

EX-10.20 2 dex1020.htm CREDIT AGREEMENT

Exhibit 10.20

EXECUTION COPY

\$1,350,000,000

CREDIT AGREEMENT

Dated as of November 23, 2010

among

DUNKIN' FINANCE CORP.

as the Initial Borrower

DUNKIN' BRANDS HOLDINGS, INC.

as Holdings upon the effectiveness of its joinder to this Agreement

DUNKIN' BRANDS, INC.

as the Borrower upon the Assumption

BARCLAYS BANK PLC

as Administrative Agent, Swing Line Lender and L/C Issuer

THE OTHER LENDERS PARTY HERETO

BARCLAYS CAPITAL

J.P. MORGAN SECURITIES LLC

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED

GOLDMAN SACHS LENDING PARTNERS LLC

as Lead Arrangers and Joint Bookrunners

J.P. Morgan Securities LLC

as Syndication Agent

and

Merrill Lynch, Pierce, Fenner & Smith Incorporated

Goldman Sachs Lending Partners LLC

Cooperatieve Centrale Raiffeisen-Boerenleenbank B.A., "Rabobank Nederland", New York

Branch

as Co-Documentation Agents

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- A-2 Form of Prepayment Notice
- A-3 Form of Request for L/C Issuance
- B Form of Swing Line Loan Notice
- C-1 Form of Term Note
- C-2 Form of Revolving Credit Note
- D Form of Compliance Certificate
- E Form of Assignment and Assumption
- F Form of Guaranty
- G Form of Security Agreement
- H Form of Joinder Agreement
- I Form of L/C Issuer Agreement
- J Form of Administrative Questionnaire
- K Form of Specified Discount Prepayment Notice
- L Form of Specified Discount Prepayment Response
- M Form of Discount Range Prepayment Notice
- N Form of Discount Range Prepayment Offer
- O Form of Solicited Discounted Prepayment Notice
- P Form of Solicited Discounted Prepayment Offer
- Q Form of Acceptance and Prepayment Notice
- R Form of Affiliated Lender Assignment and Assumption
- S-1 US Tax Certificate (For Non-US Lenders that are not Partnerships For US Federal Income Tax Purposes)
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- T Form of Borrower Assignment and Assumption Agreement
- U Form of Pari Passu Intercreditor Agreement
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-V-

CREDIT AGREEMENT

This CREDIT AGREEMENT (this “**Agreement**”) is entered into as of November 23, 2010, among Dunkin’ Finance Corp., a Delaware corporation (the “**Initial Borrower**”), and, upon the effectiveness of its joinder to this Agreement, Dunkin’ Brands Holdings, Inc., a Delaware corporation (“**Holdings**”), and, upon the Assumption, Dunkin’ Brands, Inc., a Delaware corporation (“**DBI**”), each lender from time to time party hereto (collectively, the “**Lenders**” and individually, each a “**Lender**”), and Barclays Bank PLC, as Administrative Agent, Swing Line Lender and L/C Issuer.

PRELIMINARY STATEMENTS

The Initial Borrower has requested that (a) the Term B Lenders make Term B Loans to the Initial Borrower in an aggregate principal amount of \$1,250,000,000, and (b) from time to time, the Revolving Credit Lenders lend to the Initial Borrower and the Borrower and the L/C Issuer issue Letters of Credit for the account of the Borrower and its Restricted Subsidiaries under a \$100,000,000 Revolving Credit Facility.

Concurrently with the initial funding under this Agreement on the Closing Date, the Initial Borrower will enter into the Senior Secured Credit Facilities Escrow and Security Agreement with the Administrative Agent and the Escrow Agent, pursuant to which (i) the Lenders will deposit with the Escrow Agent into the Escrow Account the proceeds of the Term Loans made on the Closing Date and (ii) the Initial Borrower will deposit with the Escrow Agent into the Escrow Account certain additional amounts necessary to pay accrued and unpaid interest to, but excluding, the Special Mandatory Prepayment Date.

The funds in the Escrow Account will be released in accordance with the terms of the Senior Secured Credit Facilities Escrow and Security Agreement, and together with (i) a portion of DBI’s cash on hand, (ii) the proceeds of the issuance of the Senior Notes and (iii) the proceeds of Revolving Credit Loans made on the Escrow Release Date, will be used by the Borrower to finance the repayment of all amounts outstanding under the Securitization Notes, to pay a special dividend to Holdings (the proceeds of which will then be used by Holdings to pay a subsequent special dividend to Parent) and pay the Transaction Expenses. The proceeds of Revolving Credit Loans made after the Closing Date will be used for working capital and other general corporate purposes of the Borrower and its Subsidiaries, including the financing of Permitted Acquisitions. Swing Line Loans and Letters of Credit will be used for general corporate purposes of the Borrower and its Subsidiaries.

Concurrently with the release of funds from the Escrow Account on the Escrow Release Date, the Initial Borrower and the Borrower shall execute and deliver the Borrower Assignment and Assumption Agreement pursuant to which, among other things, the Initial Borrower shall assign and transfer to DBI all of its rights and obligations as the Borrower under the Loan Documents (such assignment, the “**Assumption**”). Immediately following the Assumption and upon the redemption of the Existing Securitization Notes and discharge of the Existing Securitization Indenture on the Escrow Release Date, the Initial Borrower will be merged with and into DBI, with DBI being the surviving entity.

The applicable Lenders have indicated their willingness to lend and the L/C Issuer has indicated its willingness to so issue Letters of Credit, in each case, on the terms and subject to the conditions set forth in this Agreement.

In consideration of the mutual covenants and agreements contained in this Agreement, the parties hereto covenant and agree as follows:

ARTICLE 1

DEFINITIONS AND ACCOUNTING TERMS

Section 1.01 *Defined Terms*. As used in this Agreement, the following terms shall have the meanings set forth below:

“**Acceptable Discount**” has the meaning specified in Section 10.07(l)(iv)(B).

“**Acceptable Prepayment Amount**” has the meaning specified in Section 10.07(l)(iv)(C).

“**Acceptance and Prepayment Notice**” means an irrevocable written notice from a Company Party accepting Solicited Discounted Prepayment Offers to make a Discounted Term Loan Prepayment at the Acceptable Discount specified therein pursuant to Section 10.07(l)(iv) substantially in the form of Exhibit Q.

“**Acceptance Date**” has the meaning specified in Section 10.07(l)(iv)(B).

“**Accepting Lender**” has the meaning specified in Section 2.05(b)(vii).

“**Ad Fund Cash**” means all amounts held in segregated accounts established solely for advertising activities pursuant to agreements with franchisees, including by Ad Fund Special Subsidiaries.

“**Ad Fund Special Subsidiary**” means any Subsidiary that (a) is an administrator or holder of cash held in segregated accounts established solely for advertising activities pursuant to agreements with franchisees and (b) holds no assets other than the accounts described in clause (a) and conducts no activities other than administering and holding such accounts and activities reasonably related to the foregoing, including DB AdFund Administrator LLC.

“**Administrative Agent**” means the United States branch of Barclays Bank PLC in its capacity as administrative agent under any of the Loan Documents, or any permitted successor administrative agent, provided that, in all events, any payments from the Loan Parties to the Administrative Agent shall be made to a “U.S. branch” of the Administrative Agent that is treated as a “U.S. person” for purposes of Treasury Regulations 1.1441-1.

“**Administrative Agent’s Office**” means the Administrative Agent’s address and, as appropriate, account as set forth on Schedule 10.02, or such other address or account as the Administrative Agent may from time to time notify in writing to the Borrower, the Lenders and the L/C Issuers.

“Administrative Questionnaire” means an Administrative Questionnaire substantially in the form of Exhibit J.

“Affiliate” means, with respect to any Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified. **“Control”** means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. **“Controlling”** and **“Controlled”** have meanings correlative thereto.

“Affiliated Lender” shall mean a Lender that is (a) a Sponsor or Affiliate of a Sponsor or (b) an Affiliate of any Loan Party (excluding, in each case (i) any Investment Fund, (ii) any Affiliate of any Sponsor that would not constitute a Sponsor pursuant to the definition thereof and (iii) Holdings, the Borrower or any of its respective Subsidiaries).

“Affiliated Organization” means (i) The Dunkin’ Donuts & Baskin-Robbins Community Foundation, Inc., Dunkin Brands Disaster Relief Fund, Inc., Dunkin Donuts Charitable Trust and any charitable organization that is an Affiliate of the Borrower or any Subsidiary that meets the requirements of Section 501(c)(3) of the Code to the extent, and only for so long as, such organization is eligible to receive tax-deductible contributions in accordance with Section 170 of the Code and (ii) Dunkin’ Brands, Inc. Political Action Committee and any non-profit political association qualifying as a separate, segregated fund, as that term is used in the Federal Election Campaign Act whose connected organization is DBI and that is independent of, and not affiliated with, any political party, candidate for elective office, or other political organization.

“Agent-Related Person” means the Administrative Agent, together with its Affiliates, and the officers, directors, employees, agents and attorneys-in-fact of such Persons and Affiliates.

“Agents” means, collectively, the Administrative Agent, the Syndication Agent, each Co-Documentation Agent, and the Supplemental Administrative Agents (if any).

“Aggregate Commitments” means the Commitments of all the Lenders.

“Agreement” means this Credit Agreement.

“Applicable Discount” has the meaning specified in Section 10.07(l)(iii)(B).

“Applicable Rate” with respect to the Term B Loans and the Revolving Credit Loans, unused Revolving Credit Commitments, Letter of Credit fees and Revolving Credit Commitment Fees, the following percentages per annum, based upon the Total Leverage Ratio as set forth in the most recent Compliance Certificate received by the Administrative Agent pursuant to Section 6.02 means a percentage per annum equal to:

Pricing Level	Total Leverage Ratio	Applicable Rate		
		Eurocurrency Rate and Letter of Credit Fees	Base Rate	Revolving Credit Commitment Fee Rate
1	>6.00:1	4.25%	3.25%	0.500%
2	≤ 6.00:1 but > 5.00:1	4.00%	3.00%	0.500%
3	≤ 5.00:1	3.75%	2.75%	0.500%

Any increase or decrease in the Applicable Rate resulting from a change in the Total Leverage Ratio shall become effective as of the first Business Day immediately following the date a Compliance Certificate is delivered pursuant to Section 6.02; provided that Pricing Level 1 shall apply (x) as of the first Business Day after the date on which a Compliance Certificate was required to have been delivered but was not delivered, and shall continue to so apply to and including the date on which such Compliance Certificate is so delivered (and thereafter the Pricing Level otherwise determined in accordance with this definition shall apply) and (y) at the option of the Administrative Agent or the Required Revolving Lenders, as of the first Business Day after an Event of Default shall have occurred and be continuing, and shall continue to so apply to but excluding the date on which such Event of Default is cured or waived (and thereafter the Pricing Level otherwise determined in accordance with this definition shall apply); provided, further, that prior to delivery of the Compliance Certificate with respect to the first fiscal quarter beginning after the Closing Date, Pricing Level 1 shall apply.

“Appropriate Lender” means, at any time, (a) with respect to Loans of any Class, the Lenders of such Class, (b) with respect to the Letter of Credit Sublimit, (i) the L/C Issuer and (ii) if any Letters of Credit have been issued pursuant to Section 2.03(a), the Revolving Credit Lenders and (c) with respect to the Swing Line Facility, (i) the Swing Line Lender and (ii) if any Swing Line Loans are outstanding pursuant to Section 2.04(a), the Revolving Credit Lenders.

“Approved Domestic Bank” has the meaning specified in clause (b) of the definition of “Cash Equivalents.”

“Approved Foreign Bank” has the meaning specified in clause (f) of the definition of “Cash Equivalents.”

“Approved Fund” means any Fund that is administered, advised or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers, advises or manages a Lender.

“Arrangers” means Barclays Capital, the investment banking division of Barclays Bank PLC, J.P. Morgan Securities LLC, Merrill Lynch, Pierce, Fenner & Smith Incorporated and Goldman Sachs Lending Partners LLC, each in its capacity as an arranger and joint bookrunner for the Facilities.

“Assignment and Assumption” means an Assignment and Assumption substantially in the form of Exhibit E or in another form reasonably acceptable to the Administrative Agent.

“Assumption” has the meanings specified in the introductory paragraph to this Agreement.