual’s spouse within the second degree and (D) any other natural person who resides with such individual; and (iii) “**Material Interest**” means direct or indirect beneficial ownership of voting securities or other voting interests representing at least ten percent (10%) of the outstanding voting power of a Person or equity securities or other equity interests representing at least ten percent (10%) of the outstanding equity securities or equity interests in a Person.

“**Representative**” means, with respect to a particular Person, any director, officer, manager, employee, agent, consultant, advisor, accountant, financial advisor, legal counsel, or other representative of that Person.

“**Retained Liabilities**” has the meaning set forth in Section 2.3(b).

“**Sale**” has the meaning set forth in the second Recital to this Agreement.

“**Seller**” has the meaning set forth in the first paragraph of this Agreement.

“**Seller’s Closing Documents**” has the meaning set forth in Section 3.2(a).

“**Seller’s Predecessors in Title**” means (i) Alvin C. Copeland, (ii) the Estate of Alvin C. Copeland, (iii) Alvin C. Copeland, Jr., as trustee of the Article III Trust under the Last Will and Testament of Alvin C. Copeland Dated May 28, 2004, and (iv) Diversified Foods and Seasonings, Inc.

“**Subsidiary**” means with respect to any Person (the “**Owner**”), any corporation or other Person of which securities or other interests having the power to elect a majority of that corporation’s or other Person’s board of directors or similar governing body, or otherwise having the power to direct the business and policies of that corporation or other Person (other than securities or other interests having such power only upon the happening of a contingency that has not occurred), are held by the Owner or one or more of its Subsidiaries.

“**Tax**” or “**Taxes**” shall mean (a) any and all U.S. federal, state, local, foreign and other taxes, levies, fees, imposts, duties and charges of whatever kind imposed by any Tax Authority (including any interest, penalties or additions to the tax imposed in connection therewith or with respect thereto), including, without limitation, taxes imposed on, or measured by, income, franchise, profits or gross receipts, and also ad valorem, commercial rent, environmental, value added, capital gains, sales, use, goods and services, real, personal or intangible property, capital stock, license, branch, business, unclaimed property, payroll, estimated, withholding, employment, social security (or similar), workers’ compensation, unemployment compensation, utility, severance, production, excise, stamp, occupation, premium, windfall profits, transfer and gains taxes, realty and real property transfer (including controlling interest), mortgage, recordation and customs taxes, levies, fees, imposts, duties, and charges, (b) any and all liability for the payment of any items described in clause (a) above as a result of being (or ceasing to be) a member of an affiliated, consolidated, combined, unitary or aggregate group (or being included (or being required to be included) in any Tax Return related to such group), and (c) any and all liability for the payment of any amounts as a result of any express or implied obligation to indemnify any other Person, or any successor or transferee liability, in respect of any items described in clause (a) or (b) above.

“**Tax Authority**” shall mean, individually or collectively, the IRS and any other United States federal and/or any state, local and/or other (including, without limitation, foreign) governmental (including any

administrative or judicial) agency, commission, board, authority, department, instrumentality, court, tribunal, entity, and/or other body responsible for the administration and/or collection of any Tax.

“ **Tax Return** ” shall mean any return, report, declaration, claim for refund, election, disclosure, estimate, information report or return or statement and/or other documentation (including any additional or supporting material) filed or maintained, or required to be filed or maintained, in connection with the calculation, determination, reporting, assessment, claim for refund, or collection of any Tax (and which shall include any attachment or schedule to any of the foregoing and/or any amendment of any of the foregoing).

“ **Third Party** ” means a Person that is not a Party to this Agreement.

“ **Third-Party Claim** ” means any claim against any Indemnified Person by a Third Party, whether or not involving a Proceeding.

“ **Trade Secret** ” has the meaning set forth in Section 3.10(a)(ii).

“ **Trade Secrets Disclosure Documents** ” means the documents consisting of (i) one Batch Ticket for each Product, and (ii) the Due Diligence Documents, which documents are to be delivered by the Seller to the Buyer at the Closing. The Trade Secrets Disclosure Documents include the Batch Tickets which contain the Acquired Formulas.

## 1.2 Usage.

(a) Interpretation . In this Agreement, unless a clear contrary intention appears:

(i) the singular number includes the plural number and vice versa;

(ii) reference to any Person includes such Person’s successors and assigns but, if applicable, only if such successors and assigns are not prohibited by this Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity or individually;

(iii) reference to any gender includes each other gender;

(iv) reference to any Legal Requirement means such Legal Requirement as amended, modified, codified, replaced, or reenacted, in whole or in part, and in effect from time to time, including rules and regulations promulgated thereunder, and reference to any section or other provision of any Legal Requirement means that provision of such Legal Requirement from time to time in effect and constituting the substantive amendment, modification, codification, replacement, or reenactment of such section or other provision;

(v) “ **hereunder** ,” “ **hereof** ,” “ **hereto** ,” and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Article, Section, or other provision hereof;

(vi) “ **including** ” (and with correlative meaning “ **include** ”) means including without limiting the generality of any description preceding such term;

(vii) “*or*” is used in the inclusive sense of “*and/or*”;

(viii) references to an Article, Section, or Exhibit mean an Article, Section of, or Exhibit to, this Agreement, unless another document is specified,

(ix) with respect to the determination of any period of time, “*from*” means “*from and including*” and “*to*” means “*to but excluding*”; and

(x) references to documents, instruments or agreements shall be deemed to refer as well to all addenda, exhibits, or schedules thereto.

(b) New Supply Agreement. A reference to this Agreement shall not be deemed to refer to or include the New Supply Agreement.

(c) Legal Representation of the Parties. This Agreement was negotiated by the Parties with the benefit of legal representation, and any rule of construction or interpretation otherwise requiring this Agreement to be construed or interpreted against any Party shall not apply to any construction or interpretation hereof.

## ARTICLE 2 SALE AND TRANSFER OF ASSETS; CLOSING

2.1 Acquired Assets. Upon the terms and subject to the conditions set forth in this Agreement, at the Closing, Seller hereby sells, conveys, assigns, transfers, and delivers to Buyer, and Buyer hereby purchases and acquires from Seller, free and clear of any Encumbrances, all of Seller’s right, title, and interest in and to the following:

(d) the Acquired Formulas;

(e) all of the intangible rights and property of Seller in the Acquired Formulas, including any Intellectual Property Assets of Seller in the Acquired Formulas;

(f) all of Seller’s rights, if any, to prevent unauthorized disclosure of the Acquired Formulas; and

(g) all of Seller’s rights to any claim, action, cause of action, lawsuit, arbitration, litigation, or royalties available to or being pursued by Seller against any third party with respect to the Acquired Formulas or Intellectual Property Assets, except to the extent arising out of or related solely to the Manufacturing Techniques or other assets of Seller not included in the Sale.

The foregoing property and assets transferred to Seller by Buyer are collectively called the “*Acquired Assets*.” In the Sale, Buyer shall acquire no assets other than as set forth in this Agreement. Buyer shall not acquire any Manufacturing Techniques, trademarks, service marks, trade names, going concern value, or goodwill.

### 2.2 Consideration.

The consideration for the Sale is Forty Three Million dollars (\$43,000,000.00) (the “*Purchase Price*”), payable in accordance with the provisions of Section 2.6(b).

## 2.3 Liabilities.

(a) Assumed Liabilities. In the Sale, Buyer assumes no Liability of Seller.

(b) Retained Liabilities. The Retained Liabilities are not being assumed by Buyer and Buyer shall not be responsible to pay, perform or discharge any Retained Liabilities. “**Retained Liabilities**” means every Liability of Seller relating to the Acquired Assets arising before the Effective Time or arising out of or based on the operation of Seller’s business prior to the Effective Time, including the following to the extent they fall within such scope:

(i) any Liability (A) for Taxes of Seller or its Related Persons, [including Taxes] properly allocable to or arising out of the business or ownership of the Acquired Assets for any period prior to the Effective Time; or (B) Taxes of Seller or its Related Persons that become a Liability of Buyer under any common law doctrine of de facto merger or transferee or successor liability or otherwise by operation of law;

(ii) any Liability of Seller under any Contract of Seller, including any Liability arising out of or relating to Seller’s credit facilities or any security interest related thereto ;

(iii) any Liability of Seller to any of its members (or any shareholder of Diversified Foods and Seasonings, Inc.) or any Related Person of Seller;

(iv) any Liability of Seller to distribute to any of Seller’s members or any Related Person of Seller or otherwise apply all or any part of the consideration received hereunder by Seller;

(v) any Liability of Seller arising out of any Proceeding involving Seller pending as of the Effective Time;

(vi) any Liability of Seller arising out of any Proceeding commenced after the Effective Time relating to the Acquired Assets but arising out of or relating to any occurrence or event happening prior to the Effective Time;

(vii) any Liability of Seller arising out of or resulting from Seller’s compliance or noncompliance with any Legal Requirement or Order of any Governmental Body; and

(viii) any Liability of Seller or its members based upon Seller’s acts or omissions occurring prior to the Effective Time.

(c) Sales Taxes. The Parties believe that there are no sales taxes due with respect to the Sale, but if there are, Buyer shall be responsible for the payment of any such sales taxes, notwithstanding anything to the contrary in Section 2.3(b).

(d) Bulk Sales Law Liability. The Parties believe that there are no bulk sales laws applicable to the Sale, but if there are, Buyer shall be responsible for any Liability under any applicable bulk sales law, notwithstanding anything to the contrary in Section 2.3(b).

2.4 Reserved.

2.5 Closing.

The closing of the Sale (the “**Closing**”) is taking place at the offices of Seller located at 1115 N. Causeway Blvd., Suite 200, Mandeville, Louisiana 70471, commencing at 10:00 a.m. (local time) on June 16, 2014. All deliveries to be made or other actions to be taken at the Closing shall be deemed to occur simultaneously, and no such delivery or action shall be deemed complete until all such deliveries and actions have been completed or the relevant Parties have agreed to waive such delivery or action.

2.6 Closing Obligations.

In addition to any other documents to be delivered under any other provisions of this Agreement, at the Closing:

(a) Seller shall deliver to Buyer:

- (i) a bill of sale in form mutually acceptable to the Parties (the “**Bill of Sale**”), executed by Seller;
- (ii) the Trade Secrets Disclosure Documents;
- (iii) confidentiality agreements substantially in the form of **Exhibit B**, executed by each of Al Copeland, Jr., Peter F. Smith, Bryan M. White, Dwayne Eymard, Tommy Trueting, and those other Persons, if any, mutually agreed to by the Parties, who have confidential knowledge of the Acquired Formulas (the “**Confidentiality Agreements**”);
- (iv) the New Supply Agreement executed by Seller; and
- (v) a certificate of the Secretary of Seller, in form reasonably satisfactory to the Parties, (A) certifying, as complete and accurate as of the Closing, attached copies of the Governing Documents of Seller, (B) certifying and attaching all requisite resolutions or actions of Seller’s sole manager and members approving the execution, delivery, and performance of this Agreement and the New Supply Agreement, and (C) certifying to the incumbency and signatures of the officers of Seller executing this Agreement and the New Supply Agreement.

(b) Buyer shall deliver to Seller:

- (i) the Purchase Price by wire transfer in accordance with written wire transfer instructions delivered by Seller to Buyer at least three (3) Business Days prior to the Closing Date;
- (ii) the Bill of Sale, executed by Buyer;
- (iii) the New Supply Agreement executed by Buyer;



(iv) the Confidentiality Agreements executed by Buyer and by each of Al Copeland, Jr., Peter F. Smith, Bryan M. White, Dwayne Eymard, Tommy Trueting, and those other Persons, if any, mutually agreed to by the Parties, who have confidential knowledge of the Acquired Formulas; and

(v) a certificate of the Secretary of Buyer, in form reasonably satisfactory to the Parties (A) certifying, as complete and accurate as of the Closing, attached copies of the Governing Documents of Buyer, (B) certifying and attaching all requisite resolutions or actions of Buyer's board of directors approving the execution, delivery, and performance of this Agreement and the New Supply Agreement, and (C) certifying to the incumbency and signatures of the officers of Buyer executing this Agreement and the New Supply Agreement.

### **ARTICLE 3 .** **REPRESENTATIONS AND WARRANTIES OF SELLER**

Except as set forth in the Disclosure Letter, Seller represents and warrants to Buyer as follows:

#### **3.1 Organization and Good Standing; Conversion.**

(a) Seller is a limited liability company duly organized, validly existing, and in good standing under the laws of the State of Louisiana, with full limited liability company power and authority to conduct its business as it is now being conducted, to own or use the properties and assets (including the Acquired Assets) that it purports to own or use. Seller is duly qualified to do business as a foreign limited liability company and is in good standing under the laws of each state or other jurisdiction in which either the ownership or use of the properties owned or used by it, or the nature of the activities conducted by it, requires such qualification, except if the failure to be so qualified and in good standing will not materially adversely affect Seller's ability to transfer the Acquired Assets to Buyer.

(b) The conversion (the "**Conversion**") of Diversified Foods and Seasonings, Inc., as a corporation, to Seller, as a limited liability company, complied with Louisiana law, including Sections 12:1601 through and including 12:1607 of the Corporations and Associations Title of the Louisiana Revised Statutes, as amended. As a result of the Conversion, Seller has succeeded to all of the ownership rights in the Acquired Assets that were owned by Diversified Foods and Seasonings, Inc. immediately prior to the Conversion.

#### **3.2 Enforceability; Authority; No Conflict.**

(e) This Agreement constitutes the legal, valid, and binding obligation of Seller, enforceable against Seller in accordance with its terms. Upon the execution and delivery by Seller of each other agreement executed and delivered by it at the Closing, namely, this Agreement, the Bill of Sale, New Supply Agreement and the Confidentiality Agreements (collectively, the "**Seller's Closing Documents**"), each of Seller's Closing Documents will constitute the legal, valid, and binding obligation of Seller, enforceable against it in accordance with its terms. Seller has the absolute and unrestricted right, power, and authority to execute and deliver this Agreement and the Seller's Closing Documents to which it is a party and to perform its obligations under this Agreement and the Seller's Closing Documents, and such actions have been duly authorized by all necessary action by Seller's members and sole manager.

(f) Neither the execution and delivery of this Agreement by Seller or the other Seller's Closing Documents nor the consummation or performance of this Agreement or the New Supply Agreement by Seller will, directly or indirectly (with or without notice or lapse of time):

(i) breach (A) any provision of any of Seller's Governing Documents, or (B) any resolution adopted by Seller's members or sole manager;

(ii) breach or give any Governmental Body or other Person the right to enjoin or have declared invalid any of the transactions contemplated in this Agreement or the New Supply Agreement or to exercise any remedy or obtain any relief under any Legal Requirement or any Order to which Seller or any of the Acquired Assets, is subject ;

(iii) to Seller's Knowledge, contravene, conflict with, or result in a violation or breach of any of the terms or requirements of, or give any Governmental Body the right to revoke, withdraw, suspend, cancel, terminate, or modify any Governmental Authorization that specifically relates to the Acquired Assets;

(iv) result in the imposition or creation of any Encumbrance upon or with respect to any of the Acquired Assets (other than Encumbrances in favor of Seller that are dischargeable by payment of the Purchase Price); or

(v) result in any member of Seller having the right to exercise dissenters' appraisal rights.

(g) Seller is not required to give any notice to or obtain any Consent from any Person in connection with the execution and delivery of this Agreement by Seller or Seller's consummation or performance of this Agreement or the New Supply Agreement that has not been given or obtained. Except for or through Buyer under this Agreement, no Person has the right to acquire any of the Acquired Assets from Seller.

### 3.3 Records.

The Due Diligence Documents provided by Seller to Buyer for Buyer's due diligence review of the Acquired Assets for the Sale are true and correct and represent actual and bona fide transactions and production activities, as applicable.

### 3.4 Sufficiency of Acquired Assets.

The Acquired Assets contain a list of ingredients and general instructions that are sufficient to permit Buyer, acting in concert with a competent, experienced, professional food manufacturer comparable to Seller, to produce the Products substantially but not exactly as produced by Seller prior to the Effective Time.

### 3.5 Title to Acquired Assets; Encumbrances.

Seller owns good and transferable title to all of the Acquired Assets free and clear of any Encumbrances.

### 3.6 No Undisclosed Liabilities.

Seller has no Liability specifically with respect to the Acquired Assets that has not been disclosed in writing to Buyer.

### 3.7 Taxes.

(a) Except to the extent not materially adversely affecting Buyer's acquisition or ownership of the Acquired Assets, to Seller's Knowledge: (i) Seller has filed on a timely basis all Tax Returns with respect to its business or the Acquired Assets that were required to be filed by Seller with the appropriate Tax Authorities in all jurisdictions in which such Tax Returns are required, (ii) Seller has timely paid all Taxes due or payable, and (iii) no Tax Authority has proposed or threatened to assess any additional Taxes for any period for which Tax Returns have been filed.

(b) The Company is not a "foreign person" as that term is defined in Section 1445 of the Code.

(c) There are no Encumbrances on any of the Acquired Assets that arose in connection with any failure (or alleged failure) to pay any Tax, and Seller has no Knowledge of any basis for assertion of any claims attributable to Taxes which, if adversely determined, could result in any such Encumbrance.

### 3.8 Compliance with Legal Requirements; Governmental Authorizations.

Except to the extent not materially adversely affecting Buyer's acquisition or ownership of the Acquired Assets, with specific respect to the ownership or use of any of the Acquired Assets:

(a) Seller is in compliance with Legal Requirements;

(b) Since January 1, 2011, no event has occurred or circumstance exists that (with or without notice or lapse of time) (A) would likely constitute or result in a violation by Seller of, or a failure on the part of Seller to comply with, any Legal Requirement, or (B) would likely give rise to any obligation on the part of Seller to undertake, or to bear all or any portion of the cost of, any remedial action of any nature; and

(c) Seller has not received any written notice or other written communication from any Governmental Body or any other Person regarding (A) any actual or alleged violation of, or failure to comply with, any Legal Requirement, or (B) any actual or alleged obligation on the part of Seller to undertake, or to bear all or any portion of the cost of, any remedial action of any nature.

### 3.9 Legal Proceedings; Orders.

There is no pending or, to Seller's Knowledge, threatened, lawsuit, arbitration, notice of violation, proceeding, subpoena, investigation, or Order:

(a) by or against Seller specifically relating to its ownership or use of the Acquired Assets; or

(b) against Seller that challenges, or that may have the effect of preventing, delaying, making illegal, or otherwise interfering with this Agreement or the New Supply Agreement.

To Seller's Knowledge, no event has occurred or circumstance exists that is reasonably likely to give rise to or serve as a basis for the commencement of any such lawsuit, arbitration, notice of violation,

proceeding, subpoena, investigation . There is no Order specifically relating to Seller's ownership or use of the Acquired Assets.

### 3.10 Intellectual Property Assets .

(a) The term “ **Intellectual Property Assets** ” means all intellectual property and intellectual property rights, if any, in any and all countries in the world owned by Seller in the Acquired Formulas in which Seller has a proprietary interest, including, to the extent they exist:

(i) all registered and unregistered copyrights of Seller, if any, in the Acquired Formulas (collectively, “ **Copyrights** ”);

(ii) all trade secrets of Seller in the Acquired Formulas (collectively, “ **Trade Secrets** ”); and

(iii) all patented and patentable ideas, formulas, methods and inventions, of Seller, if any, constituting part of the Acquired Formulas (which excludes the Manufacturing Techniques), and all of Seller's patents, pending patent applications and provisional and non-provisional applications for the Acquired Formulas, if any, and including all of Seller's rights to claim priority of said applications or patents, and all issuances, divisions, continuations, continuations-in-part, reissues, extensions, reexaminations, and renewals of, or substitutes for, any such patents and applications (collectively, “ **Patents** ”).

(b) For the avoidance of doubt, notwithstanding anything to the contrary in subsection (a), the term “Intellectual Property Assets” does not include any interest in any trademarks, service marks, trade names, or goodwill.

(c) (i) Seller has the right to use without payment to a Third Party all of the Intellectual Property Assets (to the extent they exist) .

(d) (i) Part 3.10(d) of the Disclosure Letter contains a complete and accurate list and summary description of all registered Copyrights and issued Patents, if any;

(ii) All of the registered Copyrights and issued Patents, if any, are currently in compliance with formal Legal Requirements, are valid and enforceable, and are not subject to any maintenance fees or taxes or actions falling due within ninety (90) days after the date of Closing; and

(iii) To Seller's Knowledge, no Copyright or issued Patent, if any, is infringed or, has been challenged or threatened in any way. To Seller's Knowledge, none of the subject matter of any of the issued Patents, if any, infringes or is alleged to infringe any patent right of any Third Party and none of the subject matter of any of the registered Copyrights, if any, infringes or is alleged to infringe any copyright of any Person other than Seller, its Predecessor in Title, or an employee of one of them.

(e) (i) With respect to the Trade Secrets, the Batch Tickets are current as of the date of this Agreement and the other Trade Secrets Disclosure Documents were accurate and current as of the dates they were respectively written.

(ii) Seller has taken reasonable precautions to protect the secrecy, confidentiality, and value of the Trade Secrets; and

(iii) Seller has good title to and the right to use the Trade Secrets. The Trade Secrets are not part of the public knowledge or literature and, to Seller's Knowledge, have not been used, divulged, or appropriated either for the benefit of any Person (other than Seller or Seller's Predecessors in Title) or to the detriment of Seller. To Seller's Knowledge, no Trade Secret is subject to any adverse claim or has been challenged or threatened in any way or infringes any intellectual property right of any other Person.

### 3.11 Relationships With Related Persons.

Except for Seller and Seller's Predecessors in Title, no Person or any Related Person thereof has had, since January 1, 2004, any ownership interest in the Acquired Assets or any other interest in the Acquired Assets that would affect Buyer's right to use the Acquired Assets.

### 3.12 Brokers or Finders.

Neither Seller nor any of its Representatives have incurred any obligation or liability, contingent or otherwise, for brokerage or finders' fees or agents' commissions or other similar payments in connection with the Contemplated Transactions.

### 3.13 Solvency.

(a) Seller is not now insolvent and will not be rendered insolvent by any of the Contemplated Transactions. As used in this section, "*insolvent*" means that the sum of the debts and other probable Liabilities of Seller exceeds the present fair saleable value of Seller's assets.

(b) Immediately after giving effect to the consummation of the Contemplated Transactions: (i) Seller will be able to pay its Liabilities as they become due in the usual course of its business; (ii) Seller will not have unreasonably small capital with which to conduct its present or proposed business; (iii) Seller will have assets (calculated at fair market value) that exceed its Liabilities; and (iv) taking into account all pending and threatened litigation, final judgments against Seller in actions for money damages are not reasonably anticipated to be rendered at a time when, or in amounts such that, Seller will be unable to satisfy any such judgments promptly in accordance with their terms (taking into account the maximum probable amount of such judgments in any such actions and the earliest reasonable time at which such judgments might be rendered) as well as all other obligations of Seller. The cash available to Seller, after taking into account all other anticipated uses of the cash, will be sufficient to pay all such debts and judgments promptly in accordance with their terms.

### 3.14 Disclosures.

No representation or warranty or other statement made by Seller in this Agreement, the Disclosure Letter, or the certificate delivered pursuant to Section 2.6(a) contains any untrue statement of a material fact or omits to state a material fact necessary to make any of them, in light of the circumstances in which it was made, not misleading.

**ARTICLE 4 .**  
**REPRESENTATIONS AND WARRANTIES OF BUYER**

Buyer represents and warrants to Seller as follows:

4.1 Organization and Good Standing.

Buyer is a corporation duly organized, validly existing, and in good standing under the laws of the State of Minnesota, with full corporate power and authority to conduct its business as it is now conducted.

4.2 Enforceability; Authority; No Conflict.

(a) This Agreement constitutes the legal, valid, and binding obligation of Buyer, enforceable against Buyer in accordance with its terms. Upon the execution and delivery by Buyer of each other agreement to be executed or delivered by Buyer at Closing, namely, this Agreement, the Bill of Sale and the New Supply Agreement (collectively, the “**Buyer’s Closing Documents**”), each of the Buyer’s Closing Documents will constitute the legal, valid, and binding obligation of Buyer, enforceable against Buyer in accordance with its respective terms. Buyer has the absolute and unrestricted right, power, and authority to execute and deliver this Agreement and the Buyer’s Closing Documents to which it is a party and to perform its obligations under this Agreement and the Buyer’s Closing Documents, and such action has been duly authorized by all necessary corporate action.

(b) Neither the execution and delivery of this Agreement by Buyer or the other Buyer’s Closing Documents nor the consummation or performance of this Agreement, the New Supply Agreement, or the Confidentiality Agreements by Buyer will, directly or indirectly (with or without notice or lapse of time):

(i) breach (A) any provision of Buyer’s Governing Documents, or (B) any resolution adopted by Buyer’s board of directors; or

(ii) breach or give any Governmental Body or other Person the right to enjoin or have declared invalid any of the transactions contemplated in this Agreement or the New Supply Agreement or to exercise any remedy or obtain any relief under any Legal Requirement or any Order to which Buyer is subject; or

(iii) to Buyer’s Knowledge, contravene, conflict with, or result in a violation or breach of any of the terms or requirements of, or give any Governmental Body the right to revoke, withdraw, suspend, cancel, or modify any Governmental Authorization that specifically relates to the Acquired Assets.

Other than for those Consents that Buyer has already obtained, Buyer is not and will not be required to obtain any Consent from any Person in connection with the execution and delivery of this Agreement or the consummation or performance of this Agreement or the New Supply Agreement.

#### 4.3 Certain Proceedings.

There is no pending or, to Buyer's Knowledge threatened, lawsuit, arbitration, notice of violation, proceeding, subpoena, investigation, or Order against Buyer that challenges, or may have the effect of preventing, delaying, making illegal, or otherwise interfering with, this Agreement or the New Supply Agreement.

#### 4.4 Brokers or Finders.

Neither Buyer nor any of its Representatives has incurred any obligation or liability, contingent or otherwise, for brokerage or finders' fees or agents' commissions or other similar payment in connection with the Contemplated Transactions.

#### 4.5 Reliance.

In entering into this Agreement, Buyer has not relied on any representations or warranties by Seller or any of its Representatives, other than those expressly set forth in this Agreement.

### **ARTICLE 5 COVENANTS**

#### 5.1 Certain Tax Matters.

(c) Each Party shall pay in a timely manner all Taxes of such Party resulting from or payable in connection with the Sale regardless of the Person on whom such Taxes are imposed by Legal Requirements, including all transfer, documentary, sales, use, stamp, registration, value added, and other such Taxes and fees (including any penalties and interest) incurred in connection with this Agreement and the Contemplated Transactions. Notwithstanding anything to the contrary in this Agreement, Seller shall be responsible for any and all income and franchise Taxes that it incurs in connection with the Sale and Buyer shall be responsible for any and all sales taxes and bulk sales liability that may arise in connection with the Sale. Each Party shall, at its own expense, timely file any Tax Return or other document required to be filed by it by Legal Requirements (and the other Party shall cooperate with respect thereto as necessary).

(d) If reasonably requested by Buyer and Seller's outside accounting firm considers the request appropriate, Seller shall notify all of the Taxing Authorities in the jurisdictions that impose Taxes on Seller or where Seller has a duty to file Tax Returns of the Contemplated Transactions in the form and manner required by such Taxing Authorities, if the failure to make such notifications or receive any available tax clearance certificate could subject the Buyer to any Taxes of Seller. If any Taxing Authority asserts that Seller is liable for any Tax and Seller's outside accounting firm considers it appropriate, Seller shall promptly pay any and all such amounts and shall provide evidence to the Buyer that such liabilities have been paid in full or otherwise satisfied, and Buyer promptly shall reimburse Seller for the payment of any and all such amounts. If Buyer requests Seller to pay a particular Tax and Seller declines to do so and Seller is later assessed for or held liable for the Tax and pays the Tax, Buyer shall reimburse Seller for the amount of the Tax, but not for the amount of any interest or penalties that would have been avoided had Seller paid the Tax when requested to do so by Buyer.



## 5.2 Further Assurances.

The Parties shall cooperate reasonably with each other and with their respective Representatives in connection with any steps required to be taken as part of their respective obligations under this Agreement, and shall (a) furnish upon request to each other such further information; (b) execute and deliver to each other such other documents; and (c) do such other acts and things, all as the other Party may reasonably request for the purpose of carrying out the intent of this Agreement and the Contemplated Transactions. This section shall not be construed to obligate Seller to disclose any Manufacturing Techniques.

5.3 Bulk Sales Laws. The Parties hereby waive compliance with the provisions of any bulk sales, bulk transfer or similar Legal Requirement of any jurisdiction that may otherwise be applicable with respect to the sale of any or all of the Acquired Assets to Buyer; it being understood that Buyer shall be solely responsible for any Liabilities arising out of the failure of either Party to comply with the requirements and provisions of any bulk sales, bulk transfer, or similar Legal Requirement of any jurisdiction.

## ARTICLE 6 INDEMNIFICATION; REMEDIES

### 6.1 Survival.

Subject to the provisions of Section 6.4, all representations, warranties, covenants, and obligations in this Agreement, the Disclosure Letter, the certificate delivered pursuant to Section 2.6 and any other certificate or document delivered pursuant to this Agreement shall survive the Closing and the consummation of the Contemplated Transactions.

### 6.2 Indemnification and Reimbursement by Seller.

Subject to the other terms and conditions of this Article 6, Seller will indemnify and hold harmless Buyer and its Representatives (collectively, the “*Buyer Indemnified Persons*”) from, and shall pay to the Buyer Indemnified Persons the amount of, or reimburse the Buyer Indemnified Persons for, any loss, liability, claim, damage, expense (including costs of investigation and defense and reasonable attorneys’ fees and expenses), whether or not involving a Third-Party Claim (collectively, “*Damages*”), that any of such Buyer Indemnified Persons suffers or sustains as a result of or arising out of:

- (c) any breach of or inaccuracy in any representation or warranty made by Seller in (i) this Agreement, (ii) the Disclosure Letter, or (iii) the certificate delivered pursuant to Section 2.6;
- (d) any actual fraud on the part of Seller or any of its Representatives in connection with this Agreement (including any representation and warranty made by Seller herein) or the Contemplated Transactions;
- (e) any breach or non-fulfillment of any covenant or obligation of Seller in this Agreement;
- (f) any Liability of Seller arising out of Seller’s ownership or use of the Acquired Assets, or any other Liability of Seller incurred, prior to the Effective Time;

- (g) any brokerage or finder's fees or commissions or similar payments based upon any agreement or understanding made, or alleged to have been made, by any Person with Seller (or any Person acting on its behalf) in connection with any of the Contemplated Transactions;
- (h) any noncompliance by Seller with any fraudulent transfer law in respect of the Contemplated Transactions;  
or
- (i) any Retained Liabilities.

### 6.3 Indemnification and Reimbursement by Buyer .

Subject to the other terms and conditions of this Article 6, Buyer will indemnify and hold harmless Seller and its Representatives (collectively, the “*Seller Indemnified Persons*”) from, and shall pay to the Seller Indemnified Persons the amount of, or reimburse the Seller Indemnified Persons for, any Damages, that any of such Seller Indemnified Persons suffers or sustains as a result of or arising out of:

- (a) any breach of or inaccuracy in any representation or warranty made by Buyer in (i) this Agreement, or (ii) the certificate delivered pursuant to Section 2.6;
- (b) any actual fraud on the part of Buyer or any of its Representatives in connection with this Agreement (including any representation and warranty made by Buyer herein) or the Contemplated Transactions;
- (c) any breach or non-fulfillment of any covenant or obligation of Buyer in this Agreement;
- (d) any Liability arising out of the ownership or use of the Acquired Assets, or any other Liability incurred after, the Effective Time, except if the Liability arises from an act or omission of Seller occurring prior to the Effective Time; or
- (e) any brokerage or finder's fees or commissions or similar payments based upon any agreement or understanding made, or alleged to have been made, by any Person with Buyer (or any Person acting on its behalf) in connection with any of the Contemplated Transactions; or
- (f) any noncompliance by Buyer with any fraudulent transfer law in respect of the Contemplated Transactions.

### 6.4 Time Limitations .

(d) Notwithstanding any other provision of this Agreement, Seller shall have no obligation to indemnify, hold harmless, pay, or reimburse any Person with respect to any claim made under Section 6.2(a) as to which a Buyer Indemnified Person does not notify Seller in writing in reasonable detail on or before the date that is three (3) years after the Closing Date, except with respect to a claim made under Section 6.2(a) relating to Sections 3.1, 3.2, 3.4, 3.5, 3.6, 3.7, 3.11, and 3.12 (hereinafter, the “exceptions to the three (3) year limitation for Seller indemnity obligations”); however, with respect to these exceptions to the three (3) year limitation for Seller indemnity obligations, Seller shall have no obligation to indemnify, hold harmless, pay, or reimburse any Person with respect to any

claim made under Section 6.2(a) as to which a Buyer Indemnified Person does not notify Seller in writing in reasonable detail on or before the date that is ten (10) years after the Closing Date.

(e) Notwithstanding any other provision of this Agreement, Buyer shall have no obligation to indemnify, hold harmless, pay, or reimburse any Person with respect to any claim made under Section 6.3(a) as to which a Seller Indemnified Person does not notify Buyer in writing in reasonable detail on or before the date that is three (3) years after the Closing Date, except with respect to a claim made under Section 6.3(a) relating to Sections 4.1, 4.2, 4.4, and 4.5 (hereinafter, the “exceptions to the three (3) year limitation for Buyer indemnity obligations”); however, with respect to these exceptions to the three (3) year limitation for Buyer indemnity obligations, Buyer shall have no obligation to indemnify, hold harmless, pay or reimburse any Person with respect to any claim made under Section 6.3(a) as to which a Seller Indemnified Person does not notify Buyer in writing in reasonable detail on or before the date that is ten (10) years after the Closing Date.

#### 6.5 No Right of Setoff.

Buyer shall not set off any amount to which it may be entitled under this Article 6 against amounts otherwise payable to Seller or its assignee under the New Supply Agreement.

#### 6.6 Third-Party Claims.

(c) Promptly after receipt by a Person entitled to indemnity under Sections 6.2 or 6.3 (an “**Indemnified Person**”) of notice of the assertion of a Third-Party Claim against it, such Indemnified Person shall give notice to the Person obligated to indemnify under such Section (an “**Indemnifying Person**”) of the assertion of such Third-Party Claim, *provided* that the failure to notify the Indemnifying Person will not relieve the Indemnifying Person of any liability that it may have to any Indemnified Person, except to the extent that the Indemnifying Person demonstrates that the defense of such Third-Party Claim is prejudiced by the Indemnified Person’s failure to give such notice.

(d) If an Indemnified Person gives notice to the Indemnifying Person pursuant to Section 6.6 (a) of the assertion of a Third-Party Claim, the Indemnifying Person shall be entitled to participate in the defense of such Third-Party Claim and, to the extent that it desires (unless (i) the Indemnifying Person is also a Person against whom the Third-Party Claim is made and the Indemnified Person determines in good faith that joint representation would be inappropriate, or (ii) the Indemnifying Person fails to provide reasonable assurance to the Indemnified Person of its financial capacity to defend such Third-Party Claim and to provide indemnification with respect to such Third-Party Claim), to assume the defense of such Third-Party Claim with counsel reasonably satisfactory to the Indemnified Person. After notice from the Indemnifying Person to the Indemnified Person of its election to assume the defense of such Third-Party Claim, the Indemnifying Person shall not, so long as it diligently conducts such defense, be liable to the Indemnified Person under this Article 6 for any fees of other counsel or any other expenses with respect to the defense of such Third-Party Claim, in each case subsequently incurred by the Indemnified Person in connection with the defense of such Third-Party Claim, other than reasonable costs of investigation. If the Indemnifying Person assumes the defense of a Third-Party Claim, no compromise or settlement of such Third-Party Claims may be effected by the Indemnifying Person without the Indemnified Person’s Consent unless (I) there is no finding or admission of any violation of Legal Requirement or any violation of the rights of any Person; (II) the sole relief provided is monetary damages that are paid in full by the Indemnifying Person; and (III) the Indemnified Person shall have no liability with respect to any compromise or settlement of such Third-Party Claims effected without its Consent. If notice is given to an Indemnifying Person of the assertion of any Third-Party Claim and the

Indemnifying Person does not, within ten (10) days after the Indemnified Person's notice is given, give notice to the Indemnified Person of its election to assume the defense of such Third-Party Claim, the Indemnifying Person will be bound by any determination made in such Third-Party Claim or any reasonable compromise or settlement effected by the Indemnified Person.

(e) Notwithstanding the foregoing, if an Indemnified Person determines in good faith that there is a reasonable probability that a Third-Party Claim may adversely affect it or its Related Persons other than as a result of monetary damages for which it would be entitled to indemnification under this Agreement, the Indemnified Person may, by notice to the Indemnifying Person, assume the exclusive right to defend, compromise, or settle such Third-Party Claim, but the Indemnifying Person will not be bound by any determination of any Third-Party Claim so defended for the purposes of this Agreement or any compromise or settlement effected without its Consent (which may not be unreasonably withheld, delayed, or conditioned).

(f) With respect to any Third-Party Claim subject to indemnification under this Article 6: (i) both the Indemnified Person and the Indemnifying Person, as the case may be, shall keep the other Person fully informed of the status of such Third-Party Claim and any related Proceedings at all stages thereof where such Person is not represented by its own counsel, and (ii) the Parties agree (each at its own expense) to render to each other such assistance as they may reasonably require of each other and to cooperate in good faith with each other in order to ensure the proper and adequate defense of any Third-Party Claim.

(g) With respect to any Third-Party Claim subject to indemnification under this Article 6, the Parties agree to cooperate in such a manner as to preserve in full (to the extent possible) the confidentiality of all Confidential Information and the attorney-client and work-product privileges. In connection therewith, each Party agrees that: (i) it will use its commercially reasonable efforts, in respect of any Third-Party Claim in which it has assumed or participated in the defense, to avoid production of Confidential Information (consistent with applicable law and rules of procedure), and (ii) all communications between any Party and counsel responsible for or participating in the defense of any Third-Party Claim shall, to the extent possible, be made so as to preserve any applicable attorney-client or work-product privilege.

#### 6.7 Other Claims.

A claim for indemnification for any matter not involving a Third-Party Claim may be asserted by notice to the Party from whom indemnification is sought and shall be paid promptly after such notice to the extent payment is properly due pursuant to this Article 6.

#### 6.8 Exclusive Remedy.

Except in cases of actual fraud committed by Seller or any of its Representatives or committed by Buyer or any of its Representatives, as applicable, in connection with this Agreement or the Contemplated Transaction from and after the Closing, recovery pursuant to this Article 6 shall constitute the Buyer Indemnified Persons' and Seller Indemnified Persons' sole and exclusive remedy for any and all Damages relating to or arising from this Agreement (or its performance or breach) or the Contemplated Transactions under any theory or cause of action whatsoever, whether framed in tort, contract, violation of law, or otherwise. For the avoidance of doubt, this Section 6.8 shall not apply to the New Supply Agreement.

## 6.9 Other Indemnification Matters .

Any amount paid under this Article 6 will be treated as an adjustment to the Purchase Price unless a final determination that is not subject to further appeal, review, or modification through Proceedings or otherwise or a change in applicable Legal Requirements (including a revenue ruling or other similar pronouncement) causes any such amount not to constitute an adjustment to the Purchase Price for United States federal income Tax purposes.

## ARTICLE 7 . CONFIDENTIALITY

### 7.1 Definition of Confidential Information .

(j) As used in this Article 7, the term “ *Confidential Information* ” includes any and all of the following information of the Parties that has been or may hereafter be disclosed in any form, whether in writing, orally, electronically, or otherwise, or otherwise made available by observation, inspection, or otherwise by either Party (Buyer on the one hand, or Seller on the other hand) or its Representatives (collectively, a “ *Disclosing Party* ”) to the other Party or its Representatives (collectively, a “ *Receiving Party* ”):

(i) all information that is a trade secret under applicable trade secret or other law, including the Acquired Formulas;

(ii) the Manufacturing Techniques (to the extent they are disclosed); any such disclosure shall not, however, create an implied license;

(iii) all information concerning product specifications, data, know-how, formulae, recipes, compositions, processes, designs, sketches, photographs, graphs, drawings, samples, inventions, and ideas, past, current and planned research and development, current and planned manufacturing or distribution methods and processes, customer lists, current and anticipated customer requirements, price lists, market studies, business plans, computer hardware, computer software and database technologies, systems, structures, and architectures;

(iv) all information concerning the business and affairs of the Disclosing Party (which includes historical and current financial statements, financial projections and budgets, Tax Returns and accountants’ materials, historical, current and projected sales, capital spending budgets and plans, business plans, strategic plans, marketing and advertising plans, publications, client and customer lists and files, contracts, the names and backgrounds of key personnel and personnel training techniques and materials, however documented), and all information obtained from review of the Disclosing Party’s documents or property or discussions with the Disclosing Party regardless of the form of the communication; and

(v) all notes, analyses, compilations, studies, summaries and other material prepared by the Receiving Party to the extent containing or based, in whole or in part, upon any information included in the foregoing.

(k) Trade secrets of a Disclosing Party shall also be entitled to all of the protections and benefits under applicable trade secret law and any other applicable law. If any information that a Disclosing Party deems to be a trade secret is found by a court of competent jurisdiction not to be a trade

secret for purposes of this Article 7, such information shall still be considered Confidential Information of that Disclosing Party for purposes of this Article 7 to the extent included within the definition. In the case of trade secrets, each of Buyer and Seller hereby waives any requirement that the other party submits proof of the economic value of any trade secret or post a bond or other security.

#### 7.1 Restricted Use of Confidential Information .

(l) Each Receiving Party acknowledges the confidential and proprietary nature of the Confidential Information of the Disclosing Party and agrees that such Confidential Information (i) shall be kept confidential by the Receiving Party; (ii) shall not be used for any reason or purpose other than to evaluate and consummate the Contemplated Transactions; and (iii) without limiting the foregoing, shall not be disclosed by the Receiving Party to any Person, except in each case as otherwise expressly permitted by the terms of this Agreement, the New Supply Agreement, or any subsequent agreement between the Parties or with the prior written consent of an authorized representative of Seller with respect to Confidential Information of Seller (each, a “**Seller Contact**”) or an authorized representative of Buyer with respect to Confidential Information of Buyer (each, a “**Buyer Contact**”). Each of Buyer and Seller may disclose the Confidential Information of the other Party to its Representatives who require such material for the purpose of evaluating the Contemplated Transactions and are informed by Buyer or Seller, as the case may be, of the obligations of this Article 7 with respect to such information. Each of Buyer and Seller shall (A) enforce the terms of this Article 7 as to its respective Representatives; (B) take such action to the extent necessary to cause its Representatives to comply with the terms and conditions of this Article 7; and (C) be responsible and liable for any breach of the provisions of this Article 7 by it or its Representatives.

(m) From and after the Closing, the confidentiality provisions of the New Supply Agreement shall, to the extent in conflict with the provisions of this Article 7, govern the obligations of Seller regarding confidentiality of the Acquired Formulas and the obligations of Buyer regarding confidentiality of the Manufacturing Techniques.

(n) From and after the Closing, the provisions of Section 7.2(a) above shall not apply to or restrict in any manner Buyer’s use of the Acquired Assets.

#### 7.2 Exceptions .

Sections 7.2(a) and (b) do not apply to that part of the Confidential Information of a Disclosing Party that a Receiving Party demonstrates (a) was, is or becomes generally available to the public other than as a result of a breach of this Article 7 by the Receiving Party or its Representatives; (b) was or is developed by the Receiving Party independently of and without reference to any Confidential Information of the Disclosing Party; or (c) was, is or becomes available to the Receiving Party on a nonconfidential basis from a Third Party not bound by a confidentiality agreement or any legal, fiduciary or other obligation restricting disclosure. Seller shall not disclose any Acquired Formulas in reliance on the exceptions in clauses (b) or (c) above.

#### 7.3 Legal Proceedings .

If a Receiving Party becomes compelled in any Proceeding or is requested by a Governmental Body having regulatory jurisdiction over the Contemplated Transactions to make any disclosure that is prohibited or otherwise constrained by this Article 7, that Receiving Party shall provide the Disclosing Party with prompt notice of such compulsion or request so that it may seek an appropriate protective order or other appropriate remedy or waive compliance with the provisions of this Article 7. In the

absence of a protective order or other remedy that protects the Receiving Party from complying with such compulsion or governmental request, the Receiving Party may disclose that portion (and only that portion) of the Confidential Information of the Disclosing Party that, based upon advice of the Receiving Party's counsel, the Receiving Party is legally compelled to disclose or that has been requested by such Governmental Body, provided, however, that the Receiving Party shall use reasonable efforts to obtain reliable assurance that confidential treatment will be accorded by any Person to whom any Confidential Information is so disclosed. The provisions of this Section 7.4 do not apply to any Proceedings between the parties to this Agreement.

#### 7.4 Attorney-Client Privilege.

The Disclosing Party is not waiving, and will not be deemed to have waived or diminished, any of its attorney work product protections, attorney-client privileges or similar protections and privileges as a result of disclosing its Confidential Information (including Confidential Information related to pending or threatened litigation) to the Receiving Party, regardless of whether the Disclosing Party has asserted, or is or may be entitled to assert, such privileges and protections. The Parties (a) share a common legal and commercial interest in all of the Disclosing Party's Confidential Information that is subject to such privileges and protections; (b) are or may become joint defendants in Proceedings to which the Disclosing Party's Confidential Information covered by such protections and privileges relates; (c) intend that such privileges and protections remain intact should either Party become subject to any actual or threatened Proceeding to which the Disclosing Party's Confidential Information covered by such protections and privileges relates; and (d) intend that after the Closing the Party to whom the Confidential Information then belongs shall have the right to assert such protections and privileges. No Receiving Party shall admit, claim or contend, in Proceedings involving either Party or otherwise, that any Disclosing Party waived any of its attorney work-product protections, attorney-client privileges or similar protections and privileges with respect to any information, documents or other material not disclosed to a Receiving Party due to the Disclosing Party disclosing its Confidential Information (including Confidential Information related to pending or threatened litigation) to the Receiving Party.

#### 7.5 Time Period.

The provisions of this Article 7 shall remain in effect (i) during the entire term of the New Supply Agreement, and (ii) thereafter for a period of fifty years, and (iii) thereafter, with respect to trade secrets, for the longer of as long as the information in question remains a trade secret, and with respect to other confidential information, for as long as the information in question remains confidential, and (iv) in any event, for the longest period permitted by applicable Legal Requirements.

### **ARTICLE 8 GENERAL PROVISIONS**

#### 8.1 Expenses.

Except as otherwise provided in this Agreement, each Party will bear its respective fees and expenses incurred in connection with the preparation, negotiation, execution, and performance of this Agreement and the Contemplated Transactions, including all fees and expenses of its Representatives.

#### 8.2 Public Announcements.

Any public announcement, press release, or similar publicity with respect to this Agreement or the Contemplated Transactions will be issued, if at all, at such time and in such manner as Buyer and

Seller agree; provided, however, that Buyer may make such public disclosures as are required of it, in its good faith judgment, by the federal securities laws.



### 8.3 Notices.

All notices, Consents, waivers, and other communications required or permitted by this Agreement shall be in writing and shall be deemed given to a Party when (a) delivered to the appropriate address by hand or by nationally recognized overnight courier service (costs prepaid); (b) sent by facsimile or e-mail with confirmation of transmission by the transmitting equipment; or (c) received or rejected by the addressee, if sent by certified mail, return receipt requested, in each case to the following addresses, facsimile numbers, or e-mail addresses and marked to the attention of the person (by name or title) designated below (or to such other address, facsimile number, e-mail address or person as a Party may designate by notice to the other Parties):

If to Seller:

Diversified Foods and Seasonings, L.L.C.  
1001 Harimaw Ct. South  
Metairie, Louisiana 70001

Attn: Bryan M. White  
Telephone: (504) 830-1000  
Fax: (504) 620-3769  
Email: [bwhite@alcopeland.com](mailto:bwhite@alcopeland.com)

with a required copy (which copy shall not constitute notice hereunder) to:

Stone Pigman Walther Wittmann L.L.C.  
546 Carondelet St.  
New Orleans, Louisiana 70130

Attn: Michael D. Landry  
Telephone: (504) 581-3200  
Fax: (504) 581-3361  
Email: [mlandry@stonepigman.com](mailto:mlandry@stonepigman.com)

If to the Buyer:

Popeyes Louisiana Kitchen, Inc.  
400 Perimeter Center Terrace, Suite 1000  
Atlanta, Georgia 30346

Attn: Harold ("Sonny") M. Cohen  
Telephone: (404) 459-4650  
Fax: (404) 459-4649  
Email: [sonny.cohen@popeyes.com](mailto:sonny.cohen@popeyes.com)

with a required copy (which copy shall not constitute notice hereunder) to:

Duane Morris LLP  
1075 Peachtree Street NE, Suite 2000  
Atlanta, GA 30309-3929

Attn: L. Norwood (“Woody”) Jameson  
Telephone: (404) 253-6915  
Fax: (404) 420-2623  
Email: [WJameson@duanemorris.com](mailto:WJameson@duanemorris.com)

and

Duane Morris LLP  
111 S. Calvert Street, Suite 2000  
Baltimore, Maryland 21202

Attn: Jay G. Cohen  
Telephone: (410) 949-2911  
Fax: (410) 949-2950  
Email: [JGCohen@duanemorris.com](mailto:JGCohen@duanemorris.com)

#### 8.4 Venue; Service of Process.

Any Proceeding arising out of or relating to this Agreement or any Contemplated Transaction must be brought in the courts of the State of Louisiana, Parish of St. Tammany, or, if it can acquire jurisdiction, in the United States District Court for the Eastern District of Louisiana, and each of the Parties irrevocably submits to the exclusive jurisdiction of such court in any such Proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the Proceeding shall be heard and determined only in such court and agrees not to bring any Proceeding arising out of or relating to this Agreement or any Contemplated Transaction in any other court. The Parties agree that either or both of them may file a copy of this paragraph with such court as written evidence of the knowing, voluntary, and bargained agreement between the Parties irrevocably to waive any objections to venue or to convenience of forum. Process in any Proceeding referred to in the first sentence of this section may be served on any Party anywhere in the world.

#### 8.5 Enforcement of Agreement.

Each Party acknowledges and agrees that the other Party would be irreparably damaged if any of the provisions of this Agreement are not performed in accordance with their specific terms and that any breach of this Agreement by either Party could not be adequately compensated in all cases by monetary damages alone. Accordingly, in addition to any other right or remedy to which a Party may be entitled, at law, or in equity, it shall be entitled to enforce any provision of this Agreement by a decree of specific performance and to temporary, preliminary, and permanent injunctive relief to prevent breaches or threatened breaches of any of the provisions of this Agreement, without posting any bond or other undertaking.

#### 8.6 Waiver; Remedies Cumulative.

The rights and remedies of the Parties to this Agreement are cumulative and not alternative. Neither any failure nor any delay by any Party in exercising any right, power, or privilege under this Agreement will operate as a waiver of such right, power, or privilege, and no single or partial exercise of any such right, power, or privilege will preclude any other or further exercise of such right, power, or privilege or the exercise of any other right, power, or privilege. To the maximum extent permitted by applicable law, (a) no claim or right arising out of this Agreement can be discharged by one Party, in whole or in part, by a waiver or renunciation of the claim or right unless in writing signed by the other Party; (b) no waiver that may be given by a Party will be applicable except in the specific instance for which it is given; and (c) no notice to or demand on one Party will be deemed to be a waiver of any obligation of that Party or of the right of the Party giving such notice or demand to take further action without notice or demand as provided in this Agreement. The provisions of this Section 8.6 are subject to the provisions of Article 6 and Section 8.13.

#### 8.7 Entire Agreement and Modification.

This Agreement, including the Recitals hereto, which are incorporated herein by reference and made a part of this Agreement, supersedes all prior agreements, whether written or oral, between the Parties with respect to its subject matter (including any letter of intent and any confidentiality agreement between the Parties with respect to the Sale) and constitutes (along with the Disclosure Letter and Exhibits) a complete and exclusive statement of the terms of the agreement between the Parties with respect to its subject matter. The subject matter of this Agreement for purposes of this Section 8.7 does not include the supply relationship between the Parties, which is the subject of the New Supply Agreement. This Agreement may not be amended, supplemented, or otherwise modified except by a written agreement executed by the Party to be charged with the amendment.

#### 8.8 Disclosure Letter.

(c) The information in the Disclosure Letter constitutes (i) exceptions to particular representations, warranties, covenants, and obligations of Seller as set forth in this Agreement, or (ii) descriptions or lists of assets and liabilities and other items referred to in this Agreement. If there is any inconsistency between the statements in this Agreement and those in the Disclosure Letter (other than an exception expressly set forth as such in the Disclosure Letter), the statements in this Agreement will control.

(d) The statements in the Disclosure Letter relate only to the provisions in the Section of this Agreement to which they expressly relate and to any other provision in this Agreement to which the relevance is reasonably apparent.

#### 8.9 Assignments; Successors and No Third Party Rights.

No Party may assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of the other Party, except that Buyer may assign any of its rights and delegate any of its obligations under this Agreement to any Subsidiary or affiliate of Buyer and may collaterally assign its rights hereunder to any financial institution providing financing in connection with the Contemplated Transactions (but no assignment or delegation shall release Buyer). Subject to the

preceding sentence, this Agreement will apply to, be binding in all respects upon, and inure to the benefit of the successors and permitted assigns of the Parties. Nothing expressed or referred to in this Agreement will be construed to give any Person other than the Parties to this Agreement any legal or equitable right, remedy, or claim under or with respect to this Agreement or any provision of this Agreement, except such rights as shall inure to a successor or permitted assignee pursuant to this Section 8.9.

8.10 Severability.

If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

8.11 Construction.

The headings of Articles and Sections in this Agreement are provided for convenience only and will not affect its construction or interpretation. All references to “Articles,” “Sections” and “Parts” refer to the corresponding Articles, Sections, and Parts of this Agreement and the Disclosure Letter.

8.12 Time of the Essence.

With regard to all dates and time periods set forth or referred to in this Agreement, time is of the essence.

8.13 Governing Law.

This Agreement will be governed by and construed under the laws of the State of Louisiana without regard to conflicts of laws principles that would require the application of any other law.

8.14 Counterparts.

This Agreement may be executed in counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages by facsimile transmission, electronic mail (including pdf), or other transmission method shall constitute effective execution and delivery of this Agreement as to the Parties and may be used in lieu of the original Agreement for all purposes.

[signature page follows]

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

**POPEYES LOUISIANA KITCHEN, INC.**

By: /s/ Cheryl A. Bachelder

Name: Cheryl A. Bachelder

Title: Chief Executive Officer

**DIVERSIFIED FOODS AND SEASONINGS, L.L.C.**

By: Alvin C. Copeland, Jr.

Name: Alvin C. Copeland, Jr.

Title: Manager

**EXHIBIT A****THE PRODUCTS**

<b>ITEM</b>	<b>ITEM #</b>	<b>PACK SIZE</b>
Red Beans	001-100	9/5# bags per case
Jambalaya	3F0349	9/5# bags per case
Macaroni & Cheese	1F0160	16/3# bags per case
Enhanced Cajun Meat	1F0113	20/2.308# bags per case
Cajun Gravy	1F0112	9/5# bags per case
All Purpose Breeding	3D0099	50# bag
Catfish Production Batter	3D0333	40# per bag
Multi-Purpose Batter	3D2004	10/4.5# bags per case
Zero Trans Biscuit SSL-25%M	1D2009	49.2# per bag
Onion Ring Batter	1955	12/1.32# bags per case
Onion Ring Batter	3D3068	50# per bag
Poultry Batter	SC600	10/4.64# bags per case
Shoestring Batter Totes	1D2000	2000# per tote
Shoestring Fry Batter	1D2010	2000# per tote
Butterfly Shrimp Breeding	601	50# per bag
Butterfly Shrimp Breeding	3D0086	50# per bag
Popcorn Shrimp Breeding	3D0303	50# per bag
Butterfly Shrimp Seasoning	602-R	75/1.13 oz. bags per case
Butterfly Shrimp Seasoning	1S0588	25# per bag
La. Mild Seasoning	1S0514	50# per bag
Mild #3 Seasoning	1S0626	100/211.84 gr. bags per case
Red Rice Seasoning	1S0620	60/1.76 oz. bags per case
Spicy #2 Seasoning	1S0629	70/181.44 gr. bags per case
Riverbend Breader	3D3529	50# per bag
Riverbend Nugget Marinade	3S0671	25# per bag
Spicy Filet Seasoning	1S0591	50# per bag
Frozen Butterfly Shrimp Batter	3D1213	50# per bag
Crawfish Seasoning	1S0240	48/20.5 gr. bags per case
Biscuit Base #9	SC098	10/5.25# bags per case
All Purpose Batter	3D3188	50# per bag

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**EXHIBIT B**

**FORM OF CONFIDENTIALITY AGREEMENT**

**PORTIONS OF THIS AGREEMENT MARKED BY “\*\*\*\*” HAVE BEEN  
OMITTED PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT  
FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION**

**SUPPLY AGREEMENT**

This Supply Agreement (“Agreement”) dated as of the 13th day of June, 2014, is by and between POPEYES LOUISIANA KITCHEN, INC. (“PLK”), formerly known as AFC Enterprises Inc., and DIVERSIFIED FOODS AND SEASONINGS, L.L.C. (“Diversified,” and together with PLK, the “Parties”), which is the successor by conversion of Diversified Foods and Seasonings, Inc.

**WHEREAS** , Diversified has substantial experience in the production and/or supply of certain commercial seasonings, spices, custom-formulated cooked products, batters, breaders, biscuit micro-blends, and other products and supplies; and

**WHEREAS** , PLK is the franchisor of the Popeyes®, Popeyes® Chicken & Biscuits and Popeyes® Louisiana Kitchen quick service restaurant system and as of the Effective Date operates, and licenses others to operate, Popeyes restaurants around the world; and

**WHEREAS** , Diversified has acted as a supplier for certain products used in Popeyes restaurants; and

**WHEREAS** , PLK and Diversified, and their respective predecessors, have been parties to various agreements and amendments thereto dealing with Diversified’s supply of products; and

**WHEREAS** , contemporaneously with the execution of this Agreement, PLK and Diversified are entering into an agreement providing for the transfer of ownership of the Popeyes Formulas (as defined herein) from Diversified to PLK (“Transfer Agreement”), and as a result, it is necessary to replace the Royalty and Supply Agreement dated as of July 15, 2010 between AFC Enterprises, Inc. and Diversified Food and Seasonings, Inc. (the “2010 Royalty and Supply Agreement”); and

**WHEREAS** , as a condition of and in partial consideration for the Transfer Agreement, PLK and Diversified are replacing the 2010 Royalty and Supply Agreement with this Agreement to eliminate the royalty provisions and to modify the supply provisions to take into account the transfer of ownership of the Popeyes Formulas and to otherwise provide structure to improve the overall business relationship and transparency of operations; and

**NOW , THEREFORE** , in consideration of the premises and representations, warranties, covenants, and agreements contained herein, the Parties, intending to be legally bound, agree as follows:

**1. DEFINITIONS**

1.1 “Calendar year” or “calendar year” means the one-year period from and including any January 1 to and including the following December 31.

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1.2 "Copeland Family Restaurants" means any fine, family-style, and/or casual dining restaurants that are owned, operated, or franchised now or in the future by a person or entity under common control with Diversified, such as Copeland's® and Cheesecake Bistro®, but shall specifically exclude any quick service restaurants that are owned, operated or franchised now or in the future by the Copeland family and/or Diversified.

1.3 "Copeland Family Restaurants Formulas" means the formulas or recipes for each of the food products that are sold in the Copeland Family Restaurants as of the date of this Agreement except for the formula or recipe for Cajun gravy sold in the Copeland Family Restaurants as of the date of this Agreement, which is a Popeyes Formula (hereinafter, the "Cajun Gravy").

1.4 "Core Product" or "Core Products" means the products identified in Schedule A attached hereto, including any modifications thereto, as may be amended in accordance with the terms of this Agreement, including Section 13(C) (ii) and Section 25.

1.5 "CPI Index" means the Consumer Price Index for All Urban Consumers (CPI-U) (All Items) published by the Bureau of Labor Statistics of the United States Department of Labor, or, if such index is revised or discontinued, its most nearly comparable successor.

1.6 "Distributor" means a person or entity that has a contract with PLK, or with a purchasing cooperative affiliated with PLK (such as Supply Management Services, Inc.), to distribute products to PLK or the Franchisees or the Sales Outlets.

1.7 "Diversified" means Diversified Foods and Seasonings, L.L.C., a Louisiana limited liability company with a principal place of business, as of the Effective Date, located at 1115 North Causeway Boulevard, Suite 200, Mandeville, Louisiana 70471, and its successors.

1.8 "Diversified Confidential Information" means secret, confidential or proprietary information of Diversified, including without limitation, (i) the Diversified Formulas, (ii) proprietary plant layout and other trade secrets of Diversified; (iii) food preparation processes, procedures, methods, and manufacturing techniques developed by Diversified, and (iv) all information regarding Diversified's costs, prices, revenues, margins, profits, and other financial information. The term "Diversified Confidential Information" does not include information that has become generally, readily, and freely available to the public by the act of a person or entity (other than by PLK or any affiliate or representative of PLK or any person or entity acting in concert with or with the assistance or encouragement of PLK) that has the right to disclose such information without violating any right of Diversified. The term "Diversified Confidential Information" does not include information which was known to PLK prior to its disclosure by Diversified, or that is independently developed by PLK, in each case without using the Diversified Confidential Information and without any use of Prohibited Analysis on any of the Diversified products derived from the Diversified Formulas.

1.9 "Diversified Formulas" means (i) the Copeland Family Restaurants Formulas; and (ii) any other formulas or recipes other than the Copeland Family Restaurants Formulas that

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have been or are developed by Diversified, in each case excluding the Popeyes Formulas transferred from Diversified to PLK under the terms of the Transfer Agreement.

1.10 "Diversified Markings" means trademarks, trade names, logos or other identifying markings owned by Diversified.

1.11 "Domestic Market" or "Domestic Markets" means the forty eight continental states in the United States of America (excluding Alaska and Hawaii) and the District of Columbia, including all military bases located therein.

1.12 "Effective Date" means June 16, 2014.

1.13 "Franchisee" or "Franchisees" means persons or entities who have a franchise, license, or other agreement with PLK for the purpose of operating a Popeyes Restaurant.

1.14 "Including" or "including" means including but not limited to.

1.15 "International Market" or "International Markets" means any and all countries or markets (including Alaska and Hawaii) in which PLK or any Franchisee operates a Popeyes Restaurant, or in which there is a Sales Outlet, other than in the Domestic Markets.

1.16 "Limited Time Offering" or "LTO" means a product offered in a maximum of two national advertising or promotional campaigns per year, with each campaign lasting no longer than thirty (30) calendar days. A product is an LTO only for as long as it meets the foregoing conditions.

1.17 "Markings" means trademarks, trade names, logos or other identifying markings.

1.18 "Other Product" or "Other Products" means any product sold or to be sold in Popeyes Restaurants that is not a Core Product.

1.19 "Overall Percentage Profit Margin" means the overall weighted-average percentage profit margin realized by Diversified on all products sold by it to PLK and its Franchisees (which equals the total revenue received by Diversified from sales of such products, less Diversified's total cost of manufacturing, processing, distributing, and selling such products, including, without limitation, the costs of raw ingredients, inbound freight, handling, storage, packaging, direct labor, manufacturing overhead, and general overhead, and then divided by the total revenue received by Diversified from sales of such products).

1.20 "PLK" means Popeyes Louisiana Kitchen, Inc., a Minnesota corporation formerly named AFC Enterprises, Inc., and its successors.

1.21 "PLK Confidential Information" means secret, confidential or proprietary information of PLK, including without limitation, (i) the Popeyes Formulas and PLK Formulas; (ii) other trade secrets of PLK; (iii) food preparation processes, procedures, methods and

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manufacturing techniques developed by PLK; (iv) marketing plans; (v) test products; (vi) strategic plans; (vii) pricing plans and structures; and (viii) lists of Franchisees and lists of products and supplies approved by PLK. The term "PLK Confidential Information" does not include information that has become generally, readily, and freely available to the public by the act of a person or entity (other than by Diversified or any affiliate or representative of Diversified or any person or entity acting in concert with or with the assistance or encouragement of Diversified) that has the right to disclose such information without violating any right of PLK (such as, for example, the filing of information by PLK with the Securities and Exchange Commission on EDGAR). The term "PLK Confidential Information" does not include information which was known to Diversified prior to its disclosure by PLK (except for the Popeyes Formulas that have been transferred from Diversified to PLK under the terms of the Transfer Agreement), or that is independently developed by Diversified, in each case without using the PLK Confidential Information. "PLK Confidential Information" also does not include the Diversified Formulas.

1.22 "PLK Formulas" means any recipes or formulas developed by PLK or a licensor which are used by Diversified for the preparation of any modified Core Products under Section 9 or any Other Products under this Agreement. The term "PLK Formulas" does not include the Popeyes Formulas; however, it does include a modification, improvement or change made to a Popeyes Formula during the Term of this Agreement.

1.23 "PLK Markings" means trademarks, trade names, logos or other identifying markings owned by PLK.

1.24 "Popeyes" means Popeyes®, Popeyes® Chicken & Biscuits, Popeyes® Louisiana Kitchen, a circle containing a capital letter "P", other marks utilized by the Popeyes System, and any other variation or derivative of any of the foregoing, as the same may evolve over time.

1.25 "Popeyes Formula" or "Popeyes Formulas" means the recipes or formulas for which ownership was transferred from Diversified to PLK under the terms of the Transfer Agreement, which are used by Diversified in the preparation of the Core Products under this Agreement that exist as of the Effective Date of the Agreement. Except to the extent that a Popeyes Formula itself expressly sets forth a specific manufacturing process, procedure, method or technique, the Popeyes Formula does not include any manufacturing processes, procedures, methods, or techniques or any specific details thereof.

1.26 "Popeyes Restaurant" or "Popeyes Restaurants" means a restaurant operated in connection with the Popeyes System.

1.27 "Popeyes System" means the entire Popeyes restaurant system that PLK operates and/or licenses or contracts with others to operate now or in the future, as the same may evolve over time.

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1.28 “Prohibited Analysis” shall mean any effort to perform a chemical or other analysis (other than simple use of the five human senses) on any product in order to determine all or part of the composition of the product for purposes of duplication.

1.29 “Sales Outlet” means a sales channel other than a Franchisee.

1.30 “SMS” means Supply Management Services, Inc. (which is the purchasing co-operative of the Popeyes System as of the Effective Date) and any subsequent purchasing agent for the Popeyes System.

1.31 “Total General Overhead Cost” has the meaning set forth for such term on Schedule G.

1.32 “Total Manufacturing Overhead Cost” has the meaning set forth for such term on Schedule F.

1.33 “Unit” means a standard unit of purchase for a particular product.

**2. TERMINATION OF PRIOR AGREEMENT** . PLK and Diversified agree that as of the Effective Date of this Agreement, the 2010 Royalty and Supply Agreement shall be terminated in its entirety, shall have no force or effect whatsoever, and this Agreement shall instead be applicable in lieu thereof.

**3. TERM AND TERMINATION**

**A. Term.** The initial term of this Agreement (“Initial Term”) shall commence on the Effective Date and shall continue through March 20, 2034, unless earlier terminated in accordance with the terms of this Agreement. At the end of the Initial Term, this Agreement shall be renewed in five (5) year increments (each, a “Renewal Term”), provided that PLK and Diversified mutually agree in writing on such renewal terms, which the Parties shall negotiate in good faith. The “Term” means the Initial Term and any Renewal Term(s).

This is an exclusive requirements contract. So long as this Agreement remains in effect, PLK agrees (i) that, except as permitted in Section 10(C), it will utilize Diversified as the exclusive supplier of all of PLK’s requirements of the Core Products in the Domestic Markets, and (ii) that PLK will require the Franchisees and, except as permitted in Section 10(C), Sales Outlets to utilize Diversified as their exclusive supplier of all of their requirements of the Core Products in the Domestic Markets. It is acknowledged and agreed that the supply of products by Diversified to PLK and the Franchisees and Sales Outlets is now and may be made either directly or indirectly through Distributors or agents.

**B. Breach.** Subject to Section 29, in the event that (i) either Party materially breaches this Agreement, and (ii) such material breach shall remain substantially un-remedied for a period of thirty (30) calendar days after written notice of such breach from the other Party, specifying in reasonable detail the nature and scope of the material breach, then the other Party may terminate

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this Agreement by giving 30 days advance written notice to the breaching Party; provided, however, that if such matter is not reasonably susceptible of cure within such thirty (30) day period, then the thirty (30) day period shall be extended for a commercially reasonable period (not to exceed one year in the aggregate) so long as the Party in breach (1) promptly notices the other Party in writing of the expected period of time required to cure the default together with reasonable detail to support the position that it cannot cure the default within the thirty (30) day period; (2) commences curative action within the thirty (30) day period or as soon as commercially reasonable if it cannot reasonably be commenced within the thirty (30) day period; and (3) diligently proceeds therewith to completion within a commercially reasonable time.

**C. Effect of Expiration or Termination .**

**(i) Discontinue Use.** Upon the expiration or the termination of this Agreement in accordance with its terms for any reason, and subject to the provisions of Section 3(C)(iii) and Section 5: (a) Diversified shall immediately and for fifty years and permanently thereafter discontinue and refrain from the use of all PLK Markings and all trade secrets of PLK and all PLK Confidential Information, and (b) PLK shall immediately and for fifty years and permanently thereafter discontinue and refrain from the use of all Diversified Markings and all trade secrets of Diversified and all Diversified Confidential Information.

**(ii) Deliver Materials.** Upon the expiration or the termination of this Agreement in accordance with its terms for any reason, and subject to the provisions of Section 3(C)(iii) and Section 5: (a) Diversified shall promptly deliver to PLK, or at PLK's option, destroy, all PLK Markings and any other printed material containing either the PLK Markings, PLK trade secrets and/or PLK Confidential Information, and (b) PLK shall promptly deliver to Diversified, or at Diversified's option, destroy, all Diversified Markings and any other printed material containing any Diversified Markings, Diversified trade secrets and/or Diversified Confidential Information. Notwithstanding the foregoing, each Party may retain any material that it is required to retain by any federal, state, or local law, rule, regulation, or ordinance.

**(iii) Pending Orders and Purchase of Materials and Equipment.** Upon the expiration or the termination of this Agreement in accordance with its terms for any reason: (a) Diversified shall fulfill (and be paid for) all product orders that were made under this Agreement prior to the expiration of this Agreement or the effective date of any termination of this Agreement; and (b) PLK shall purchase or cause to be purchased, within ten (10) business days of such expiration or of the effective date of such termination, (1) all of Diversified's remaining inventory of produced Core Products (but not exceeding thirty (30) days' worth), at the price then in effect under this Agreement, and (2) all raw ingredients and proprietary packaging materials held (or purchased and in-transit, or already committed to be purchased) by Diversified for manufacture, processing, or sale of Core Products, at Diversified's actual cost for such raw ingredients and proprietary packaging materials (but not exceeding three (3) months' worth). Diversified agrees that it will make reasonable good faith efforts to mitigate or minimize any excess of the foregoing items to be purchased by PLK. Each item of inventory, raw ingredients, and proprietary packaging materials so purchased shall be delivered F.O.B. the Diversified facility at which the item is located (and PLK shall arrange for transportation for such items). The parties

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shall use commercially reasonable efforts to cooperate with each other and with any supplier designated by PLK in the transfer of the expired or terminated services in order to facilitate the seamless transfer of the terminated supply.

**D. Survival.** The following provisions shall survive the expiration or termination of the Agreement: 1 (to the extent that any defined term therein applies to another surviving provision of the Agreement), 3(A)(first paragraph), 3 (C), 3(D), 5, 9(A), 13 and 14 (to the extent that any amounts owed thereunder have not yet been paid by PLK or applied by Diversified), 15, 16, 17, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, and 33.

**4. LICENSE AGREEMENT.** Subject to the terms and conditions of this Agreement, PLK hereby grants to Diversified (hereinafter, each of the following shall be referred to as a “License”):

(i) an exclusive (except as to PLK), non-transferable and non-assignable (except where the Agreement itself may be transferred or assigned under Section 26), royalty-free right and license, for the Term of this Agreement, to use the Popeyes Formulas and PLK Formulas (including the right to see and know the contents of the Popeyes Formulas or any PLK Formulas for the Core Products involved) in connection with the manufacture and processing of Core Products for sale and distribution to, and with the sale and distribution of Core Products to, PLK and its Franchisees and Distributors and, except as otherwise contemplated in Section 10(C), its Sales Outlets, in the Domestic Markets;

(ii) a non-exclusive, non-transferable and non-assignable (except where the Agreement itself may be transferred or assigned under Section 26), royalty-free right and license, for the Term of this Agreement, to use the Popeyes Formulas and PLK Formulas (including the right to see and know the contents of the Popeyes Formulas or any PLK Formulas for the Core Products involved) in connection with the manufacture and processing of Core Products for sale and distribution to, and with the sale and distribution of Core Products to, PLK and its Franchisees and Distributors and Sales Outlets in International Markets in solely those instances as is contemplated under Section 6 of the Agreement; and

(iii) a non-exclusive, non-transferable and non-assignable (except where the Agreement itself may be transferred or assigned under Section 26), royalty-free right and license, for the Term of this Agreement, to use PLK Formulas (including the right to see and know the contents of the PLK Formulas for the Other Products involved) in connection with the manufacture and processing of Other Products for sale and distribution to, and with the sale and distribution of Other Products to, PLK and its Franchisees and Distributors and Sales Outlets in the Domestic Markets and the International Markets in solely those instances that are contemplated under Section 6 and/or Section 10(A) of the Agreement.

Diversified hereby agrees not to sublicense to any third party the right to use any Popeyes Formula or any PLK Formula without the express written consent of PLK, such consent to be in PLK’s sole discretion, except that Diversified may sublicense during the Term the right to use the Popeyes Formula or any PLK Formula for the purpose of enabling a third party to manufacture



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or process Core Products or Other Products (such as rights granted to a co-packer or a further processor) for use in the Popeyes System or in Sales Outlets with the express written consent of PLK, which consent shall not be unreasonably withheld, conditioned, or delayed, so long as Diversified enters into an agreement with such third-party (whether denoted a sublicense, confidentiality, co-packing, co-processing, or other agreement) (hereinafter, for this paragraph, “sublicense agreement”) granting rights to such third-party to use the Popeyes Formulas and the PLK Formulas solely to manufacture or process Core Products or Other Products (such as rights granted to a co-packer or a further processor) for use in the Popeyes System or in Sales Outlets with non-disclosure and non-use terms that are no less protective of the Popeyes Formulas or the PLK Formulas than, and substantially in the same form as, the terms set forth in the Confidentiality Agreement that is attached as Schedule E (it being understood that PLK consents to all of Diversified's existing sublicensees and existing sublicense agreements; however, Diversified agrees that it shall use commercially reasonable efforts to request and persuade each of the existing sublicensees to execute non-disclosure and non-use terms that are no less protective of the Popeyes Formulas or the PLK Formulas than, and substantially in the same form as, the terms that are set forth in the Confidentiality Agreement that is attached as Schedule E within a reasonable period of time after the Effective Date of the Agreement). In addition, Diversified hereby assigns to PLK Diversified's rights under such existing sublicense agreements with respect to the Popeyes Formulas and PLK Formulas and any other PLK Confidential Information, while Diversified retains its rights under such existing sublicense agreements with respect to its confidential manufacturing techniques and any other Diversified Confidential Information. Further, Diversified agrees that it shall be responsible to PLK for any acts of a sublicensee in violation of a sublicense agreement, including any existing sublicense agreement and any newly executed sublicense agreement.

Diversified acknowledges and agrees that, except as permitted in this Section 4 and Section 5 below, PLK retains all right, title and interest in and to the Popeyes Formulas and the PLK Formulas.

In addition, Diversified shall have an obligation for it and any further suppliers or processors to provide any ingredient information or source of ingredients to PLK that PLK requests from Diversified regarding the Popeyes Formulas and/or the PLK Formulas on a continuing basis as requested, including, without limitation, as necessary for compliance with laws, regulations, and judicial orders, and nothing that is set forth in Section 4 or Section 5 shall relieve Diversified of this obligation.

**5. SALES TO OTHERS BY DIVERSIFIED.**

**A. Diversified Representations.** Diversified agrees (x) that it will not sell any Core Product listed on Schedule A, or Other Product, or any product that is so similar in formulation and taste to a Core Product listed on Schedule A or Other Product that the consuming public would likely confuse the two products, to any of its customers other than PLK or its Franchisees or Sales Outlets or Distributors (other than pursuant to an express license from PLK), and (y) that it will not seek or assist or encourage others to replicate Core Products or Other Products or any product that is so similar in formulation and taste to a Core Product listed on Schedule A

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or Other Product that the consuming public would likely confuse the two products or any Popeye’s Formula or PLK Formula for commercial use, except (in each of cases (x) and (y)) as specifically permitted for Copeland Family Restaurants as set forth below in this section. Diversified represents and warrants to PLK that: (i) some of the Copeland Family Restaurants Formulas are similar to the Popeyes Formulas, and (ii) other than the formula or recipe that exists for the Cajun Gravy, none of the formulas and recipes that Diversified is using in the Copeland Family Restaurants as of the Effective Date of this Agreement, including the Copeland Family Restaurants Formulas, is identical to any of the Popeyes Formulas. Diversified agrees that it will not itself use, or permit a third-party to use, Copeland Family Restaurants Formulas that are so similar in formulation and taste to the Popeyes Formulas that the consuming public would likely confuse the two resulting products, outside of their use for and in Copeland Family Restaurants. Subject to the terms of this Agreement, PLK agrees that Diversified may use, and permit Copeland Family Restaurants to use, such similar Copeland Family Restaurants Formulas solely for and in Copeland Family Restaurants.

**B. Cajun Gravy License Granted by PLK to Diversified.** Notwithstanding the foregoing, subject to the terms and conditions of this Agreement, PLK hereby grants to Diversified a non-exclusive, non-transferable and non-assignable (except where the Agreement itself may be transferred or assigned under Section 26), worldwide, royalty-free, perpetual and non-terminable license to use the Popeyes Formula for Cajun Gravy in connection with the manufacture and processing of a gravy product for Copeland Family Restaurants and with the sale and distribution of products to the Copeland Family Restaurants. Diversified hereby agrees not to sublicense to any third party the right to use such Cajun Gravy formula or recipe without the express written consent of PLK, such consent to be in PLK’s sole discretion, except that Diversified may sublicense the right to use the Cajun Gravy formula or recipe for the purpose of enabling a third party to manufacture or process the Cajun Gravy (such as rights granted to a co-packer or a further processor) for use in the Copeland Family Restaurants with the express written consent of PLK, which consent shall not be unreasonably withheld, conditioned, or delayed, so long as Diversified enters into an agreement with such third-party granting rights to such third-party to use the Cajun Gravy formula or recipe solely to manufacture or process the Cajun Gravy product (such as rights granted to a co-packer or a further processor) (hereinafter, for this paragraph, “sublicense agreement”) for use in the Copeland Family Restaurants with non-disclosure and non-use terms that are no less protective of the Cajun Gravy formula or recipe than, and substantially in the same form as, the terms set forth in the Confidentiality Agreement that is attached as Schedule E (it being understood that PLK consents to all of Diversified’s existing sublicensees and existing sublicense agreements; however, Diversified agrees that it shall use commercially reasonable efforts to request and persuade each of the existing sublicensees to execute non-disclosure and non-use terms that are no less protective of the Popeyes Formulas or the PLK Formulas than, and substantially in the same form as, the terms that are set forth in the Confidentiality Agreement that is attached as Schedule E within a reasonable period of time after the Effective Date of the Agreement). In addition, Diversified hereby assigns to PLK Diversified’s rights under such existing sublicense agreements with respect to the Popeyes Formulas and PLK Formulas and any other PLK Confidential Information, while Diversified retains its rights under such existing sublicense agreements with respect to its confidential manufacturing techniques and any other Diversified Confidential Information.



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Further, Diversified agrees that it shall be responsible to PLK for any acts of a sublicensee in violation of a sublicense agreement, including any existing sublicense agreement and any newly executed sublicense agreement.

**6. SUPPLY IN INTERNATIONAL MARKETS.** PLK and Diversified agree that, after the Effective Date of this Agreement, no obligation is imposed on PLK by this Agreement to purchase, or to cause any of its Franchisees or Distributors or Sales Outlets to purchase, from Diversified, any products for use in any International Markets, and no obligation is imposed on Diversified by this Agreement to sell any products to PLK or any Franchisees or Distributors or Sales Outlets in or for use in any International Markets. PLK and Diversified may or may not enter into one or more other agreements from time to time that govern such purchases and sales and if they do so, Diversified shall have the License rights granted under Section 4(ii) or Section 4(iii), but other than the License rights granted under Section 4(ii) or Section 4(iii) for those instances, such purchases and sales are not governed by this Agreement. For example, with respect to certain International Markets, PLK and Diversified may agree that Diversified will supply Core Products or Other Products to such markets where purchasers within those International Markets wish to purchase U.S. products from Diversified, but other than the License rights granted under Section 4(ii) or Section 4(iii) for those instances, any such separate agreements will not be governed by this Agreement.

Notwithstanding the foregoing, PLK and Diversified agree that, for a period of time commencing on the Effective Date and continuing thereafter until December 31, 2015, certain International Markets constituting United States military bases therein, Canada and the islands of the Caribbean shall be treated as Domestic Markets and shall be subject to all the requirements of this Agreement. After this period, PLK and Diversified may or may not enter into one or more other agreements from time to time that govern purchases and sales for such United States military bases, Canada and the islands of the Caribbean, but other than the License rights granted under Section 4(ii) or Section 4(iii) under those instances, such purchases and sales will not be governed by this Agreement.

In addition, no less than one time per year, PLK and Diversified will meet and discuss PLK's international restaurant system plans and whether there might be opportunities for PLK or its Franchisees in certain International Markets to purchase direct from Diversified.

**7. EXCLUSIVE SUPPLIER OF CORE PRODUCTS USED OR DEVELOPED FOR USE IN DOMESTIC MARKETS.** PLK hereby appoints Diversified, and Diversified hereby accepts such appointment, as the exclusive supplier of PLK and its Franchisees and, except as permitted in Section 10(C), its Sales Outlets, in Domestic Markets of the Core Products. During the Term of this Agreement, Diversified will be identified by PLK to Franchisees and, except as permitted in Section 10(C), Sales Outlets, as the sole and exclusive supplier in Domestic Markets of the Core Products.

During the Term of this Agreement, with respect to Domestic Markets, PLK shall not purchase, manufacture, or otherwise acquire or use, and shall cause its Franchisees and, except as permitted in Section 10(C), its Sales Outlets, not to purchase, manufacture, or otherwise acquire or use,

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any Core Products manufactured or processed by any person or entity other than Diversified. During the Term of this Agreement, PLK shall purchase, and shall require all Franchisees in Domestic Markets and, except as permitted in Section 10(C), all Sales Outlets in Domestic Markets, to purchase, all of PLK's and the Franchisees' and the Sales Outlets' respective requirements of the Core Products for use in Domestic Markets exclusively from Diversified and Diversified agrees to sell such requirements to PLK and the Franchisees and such Sales Outlets. Such purchases and sales may be made directly or indirectly through Distributors or agents.

During the Term of this Agreement, PLK shall not, or permit any Franchisee or Distributor or, except as permitted in Section 10(C), Sales Outlet, to, directly or indirectly, import any Core Product or substitute therefor from any International Market into the Domestic Market, or manufacture have manufactured, or use in any Domestic Market any Core Product or substitute therefor that utilizes a formula developed for use outside of Domestic Markets.

During the Term of this Agreement, PLK shall not, or permit any Franchisee or Distributor or, except as permitted in Section 10(C), Sales Outlet, to, directly or indirectly, export any Core Product or substitute therefor developed for use in a Domestic Market into any International Market, or to have manufactured, except by Diversified, any Core Products in a Domestic Market for sale or use in an International Market.

The Parties intend, and PLK agrees, that PLK and the Franchisees and, except as permitted in Section 10(C), the Sales Outlets, will purchase all of their requirements of the Core Products used or developed for use in Domestic Markets exclusively from Diversified (directly or indirectly) during the Term of this Agreement.

**8. CONTINUITY OF SUPPLY.** PLK and Diversified acknowledge that Diversified currently supplies barbeque sauce (Item No. 8R3306), and cocktail sauce (Item No. 8R3307) (collectively the “Sauces”) to the Popeyes System. For a period of time commencing on the Effective Date and continuing through December 31, 2014, PLK agrees it shall purchase, and shall require all Franchisees in Domestic Markets to purchase, all of PLK's and the Franchisees' respective requirements of the Sauces for use in such Domestic Markets, exclusively from Diversified, and Diversified agrees to sell such requirements to PLK and the Franchisees. After January 1, 2015, neither PLK, the Franchisees, nor the Distributor(s) will have the obligation to purchase the Sauces from Diversified, unless and only to the extent that Diversified's bid for any such products is accepted by PLK in accordance with Section 10(A) of this Agreement. The prices for the Sauces until December 31, 2014 shall be the same as the prices were for the Sauces on July 15, 2010.

**9. NEW PRODUCTS.**

**A. New Formulas and Recipes and Products Developed by PLK.** The Parties acknowledge that PLK continuously develops new formulas and recipes and products. Nothing in this Agreement shall, in any way, preclude or limit PLK's rights to continue its efforts to

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develop new formulas and recipes and products and create and add new products to its Popeyes System menu.

**B. Certain Modified Core Products Developed by PLK That Are Replacements or Substitutes for Core Products in Domestic Markets.** Notwithstanding the foregoing, for the full Term of this Agreement, PLK shall exercise good faith in its changes made to Core Products and its development of any new products and agrees, with respect to Domestic Markets, (i) not to develop or sell or permit the Franchisees or, except as permitted under Section 10(C), Sales Outlets, to sell (unless purchased from Diversified) any product that would reasonably be viewed by a Popeyes' customer as a substitute or replacement product for a Core Product (for example, without limitation, white beans or black beans (or any other beans) would reasonably be viewed as a substitute for red beans , pasta shells (or any other type of pasta) in pepper jack cheese sauce (or any other cheese sauce) would reasonably be viewed as a substitute for macaroni & cheese, flounder batter (or any other fish batter) would reasonably be viewed as a substitute for catfish batter, and Cajun gravy with the beef protein replaced by chicken or soy (or any other protein) would reasonably be viewed as a substitute for Cajun gravy) (any product resulting from a modification in a Core Product ingredient or formulation, or any product that would reasonably be viewed by a Popeyes' customer as a substitute or replacement product for a Core Product, shall be considered to be a “modified Core Product”), and (ii) not to develop or sell or permit the Franchisees or Sales Outlets to sell any new products for the purpose of intentionally depleting the volume of Core Products sold by Diversified to the Popeyes System pursuant to this Agreement. PLK agrees to purchase, and to cause its Franchisees and, except as permitted under Section 10(C), its Sales Outlets, to purchase, any modified Core Products from Diversified in the same manner as it purchases and causes its Franchisees and, except as permitted in Section 10 (C), its Sales Outlets, to purchase Core Products from Diversified as set forth in Section 7 and in accordance with the other terms and conditions of this Agreement.

If the Parties disagree whether a new product developed (after it ceases to be an LTO as described under Section 10(B), if applicable) is or would be a modified Core Product, or an Other Product, the issue shall be settled exclusively by arbitration in the City of New Orleans, Louisiana, before a three-person arbitration panel appointed by The American Arbitration Association (“AAA”) and pursuant to the Commercial Arbitration Rules of the AAA, which rules are hereby incorporated by reference thereto and made a part of this Agreement. The arbitrators shall determine whether the conditions for deeming the new product (after it ceases to be an LTO as described in Section 10(B), if applicable) a modified Core Product or an Other Product have been met, including whether or not the product would reasonably be viewed by a Popeyes' customer as a substitute or replacement product for a Core Product. The arbitration shall be completed within 90 days of its commencement. The arbitration award shall be final and binding on both Parties. The costs of the arbitration shall be borne equally by PLK and Diversified, but each Party shall bear its own attorneys' fees.

**10. OTHER PRODUCTS; LIMITED TIME OFFERINGS; AND CORE PRODUCTS SOLD THROUGH SALES OUTLETS IN DOMESTIC MARKETS.**

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**A. Bidding on Other Products.** PLK and Diversified acknowledge and agree that Popeyes Restaurants offer as of the Effective Date and may continue to offer Other Products for sale to the public in Domestic Markets. Except in the cases described in Section 10(B) below, PLK hereby agrees that, with respect to all new Other Product offerings or re-bids in Domestic Markets of the type that Diversified is capable of producing at the time that the Other Product offering is made available to bid, PLK shall, at the time of such bidding, provide Diversified the opportunity to submit a competitive bid on any such Other Products.

(i) **Bidding Process.** PLK agrees that with respect to any Other Product offerings of the type that Diversified is capable of producing at the time that the Other Product offering is made available to bid (except in the cases described in Section 10(B) below), PLK shall offer Diversified a fair and reasonable opportunity to develop and bid on any such Other Products, on terms and conditions (including the amount of lead time and information) no less favorable than those offered any other bidder. PLK shall provide Diversified with commercially-reasonable information (including the product development brief, including price targets and the desired time schedule), as well as any other significant information provided to any other prospective bidder, to develop and bid on any such Other Products. Diversified has no obligation to submit a bid.

(ii) **Award by PLK.** PLK agrees that it will consider any bid presented by Diversified on Other Products in a commercially reasonable manner and will timely notify Diversified, whether Diversified’s bid is selected for further negotiation of price and terms. PLK’s decision to select, or not select, any Diversified bid for negotiation shall be subject to PLK’s sole discretion. In the event PLK selects Diversified’s bid on any such Other Products, in addition to the License granted to Diversified under Section 4(iii), PLK and Diversified may negotiate the price and other terms of one or more separate agreements for any such Other Products. Neither PLK nor Diversified shall have any obligation to enter into any agreement as a result of Diversified's bid being selected.

**B. Limited Time Offerings.**

(i) **Existing Core Product.** If a product is an existing Core Product on Schedule A at the time that it is offered as an LTO, PLK shall purchase, and cause its Franchisees and, subject to Section 10(C) below, Sales Outlets to purchase such Core Product from Diversified in the same manner as it purchases and causes its Franchisees and, subject to Section 10(C) below, Sales Outlets to purchase Core Products from Diversified as set forth in Section 7 and in accordance with the other terms and conditions of this Agreement. Such a product will remain a Core Product both during and after the periods it is offered as an LTO.

(ii) **Modified Core Product or Other Product.** If a product is not an existing Core Product on Schedule A at the time that it is offered as an LTO (i.e. it is a modified Core Product or an Other Product) and it requires the use of proprietary rights or a qualifying new product innovation, or features the public use of a brand name, in each case of a third-party manufacturer or food product supplier, PLK will not have an obligation to provide Diversified

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the opportunity to supply the LTO, including as described under Section 7, or the opportunity to submit a competitive bid on such LTO, until a period of two (2) years from the date of the initial such LTO has passed. Once such a product has been offered as an LTO, but no longer meets the conditions of an LTO, it is no longer an LTO and will be analyzed under Section 9 or Section 11, as applicable, to determine whether it is a modified Core Product or an Other Product. For a new product innovation to qualify as a "qualifying new product innovation," it must be wholly-initiated by the third-party manufacturer or food product supplier rather than PLK, and not come about as a response to a request for proposals. Moreover, if Diversified wholly-initiates a new product innovation that is offered as an LTO, PLK will not provide any third-parties the opportunity to submit a competitive bid on such LTO until a period of two (2) years from the date of the initial such LTO has passed.

**C. Core Products Sold Through Sales Outlets.** For Core Products sold through Sales Outlets, PLK agrees to purchase and to cause its Sales Outlets to purchase any Core Products in the same manner as PLK purchases and causes its Franchisees to purchase Core Products from Diversified as set forth in 7 and in accordance with the other terms and conditions of this Agreement (including Section 13), except that PLK will not have an obligation to purchase or to cause its Sales Outlets to purchase a Core Product from Diversified for sale through Sales Outlets if (a) the product is produced to be sold in a Sales Outlet and (b) Diversified is unable to produce the product (after being given a commercially reasonable opportunity to develop the product as specified below) (i) in the format under which it is to be sold through the Sales Outlet (such as frozen, refrigerated, or freeze dried), (ii) in a quantity that is required by PLK for the format, or (iii) at a commercially reasonable price point so that the format for the end product can be competitively priced at the Sales Outlet.

With respect to this Section 10(C), when PLK wishes to sell a Core Product to be sold in a Sales Outlet, PLK will notify Diversified of this fact and provide Diversified with information about the format under which it is to be sold through the Sales Outlet (such as frozen, refrigerated, or freeze dried) and the quantity that it believes is required by it to be sold for the format. Upon receipt of this notice, Diversified shall be given a commercially reasonable opportunity to develop such Core Product to be sold through the Sales Outlet, and the Parties shall then negotiate in good faith in order to mutually agree upon a commercially reasonable price to be paid to Diversified for the Core Product so that the format for the end product can be competitively priced at the Sales Outlet. During such negotiations, either Party may present to the other Party industry benchmark supplier pricing for similar products in a similar format as a guide.

The prices to be paid to Diversified under this Section 10(C) are F.O.B. Diversified's designated facility, and the purchases and sales may be made directly or indirectly through Distributors or agents.

If the Parties cannot agree upon a commercially reasonable price to be paid to Diversified for the Core Product, the issue shall be settled exclusively by arbitration in the City of New Orleans, Louisiana, before a three-person arbitration panel appointed by The American Arbitration Association (“AAA”) and pursuant to the Commercial Arbitration Rules of the AAA, which rules are hereby incorporated by reference thereto and made a part of this Agreement.

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The arbitrators shall determine a commercially reasonable price to be paid to Diversified for the product so that the format for the end product can be competitively priced at a Sales Outlet based on industry data. The arbitration shall be completed within 90 days of its commencement. The costs of the arbitration shall be borne equally by PLK and Diversified, but each Party shall bear its own attorneys' fees.

The determination of the arbitration panel itself shall be final and binding on both Parties; however, based on the determination of the arbitration panel, PLK may decide not to pursue the sale of the product in the given format through the Sales Outlet in light of the amount that is determined by the arbitration panel and Diversified may decide not to pursue the supply of the product to PLK in light of the amount that is determined by the arbitration panel. However, if Diversified decides not to pursue the supply of the product to PLK in light of the amount that is determined by the arbitration panel, PLK will not have an obligation to purchase or to cause its Sales Outlets to purchase such Core Product from Diversified in the given format for sale through Sales Outlets.

**11. MODIFICATION OF CORE PRODUCT INGREDIENTS OR FORMULAS AND DEVELOPMENT OF MODIFIED CORE PRODUCTS**

**A. Initial Approval.** PLK acknowledges and agrees that, as of the Effective Date, the Core Products meet or exceed all of PLK's quality standards. If PLK requests a higher standard of quality for any product or requests any change to a product, Diversified will use good faith efforts to attempt to satisfy the request, and PLK acknowledges that any higher costs entailed in meeting the higher quality standard or other change may affect the reasonable price of the product.

**B. Modification of Core Product Ingredients or Formulas and Modified Core Products Suggested by Diversified.** If Diversified suggests to PLK any improvements, modifications, or changes to the ingredients or formulas in the Popeyes Formulas or PLK Formulas in any of the Core Products, and/or proposes a modified Core Product under Section 9(B), Diversified shall notify PLK in writing specifying the improvement, modification or change to the ingredients or formulas or in the modified Core Product and any cost implications related to the improvement, modification or change to the ingredients or formulas or in the modified Core Product. Unless and until PLK, in its sole discretion, approves the improvement, modification or change to the ingredients or formulas in the Popeyes Formulas or PLK Formulas or in the modified Core Product, (a) Diversified shall not sell a Core Product with such improvement, modification or change to the ingredients or formulas or modified Core Product under this Agreement to PLK, any Distributor(s), or the Franchisees or Sales Outlets, and (b) PLK, any Distributor(s), and the Franchisees and, except as permitted under Section 10(C), the Sales Outlets, shall continue to buy the Core Product without the improvement, modification or change to the ingredients or formulas or pre-modified Core Product from Diversified in accordance with Section 7 and the other terms and conditions of this Agreement.

**C. Modification of Core Product Ingredients or Formulas and Modified Core Products Requests by PLK.** The Parties agree that PLK retains the right to make all decisions regarding the Popeyes brand, including the right to make modifications, improvements, or



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changes to the ingredients or formulas in the Popeyes Formulas or PLK Formulas for Core Products, or to develop modified Core Products, or to develop Other Products pursuant to PLK Formulas, for any legitimate business reason, including without limitation, actual or reasonably anticipated changes required by federal laws, state laws, or local laws or regulations, and changes in consumer preferences or industry standards. In the event of a modification, improvement or change to the ingredients or formulas in a Core Product made by PLK, or the development of a modified Core Product by PLK, (a) PLK will notify Diversified of the requested modification, improvement or change to the ingredients or formulas or modified Core Product, and (b) PLK will provide Diversified with the material information, if any, known to PLK regarding how the requested modification, improvement or change to the ingredients or formulas might be accomplished or the requested modified Core Product might be developed (including any work, process or manufacturing techniques related to the requested modification, improvement or change in the ingredients or formulas or modified Core Product, whether developed by PLK or any third party), and (c) Diversified shall use commercially reasonable efforts to cooperate with PLK in executing the change or development. The determination of whether a new product developed (after it ceases to be an LTO as described under Section 10(B), if applicable) is or would be a modified Core Product or Other Product shall occur as set forth in Section 9(B) of the Agreement. The price for the product resulting from any such modification, improvement or change to the ingredients or formulas in a Core Product or for the modified Core Product shall be set in accordance with Section 13(C) of this Agreement.

In the event (i) PLK in good faith requests improvements, modifications or changes to the ingredients or formulas in the Popeyes Formulas or PLK Formulas that are commercially reasonable and that are stated in terms that are reasonably specific and objectively measurable, and (ii) PLK has provided the information specified above, if any, without any exception due to a confidentiality agreement or contractual limitation, and (iii) the request for the modification is deemed to be a change to the Core Product such that the resulting product is a modified Core Product (as defined in Section 9(B)), and (iv) Diversified fails to make the requested improvements, modifications or changes within a commercially fair and reasonable time period, and (v) the requested improvements, modifications or changes are shown to be feasible and capable of being made by Diversified, PLK, or a third party, and (vi) Diversified is unable or unwilling to then produce and sell the modified Core Product at the price determined in accordance with Section 13(C) of this Agreement, then the modified Core Product shall be deemed an Other Product, i.e., not a Core Product.

In the event of a modification, improvement or change to the Popeyes Formulas or the PLK Formulas made by Diversified or any of its suppliers, Diversified will notify PLK in writing of the same, and Diversified agrees that it will assign, and hereby does assign, to PLK all right, title and interest in and to the same, including any proprietary rights and intellectual property rights therein.

The Parties acknowledge that the time period provided for the change may vary depending on whether an immediate or other time restriction is implicated by a change in laws, regulations or interpretations thereof, and the complexity of the requested modifications. If the Parties disagree whether the conditions for deeming a modified or new product an Other Product as

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stated in the preceding paragraph have been met, the issue shall be settled exclusively by arbitration in the City of New Orleans, Louisiana, before a three-person arbitration panel appointed by The American Arbitration Association (“AAA”) and pursuant to the Commercial Arbitration Rules of the AAA, which rules are hereby incorporated by reference thereto and made a part of this Agreement. The arbitrators shall determine whether the conditions for deeming the modified or new product an Other Product have been met. The arbitration shall be completed within 90 days of its commencement. The arbitration award shall be final and binding on both Parties. The costs of the arbitration shall be borne equally by PLK and Diversified, but each party shall bear its own attorneys’ fees.

**D. Time Period for Modifications to Core Product Ingredients or Formulas and Modified Core Product Requests by PLK.** Except for any changes required by federal, state or local laws, regulations, or judicial orders in Domestic Markets, PLK agrees that it will not make any requests for or initiate any improvements, modifications or changes to the ingredients or formulas in the Popeyes Formulas for the Core Products or modified Core Products (as provided in Section 11(C) of this Agreement) before January 1, 2016; provided, however, that Diversified acknowledges that PLK can do its own product testing (and Diversified will reasonably cooperate in such testing) in accordance with the terms of this Agreement before such date and PLK and Diversified acknowledge that governmental regulation regarding sodium levels and partially hydrogenated oils (“PHO”) is possible before such date, and Diversified will use good faith efforts to achieve a reduction in sodium levels and PHO levels, but Diversified cannot warrant the amount of such reduction, if any, at this time.

**E. Approval of Modifications to Core Product Ingredients or Formulas or Modified Core Products.** Before Diversified may sell any product resulting from any modifications to Core Product ingredients or formulas or sell any modified Core Product under this Agreement to PLK, any Distributor(s), or the Franchisees or the Sales Outlets, PLK must approve the modifications to Core Product ingredients or formulas or modified Core Product in writing. Upon such approval, the product resulting from any modification to Core Product ingredients or formulas or the modified Core Product shall be deemed to be one of the Core Products covered under this Agreement.

**F. Quality Assurance Testing.** PLK may conduct testing of the Core Products pursuant to PLK’s quality assurance requirements for products as set forth herein throughout the Term of this Agreement for quality assurance purposes. Diversified shall use commercially reasonable efforts to cooperate in such testing and shall supply such Core Product samples as are reasonably required, free of charge, including shipping costs.

**G. Certain Terminology.** The use in this Agreement of any one of the terms "modifications" or "improvements" or "changes," or any of their derivatives (such as "modified" or "improved" or "changed"), alone without the others is intended in each case to stand for and encompass all three terms, and no distinction is intended by the use of one term without the others.



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**H. Package Size Revision.** A mere revision in package size, or in the number of products per selling Unit, or in an SKU (stock keeping Unit) shall not constitute a modification, improvement, or change to ingredients or formulas of a Core Product, or result in a modified Core Product, but shall result in a corresponding appropriate revision in price per Unit.

**12. ORDERS, SUPPLY, AND DELIVERY.** The Parties agree to use commercially reasonable efforts to work with each other (and with the Distributors, with any purchasing cooperative working with PLK such as SMS, with any processor or food supplier working with PLK such as a chicken or shrimp supplier, with any processor working with Diversified, and with any other person or entity involved in the distribution chain) to handle orders, supply, and delivery of the Core Products through the Distributor(s) to PLK and the Franchisees and Sales Outlets, if applicable, in a commercially reasonable and timely manner. PLK or its designee shall instruct the Franchisees and/or the Distributor(s) and Sales Outlets, if applicable, to place purchase orders with Diversified at least two weeks before the requested date of delivery by Diversified. Diversified will use commercially reasonable efforts to accommodate any purchase orders not placed timely. PLK shall require its Distributors to maintain at least a two-week inventory of all Core Products.

**13. PRICES AND DELIVERY**

**A. Pricing of Core Products.** Diversified's sales price for each Core Product is for F.O.B. the facility designated by Diversified. Once an initial price for a Core Product is established or adjusted, the price of the Core Product shall remain the same unless and until adjusted.

**B. Initial Prices and Initial Profit Margins for Initial Core Products.**

**(i) Prices.** The Core Product prices shall be the prices set forth in Schedule A attached hereto under the heading "Price" (as revised or deemed revised from time to time in accordance with this Agreement).

**(ii) Profit Margins.** The dollar profit margins and the percentage profit margins for the Core Products shall be the dollar profit margins and percentage profit margins set forth in Schedule A attached hereto under the headings "\$ Profit Margin" and "% Profit Margin" (each as filled in and as revised or deemed revised from time to time in accordance with this Agreement). At the time this Agreement is signed, the dollar profit margin column and the percentage profit margin column on Schedule A shall have initial dollar profit margin and percentage profit margin figures using Diversified's adjusted dollar profit margin and adjusted percentage profit margin for each of such products during the 2013 calendar year, as confirmed by Diversified's independent auditor to Diversified. (Adjusted figures are used because of the 3% discount in prices that took effect under the 2010 Royalty and Supply Agreement on January 1, 2014.)

**(iii) Dollar Profit Margin.** The "adjusted dollar profit margin" for each Unit of product during the 2013 calendar year means (a) ninety-seven percent (97%) of the total revenues received from sales of the product during 2013, less (b) the actual cost to Diversified

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of purchasing all raw ingredients (both those listed on Schedule B and those not listed on Schedule B) specified by the formulas used to make the product during 2013 and having such raw ingredients delivered to Diversified during 2013 (including all costs of the nature described in Section 13(E)(i)(a), but using actual 2013 costs and not expected, exchange-referenced, or quoted costs) (all costs under this Section 13(B)(iii)(b) collectively, the "2013 Landed Cost of All Specified Raw Ingredients"); (c) the cost of the raw ingredients spilled, wasted, or otherwise lost in producing the product during 2013 (the "2013 Lost Ingredients Cost"); (d) the actual cost of the packaging materials used in making the product (including the cost of having the materials delivered to Diversified) during 2013, (e) the actual cost of the direct labor used in making the product during 2013, (f) the manufacturing overhead cost allocated (as defined in Section 13(B)(v)) to the product during 2013, and (g) the general overhead cost allocated (as defined in Section 13(B)(vi)) to the product during 2013, and then divided by (h) the number of Units of the product sold during 2013.

**(iv) Lost Ingredients Cost.** The 2013 Lost Ingredients Cost (i.e. the cost of the raw ingredients spilled, wasted, or otherwise lost in producing the product under clause (iii)(c) above) equals (1) the 2013 Landed Cost of All Specified Raw Ingredients, (2) divided by the actual percentage yield for the product for 2013, and then (3) less the 2013 Landed Cost of All Specified Raw Ingredients. (As an example, the percentage yield may be 95% or 0.95). An “improvement in yield efficiency” shall mean an increase in the percentage yield and a decrease in the lost ingredients cost. Diversified will use good faith efforts to pursue an optimized percentage yield for PLK on an annual basis (considering both the cost of lost ingredients and the cost of improving yield efficiency).

**(v) Manufacturing Overhead Cost Allocated .** The “manufacturing overhead cost allocated” to a product during 2013 means (a) the Total Manufacturing Overhead Cost of the product in 2013 multiplied by (b) the total direct labor costs incurred in producing all Units of the product for PLK and its Franchisees during the period at the plant at which the product was manufactured, and divided by (c) the total direct labor costs incurred in producing all Units of all products for all Diversified customers during 2013 at the same plant at which the product for PLK and its Franchisees was manufactured (in the case of Cajun Gravy, which was the only product manufactured at more than one plant in 2013, the manufacturing overhead cost allocated to Cajun Gravy during 2013 shall equal the manufacturing overhead cost allocated to Cajun Gravy at the Madisonville plant during 2013 plus the manufacturing overhead cost allocated to Cajun Gravy at the Nebraska plant during 2013). Diversified will provide PLK with the "manufacturing overhead cost allocated" on an annual basis during the Term with an explanation in reasonable detail of any material changes that are made to it from the prior year.

**(vi) General Overhead Cost Allocated.** The "general overhead cost allocated" to a product during 2013 means (a) the Total General Overhead Cost of the product in 2013 multiplied by (b) the total weight of all Units of the product produced by Diversified for PLK and its Franchisees during 2013, and divided by (c) the total weight of all Units of all products produced by Diversified during 2013 for all Diversified customers. Diversified will provide PLK with the “general overhead cost allocated” on an annual basis during the Term with

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an explanation in reasonable detail of any material changes that are made to it from the prior year.

**(vii) Percentage Profit Margin.** The "adjusted percentage profit margin" for each product during the 2013 calendar year means (a) the adjusted dollar profit margin for the product during 2013, divided by (b) ninety-seven percent (97%) of the total revenues received from sales of the product during 2013.

**C. Initial Prices for Modified Core Products.**

**(i) Pricing Methodology.** In the event any ingredients or formulations in a Popeyes Formula or PLK Formulas of the Core Products are modified or a modified Core Product is otherwise created pursuant to Section 9 or Section 11 of this Agreement, the initial price of the modified Core Product shall be determined as follows: (i) if the expected cost per Unit of the modified Core Product to Diversified exceeds the cost per Unit of the pre-modified Core Product to Diversified (in each case taking into account all costs of the kinds identified in Section 13(E)(i)), then the initial price of the modified Core Product shall be greater than the existing price of the pre-modified Core Product by the amount of such excess (such that Diversified's dollar profit margin per Unit on the modified Core Product shall equal its dollar profit margin per Unit on the pre-modified Core Product), and (ii) if the expected cost per Unit of the modified Core Product to Diversified is less than the cost per Unit of the pre-modified Core Product to Diversified (in each case taking into account all costs of the kinds identified in Section 13(E)(i)), then the initial price of the modified Core Product shall be less than the existing price of the pre-modified Core Product by [\*\*\*] the amount of such savings (such that Diversified's dollar profit margin per Unit on the modified Core Product shall equal its dollar profit margin per Unit on the pre-modified Core Product plus [\*\*\*] of the decrease in the cost per Unit of the product to Diversified). The initial percentage profit margin of the modified Core Product shall equal the initial dollar profit margin of the modified Core Product divided by the initial price of the modified Core Product. As addressed in Section 11(H) above, reduced package size or a reduction in the number of products per selling Unit is not a modified Core Product; while it shall result in a corresponding appropriate revision in price per Unit, the price reduction is not considered a "savings" under this section.

**(ii) Determination by Parties.** Diversified shall prepare and provide PLK with Diversified's calculation of the initial price of the modified Core Product and the associated dollar profit margin and percentage profit margin, using the methodology set forth in Section 13(C)(i). If the Parties agree on the initial price for the modified Core Product and the associated dollar profit margin and percentage profit margin, the Parties shall revise Schedule A to add the modified Core Product and its initial price and dollar profit margin and percentage profit margin.

**(iii) Determination by Arbitration if Necessary.** If within 30 days of Diversified's submission of its calculation of the initial price for the modified Core Product and the associated dollar profit margin and percentage profit margin, the Parties are unable to agree upon the initial price for the modified Core Product or the associated dollar profit margin or percentage profit margin, the determination of the initial price of the modified Core Product and

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the associated dollar profit margin and percentage profit margin shall be settled exclusively by arbitration in the City of New Orleans, Louisiana, before a three-person arbitration panel appointed by The American Arbitration Association (“AAA”) and pursuant to the Commercial Arbitration Rules of the AAA, which rules are hereby incorporated by reference thereto and made a part of this Agreement. The arbitrators shall determine the initial price for the modified Core Product and the associated dollar profit margin and percentage profit margin, using the methodology set forth above in Section 13(C)(i). The arbitration shall be completed within 90 days of its commencement. The arbitration award shall be final and binding on both Parties. The costs of the arbitration shall be borne equally by PLK and Diversified, but each Party shall bear its own attorneys’ fees. The modified Core Product will not be sold by Diversified or purchased by PLK or its Franchisees or the Sales Outlets until its price is determined; the pre-modified Core Product will continue to be sold at its price determined in accordance with the terms of this Agreement.

**(iv) Unusual Cases.** Notwithstanding the foregoing provisions of this Section 13(C), if either Party determines in good faith that manufacture of the modified Core Product would require substantial capital expenditures or would result in substantial idling of existing machinery or equipment or that the modified Core Product would absorb substantially less of the manufacturing overhead cost or general overhead cost than the pre-modified Core Product (but specifically excluding any such cases resulting from normal growth in volume needs), then instead of following the provisions of Section 13(C)(i)-(iii), (a) the Parties shall negotiate in good faith the initial price of the modified Core Product and the associated dollar profit margin and percentage profit margin, and (b) until the Parties agree on the initial price for the modified Core Product and the associated dollar profit margin and percentage profit margin, Diversified shall not sell and PLK and its Franchisees and the Sales Outlets shall not purchase such product to or from any person or entity; the pre-modified Core Product will continue to be sold at its price determined in accordance with the terms of this Agreement.

**D. Price Adjustments for Extraordinary Circumstances.** In the event of an “extraordinary change” in Diversified’s costs payable to third parties for essential ingredients, commodities, labor, or overhead that is beyond the reasonable control of Diversified resulting in a benefit to PLK or an additional cost to Diversified, which for purposes of this subsection D shall mean an increase or decrease of more than [\*\*\*] in the cost of a Core Product, Diversified may request that PLK agree to an increase or PLK may request that Diversified agree to a decrease in price for a Core Product so affected, but only for the period of time in which Diversified experiences such extraordinary changes in Diversified’s costs resulting in a benefit to PLK or additional cost to Diversified, and not beyond the next date at which the price is automatically adjusted under Section 13(E). If Diversified or PLK seeks such an increase or decrease in price, as applicable, the Party seeking the increase or decrease shall provide the other Party with commercially reasonable information and reasons justifying the change in price, and its proposed price adjustment. If within 10 days of such Party’s submission of its proposed price adjustment, the Parties are unable to agree upon a reasonable price adjustment for any such affected Core Products, the determination of the price adjustment and the time period for such adjustment for each such Core Product shall be settled exclusively by arbitration in the City of New Orleans, Louisiana, before a three-person arbitration panel appointed by The American Arbitration

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Association (“AAA”) and pursuant to the Commercial Arbitration Rules of the AAA, which rules are hereby incorporated by reference thereto and made a part of this Agreement. The arbitrators shall determine a reasonable price adjustment and a reasonable time period the adjusted price will be in effect for each such Core Product at issue. The arbitration shall be completed within 30 days of its commencement. The arbitration award shall be final and binding on both Parties. The costs of the arbitration shall be borne equally by PLK and Diversified, but each Party shall bear its own attorneys’ fees. During the period that the arbitration is pending, the prices of the Core Products at issue shall remain the same as prior to the arbitration.

**E. Annual Price Adjustments for All Core Products Beginning January 1, 2015.** Beginning on January 1, 2015, and thereafter on each subsequent January 1, with respect to each Core Product then existing, the price shall be adjusted as set forth in this Section 13(E). The Parties agree to review and have reasonable discussions about the manufacturing process for the products to be produced by Diversified hereunder for sale to PLK, the Distributors, or the Franchisees or, subject to Section 10(C), Sales Outlets, at least annually regarding ways to improve efficiency and cost adjustments (whether cost increases or cost savings); however, PLK acknowledges and agrees that Diversified does not need to share any of its proprietary or confidential manufacturing processes and, to the extent that any such review reveals a proprietary or confidential manufacturing process of Diversified, PLK’s obligations with respect to the same shall be subject to Section 16. Any such expected cost savings shall be shared [\*\*\*] between the Parties (the "Shared Cost Savings"), provided, however, that the benefit of any anticipated reduction in commodities prices, ingredients costs (other than pursuant to Section 13(C)), or packaging costs shall not be considered a cost savings for such purposes, but shall accrue [\*\*\*] to PLK; the foregoing [\*\*\*] sharing of the Shared Cost Savings is implemented in the pricing provisions in Section 13(E)(i)(e)(3) below. Several examples of [\*\*\*] sharing of Shared Cost Savings are set forth in Schedule C. The Parties agree, however, that as part of the annual price adjustment in Section 13(E), as set forth in the examples in Schedule C, they shall take into account any Shared Cost Savings applied during any prior year or years that may no longer be applicable. Other possible cost savings as contemplated in Section 13(L) shall also be reviewed and considered at the time of the annual price adjustment.

**(i) Pricing Methodology.** With respect to each Core Product, the price per Unit for the coming calendar year shall equal the sum of the following amounts (each rounded to the nearest penny):

(a) Landed Cost of All Specified Raw Ingredients. [\*\*\*] cost to Diversified of purchasing the raw ingredients specified by the formulas used to make one Unit of the Core Product and having such raw ingredients delivered to Diversified (collectively, the "Landed Cost of All Specified Raw Ingredients"), including:

(1) in the case of each raw ingredient *listed* on Schedule B, [\*\*\*] cost to Diversified of purchasing such raw ingredient specified by the formulas used to make one Unit of the Core Product and having such raw ingredient delivered to Diversified,

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including (A) the market price of the pertinent raw material listed on Schedule B, determined as provided on Schedule B, (i) using the October 15 reference date for [\*\*\*], and (ii) using the September 10 reference date for all other raw materials on Schedule B (recognizing these costs will be adjusted again on January 1 under Section 13(F)), (B) all other costs and amounts that make up the amount expected to be charged by the third-party processor for such raw ingredient (including the cost of transporting the raw materials from the exchange-designated facility, through others where applicable, to the third-party processor and the third-party processor's labor and overhead costs and profit and any other conversion costs), and (C) the cost of having such raw ingredient delivered from the seller of such raw ingredient to Diversified (including any costs related to delivery); and

(2) in the case of each raw ingredient *not listed on Schedule B*, [\*\*\*] cost to Diversified of purchasing such raw ingredient specified by the formulas used to make one Unit of the Core Product and having such raw ingredient delivered to Diversified, including (A) the amount determined by using three quotes for such raw ingredient obtained by Diversified during the month of October immediately preceding the January 1 in question and setting the cost at the lowest of the three quotes unless the Parties otherwise agree, and (B) the cost of having such raw ingredient delivered from the seller of such raw ingredient to Diversified (including any costs related to delivery).

(b) Lost Ingredients Cost. The cost of raw ingredients spilled, wasted, or otherwise lost in producing one Unit of the product during the coming year, which equals (1) the Landed Cost of All Specified Raw Ingredients, (2) divided by the expected percentage yield for the product for the coming year, and then (3) less the Landed Cost of All Specified Raw Ingredients.

(c) Landed Packaging Materials Cost. The packaging materials cost for one Unit of the product (including the cost of having the material delivered to Diversified), which shall be determined by using three quotes obtained by Diversified during the month of October immediately preceding the January 1 in question and setting the cost at the lowest of the three quotes unless the Parties agree otherwise.

(d) Other Costs. [\*\*\*] cost of all other costs relating to the manufacturing, processing, distribution, and sale of one Unit of the product in the coming calendar year (collectively, the "Other Costs"), including (1) the cost of the direct labor used in making one Unit of the



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product during such year, (2) the Total Manufacturing Overhead Cost allocable to one Unit of the product during such year (allocating in proportion to direct labor costs in a manner analogous to Section 13(B)(v)), and (3) the Total General Overhead Cost allocable to one Unit of the product during such year (allocating in proportion to tonnage in a manner analogous to Section 13(B)(vi)).

(e) Dollar Profit Margin. The dollar profit margin for one Unit of the product ("NewDPM"), which shall equal:

(1) if the dollar profit margin specified with respect to such product on Schedule A for the calendar year ending immediately preceding the January 1 in question (the "OldDPM") is *positive* :

[\*\*\*]

(2) if OldDPM is *negative*:

[\*\*\*]

[\*\*\*]

(3) in addition to clause (1) or (2), regardless of which one applies, NewDPM shall be further (A) increased by [\*\*\*] of the amount of any expected Shared Cost Savings with respect to the product (measured per Unit) for the coming year that were not taken into account in the expiring year ("New Shared Cost Savings"), and (B) decreased by [\*\*\*] of the amount of any Shared Cost Savings with respect to the product (measured per Unit) that were taken into account in the expiring year but are not expected to continue in the coming year ("Discontinued Shared Cost Savings"). No special adjustment need be made with respect to Shared Cost Savings that were taken into account in the expiring year and are expected to continue in the coming year ("Continuing Shared Cost Savings"). In 2014, no Shared Cost Savings have been taken into account.

Attached as Schedule C to this Agreement are several examples of calculations of NewDPM under this Section 13(E)(i)(e).

**(ii) Diversified's Provision of Proposed Adjustments and Supporting Information.** By the November 1 preceding the January 1 in question, with respect to each Core Product, using the pricing methodology described in Section 13(E)(i), Diversified shall provide PLK with Diversified's calculation of the new price, new dollar profit margin, and new percentage profit margin for the Core Product as of the coming January 1. A sample calculation for a single product is set forth on Schedule D. Diversified shall also provide PLK with commercially

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reasonable information and reasons justifying Diversified's calculation of the Other Costs, which may include capital expenditures and Unit sales.

**(iii) Determination by Parties.** The Parties agree that, prior to each such January 1, the Parties shall attempt in good faith to agree in advance upon the new price, new dollar profit margin, and new percentage profit margin for each of the Core Products for the coming contract year. The Parties will prepare and jointly initial a new Schedule A for the coming contract year containing the new price of and profit margins for each of the Core Products for which they are in agreement. For each Core Product as to which the Parties are not in agreement on the new price or a profit margin, the Parties will prepare and jointly initial a calculation using the format set forth in Schedule D (or such other format as they may agree), filling in all figures on which they agree and leaving blank all figures as to which they do not agree.

**(iv) Determination by Arbitration if Necessary.** If within 30 days after Diversified's submission of its calculation of the new prices and new margins for the Core Products, the Parties are unable to agree upon the new price or a profit margin for any Core Products for the coming calendar year, the determination of the new price, new dollar profit margin, and new percentage profit margin for each such Core Product for such calendar year shall be settled exclusively by arbitration in the City of New Orleans, Louisiana, before a three-person arbitration panel appointed by The American Arbitration Association (“AAA”) and pursuant to the Commercial Arbitration Rules of the AAA, which rules are hereby incorporated by reference thereto and made a part of this Agreement. The arbitrators, using the pricing methodology set forth in Section 13(E)(i), shall determine the new price for such year and the new dollar profit margin and new percentage profit margin for each Core Product at issue and shall fill in all blanks in Schedule A for such calendar year. If there is any disagreement regarding any Other Costs, the arbitrators shall determine reasonable amounts (and where necessary and applicable, reasonable allocations) for any such disputed costs, in light of all the circumstances. The arbitration shall be completed within 90 days of its commencement. The arbitration award shall be final and binding on both Parties. The costs of the arbitration shall be borne equally by PLK and Diversified, but each Party shall bear its own attorneys’ fees. During the period that the arbitration is pending, the prices of the Core Products at issue shall remain the same as prior to the arbitration.

**F. Periodic Adjustments for Core Products Containing Certain Key Raw Materials.** Beginning on January 1, 2015, in addition to the annual adjustment provided under Section 13(E), in the case of Core Products containing raw ingredients listed on Schedule B, the prices of such Core Products shall be further adjusted on a periodic basis in accordance with this Section 13(F).

**(i) Automatic Quarterly Adjustment.** Subject to Section 13(F)(ii) and (iii), at the beginning of each calendar quarter, (A) the cost of each raw material listed on Schedule B, other than [\*\*\*], shall be deemed to equal the market price of the reference index that is stated on Schedule B (hereinafter, the market price of the reference index shall be referred to as the “reference index price”) for such raw material as of the reference date on the 10<sup>th</sup> of the calendar month immediately preceding such calendar quarter, and (B) the price of each Core Product that



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incorporates one or more raw ingredients that are made from one or more of such raw materials shall be adjusted to reflect the change in cost of the pertinent raw material(s) from the cost(s) used for such raw material(s) in the previous quarter, and the price on Schedule A of each such Core Product shall be deemed amended accordingly.

**(ii) Lock-In of Certain Quarterly Raw Material Costs.** In addition, with respect to each raw material listed on Schedule B, other than [\*\*\*], once each calendar quarter, before the reference date for the succeeding quarter, PLK may request Diversified, in writing, to "lock-in" the reference index price that is then actually available for the raw material for the succeeding calendar quarter and such number, if any, of further succeeding calendar quarters as PLK may specify in such writing, as the cost of such raw material for such quarter(s).

In the case of raw materials other than boxed beef and pork/lard, the reference index price that is available for a raw material for a specified calendar quarter or quarters means the average of the reference index prices on Schedule B for delivery during all the months in the specified calendar quarter(s) on the date that PLK requests in writing to lock-in the price. In the case of boxed beef and pork/lard, the reference index price that is available for a raw material for a specified calendar quarter or quarters means the reference index price on Schedule B on the date PLK requests in writing to lock-in the price.

Implementation, and the timing of implementation, shall be conditioned and dependent upon the following conditions: (a) PLK gave DFS at least seventy-two (72) hours advance written notice that PLK was likely to request the lock-in of the reference index price that PLK requests Diversified, in writing, to lock-in under the first paragraph of this subsection (ii), (b) the raw material is available at the requested lock-in price at the time of the request and at the time that Diversified seeks to purchase the corresponding raw ingredient, (c) there are no prior commitments made by Diversified with the processors, (d) there is not a significant level of commodity inventory on hand with DFS, (e) PLK has not previously requested that Diversified lock-in a price as the cost for the specified raw material for any part of the specified period, and (f) PLK has not previously requested in the same calendar quarter that Diversified lock-in a price as the cost for the specified raw material (hereinafter, the foregoing conditions shall be referred to as the "lock-in conditions").

If all of the foregoing lock-in conditions in this Section 13(F)(ii) above are met, the "locked-in" price of the specified raw material shall be used for the specified quarter(s), in place of the reference index price determined under Section 13 (F)(i), in the calculation of the prices of all Core Products that incorporate one or more raw ingredients that are made from such raw material. The prices of all such Core Products shall be adjusted accordingly and their prices on Schedule A shall be deemed amended accordingly.

Even if all of the foregoing lock-in conditions are met, Diversified may elect in its own business operations not to follow such request from PLK with respect to Diversified's actual purchases of raw ingredients made from the specified raw material and may purchase any raw ingredient at any time from any vendor at such costs as Diversified may be able to secure; however, to the extent that Diversified does not elect to follow a request from PLK that meets all of the foregoing

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conditions, the cost to PLK for such specified raw material for such specified period shall still be based on such request provided by PLK, rather than the cost of such raw ingredient determined under Section 13(F)(i) for such period.

Requests made in writing by PLK and written notices provided by PLK to Diversified under this Section 13(F) shall be made by PLK to Diversified’s designated purchasing representative(s) at a Diversified e-mail address provided by Diversified to PLK.

**(iii) Review for Extraordinary Changes.** The Parties will use reasonable efforts to review and confer periodically regarding the prices of the raw materials listed on Schedule B with a view toward identifying whether an extraordinary change has occurred within the meaning of Section 13(D).

**G. Re-Balancing of Profit Margins.** The Parties recognize that the profit margins on different Core Products differ significantly, and desire to reduce these differences in a manner that will result in (i) the individual percentage profit margins on different products varying much less significantly, (ii) the overall total annual dollar profit margin on all Core Products, taking into account the volume of sales of different products, remaining substantially the same, (iii) the Overall Percentage Profit Margin remaining approximately the same; and (iv) minimizing any adverse consequences on the Franchisees. The Parties agree to discuss in good faith and to attempt to identify mutually-agreeable adjustments to the profit margins on individual products in line with the foregoing objectives during the five (5) years after the Effective Date and thereafter upon the request of either Party.

**H. Five-Year Possible Re-Negotiation.** Within 30 days after every fifth anniversary of this Agreement, either Party may propose amendments to this Agreement in good faith, and during the following 60 days the Parties shall negotiate appropriate amended terms for this Agreement, provided that PLK and Diversified mutually agree in writing on such amended terms.

**I. Audit of Purchase Invoices .** PLK shall from time to time have the right, upon reasonable notice, to audit Diversified's raw material purchase invoices made after the Effective Date of the Agreement, but no more frequently than annually.

**J. Passage of Title, Ownership, and Risk.** Title to, ownership of, and risk of loss with respect to each Core Product purchased and sold under this Agreement shall remain with Diversified until delivery F.O.B. at Diversified's designated facility, at which point such title, ownership, and risk of loss will pass.

**K. Government Cost Adjustment.** If a cost adjustment occurs as a result of a change in law or regulation or a government directive with respect to the requirements for manufacturing or the formulation or recipe of a Core Product or Other Product, any such cost adjustment up or down shall be [\*\*\*] passed through to PLK.

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**L. Other Cost Savings.** The parties shall work together to identify other possible cost savings, including those that may arise from improving manufacturing efficiencies, and may from time to time reach ad hoc agreements on mutually agreeable terms.

**M. Performance of Procedures Regarding Cost Classifications.** The Parties agree that, on an annual basis, Diversified’s auditors shall perform certain mutually agreed upon procedures regarding manufacturing and general overhead cost classifications, variances and allocations and will conduct these procedures in accordance with attestation standards established by the American Institute of Certified Public Accountants and will provide the results of these procedures in an Independent Accountants’ Report on Applying Agreed-Upon Procedures (as may be mutually revised in the future) for the previous calendar year.

**N. July 1, 2014 Flour-Based Price Adjustment.** On July 1, 2014, the price of each Flour-Based Core Product shall be adjusted in the manner set forth in Section 13(H) of the old 2010 Royalty and Supply Agreement.

**14. PAYMENTS BY DISTRIBUTOR(S) AND FRANCHISEES .** Payment for the Core Products and any Other Products delivered by Diversified shall be made by and shall be the sole responsibility of the Party purchasing such products. Diversified shall invoice directly for all products supplied by Diversified. PLK shall not be responsible for any non-payment of Diversified's invoices for products sold and/or delivered to the Distributor(s) or the Franchisees. If Diversified in good faith gives PLK notice that Diversified considers a specified Distributor or PLK-designated processor not to be creditworthy and provides PLK with commercially reasonable information supporting same, then Diversified may require cash on delivery from such Distributor or processor, and the refusal of Diversified to extend credit to such Distributor or processor or to deliver any product to such Distributor or processor absent payment in cash on delivery shall not be deemed a breach of this Agreement in any way.

**15. WARRANTIES .**

**A. Diversified's Warranties.** Diversified will not adulterate or misbrand any products as prohibited by the Federal Food, Drug, and Cosmetic Act (“FDA”). Diversified agrees that its supplies of beef, pork, and poultry products will be from processors under inspection from the USDA. The Core Products and Other Products supplied by Diversified shall be merchantable and free from defects in material and workmanship and shall comply with all applicable laws and regulations in Domestic Markets for producing such products, including content and labeling requirements under applicable laws and regulations in Domestic Markets and shall meet with the then current specifications for the product. If it is PLK’s belief that the Core Products and Other Products do not meet with the then current specifications for the product, the Parties agree to work together to ensure that the Core Products and Other Products will meet with the then current specifications. Diversified also agrees that it shall (i) comply with all laws and regulations in Domestic Markets for food production facilities, (ii) meet commercially reasonable industry standards for operation of a food production facility, including without limitation, those pertaining to sanitation, pest control, maintenance and repair, product storage, facility operations, allergen control and recovery, recall and traceability processes, and (iii)

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reasonably cooperate with PLK with the implementation of PLK’s standard product withdrawal and recall procedures. Upon the request of PLK, any Distributor(s), or the Franchisees or Sales Outlets delivered in writing to Diversified within 10 days of receipt of any Core Products from Diversified that fail to conform to any of the warranties set forth in this Section 15(A), Diversified shall replace, at Diversified's expense, or refund the full purchase price of, such nonconforming Core Products, and Diversified may require, at Diversified's expense, the prompt return of any such nonconforming Core Products. This warranty shall control insofar as the same may conflict with any warranty or limitation on warranty set forth in Diversified's forms. Further, Diversified represents and warrants to PLK that (i) the content of the overhead allocations referenced in Section 13B(v) and Section 13B(vi) does not include costs for personal expenses and (ii) the expenses included in the overhead allocations are reasonably and appropriately allocated.

**B. PLK's Warranties.** PLK represents and warrants as of the Effective Date that (i) PLK does not foresee any major changes in PLK's and its Franchisees' requirements for the Core Products in the foreseeable future; (ii) PLK does not know of any laws or regulations in any jurisdiction in the Domestic Markets with which the Core Products are not compliant; and (iii) PLK has no plans to permit the Franchisees to remove any of the Core Products from their menus in the foreseeable future. If at any time PLK foresees any such major change or plans, or learns of any such laws or regulations, PLK shall give Diversified prompt written notice, in reasonable detail, of such matters.

**16. CONFIDENTIAL INFORMATION**

**A. Ownership by PLK.** Ownership of all trade secrets of PLK and the PLK Confidential Information (including any furnished or disclosed by PLK to Diversified hereunder or previously) is and shall remain the property of PLK. Any reproductions, notes, specifications, manuals, summaries or similar documents relating to the trade secrets of PLK and PLK Confidential Information shall become and remain the property of PLK immediately upon creation and Diversified agrees to assign, and hereby does assign to PLK, all of its right, title and interest in and to the same, including any proprietary rights and intellectual property rights therein. PLK and Diversified acknowledge and agree that PLK owns the Popeyes Formulas and any recipes or formulas it independently develops for any products sold or to be sold in Popeyes restaurants, including the PLK Formulas.

**B. Ownership by Diversified.** Ownership of all trade secrets of Diversified and the Diversified Confidential Information (including any furnished or disclosed by Diversified to PLK hereunder or previously) is and shall remain the property of Diversified. Any reproductions, notes, specifications, manuals, summaries or similar documents relating to the trade secrets of Diversified and Diversified Confidential Information shall become and remain the property of Diversified immediately upon creation and PLK agrees to assign, and hereby does assign to Diversified, all of its right, title and interest in and to the same, including any proprietary rights and intellectual property rights therein. PLK and Diversified acknowledge and agree that, other than the Popeyes Formulas, Diversified owns any recipes or formulas it has developed or develops, as well as all manufacturing processes, procedures, methods, and techniques that it has developed or develops.

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**C. Nondisclosure of Trade Secrets and Confidential Information.** Diversified and PLK each agrees that it will not, for the Confidentiality Period, use or permit the duplication or disclosure of any trade secrets or confidential information owned by the other Party to any person or entity (other than to employees or, in the case of Diversified, to certain third-party manufacturers, as permitted under Section 4, who must have such information for the sole purpose of supplying the Core Products and Other Products as contemplated under Section 4 of this Agreement and to certain third-party manufacturers, as permitted under Section 5, who must have such information for the sole purpose of supplying Cajun gravy products to the Copeland Family Restaurants as contemplated under Section 5 of this Agreement), unless such use, duplication, or disclosure is specifically authorized in advance and in writing by an authorized representative of the other Party. “Confidentiality Period” shall mean (i) the entire Term of this Agreement, and (ii) thereafter for a period of fifty (50) years, and (iii) thereafter, with respect to trade secrets, for the longer of as long as the information in question remains a trade secret, and with respect to other confidential information, for as long as the information in question remains confidential, and (iv) in any event, for the longest period permitted by applicable law. The obligation under this paragraph survives the expiration or termination of the Agreement as stated herein.

**D. Protection of the Popeyes Formulas and PLK Formulas.** In further of its non-disclosure and non-use obligations under Section 16(C) above, Diversified agrees that, during the Confidentiality Period, it will continue to take substantially the same precautions after the Effective Date of this Agreement to protect the trade secret status of the Popeyes Formulas and the PLK Formulas provided to it under this Agreement as it provided as of December 31, 2013 with respect to the Popeyes Formulas while it was the owner of the Popeyes Formulas and will agree to any other reasonable requests that are made of it from time to time by PLK in order to protect the Popeyes Formulas as a trade secret under state law; however, if PLK believes that a request made by it to Diversified to protect the trade secret status of the Popeyes Formulas and PLK Formulas is reasonable and Diversified deems such request as unreasonable, the Parties shall meet to discuss the request and Diversified shall convey to PLK why it believes it is unreasonable in which case the Parties will work together to determine a way, if possible, in which the same may be implemented so that it is reasonably acceptable to Diversified (i.e. if it causes or would cause Diversified to incur costs that are more than de minimis, the Parties may work together to determine how such costs may be paid by PLK or otherwise reduced in order to implement the change or, if it causes any other burden on Diversified, the Parties may work together to discuss how a similar protection may be implemented in a way that is reasonable in order to implement the change). The obligation under this paragraph survives the expiration or termination of the Agreement as stated herein.

**E. Protection of Diversified's Manufacturing Techniques.** In further of its non-disclosure and non-use obligations under Section 16(C) above, PLK agrees that, during the Confidentiality Period, it will take substantially the same precautions after the Effective Date of this Agreement to protect the possible trade secret status and confidentiality of any food preparation processes, procedures, methods, and manufacturing techniques developed by Diversified (collectively, the "Manufacturing Techniques") that PLK has discovered or may

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discover as it takes to protect its own trade secrets (other than the Popeyes Formulas and the PLK Formulas which are subject to very specific protections) and, in any event, no less than commercially reasonable precautions, and will agree to any other reasonable requests that are made of it from time to time by Diversified in order to protect the Manufacturing Techniques as a trade secret under state law; however, if Diversified believes that a request made by it to PLK to protect the trade secret status of the Manufacturing Techniques is reasonable and PLK deems such request as unreasonable, the Parties shall meet to discuss the request and PLK shall convey to Diversified why it believes it is unreasonable in which case the Parties will work together to determine a way, if possible, in which the same may be implemented so that it is reasonably acceptable to PLK (i.e. if it causes or would cause PLK to incur costs that are more than de minimis, the Parties may work together to determine how such costs may be paid by Diversified or otherwise reduced in order to implement the change or, if it causes any other burden on PLK, the Parties may work together to discuss how a similar protection may be implemented in a way that is reasonable in order to implement the change). The obligation under this paragraph survives the expiration or termination of the Agreement as stated herein.

**F. Government Orders or Law.** The confidentiality obligations set forth in Section 16(C) and 16(D) above do not apply to information to the extent disclosure of the information is required under any valid court or governmental order or by law and the receiving Party provides the disclosing Party immediate notice thereof so that disclosing Party will have an opportunity to contest disclosure or seek an appropriate protective order.

**17. INDEMNIFICATION .** This Section is intended to address only indemnification for claims made by third parties. Damages for breaches of this Agreement shall be governed by other Sections and applicable law.

**A. Indemnification by Diversified.** Diversified shall and hereby agrees to indemnify, defend and hold PLK as well as its successors and permitted assigns, and each of their respective officers, directors, and employees, harmless from and against any and all loss, liability, actions, claims, costs (including, without limitation, reasonable attorneys’ fees and expenses), damages, judgments and liabilities whatsoever (including without limitation any products liability claims, in law or equity) to the extent proximately caused by the negligence or willful misconduct of Diversified, its agents, or assigns.

**B. Indemnification by PLK.** PLK shall and hereby agrees to indemnify, defend and hold Diversified as well as its successors and permitted assigns, and each of their respective officers, directors, and employees, harmless from and against any and all loss, liability, actions, claims, costs (including, without limitation, reasonable attorneys’ fees and expenses), damages, judgments and liabilities whatsoever (including without limitation any products liability claims, in law or equity) to the extent proximately caused by the negligence or willful misconduct of PLK, its agents, or assigns.

**18. INSURANCE.** During the Initial Term of this Agreement and any Renewal Term(s), each Party shall maintain and keep in force, at its own expense, comprehensive or commercial general liability insurance that includes product liability insurance with respect to its products



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in an amount not less than \$5,000,000 per occurrence, with a reputable insurer, and shall cause the other Party to be included as an additional insured on such insurance. The minimum limits of coverage required by this Agreement may be satisfied by a combination of primary and excess or umbrella insurance policies.

**19. INSPECTION; COPIES OF THIRD-PARTY AUDIT REPORTS; SUPPLIERS OF RAW INGREDIENTS .**

**A. Inspection.** PLK and SMS shall have the right reasonably to inspect Diversified's manufacturing facilities for quality assurance purposes during normal business hours at any time during the Term of this Agreement, upon reasonable notice by PLK of such inspection and execution and delivery of a confidentiality agreement reasonably requested by Diversified and subject to Diversified's reasonable scheduling needs.

**B. Copies of Third-Party Food Safety Audit Reports.** No less frequently than on an annual basis, Diversified agrees that, within a reasonable period of time after it receives annual copies of third-party food safety audit reports generated by its third-party auditors of its facilities, it shall provide to PLK a copy of such food safety audit reports.

**C. Suppliers of Raw Ingredients.** PLK agrees that it shall not create or use product specifications that require Diversified to purchase any of its raw ingredients or other materials from any particular supplier or suppliers. Diversified agrees that, on PLK's request, it shall provide PLK with information about the identity of its suppliers of its raw ingredients and other materials. Whenever Diversified makes any change in a supplier of any of its raw ingredients or packaging materials, it will update PLK regarding the identity of the supplier and any relevant specification change.

**20. FORCE MAJEURE.** "Force Majeure" shall mean and include any circumstance beyond the reasonable control of Diversified that causes a significant disruption in Diversified's supply of any Core Products to the Popeyes System or the Sales Outlets, including without limitation, the following: any act of nature or the public enemy, accident, explosion, fire, storm, earthquake, flood, drought, hurricane, perils of the sea, the elements, casualty, strikes, lock-outs, labor troubles, riots, sabotage, embargo, war (whether or not declared), governmental laws, regulations, orders, or decrees, unavailability of raw material, or seizure for reasons other than the adverse financial condition of the Party so affected.

In the event of a Force Majeure, Diversified agrees that it will provide written notice to PLK within three (3) business days from the initial occurrence of any such event or as soon thereafter as is reasonable under the circumstances, stating: 1) the nature, scope and all relevant circumstances (as then known) of the Force Majeure event and impacts on the Popeyes System and the Sales Outlets, and 2) whether Diversified has the need, ability and present intention, on a temporary basis, to immediately sublicense the Popeyes Formula to a third party who is able to manufacture the Core Products at issue being produced by Diversified for the Popeyes System and the Sales Outlets in sufficient quantity and quality so as not to cause a disruption in supply to the Popeyes System and the Sales Outlets (where Diversified agrees that it will cooperate with

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such party in order for it to do so). In the event Diversified needs but is unable on a temporary basis to immediately sublicense the Popeyes Formula to a third party who is able to manufacture the Core Products at issue in sufficient quantity and quality so as not to cause a disruption in supply to the Popeyes System and the Sales Outlets (where Diversified agrees that it will cooperate with such party in order for it to do so), then PLK, the Distributor(s), or the Franchisees or Sales Outlets may begin purchasing products substantially similar to the Core Products at issue from third parties. This right shall only apply during any period Diversified is unable to satisfy its buyer’s purchase orders as a result of an event of Force Majeure. In the event Diversified sublicenses the Popeyes Formula to a third party manufacturer pursuant to this paragraph, Diversified shall require the third party to execute an agreement containing non-disclosure and non-use terms that are no less protective of the Popeyes Formulas or the PLK Formulas than the terms set forth in the Confidentiality Agreement that is attached as Schedule E to maintain the Popeyes Formula in the strictest confidence. If the third party manufacturer sets a price for the Core Products at issue in excess of a reasonable price for the Core Products under the circumstances, Diversified shall pay the third party manufacturer the difference between a reasonable price and the third party’s price for the duration of the term of the event of the Force Majeure, such that PLK, the Distributors, and the Franchisees and Sales Outlets shall in no event pay more than a reasonable price under the circumstances to such third party for the Core Products at issue during an event of Force Majeure. No further liability shall attach to Diversified during any such event of Force Majeure.

If Diversified and PLK do not agree on what constitutes a reasonable price for the Core Products at issue under the circumstances, the determination of the reasonable price shall be settled exclusively by arbitration in the City of New Orleans, Louisiana, before a three-person arbitration panel appointed by The American Arbitration Association (“AAA”) and pursuant to the Commercial Arbitration Rules of the AAA, which rules are hereby incorporated by reference thereto and made a part of this Agreement. The arbitrators shall determine a reasonable price for each Core Product at issue under the circumstances. The arbitration shall be completed within 90 days of its commencement. The arbitration award shall be final and binding on both Parties. Once the arbitration award is rendered, the reasonable prices determined by the award shall be the reasonable prices for the Core Products at issue for purposes of such event of Force Majeure. The costs of the arbitration shall be borne equally by PLK and Diversified, but each Party shall bear its own attorneys’ fees.

In the event of a Force Majeure, Diversified shall diligently attempt to remove or work around the disruption with reasonable dispatch. As soon as the disruption resulting from any event of Force Majeure is remedied, the Parties’ respective rights, obligations and performance as set forth in this Agreement shall be immediately reinstated in full.

**21. CERTIFICATE OF INDEPENDENT PRICE DETERMINATION** . Each Party represents and warrants that the prices under this Agreement have been arrived at independently, without the purpose of restricting competition, or any consultation, communication, or agreement with any other competitor relating to (i) such prices or (ii) the methods or factors used to calculate such prices.



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**22. NOTICES.** Whenever, under the terms of this Agreement, notice is required, except for notice provided under Section 13(F)(ii), the same shall be given in writing and shall be delivered personally, or by certified mail, postage prepaid, addressed to the Party for whom intended as follows:

**If to PLK:**

**If to Diversified:**

Popeyes Louisiana Kitchen, Inc.	Diversified Foods & Seasonings, L.L.C.
Attn: General Counsel	Attn: General Counsel/Chief Admin. Officer
400 Perimeter Center Terrace, Suite 1000	1115 North Causeway Boulevard, Suite 200
Atlanta, GA 30346	Mandeville, LA 70471

Either Party may change its notice address at any time by giving notice thereof to the other Party.

**23. COUNTERPARTS .** This Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which taken together shall constitute one agreement between the Parties. This Agreement or any counterpart may be delivered physically or by email of a scanned pdf file or other comparable electronic means.

**24. ENFORCEABILITY; SEVERABILITY.**

**A. Covenant Not to Challenge.** Each Party covenants not to challenge the legality, validity, or enforceability of any provision of this Agreement and not to assert, raise as a defense, or otherwise argue that any provision of this Agreement is unlawful, invalid, or unenforceable. Each Party waives its right to bring any such challenge, assertion, defense, or argument. If a Party does bring any such challenge, assertion, defense, or argument, such Party shall pay all reasonable attorneys’ fees incurred by the other Party in opposing or otherwise responding to such challenge, assertion, defense, or argument and shall indemnify and hold harmless the other Party against and from any and all losses, liabilities, costs, and expenses that may result from such challenge, assertion, defense, or argument.

**B. Interpretation.** Any provision of this Agreement that is susceptible of different meanings shall be interpreted with a meaning that renders it effective and not with one that renders it ineffective.

**C. Arbitration.** Any dispute or controversy relating to the identification or classification of the products subject to any provision of this Agreement, or the identification of any index, document, or source referred to in any provision of this Agreement, or the price, dollar profit margin, percentage profit margin, cost, or expected cost of any product or other thing subject to any provision of this Agreement shall be settled exclusively by arbitration in the City of New Orleans, Louisiana, before a three-person arbitration panel appointed by The American Arbitration Association (“AAA”) and pursuant to the Commercial Arbitration Rules of the AAA, which rules are hereby incorporated by reference thereto and made a part of this Agreement. In connection with any such arbitration, if the express terms of this Agreement do not provide sufficient guidance for any reason, the arbitrators are authorized to resort to principles of fairness

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and equity to identify or classify any product, or to identify any index, document, or source, or to determine any price, profit margin, or cost, in each case bearing in mind the general intent of the Parties in entering into this Agreement. The arbitration shall be completed within 90 days of its commencement. The arbitration award shall be final and binding on both Parties. The costs of the arbitration shall be borne equally by PLK and Diversified, but each Party shall bear its own attorneys' fees.

**D. Severability and Reformation.** If, despite the foregoing, any provision of this Agreement is held by an arbitral tribunal or court of competent jurisdiction to be contrary to applicable law, invalid, or unenforceable for any reason, the remaining provisions of this Agreement shall remain in full force and effect. To the extent permissible under applicable law without invalidating the Agreement, the illegal, invalid, or unenforceable provision shall be construed instead to provide that which is most fair and equitable between the Parties under the circumstances and is legal, valid, and enforceable.

**E. Legal Representation of the Parties.** This Agreement was negotiated by the Parties with the benefit of legal representation, and any rule of construction or interpretation otherwise requiring this Agreement to be construed or interpreted against any Party shall not apply to any construction or interpretation hereof.

**25. AMENDMENTS, WAIVERS, AND MODIFICATIONS .** No change in, addition to, modification or waiver of the terms and provisions of this Agreement shall be binding upon Diversified or PLK unless it is mutually agreed upon in writing. Any such instrument shall be attached to this Agreement and shall be incorporated herein. Any Schedule may be amended at any time by having a new Schedule initialed by an authorized representative of each Party. Notwithstanding the foregoing, whenever this Agreement provides for a change to Schedule A or for a change in information that is set forth on Schedule A, Schedule A shall be deemed amended accordingly, whether or not the Parties execute a formal amendment or initial an amended Schedule A.

**26. ASSIGNMENT .** Neither this Agreement nor any rights hereunder may be assigned by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld (but such consent shall not release the assigning Party); however, PLK may and shall assign this Agreement, including any rights hereunder, to any other entity that has acquired ownership of all or substantially all of such Party's assets by sale or otherwise, upon prior written notice to the other Party, and shall ensure that such assignee agrees in writing for the benefit of the other Party to be bound by the obligations of the assigning Party under this Agreement (but such assignment and agreement shall not release the assigning Party). In the case where Diversified assigns this Agreement to another entity as permitted hereunder, such assignee will be deemed to be subject to PLK's standard quality standards that are in place with its other suppliers at the time of the assignment ("PLK Standard Quality Standards") as opposed to the specific quality assurance requirements that are applicable to Diversified under this Agreement and further, such assignee shall agree to execute PLK's standard form quality standards agreement to confirm its agreement to be subject to PLK's Standard Quality Standards.

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A change of control of a Party shall not be deemed an assignment hereunder. Any purported assignment by PLK or Diversified in violation of this Section 26 is void.

**27. GOVERNING LAW .** This agreement shall be governed by, interpreted, performed and enforced solely in accordance with the laws of the State of Louisiana, without reference to principles of conflicts of law.

**28. EFFECTIVE DATE .** This Agreement shall be effective only upon execution of the Agreement by PLK and Diversified, and the occurrence of the Effective Date.

**29. BEST EFFORTS TO AVOID TERMINATION.** Each Party shall use best efforts to avoid termination of this Agreement. This Agreement may only be terminated in accordance with Section 3(B), and then only after the terminating Party has exhausted all commercially reasonable efforts to avoid terminating the Agreement, including without limitation (i) timely seeking to obtain redress of any breaches through payment of compensation, specific performance, or other appropriate remedy or combination of remedies short of termination; (ii) offering to enter into amendments to the terms and provisions of this Agreement that are fair and equitable under the circumstances; and (iii) offering to enter into non-binding mediation with the breaching Party in an effort to resolve the issues through mutual agreement.

**30. FORUM SELECTION.** Any legal action or proceeding by either Party against the other arising out of, in connection with, or relating to this Agreement or the enforcement, non-enforcement, interpretation, performance or breach of any provision of this Agreement shall be brought in the United States District Court for the Eastern District of Louisiana if it has or can acquire jurisdiction, or else in the courts of the State of Louisiana, Parish of St. Tammany. Each Party consents to the exclusive jurisdiction of such court and the respective appellate courts for the purpose of all such legal actions and proceedings, except those brought for enforcement of a judgment or order rendered by any such courts. Each Party waives, to the fullest extent permitted by law, any objection which it may now or later have to the laying of venue in any such courts and any claim that any such court is an inconvenient forum. This Section is not intended to override the resolution of various issues by arbitration as set forth in this Agreement.

**31. BINDING EFFECT.** This Agreement shall be binding upon, and inures to the benefit of, the Parties and their respective successors and assigns, including any successor in interest to a Party or any purchaser of substantially all of the assets of a Party, and each of the foregoing agrees to be bound by this Agreement.

**32. INDEXES.** The Parties agree that if any indexes or other similar document or source referenced under this Agreement, including for example, CPI Index, ceases to exist, it will be replaced by the most appropriate available index, document, or source. The Parties will endeavor to mutually agree upon the replacement, but if the Parties cannot agree, the identification of the appropriate available replacement index, document, or source shall be made by the arbitrators pursuant to the provisions set forth in Section 24(C).

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**33. ENTIRE AGREEMENT .** This Agreement represents the entire understanding between the Parties with respect to the subject matter hereof and supersedes all other negotiations, agreements, representations and covenants, whether oral or written.

[The remainder of this page is intentionally left blank so that the signature page may start on a separate page.]

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IN WITNESS WHEREOF , the Parties have caused this Agreement to be duly executed and delivered by their authorized representatives as of the date first above written.

**POPEYES LOUISIANA KITCHEN, INC.DIVERSIFIED FOODS &  
SEASONINGS, L.L.C.**

By:    /s/ Cheryl A. Bachelder         By:    /s/ Alvin C. Copeland Jr.   

Name:    Cheryl A. Bachelder         Name:    Alvin C. Copeland Jr.   

Title:    Chief Executive Officer         Title:    Manager   

Date:    June 13, 2014         Date:    June 13, 2014

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**SCHEDULE A  
CORE PRODUCTS**

**Date Effective: June 13, 2014**

<b>ITEM</b>	<b>ITEM #</b>	<b>PACK SIZE</b>	<b>PRICE</b>	<b>\$ PROFIT MARGIN</b>	<b>% PROFIT MARGIN</b>
Red Beans	001-100	9/5# bags per case	[***]	[***]	[***]
Jambalaya	3F0349	9/5# bags per case	[***]	[***]	[***]
Macaroni & Cheese	1F0160	16/3# bags per case	[***]	[***]	[***]
Enhanced Cajun Meat	1F0113	20/2.308# bags per case	[***]	[***]	[***]
Cajun Gravy	1F0112	9/5# bags per case	[***]	[***]	[***]
All Purpose Breading	3D0099	50# bag	[***]	[***]	[***]
Catfish Production Batter	3D0333	40# per bag	[***]	[***]	[***]
Multi-Purpose Batter	3D2004	10/4.5# bags per case	[***]	[***]	[***]
Zero Trans Biscuit SSL-25%M	1D2009	49.2# per bag	[***]	[***]	[***]
Onion Ring Batter	1955	12/1.32# bags per case	[***]	[***]	[***]
Onion Ring Batter	3D3068	50# per bag	[***]	[***]	[***]
Poultry Batter	SC600	10/4.64# bags per case	[***]	[***]	[***]
Shoestring Batter Totes	1D2000	2000# per tote	[***]	[***]	[***]
Shoestring Fry Batter	1D2010	2000# per tote	[***]	[***]	[***]
Butterfly Shrimp Breading	601	50# per bag	[***]	[***]	[***]
Butterfly Shrimp Breading	3D0086	50# per bag	[***]	[***]	[***]
Popcorn Shrimp Breading	3D0303	50# per bag	[***]	[***]	[***]
Butterfly Shrimp Seasoning	602-R	75/1.13 oz. bags per case	[***]	[***]	[***]
Butterfly Shrimp Seasoning	1S0588	25# per bag	[***]	[***]	[***]
La. Mild Seasoning	1S0514	50# per bag	[***]	[***]	[***]
Mild #3 Seasoning	1S0626	100/211.84 gr. bags per case	[***]	[***]	[***]
Red Rice Seasoning	1S0620	60/1.76 oz. bags per case	[***]	[***]	[***]
Spicy #2 Seasoning	1S0629	70/181.44 gr. bags per case	[***]	[***]	[***]
Riverbend Breader	3D3529	50# per bag	[***]	[***]	[***]
Riverbend Nugget Marinade	3S0671	25# per bag	[***]	[***]	[***]
Spicy Filet Seasoning	1S0591	50# per bag	[***]	[***]	[***]
Frozen Butterfly Shrimp Batter	3D1213	50# per bag	[***]	[***]	[***]
Crawfish Seasoning	1S0240	48/20.5 gr. bags per case	[***]	[***]	[***]
Biscuit Base #9	SC098	10/5.25# bags per case	[***]	[***]	[***]
All Purpose Batter	3D3188	50# per bag	[***]	[***]	[***]

**SCHEDULE B  
KEY RAW MATERIALS MARKET PRICE DETERMINATION  
METHODOLOGY GUIDELINES**



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<b>Item Key</b>	<b>Key Raw Material (related Key Raw Ingredient)</b>	<b>Reference Dates</b>	<b>Reference Index</b>
RI-2330	Hard Wheat (Hard Wheat Flour)	Dec. 10 Mar. 10 June 10 Sep. 10	The average Prior Settle price for the delivery months that fall within the upcoming January through March (if December 10), April through June (if March 10), July through October (if June 10), or October through December (if September 10), as such prices are reported on the KC HRW Wheat Futures Quotes of the CME Group.
RI-2320	Soft Wheat (Soft Wheat Flour)	Dec. 10 Mar. 10 June 10 Sep. 10	The average Prior Settle price for the delivery months that fall within the upcoming January through March (if December 10), April through June (if March 10), July through October (if June 10), or October through December (if September 10), as reported on the Wheat Futures Quotes of the CME Group.
RI-640	Raw Red Beans (Clean Red Beans)	Oct. 15	The USDA reported price for Light Red Kidney beans from Colorado for the most recent week (currently reported on the USDA Bean Market News report).
RI-120	Boxed Beef (Ground Beef)	Dec. 10 Mar. 10 June 10 Sep. 10	The USDA reported Weighted Average price of Ground Beef 73% (currently reported on the USDA Market News -- National Daily Boxed Beef Cutout & Boxed Beef Cuts -- Negotiated Sales report).

*(Schedule B is continued on next page)*



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*(continuation of Schedule B from previous page)*

RI-559	Pork or Lard (Pork Fat)	Dec. 10 Mar. 10 June 10 Sep. 10	The higher of:  (a) (the average for the prior calendar week of the USDA reported Weighted Average price of 42% Trim Combo [currently reported on the USDA Market News -- National Daily Pork Report FOB Plant - Negotiated Sales report] x 1.70) -- (the average for the prior calendar week of the USDA reported Weighted Average price of 72% Trim Combo [currently reported on the same report] x 0.70), or  (b) the average for the prior calendar week of the USDA reported Weighted Average price for loose lard FOB plant in central U.S. [currently reported as "Loose lard, PS and/or CP" under the heading "EDBLE LARD, FOB PLANT (truck)" on the USDA Market News -- Tallow, Protein, and Hide Report - FOB Central U.S.] x 70%.
RI-926	Cash-Settled Cheese (Cheese)	Dec. 10 Mar. 10 June 10 Sep. 10	The average Prior Settle price for the delivery months that fall within the upcoming January through March (if December 10), April through June (if March 10), July through September (if June 10), or October through December (if September 10), as reported on the Cash-Settled Cheese Futures Quotes of the CME Group.
RI-580	Soybean Oil (Liquid Margarine)	Dec. 10 Mar. 10 June 10 Sep. 10	The average Prior Settle price for the delivery months that fall within the upcoming January through March (if December 10), April through June (if March 10), July through September (if June 10), or October through December (if September 10), as reported on the Soybean Oil Futures Quotes of the CME Group.

The reference indexes use different Units of measure. A reference index price shall be converted into the appropriate price for the Unit of measure used in the Agreement before being used as called for in the Agreement.

If a reference index is temporarily unavailable on the reference date (such as due to a holiday or technical difficulties), the last preceding date on which the reference index was available shall be used instead. If a reference index ceases to exist, then the most appropriate available index shall be used instead.

If a USDA report for a particular reference index for a particular date reports no value or reports the value as "not established," then the value reported by the most recent USDA report before such date that reports a value for the particular reference index shall be used instead.

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**SCHEDULE C  
DOLLAR PROFIT MARGIN CALCULATION HYPOTHETICAL EXAMPLES**

[\*\*\*]

*(Schedule C is continued on next page)*

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*(continuation of Schedule C from previous page)*

[\*\*\*]

*(Schedule C is continued on next page)*

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*(continuation of Schedule C from previous page)*

[\*\*\*]

The Parties agree (i) that the overall prices that were established and used under the 2010 Royalty and Supply Agreement were fair and reasonable; (ii) that the prices established under Section 13 of this Agreement are established on a fair and reasonable basis; and (iii) that it is the general intent of the Parties in entering into this Agreement that Diversified shall maintain throughout the Term of this Agreement the dollar profits as determined in accordance with Section 13(E)(i)(e) and this Schedule C.

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**SCHEDULE D**  
**SAMPLE OF ANNUAL PRICING METHODOLOGY**  
**FOR A SINGLE HYPOTHETICAL PRODUCT**

[\*\*\*]

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**SCHEDULE E  
CONFIDENTIALITY AGREEMENT**

**CONFIDENTIALITY AGREEMENT**

THIS CONFIDENTIALITY AGREEMENT (“Agreement”) is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between Diversified Foods and Seasonings, L.L.C. (hereinafter “the Company”) having its principal place of business at 1001 Harimaw Court South, Metairie, Louisiana 70001 and \_\_\_\_\_ (“Vendor”), having an address of \_\_\_\_\_ [address].

**ARTICLE I: RECITALS**

1.1 The Company and the Vendor **[are parties to][wish to enter into]** a certain **[INSERT NAME OF AGREEMENT]** dated [\_\_\_\_\_] (“Primary Agreement”).

1.2 The Company has certain proprietary information that is owned by its licensor, Popeyes Louisiana Kitchen, Inc. (“PLK”), including, without limitation, processes, formulae, recipes, and know-how, (hereinafter the “PLK Confidential Information”), which PLK treats and protects as trade secrets and requires the Company and its authorized licensees to treat and protect as a trade secret.

1.3 Vendor acknowledges and recognizes the proprietary nature and substantial commercial value of the PLK Confidential Information and further acknowledges that PLK and the Company would suffer irreparable harm if the information was to become known to competitors or potential competitors of the Company.

1.4 Vendor has an actual need to know certain of the PLK Confidential Information in order to provide the products, services, or information sought by the Company.

1.5 PLK also owns certain trademarks, copyrights, and other intellectual property that serve to identify its products and services. These are valuable business assets of PLK and this agreement is not intended to be a license to use such marks.

**ARTICLE II: CONFIDENTIAL RELATIONSHIP**

2.1 In order for **[Vendor and Company to have discussions concerning][Vendor to perform its obligations under]** the Primary Agreement, the Company and Vendor hereby enter into a confidential relationship governed by this Agreement.

2.2 Within this relationship, the Company will disclose certain portions of the PLK Confidential Information in strict confidence to Vendor solely for the limited purpose of enabling Vendor to provide products, services, or information to the Company or its licensees or customers for the term of the Primary Agreement or to bid on the furnishing of products, services or information to the Company during the bidding period (the “Permitted Use”).

2.3 In this respect, Vendor shall have a non-exclusive, non-transferable and non-assignable, and non-sublicenseable, license limited for the period of the Permitted Use to use the

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PLK Confidential Information and any modifications and improvements thereto, including any proprietary rights and intellectual property therein, solely for the Permitted Use. Vendor acknowledges that, as between Vendor, on the one hand, and Company and its licensor, PLK, on the other hand, Company for the benefit of PLK, and its licensor, PLK, retains all right, title and interest in and to the PLK Confidential Information and any modifications or improvements thereto, including any proprietary rights and intellectual property rights therein, and Vendor hereby will assign, and hereby does assign, to Company for the benefit of PLK all right, title and interest in and to any such modifications and improvements, including any proprietary rights and intellectual property rights therein.

**ARTICLE III: THE OBLIGATION OF CONFIDENCE**

3.1 Vendor shall strictly observe the following obligations (the "Obligation of Confidence") with respect to the PLK Confidential Information (which, for purposes of this section, shall include any modifications or improvements thereto, whether created from the efforts of Vendor or the Company or jointly), including any Generated Documents (as defined in Section 3.3) for so long as Vendor or its personnel possesses confidential information, in whatever form, written or otherwise:

- (a) Vendor shall not disclose any of the PLK Confidential Information to any person or entity other than the Designated Personnel (as defined below);
- (b) Vendor will use the PLK Confidential Information only for the Permitted Use and will not help any other person or entity learn or make use of any of the PLK Confidential Information for such other person's or entity's use or benefit;
- (c) Vendor shall not analyze or cause to be analyzed any component part or any ingredient which comprises the PLK Confidential Information, other than as required by this engagement;
- (d) Vendor shall not manufacture, process, pack, market, or sell for any other persons' or entities' benefit any product manufactured, processed, packed, marketed, or sold by Vendor using or relying on any PLK Confidential Information, other than as agreed to in writing by the Company;
- (e) Vendor shall use its best efforts to protect and preserve the confidential nature of the PLK Confidential Information, including, without limitation, efforts fully commensurate with those employed by Vendor for the protection of its own confidential information and trade secrets;
- (f) Vendor shall neither copy nor permit another to copy any PLK Confidential Information; and
- (g) Vendor shall devise, institute, and enforce appropriate procedures and safeguards within its premises, facilities, and operations to ensure against the unauthorized disclosure or use of PLK Confidential Information.

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3.2 Vendor will designate certain of its employees (the "Designated Personnel") to receive the PLK Confidential Information. Each of the Designated Personnel, prior to and as a condition of receiving PLK Confidential Information, shall be informed by Vendor of the confidential and proprietary nature of the information and shall agree to abide by the Obligation of Confidence.

3.3 The parties contemplate that, in the course of the Permitted Use, Vendor may have occasion to generate reports, drawings, specifications, recipes, listings, samples, and other tangible embodiments containing all or part of the PLK Confidential Information. Each item, which contains, recites, exemplifies, or embodies any such PLK Confidential Information, whether created from the efforts of Vendor or the Company or jointly, is referred to herein as a "Generated Document". Vendor agrees that, as between Vendor, on the one hand, and Company and its licensor, PLK, on the other hand, all Generated Documents are the property of the Company for the benefit of PLK, and shall be considered PLK Confidential Information and that each Generated Document will be handled in all respects and for all purposes as documents loaned by PLK to the Company and by the Company to the Vendor. In this respect, Vendor agrees to assign, and hereby does assign, all right, title and interest in and to any such Generated Documents to Company for the benefit of PLK, including all proprietary rights and intellectual property rights therein.

3.4 Vendor shall return to the Company all PLK Confidential Information and Generated Documents together with a list of the tendered documents, no later than five (5) days following the termination or expiration of the business relationship between them. Absent the express written permission of the Company, Vendor will not retain any copies of any documents or Generated Documents containing PLK Confidential Information.

3.5 Vendor shall not create any Generated Documents after expiration or upon notice of termination of the business relationship between Vendor and the Company.

3.6 The Company waives the Obligation of Confidence with respect to any information that Vendor can prove falls into one of the following exceptions:

- (a) said information was in the possession of Vendor in tangible form prior to disclosure of that information to Vendor by the Company;
- (b) said information was in the public domain at the time of disclosure or has since become part of the public domain through no act of Vendor; or
- (c) Vendor may be obligated to produce said information as a result of any court order or pursuant to the action of any government authority, if the Company has been given sufficient notice thereof to take the action necessary to protect its interest or an opportunity to appear and object to such disclosure but has been unsuccessful in preventing disclosure thereof.

3.7 If the PLK Confidential Information is or includes a product not made or sold by Vendor prior to the effective date of this Agreement, Vendor will not supply such product to anyone other than the Company or PLK or its designated customers inasmuch as Vendor acknowledges that its production of such a product would inherently involve the use of PLK Confidential Information except as provided above. These provisions shall be construed to the fullest extent and term permitted by law. Any provision inconsistent with applicable state law shall be deemed deleted



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and this provision shall conform to applicable state law and be enforceable to the fullest extent permitted by law.

**ARTICLE IV: ADDITIONAL PROVISIONS**

4.1 The Obligation of Confidence shall remain in effect (i) during the period of the Permitted Use, and (ii) thereafter for a period of fifty (50) years, and (iii) thereafter, with regard to trade secrets, for the longer of as long as the information in question, remains a trade secret, and with respect to other confidential information, for so long as the information in question remains confidential, and (iv) in any event, for the longest period permitted by applicable law.

4.2 As a condition and in consideration of this Agreement, Company’s licensor of the PLK Confidential Information, PLK, shall be an intended third-party beneficiary of the terms of this Agreement for purposes of enforcing and protecting PLK’s interest in the PLK Confidential Information and any modifications or improvements thereto and/or any Generated Documents therefrom.

4.3 Vendor acknowledges and agrees that the Company and PLK will suffer grave and irreparable harm if Vendor breaches any covenant or provision hereof. The Company and PLK shall be entitled in such event, in addition to any other remedy it may have at law or in equity, to an injunction or restraining order against Vendor from any court of competent jurisdiction. The rights and remedies described herein are expressly declared to be cumulative to, and not in the alternative to, any rights or remedies at law or in equity.

4.4 If any action to recover damages or obtain injunctive relief for the enforcement of any portion of this Agreement is commenced, the prevailing party shall be entitled to, in addition to any award or remedy, all costs and expenses, including reasonable attorney's fees, incurred by the prevailing party in connection therewith.

4.5 For Vendor and Company, any notice required or permitted in this Agreement shall be hand delivered, mailed by certified mail, return receipt requested, or delivered by overnight courier providing a receipt for delivery, to the party noticed at the address indicated above. Notices shall be deemed effective on the earlier of the date delivered or when marked “rejected or undeliverable” when delivered as described above. Any notice to be provided to PLK shall be delivered to PLK at the following address: Popeyes Louisiana Kitchen, Inc., Attn: General Counsel, 400 Perimeter Center Terrace, Suite 1000, Atlanta, Georgia 30346. A party may change its address of notice by sending such change to the other parties.

4.6 This Agreement constitutes the entire agreement between the parties as to the subject matter hereof. It supersedes any prior communications, whether oral or written, concerning the subject matter of the Agreement. It may be amended only by a writing signed by both Vendor and Company.

4.7 No waiver, no matter how long continuing or how many times extended, shall be construed as a permanent waiver or as an amendment to this Agreement, unless made in accordance with the requirements of paragraph 4.4.

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4.8 The Agreement shall be governed by the laws of the State of Louisiana.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date shown above, for the purposes herein expressed.

**DIVERSIFIED FOODS & SEASONINGS, L.L.C.** \_\_\_\_\_  
[Vendor]

By: \_\_\_\_\_ By: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_ Title: \_\_\_\_\_

Date: \_\_\_\_\_ Date: \_\_\_\_\_

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**SCHEDULE F  
TOTAL MANUFACTURING OVERHEAD COSTS**

"DFS Consolidated" means Diversified and/or its predecessors, on a consolidated basis with wholly-owned subsidiaries.

The "Total Manufacturing Overhead Cost" with respect to a specified product in or for a specified period means all business costs and expenses (excluding direct raw ingredients costs, direct labor costs, Total General Overhead Costs, and personal expenses) incurred by DFS Consolidated with respect to the specified period (on an accrual basis) with respect to the plant facility at which the specified product is manufactured in the specified period (the "Pertinent Plant Facility"), regardless of the product(s) or customer(s) to which a particular cost or expense may relate, if any, including but not limited to:

- (1) all rent or other lease expenses on the land, buildings, furniture, fixtures, equipment, leasehold improvements and/or software leased by DFS Consolidated at the Pertinent Plant Facility;
- (2) all depreciation or amortization expenses with respect to the buildings, furniture, fixtures, equipment, leasehold improvements, and/or software owned by DFS Consolidated at the Pertinent Plant Facility;
- (3) all real estate and property taxes on, and other taxes and licenses relating to, the Pertinent Plant Facility;
- (4) all salaries, wages, overtime, incentive compensation, bonuses, and benefits of the management personnel, supervisors, and plant maintenance workers at the Pertinent Plant Facility, including the shipping and handling, wastewater, quality assurance, environmental, clerical and temporary staff, including temporary agency fees;

The term "benefits" includes worker's compensation insurance payments, payroll taxes, 401(k) plan matching payments, severance payments, group insurance premiums, payments of health-related claims under a self-insurance program, and moving expenses.

- (5) all hiring and interview expenses, training expenses, and the cost of uniforms with respect to personnel (or prospective personnel) at the Pertinent Plant Facility;
- (6) all utility costs for the Pertinent Plant Facility, including electricity, nitrogen, gas, water, and telephone expenses;
- (7) all cost of supplies for the Pertinent Plant Facility, including quality assurance supplies, safety supplies, maintenance supplies, and operating supplies;
- (8) all costs of quality assurance programs at the Pertinent Plant Facility, including the cost of third-party quality assurance services, samples for quality assurance testing, and inspection fees;
- (9) all professional fees specifically related to the manufacture of products at or maintenance of the Pertinent Plant Facility (for example, food scientists and environmental engineers);

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- (10) all repair and maintenance expenses with respect to the Pertinent Plant Facility, including with respect to buildings (including wastewater buildings) and equipment (including wastewater, HVAC and REF equipment) and software;
- (11) all insurance expenses with respect to the Pertinent Plant Facility, including property, boiler & machinery, and liability insurance (including umbrella insurance) premiums;
- (12) all environmental, sanitation, trash pick-up, pest control, and security service expenses with respect to the Pertinent Plant Facility;
- (13) storage expenses, inter-facility freight (inbound), and the cost of pallets relating to the Pertinent Plant Facility;
- (14) all the cost of samples, pilot/test runs, R&D menu items, product demo expenses, safety regulations items, process safety management (PSM), brokerage fees, and graphic design services relating to the Pertinent Plant Facility;
- (15) all the cost of acquiring any item of property or equipment for less than \$1,000 (in 2013) or \$5,000 (2014 and later) for the Pertinent Plant Facility; and
- (16) settlements, fines, and penalties relating to any of the foregoing matters or specifically to the Pertinent Plant Facility.

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**SCHEDULE G  
TOTAL GENERAL OVERHEAD COSTS**

"DFS Consolidated" means Diversified and/or its predecessors, on a consolidated basis with wholly-owned subsidiaries.

The “Total General Overhead Cost” with respect to a period means all business costs and expenses (excluding direct raw ingredient costs, direct labor costs, Total Manufacturing Overhead Costs, and personal expenses) incurred by DFS Consolidated with respect to the specified period (on an accrual basis), regardless of the plant facility(ies), product(s) or customer(s) to which a particular cost or expense may relate, if any, including but not limited to:

(1) all salaries, wages, overtime, commissions, incentive compensation, bonuses, and benefits of DFS Consolidated executives, management, quality assurance, administrative, clerical, and other personnel not based at a particular plant facility, including temporary agency fees;

The term "benefits" includes worker's compensation insurance payments, payroll taxes, 401(k) plan matching payments, severance payments, group insurance premiums, payments of health-related claims under a self-insurance program, and moving expenses.

(2) all business related travel expenses of personnel, including airfares, automobile expenses, hotels, meals, and costs relating to meetings and conventions;

(3) all hiring and interview expenses, training expenses, and the cost of uniforms with respect to personnel (or prospective personnel) at the corporate headquarters;

(4) all management fees paid to Al Copeland Investments, Inc. for executive management services for DFS Consolidated;

(5) all software expenses of Diversified, including for enterprise resource planning, accounting, and payroll systems;

(6) all rent or other lease expenses on the land, buildings, furniture, fixtures, equipment, leasehold improvements, and/or software leased by Diversified at non-plant facilities (currently, the corporate headquarters and The Culinary Center);

(7) all depreciation or amortization expenses with respect to the buildings, furniture, fixtures, equipment, leasehold improvements, and/or software owned by Diversified at non-plant facilities;

(8) all real estate and property taxes on, and other taxes and licenses relating to, non-plant facilities;

(9) all repair and maintenance expenses with respect to non-plant facilities, including with respect to buildings and equipment (including HVAC and REF equipment) and software;

(10) all utility costs for non-plant facilities, including electricity, gas, water, and telephone expenses;

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- (11) all cost of supplies for non-plant facilities, including safety supplies, maintenance supplies, and operating supplies;
- (12) all environmental expenses related to operations, trash pick-up, pest control, and security service expenses with respect to non-plant facilities;
- (13) all cost of samples, R&D menu items, inter-facility freight (inbound), pilot/test runs, and graphic design services relating to non-plant facilities;
- (14) all cost of acquiring any item of property or equipment for less than \$1,000 (in 2013) or \$5,000 (in 2014 and later) for non-plant facilities;
- (15) all insurance expenses with respect to non-plant facilities, including property and liability insurance premiums (including for umbrella insurance);
- (16) all insurance expenses with respect to general company operations (not limited to a particular plant facility), including premiums for errors & omissions insurance, general liability insurance, and insurance relating to non-plant facilities.
- (17) all advertising and marketing expenses, entertainment expenses, and charitable donations;
- (18) all bad debt expenses and costs of recalls;
- (19) all interest expenses, bank service charges, debt issuance costs, and other financing fees;
- (20) all professional fees not included in Total Manufacturing Overhead Costs of any plant facility, including accounting fees, auditing fees, payroll processing fees, tax adviser fees, and financial advisory fees;
- (21) all impairments of long-lived assets, and losses on disposal of property and equipment;
- (22) all legal fees, inspection fees, cleaning, grounds upkeep, office supplies, company activities, dues and subscriptions, postage costs, and miscellaneous items; and
- (23) all costs of legal proceedings, settlements, fines, penalties relating to any of the foregoing matters or not related to a particular plant facility.

## SEPARATION AGREEMENT AND GENERAL RELEASE

This Separation Agreement and General Release (“Agreement”) is entered into by and between H. Melville Hope, III (hereinafter referred to as “Hope”) and Popeyes Louisiana Kitchen, Inc. (“PLKI”) in order to reach an amicable termination of their employment relationship and to promote harmonious relations in the future. As used in this Agreement, “PLKI” shall include Popeyes Louisiana Kitchen, Inc. f/k/a AFC Enterprises, Inc., The Popeyes Foundation, Inc. f/k/a The AFC Foundation, Inc., Popeyes Chicken & Biscuits, and all companies formerly owned by PLKI and any and all related companies and/or subsidiaries and/or committees, and their respective present and former directors, officers, fiduciaries, employees, representatives, agents, successors and assigns, both in their representative and individual capacities.

Hope desires to accept the following agreements, including, without limitation, certain additional consideration from PLKI in return for Hope’s general release. Hope and PLKI desire to settle fully and finally all differences and disputes that might arise, or have arisen, out of Hope’s employment with PLKI and Hope’s separation from PLKI.

### STATEMENT OF TERMS

NOW THEREFORE, for and in consideration of the mutual promises, releases and covenants contained herein, it is agreed as follows:

1. Termination of Employment. Hope acknowledges, understands and agrees that Hope’s employment with PLKI terminates effective May 23, 2014 (the “Separation Date”).

Hope and PLKI mutually agree that effective upon the Effective Date (as defined below), that certain Amended and Restated Employment Agreement, dated March 9, 2010 between AFC Enterprises, Inc. and Henry Hope, III and the First Amendment thereto (the “Employment Agreement”), shall automatically terminate and be of no further force or effect; provided, however, that Hope acknowledges and agrees that all of Hope’s post-term covenants set forth in the Employment Agreement shall be in full force and effect upon the termination of the Employment Agreement, specifically including those provisions referenced in Paragraph 20 of the Employment Agreement.

2. Effective Date. The effective date of this Agreement shall be the eighth day after Hope executes this Agreement (the “Effective Date”). As of the Effective Date, if neither party has revoked this Agreement pursuant to Section 11(e), this Agreement shall be fully effective and enforceable.

3. Consideration. Upon the execution of this Agreement and the expiration of the seven (7) day revocation period, Hope shall be entitled to receive the following consideration:

#### A. Severance

Hope shall receive an amount equal to one and one half times Hope’s base salary on the Separation Date (i.e. \$495,000), plus one and one half times Hope’s target incentive pay (i.e. \$297,000) on the Separation Date, to be paid in a lump sum cash payment on November 24, 2014. All severance payments made hereunder will be made less applicable withholdings. Hope shall not be obligated to seek other employment or take any other action by way of mitigation of the amounts payable to him, and such amounts shall not be reduced regardless of whether Hope obtains other employment or becomes self-employed.

#### B. Accrued Vacation

Hope will receive vacation pay (less applicable withholdings) for his remaining 2014 accrued but unused vacation balance (if applicable), to be paid on PLKI’s next applicable payroll date following the Separation Date.

#### C. Acceleration of Eligible Equity Awards

Hope shall be entitled to (i) immediate vesting of any unvested rights under any restricted stock or stock options (specifically excluding any stock options or restricted stock for which the performance criterion required for exercise has not been previously satisfied), and (ii) prorated vesting of rights under performance share grants under the terms of such awards. Vesting shall be in accordance with Exhibit A which is incorporated by reference.

D. Laptop Computer, iPad, and Cell Phone

Hope shall be allowed to retain his company-purchased laptop computer, iPad, and cell phone, provided that PLKI's IT department must remove any information, software, and programs of PLKI from those devices prior to the Separation Date.

4. Hope's Release of PLKI. As consideration for the bargain set forth in the Agreement, Hope hereby irrevocably and unconditionally releases, acquits and forever discharges PLKI and each of PLKI's owners, stockholders, predecessors, successors, assigns, agents, directors, officers, employees, representatives, attorneys, parent companies, divisions, subsidiaries, affiliates (and agents, directors, officers, employees, representatives and attorneys of such parent companies, divisions, subsidiaries and affiliates), and all persons acting by, through, under or in concert with any of them (collectively "Releases"), from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages actions, causes of action, suits, rights, demands, costs, losses, debts, and expenses of any nature whatsoever, known or unknown, suspected or unsuspected, including, but not limited to, rights arising out of alleged violations or breaches of any contracts, express or implied, or any tort, or any legal restrictions on PLKI's right to terminate Hope, or any federal, state or other governmental statute, regulation, or ordinance, including, without limitation: (1) Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991; (2) the Americans with Disabilities Act; (3) 42 U.S.C. § 1981; (4) the Age Discrimination in Employment Act; (5) the Older Workers Benefit Protection Act; (6) the Equal Pay Act; (7) the Employee Retirement Income Security Act ("ERISA"); (8) Section 503 of the Rehabilitation Act of 1973; (9) the False Claims Act (including the qui tam provision thereof); (10) the Occupational Safety and Health Act; (11) the Consolidated Omnibus Budget Reconciliation Act of 1986; (12) the Worker Adjustment and Retraining Notification Act; (13) the National Labor Relations Act; (14) intentional or negligent infliction of emotional distress or "outrage"; (15) defamation; (16) interference with employment; (17) interference with contract; (18) negligent retention; (19) negligent supervision; (20) wrongful discharge; (21) invasion of privacy, (22) breach of any contract, express or implied, and/or (23) any other claims that Hope could have brought under the laws of the United States and/or the State of Georgia ("Claim" or "Claims"), which Hope now has, owns or holds, or claims to have, own or hold, or which Hope at any time heretofore had, owned or held, or claimed to have, owned or held, against each or any of the Releases at any time up to and including the Effective Date of this Agreement. No term or provision of this Release is to be interpreted as waiving or releasing any prospective claims based upon acts, omissions or events occurring after the execution of this Agreement. Hope specifically affirms that except as set forth in this Agreement, he is entitled no further compensation from PLKI as set forth in his Employment Agreement, the PLKI incentive compensation plans or in any PLKI equity plans.

5. Affirmations. Hope affirms that Hope has not filed, caused to be filed nor is Hope a party to any claim, complaint, or action against PLKI in any forum or any form. Hope further affirms that Hope has received all leave (paid or unpaid), compensation, wages, bonuses, commissions, and/or benefits due to Hope except as provided in this Agreement. Hope further affirms that Hope has no known workplace injuries or occupational diseases that have not been reported and that Hope has been provided and/or has not been denied any leave requested under the Family and Medical Leave Act.

6. Severability and Interpretation. If any provision or part of a provision of this Agreement shall be determined to be void and unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall remain valid and enforceable. The covenants in this Agreement shall be construed as covenants independent of one another and as obligations distinct from any other obligations contained in this or any other agreement between the parties hereto. Each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions of this Agreement, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted. Any such invalid provision shall be subject to partial enforcement to the extent necessary to protect the interests of PLKI. If any court of competent jurisdiction should determine that any term or terms of this Agreement are too broad in terms of time, geographic area, scope of activity to be restrained or otherwise, such court shall modify and revise any



such term or terms (to the minimum extent necessary) so that they shall comply with applicable law. This Agreement as so revised shall be fully binding on the parties hereto.

7. Non-Waiver. Failure of either party to insist, in one or more instances, on performance by the other in strict accordance with the terms and conditions of this Agreement shall not be deemed a waiver or relinquishment of any right granted hereunder or of the future performance of any such term or condition or of any other term or condition of this Agreement, unless such waiver is contained in a writing signed by or on behalf of both parties.

8. Non-Admission. This Agreement shall not in any way be construed as an admission by PLKI of any acts of discrimination or misconduct whatsoever against Hope, and PLKI specifically disclaims any liability to or discrimination against Hope, on the part of itself, its employees, or its agents.

9. Entire Agreement. This Agreement represents the entire agreement between Hope and PLKI with respect to the subject matter hereof. Notwithstanding the foregoing, any terms not addressed in this Agreement and contained in the Employment Agreement shall continue in full force and effect to the extent that they place additional requirements on Hope beyond those contained in this Agreement. Hope further covenants and agrees that the agreement to arbitrate and dispute resolution provisions contained in Paragraph 13 of the Employment Agreement likewise remain in full force and effect. This Agreement cannot be modified except by an express written agreement between the parties. Hope represents that in executing this Agreement, Hope does not rely and has not relied upon any representation or statement made by PLKI or any of its agents or attorneys, with regard to the subject matter, basis or effect of this Agreement, except those stated in this Agreement. **Hope expressly understands and agrees that, except as thus stated in this Agreement, he is not entitled to receive any remuneration from PLKI under any previous severance plan or agreement.**

10. Choice of Law. The substantive laws of the State of Georgia and the applicable federal laws of the United States of America shall govern the validity, construction, enforcement and interpretation of this Agreement. Hope represents that Hope is subject to (and hereby irrevocably submits to) the non-exclusive jurisdiction of any United States federal or Georgia state court sitting in Atlanta, Georgia in respect of any suit, action or proceeding arising out of or relating to this Agreement, and irrevocably agrees that all claims in respect of any such suit, action or proceeding may be heard and determined in any such court. Hope irrevocably waives any objection to the laying of the venue of any such suit, action or proceeding brought in any such court and any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum.

11. Age Discrimination in Employment Act. Hope hereby acknowledges and agrees that this Agreement and the termination of Hope's employment and all actions taken in connection therewith are in compliance with the Age Discrimination in Employment Act (ADEA) and the Older Workers Benefit Protection Act (OWBPA) and that the releases set forth in Section 4 hereof shall be applicable, without limitation, to any claims brought under these Acts. Hope further acknowledges and agrees that:

- (a) the release given by Hope in this Agreement is given solely in exchange for the consideration set forth in Section 3 of this Agreement and such consideration is in addition to anything of value which Hope was entitled to receive prior to entering into this Agreement;
- (b) by entering into this Agreement, Hope does not waive rights or claims that may arise after the date this Agreement is executed;
- (c) Hope has been advised to consult an attorney prior to entering into this Agreement, and this provision of this Agreement satisfies the requirement of the Older Workers Benefit Protection Act that Hope be so advised in writing;
- (d) Hope has been offered at least twenty-one (21) days from receipt of this Agreement within which to consider this Agreement; and
- (e) For a period of seven (7) days following Hope's execution of this Agreement, Hope or PLKI may revoke this Agreement and this Agreement shall not become effective or enforceable until such seven (7) day period has

expired.

The original of this Agreement signed by Hope should be delivered to the General Counsel of Popeyes Louisiana Kitchen, Inc., 400 Perimeter Center Terrace, Suite 1000, Atlanta, GA 30346. Any revocation should be in writing and delivered to the General Counsel at the address listed within the time allotted.

PLEASE READ CAREFULLY. THIS AGREEMENT INCLUDES A RELEASE OF ALL KNOWN AND UNKNOWN CLAIMS AND CAUSES OF ACTION.

HOPE AGREES THAT ANY MODIFICATIONS MADE TO THIS AGREEMENT DO NOT RESTART OR AFFECT IN ANY MANNER THE ORIGINAL TWENTY-ONE (21) CALENDAR DAY CONSIDERATION PERIOD.

PLKI Name: Cheryl A. Bachelder Title: Chief Executive Officer Popeyes Louisiana Kitchen, Inc.	EMPLOYEE H. Melville Hope, III
Signature: <u> /s/ Cheryl A. Bachelder</u>	Signature: <u> /s/ H. Melville Hope, III</u>
Date: <u> April 14, 2014</u>	Date: <u> April 14, 2014</u>

**EXHIBIT A**

<b>Grant #</b>	<b>Vesting Date May 23, 2014</b>
<u>Stock Options</u>	<u>Number of Options/Shares Vested</u>
8768	2825
8790	3284
<u>Performance Share Awards</u>	
8885	6295
9137	1751

**INDEPENDENT CONTRACTOR AGREEMENT**

THIS INDEPENDENT CONTRACTOR AGREEMENT (the "Agreement"), is entered into this 14<sup>th</sup> day of April, 2014, to be effective as of May 25, 2014 (the "Effective Date"), by and between the following parties:

I. Popeyes Louisiana Kitchen, Inc. ("PLKI") ; as used in this Agreement, "PLKI" shall include Popeyes Louisiana Kitchen, Inc. f/k/a AFC Enterprises, Inc., The Popeyes Foundation, Inc. f/k/a The AFC Foundation, Inc., Popeyes Chicken & Biscuits, and all companies formerly owned by PLKI and any and all related companies and/or subsidiaries and/or committees, and their respective present and former directors, officers, fiduciaries, employees, representatives, agents, successors and assigns, both in their representative and individual capacities.

II. H. Melville Hope, III or any company he owns which provides consulting services (hereinafter referred to as "Hope"). (Hope and PLKI, collectively the "Parties," individually each a "Party").

PLKI desires to engage Hope as an independent contractor to perform services for PLKI as requested hereunder.

Hope desires to act as an independent contractor for PLKI on a non-exclusive basis performing the Consulting Services (as defined below) under the terms and conditions described herein.

IN CONSIDERATION OF THE MUTUAL PROMISES AND AGREEMENTS CONTAINED HEREIN, PLKI AND HOPE AGREE AS FOLLOWS:

1. Engagement. PLKI hereby engages the services of Hope and Hope accepts such engagement upon the terms and conditions of this Agreement. Hope will determine the method, details, and means of performing the services and PLKI shall not have the right to, and shall not, control the manner or determine the method of accomplishing the services. Hope represents and warrants that he is not subject to any restrictive agreement, order, or other legal obstacle which prohibits Hope from entering into and performing this Agreement.

2. Contractor Relationship.

a. Intent. It is the intent and purpose of the parties hereto that the relationship of Hope to PLKI shall be that of an independent contractor. Hope shall have no authority to bind PLKI and shall not represent or lead any person to believe that Hope or any representative thereof has the power or authority to bind PLKI to any agreement or obligation.

b. Benefits. No "fringe benefits" (such as medical insurance, life insurance, worker's compensation, etc.) will be provided by PLKI to Hope, except as expressly stated herein.

c. Hours/Place of Service. PLKI is interested only in the results achieved by Hope and not the hours worked or place of performance, which shall be within the sole discretion of Hope. Hope will direct the manner and method in which results are to be accomplished. Hope shall perform all services as contemplated herein as an independent contractor, and nothing in this Agreement is intended to create a relationship of employer-employee, principal-agent or master-servant between the parties.

d. Hope Affirmations. Hope affirms and represents that: (a) PLKI may permit Hope to use office space at its headquarters to facilitate performance of some or all of the Services, but Hope is an independent contractor with his own facility, vehicle, equipment, materials or similar accommodations which are neither owned by PLKI nor controlled or used by PLKI; (b) Hope holds or has applied for a federal tax identification number or is a sole proprietor and is not required to obtain such identification; (c) Hope agrees to perform the specific Services defined herein and Hope controls the means of performing the Services; (d) Except as expressly provided for herein, Hope shall be responsible for all expenses related to the Services that Hope has agreed to perform; (e) Hope is wholly responsible for the satisfactory completion of the Services and will be held liable for failure to complete the Services.

3. Tax Liability. Hope agrees as an independent contractor to be solely responsible for all taxes and other costs and expenses attributable to the compensation payable to and Services provided by Hope hereunder. Hope attests and agrees that Hope has taken or will take any and all action to comply with all applicable federal, state and local laws pertaining to the same. It is understood that PLKI shall not withhold any sums from the amounts paid Hope for Social Security or any federal or state taxes, but shall provide Hope with a 1099 form. Hope agrees to indemnify PLKI and agrees to hold PLKI harmless from any claim(s) arising from any taxing or other authority. Hope acknowledges and agrees that Hope is not entitled to workers' compensation insurance benefits from PLKI and may only receive such coverage if provided by Hope or some entity other than PLKI.

4. Term. The term of this Agreement shall begin on May 25, 2014 and shall expire on September 24, 2014 (the "Consulting Period").

5. Compensation. Hope shall be paid monthly in the amount of Thirty Seven Thousand Five Hundred Dollars (\$37,500) for performing the Services described herein during the Consulting Period, for a total compensation of One Hundred Fifty Thousand Dollars (\$150,000.00) to be paid monthly to Hope during the Consulting Period, on the following dates: June 1, 2014, July 1, 2014, August 1, 2014, and September 1, 2014.

6. Services. During the Consulting Period, Hope agrees to make himself available for any and all such reasonable consulting duties as requested by PLKI (the "Consulting Services"). Specifically, the Consulting Services shall include requested assistance related to PLKI's Quarterly Report on Form 10-Q filing for PLKI's first and second fiscal quarters of 2014, and assistance with a comprehensive, written transition plan for activities previously overseen by Hope, including enumerated activities, due dates, and suggested parties to assume responsibilities. Hope understands and agrees that all business expenses need to be pre-approved in writing by PLKI.

7. Indemnification. Hope agrees to indemnify, defend and hold harmless PLKI, its subsidiaries and affiliates, their respective officers, directors, agents, servants and employees from any and all losses, liability, claims, liens, demand, actions and causes of action and expenses whatsoever (including reasonable attorneys' fees as a part of costs) arising out of or related to any negligent act or omission of Hope.

8. Termination. In addition to the provisions concerning expiration of the Agreement as set forth in Paragraph 4 above, either party may terminate this Agreement due to the failure of the other party to fulfill its obligations under the terms of this Agreement. In such event, the terminating party shall give the other party ten (10) days prior notice of the alleged breach of this Agreement and an opportunity to cure such breach prior to termination. If this Agreement is terminated due to a default by Hope, then PLKI shall pay Hope for Services performed under the Agreement through the termination date, but Hope shall not be entitled to any compensation or loss of any anticipated profit or income on Services not performed in the event of Hope's default. If this Agreement is terminated due to a default by PLKI, then Hope shall be entitled to the full amount due under this Agreement notwithstanding such termination.

9. Death or Disability. If Hope dies during the term of this Agreement, or if Hope should become disabled during the term of this Agreement such that Hope's disability prevents Hope from performing the Consulting Services required under this Agreement, then this Agreement shall automatically terminate effective on the date of such death or disability.

10. Restrictive Covenants.

10.01 Definitions. For purposes of this Section 10, the following terms shall have the following meanings:

"Affiliate" means any corporation, limited liability company, partnership or other entity of which PLKI owns at least fifty percent (50%) of the outstanding equity and voting rights, directly or indirectly, through any other corporation, limited liability company, partnership or other entity.

"Businesses" means the businesses engaged in by PLKI directly or through its Affiliates on the Effective Date.

"Confidential Information" means information which does not rise to the level of a Trade Secret, but is valuable to the PLKI or any Affiliate and provided in confidence to Hope.

"Material Contact" means any actual interaction between Hope and an existing customer, employee, vendor, supplier or franchisee which takes place in an effort to establish and/or further a business relationship on behalf of PLKI.

"Proprietary Information" means, collectively, Trade Secrets and Confidential Information.

“Restricted Period” means the period ending May 22, 2016.

“Trade Secrets” means information which derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

10.02 Covenant Not-To-Disclose. PLKI and Hope recognize that, during the course of Employee’s previous employment with PLKI, PLKI has disclosed and will continue under this Agreement to disclose to Hope Proprietary Information concerning PLKI and the Affiliates, their products, their franchisees, their services and other matters concerning their Businesses, all of which constitute valuable assets of PLKI and the Affiliates. PLKI and Hope further acknowledge that PLKI has, and will, invest considerable amounts of time, effort and corporate resources in developing such valuable assets and that disclosure by Hope of such assets to the public shall cause irreparable harm, damage and loss to PLKI and the Affiliates. Accordingly, Hope acknowledges and agrees that, except as may be required by law:

- (a) that the Proprietary Information is and shall remain the exclusive property of PLKI (or the applicable Affiliate);
- (b) to use the Proprietary Information exclusively for the purpose of fulfilling the obligations under this Agreement;
- (c) to return the Proprietary Information, and any copies thereof, in his possession or under his control, to PLKI (or the applicable Affiliate) upon request of PLKI (or the Affiliate), or expiration or termination of this Agreement; and
- (d) to hold the Proprietary Information in confidence and not copy, publish or disclose to others or allow any other party to copy, publish or disclose to others in any form, any Proprietary Information without the prior written approval of an authorized representative of PLKI.

The obligations and restrictions set forth in this Section 10.02 shall survive the expiration or termination of this Agreement, for any reason, and shall remain in full force and effect as follows:

- (a) as to Trade Secrets, indefinitely, and
- (b) as to Confidential Information, through the Restricted Period.

The confidentiality, property, and proprietary rights protections available in this Agreement are in addition to, and not exclusive of, any and all other corporate rights, including those provided under copyright, trade secret, and confidential information laws. The obligations set forth in this Section 10.02 shall not apply or shall terminate with respect to any particular portion of the Proprietary Information which (i) was in Hope’s possession, free of any obligation of confidence, prior to his receipt from PLKI or its Affiliate, (ii) Hope establishes the Proprietary Information is

already in the public domain at the time PLKI or the Affiliate communicates it to Hope, or becomes available to the public through no breach of this Agreement by Hope, or (iii) Hope establishes that he received the Proprietary Information independently and in good faith from a third party lawfully in possession thereof and having no obligation to keep such information confidential.

10.03 Covenant Not-To-Induce. Hope covenants and agrees that during the Restricted Period, he will not, directly or indirectly, on his own behalf or in the service or on behalf of others, hire, solicit, take away or attempt to hire, solicit or take away any person who is or was an employee of PLKI or any Affiliate during the one (1) year period preceding the termination of Hope's employment with PLKI, and with whom Hope has had Material Contact during the previous two years.

10.04 Covenant Not To Compete. Hope acknowledges and agrees that PLKI is in the business of the design, development and sale of chicken-based products, seafood and other food items sold in the quick service restaurant business. Hope further acknowledges and agrees that the following entities also engage in the design, development and sale of chicken based products, seafood and/or other food items sold in the quick service restaurant business so as to engage in competing Businesses: Church's Chicken, Kentucky Fried Chicken, Bojangles' Famous Chicken 'n Biscuits, Raising Cane's Chicken Fingers, and Zaxby's (collectively, the "Competing Businesses"). Hope therefore covenants and agrees that, for so long as Hope is employed by PLKI as a consultant and for a period of eight (8) months after the termination of the Consulting Period for any reason, Hope shall not engage in or perform any business services for the Competing Businesses identified in this Section 10.04. Nothing herein shall be construed to prohibit Hope from performing on Hope's own behalf, or on behalf of any Competing Businesses, any activity or activities that Hope did not perform for PLKI.

10.05 Remedies. PLKI and Hope expressly agree that a violation of any of the covenants contained in subsections 10.02 through and including 10.04 of this Section 10, or any provision thereof, shall cause irreparable injury to PLKI and that, accordingly, PLKI shall be entitled, in addition to any other rights and remedies it may have at law or in equity, to an injunction enjoining and restraining Hope from doing or continuing to do any such act and any other violation or threatened violation of said Sections 10.02 through and including 10.04 hereof.

10.06 Severability. In the event any provision of this Agreement shall be found to be void, the remaining provisions of this Agreement shall nevertheless be binding with the same effect as though the void part were deleted. It is expressly understood and agreed by the parties hereto that PLKI shall not be barred from enforcing the restrictive covenants contained in each of subsections 10.02 through and including 10.04, as each are separate and distinct, so that the invalidity of any one or more of said covenants shall not affect the enforceability and validity of the other covenants.

10.07 Ownership of Property. Hope agrees and acknowledges that all works of authorship and inventions, including but not limited to products, goods, know-how, Trade Secrets and Confidential Information, and any revisions thereof, in any form and in whatever stage of creation or development, arising out of or resulting from, or in connection with, the services provided by

Hope to PLKI or any Affiliate under this Agreement are works made for hire and shall be the sole and exclusive property of PLKI or such Affiliate. Hope agrees to execute such documents as PLKI may reasonably request for the purpose of effectuating the rights of PLKI or the Affiliate in any such property.

10.08 No Defense. The existence of any claim, demand, action or cause of action of Hope against PLKI shall not constitute a defense to the enforcement by PLKI of any of the covenants or agreements in this Section 10.

10.09 Mutual Covenant of Non-Disparagement. Hope and PLKI agree that they shall not at any time during or following the Term of this Agreement make any remarks disparaging the conduct or character of Hope and PLKI or the Affiliates or any of PLKI's or the Affiliates' current or former agents, employees, officers, directors, successors or assigns.

11. Miscellaneous.

a. Waiver of Breach. The waiver by either Party of a breach of any provision of this Agreement by the other Party shall not operate or be construed as a waiver of any subsequent or other breach.

b. Notices. Notices and all other communications provided for in this Agreement shall be in writing and shall be deemed to have been duly given when personally delivered or if mailed in the manner herein specified, five (5) days after postmark of such mailing when mailed by United States registered mail, return receipt requested, postage prepaid, addressed as follows:

If to Hope:

H. Melville Hope, III  
340 Londonberry Road, NW  
Atlanta, GA 30327

If to the PLKI to:

Popeyes Louisiana Kitchen, Inc.  
400 Perimeter Center Terrace, Suite 1000  
Atlanta, GA 30346  
Attn: General Counsel

or to such other address or such other person as Hope or PLKI shall designate in writing in accordance with this Section 11 except that notices regarding changes in notices shall be effective only upon receipt.

c. Construction; Entire Agreement. This instrument constitutes the entire agreement between the parties with respect to the consulting agreement described herein. It may



not be changed orally but only by an instrument in writing signed by the party against whom enforcement of any waiver, change, modification, extension or discharge is sought.

d. Governing Law and Jurisdiction. This Agreement is entered into in the State of Georgia and shall be construed in accordance with the laws of such state. The parties hereby submit to the jurisdiction of the State of Georgia and the federal and state courts therein, for the purpose of any suit, action, or other proceeding arising out of or relating to this Agreement. While PLKI and Hope consider the restrictions contained in this Agreement reasonable, if any covenant herein which restricts competitive activity is deemed unenforceable by virtue of its scope and terms of geographical area, type of business activity prohibited and/or length of time, that could be enforceable by reducing any part or all thereof, PLKI and Hope agree that the same shall be enforced to the fullest extent permissible under the laws and public policies applied in the jurisdiction in which enforcement is sought.

HOPE AND PLKI ACKNOWLEDGE THAT THEY HAVE READ ALL OF THE TERMS OF THIS AGREEMENT AND AGREE TO ABIDE BY ITS TERMS AND CONDITIONS. HOPE SPECIFICALLY ACKNOWLEDGES THAT HOPE HAS BEEN ADVISED OR UNDERSTANDS THAT HOPE SHOULD CONSULT HOPE'S COUNSEL PRIOR TO EXECUTION OF THIS AGREEMENT AND THAT PLKI HAS OFFERED HOPE THE OPPORTUNITY TO SEEK SUCH ADVICE AND THAT HOPE HAS SOUGHT SUCH LEGAL ADVICE OR KNOWINGLY WAIVES THAT OPPORTUNITY PROVIDED HEREIN AND EXECUTES THE AGREEMENT KNOWINGLY AND VOLUNTARILY.

**[SIGNATURE PAGE FOLLOWS]**

IN WITNESS WHEREOF, the authorized agents or officers of the parties hereto have set forth their hands and seals the day and year first above written.

WITNESSES: Popeyes Louisiana Kitchen, Inc. ("PLKI)

/s/ Harold M. Cohen By: /s/ Cheryl A. Bachelder  
Bachelder Title: Chief Executive Officer

Print Name: Cheryl A.

H. Melville Hope, III ("Hope")

/s/ Harold M. Cohen By: /s/ H. Melville Hope, III  
Print Name: H. Melville Hope, III

## CERTIFICATION

I, Cheryl A. Bachelder certify that:

1. I have reviewed this quarterly report on Form 10-Q of Popeyes Louisiana Kitchen, 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 fiscal 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: August 20, 2014

/s/ Cheryl A. Bachelder

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Cheryl A. Bachelder  
Chief Executive Officer  
(Principal Executive Officer)

## CERTIFICATION

I, Tony Woodard, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Popeyes Louisiana Kitchen, 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 fiscal 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: August 20, 2014

/s/ Tony Woodard

Tony Woodard  
Interim Chief Financial Officer  
(Principal Financial and Accounting  
Officer)

CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO SECTION 906 OF THE  
SARBANES-OXLEY ACT OF 2002

Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and in connection with the Quarterly Report on Form 10-Q of Popeyes Louisiana Kitchen, Inc. (the "Corporation") for the period ended July 13, 2014 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), the undersigned, the Chief Executive Officer of the Corporation, certifies that:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Corporation.

Date: August 20, 2014

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/s/ Cheryl A. Bachelder

Cheryl A. Bachelder  
Chief Executive Officer  
(Principal Executive Officer)

**CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO SECTION 906 OF THE  
SARBANES-OXLEY ACT OF 2002**

Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and in connection with the Quarterly Report on Form 10-Q of Popeyes Louisiana Kitchen, Inc. (the "Corporation") for the period ended July 13, 2014 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), the undersigned, the Interim Chief Financial Officer of the Corporation, certifies that:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Corporation.

Date: August 20, 2014

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/s/ Tony Woodard

Tony Woodard  
Interim Chief Financial Officer  
(Principal Financial and Accounting Officer)