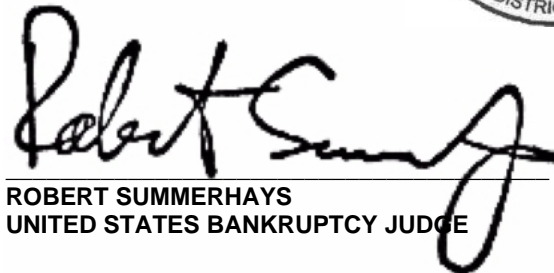




SO ORDERED.

SIGNED December 19, 2012.


ROBERT SUMMERHAYS
UNITED STATES BANKRUPTCY JUDGE

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION**

IN RE:

**PICCADILLY RESTAURANTS, LLC,
ET AL.,**

DEBTORS

* CASE NO. 12-51127
*
* (JOINT ADMINISTRATION)
*
* CHAPTER 11
*
* JUDGE ROBERT SUMMERHAYS

FINAL ORDER, PURSUANT TO SECTIONS 503(b)(9), 363(b), AND 105(a) OF THE BANKRUPTCY CODE, (1) GRANTING CRITICAL VENDOR STATUS, (2) AUTHORIZING DEBTORS TO ENTER INTO A DISTRIBUTION AGREEMENT WITH THE MERCHANTS COMPANY, D/B/A MERCHANTS FOODSERVICE, AND ITS AFFILIATES, (3) AUTHORIZING THE IMMEDIATE CASH PAYMENT OF A PORTION OF THE PRE-PETITION CLAIM OF MERCHANTS, (4) AUTHORIZING THE REAPPLICATION OF CERTAIN OF THE DEBTORS' POST-PETITION PAYMENTS TO CERTAIN PRE-PETITION INVOICES OF THE MERCHANTS COMPANY, (5) ALLOWING MERCHANTS' SECTION 503(b)(9) CLAIM AND PACA CLAIMS, AND (6) GRANTING RELATED RELIEF

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Considering the Motion of the Debtors for entry an order, pursuant to sections 363(b), 105(a) and 503(b)(9) of the Bankruptcy Code, (1) Granting Critical Vendor Status to The Merchants Company d/b/a Merchants Foodservice, and its Affiliates (collectively, “Merchants”), (2) Authorizing the Debtors to Enter into a Distribution Agreement with Merchants, (3) Authorizing the Immediate Cash Payment of a Portion of the Pre-Petition Claim of Merchants, (4) Authorizing the Reapplication of Certain of the Debtors’ Post-Petition Payments to Certain Pre-Petition Invoices of Merchants, (5) Allowing Merchants’ Section 503(b)(9) Claim and PACA Claims, and (6) Granting Related Relief (the “Motion”) (Dkt. #365). This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, and 11 U.S.C. § 503. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (B) and (O). The Court finds that proper notice of the Motion was given to all creditors and parties in interest, and that the DIP Lenders and the Unsecured Creditors Committee consent to the relief requested herein, and the expedited hearing of the Motion, and the Court further finds that the relief requested in the Motion is in the best interests of the Debtors’ estates, their creditors and other parties in interest and should be granted.

IT IS, THEREFORE, ORDERED as follows:

1. The Motion be, and the same hereby is, granted.
2. After the payments and credits required of the Debtors herein are made to Merchants, and as consideration for the payments required herein, Merchants will enter into and deliver to Piccadilly Restaurants, LLC (“Restaurants”) that certain Distribution Agreement by and between Merchants and Restaurants, a copy of which is attached to this Order as **Exhibit 1** (the “Distribution Agreement”), effective as of the entry of this Order, to govern the future sale and

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delivery of Food and Supplies, as well as (i) giving the Debtors' credit terms of up to \$1.4 million, (ii) for a term of two years, and (iii) terminable by Restaurants on 120-days' notice to Merchants. Restaurants is hereby authorized to enter into the Distribution Agreement.

3. As set forth in the Motion, Merchants is a Critical Vendor of Restaurants, and that the treatment of the claim of Merchants as a Critical Vendor as set forth herein is essential to induce Merchants to offer Restaurants the terms and conditions set forth in the Distribution Agreement, and such treatment of the claim of Merchants as provided herein is in the best interests of the Debtors, the bankruptcy estates, the creditors and parties in interest.

4. Merchants has allowed pre-petition claims against Restaurants in the total amount of \$4,223,564 (the "Merchants Pre-Petition Claim").

5. Of the Merchants Pre-Petition Claim, Merchants has allowed claims under PACA in the amount of \$159,487 (the "Allowed PACA Claims"), all of which has now been paid.

6. Of the Merchants Pre-Petition Claim, Merchants has an allowed administrative claim under 11 U.S.C. §503(b)(9) in the amount of \$2,323,585 (the "Allowed 503(b)(9) Claim"), which takes into account the Allowed PACA Claims.

7. The Allowed 503(b)(9) Claim in the amount of \$2,323,585 will be paid at the earliest time that any other allowed administrative claim under 11 U.S.C. §503(b)(9) is paid to any creditor by any of the Debtors.

8. Considering the Allowed PACA Claims and the Allowed 503(b)(9) Claim, Merchants has an allowed unsecured claim in the aggregate amount of \$1,740,492 (the "Allowed Unsecured Claim").

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9. The entire amount of the Allowed Unsecured Claim shall be paid to Merchants within two (2) business day from the date of the entry of this Order, as follows:

A. First, a credit (the “Margin Differential Credit”) will be given by Merchants to Restaurants against the Allowed Unsecured Claim of Merchants for the margin differential charged for food and supplies after the Petition Date when compared to the more favorable contract terms subsequently negotiated between Restaurants and Merchants (as reflected in the Distribution Agreement), which Margin Differential Credit will continue to accrue until the entry of this Order.

B. Second, the Debtors will pay Merchants cash in an amount equal to fifty percent (50%) of the remaining amount of the Allowed Unsecured Claim after the application of the Margin Differential Credit set forth in subparagraph A. above (the “Critical Vendor Cash Payment”); *and*

C. Third, the remaining fifty percent (50%) of the Allowed Unsecured Claim (after the applications of the payments and credits set forth in subparagraphs A. and B. above) will be satisfied by Merchants’ re-applying and re-classifying, on a dollar-for-dollar basis, post-petition payments previously made by Restaurants to Merchants for the purchase of Food and Supplies (the “Critical Vendor Reclassified Payment”).

10. All of the payments by the Debtors to Merchants, including the Allowed PACA Claims, the applications of the Margin Differential Credit, the Critical Vendor Cash Payment and the Critical Vendor Reclassified Payment, as well as the allowance of the Allowed 503(b)(9) Claims and the Allowed Unsecured Claim, are absolute and final and are without any right of the Debtors or any successor thereto, including but not limited to a Chapter 11 trustee, a Chapter 7

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trustee, or any Liquidation Agent or Liquidation Trust created or appointed pursuant to any confirmed Chapter 11 Plan, or the Unsecured Creditors' Committee, or any of the DIP Lenders, to avoid, recover or recoup any of the payment to Merchants authorized or paid to Merchants by this Order, or to avoid, recover or recoup, either under chapter 5 of the Bankruptcy Code or otherwise, any transfers or payments previously made by any of the Debtors to Merchants.

11. The Debtors will provide Merchants with the information and documentation, as set forth in more detail in **Exhibit 2** to this Order, within the time periods set forth therein.

12. The Court will retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Order.

#

This Order was prepared and is being submitted by:

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Piccadilly Food Service, LLC and
Piccadilly Investments, LLC**

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EXHIBIT 1

DISTRIBUTION AGREEMENT

{N2555595.2}

Primary Purchase and Distribution Agreement

This **Primary Purchase and Distribution Agreement** (the "Agreement") effective as of October 1, 2012 (the "Effective Date"), is made by and between **Piccadilly Restaurants, LLC**, a Delaware limited liability company ("Piccadilly"), in the capacity as debtor and debtor-in-possession and **The Merchants Company**, a Mississippi business corporation, d/b/a Merchants Foodservice ("Merchants").

Preliminary Statement

Piccadilly and Merchants each desire to enter into this Agreement subject to, and in accordance, with the terms, provisions and conditions of this Agreement.

Agreement

For and in consideration of the above statement and the mutual covenants and obligations set forth hereafter and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties, intending to be legally bound, hereby agree as follows:

Article 1.

Appointment as Primary Distributor

Section 1.01 Piccadilly hereby appoints Merchants, and Merchants hereby accepts such appointment, as the primary distributor of all proprietary and non-proprietary food items, supplies, equipment, small wares, produce, beverages, chemical and janitorial supplies (collectively and individually, the "Products" or each a "Product") purchased by Piccadilly in connection with Piccadilly's restaurant operations. Piccadilly agrees to purchase from Merchants, and Merchants will sell to Piccadilly, not less than eighty percent (80%) of Piccadilly's requirements for the Products at each of Piccadilly's restaurant locations. Piccadilly may add additional restaurant locations to be serviced by Merchants under the same terms and conditions as provided in this Agreement.

Similarly, Piccadilly may reduce the number of restaurant locations to be serviced by Merchants under the same terms and conditions as provided in this Agreement, *provided however*, that if the number of Piccadilly's restaurant locations is ever less than sixty (60), Merchants may adjust its pricing accordingly since the pricing set forth in this Agreement is based on that minimum number of restaurant locations and sales volume.

Article 2.

Bankruptcy Court Approval

Section 2.01 On September 11, 2012, Seller commenced that certain bankruptcy case pending in the United States Bankruptcy Court, Western District of Louisiana, Lafayette Division (the "Bankruptcy Court") styled: *In re Piccadilly Restaurants, LLC, et al.*, Case No. 12-51127 (Lead Case) (the "Bankruptcy Case"). Bankruptcy Court approval is necessary to authorize Piccadilly to enter into and execute this Agreement under its terms and conditions.

Upon full execution of this Agreement, Piccadilly will file the following styled motion with the Bankruptcy Court seeking an order (the "Approval Order") allowing Piccadilly, among other things, to enter into and execute this Agreement: *Debtors' Motion for an Order, pursuant to Sections 503(b)(9), 363(b) and 105(a) of the Bankruptcy Code, (1) Granting Critical Vendor Status, (2) Authorizing Debtors to Enter into a Distribution Agreement with The Merchants Company, d/b/a Merchants Foodservice, and its Affiliates, (3) Authorizing the Immediate Cash Payment of a Portion of the Pre-Petition Claim of Merchants, (4) Authorizing the Reapplication of Certain of the Debtors' Post-Petition Payments to Certain Pre-Petition Invoices of The Merchants Company, (5) Allowing Merchants' Section 503(b)(9) Claim and PACA Claims, and (6) Granting Related Relief* (the "Approval Motion"). If the Bankruptcy Court denies the relief sought in the Approval Motion, then this Agreement is null and void and without effect and no party can enforce or seek and obligations, rights, or remedies contained or contemplated by this Agreement.

Article 3. Administration

Section 3.01 Merchants hereby agrees to hold semi-annual, in-person, reviews with Piccadilly for the primary purpose of evaluating and improving Merchants' service to Piccadilly which reviews will include, without limitation, discussion of cost savings strategies, matters involving operational fill rates, special pricing tracking, price stability, and new opportunities.

Article 4. Credit/Return Policy

Section 4.01 All returns at time of delivery will be recorded on the electronic invoices, and "instant credit" will be issued.

Section 4.02 A Product to be returned after delivery must be in its original shipping container, undamaged and saleable. Also all Product returns must meet the following time parameters:

- (a) Perishable - Must be returned on delivery to Piccadilly.
- (b) Frozen - Will not be accepted for return after seven (7) days from delivery to Piccadilly.
- (c) Dry Grocery - Will not be accepted for return after ten (10) days from delivery to Piccadilly.

Section 4.03 Piccadilly will contact Merchants' customer service representative to arrange for a pick-up. From the information provided by Piccadilly to Merchants, a return slip will be generated and transmitted to Piccadilly which will authorize the delivery driver to accept the Product being returned to Merchants. Piccadilly is required to confirm the accuracy of the return slip. The driver is not permitted to accept a product for return to Merchants without a return slip. The driver will sign the return slip and provide Piccadilly with a copy of the signed receipt.

Section 4.04 Upon receipt of the returned product, Merchants will promptly ensure compliance with the above-described return policy and, if such return policy was followed, will promptly issue a credit memo in favor of Piccadilly. If necessary, Merchants can send the Piccadilly weekly credit memos *via* electronically or facsimile.

Article 5. Rights and Requirements to Audit

Section 5.01 Piccadilly or its duly authorized agent or consultant shall have the right, after advance written request and at reasonable times during normal business hours, to examine Merchants' records applicable to verifying cost and the sell prices to Piccadilly. Piccadilly will be allowed an on-site audit at the applicable Merchants location upon twenty-one (21) days notice. Piccadilly's review of Merchants' records will not include more than twenty-five (25) Products per six-month period. Piccadilly's window for Product price verification is the twelve (12) month period preceding the date of the audit. Any credits Merchants owes to Piccadilly as determined by Piccadilly's audit will apply to purchases made by Piccadilly within one year from the date of the audit.

Article 6. Order Transmission

Section 6.01 Merchants will receive electronically transmitted orders from Piccadilly *via* Merchants' proprietary software Powernet. All Piccadilly locations will have set order/delivery day which Merchants will use to ensure all orders are captured in time for shipping. Merchants' account representatives will contact Piccadilly's restaurant locations for orders not received by the set order cut-off time. Piccadilly and Merchants will establish a back-up plan for orders not timely received.

Section 6.02 Merchants agrees, at no cost or expense to Piccadilly, to provide Piccadilly with MIS support staff for implementation, training and problem resolution.

Article 7. Delivery Order Fill Rate

Section 7.01 Merchants will maintain an order fill rate above 98.5%, which order fill rate is defined as the number of cases ordered verses the cases shipped. Out cases caused from manufacturer shortages (unavailable) will not be used in the order fill rate calculation. If, for any reason, Merchants is unable to fill or deliver an order for Products made by Piccadilly, Piccadilly will have the right to obtain its Products elsewhere, without causing a violation, or being in breach of, this Agreement.

Article 8. On Time Delivery Rate

Section 8.01 Merchants will maintain an on-time delivery rate of ninety plus percent (90+%). Merchants defines "on-time" delivery as using a two (2) hour delivery window

(delivery process begins within one (1) hour before or one (1) hour after the time set for the expected delivery) with a one (1) hour variance prior to or beyond the delivery window.

Section 8.02 The parties hereby agree that the “blackout window” under this Agreement will be from 10:30 a.m. through 1:00 p.m., seven (7) days a week.

Section 8.03 Merchants will work, in a commercially reasonable manner, with each Piccadilly location to establish agreed upon delivery times.

Article 9. Facilities

Section 9.01 Merchants will strictly comply with Piccadilly’s product temperature requirements.

Section 9.02 Merchants has multiple freezer and cooler temperature storage areas which include 0 degrees F, 28/30 degrees F, 35 degrees F, 45 degrees F for produce, and 55 degrees F for produce. The Products will be stored in their appropriate temperature zones.

Section 9.03 Merchants hereby covenants that refrigerated docks will not exceed 50 degrees F. Merchants hereby represents that temperature zones are monitored with verifiable temperature recordings.

Article 10. General Warehouse Requirements

Section 10.01 Merchants hereby warrants that all distribution points in the network currently use reputable third-party audits for inspections. Upon request by Piccadilly, Merchants hereby agrees to provide Piccadilly, at not cost or expense to Piccadilly) with copies of the inspection records generated by the audits.

Section 10.02 Merchants hereby warrants that it has verified HACCP programs at its facilities, which programs contain training practices and special handling procedures for personnel regarding cross-contamination of chemical and hazardous products.

Section 10.03 Merchants hereby warrants that: (i) all dating information on the product is captured at the point of receiving; (ii) the Product expiration information is stored in the computer and used to rotate product with the least amount of shelf life days remaining; (iii) Merchants performs cycle counts as part of ongoing inventory management; (iv) Merchants will take periodic physical inventories requested by Piccadilly on specific items; (v) any product deemed unsaleable will not be repackaged; and (vi) the Products which are saleable under strict quality assurance guidelines will be repacked and clearly identified.

Article 11. Inventory Control

Section 11.01 Merchants hereby warrants that: (i) all information including receiving date is captured and put into the computer at the time of receiving; (ii) pallets are tagged with

appropriate receiving information and rotation is directed by the computer; and Merchants captures the relevant shelf life information which is generally one of the following: manufacturer production code, manufactured date, and use by date or expiration date.

Article 12.
Proprietary Inventory & Shelf Life

Section 12.01 In the event that proprietary products which were purchased specifically for Piccadilly become obsolete (*i.e.* product not shipped for three (3) months), then Piccadilly agrees to purchase all such Products and advise Merchants on any special disposition of such Products.

Section 12.02 Merchants agrees that: (i) for all Piccadilly proprietary items, Merchants will not accept shipments with less than the lesser of (a) one-half (1/2) of the original manufacturers' shelf life or (b) Piccadilly recommended available use; (ii) no product that is code dated will be shipped to the stores with less than fourteen (14) days shelf life prior to the expiration date; and (iii) produce, fluid milk, and any other agreed upon highly perishable item will not be shipped with a shelf life of less than seven (7) days remaining.

Article 13.
Minimum Delivery Service Requirements

Section 13.01 Merchants agrees to the following delivery service requirements: (i) upon arrival, its drivers will present legible invoices to Piccadilly that detail the products ordered, shipped and delivered; (ii) its drivers will make adjustments for exceptions on delivery invoices at time of delivery; (iii) all driver marks must be initialed by Piccadilly prior to signing the invoice; (iv) any marked exceptions will become an "instant credit"; (v) a corrected invoice will be processed and the necessary adjustments made to the amount due; (vi) no credit memo will be automatically sent for "instant credits"; (vii) Merchants will post all accounting information including credits for immediate efficient account verification and reconciliation; and (viii) accounting information will be available *via* fax for all users not on the web.

Article 14.
Warranties

Section 14.01 Merchants will assign, to the fullest extent assignable, to Piccadilly any and all rights or causes of action Merchants may have against any manufacturers of the Products under any warranties with respect to the Products.

Article 15.
Financial

Section 15.01 Definition of Cost

- (a) "Cost" shall mean the price of the product shown on the manufacturer's invoice to Merchants, plus "applicable freight", less any manufacturer's discounts or allowances as reflected on the invoice ("off-invoice allowances").

Because fresh produce is bought daily, costs are averaged and adjusted for packaging and concealed damage. Cost is not reduced by cash discounts for prompt payment available to Merchants.

- (b) Piccadilly shall have the right to negotiate the Cost of a Product directly with the Product's manufacturer.

Section 15.02 Fees and Margins

(a) Standard Markup, Margin Calculation and Payment

- i. Commencing on the Effective Date, the margin on the Products that Merchants sells to Piccadilly will be at eight and one-half percent (8.5%) (with the exception of agency billed product); provided, however, the margin on the Products Merchants sells to Piccadilly will be reduced to eight percent (8.0%) from and after the date when the Allowed 503(b)(9) Claim¹ of Merchants is paid in full.
- ii. Piccadilly's credit line (the "Credit Line") with Merchants for Piccadilly's purchase of Products is One Million Four Hundred Thousand and No/100 Dollars (\$1,400,000.00) (the "Credit Line Limit"). The Critical Vendor Reclassified Payment (as defined in the Approval Order) will partially fund the Credit Line, leaving the remaining balance under the Credit Line available for Piccadilly's credit purchases of the Products.
- iii. Merchants will monitor the amount due under the Credit Line on a daily basis. In the event that Piccadilly places any order with Merchants that would cause Piccadilly to exceed the amount of the Credit Line Limit, Piccadilly shall send to Merchants, *via* wire transfer or other form of immediately available funds, the amount necessary to reduce the amount due under the Credit Line to the amount of the Credit Line Limit, which payment by Piccadilly shall be applied against the amount due under the oldest invoices owed by Piccadilly to Merchants. If Piccadilly does not reduce the amount due under the Credit Line to the amount of the Credit Line Limit, Merchants will be under no obligation to fulfill such order or to deliver any such Products to Piccadilly unless and until such time the payment(s) necessary to bring the balance under the Credit Line to less than the Credit Line Limit is made.
- iv. The amount owed under Credit Line, up to the Credit Line Limit, will remain unpaid (unless Piccadilly otherwise decides, at Piccadilly's sole discretion/election) until the earlier of the: (i) date that this Agreement expires, or (ii) termination of this Agreement, at which

¹ Unless otherwise defined in this Distribution Agreement, capitalized terms used in this Distribution Agreement have the meanings ascribed to them in the Approval Motion or the Approval Order.

time the balance due under the Credit Line will be paid in full by Piccadilly. At no time will any amounts due and owing the Credit Line bear any interest charge or accrual.

- (b) Drop Size is calculated pretax and excludes any surcharges at the bottom of the invoice. Minimum order delivery is \$3,000 (average of all orders).
- (c) BIB National Program purchases (Coke USA, Dr. Pepper, etc. will be billed at National account markups. These purchases will be used to calculate the total drop size.

Section 15.03 Additional Charges

- (a) A Fuel Surcharge will be set monthly based on the published EIA United States average retail price for diesel. The index will be established using the prior four week diesel price. The fuel surcharge will be billed as a separate line item at the bottom of the invoice.

Section 15.04 Fuel Surcharge Schedule

GAS PER GALLON	PER CASE SURCHARGE
\$3.65 – \$4.65	\$0.00
For every \$.10 / gl below \$3.65	\$.01 per case credit
For every \$.10 / gl above \$4.65	\$.01 per case fee

Section 15.05 Price Change

- (a) Merchants' inventory cost is revalued upon receipt of Product (*i.e.*, last invoice, or LIFO). Pricing to Piccadilly is not affected by any changes in the value of Merchants' inventory. Product pricing to Piccadilly will be determined by adding the appropriate mark-up to the value of inventory as of the approved date of price changes which is generally Monday morning for weekly items. These prices are then fixed for the appropriate period, regardless of changes in the value of the inventory in the interim. Commodities will be priced weekly, and all other items will be priced monthly. The prices for Products are loaded into a computer file that fixes the customer's unique pricing until it is updated at the end of the next pricing period.
- (b) Merchants will perform a semiannual review of a detailed account P & L highlighting anticipated expenses and components of income in servicing Piccadilly. Additionally, Merchants shall deliver to Piccadilly, on a semi-annual basis, a report evidencing the savings of Merchants' program with a comprehensive weighted bottom-line analysis of purchases of Products.

Article 16. Reporting

Section 16.01 Merchants will provide Piccadilly, at no cost or expense to Piccadilly, with a programmer and an analyst to design, develop, and deliver custom reports using Powernet data which will be delivered to Piccadilly *via* the web, which can then be imported into excel spreadsheets.

Section 16.02 Merchants warrants that the current reports available in Powernet include: variance reports (pricing, specification, and substitution) with Merchants' explanations and velocity reports that can be arranged in various formats.

Section 16.03 Merchants will provide the data feed to the proprietary accounting system of Piccadilly.

Section 16.04 Piccadilly will deliver to Merchants the following reports, statements, notices and other documents in accordance with, and as set forth in, Exhibit A attached hereto and made a part hereof.

Article 17. Term

Section 17.01 The initial term of this Agreement shall commence on the Effective Date and shall continue for two (2) successive years thereafter ("Initial Term").

Section 17.02 This Agreement shall automatically be extended for one (1) additional year immediately upon the expiration of the Initial Term unless either Piccadilly or Merchants notifies the other party at least one hundred twenty (120) days before the expiration of the Initial Term of the notifying party's desire to terminate this Agreement.

Section 17.03 The parties may amend the terms of this Agreement, including the term, pricing and credit terms, but only as more particularly set forth in Section 19.10 below.

Article 18. Termination

Section 18.01 Piccadilly shall have the right to terminate this Agreement: (i) for any or no reason, upon one hundred twenty (120) days' prior notice to Merchants or (ii) if Merchants is in breach of this Agreement and Merchants fails to cure such breach within twenty (20) business days after Piccadilly provides notice to Merchants of such breach.

Article 19. General Provisions

Section 19.01 Confidentiality. Piccadilly agrees to maintain the terms and conditions of this Agreement and the attached Exhibits (the "Confidential Information") in strict confidence and shall not disclose any of the Confidential Information to any person other than designated executive employees or agents of Piccadilly with a need to know or as required by a court order.

Piccadilly and Merchants shall not use the Confidential Information for any purpose other than in order to provide the Products and services covered by this Agreement in accordance with its terms. Upon termination of this Agreement, each party shall return all Confidential Information to the other party, or destroy it and, if requested, furnish a certificate confirming its destruction. Confidential Information does not include information that a receiving party can demonstrate: (a) was in the receiving party's possession prior to its being furnished to the receiving party under the terms of this Agreement, unless (i) the source of that the information was not known by the receiving party to be bound by a confidentiality agreement with or other continual, legal or fiduciary obligation of confidentiality to the party disclosing the Confidential Information or (ii) the receiving party was obligated or bound to keep such information confidential upon receipt by the receiving party; (b) is now, or hereafter becomes, through no act or failure to act on the part of a receiving party, generally known to the public; (c) is rightfully obtained by the receiving party from a third party, without breach of any obligation to the party disclosing the Confidential Information; or (d) is independently developed by the receiving party without use of or reference to the Confidential Information.

Section 19.02 Assignment. Except as otherwise provided herein, this Agreement shall not be assignable or transferable, in whole or in part, by any party except upon the express prior written consent of all of the other parties. Any other attempt to assign or otherwise transfer this Agreement or any rights or obligations hereunder in violation of the foregoing shall be void.

Section 19.03 Binding Effect. This Agreement shall be binding upon all the parties hereto and upon all of their respective heirs, successors and permitted assigns.

Section 19.04 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.

Section 19.05 Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to applicable law, then the remaining provisions of this Agreement shall remain in full force and effect.

Section 19.06 Force Majeure. Merchants shall not be liable and their performance shall be excused when there is any contingency beyond the reasonable control of Merchants or their suppliers which interferes with Merchants' production, supply, or transportation, including, but not limited to natural disaster, acts of war, unavailability or shortages of materials, fuel or power through normal commercial channels from third party manufacturers, terrorist act, embargo, action by federal, state, local or foreign government, public protest, destruction of equipment, governmental actions or labor difficulties. When performance is so excused, all quantities of affected Products may be eliminated from future agreements without liability and Merchants may allocate their supplies of raw materials and Products among their various uses in any manner which is commercially reasonable.

Section 19.07 Captions. The captions used herein are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope or the intent of any section or paragraph hereof.

Section 19.08 Entire Agreement. This Agreement represents the entire agreement between the parties with respect to its subject matter hereto, and there are no other representations, understandings or agreements between the parties relative to such subject matter.

Section 19.09 No Personal Liability. Absent fraud or any intentional acts, no partner, officer, director, member (or trustee in a member's stead), shareholder, affiliate or attorney for a party or attorney for a trustee shall have any personal liability to the other Party or any other person (i) under this Agreement, or (i) as a result of the execution and delivery of this Agreement, and the performance or nonperformance of a party's obligations under this Agreement, or (c) as a result of a default under this Agreement, or the breach of any warranty, covenant, or representation contained in this Agreement, or (d) otherwise.

Section 19.10 Amendments. No amendment to, or change, waiver or discharge of, any provision of this Agreement shall be valid unless in writing and signed by an authorized representative of each of the undersigned parties.

Section 19.11 Time of the Essence. It is stipulated that time is of the essence in this Agreement

Section 19.12 Attorneys' Fees. If any action or proceeding is necessary to enforce any of the terms, provisions or conditions of this Agreement, including any claim or demand, or to interpret this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs, any court costs, or the like, in addition to any other relief to which it may otherwise be entitled, whether or not such action or proceeding is prosecuted to final judgment.

Section 19.13 Governing Law. This Agreement and the rights and obligations of the parties under this Agreement shall be governed by and construed in accordance with the laws of the State of Mississippi, without giving effect to the principles thereof relating to the conflicts of laws.

Section 19.14 Waiver. The failure of Piccadilly to exercise any right given hereunder or to insist upon strict compliance with any term, condition or covenant specified herein shall not constitute a waiver of Piccadilly's right to exercise such right to demand strict compliance with any such term, condition or covenant under this Agreement. Any condition contained in this Agreement which is for the benefit of Piccadilly may, at Piccadilly's exclusive option, be waived by notice to Merchants.

Section 19.15 Relationship of Parties. Nothing contained in this Agreement shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent, partnership, joint venture or any association between Merchants and Piccadilly.

Section 19.16 Dispute Resolution; Venue. Piccadilly and Merchants shall each appoint an executive officer to meet for the purpose of resolving any claim, dispute and/or controversy arising out of or relating to the performance of this Agreement. If the dispute is not resolved by

direct negotiation within thirty (30) days, the parties shall endeavor to settle any dispute by mediation. In the event that the parties are unsuccessful in resolving any dispute via mediation within thirty (30) days, the parties agree to resolve all claims, disputes, and/or controversies arising out of or in any way relating to this Agreement through the applicable court located in Hattiesburg, Mississippi. Each of the parties hereby submits to the jurisdiction of the federal or state court located in Hattiesburg, Mississippi.

Section 19.17 Notices. Any and all notices, requests, demands, deliveries or communications required to be given to another party to this Agreement shall be in writing and shall be delivered (i) in person, (ii) by a nationally recognized overnight carrier that guarantees next day delivery and provides a receipt, (iii) United States first class certified mail, return receipt requested or (iv) by e-mail to the e-mail addresses contained herein, provided that the receiving party confirms receipt. Any notice or delivery shall be effective only upon receipt (or refusal by the intended recipient to accept delivery). Rejection or other refusal to accept, or inability to deliver because of change of address of which proper notice was not given under this Agreement to the other party, shall be deemed to be receipt of the notice, request, demand or communication. Either party may change its address for notice from time to time by delivery of at least ten (10) days prior written notice of such change to the other party hereto in the manner prescribed herein.

Merchants:

The Merchants Company d/b/a Merchants Foodservice
1100 Edwards Street
Hattiesburg, Mississippi 39401
Telephone Number: (601) 584-4000
Facsimile Number: (601) 584-4049
Email address: amercier@merchantsfoodservice.com
Attn: Andy Mercier

with duplicate copy of any notice to Merchants sent, in the same manner as sent to Merchants, to:

Stephen W. Rosenblatt
Butler, Snow, O'Mara, Stevens & Cannada, PLLC
P.O. Box 6010
Ridgeland, MS 39158-6010
Telephone Number: (601) 985-4504
Facsimile Number: (601) 985-4500
Email address: steve.rosenblatt@butlersnow.com

Notice to Stephen W. Rosenblatt, Esq. shall not be deemed notice to Merchants.

Piccadilly:

Piccadilly Restaurants LLC
3232 Sherwood Forest Blvd.
Baton Rouge, LA 70816
Telephone Number: (225) 296-8346
Facsimile Number: (225) 296-8370
Email address: pprudhomme@piccadilly.com
Attn: Pat Prudhomme

with duplicate copy of any notice to Piccadilly sent, in the same manner as sent to Piccadilly, to:

Peter A. Kopfinger, Esq.
Gordon, Arata, McCollam, Duplantis & Eagan, LLC
One American Place
301 Main Street
Suite 1600
Baton Rouge, Louisiana 70801-1916
Telephone Number: (225) 381-9643
Facsimile Number: (225) 336-9763
Email address: pkopfinger@gordonarata.com

Notice to Peter A. Kopfinger, Esq. shall not be deemed notice to Piccadilly

[End of Text]

[One Signature Page Follows]

Signature Page to Primary Purchase and Distribution Agreement effective as of October 1, 2012

Piccadilly Restaurants, LLC
(in the capacity as debtor and debtor-in-possession)

By: 
THOMAS J. SANDEMAN
Its: CHIEF EXECUTIVE OFFICER

The Merchants Company d/b/a Merchants Foodservice

By: _____
JAMES J. GRAY
Its: VICE PRESIDENT

Signature Page to Primary Purchase and Distribution Agreement effective as of October 1, 2012

Piccadilly Restaurants, LLC
(in the capacity as debtor and debtor-in-possession)

By: _____
THOMAS J. SANDEMAN
Its: CHIEF EXECUTIVE OFFICER

The Merchants Company d/b/a Merchants Foodservice

By: 
JAMES J. GRAY
Its: VICE PRESIDENT

EXHIBIT 2
INFORMATION AND DOCUMENTATION

{N2555595.2}

EXHIBIT 2 TO ORDER

1. The Debtors¹ shall deliver to Merchants the following reports, statements, notices and other documents set forth below:

(a) Monthly Reports. As soon as available, and in any event within 30 days after the end of the first two months in each fiscal quarter, the consolidated balance sheet of the Debtors as at the end of such month and the related consolidated statements of income, stockholders' equity and cash flows of the Debtors for such month and for the period from the beginning of the then current fiscal year to the end of such month, setting forth in each case in comparative form the corresponding figures for the corresponding periods of the previous fiscal year, all in reasonable detail.

(b) Quarterly Financial Statements. As soon as available, and in any event within 60 days after the end of each of the first three fiscal quarters of each fiscal year, the consolidated balance sheets of the Debtors as at the end of such fiscal quarter and the related consolidated statements of income, stockholders' equity and cash flows of the Debtors for such fiscal quarter and for the period from the beginning of the then current fiscal year to the end of such fiscal quarter, setting forth in each case in comparative form the corresponding figures for the corresponding periods of the previous fiscal year and, except for the cash flow statements, all in reasonable detail, and a Narrative Report with respect thereto.

(c) [Reserved].

(d) [Reserved.]

(e) Statements of Reconciliation after Change in Accounting Principles. If, as a result of any change in accounting principles and policies from those used in the preparation of

¹ "Debtors" means Piccadilly Restaurants, LLC, Piccadilly Food Service, LLC and Piccadilly Investments, LLC (each of the Debtors may be referred to herein as a "Debtor").
{N2554955.3}

the most recent financial statements delivered prior to the Initial Closing Date, the consolidated financial statements of the Debtors delivered pursuant to Section (b) above will differ in any material respect from the consolidated financial statements that would have been delivered pursuant to such subdivisions had no such change in accounting principles and policies been made, then, together with the first delivery of such financial statements after such change, one or more statements of reconciliation for all such prior financial statements in form and substance provided by the Debtors to their DIP Lender.

(f) Notice of Default. Promptly upon, but in any event within seven (7) business days after, any executive officer of the Debtors obtaining knowledge (i) of any condition or event that constitutes a Default or an Event of Default or that notice has been given to any Debtor with respect thereto; (ii) that any Person has given any notice to any Debtor or taken any other action with respect to (y) any Debtor's failure to pay any principal or interest, regardless of amount, due in respect of any Material Indebtedness, when and as the same shall become due and payable (including all relevant grace periods), or (z) any other event or condition occurs (and all relevant grace periods have expired) that results in any Material Indebtedness becoming due prior to its scheduled maturity or that enables or permits the holder or holders of any Material Indebtedness or any trustee or agent on its or their behalf to cause any Material Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity; or (iii) of the occurrence of any event or change that has caused or evidences, either in any case or in the aggregate, a Material Adverse Effect, a certificate of an authorized officer specifying the nature and period of existence of such condition, event or change, or specifying the notice given and action taken by any such Person

and the nature of such claimed Event of Default, Default, default, event or condition, and what action such Borrower has taken, is taking and proposes to take with respect thereto.

(g) Notice of Litigation. Promptly upon, but in any event within seven (7) Business Days after, any executive officer of any Debtor obtaining knowledge of (i) the institution of, or non-frivolous threat of, any claim, suit, litigation or other proceeding claiming damages in excess of (A) with respect to any such claim, suit, litigation or other proceeding involving automobile and workers compensation claims in the ordinary course of business, \$1,500,000 and (B) with respect to all other claims, suits, litigations and other proceedings, \$500,000, in each case not previously disclosed in writing by Debtors to the Merchants, or (ii) any material development in any claim, suit, litigation or other proceeding that, in the case of either clause (i) or (ii), if adversely determined could be reasonably expected to have a Material Adverse Effect, or seeks to enjoin or otherwise prevent the consummation of, or to recover any damages or obtain relief as a result of, the transactions contemplated hereby, written notice thereof together with such other information as may be reasonably available to the Debtors to enable the Merchants and their counsel to evaluate such matters.

(h) Weekly Cash Report. Not later than Wednesday of each week, the Debtors shall deliver to Merchants a cash flow statement for the prior week, which will include the actual cash receipts, actual operating disbursements, actual payroll disbursements, actual non-operating disbursements and actual beginning and ending cash balances for such week, and show variances from the Approved DIP Cash Projections.

(i) Insurance Report. As soon as practicable and in any event by the last day of each fiscal year, if requested by Merchants, a certificate from the Debtors' insurance broker(s)

outlining all material insurance coverage maintained as of the date of such certificate by the Debtors.

(j) New Cash Projections. Not later than the first Business Day of the last week of the then current Approved DIP Cash Projections, Debtors shall deliver proposed 13-week cash flow projections for the next subsequent 13-week period, and will cooperate with Merchants in providing any information requested by Merchants with respect to such projections made by the Debtors, but Merchants will not have any right to be involved in formulating such cash projections.

(k) Notice Regarding Material Contracts. With reasonable promptness, written notice (i) after any material contract of any Debtor is terminated (except, with respect to any material contract, at the scheduled completion of the term of such material contract) or amended in a manner that is materially adverse to the Debtors, taken as a whole, or (ii) any new material contract (other than a renewal of a previous contract on similar terms and conditions) is entered into, a written statement describing such event, with copies of such material amendments or new contracts, delivered to Merchants (to the extent such delivery is permitted by the terms of any such material contract; provided, no such prohibition on delivery shall be effective if it were bargained for by any Debtor with the intent of avoiding compliance with this Section (k)), and an explanation of any actions being taken with respect thereto.

(l) Information Regarding Collateral. (a) The Debtors will furnish to Merchants prompt written notice of any change (i) in any Debtor's corporate name, (ii) in any Debtor's identity or corporate structure, (iii) in any Debtor's jurisdiction of organization, (iv) in any Debtor's place of business, chief executive office or domicile, or (v) in any Debtor's Federal Taxpayer Identification Number or state organizational identification number.

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(m) [Reserved]. and

(n) Other Information. (A) Promptly upon, but in any event within seven (7)

Business Days after, their becoming available, copies of (i) all financial statements sent or made available generally by the Debtors to their security holders acting in such capacity, (ii) all regular and periodic reports and all registration statements and prospectuses, if any, filed by any of the Debtors with any securities exchange or with the Securities and Exchange Commission or any governmental or private regulatory authority, (iii) all press releases and other statements made available generally by any of the Debtors to the public concerning material developments in the business of the Debtors and (B) such other information and data with respect to the Debtors as from time to time may be reasonably requested by Merchants or any of its DIP Lenders.

2. Merchants agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (i) to its and its Affiliates' officers, directors, employees and agents, including accountants, legal counsel and other advisors (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (ii) to the extent requested by any regulatory authority or quasi-regulatory authority, (iii) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (iv) in connection with the exercise of any remedies under any contract or agreement with any of the Debtors or any suit, action or proceeding relating to the enforcement of its rights hereunder or thereunder, (v) subject to an agreement containing provisions substantially the same as those of this paragraph, to any actual or prospective assignee of any of its rights or obligations under any contract or agreement with any of the Debtors or (vi) with the consent of the Debtors or (vii) to the extent such Information becomes publicly available other than as a result of a breach of

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this paragraph; provided, however, Merchants agrees to use commercially reasonable efforts to give prior notice to the Debtors of any information pursuant to (ii) or to (iii). For the purposes of this paragraph, "Information" shall mean all information received from the Debtors or any of the Debtors' agents, advisors, employees, officers or directors and designated as confidential and related to the Debtors or their business, other than any such information that was available to Merchants on a non-confidential basis prior to its disclosure by the Debtors or any of the Debtors' agents, advisors, employees, officers or directors.