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

FORM 10-K

(Mark One)

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

For the fiscal year ended December 31, 2023

☐ 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: **001-40573**

Krispy Kreme, Inc.

(Exact name of registrant as specified in its charter)

Delaware	**37-1701311**
(State or other jurisdiction of incorporation)	(IRS Employer Identification No.)

2116 Hawkins Street, Charlotte, North Carolina 28203
(Address of principal executive offices)

(800) 457-4779
(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common stock, $0.01 par value per share	DNUT	Nasdaq Global Select Market

Securities registered pursuant to section 12(g) of the Act: None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☒ No ☐

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

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 every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes ☒ No ☐

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

Large accelerated filer	☒	Accelerated filer	☐
Non-accelerated filer	☐	Smaller reporting company	☐
		Emerging growth company	☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report. ☒

If securities are registered pursuant to Section 12(b) of the Exchange Act, indicate by check mark whether the financial statements of the registrant included in the filing reflect the correction of an error to previously issued financial statements. ☐

Indicate by check mark whether any of those error corrections are restatements that required a recovery analysis of incentive-based compensation received by any of the registrant's executive officers during the relevant recovery period pursuant to § 240.10D-1(b). ☐

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

The aggregate market value of voting stock held by non-affiliates of the registrant as of the end of the registrant's most recently completed second fiscal quarter, based on the closing price of $14.73 for shares of the registrant's common stock as reported by the Nasdaq Global Select Market, was approximately $1.3 billion. Shares of common stock beneficially owned by each executive officer, director, and holder of more than 10% of our common stock have been excluded in that such persons may be deemed to be affiliates. This determination of affiliate status is not necessarily a conclusive determination for other purposes.

The registrant had outstanding 168.7 million shares of common stock as of February 15, 2024.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the definitive Proxy Statement for the registrant's Annual Meeting of Shareholders, which will be filed with the SEC no later than 120 days after December 31, 2023, have been incorporated by reference into Part III of this Annual Report on Form 10-K.

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PART I

Cautionary Note Regarding Forward-Looking Statements

This Annual Report on Form 10-K includes forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. The words "plan," "believe," "may," "could," "will," "should," "would," "anticipate," "estimate," "expect," "intend," "objective," "seek," "strive" or similar words, or the negative of these words, identify forward-looking statements. Such forward-looking statements are based on certain assumptions and estimates that we consider reasonable but are subject to various risks and uncertainties and assumptions relating to our operations, financial results, financial conditions, business, prospects, growth strategy and liquidity. Accordingly, there are, or will be, important factors that could cause our actual results to differ materially from those indicated in these statements including, without limitation, those described under the heading "Risk Factors" in this Annual Report on Form 10-K. The inclusion of this forward-looking information should not be regarded as a representation by us that the future plans, estimates or expectations contemplated by us will be achieved. Our actual results could differ materially from the forward-looking statements included herein. These forward-looking statements are made only as of the date of this document, and we do not undertake any obligation, other than as may be required by applicable law, to update or revise any forward-looking or cautionary statement to reflect changes in assumptions, the occurrence of events, unanticipated or otherwise, or changes in future operating results over time or otherwise. We are including this Cautionary Note to make applicable and take advantage of the safe harbor provisions of the Private Securities Litigation Reform Act of 1995 for forward-looking statements. We expressly disclaim any obligation to update or revise any forward-looking statements after the date of this report as a result of new information, future events, or other developments, except as required by applicable laws and regulations.

Item 1. Business

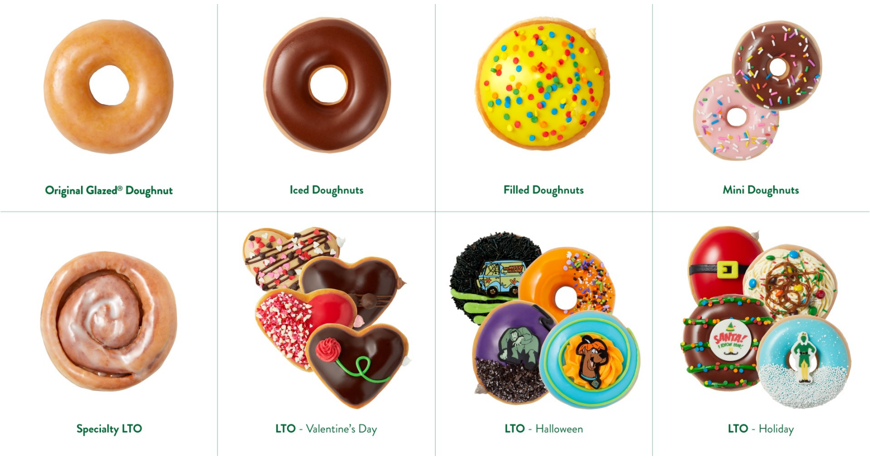
The Joy of Krispy Kreme

Krispy Kreme, Inc. ("KKI") and its subsidiaries (collectively, the "Company" or "Krispy Kreme") is one of the most beloved and well-known sweet treat brands in the world. Our iconic Original Glazed® doughnut is universally recognized for its fresh, hot-off-the-line, melt-in-your-mouth experience. Over its 86-year history, Krispy Kreme has developed a broad consumer base globally and currently operates in 39 countries through its unique network of fresh Doughnut Shops, partnerships with leading retailers, and a rapidly growing Ecommerce and delivery business. Our purpose of touching and enhancing lives through the joy that is Krispy Kreme guides how we operate every day and is reflected in the love we have for our people, our communities, and the planet.

We are a global omni-channel business with more than 14,000 Global Points of Access, creating awesome fresh doughnut experiences via (1) our Hot Light Theater and Fresh Shops, (2) Delivered Fresh Daily ("DFD") branded cabinets and merchandising units within high traffic grocery and convenience stores, Quick Service Restaurant ("QSR"), club membership, and drug stores ("DFD Doors"), and (3) Ecommerce. We have a capital-efficient Hub and Spoke model, which leverages our Hot Light Theater Shops' production capabilities and Doughnut Factories to deliver fresh doughnuts daily to local Fresh Shops, DFD Doors, and through Ecommerce channels. We seek to increase our Sales per Hub through innovation, marketing campaigns, and increasing physical availability to our fresh doughnuts from our Hubs to new Points of Access, primarily DFD Doors. Additionally, our convenient Ecommerce platform and delivery capability are significant enablers of our omni-channel growth.

In addition to creating awesome, fresh doughnut experiences, we create "cookie magic" through Insomnia Cookies, which specializes in warm, delicious cookies delivered right to the doors of its consumers, along with an innovative portfolio of cookie cakes, ice cream, cookie-wiches, and brownies. Insomnia Cookies is a digital-first concept with over 45% of its sales driven through Ecommerce in fiscal 2023. Targeting affordable, high-quality emotional indulgence experiences is at the heart of both the Krispy Kreme and Insomnia Cookies brands.

Our current business model, which focuses on fresh daily premium quality doughnuts produced by the capital-efficient Hub and Spoke model, primarily via Company controlled shops is in contrast to the Krispy Kreme operating model prior to 2016, which was focused on retail and legacy wholesale channels (including discounted long shelf-life doughnuts and coffeehouse execution), a capital-heavy Hot Light Theater Shop production model, and primarily via franchisee controlled shops. In addition to our core offerings such as the Original Glazed doughnut, we now also focus on limited time offerings ("LTOs" or "specialty doughnuts") and seasonal occasions to generate buzz for our premium products. A taste of our offerings includes:



The Ingredients of Our Success

We believe the following competitive differentiators position us to generate significant growth as we continue towards our goal of becoming the most loved sweet treat brand in the world.

Beloved Global Brand with Ubiquitous Appeal

We believe that our brand love and ubiquitous appeal differentiate us from the competition. We believe that Krispy Kreme is an iconic, globally recognized brand with rich history that is epitomized by our fresh Original Glazed doughnut. We are one of the most loved sweet treat retailers in the U.S. and many markets around the world. We are the most loved sweet treat brand in several key countries already in fiscal 2023, such as the U.S., the U.K., and Australia, based on the results of Krispy Kreme's Annual Global Brand Tracking Survey conducted by Service Management Group based on over 22,000 consumer responses with Krispy Kreme achieving the highest percentage of consumers indicating they rank our brand as a "ten: absolutely love the brand for sweet treats" on a ten point scale. We have an extremely loyal, energetic, and emotionally connected consumer base.

We continuously seek to understand what consumers are celebrating or experiencing in their lives and actively engage our passionate followers to activate this emotional connection through memorable, sharable moments – our "Acts of Joy" – which we believe further fuel our brand love.

Creating Awesome Experiences

We provide authentic indulgent experiences, delivering joy through high quality doughnuts made from our own proprietary formulations. Our strict quality standards and uniform production systems ensure the consumer's interaction with Krispy Kreme is consistent with our brand promise, no matter where in the world they experience it. We aim to create product experiences that align with seasonal and trending consumer interests and make positive connections through simple, frequent, brand-focused offerings that encourage shared experiences.

We utilize seasonal innovations, alongside the expansion of our core product offering, to inspire consumer wonder and keep our consumers engaged with the brand and our products. Our sweet treat assortment begins with our iconic Original Glazed doughnut inspired by our founder's classic yeast-based recipe that serves as the canvas for our product innovation and ideation. Using the Original Glazed doughnut as our foundation, we have expanded our offerings to feature everyday classic items such as our flavor glazes and "minis," which lend themselves well to gifting occasions such as birthdays and school activities. Our "Original Filled" rings offer the benefits of a filled shell doughnut without the mess. Our seasonal items create unique assortments centered on holidays and events, with Valentine's Day, St. Patrick's Day, Easter, the Fourth of July, Halloween, and Christmas, all examples of holidays for which we routinely innovate. We also maintain brand relevance by participating in significant cultural moments. We strategically launch offerings tied to these historic moments to gain mind share, grow brand love, and help drive sales.

Leveraging our Omni-Channel Model to Expand Our Reach

We believe our omni-channel model, enabled by our Hub and Spoke approach and Ecommerce, allows us to maximize our market opportunity while ensuring control and quality across our suite of products. Our goal is to provide our fresh doughnuts to consumers as conveniently and efficiently as possible. We apply a tailored approach across a variety of distinct shop formats to grow in discrete, highly attractive, and diverse markets, and maintain brand integrity and scarcity value while capitalizing on significant untapped consumer demand. Many of our shops offer drive-thrus, which also expand their off-premises reach. Our Hot Light Theater Shops' production capacity allow us to leverage our investment by efficiently expanding to our consumers wherever they may be — whether in a local Fresh Shop, in a grocery or convenience store, on their commute home or directly to their doorstep via home delivery.

Hub and Spoke

- **Hot Light Theater Shops and other Hubs:** Immersive and interactive experiential shops which provide unique and differentiated consumer experiences while serving as local production facilities for our network. The average capital investment for a Hot Light Theater Shop is $2 million to $5 million.
- **Fresh Shops:** Smaller doughnut shops and kiosks, without manufacturing capabilities, selling fresh doughnuts delivered daily from Hub locations. The average capital investment for a Fresh Shop is $0.1 million to $1 million.
- **Delivered Fresh Daily:** Krispy Kreme branded doughnut cabinets within high traffic grocery and convenience locations, QSR, club membership, and drug stores, selling fresh doughnuts delivered daily to more than 11,900 doors from Hub locations. The average capital investment for a DFD Door is $2,000 to $10,000.
- **Ecommerce and Delivery:** Fresh doughnuts for pickup or delivery, ordered via our branded Ecommerce platforms or through third-party digital channels.

The Hub and Spoke approach is applied globally and is currently most developed in our international Company-owned markets such as the U.K. and Australia. We are in process of applying lessons learned in those international markets to the U.S., and particularly to expansion in top growth areas such as population-dense greenfield markets, which we expect to be a significant driver of margin expansion in the U.S., as well as in Canada, Japan, and in new countries we plan to enter in the future.

Insomnia Cookies

Insomnia Cookies has expanded our sweet treat platform to include a complementary brand rooted in the belief that indulgent experiences are better enjoyed together. Insomnia Cookies delivers warm, delicious cookies right to the doors of individuals and companies alike.

Our Segments

We conduct our business through the following three reported segments:

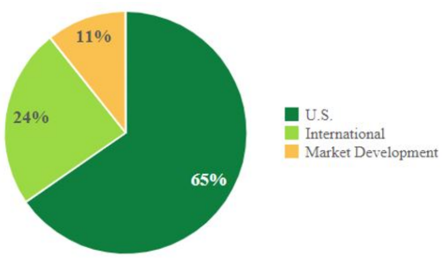
- **U.S.:** Includes all our Company-owned operations in the U.S., including our Krispy Kreme-branded shops and Insomnia Cookies Bakeries, DFD, and the recently exited Branded Sweet Treats business;
- **International:** Includes all our Krispy Kreme Company-owned operations in the U.K., Ireland, Australia, New Zealand, and Mexico; and
- **Market Development:** Includes our franchise operations across the globe, as well as our Company-owned operations in Japan and Canada.

The following table presents our Global Points of Access as of December 31, 2023:

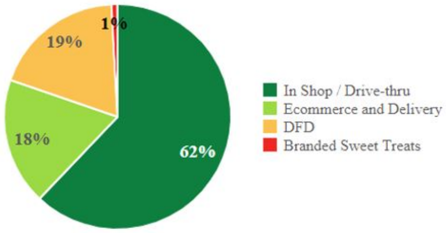
	Global Points of Access (1)						
	Hot Light Theater Shops	Fresh Shops	Cookie Bakeries	Carts, Food Trucks, and Other	DFD Doors	Total	Company-Owned (%)
U.S.	229	70	265	—	6,808	**7,372**	**100 %**
International	35	413	—	16	3,693	**4,157**	**100 %**
Market Development (2)	125	1,038	2	30	1,423	**2,618**	**14 %**
Total Global Points of Access	**389**	**1,521**	**267**	**46**	**11,924**	**14,147**	**84 %**

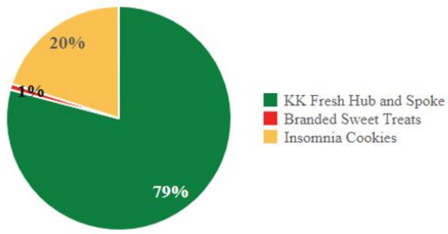
(1) Excludes the recently exited Branded Sweet Treats distribution points.
(2) Includes Japan and Canada locations, which are Company-owned.

Total fiscal 2023 revenue of $1,686.1 million consisted of the following revenue by reporting segment:

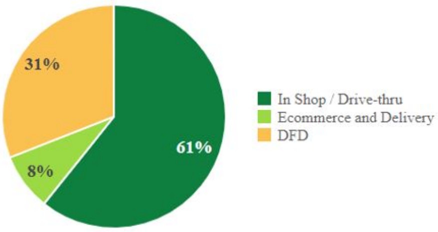


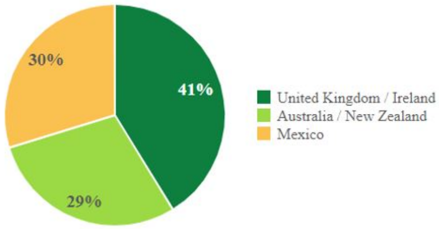
The U.S. segment's fiscal 2023 revenue of $1,104.9 million consisted of:



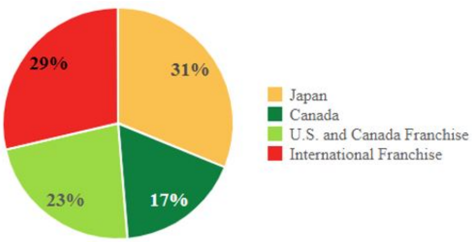


The International segment's fiscal 2023 revenue of $401.8 million consisted of:





The Market Development segment's fiscal 2023 revenue of $179.4 million consisted of:



Our Growth Strategies

We have made investments in our brand, our people, and our infrastructure and believe we are well positioned to drive sustained growth as we execute on our strategy. Across our global organization, we have built a team of talented and highly engaged Krispy Kremers and Insomnia employees (or "Insomniacs"). Over the past several years we have taken increased control of the U.S. operations to enable execution of our omni-channel strategy, including accelerating growth across our doughnut shops, DFD, and Ecommerce. Globally, we have developed an operating model that sets the foundation for continued expansion in both existing and new geographies. As a result, we believe we are able to combine a globally recognized and loyalty-inspiring brand with a leading management team and we aim to unlock increased growth in sales and profitability through the following strategies:

- Increase purchase frequency;
- Expand availability;
- Drive operating leverage; and
- Maximize capital returns.

Increase purchase frequency

Almost all consumers desire an occasional indulgence, and when they indulge, they want a high quality, emotionally differentiated experience. We believe we have significant runway to be part of a greater number of shared indulgence occasions. On average, U.S. consumers visit Krispy Kreme less than three times per year, creating a significant frequency opportunity. The success of recently launched products, including filled rings and minis, seasonal favorites, limited time buzz-worthy offerings, and flavored glazes, affirms our belief that our innovations create additional opportunities for consumers to engage with our brand. We intend to strengthen our product portfolio by centering further innovation around seasonal and societal events, and through the development of new innovation platforms to drive sustained baseline growth. Our strategy of linking product launches with relevant events has allowed us to effectively increase consumption occasions while meaningfully engaging with our communities and consumers.

Our marketing and innovation efforts have expanded the number of incremental consumer use cases for Krispy Kreme doughnuts. For example, our gifting value proposition makes doughnuts an ideal way to celebrate everyday occasions like birthdays and holidays, through gifting sleeves and personalized gift messaging. Our gifting value proposition fulfills distinct consumption occasions and will continue to make our brand and products more accessible and allow us to participate with greater frequency in small and large indulgent occasions, from impromptu daily gatherings with family and friends to holidays and weddings, and everything in between.

Expand availability

We believe there are opportunities to continue to grow in new and existing markets in which we currently operate by further capitalizing on our strong brand awareness as we deploy our Hub and Spoke model. We apply a deliberate approach to growing these discrete, highly attractive markets and maintain our brand integrity and scarcity value while unlocking significant consumer demand. We focus on increasing Global Points of Access through low cost DFD Doors, including in new channels like QSR and club membership, as well as investments in Fresh Shops with a limited number of investments in our experiential Hot Light Theater shops to implement the Hub and Spoke model in new and existing markets. We expect this to lead to growth in our key Sales per Hub metric as we further leverage the production capacity of existing Hubs.

We believe our omni-channel strategy, empowered by our Hub and Spoke model, will allow us to effectively seize expansion opportunities both domestically and internationally. Despite our high brand awareness, we have a limited presence in certain key, population-dense U.S. markets, and have yet to build a presence in key U.S. cities, including Boston and Minneapolis. We also believe we have a significant opportunity to increase our presence in our existing international markets such as Mexico, Japan, and Ireland where we have a less developed Hub and Spoke system. We believe this provides us ample opportunity to grow within markets in which we are already present. We also view Hub and Spoke expansion to other international markets where we do not currently have a presence as a major growth driver for the future. We have identified key international whitespace market opportunities such as China, Brazil, and parts of Western Europe. Our goal is to open in at least three new countries per year; in fiscal 2023, we opened shops in seven new countries. Our proven track record of entering new, diverse markets across multiple continents and deploying the capital-efficient Hub and Spoke approach demonstrates our ability to effectively penetrate a broad range of market types. New markets will either consist of Company-owned shops or entered via franchise operations (sometimes with us holding a minority equity interest), to be determined on a case-by-case basis.

Drive operating leverage

We are making focused investments in our omni-channel strategy to expand our presence efficiently while driving top-line growth, margin expansion, and capital efficiency. The Hub and Spoke model enables an integrated approach to operations, which is designed to bring efficiencies in production, distribution, and supervisory management while ensuring product freshness and quality are consistent with our brand promise no matter where consumers experience our doughnuts. By expanding Points of Access such as new local DFD Doors to existing Hubs, we increase not just total Sales per Hub, but also profitability and capital efficiency because the production Hubs have largely fixed costs including rent, utilities, and even labor.

To support the Hub and Spoke model in the U.S., we have implemented labor management systems and processes in our shops and delivery route optimization technology to support our DFD logistics chain. In addition, we employ a demand planning system that is intended to improve service and to deliver both waste and labor efficiencies across all our business channels. We are also investing in automation in the doughnut production process, including filling and icing doughnuts, which are primarily done manually today. By streamlining these operations across our platform, we believe we can continue to deliver on our brand promise and provide joy to our consumers while continuing to drive efficiencies across our platform.

Maximize capital returns

We believe we have a strong runway to grow while maximizing capital returns, supported by the capital-efficient Hub and Spoke model. We intend to maximize capital returns both by leveraging existing capacity and making selective investments in geographies which currently have limited access to our products.

Responsibility

We are committed to making a positive impact on the world — to touch and enhance lives through the joy that is Krispy Kreme — and our ambition is to *Be Sweet in All That We Do*, which represents our Responsibility platform. With this platform, we focus on our greatest opportunities for positive social and environmental impact with our people, our communities, and our planet. We are committed to transparency and disclosure of our Responsibility strategies, programs, and governance. Progress along our Responsibility strategy is regularly reported to our senior management leadership team ("the Global Leadership Team") and our Board of Directors, which also has oversight of our environmental, social, and governance strategy. We published our first ever *Be Sweet Responsibility Report* during fiscal 2023 outlining our journey, progress through fiscal 2022, and future ambitions. To read the full report, visit krispykreme.com/responsibility-report.

- **Loving our Krispy Kremers:** *We create opportunities for our Krispy Kremers to achieve their dreams — building the most engaged, inclusive workforce.*

  We are committed to diversity, equity, and inclusion throughout our organization, from our Board room to our shops. We have established a Be Sweet Working Group (sponsored by members of the Global Leadership Team) with a core focus on Belonging, and six U.S. Employee Resource Groups. We are focused on gender parity globally and increasing our U.S. people of color representation. We are also developing a comprehensive, global total rewards framework to drive pay equity and access for our Krispy Kremers.

- **Loving our Communities:** *We bring joy to others — engaging locally to support and uplift communities globally.*

  Our brand purpose truly shines through our Acts of Joy and community fundraising initiatives. Whether through providing financial support to third-party organizations focused on children in need, or through our offer of free doughnuts to graduating seniors, we bring joy to others while doing good. In fiscal 2023, we raised more than $40 million to support local community causes across the U.S. We also engage with numerous local philanthropic organizations in the communities that we serve around the world.

- **Loving our Planet:** *We respect our planet — using sustainable practices and reducing our environmental impacts.*

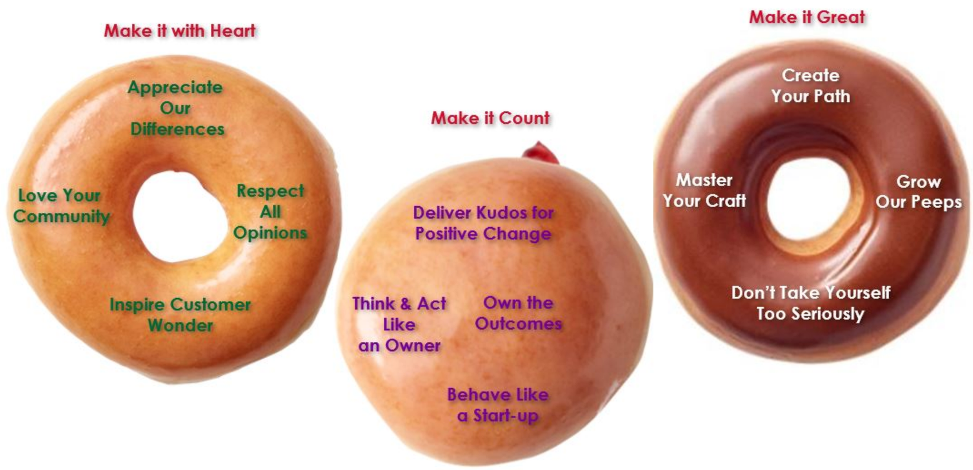
  We are committed to advancing sustainable business throughout our operations. During fiscal 2023, we progressed our efforts to address climate change and build the resilience of our business and supply chain. We conducted a multi-year global emissions assessment to establish our emissions baseline, using this foundation to soon set goals for greenhouse gas emission reductions.

  We made progress on our responsible sourcing commitment across our global supply chain. Krispy Kreme has set a goal of using 100% cage-free eggs by 2025. One important action was a strategic product line exit during the first quarter of fiscal 2023, which represented 70% of our egg use. We are committed to progress on sourcing sustainable palm oil that supports a deforestation-free supply chain. As global awareness of food waste increases, so does our focus on food waste reduction, with a goal to divert at least 50% of food waste from landfills by 2025. We took steps in fiscal 2023 to increase landfill diversion and increase our use of food-to-feed initiatives across our business. We are also committed to significantly increasing the recyclability of our packaging, with a goal to reach 80% recyclable or compostable packaging across our operations by 2025. In the near future, we are focusing on the commercialization of recyclable grease-resistant DFD cartons, 100% paper-based coffee cups, and a reduction in our single-use plastic consumption to reach our goal.

Team Members and Human Capital Resources

Investing in, developing, and maintaining human capital is critical to our success. Globally, we employ approximately 22,800 employees as of December 31, 2023, including approximately 19,400 at Krispy Kreme locations that we refer to as our “Krispy Kremers.” We are not a party to any collective bargaining agreement, although we have experienced occasional unionization initiatives.

We depend on our Krispy Kremers to provide great customer service, to make our products in adherence to our high-quality standards and to maintain the consistency of our operations and logistics chain. While we continue to operate in a competitive market for talent, we believe that our culture, policies, and practices contribute to our strong relationship with our Krispy Kremers, which we feel is instrumental to our business model. Our culture is best captured by our Leadership Mix, which are the dozen behaviors that guide us every day. The Leadership Mix was developed based on the beliefs of our founder, incorporating years of learning on what makes Krispy Kreme such a special organization. These cultural behaviors are shared with Krispy Kremers globally, through an internally developed Leadership Mix training program.



The Leadership Mix is what keeps our consumers at the center of everything we do and ensures that our Krispy Kremers are empowered to do the right thing for our consumers and for the business. We pride ourselves on being an entrepreneurial and innovative team that is not afraid to take smart risks in service of creating awesome doughnut experiences.

Consistent with our Leadership Mix ingredients, we pride ourselves on attracting a diverse team of Krispy Kremers and Insomniac team members from a wide range of backgrounds. As of December 31, 2023, our U.S. Krispy Kreme Company-owned operations include approximately 10,600 employees, of which 96% are field-based employees and the remaining 4% are corporate employees. 69% of such employees are people of color and 52% of such employees are female. We believe our diverse team drives the entrepreneurial culture that is at the center of our success. The success of our business is fundamentally connected to the well-being of our Krispy Kremers. Accordingly, we are committed to their health, safety, and wellness.

Our Total Rewards platform provides Krispy Kremers and their families with access to a variety of competitive, innovative, flexible, and convenient pay, health, and wellness programs. Our total package of pay and benefits is designed to support the physical, mental, and financial health of our people and includes medical, dental, vision, employee assistance program, life insurance and retirement benefits as well as disability benefits and assistance with major life activities, such as educational reimbursement and adoption. Many of these benefits are available to our part-time Krispy Kremers; we believe that offering select benefits to our part-time Krispy Kremers offers us a competitive advantage in recruiting and retaining talent. We have also rolled out employee equity ownership plans across the organization, including for our shop general managers, to effectively align Krispy Kremers' incentives with the Company's long-term strategic goals.

Marketing and Innovation

Our marketing strategy is as unique and innovative as our brand. Krispy Kreme's marketing strategy is to participate in culture through "Acts of Joy," deliver new product experiences that align with seasonal and trending consumer and societal interests and to create positive connections through simple, frequent, brand-focused offerings that encourage shared experiences. The tactics which support this strategy are also distinct. In the U.S., Krispy Kreme's paid media strategy is 100% digital with a heavy focus on social media where our passionate consumer base engages and shares our marketing programs far and wide through their own networks. Earned media is also an important part of our media mix. We create promotions and products that attract media outlets to our brand. Through the widespread dissemination of our programs through pop culture, entertainment, and news outlets, we believe we can achieve disproportionately large attention relative to our spend in a media environment populated by brands with far larger media budgets. During fiscal 2023 we generated over 40 billion media impressions reflecting how well our fresh and innovative doughnuts resonated with consumers. We believe our marketing strategy, supported with non-traditional media tactics, has proven to be a potent combination that simultaneously drives sales while growing brand love. By drawing inspiration from important societal events, we create a unique way for our consumers to celebrate and engage. Our ability to create this connection between our consumers and our brand is what has helped make the Krispy Kreme brand iconic, and helps to solidify our position in popular culture.

Limited time seasonal innovation and permanent innovations are used to create consumer wonder and are an essential ingredient in keeping our consumers engaged with the brand and the products. Our specialty doughnuts are anticipated by consumers and the media alike and generate significant social sharing amongst our fans and media coverage. The impact of limited time seasonal offerings goes well beyond the sales of the innovations themselves; they drive traffic and create additional sales of our core product offering.

Krispy Kreme has a strong brand presence across both emerging and well-established social media platforms, including Facebook, Instagram, X, YouTube, and Tik-Tok. These channels enable us to engage with our consumers on a personal level, while spreading the global brand of Krispy Kreme, including communicating promotional activity, featured products, new shop openings, and highlighting core equities of the brand. Social media allows precise geo-targeting around our shops and effective targeting of consumers likely to be interested in our messages.

Supply Chain

Sourcing and Supplies

We are committed to sourcing the best ingredients available for our products. The principal ingredients to manufacture our products include flour, shortening, and sugar which are used to formulate our proprietary doughnut mix and concentrate at our Winston-Salem manufacturing facility. We procure the raw materials for these products from different vendors. Although most raw materials we require are typically readily available from multiple vendors, we currently have approximately 20 main vendors in addition to our own mix plant.

We manufacture our doughnut mix at our mix plant in Winston-Salem, North Carolina and a third-party facility in Pico Rivera, California, domestically, and at several locations internationally, where we produce the doughnut mix used to make our doughnuts across the U.S. and internationally. In support of international markets, we produce a concentrate exclusively at our Winston-Salem facility for shipping efficiency. The concentrate is mixed with commodity ingredients in local markets to get to a finished doughnut mix. Throughout the process, the recipe for what makes a Krispy Kreme doughnut remains known only to the Company.

At an additional facility in Winston-Salem, North Carolina, we manufacture our proprietary doughnut making equipment for shipment to new shops and Doughnut Factories around the world. We manufacture a range of doughnut making lines, with different capacities to support the needs of different shop types.

In addition, we provide other ingredients, packaging and supplies, principally to Company-owned and domestic franchise shops. Our Krispy Kreme shop-level replenishments generally occur on a weekly basis, working with one national distribution partner. In addition, we serve New York City with a regional distribution partner to best serve our needs in that market.

In the U.S., we operate four Doughnut Factories located in Indianapolis, Indiana, Monroe, Ohio, New York, New York, and Fort Lauderdale, Florida. Internationally, we operate 37 Doughnut Factories, of which 23 are operated by franchisees. Each Doughnut Factory is staffed by Krispy Kremers and supports multiple business channels for Krispy Kreme. Each Doughnut Factory manufactures fresh doughnuts daily, powering the Hub and Spoke model by producing product for Spoke locations such as Fresh Shops and Carts and Food Trucks. In addition, they also provide DFD finished products to support local and regional markets. We operate DFD routes out of each Doughnut Factory to ensure our DFD doughnuts are delivered fresh, every day, and maintain our highest standards of quality and brand experience.

Insomnia Cookies operates a nationwide supply chain, supported by third-party logistic providers which bring ingredients and supplies to Insomnia Cookies Bakeries to create their warm, delicious products.

Quality Control

We operate an integrated supply chain to help maintain the consistency and quality of products. Our business model is centered on ensuring consistent quality of our products. We manufacture doughnut mixes at our facility in Winston-Salem, North Carolina. Additionally, we also manufacture doughnut mix concentrates, which are blended with flour and other ingredients by contract mix manufacturers to produce finished doughnut mix. We have an agreement with an independent food company to manufacture certain doughnut mixes using concentrate for domestic regions outside the southeastern U.S. and to provide backup mix production capability in the event of a business disruption at the Winston-Salem facility. In-process quality checks are performed throughout the production process, including ingredients, moisture percentage, fat percentage, sieve size, and metal checks. We provide specific instructions to franchise partners for storing and cooking our products. All products are transported and stored at ambient temperature.

Competition

We compete in the fragmented indulgence industry. Our domestic and international competitors include a wide range of retailers of doughnuts and other sweet treats, coffee shops, and other café and bakery concepts. We compete with snacks sold through convenience stores, supermarkets, restaurants, Ecommerce, and retail stores in the U.S. The number, size and strength of competitors vary by region and by category. We also compete against retailers who sell sweet treats such as cookies, cupcakes, and ice cream shops. We compete on elements such as food quality, freshness, convenience, accessibility, customer service, price, and value. We view our brand engagement, overall consumer experience and the uniqueness of our Original Glazed doughnut as important factors that distinguish our brand from competitors, both in the doughnut and broader indulgence categories. See “Risk Factors — Risks Related to Executing Our Business Strategy – Our success depends on our ability to compete with many food service businesses.”

Intellectual Property

Our doughnut shops are operated under the Krispy Kreme® trademark, and we use many federally and internationally registered trademarks and service marks, including Original Glazed®, Hot Krispy Kreme Original Glazed Now®, Insomnia Cookies®, and the logos associated with these marks. We have registered various trademarks in over 65 other countries, and we generally license the use of these trademarks to our franchisees for the operation of their doughnut shops. We have also licensed our marks for other consumer goods. We believe that our trademarks and service marks have significant value and are important to our brand. To better protect our brand, we have registered and maintain numerous Internet domain names.

Despite our efforts to obtain, maintain, protect, and enforce our trademarks, service marks and other intellectual property rights, there can be no assurance that these protections will be available in all cases, and our trademarks, service marks or other intellectual property rights could be challenged, invalidated, declared generic, circumvented, infringed or otherwise violated. Opposition or cancellation proceedings may in the future be filed.

For more information on the risks associated with our intellectual property, see “Risk Factors — Risks Related to Our Intellectual Property.”

Government Regulation

As a company with global operations, we are subject to the laws and regulations of the U.S. and the multiple foreign jurisdictions in which we operate as well as the rules, reporting obligations and interpretations of all such requirements and obligations by various governing bodies, which may differ among jurisdictions. In addition, changes to such laws, regulations, rules, reporting obligations and related compliance obligations could result in significant costs but are not expected to have a material effect on our capital expenditures, results of operations and competitive position as compared to prior periods.

For more information on the risks associated with domestic and international regulation, see “Risk Factors — Risk Related to Regulation and Litigation.”

Seasonality

Our sales peak at various times throughout the year due to certain promotional events and holiday celebrations. Additionally, our hot beverage sales generally increase during the fall and winter months while our iced beverage sales generally increase during the spring and summer months. Quarterly results also may be affected by the timing of the opening of new shops and the closing of existing shops. For these reasons, results for any fiscal quarter are not necessarily indicative of the results that may be achieved for the full fiscal year.

Research and Development

New product innovation is important to the success of our business. We believe that the development of new Krispy Kreme doughnuts, beverages and other products attracts new consumers to our brand, increases shop sales, and allows our shops to strengthen daypart offerings. One of our properties in Winston-Salem, North Carolina includes research and development facilities including test kitchens and doughnut producing equipment used in developing new products and processes.

Available Information

KKI Annual Report on Form 10-K reports, along with all other reports and amendments filed with or furnished to the SEC, are publicly available free of charge on the Investor Relations section of our website at investors.krispykreme.com or at sec.gov as soon as reasonably practicable after these materials are filed with or furnished to the SEC. We also use our website as a tool to disclose important information about the Company and comply with our disclosure obligations under Regulation Fair Disclosure. Our corporate governance policies, code of conduct, and Board committee charters are also posted on the Investor Relations section of our website. The information on our website (or any webpages referenced in this Annual Report on Form 10-K) is not part of this or any other report KKI files with, or furnishes to, the SEC.

Item 1A. Risk Factors

Investing in our securities involves a variety of risks and uncertainties, known and unknown, including, among others, those discussed below. You should carefully consider the risks described below together with other information set forth in this Annual Report on Form 10-K. ***If any of the following risks or uncertainties occur, our business, financial condition, prospects, results of operations, and cash flows could be materially and adversely affected****. The risks discussed below are not the only risks we face. Additional risks or uncertainties not currently known to us, or that we currently deem immaterial, may also have a material adverse effect on our business, financial condition, prospects, results of operations, or cash flows. We cannot assure you that any of the events discussed in the risk factors below will not occur.*

Risks Related to Food Safety and Consumer Preferences

Our business may be adversely affected by food safety issues, including food-borne illnesses, tampering, or contamination.

We operate in the food service sector and are subject to potential food safety concerns, including risks of food-borne illnesses, tampering, and contamination. These risks may escalate as we launch new products, broaden our distribution through channels such as our DFD operations, and expand our manufacturing and production facilities. Inadequate food safety measures in our shops could lead to temporary shutdowns, disrupting both our in-shop and DFD operations. Food safety incidents might also negatively impact the cost and availability of ingredients, leading to supply chain disruptions or reduced profit margins for us and our franchise partners.

Moreover, our dependency on third-party delivery services heightens the risk of food safety issues arising from external factors. While we oversee some of these partners' operations, the quality and service they provide could be compromised by various unforeseeable factors, making it challenging to identify contamination or other defects. The risk is even higher with partners we do not monitor or monitor less rigorously.

Additionally, food safety concerns may expose us to legal actions, regulatory investigations, product recalls, and financial penalties. Any association of our brand, our franchisees, or the broader food service industry with food safety issues could harm our reputation, leading to a decline in revenue and profitability.

Changes in consumer preferences and demographic trends could negatively impact our business.

The food service industry is highly susceptible to shifts in consumer preferences, including dietary choices and health concerns, as well as broader factors like regional economic conditions, spending habits, demographic changes, traffic trends, and competition from other brands in terms of their number, type, and location. Additionally, there is increasing legal and legislative focus on the industry, particularly concerning menu labeling and packaging. This scrutiny is largely due to concerns that the practices and offerings of food service companies may contribute to issues like poor nutrition, excessive caloric intake, obesity, or other health issues among consumers.

Our business must remain agile in responding to these evolving consumer preferences and trends. We also need to be prepared for potential regulatory changes that could affect any of our operational markets. Failure to effectively adapt to these changes or to comply with new regulations could adversely affect our operational results.

Risks Related to Cybersecurity, Data Privacy, and Information Technology

We rely on information technology in our operations. Any material failure, inadequacy, or interruption of that technology could adversely affect our ability to effectively operate our business and result in financial or other loss.

Our business and that of our franchisees significantly depend on computer systems and information technology for efficient operation. The effectiveness of our business management is closely tied to the reliability and capacity of these systems. Our omni-channel strategy, particularly our delivery model, relies heavily on robust information technology systems. As we diversify our business channels, our susceptibility to related risks intensifies.

We also face potential business disruptions due to failures in other critical information technology platforms, including those hosted or provided by third parties. These disruptions can stem from hardware and software issues, cyber-attacks (including distributed denial-of-service attacks), natural disasters (like earthquakes, hurricanes, floods, and fires), power outages, telecommunications failures, human errors, criminal activities (including those by state-sponsored groups), and intentional vandalism. These risks extend to threats like computer viruses, ransomware, and malware.

Adapting to evolving consumer expectations and technological advancements is crucial. Any interruption, delay, or flaw in developing and implementing these systems, or misjudging the costs and revenue potential of these initiatives, can hamper our essential business functions. This could negatively impact our reputation, competitive edge, operational results, and financial health.

While we strive to keep our systems updated, there is no absolute assurance of uninterrupted maintenance. If our mitigation controls fail, especially when updates are not feasible, it could lead to Ecommerce outages, information technology system disruptions, and heightened vulnerability to cyber threats.

Our business interruption insurance might not fully cover losses from service disruptions caused by system failures or similar events. Therefore, significant impacts from system failures could materially and adversely affect our business operations, results, and financial standing.

Breaches or failures of our information technology systems or other cybersecurity or data security-related incidents may have an adverse impact on our business, financial condition, and results of operations.

Our and our franchisees' information systems and records are at risk of cyber-attacks and security breaches. These include hacking attempts, software or system failures, viruses, operator errors, and accidental data leaks. Cyber-attacks are increasingly sophisticated and varied, often involving phishing, social engineering, service disruption attacks, malware, or ransomware, and they may not be detected until they have been active for some time. Additionally, internal threats exist from employees, franchisees, contractors, or third parties who might bypass security measures to access or leak sensitive, regulated, or personally identifiable information, either maliciously or inadvertently.

We cannot guarantee that the security measures and controls implemented by us or our third-party providers are foolproof against such incidents. A breach or perceived breach in our or our third-party providers' information technology systems could severely interrupt our operations, negatively affect our business, financial standing, and operational results, and harm our reputation and brand credibility among consumers and business partners.

Furthermore, significant incidents involving unauthorized access to, theft, exposure, alteration, or misuse of consumer, employee, or proprietary data could lead to legal actions, regulatory investigations, and non-compliance penalties, disrupting our operations, tarnishing our reputation, and leading to substantial financial repercussions.

Our cybersecurity insurance may not fully cover the consequences of such breaches or incidents, and future coverage may not be available at reasonable costs or at all. Insurers might also deny claims for certain incidents. Addressing a security breach would require substantial financial and operational resources, including remediation of security vulnerabilities, legal defense, and compliance with notification obligations. Such efforts could divert management attention and resources away from our business activities, adversely affecting our business operations, financial condition, and results. Additionally, our efforts to remedy these issues may not be successful, and we might face challenges in implementing, maintaining, and upgrading effective safeguards.

If we or our franchisees or licensees are unable to protect our consumer and employee data and other regulated, protected, or personally identifiable information, we or our franchisees could be exposed to data loss, litigation, regulatory fines, and other liability, and our reputation could be significantly harmed.

Our operations necessitate collecting, transmitting, and storing large amounts of consumer and employee data, including sensitive information like credit and debit card numbers and other personally identifiable details. This data is housed in our own and our franchisees' information technology systems, as well as those of third-party service providers. Ensuring the integrity and security of this data is paramount. Non-compliance with legal and industry standards could severely damage our brand, reputation, and operational results. Additionally, our reliance on independent service providers for payment processing poses risks if these providers are unable or unwilling to offer services or if their costs escalate.

We operate under various data privacy and security laws, directives, and regulations, both domestically and internationally. The U.S. has a complex landscape of federal and state data protection regulations, with some state laws offering more stringent protections. The potential introduction of a comprehensive federal data privacy law could increase complexity and compliance costs, impact data use strategies, and necessitate additional investments in compliance infrastructure.

Internationally, we are subject to regulations like the European Union's General Data Protection Regulation (“GDPR”) and the U.K.’s GDPR and Data Protection Act of 2018. These laws impose strict requirements on data handling, including consent, individual rights, cross-border data transfer, breach notifications, and data security and confidentiality. Non-compliance with these international regulations could result in significant penalties and legal liabilities for us and our franchisees. Adapting our and our franchisees’ systems to these evolving requirements may require substantial investment and time.

The interpretation and enforcement of data privacy and security laws and standards are evolving, leading to potential inconsistencies with our data processing practices and policies. Any perceived non-compliance could lead to fines, audits, investigations, lawsuits, and other penalties. Additionally, any failure to adhere to our public statements and privacy policies could expose us to legal action for deceptive or unfair practices.

Concerns about our data privacy and security practices, even if unfounded, could harm our reputation, deter potential users, and negatively impact our business. Any of these outcomes could adversely affect our business operations, financial condition, and future prospects.

Risks Related to Executing Our Business Strategy

We may not realize the anticipated benefits from past or potential future acquisitions, investments, or other strategic transactions.

We periodically assess and may engage in mergers, acquisitions, divestitures, joint ventures, strategic partnerships, minority investments, or other strategic initiatives to broaden our Global Points of Access. These efforts may involve opportunities to acquire or collaborate with both domestic and international franchisees. In some cases, our former or current franchisees might retain a minority interest in the shops we acquire and continue to be involved in their operations. We make these decisions based on individual circumstances.

Such strategic endeavors come with inherent risks, including but not limited to:

- The challenges, delays, and costs associated with integrating acquired Krispy Kreme franchised shops, Points of Access, and strategic partnerships into our existing structure, including potential failure to achieve anticipated synergies or retain key staff;
- Diverting management focus from everyday operations or other important initiatives to effectively implement our growth strategy;
- The risk of not achieving expected revenue, profit, or cash flow from newly acquired Krispy Kreme franchised shops, Points of Access, companies, partnerships, or investments;
- The potential to inherit significant contingent or unforeseen liabilities through acquisitions or other strategic dealings; and
- The risk of significant value depreciation in our investments, possibly leading to goodwill impairment charges for acquired entities.

Our past and future strategic transactions may not yield the anticipated benefits, and could negatively impact our reputation and have a material adverse effect on our business, financial health, and operational outcomes.

Our franchisees may affect our operating results and reputation.

Our ability to influence the management of our franchisees' businesses is limited, and their potential failure to operate effectively could negatively impact our overall operating results. While we provide training and support, our franchisees run their own independent businesses. This means that the operational quality of franchised shops may suffer due to factors outside our control. Additionally, franchisees might not always manage their shops in compliance with relevant laws and regulations or align with our established standards and requirements. Furthermore, there's a risk that franchisees may struggle to recruit and train competent managers and staff.

Currently, we enjoy a generally positive relationship with our franchisees. However, future developments, some of which may be beyond our control, could potentially strain these relationships with both existing and new franchisees. Should our franchisees fail to operate successfully or adhere to our standards and requirements, it could substantially harm the image and reputation of both individual franchisees and our overall brand. Such scenarios could lead to a marked decline in Krispy Kreme-branded sales, adversely affecting our revenue and profitability.

Our DFD business channels depend on key customers and are subject to risks if such key customers reduce their purchases or terminate their relationships with us.

A considerable portion of our revenue comes from sales to retail customers via our DFD channels, which necessitate a substantial infrastructure with notable fixed and semi-fixed costs. In our global operations, we serve a number of large retail customers, yet no single customer contributed to more than 10% of our total revenue in the fiscal years ending December 31, 2023, January 1, 2023, or January 2, 2022. These relationships are not bound by long-term contracts; rather, purchases are influenced by factors like pricing, product quality, consumer demand, and service excellence. Looking ahead, there is a possibility that these customers might reallocate their shelf space, currently occupied by our products, to other items, possibly including private label goods. Consequently, a loss or significant decrease in sales to one of these key retail customers, or if they encounter substantial financial issues, could have a negative impact on our business's health, financial stability, and operational results.

Our reputation and brand image are essential to our business success.

Krispy Kreme is one of the most beloved and well-known sweet treat brands in the world. Our continued success hinges on our and our franchisees' ability to uphold our brand image, penetrate new markets and distribution channels, innovate with new product offerings, and consistently deliver high-quality, delectable products to our consumers.

While we are committed to nurturing and enhancing our brand image and reputation through marketing investments, including traditional advertising and consumer promotions, we place a significant emphasis on social media for most of our marketing activities. Our growing dependency on social media and digital platforms for advertising means that the speed and reach at which information, as well as misinformation and opinions, are spread is amplified. Negative feedback or commentary about us, our brands, or our products on social or digital media could severely harm our brand reputation. This risk is particularly acute given our reliance on social media to bolster our brand and maintain consumer loyalty and engagement.

Our reputation is also shaped by consumers' subjective perceptions. Any regulatory or legal challenges, product recalls, or other negative publicity could tarnish our reputation and brand image, erode consumer trust, and diminish long-term demand for our products. Failure to effectively maintain, enhance, and grow our brand image could materially and adversely impact our business operations, financial health, and overall performance.

Our success depends on our ability to compete with many food service businesses.

We operate in a highly competitive food service landscape, vying against numerous established players. Our shops face competition from a diverse array of indulgence retailers and bakeries, specialty coffee shops, bagel stores, quick service restaurants, delicatessens, take-out services, convenience stores, and supermarkets.

In our shop operations, we face challenges from aggressive pricing by competitors and the potential entry of new players into our markets, which could affect our sales and profit margins. Additionally, many competitors offer a broader product range and possess significantly greater financial and other resources, enabling them to better adapt to pricing and market shifts in the quick service restaurant industry. The relatively low start-up costs for retail indulgence and similar food service ventures also lower the barriers to entry, further escalating competition.

Furthermore, our omni-channel strategy, particularly exemplified by our Insomnia Cookies brand with its focus on delivery, competes in a fiercely contested arena with both local and international indulgence brands. While we manage our own Ecommerce platform, we depend on third-party delivery services for the final leg of product distribution. We also participate as a partner on these platforms, where they handle the entire consumer transaction, including delivery. Our consumers might opt for other indulgence providers' Ecommerce platforms or delivery services due to factors like delivery reach, app usability, and overall market preference for food delivery services.

If we fail to compete effectively, our ability to sustain or grow our revenues and profits, as well as to capitalize on the expected growth through our omni-channel model, could be compromised.

Risks Related to Our Global Expansion and Growth

A key portion of our growth strategy depends on opening new Krispy Kreme shops and Points of Access both domestically and internationally.

Our strategic focus includes expanding our Global Points of Access, encompassing the establishment of new shops, DFD Doors, and Ecommerce platforms, both in our current markets and new regions. However, the effective implementation of this expansion strategy may be impacted by external factors outside the control of both us and our franchisees, potentially hindering shop development and impeding our overall growth objectives. Operational challenges, such as difficulties in sourcing product components or logistical services, may also impose limitations.

Additionally, our presence in certain international markets heavily depends on our franchisees. There is no guarantee that these franchisees will successfully develop or manage their shops in alignment with our brand standards. Moreover, their ability to effectively open, operate, and sustain these shops as per their agreements and our brand requirements may be constrained by their business capabilities or financial resources.

We will face risks as we continue to focus on expansion of our omni-channel business model.

Our ongoing expansion of the omni-channel business model involves substantial costs and uncertainties. These stem from various factors, including the expansion of Points of Access, enhancement of manufacturing capabilities, development of information technology and logistics systems, and adjustments in our corporate structure and workforce.

The success of this expansion is contingent upon our ability to effectively leverage and realize certain objectives. These include finding suitable retail partners, extending our market reach, and building and sustaining the manufacturing and logistical capabilities required to fulfill our delivery commitments. Furthermore, this expansion could intensify or be affected by other risk factors mentioned herein, particularly those concerning our logistical and manufacturing capacities and our competitiveness in the indulgence market.

There is no assurance that we will attain the expected benefits or achieve the cost savings, revenue growth, and other positive outcomes needed to counterbalance the costs and risks associated with this expansion.

Political, economic, currency, and other risks associated with our international operations could adversely affect our and our international franchisees' operating results.

As of December 31, 2023, our company operates a substantial portion of its business outside the U.S., with 1,558 Krispy Kreme shops internationally, excluding Doughnut Factories. This accounts for 72% of our total shop count. Among these, 1,028 are managed by franchisees. Our international operations, encompassing various business segments, are subject to numerous risks inherent to foreign markets. These risks include, but are not limited to:

- Exposure to recessionary or growth trends in global markets, impacting consumer spending and market stability;
- Ongoing reforms in areas like public health, food safety, tariffs, taxation, sustainability, and climate change response leading to regulatory uncertainties and potential spikes in compliance costs;
- Challenges in adhering to international food safety regulations and maintaining high standards of product quality and safety;
- Navigating varying import and business licensing requirements across countries;
- Constraints in fund repatriation and foreign currency exchange, influenced by U.S. and international laws;
- Difficulties in managing and staffing international operations, supply chain logistics, and ensuring consistent product quality and service;
- Risks associated with franchisee disputes, operational failures, development delays, or site selection issues;
- Complexities and costs arising from local labor laws in hiring, retaining, or terminating staff;
- Facing strong competition in new markets with established local players; and
- Potential increase in anti-American sentiment affecting brand image, as Krispy Kreme is widely recognized as an American brand.

Our financial performance and asset valuation in foreign markets are susceptible to currency exchange rate fluctuations and liquidity issues, negatively impacting reported earnings. Royalties from international franchisees, calculated as a percentage of their net sales, are subject to currency conversion risks. An increase in our reliance on international operations amplifies our vulnerability to foreign political and economic instability, currency volatility, and regulatory constraints on currency conversion and remittance.

Moreover, our international operations predominantly rely on exporting doughnut mixes and concentrates to franchisees. These exports are governed by a myriad of U.S. and international regulations concerning food products. In the event of a ban on any of our ingredients, identifying suitable alternatives could be challenging and time-consuming, potentially delaying our expansion plans.

In conclusion, our expanding international presence heightens our exposure to a diverse range of risks associated with foreign market operations, regulatory environments, and global economic conditions.

Risks Related to Our Human Capital

An inability to recruit and retain personnel could have materially adverse effects on our operations.

Our Krispy Kremers play a pivotal role in delivering exceptional service and creating memorable experiences for our consumers. They are indispensable for the smooth operation of our retail outlets, manufacturing facilities, and delivery logistics. Our ability to maintain the highest product quality, whether in our Hot Light Theater Shops or at one of our DFD access points, heavily relies on their dedication.

Furthermore, our continued success hinges on the ongoing contributions of our senior management and key personnel, and our ability to retain and motivate them. However, certain economic and social trends beyond our control, such as labor shortages, may pose challenges in recruiting and retaining talented Krispy Kremers, including our senior management and other key personnel.

As our business continues to grow, it becomes increasingly challenging to identify and hire a sufficient number of employees, establish effective internal controls for a globally dispersed enterprise, and provide comprehensive training to ensure consistent product quality and outstanding consumer experiences worldwide.

If we encounter difficulties in recruiting, retaining, and motivating Krispy Kremers to support our projected growth and strategic initiatives, it could have significant adverse effects on our overall operations.

Changes in the availability or cost of labor could adversely affect our business.

Our business is susceptible to potential adverse impacts arising from rising labor costs, encompassing wages and employee benefits. These cost increases may stem from various factors, including state and federal legislation, regulatory actions related to wages, scheduling, and benefits, as well as escalating healthcare and workers' compensation insurance expenses. Additionally, there may be a need to enhance wages and benefits to attract and retain highly skilled employees with the requisite expertise.

Moreover, we could encounter challenges related to the availability of labor for in-shop positions. This shortage may be influenced by evolving market trends, changing employment conditions, the emergence of new telecommuting job opportunities, and other factors that can reduce the pool of qualified talent for critical roles within our organization.

The fluctuating landscape of labor availability and costs has the potential to yield materially adverse effects on our business operations.

Risks Related to Our Supply Chain

We are the exclusive or primary supplier of doughnut mixes and key ingredients to shops worldwide and any problems supplying these ingredients could negatively affect our and our franchisees' ability to make doughnuts.

We serve as the exclusive supplier of doughnut mixes to numerous domestic and international Krispy Kreme shops. Additionally, we hold the exclusive role of providing doughnut mix concentrate, which is blended with various ingredients to create doughnut mixes, to all Krispy Kreme shops worldwide. Furthermore, we are the sole supplier of specific critical ingredients to all domestic Company-owned shops, the majority of domestic franchise shops, and select international franchise shops.

Our concentrate manufacturing primarily takes place at our facility located in Winston-Salem, North Carolina, and to a limited extent, through a manufacturing agreement with BakeMark USA LLC ("BakeMark"). Domestic doughnut mix production occurs at our Winston-Salem plant and a third-party facility in Pico Rivera, California. The distribution of doughnut mixes, essential ingredients, and flavors to Krispy Kreme shops, both domestically and internationally, is facilitated by independent contract distributors. It is important to note that any disruption in the production of our mixes and concentrates would have a cascading effect on our global supply chain, with no adequate alternative source available.

The Pico Rivera facility is responsible for producing mixes for distribution to most Krispy Kreme shops west of the Mississippi River. In the event of a shutdown or capacity loss at our Winston-Salem facility, Pico Rivera has the capability to manufacture our doughnut mixes for other regions. Nevertheless, a production interruption at any manufacturing facility could hinder our, and our franchisees', ability to produce doughnuts domestically. Internationally, we operate several plants for doughnut mix production, and any disruption at these facilities could impact doughnut production capabilities regionally, affecting our locations and those of our franchisees.

Our international shipments of mixes and concentrates primarily depart from a single port in Florida. Any delays in shipping or disruptions in logistics chains could adversely affect our international operations as well as those of our franchisees. Such delays may result from known or unforeseen events, including those related to adverse weather conditions, customs and border closures, trade conflicts, and general trade route delays.

Furthermore, unexpected termination of our relationships with raw material suppliers, even when multiple suppliers exist for the same ingredient, may hinder our ability to secure adequate quantities of high-quality ingredients at competitive prices. As we continue our global expansion, these risks may intensify, leading to supply shortages, logistical challenges, and increased operational costs associated with managing and supplying a global network of Krispy Kreme shops.

We are the only manufacturer of substantially all our doughnut-making equipment. If we have any problems producing this equipment, our shops' ability to make doughnuts could be negatively affected.

Our custom doughnut-making equipment is exclusively manufactured at a single facility located in Winston-Salem, North Carolina. While we maintain limited backup sources for equipment production, the process of manufacturing new equipment swiftly in the event of a disruption at our Winston-Salem facility would present significant challenges.

In the unfortunate event of such a disruption, we would be compelled to explore alternative options, such as partnering with third-party manufacturers or relocating production to another facility. This transition may entail substantial delays in the manufacturing process and result in increased costs. Consequently, our ability to provide equipment to newly established shops or essential replacement parts for maintenance in existing shops could be compromised in terms of timeliness.

This situation underscores the importance of safeguarding our manufacturing operations to ensure the consistent supply of equipment to support our expanding network of shops and the maintenance requirements of our existing locations.

We have limited suppliers for many of the product components and services that we rely on and any interruption in supply could impair our ability to make and deliver our signature products, adversely affecting our business, financial condition, and results of operations.

While we possess exclusive ownership of the recipes for our glaze flavoring and glaze base, we currently rely on a single supplier for these essential ingredients. Additionally, for our Insomnia Cookies brand, all cookie dough is sourced from a sole supplier. Our dependence on these suppliers exposes us to potential risks, including shortages, supply interruptions, and price fluctuations.

Any disruption in the supply chain of glaze flavoring could have adverse consequences on our ability to produce and deliver our signature products, including the beloved hot Original Glazed doughnut, to our consumers in a timely and competitive manner. Such interruptions could also impact our operational performance. In the event that suitable replacement products cannot be secured promptly, we face the potential loss of revenue resulting from the inability to offer our products and the associated increase in administrative and shipping expenses.

Furthermore, our reliance on a limited number of providers exposes us to heightened risks associated with the distribution networks of these suppliers. Factors such as fuel price increases, labor strikes, organized labor activities, adverse weather conditions, and various unforeseen variables may hinder our providers' capacity to meet our logistical requirements. If we encounter difficulties in sourcing alternative logistical providers, our costs may experience significant escalation. If we are unable to pass on these increased distribution costs to our consumers through higher product prices, it could adversely impact our business, financial health, and operational results.

Our reliance on a single vendor for distribution of materials and supplies in the U.S. and a portion of Canada poses risks to our and our franchisees' ability to make doughnuts if the vendor fails to provide these materials and supplies per the agreement.

We have established an exclusive distribution partnership with BakeMark, which grants the exclusive rights to BakeMark to distribute ingredients, packaging, and supplies to both Company-owned and franchise shops in certain regions of the U.S. and Canada. However, in the event that BakeMark encounters economic or operational challenges, it could potentially lead to disruptions within our supply chain in the U.S. and Canada.

Finding an alternative distribution channel in a timely manner to mitigate these disruptions and challenges may prove difficult. In some cases, we may need to temporarily halt production at the affected shops until suitable alternative arrangements can be put in place.

Furthermore, the cost of a replacement distribution channel could have implications for the financial performance of these shops. A severe disruption to our BakeMark production has the potential to result in a significant and adverse impact on our overall business, consolidated financial position, results of operations, and cash flows.

Ensuring the reliability and continuity of our supply chain is of utmost importance to safeguard the seamless operation of our shops in the U.S. and Canada, and we actively monitor and assess potential risks in this regard.

Our profitability is sensitive to changes in the cost of raw materials and other commodities.

While we employ forward purchase contracts, futures contracts, and options on such contracts to mitigate the risks associated with commodity price fluctuations, it is important to acknowledge that these contracts may not offer complete protection against commodity price risk, particularly over extended timeframes. Additionally, the portion of our anticipated future commodity requirements covered by such contracts can vary over time.

Among our essential ingredients, three stand out in significance: flour, shortening, and sugar. Furthermore, we procure a substantial quantity of gasoline for our delivery vehicle fleet serving our DFD business, as well as substantial amounts of packaging materials, including our iconic boxes for dozens, half-dozens, and three-packs of doughnuts. Recent years have witnessed notable volatility in the prices of key commodities such as wheat and soybean oil, which constitute the primary components of flour and shortening, respectively. Additionally, the prices of sugar and gasoline have exhibited fluctuations.

While we strive to leverage our market size to secure economies of scale in procurement, it is essential to recognize that effective cost management cannot always be guaranteed. Unfavorable shifts in commodity prices have the potential to impact our profitability, underscoring the importance of ongoing diligence in managing and mitigating these risks.

Risks Related to Regulation and Litigation

We may be subject to litigation that could adversely affect us by increasing our expenses, diverting management attention, or subjecting us to significant monetary damages and other remedies.

Our organization frequently encounters claims or disputes involving various stakeholders, including franchisees, suppliers, employees, customers, government entities, and others. These disputes encompass a wide range of issues, including operational, foreign exchange, tax, franchise, contractual, and employment matters. They may also pertain to diverse areas such as personal injury, franchisee employment, real estate, environmental concerns, tort claims, intellectual property disputes, breaches of contract, data privacy issues, securities litigation, derivative actions, and various other legal matters. Notably, plaintiffs often seek substantial or undetermined amounts in damages, and lawsuits inherently carry uncertainties, some of which are beyond our control.

It is important to note that not all current or former employees may have valid arbitration agreements and waivers of class certification in place, and certain arbitration agreements may not fully protect us from specific claims, particularly in certain states such as California where Private Attorney General Act claims are involved. Additionally, unfavorable rulings or developments may occur in cases unrelated to our direct involvement.

Regardless of the merits of such lawsuits or our ultimate liability or settlement outcomes, legal proceedings can be costly to defend, divert management attention away from our core operations, and potentially impact our financial performance. Furthermore, in cases involving insured claims, a judgment for monetary damages that exceeds our insurance coverage could have adverse implications for our financial position and operational results.

Moreover, any adverse publicity resulting from these allegations may impact our reputation, potentially affecting our operational performance. We remain committed to addressing these challenges diligently and responsibly to safeguard our organization's interests.

Our business may be adversely affected by litigation, regulation and publicity concerning food quality, health, and other issues, which can negatively affect public policy and consumer preferences toward our products.

As a food service business, we acknowledge the potential adverse impacts stemming from litigation, regulatory actions, and consumer or government complaints related to food quality, illness, injuries, health concerns, or operational issues. These concerns may arise from individual shops or a limited number of shops, including those operated by our franchisees. Additionally, they may emerge as we introduce new products or expand distribution channels, such as our DFD business channels.

It is important to note that class action lawsuits have been filed against various food service businesses, including quick-service restaurants. These lawsuits may allege, among other things, the failure to disclose health risks associated with high-fat foods and marketing practices that encourage obesity. Given that one of our core competitive advantages lies in the taste and quality of our doughnuts and indulgent products, adverse publicity or regulations related to food quality or similar concerns have a more pronounced impact on our business compared to food service businesses that primarily compete on other factors.

Furthermore, in the event that such lawsuits or claims result in unfavorable judgments or due to litigation costs, regardless of the final outcome, we may face significant liabilities. We remain committed to upholding our reputation for taste and quality while diligently addressing these potential challenges and complying with regulations to ensure the satisfaction and safety of our consumers.

We are subject to franchise laws and regulations that govern our status as a franchisor and regulate some aspects of our franchise relationships. Our ability to develop new franchised shops and to enforce contractual rights against franchisees may be adversely affected by these laws and regulations, which could cause our franchise revenues to decline.

As a franchisor, we operate within the regulatory framework established by the Federal Trade Commission and domestic and foreign laws governing the offer and sale of franchises. The importance of adhering to these regulations cannot be overstated, as any failure to obtain or maintain approvals for offering franchises could result in the loss of potential franchise revenues and revenues generated through our Market Development segment.

Furthermore, it is essential to recognize that both domestic and foreign laws not only oversee the procedural aspects of offering franchises but also regulate substantive aspects of our relationships with franchisees. These laws may impose limitations on our ability to terminate or effectively resolve conflicts with our franchisees. Compliance with these regulations is integral to the successful operation of our franchising business model and the maintenance of harmonious relationships with our franchisees.

Healthcare legislation and other potential employment legislation could adversely affect our business, financial condition, and results of operations.

We anticipate that federal legislation concerning mandated health benefits and potential minimum wage regulations will lead to increased costs for both our organization and our domestic franchisees. Over recent years, several states have already raised their minimum wage rates, and there is mounting pressure for similar increases on a federal level. Additionally, for employees whose compensation is set above but tied to the applicable minimum wage, further hikes in the minimum wage could result in higher labor expenses. These cost increases may also be influenced by inflationary pressures and potential labor market shortages.

Our relationships with employees are governed by various federal and state labor laws, which play a pivotal role in shaping our operational costs. These laws encompass aspects such as employee classifications as exempt or non-exempt, minimum wage stipulations, unemployment tax rates, workers' compensation rates, overtime regulations, family leave policies, safety standards, payroll taxes, citizenship requirements, and other wage and benefit prerequisites for employees classified as non-exempt.

The future trajectory of government regulations in these areas remains uncertain, and we may be subject to substantial changes or reforms stemming from legislative initiatives related to labor laws, healthcare laws, or other regulations impacting our labor costs. The imposition of additional government regulations may introduce heightened compliance costs, and noncompliance with these regulations could potentially lead to litigation.

Considering these factors, in combination with other potential increases in labor expenses, there is a possibility of material adverse effects on our business, financial condition, and operational results. We remain vigilant in monitoring developments in labor-related legislation to adapt and comply accordingly.

Our annual effective income tax rate can change materially as a result of changes in our geographic mix of U.S. and foreign earnings and other factors, including changes in tax laws and changes made by regulatory authorities.

We are subject to federal, state, and local income taxes both in the U.S. and in foreign jurisdictions. The impact of potential changes in tax laws on our future effective tax rates and the value of our deferred tax assets remains uncertain and has not been fully determined. Additionally, our income tax returns are subject to examination by the Internal Revenue Service and other tax authorities. While we have taken appropriate measures to provision for taxes in the jurisdictions where we operate, alterations in tax laws or challenges from tax authorities based on existing tax laws could have adverse repercussions on our business, financial condition, and operational results.

Our overall effective income tax rate is calculated as our total tax expense relative to total earnings before tax. It is important to note that income tax expense and benefits are recognized on a jurisdictional or legal entity basis, rather than on a global scale. Losses incurred in one jurisdiction may not be used to offset profits in other jurisdictions, potentially resulting in an increase in our overall tax rate. Changes in the distribution of earnings (or losses) among different jurisdictions and the assumptions employed in calculating income taxes, among other factors, can exert a significant influence on our overall effective income tax rate. Furthermore, adjustments to tax laws and modifications made by regulatory authorities have the potential to significantly impact our overall effective income tax rate. For example, member countries of the Organization for Economic Co-operation and Development have enacted or are in the process of enacting legislation related to the implementation of a global minimum tax rate of 15% as early as 2024. As legislation becomes effective in countries in which we do business, our taxes could increase and negatively impact our effective tax rate. Additionally, the cost of complying with new legislation could negatively impact our results.

The full realization of our deferred tax assets may be affected by a number of factors, including future earnings and the feasibility of ongoing planning strategies.

We hold deferred tax assets, encompassing federal, state, and foreign net operating loss carryforwards, accruals not yet deductible for tax purposes, tax credits, and other items. We have established valuation allowances, reducing the deferred tax assets associated with U.S. federal tax credits, as well as foreign and state and local net operating loss carryforwards, to an amount deemed more likely than not to be realized. The realization of these deferred tax assets hinges on our ability to generate future taxable income within each respective jurisdiction during the periods when these temporary differences reverse, or our capability to carry back any losses resulting from the deduction of these temporary differences.

It is essential to acknowledge that our existing deferred tax assets and tax credits could potentially expire or become unavailable to offset future income tax liabilities due to legal or regulatory changes. Such changes may include suspension on the use of deferred tax assets and tax credits imposed by certain jurisdictions, possibly with retroactive effects. For instance, during the COVID-19 pandemic, Illinois temporarily suspended the use of specific net operating losses and tax credits to offset revenue losses. Similar limitations on certain deferred tax assets and tax credits could be enforced by other jurisdictions.

We anticipate realizing these deferred tax assets over an extended period. However, if we encounter challenges in generating sufficient future taxable income in the U.S. and/or certain foreign jurisdictions, or if there is a significant alteration in the timeframe within which the underlying temporary differences become taxable or deductible, we may be compelled to augment our valuation allowances against our deferred tax assets. Such an adjustment could lead to an increase in our effective tax rate. We remain diligent in managing these considerations to optimize our financial position.

Risks Related to Our Intellectual Property

Our failure or inability to obtain, maintain, protect, and enforce our trademarks or other intellectual property could adversely affect our business and the value of our brands.

We possess common-law trademark rights in the U.S., complemented by numerous trademark and service mark registrations both domestically and internationally. Our intellectual property portfolio encompasses ingredient formulas, trademarks, copyrights, patents, business processes, and other valuable trade secrets. We view our trademarks and other intellectual property rights as integral to our success and competitive positioning. To safeguard these assets, we rely on a comprehensive strategy encompassing legal protections offered by trademark registrations, contracts, copyrights, patents, and common law rights, such as protections against unfair competition, passing off, and trade secret violations.

Despite our proactive efforts to secure, maintain, safeguard, and enforce our trademarks, service marks, and other intellectual property rights, there can be no absolute guarantee that these protections will be universally applicable. Challenges such as potential infringements, challenges to validity, declarations of generic status, circumvention, or violations may arise. Furthermore, the effectiveness of intellectual property protection may vary across countries where our brands have existing or potential shops or facilities. The intellectual property laws of certain foreign countries may not provide the same level of protection as those in the U.S.

We acknowledge the possibility that the measures we have implemented to safeguard our intellectual property, along with the available legal protections, may not always prove sufficient. Additionally, it is not assured that our franchisees will consistently uphold the quality of goods and services under our brand trademarks or consistently adhere to the guidelines we establish for preserving our brand's intellectual property rights. The defense and enforcement of our trademarks and other intellectual property could entail substantial resource allocation and potentially impact our business, reputation, financial standing, and operational results.

Furthermore, our brands may become targets of infringement claims, potentially impacting the use of specific names, trademarks, or proprietary knowledge, recipes, and trade secrets integral to our business. The defense against such claims can be costly, and in some cases, it may lead to restrictions on our use of proprietary information in the future or require the payment of damages, royalties, or other fees for the continued use of such proprietary information. Any of these outcomes has the potential to exert a negative influence on our business, reputation, financial condition, and operational results. We remain vigilant in protecting and managing our intellectual property assets.

Loss of our trade secret recipes could adversely affect our sales.

Our competitive advantage is significantly driven by the fact that our doughnut recipes and formulations are closely guarded trade secrets. While we take reasonable precautions to protect these trade secrets, any inadvertent disclosure to competitors could potentially have a substantial adverse impact on our competitive standing. It is essential to acknowledge that safeguarding trade secrets can be a complex endeavor.

To fortify the protection of our trade secrets and proprietary knowledge, we engage in the practice of entering into non-disclosure and confidentiality agreements with individuals and entities who may have access to this confidential information. This includes our employees, corporate collaborators, external contractors, consultants, advisors, and other third parties. However, we cannot guarantee that such agreements have been established with every relevant party, and there exists the possibility that any of these parties may breach these agreements, thereby divulging our proprietary information. Furthermore, pursuing legal action against a party alleged to have unlawfully disclosed or misappropriated a trade secret is a challenging, costly, and time-consuming process with an uncertain outcome.

Moreover, it is feasible that others may independently discover our trade secrets and confidential information. In such instances, we would be unable to assert any trade secret rights against these parties. We remain vigilant in our efforts to protect our trade secrets, recognizing the critical role they play in maintaining our competitive edge.

Risks Related to Macroeconomic Conditions

Adverse economic conditions or disruptions in the markets where we operate could adversely impact our business, results of operations, and financial condition.

Unfavorable economic circumstances or market disturbances within the regions where we and our franchisees conduct business have the potential to lead to higher unemployment rates, shortages in the labor market, inflationary pressures, and a decrease in consumer confidence and spending. Our products fall into the category of indulgences, making them particularly sensitive to shifts in discretionary spending patterns. In the event of such adverse conditions, our consumers may find themselves with reduced disposable income, leading to potential reductions in their consumption of our products.

It is crucial to acknowledge that government interventions in response to economic disruptions do not always guarantee the restoration of consumer confidence. Prolonged disruptions in both domestic and global economies have the potential to exert adverse effects on our business, financial performance, and overall financial health. We remain vigilant in monitoring economic developments and their potential impact on our operations.

Risks Related to Crises, Catastrophic Events, and Business Continuity

Public health outbreaks, epidemics, or pandemics, including the global COVID-19 outbreak, have disrupted and may continue to disrupt, our business, and could materially affect our business, financial condition, and results of operations.

Health epidemics or pandemics can have detrimental effects on consumer spending, confidence levels, supply chain availability, and associated costs within the markets where we and our franchisees operate. These factors can collectively influence our business, financial standing, and operational results. A notable instance of this was the global spread of the COVID-19 epidemic in recent years, which disrupted global health, economic conditions, consumer behaviors, and food service operations.

While we have implemented measures to address significant public health risks on a large scale, we acknowledge the potential for future outbreaks to impact our shops and other facilities. Such outbreaks may result in a substantial portion of our workforce or the workforce of our business partners being unable to work.

Furthermore, our business is influenced by shifting consumer preferences and perceptions. Concerns regarding virus transmission have prompted employees and guests to avoid congregating in public places, leading to adverse effects on guest traffic at our locations and the ability to adequately staff our shops. The COVID-19 pandemic has triggered changes in consumer behaviors, some of which may endure or continue evolving even after the pandemic subsides. These shifts have already had and may continue to exert negative impacts on consumer traffic and the sales of both our Company-owned and franchisee-operated shops. We remain attentive to evolving consumer trends and their potential implications for our business and operational performance.

Adverse weather conditions could adversely affect our business.

Unfavorable weather conditions have the potential to affect guest traffic at our Company-owned and franchisee-operated shops. In more extreme scenarios, such as hurricanes, tornadoes, flooding, or other natural disasters, which may be exacerbated by the effects of climate change, temporary shop closures may become necessary, sometimes for extended durations. Such closures would invariably have an adverse impact on our shop sales.

Moreover, fluctuations in weather patterns can lead to construction delays, disruptions in the availability of utilities, and potential shortages or interruptions in the supply of food items and other essential supplies. These developments have the potential to increase our operational costs and pose challenges to our supply chain. We remain vigilant in monitoring weather-related risks and their potential consequences for our business operations.

Risks Related to Responsibility Matters

We may be affected by matters related to environmental, social, and governance ("Responsibility") trends and events, including governmental regulation and supply chain disruptions, that may adversely impact our business.

Furthermore, the growing emphasis on Responsibility considerations by consumers, investors, governmental authorities, and various stakeholders may impact our operations and compliance obligations. Responsibility encompasses a broad spectrum of factors, including climate change, greenhouse gas emissions, packaging and waste management, human rights, sustainable supply chain practices, animal welfare, deforestation, and responsible use of land, energy, and water resources. Recent years have seen the introduction of disclosure requirements by entities such as the U.S. Congress, the U.S. Securities and Exchange Commission, the European Union, and the Nasdaq stock exchange, which either have already prompted or may in the future encourage or mandate us to adopt new practices for managing and reporting on Responsibility-related risks. The evolving nature and complexity of these rules and regulations render compliance more challenging and uncertain. Consequently, these changing regulatory frameworks, together with evolving stakeholder expectations, have led to increased general and administrative expenses and have necessitated greater management time and attention dedicated to achieving compliance and meeting these standards.

Moreover, as part of our commitment to making a positive global impact, we have established specific commitments, targets, and goals related to Responsibility concerns. We are also evaluating opportunities to expand these commitments further. It is important to note that our competitors may not share a similar level of ambition in setting environmental or sustainability objectives, potentially leading to lower supply chain and operational costs for them. We may choose to communicate these commitments, targets, and goals through public disclosures. Nevertheless, our ability to meet these commitments and navigate the associated risks is subject to various external factors and uncertainties, many of which are beyond our control. If we are not successful, or if we are perceived as ineffective, in achieving our Responsibility strategy or in mitigating Responsibility-related risks to our business, we could be exposed to market, operational, reputational, and execution challenges and costs.

Risks Related to an Investment in Us

Certain provisions of Delaware Law, the Investors' Rights Agreement, our certificate of incorporation, and our bylaws could hinder, delay, or prevent a change in control of us, which could adversely affect the price of our common stock.

Several provisions within Delaware Law, our certificate of incorporation, and our bylaws are designed to create obstacles for third-party acquisition attempts without the consent of our Board of Directors or JAB Holdings B.V. ("JAB"), our largest beneficial shareholder.

As a Delaware corporation, we are subject to Delaware General Corporation Law, particularly Section 203, which restricts certain shareholders owning over 15% of our outstanding common stock (referred to as "interested shareholders") from engaging in specific business combinations without approval from at least two-thirds of our outstanding common stock not held by the interested shareholder.

Moreover, JAB wields substantial voting power over shares of our common stock eligible to vote in director elections and other shareholder votes through its affiliate, potentially influencing outcomes significantly.

Additionally, our certificate of incorporation grants our Board of Directors the authority to issue preferred stock at their discretion, without the need for shareholder approval. This flexibility extends to the issuance of authorized but unissued shares of our common stock. These provisions can complicate and protract the process of replacing incumbent directors.

These measures collectively serve as deterrents, potentially making it costly and challenging for a third party to initiate a tender offer, execute a change in control, or attempt a takeover that faces opposition from JAB, our management, or our Board of Directors. Public shareholders interested in participating in such transactions may find it difficult to do so, even if the deal would be beneficial for shareholders. Ultimately, these anti-takeover provisions could significantly hinder public shareholders' ability to realize benefits from a change in control or alterations in our management and Board of Directors, potentially impacting the market price of our common stock and the opportunity to secure any potential change of control premium.

Under the Investors' Rights Agreement with JAB, they have specific rights to access certain Company information, which JAB is obligated to treat as confidential. This information includes management's monthly financial review reports, consolidated financial results for each fiscal quarter, and other information reasonably requested by JAB. Given these rights and JAB's representation on our Board of Directors, JAB enjoys privileged access to our management and early insights into our financial results compared to our other investors. Although JAB must adhere to relevant U.S. securities laws governing the trading of our securities while in possession of material non-public information, it will still have a more comprehensive understanding of our business and financial condition than individual shareholders for as long as its information rights persist under the Investors' Rights Agreement.

If the ownership of our common stock continues to be highly concentrated, it may prevent shareholders from influencing significant corporate decisions and may result in conflicts of interest.

As of December 31, 2023, JAB held approximately 45% of our common stock through its affiliate, conferring upon it significant influence over crucial matters requiring shareholder approval. This influence extends to decisions such as electing directors, facilitating mergers, consolidations, and acquisitions, disposing of substantial assets, and shaping our capital structure. Additionally, JAB possesses the authority to amend our certificate of incorporation and bylaws, and influence our winding up and dissolution procedures.

This level of concentrated ownership could potentially lead to delays, deterrents, or the prevention of actions that may be favored by our other shareholders. It is important to note that JAB's interests may not always align with those of our broader shareholder base. Furthermore, this concentration of ownership has the potential to hinder or discourage any attempts at a change in control of our Company.

The concentration of voting power could also impact shareholders by limiting the opportunity to receive a premium for their common stock shares in the event of a sale of the Company, which, in turn, may affect the market price of our common stock. JAB might also seek to push us in directions that it deems beneficial for its own investment but could carry risks for other shareholders or negatively impact our Company and its stakeholders.

As a result, there is a possibility that the market price of our common stock could decline, or shareholders may not receive a premium above the prevailing market price in the event of a change in control. Furthermore, this concentration of share ownership might be viewed negatively by investors, potentially affecting the trading price of our common stock, as some may perceive drawbacks in owning shares in a company heavily influenced by a few significant shareholders.

The market price of our common stock could be negatively affected by sales of substantial amounts of our common stock in the public markets.

JAB's affiliate may possess the capability to sell the Company's common stock shares they hold to the public markets, following the stipulations outlined in Rule 144. The substantial sale of our shares by JAB's affiliate, or the mere anticipation of such sales, could potentially exert a significant downward pressure on the market price of our common stock. A decrease in the value of our common stock could hinder our capacity to raise capital through the issuance of additional common stock or other equity securities.

We may be unable to pay dividends on our common stock.

We plan to distribute cash dividends to our common stockholders on a quarterly basis, contingent upon the discretion of our Board of Directors and our adherence to applicable regulations. The decision to declare dividends will be influenced by a range of factors, including our financial performance, capital needs, business prospects, legal requirements, contractual obligations, restrictions imposed by applicable laws, and other relevant considerations, all of which will be evaluated by our Board of Directors.

Furthermore, our capacity to pay dividends may be constrained by the terms outlined in our existing debt agreements or any future debt or preferred equity securities we may undertake. It is important to recognize that our dividend policy carries inherent risks and constraints, particularly regarding our available liquidity. When we opt to distribute cash dividends instead of reinvesting those funds in our operations or repaying outstanding debts, we run the risk of impeding our business expansion, potentially facing liquidity challenges, or limiting our ability to secure additional financing.

Our Board of Directors will regularly assess the cash generated from our operations and the capital requirements necessary to support our growth strategies. Based on this evaluation, they may decide to modify the amount of regular dividends and may also consider declaring periodic special dividends. However, it is essential to note that there is no guarantee that our Board of Directors will not make adjustments to the timing or amount of regular cash dividends or decide to discontinue dividend payments altogether.

We have incurred significant indebtedness, which could adversely affect us, including decreasing our business flexibility and increasing our interest expense.

Our Company bears a substantial burden of indebtedness, which carries potential adverse consequences, such as constraining our operational flexibility and elevating our interest expenses. This indebtedness has the potential to limit the funds available for critical aspects of our business, including working capital, capital expenditures, acquisitions, and fulfilling our obligation to repay or refinance maturing debt, in addition to other general corporate requirements. Furthermore, it places us at a competitive disadvantage relative to companies with lower levels of debt. If our financial performance falls short of current expectations, servicing our debt could become challenging.

Additionally, there is the possibility that we may incur additional indebtedness, guarantees, commitments, or liabilities in the future. The need for refinancing, in part or in full, of our existing indebtedness before maturity is a distinct possibility. There is no guarantee that we will be able to secure refinancing on favorable terms, if at all. Should our business fail to generate sufficient cash flow from operations or if we encounter difficulty securing future debt or equity financing on acceptable terms and in sufficient amounts to meet our debt obligations or address other liquidity requirements, our financial health and operational results may suffer.

Moreover, credit rating agencies assess our creditworthiness by considering our capital structure, financial policies, as well as our financial position and operating results at the time. A downgrade in our credit ratings could occur due to changes in our capital structure, shifts in the methodology used by credit rating agencies to evaluate our creditworthiness, their perceptions of credit market conditions impacting our current or future financial position, or other factors. Such a downgrade could lead to increased borrowing costs. Furthermore, a significant credit rating downgrade may reduce financial institutions' willingness to participate in our vendor finance programs and diminish their attractiveness to suppliers who may seek to sell payment obligations to financial institutions. Additionally, a significant credit rating downgrade might restrict our business's flexibility to engage in certain transactions, including the execution and renewal of specific leases.

Item 1B. Unresolved Staff Comments

None.

Item 1C. Cybersecurity

We have processes in place for assessing, identifying, and managing material risks from potential unauthorized occurrences on or through our electronic information systems that could adversely affect the confidentiality, integrity, or availability of our information systems or the information residing on those systems. These include a wide variety of mechanisms, controls, technologies, methods, systems, and other processes that are designed to prevent, detect, or mitigate data loss, theft, misuse, unauthorized access, or other security incidents or vulnerabilities affecting the data. The data include confidential, proprietary, and business and personal information that we collect, process, store, and transmit as part of our business, including on behalf of third parties. We also maintain a third-party security program to identify, prioritize, assess, mitigate and remediate third-party risks; however, we rely on the third parties we use to implement security programs commensurate with their risk, and we cannot ensure in all circumstances that their efforts will be successful.

As part of our risk management process, we conduct application security assessments, vulnerability management, penetration testing, security audits, and ongoing risk assessments. We also maintain a variety of incident response plans that are utilized when incidents are detected. Our incident response plans coordinate the activities that we and our third-party cybersecurity provider take to prepare to respond and recover from cybersecurity incidents, which include processes to triage, assess severity, investigate, escalate, contain, and remediate an incident, as well as to comply with potentially applicable legal obligations and mitigate brand and reputational damage. We require employees with access to information systems, including all corporate employees, to undertake data protection and cybersecurity training and compliance programs periodically.

Our systems periodically experience directed attacks intended to lead to interruptions and delays in our operations as well as loss, misuse or theft of personal information (of third parties, employees, and our members) and other data, confidential information, or intellectual property. Risk from cybersecurity threats, including relating to past incidents, have not materially affected our systems or business. Any significant disruption to our operations or access to our systems could adversely affect our business and results of operations. Further, a penetration of our systems or a third party’s systems or other misappropriation or misuse of personal information could subject us to business, regulatory, litigation, and reputation risk, which could have a negative effect on our business, financial condition and results of operations. See "Risk Factors - Risks Related to Cybersecurity, Data Privacy, and Information Technology.”

The Chief Information Officer (“CIO”) leads our global information security organization responsible for overseeing the Company’s information security program. Our CIO has over 25 years of industry experience, including serving in similar roles leading and overseeing cybersecurity programs at other public companies. Team members who support our information security program have relevant educational and industry experience, including holding similar positions at large technology companies. The teams provide regular reports to senior management and other relevant teams on various cybersecurity threats, assessments, and findings.

Our cybersecurity risk management program is integrated into our overall enterprise risk management program and shares common methodologies, reporting channels, and governance processes that apply across the enterprise risk management program to other legal, compliance, strategic, operational, and financial risk areas. The Audit Committee of the Board of Directors oversees our annual enterprise risk assessment, where we assess key risks within the Company, including security and technology risks and cybersecurity threats. The Audit Committee also oversees our cybersecurity risk and receives regular reports from our CIO on various cybersecurity matters, including risk assessments, mitigation strategies, areas of emerging risks, incidents and industry trends, and other areas of importance.

Item 2. Properties

The material properties used by Krispy Kreme, Inc. in connection with its manufacturing, warehousing, distribution, and corporate administrative operations, serving all segments, are as follows:

Location	Approximate Size in Square Feet	Purpose	Type
Winston-Salem, NC	107,000	Mix Production Plant and Distribution	Leased
Winston-Salem, NC	101,710	Equipment Manufacturing Facility	Owned
Charlotte, NC	31,776	Corporate Administrative	Leased

In the U.S., we operate four Doughnut Factories located in Indianapolis, Indiana, Monroe, Ohio, New York, New York, and Fort Lauderdale, Florida. Internationally, for our equity markets, we operate 14 Doughnut Factories. Each Doughnut Factory manufactures daily to provide finished products to shops and to support our DFD routes. The majority of our Doughnut Factories are leased.

Additionally, as of December 31, 2023, Krispy Kreme, Inc. had 1,093 Company-owned shops globally, a majority of which are leased. We also lease space in various locations globally for regional, district, and other administrative offices, training facilities, and storage.

We believe our existing facilities, both owned and leased, are in good condition and suitable for the conduct of our business.

Item 3. Legal Proceedings

In the ordinary course of conducting our business, we have in the past and may in the future become involved in various legal actions and other claims. We may also become involved in other judicial, regulatory, and arbitration proceedings concerning matters arising in connection with the conduct of our businesses. Some of these matters may involve claims of substantial amounts. These legal proceedings may be subject to many uncertainties and there can be no assurance of the outcome of any individual proceedings. See Note 15, Commitments and Contingencies, to the audited Consolidated Financial Statements in Item 8 of Part II of this Annual Report on Form 10-K for information regarding certain legal proceedings in which we are involved.

Item 4. Mine Safety Disclosures

Not applicable.

PART II

Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

Market Information

Our common stock has been listed on the Nasdaq Global Select Market under the symbol "DNUT" since our initial public offering on July 1, 2021. Prior to that time, there was no public market for our common stock.

Holders

The approximate number of shareholders of record of our common stock as of February 15, 2024, was 213. This does not include persons whose stock is in nominee or "street name" accounts through brokers.

Dividend Policy

For the fiscal quarters ending April 2, 2023, July 2, 2023, October 1, 2023, and December 31, 2023, we paid quarterly cash dividends on our common stock of $0.035 per share, which were paid in May 2023, August 2023, November 2023, and February 2024, respectively. We expect to pay a dividend after the close of each quarter.

Any declaration and payment of future dividends to holders of our common stock will be at the sole discretion of our Board of Directors and will depend on many factors, including economic conditions, our financial condition and operating results, our available cash and current and anticipated cash needs, capital requirements, contractual, legal, tax and regulatory restrictions, including restrictive covenants contained in certain of our subsidiaries' credit facilities, and such other factors as our Board of Directors may deem relevant. See "Risk Factors — Risks Relating to an Investment in Us – We may be unable to pay dividends on our common stock."

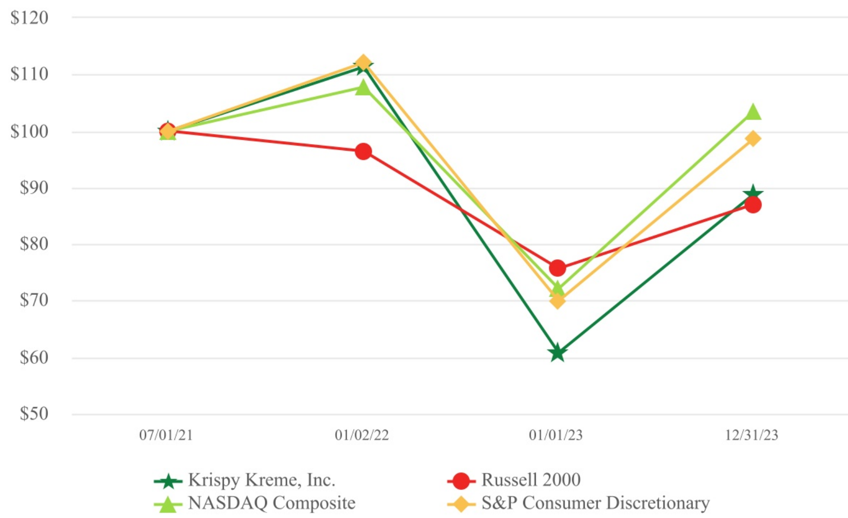
Under Delaware law, dividends may be payable only out of surplus, which is calculated as our net assets less our liabilities and our capital, or, if we have no surplus, out of our net profits for the fiscal year in which the dividend is declared and/or the preceding fiscal year.

Issuer Purchases of Equity Securities

Shares under our ongoing share repurchase program may be repurchased in open market transactions, including pursuant to a trading plan adopted in accordance with Rule 10b5-1 of the Exchange Act, as amended, or through privately negotiated transactions. The timing, manner, price, and amount of repurchases will be determined at our discretion, and the share repurchase program may be suspended, terminated or modified at any time for any reason. As of December 31, 2023, all outstanding shares remained available for repurchase under current authorizations**.**

Performance Graph

The following graph depicts the total return to shareholders from the IPO on July 1, 2021 through our fiscal year end date of December 31, 2023, relative to the performance of the Russell 2000 Index, the NASDAQ Composite Index, and the Standard & Poor's Consumer Discretionary Sector. All indices shown in the graph have been reset to a base of 100 as of July 1, 2021 and assume an investment of $100 on that date and the reinvestment of dividends paid since that date. The stock price performance shown in the graph is not necessarily indicative of future price performance.



	July 1, 2021	January 2, 2022	January 1, 2023	December 31, 2023
Krispy Kreme, Inc.	$ 100.00	$ 111.29	$ 60.71	$ 88.76
Russell 2000	100.00	96.39	75.61	87.02
NASDAQ Composite	100.00	107.73	72.07	103.37
S&P Consumer Discretionary	100.00	112.01	69.92	98.61

Item 6. [Reserved]

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations

The following discussion and analysis of our financial condition and results of operations should be read together with our audited consolidated financial statements and related notes included elsewhere in this Annual Report on Form 10-K. This section of the Annual Report on Form 10-K generally discusses fiscal 2023 and fiscal 2022 items and year-to-year comparisons of fiscal 2023 to fiscal 2022. Discussions of fiscal 2021 items and year-to-year comparisons of fiscal 2022 and fiscal 2021 are not included in this Annual Report on Form 10-K and can be found in "Management's Discussion and Analysis of Financial Condition and Results of Operations" in our Annual Report on Form 10-K for the year ended January 1, 2023. This discussion contains forward-looking statements that involve risks and uncertainties. The words "believe," "may," "could," "will," "should," "would," "anticipate," "estimate," "expect," "intend," "objective," "seek," "strive" or similar words, or the negative of these words, identify forward-looking statements. Such forward-looking statements are based on certain assumptions and estimates that we consider reasonable but are subject to various risks and uncertainties and assumptions relating to our operations, financial results, financial conditions, business, prospects, growth strategy and liquidity. Accordingly, there are, or will be, important factors that could cause our actual results to differ materially from those indicated in these statements including, without limitation, those described under the heading "Risk Factors" in this Annual Report on Form 10-K. The inclusion of this forward-looking information should not be regarded as a representation by us that the future plans, estimates or expectations contemplated by us will be achieved. Our actual results could differ materially from the forward-looking statements included herein. These forward-looking statements are made only as of the date of this document, and we do not undertake any obligation, other than as may be required by applicable law, to update or revise any forward-looking or cautionary statement to reflect changes in assumptions, the occurrence of events, unanticipated or otherwise, or changes in future operating results over time or otherwise.

General

Krispy Kreme is one of the most beloved and well-known sweet treat brands in the world. Krispy Kreme operates in 39 countries with our transformational omni-channel strategy, which focuses on delivering fresh doughnuts such as our iconic Original Glazed doughnut, which is universally recognized for its hot-off-the-line, melt-in-your-mouth experience, to where our consumers are located and want to have access to them. Global Points of Access are a key metric and we define them as our unique network of fresh Doughnut Shops, partnerships with leading retailers (DFD Doors), and a rapidly growing Ecommerce and delivery business. Our purpose of touching and enhancing lives through the joy that is Krispy Kreme guides how we operate every day and is reflected in the love we have for our people, our communities, and the planet.

We operate and report financial information on a 52 or 53-week fiscal year ending on the Sunday closest to December 31. Fiscal year 2023 reflects our results of operations for the 52-week period ended December 31, 2023. Fiscal year 2022 reflects our results of operations for the 52-week period ended January 1, 2023.

We conduct our business through the following three reported segments:

- **U.S.:** Includes all our Company-owned operations in the U.S., including our Krispy Kreme-branded shops and Insomnia Cookies Bakeries, DFD, and the recently exited Branded Sweet Treats business;
- **International:** Includes all our Krispy Kreme Company-owned operations in the U.K., Ireland, Australia, New Zealand and Mexico; and
- **Market Development:** Includes franchise operations across the globe, as well as the Company-owned operations in Japan and Canada.

The following table presents a summary of our financial results for the periods presented:

	Fiscal Years Ended		
(in thousands, except percentages)	December 31, 2023 (52 weeks)	January 1, 2023 (52 weeks)	% Change
Net Revenues [(1)]	$ 1,686,104	$ 1,529,898	10.2 %
Net Loss Attributable to Krispy Kreme, Inc.	(37,925)	(15,622)	-142.8 %
Adjusted Net Income, Diluted [(2)]	46,182	49,611	-6.9 %
Adjusted EBITDA [(2)]	211,624	190,729	11.0 %

(1) We generated 12.2% and 12.1% organic revenue growth in fiscal 2023 and fiscal 2022, respectively.

(2) Refer to "Key Performance Indicators and Non-GAAP Measures" below for more information as to how we define and calculate Adjusted EBITDA and Adjusted Net Income, Diluted and for a reconciliation of Adjusted EBITDA and Adjusted Net Income, Diluted to net loss, the most comparable GAAP measure.

Significant Events and Transactions

Executing on our Omni-Channel Strategy

We made strong progress on the execution of our omni-channel strategy in fiscal 2023, as we continue to add quality Global Points of Access across our network and convert markets into fully implemented Hub and Spoke models (refer to "Key Performance Indicators and Non-GAAP Measures" below for more information as to how we define the Hub and Spoke model). We added a net total of 2,310 new Global Points of Access in fiscal 2023 to reach 14,147 Global Points of Access. The primary driver of the increased Points of Access during the year was the continued expansion of our DFD network in alignment with our transformation strategy, as we added 2,068 DFD Doors globally, including 1,079 DFD Doors to the U.S. segment, 661 to the International segment, and 328 to the Market Development segment. The increase in DFD Doors is the result of our focus on executing our omni-channel strategy to drive our transformation, and includes expansion with key customers during the year. We expect DFD growth to continue to be one of our most significant drivers of earnings growth, through both increased door count and growth in average revenue per door per week ("APD"), which rose by 10.2% in the U.S. in fiscal 2023 compared to fiscal 2022. The increase in Points of Access and the strong growth in APD in the U.S. led to our trailing four quarters Sales per Hub increasing by 8.9% from $4.5 million in fiscal 2022 to a record high $4.9 million in fiscal 2023. The increase in our Sales per Hub contributed to U.S. segment organic revenue growth of 12.6% and Adjusted EBITDA margin expansion of 80 basis points to 11.9% in fiscal 2023. Our goal is to continue to grow our Sales per Hub over time, which we believe will drive higher margins and higher return on invested capital.

In addition to grocery and convenience stores, we are also testing additional DFD channels such as QSR, club membership, and drug stores to further broaden availability of our doughnuts to consumers. As previously announced, we launched a partnership with McDonald's on a small-scale test to offer doughnuts at McDonald's restaurants in Louisville, Kentucky and the surrounding area, which began in October 2022. While nothing has been finalized, we are in advanced discussions about expanding the collaboration and are making investments in the U.S. that reflect our confidence in further scaling our DFD network. We have also recently begun small-scale tests with other customers such as Costco in international markets. We continue to look for new ways to increase access to fresh doughnuts through our DFD network – a key element of our omni-channel strategy to attain more than 75,000 Global Points of Access.

Growing Our Global Presence

Another key strategic initiative on our journey to become the Most Loved Sweet Treat Brand in the World is to increase our global presence, focusing on the percentage of our revenues and Adjusted EBITDA generated outside the U.S. We met our goal to establish the Krispy Kreme brand in at least five new countries in fiscal 2023, which included our first expansion to continental Europe and central Asia. In total, we opened shops in seven new countries: Chile, Costa Rica, Ecuador, France, Jamaica, Kazakhstan, and Switzerland. In addition, the Insomnia Cookies brand expanded outside of the U.S. for the first time, with Cookie Bakery openings in Canada and the U.K. during the year. We expect to have further announcements in fiscal 2024 as we grow our global business.

Ecommerce, Brand, and Innovation

Ecommerce represented 19.3% of our Doughnut and Cookie Bakery sales (excluding DFD) for fiscal 2023, up from 18.0% for fiscal 2022, and 17.2% for fiscal 2021. We continue to expand the delivery radius in several key markets around the world through partnerships with third-party aggregators.

Innovation is a significant driver of frequency as we create and introduce premium and buzz-worthy offerings to consumers across our Global Points of Access. During the fourth quarter of fiscal 2023 we delivered the joy that is Krispy Kreme through powerful specialty doughnuts and seasonal activations including Halloween, Thanksgiving, and Christmas among many others around the world.

Chile

United States

Costa Rica

Dominican Republic

South Africa


South Korea

México

Exiting the Branded Sweet Treats Business

During the first quarter of fiscal 2023, we decided to exit our pre-packaged Branded Sweet Treats business due in part to its dilutive impact on profit margins, as well as to allow us to focus on our fresh doughnuts business. In fiscal 2022, the Branded Sweet Treats business generated approximately $36 million revenues and had a dilutive impact on Adjusted EBITDA margins. As a result, we discontinued production at our Concord, North Carolina and Winston-Salem, North Carolina manufacturing facilities. As such, we recognized non-recurring expenses, including property, plant and equipment impairments, inventory write-offs, employee severance, and other related costs, totaling approximately $17.9 million (gross of income taxes) in fiscal 2023.

Key Performance Indicators and Non-GAAP Measures

We monitor the key business metrics and non-GAAP metrics set forth below to help us evaluate our business and growth trends, establish budgets, measure the effectiveness of our sales and marketing efforts, and assess operational efficiencies. The calculation of the key business metrics discussed below may differ from other similarly titled metrics used by other companies, securities analysts, or investors.

Throughout this Annual Report on Form 10-K, we utilize "Global Points of Access" as a key performance indicator. Global Points of Access reflect all locations at which fresh doughnuts or cookies can be purchased. We define Global Points of Access to include all Hot Light Theater Shops, Fresh Shops, Carts and Food Trucks, DFD Doors, Cookie Bakeries, and other defined points at both Company-owned and franchise locations as of the end of the respective reporting period. We monitor Global Points of Access as a metric that informs the growth of our omni-channel presence over time and believe this metric is useful to investors to understand our footprint in each of our segments and by asset type.

The following table presents our Global Points of Access, by segment and type, as of the end of fiscal 2023, fiscal 2022, and fiscal 2021:

	Global Points of Access [1]		
	Fiscal Years Ended		
	December 31, 2023	January 1, 2023	January 2, 2022
U.S.: [2]			
Hot Light Theater Shops	229	234	237
Fresh Shops	70	62	60
Cookie Bakeries	265	231	210
Carts, Food Trucks, and Other [3]	—	—	2
DFD Doors [5]	6,808	5,729	5,204
Total	**7,372**	**6,256**	**5,713**
International:			
Hot Light Theater Shops	35	37	32
Fresh Shops	413	388	370
Carts, Food Trucks, and Other [3]	16	14	1
DFD Doors	3,693	3,032	2,488
Total	**4,157**	**3,471**	**2,891**
Market Development: [4]			
Hot Light Theater Shops	125	115	113
Fresh Shops	1,038	873	788
Cookie Bakeries	2	—	—
Carts, Food Trucks, and Other [3]	30	27	31
DFD Doors	1,423	1,095	891
Total	**2,618**	**2,110**	**1,823**
Total Global Points of Access (as defined)	**14,147**	**11,837**	**10,427**
Total Hot Light Theater Shops	389	386	382
Total Fresh Shops	1,521	1,323	1,218
Total Cookie Bakeries	267	231	210
Total Shops	**2,177**	**1,940**	**1,810**
Total Carts, Food Trucks, and Other	**46**	**41**	**34**
Total DFD Doors	**11,924**	**9,856**	**8,583**
Total Global Points of Access (as defined)	**14,147**	**11,837**	**10,427**

(1) Excludes the recently exited Branded Sweet Treats distribution points.

(2) Includes Points of Access that were acquired from franchisees in the U.S. These Points of Access were previously included in the Market Development segment prior to the respective acquisition dates. See Note 2, Acquisitions, to the audited Consolidated Financial Statements for further information.

(3) Carts and Food Trucks are non-producing, mobile (typically on wheels) facilities without walls or a door where product is received from a Hot Light Theater Shop or Doughnut Factory. Other includes a vending machine. Points of Access in this category are primarily found in international locations in airports, train stations, etc.

(4) Includes locations in Japan and Canada, which are Company-owned. All remaining Points of Access in the Market Development segment relate to our franchise business. As of December 31, 2023, there were five Hot Light Theater Shops, 61 Fresh Shops, and 241 DFD Doors operating in Japan and four Hot Light Theater Shops, nine Fresh Shops, and 43 DFD Doors operating in Canada. As of January 1, 2023, there were five Hot Light Theater Shops, 54 Fresh Shops, and 166 DFD Doors operating in Japan and four Hot Light Theater Shops, six Fresh Shops, and 12 DFD Doors operating in Canada.

(5) Includes over 160 McDonald’s test shops located in Louisville and Lexington, Kentucky and the surrounding area as of December 31, 2023.

As of December 31, 2023, we had 14,147 Global Points of Access, with 2,177 Krispy Kreme and Insomnia Cookies branded shops, 46 Carts and Food Trucks, and 11,924 DFD Doors. During fiscal 2023, we added a net 2,310 Global Points of Access, with a net 237 additional shops globally, including three Hot Light Theater Shops, 198 Fresh Shops, and 36 Insomnia Cookie Bakeries. Hot Light Theater Shop openings during the year included expansion in Atlanta, Georgia, Mayfield Heights, Ohio, and Temecula, California for the U.S. segment, and Torreón, Mexico and Chihuahua, Mexico for the International segment. We also continued to grow our international presence as we expanded into seven new countries in the Market Development segment: Chile, Costa Rica, Ecuador, France, Jamaica, Kazakhstan, and Switzerland. In addition, the Insomnia Cookies brand expanded outside of the U.S. for the first time, with Cookie Bakery openings in Canada and the U.K. during the year. The growth for the U.S. segment was offset some by the strategic exit of certain Hot Light Theater Shops in connection with our shop optimization program centered on Hubs without Spokes.

We added a net 2,068 new DFD Doors during the fiscal year as we continue to focus on the expansion of our Hub and Spoke model and our expansion into QSR channels. We plan to continue adding new locations and expanding our Ecommerce and delivery platform in order to extend the availability of and access to our products. We are excited about our continued collaboration with McDonald's, which we believe has validated the attractiveness of the QSR channel. While nothing has been finalized, we are in advanced discussions about expanding the collaboration and are making investments in the U.S. that reflect our confidence in further scaling our DFD network.

We also utilize "Hubs" as a key performance indicator. Our transformation is driven by the implementation of an omni-channel strategy to reach more consumers where they are and drive revenue growth, and this strategy is supported by a capital-efficient Hub and Spoke distribution model that provides a route to market and powers profitability. Our Hot Light Theater Shops and Doughnut Factories serve as centralized production facilities ("Hubs"). From these Hubs, we deliver doughnuts to our Fresh Shops, Carts and Food Trucks, and DFD Doors ("Spokes") primarily through an integrated network of Company-operated delivery routes, ensuring quality and freshness. Specific to the U.S. segment, certain legacy Hubs have not historically had Spokes. Many Hubs in the U.S. segment are being converted to add Spokes while certain legacy Hubs will never have the ability or need to add Spokes.

The following table presents our Hubs, by segment and type, as of the end of fiscal 2023, fiscal 2022, and fiscal 2021, respectively:

	Hubs		
	Fiscal Years Ended		
	December 31, 2023	January 1, 2023	January 2, 2022
U.S.:			
Hot Light Theater Shops (1)	220	228	234
Doughnut Factories	4	4	4
Total	**224**	**232**	**238**
Hubs with Spokes	149	133	123
Hubs without Spokes	75	99	115
International:			
Hot Light Theater Shops (1)	30	28	25
Doughnut Factories	11	11	11
Total	**41**	**39**	**36**
Hubs with Spokes	41	39	36
Market Development:			
Hot Light Theater Shops (1)	118	110	110
Doughnut Factories	26	27	27
Total	**144**	**137**	**137**
Total Hubs	**409**	**408**	**411**

(1) Includes only Hot Light Theater Shops and excludes Mini Theaters. A Mini Theater is a Spoke location that produces some doughnuts for itself and also receives doughnuts from another producing location.

Non-GAAP Measures

We report our financial results in accordance with generally accepted accounting principles in the U.S. ("GAAP"); however, management evaluates our results of operations using, among other measures, organic revenue growth, adjusted earnings before interest, taxes, depreciation and amortization ("Adjusted EBITDA"), and Adjusted Net Income, Diluted as we believe these non-GAAP measures are useful in evaluating our operating performance.

These non-GAAP financial measures are not universally consistent calculations, limiting their usefulness as comparative measures. Other companies may calculate similarly titled financial measures differently than we do or may not calculate them at all. Additionally, these non-GAAP financial measures are not measurements of financial performance under GAAP. In order to facilitate a clear understanding of our consolidated historical operating results, you should examine our non-GAAP financial measures in conjunction with our historical audited Consolidated Financial Statements and notes thereto included in this Annual Report on Form 10-K.

Organic Revenue Growth

Organic revenue growth measures our revenue growth trends excluding the impact of acquisitions and foreign currency, and we believe it is useful for investors to understand the expansion of our global footprint through internal efforts. We define "organic revenue growth" as the growth in revenues, excluding (i) acquired shops owned by us for less than 12 months following their acquisition, (ii) the impact of foreign currency exchange rate changes, (iii) the impact of shop closures related to restructuring programs such as the shop portfolio optimization program initiated for Krispy Kreme U.S. during fiscal 2022, (iv) the impact of the Branded Sweat Treats business exit, and (v) revenues generated during the 53^{rd} week for those fiscal years that have a 53^{rd} week based on our fiscal calendar defined in the "Overview" section. See "Results of Operations" for our organic growth calculations for the periods presented.

Adjusted EBITDA, Adjusted Net Income, Diluted, and Adjusted EPS

We define "Adjusted EBITDA" as earnings before interest expense, net, income tax expense, and depreciation and amortization, with further adjustments for share-based compensation, certain strategic initiatives, acquisition and integration expenses, and other certain non-recurring, infrequent or non-core income and expense items. Adjusted EBITDA is a principal metric that management uses to monitor and evaluate operating performance and provides a consistent benchmark for comparison across reporting periods.

We define "Adjusted Net Income, Diluted" as net loss attributable to common shareholders, adjusted for interest expense, share-based compensation, certain strategic initiatives, acquisition and integration expenses, amortization of acquisition-related intangibles, the tax impact of adjustments, and other certain non-recurring, infrequent or non-core income and expense items. "Adjusted EPS" is Adjusted Net Income, Diluted converted to a per share amount.

Adjusted EBITDA, Adjusted Net Income, Diluted, and Adjusted EPS have certain limitations, including adjustments for income and expense items that are required by GAAP. In evaluating these non-GAAP measures, you should be aware that in the future we will incur expenses that are the same as or similar to some of the adjustments in this presentation, such as share-based compensation. Our presentation of Adjusted EBITDA, Adjusted Net Income, Diluted, and Adjusted EPS should not be construed to imply that our future results will be unaffected by any such adjustments. Management compensates for these limitations by relying on our GAAP results in addition to using Adjusted EBITDA, Adjusted Net Income, Diluted, and Adjusted EPS supplementally.

The following tables present a reconciliation of net loss to Adjusted EBITDA and net loss to Adjusted Net Income, Diluted and Adjusted EPS for the periods presented:

	Fiscal Years Ended		
(in thousands)	December 31, 2023	January 1, 2023	January 2, 2022
Net loss	**$ (36,647)**	**$ (8,775)**	**$ (14,843)**
Interest expense, net	50,341	34,102	32,622
Interest expense — related party (1)	—	—	10,387
Income tax (benefit)/expense	(4,347)	612	10,745
Depreciation and amortization expense	125,894	110,261	101,608
Share-based compensation	24,196	18,170	22,923
Employer payroll taxes related to share-based compensation	395	312	2,044
Other non-operating expense, net (2)	3,798	3,036	2,191
Strategic initiatives (3)	29,057	2,841	—
Acquisition and integration expenses (4)	511	2,333	5,255
New market penetration expenses (5)	1,380	1,511	—
Shop closure expenses (6)	17,335	19,465	2,766
Restructuring and severance expenses (7)	5,050	7,125	1,733
IPO-related expenses (8)	—	—	14,534
Gain on sale-leaseback	(9,646)	(6,549)	(8,673)
Other (9)	4,307	6,285	4,653
Adjusted EBITDA	**$ 211,624**	**$ 190,729**	**$ 187,945**

(in thousands, except per share amounts)	Fiscal Years Ended December 31, 2023	Fiscal Years Ended January 1, 2023	Fiscal Years Ended January 2, 2022
Net loss	**$ (36,647)**	**$ (8,775)**	**$ (14,843)**
Interest expense — related party [1]	—	—	10,387
Share-based compensation	24,196	18,170	22,923
Employer payroll taxes related to share-based compensation	395	312	2,044
Other non-operating expense, net [2]	3,798	3,036	2,191
Strategic initiatives [3]	29,057	2,841	—
Acquisition and integration expenses [4]	511	2,333	5,255
New market penetration expenses [5]	1,380	1,511	—
Shop closure expenses [6]	17,335	19,715	2,766
Restructuring and severance expenses [7]	5,050	7,125	1,733
IPO-related expenses [8]	—	—	14,534
Gain on sale-leaseback	(9,646)	(6,549)	(8,673)
Other [9]	4,307	6,285	4,653
Amortization of acquisition related intangibles [10]	29,373	28,456	29,803
KKI Term Loan Facility interest and debt issuance costs [11]	—	—	2,448
Loss on extinguishment of 2019 Facility [12]	472	—	—
Tax impact of adjustments [13]	(20,729)	(14,609)	(12,434)
Tax specific adjustments [14]	(1,364)	(2,876)	3,936
Net income attributable to noncontrolling interest	(1,278)	(6,847)	(9,663)
Adjustment to adjusted net income attributable to common shareholders	—	(374)	(1,468)
Adjusted net income attributable to common shareholders - Basic	**$ 46,210**	**$ 49,754**	**$ 55,592**
Additional income attributed to noncontrolling interest due to subsidiary potential common shares	(28)	(143)	(122)
Adjusted net income attributable to common shareholders - Diluted	**$ 46,182**	**$ 49,611**	**$ 55,470**
Basic weighted average common shares outstanding	168,289	167,471	147,655
Dilutive effect of outstanding common stock options, RSUs, and PSUs	2,204	2,005	2,674
Diluted weighted average common shares outstanding	**170,493**	**169,476**	**150,329**
Adjusted net income per share attributable to common shareholders:			
Basic	$ 0.27	$ 0.30	$ 0.38
Diluted	$ 0.27	$ 0.29	$ 0.37

(1) Consists of interest expense related to the Related Party Notes which were paid off in full during the second quarter of fiscal 2021.

(2) Primarily foreign translation gains and losses in each period.

(3) Fiscal 2023 consists primarily of costs associated with global transformation and U.S. initiatives such as the decision to exit the Branded Sweet Treats business, including property, plant and equipment impairments, inventory write-offs, employee severance, and other related costs (approximately $17.9 million of the total). Fiscal 2022 consists mainly of equipment disposals, equipment relocation and installation, consulting and advisory fees, and other costs associated with our shift of Branded Sweet Treats manufacturing capability from Burlington, Iowa to Winston-Salem, North Carolina.

(4) Consists of acquisition and integration-related costs in connection with the Company’s business and franchise acquisitions, including legal, due diligence, and advisory fees incurred in connection with acquisition and integration-related activities for the applicable period.

(5) Consists of start-up costs associated with entry into new countries for which the Company’s brands have not previously operated, including the Insomnia Cookies brand entering Canada and the U.K.

(6) Fiscal 2023 includes lease termination costs, impairment charges, and loss on disposal of property, plant and equipment, primarily associated with strategic shop exits, primarily in the U.S. (approximately $16.0 million of the total). Fiscal 2022 includes lease termination costs, impairment charges, and loss on disposal of property, plant and equipment, primarily

associated with strategic shop exits. Fiscal 2022 expenses are also inclusive of accelerated depreciation related to replacing a point of sale system.

(7) Fiscal 2023 and fiscal 2022 consist primarily of costs associated with restructuring of the global executive team. Fiscal 2021 consists of severance and related benefits costs associated with the Company's realignment of the Company Shop organizational structure to better support the DFD and Branded Sweet Treats businesses.

(8) Includes consulting and advisory fees incurred in connection with preparation for and execution of the Company's IPO.

(9) Fiscal 2023, fiscal 2022, and fiscal 2021 consist primarily of legal and other regulatory expenses incurred outside the ordinary course of business on matters described in Note 15, Commitments and Contingencies, to the Company's audited Consolidated Financial Statements, including the net settlement of approximately $3.3 million negotiated with TSW Foods, LLC in fiscal 2022.

(10) Consists of amortization related to acquired intangible assets as reflected within depreciation and amortization in the Consolidated Statements of Operations.

(11) Includes interest expense and debt issuance costs incurred and recognized as expenses in connection with the extinguishment of the KKI Term Loan Facility within four business days of receipt of the net proceeds from the IPO.

(12) Includes interest expenses related to unamortized debt issuance costs from the 2019 Facility associated with extinguished lenders as a result of the March 2023 debt refinancing described in Note 8, Long-Term Debt to the audited Consolidated Financial Statements included in Item 8 of Part II of this Annual Report on Form 10-K.

(13) Tax impact of adjustments calculated applying the applicable statutory rates. The Company's adjusted effective tax rate is 27.2%, 24.1%, and 22.4% for each of the fiscal years 2023, 2022, and 2021, respectively. Fiscal 2023 also includes the impact of disallowed executive compensation expense. Fiscal 2022 includes the impact of disallowed executive compensation expense and a discrete tax benefit related to a legal accrual. Fiscal 2021 includes the impact of disallowed executive compensation expense incurred in connection with the IPO.

(14) Fiscal 2023 consists of the recognition of a previously unrecognized tax benefit unrelated to ongoing operations, the effect of tax law changes on existing temporary differences, and a discrete tax benefit unrelated to ongoing operations. Fiscal 2022 consists of the recognition of previously unrecognized tax benefits unrelated to ongoing operations, as well as benefits attributable to multiple tax years due to lapse of the statute of limitations. Fiscal 2022 also includes the effect of discrete adjustments to the Company's deferred tax liabilities that are unrelated to the Company's ongoing operations. Fiscal 2021 consists primarily of the effect of tax law changes on existing temporary differences.

Sales Per Hub

In order to measure the effectiveness of our Hub and Spoke model, we use "Sales per Hub" on a trailing four-quarter basis, which includes all revenue generated from a Hub and its associated Spokes. Sales per Hub equals Fresh Revenues from Hubs with Spokes, divided by the average number of Hubs with Spokes during the period. Fresh Revenues include product sales generated from our Doughnut Shop business (including Ecommerce and delivery), as well as DFD sales, but excluding all Insomnia Cookies revenues as the measure is focused on the Krispy Kreme business. The Average Hub with Spokes for a period is calculated as the average of the number of Hubs with Spokes at the end of the five most recent quarters. The Sales per Hub performance measure allows us and investors to measure our effectiveness at leveraging the Hubs in the Hub and Spoke model to distribute product and generate cost efficiencies and profitability.

Sales per Hub was as follows for each of the periods below:

(in thousands, unless otherwise stated)	Fiscal Years Ended December 31, 2023 (52 weeks)	January 1, 2023 (52 weeks)	January 2, 2022 (52 weeks)
U.S.:			
Revenues	$ 1,104,944	$ 1,010,250	$ 923,129
Non-Fresh Revenues [1]	(9,416)	(38,380)	(37,311)
Fresh Revenues from Insomnia Cookies and Hubs without Spokes [2]	(399,061)	(404,430)	(414,899)
Sales from Hubs with Spokes	696,467	567,440	470,919
Sales per Hub (millions)	**4.9**	**4.5**	**4.0**
International:			
Sales from Hubs with Spokes [3]	$ 401,801	$ 365,916	$ 332,995
Sales per Hub (millions) [4]	**10.0**	**10.1**	**8.7**

(1) Includes the exited Branded Sweet Treats business revenues.
(2) Includes Insomnia Cookies revenues and Fresh Revenues generated by Hubs without Spokes.
(3) Total International net revenues is equal to Fresh Revenues from Hubs with Spokes for that business segment.
(4) International sales per Hub comparative data has been restated in constant currency based on current exchange rates.

In our International segment, where the Hub and Spoke model originated, Sales per Hub was $10.0 million, slightly down from $10.1 million in the full fiscal year 2022, and up from $8.7 million in the full fiscal year 2021. The International segment illustrates the benefits of leveraging our Hub and Spoke model as the most efficient way to grow the business, as shown by the consistent Sales per Hub and sequential adjusted EBITDA margin improvement despite elevated commodity costs and macroeconomic conditions. In the U.S. segment, we had Sales per Hub of $4.9 million, up from $4.5 million in the full fiscal year 2022 and up from $4.0 million in the full fiscal year 2021. U.S. growth was driven by our efforts to increase the number of DFD Doors served by our Hubs and to increase APD for the DFD Door portfolio, as the segment makes progress toward optimizing the model to look more like our International segment. As we further extend the Hub and Spoke model into existing and new markets around the world, we expect to see this measure continue to grow.

Results of Operations

The following comparisons are historical results and are not indicative of future results which could differ materially from the historical financial information presented.

Fiscal Year ended December 31, 2023 compared to the Fiscal Year ended January 1, 2023

The following table presents our audited consolidated results of operations for fiscal 2023 and fiscal 2022:

	Fiscal Years Ended					
	December 31, 2023 (52 weeks)		January 1, 2023 (52 weeks)		Change	
(in thousands, except percentages)	Amount	% of Revenue	Amount	% of Revenue	$	%
Net revenues						
Product sales	$ 1,651,166	97.9 %	$ 1,497,882	97.9 %	$ 153,284	10.2 %
Royalties and other revenues	34,938	2.1 %	32,016	2.1 %	2,922	9.1 %
Total net revenues	**1,686,104**	**100.0 %**	**1,529,898**	**100.0 %**	**156,206**	**10.2 %**
Product and distribution costs	443,243	26.3 %	406,227	26.6 %	37,016	9.1 %
Operating expenses	776,589	46.1 %	704,287	46.0 %	72,302	10.3 %
Selling, general and administrative expense	266,863	15.8 %	223,198	14.6 %	43,665	19.6 %
Marketing expenses	45,872	2.7 %	42,566	2.8 %	3,306	7.8 %
Pre-opening costs	4,120	0.2 %	4,227	0.3 %	(107)	-2.5 %
Other expenses, net	10,378	0.6 %	10,157	0.7 %	221	2.2 %
Depreciation and amortization expense	125,894	7.5 %	110,261	7.2 %	15,633	14.2 %
Operating income	**13,145**	**0.8 %**	**28,975**	**1.9 %**	**(15,830)**	**-54.6 %**
Interest expense, net	50,341	3.0 %	34,102	2.2 %	16,239	47.6 %
Other non-operating expense, net	3,798	0.2 %	3,036	0.2 %	762	25.1 %
Loss before income taxes	**(40,994)**	**-2.4 %**	**(8,163)**	**-0.5 %**	**(32,831)**	**-402.2 %**
Income tax (benefit)/expense	(4,347)	-0.3 %	612	— %	(4,959)	-810.3 %
Net loss	**(36,647)**	**-2.2 %**	**(8,775)**	**-0.6 %**	**(27,872)**	**-317.6 %**
Net income attributable to noncontrolling interest	1,278	0.1 %	6,847	0.4 %	(5,569)	-81.3 %
Net loss attributable to Krispy Kreme, Inc.	**$ (37,925)**	**-2.2 %**	**$ (15,622)**	**-1.0 %**	**$ (22,303)**	**-142.8 %**

Royalties and other revenues: Royalties and other revenues increased $2.9 million, or 9.1%, from fiscal 2022 to fiscal 2023, led by performance of the international franchise business and expansion into new markets, partially offset by continued foreign exchange headwinds.

The following table presents a further breakdown of total net revenue and organic revenue growth by segment for the periods indicated:

(in thousands, except percentages)	U.S.	International	Market Development	Total Company
Total net revenues in fiscal 2023 (52 weeks)	$ 1,104,944	$ 401,801	$ 179,359	$ 1,686,104
Total net revenues in fiscal 2022 (52 weeks)	1,010,250	365,916	153,732	1,529,898
Total Net Revenue Growth	**94,694**	**35,885**	**25,627**	**156,206**
Total Net Revenue Growth %	**9.4 %**	**9.8 %**	**16.7 %**	**10.2 %**
Less: Impact of shop optimization program closures	(11,367)	—	—	(11,367)
Less: Impact of Branded Sweet Treats exit	(24,577)	—	—	(24,577)
Adjusted net revenues in fiscal 2022	974,306	365,916	153,732	1,493,954
Adjusted Net Revenue Growth	**130,638**	**35,885**	**25,627**	**192,150**
Impact of acquisitions	(7,678)	—	2,227	(5,451)
Impact of foreign currency translation	—	(10,351)	5,312	(5,039)
Organic Revenue Growth	**$ 122,960**	**$ 25,534**	**$ 33,166**	**$ 181,660**
Organic Revenue Growth %	**12.6 %**	**7.0 %**	**21.6 %**	**12.2 %**

Total net revenue growth of $156.2 million, or approximately 10.2%, and organic revenue growth of $181.7 million, or approximately 12.2%, was driven by the continued and successful execution of our omni-channel growth strategy globally, high impact brand activations, and product premiumization efforts. We have continued to increase availability through new Global Points of Access, including capital-light DFD Doors, and via Ecommerce and delivery during fiscal 2023. Additionally, we have continued to take pricing actions to offset cost inflation throughout fiscal 2023.

U.S. segment revenue grew $94.7 million, or approximately 9.4% from fiscal 2022 to fiscal 2023, and was impacted by our decision to exit the Branded Sweet Treats business in the first quarter of fiscal 2023 as well as shop optimization program closures near the end of fiscal 2022. Organic revenue grew $123.0 million, or approximately 12.6%, from fiscal 2022 to fiscal 2023, driven by an additional 1,116 Points of Access compared to fiscal 2022, including an increase of 1,079 DFD Doors, higher Ecommerce and delivery revenues, growth from Insomnia Cookies, and growth in DFD APD as we continue to expand the types of premium products available to consumers such as specialty doughnuts. Our organic growth has been supplemented by effective pricing increases, leading to an increase in the average transaction size, but offset some by transaction softness.

Our International segment net revenue grew $35.9 million, or approximately 9.8%, from fiscal 2022 to fiscal 2023, aided by foreign currency translation impacts of $10.4 million from a strengthening British pound and Mexican peso. International organic revenue grew $25.5 million or approximately 7.0%, from fiscal 2022 to fiscal 2023, driven by increased pricing and Points of Access growth of 686, or 19.8%, compared to fiscal 2022 with DFD Doors increasing by 661. International organic revenue growth was offset some by softer transaction volume compared to last year as a result of the inflationary impact on consumers as well as regulatory initiatives in the U.K. which impacted placement and promotion of our products within grocery stores.

Our Market Development segment net revenue grew $25.6 million, or approximately 16.7%, from fiscal 2022 to fiscal 2023, in spite of the impacts of franchise acquisitions and certain foreign currencies devaluing against the U.S. dollar. When adjusted for the impacts of acquisitions and foreign currency, Market Development organic revenue grew $33.2 million, or approximately 21.6%, from fiscal 2022 to fiscal 2023, driven by strong performance in our international franchise markets, Canada, and Japan, aided by Hub and Spoke model expansion.

Product and distribution costs (exclusive of depreciation and amortization): Product and distribution costs increased $37.0 million, or 9.1%, from fiscal 2022 to fiscal 2023, largely in line with and attributable to the same factors as our revenue growth. Product and distribution costs as a percentage of revenue decreased by approximately 30 basis points from 26.6% in fiscal 2022 to 26.3% in fiscal 2023. This decrease was primarily driven by the exit of the lower-margin Branded Sweet Treats business earlier in fiscal 2023. We also saw benefits from pricing actions taken throughout the year to offset materials cost inflation. We expect to continue to see impacts from materials cost inflation in fiscal 2024 — refer to "Quantitative and Qualitative Disclosures About Market Risk" included in Item 7A of Part II of this Annual Report on Form 10-K for further information on our strategies to effectively manage inflationary cost increases.

Operating expenses: Operating expenses increased $72.3 million, or 10.3%, from fiscal 2022 to fiscal 2023, driven mainly by labor cost inflation and investments to support growth. Operating expenses as a percentage of revenue increased approximately 10 basis points, from 46.0% in fiscal 2022 to 46.1% in fiscal 2023 primarily due to the impact of lower transaction volumes on operating leverage, particularly for the International segment. This has been partially offset by efficiency benefits from Hub and Spoke expansion and our focus on labor management and demand planning, which we continue to refine with new tools.

Selling, general and administrative expense: Selling, general and administrative ("SG&A") expenses increased $43.7 million, or 19.6%, from fiscal 2022 to fiscal 2023. As a percentage of revenue, SG&A increased by approximately 120 basis points, from 14.6% in fiscal 2022 to 15.8% in fiscal 2023, primarily driven by increases in performance-based compensation accruals, investment in global transformation initiatives, and higher share-based compensation expenses in fiscal 2023.

Other expenses, net: Other expenses, net of $10.4 million in fiscal 2023 were primarily driven by impairments and lease termination costs associated with the Branded Sweet Treats exit and the decision to exit certain other underperforming shops, net of a gain from a sale-leaseback transaction. Other expenses, net of $10.2 million in fiscal 2022 were primarily driven by impairment and lease termination costs, net of gains from sale-leaseback transactions. Refer to Note 9, Leases, to the audited Consolidated Financial Statements included in Item 8 of Part II of this Annual Report on Form 10-K for further information.

Depreciation and amortization expense: Depreciation and amortization expense increased $15.6 million, or 14.2%, from fiscal 2022 to fiscal 2023, primarily driven by higher capital spend and assets placed into service to support the Hub and Spoke model evolution as well as expansion of Insomnia Cookies both domestically and internationally.

Interest expense, net: Interest expense, net increased $16.2 million, or 47.6%, from fiscal 2022 to fiscal 2023. The increase was primarily driven by increases in the benchmark interest rates associated with the unhedged portion of our variable rate long-term debt, as well as an increase in the unhedged principal amount compared to last year. The interest rate swap arrangements associated with the hedged portion of our long-term debt are set to mature in June 2024; we are currently evaluating arrangements to extend the maturity of these contracts. The increase in interest expense also includes $0.5 million related to our debt refinancing discussed in Note 8, Long-Term Debt, to the audited Consolidated Financial Statements included in Item 8 of Part II of this Annual Report on Form 10-K.

Income tax (benefit)/expense: Income tax benefit was $4.3 million in fiscal 2023, while income tax expense was $0.6 million in fiscal 2022. The fluctuation of $5.0 million from fiscal 2022 to fiscal 2023 was driven primarily by lower pre-tax results in fiscal 2023.

Net income attributable to noncontrolling interest: Net income attributable to noncontrolling interest decreased $5.6 million, or 81.3%, from fiscal 2022 to fiscal 2023, driven by less earnings allocated to certain consolidated subsidiaries, particularly Insomnia Cookies and WKS Krispy Kreme, and partially offset by more earnings allocated to KK Canada.

Results of Operations by Segment – Fiscal Year ended December 31, 2023 compared to the Fiscal Year ended January 1, 2023

The following table presents Adjusted EBITDA by segment for the periods indicated:

	Fiscal Years Ended		Change	
(in thousands, except percentages)	December 31, 2023 (52 weeks)	January 1, 2023 (52 weeks)	$	%
Adjusted EBITDA				
U.S.	$ 130,979	$ 112,283	$ 18,696	16.7 %
International	76,503	75,512	991	1.3 %
Market Development	62,995	50,621	12,374	24.4 %
Corporate	(58,853)	(47,687)	(11,166)	-23.4 %
Total Adjusted EBITDA (1)	**$ 211,624**	**$ 190,729**	**$ 20,895**	**11.0 %**

(1) Refer to "Key Performance Indicators and Non-GAAP Measures" above for a reconciliation of Adjusted EBITDA to net loss.

U.S. segment Adjusted EBITDA increased $18.7 million, or 16.7%, with margin expansion of 80 basis points to 11.9% from fiscal 2022 to fiscal 2023, primarily driven by efficiencies from Hub and Spoke expansion as we added 1,116 Points of Access, labor optimization, waste mitigation, and improvements from the Krispy Kreme U.S. portfolio optimization of our Hubs without Spokes. We also effectively offset commodity inflation and labor pressures by implementing pricing increases. The U.S. Adjusted EBITDA margin expansion was partially offset by higher product costs at Insomnia Cookies.

International segment Adjusted EBITDA increased $1.0 million, or 1.3%, with margin decline of approximately 160 basis points to 19.0% from fiscal 2022 to fiscal 2023, primarily driven by cost inflation and lower transaction volume, particularly in the U.K.

Market Development segment Adjusted EBITDA increased $12.4 million, or 24.4%, with margin expansion of 220 basis points to 35.1% from fiscal 2022 to fiscal 2023, driven mainly by strong margin improvement in our Company-owned Japan and Canada businesses from Hub and Spoke efficiencies. Strength in international franchise revenues also more than offset cost inflation and the strong U.S. dollar.

Corporate expenses within Adjusted EBITDA increased $11.2 million, or 23.4% from fiscal 2022 to fiscal 2023. As a percentage of total net revenues, corporate expenses within Adjusted EBITDA increased by 40 basis points to 3.5% from fiscal 2022 to fiscal 2023, primarily due to strategic investments in global leadership, global transformation initiatives, and increases in performance-based compensation accruals.

Capital Resources and Liquidity

Our principal sources of liquidity to date have included cash from operating activities, cash on hand, amounts available under our credit facility, and commercial trade financing including our supply chain financing programs ("SCF programs") and structured payables programs. Our primary use of liquidity is to fund the cash requirements of our business operations, including working capital needs, capital expenditures, acquisitions, and other commitments.

Our future obligations primarily consist of our debt and lease obligations, as well as commitments under ingredient and other forward purchase contracts. As of December 31, 2023, we had the following future obligations:

- An aggregate principal amount of $837.5 million outstanding under the 2023 Facility;
- An aggregate principal amount of $11.0 million outstanding under short-term, uncommitted lines of credit
- Non-cancellable future minimum operating lease payments totaling $759.2 million;
- Non-cancellable future minimum finance lease payments totaling $63.3 million; and
- Purchase commitments under ingredient and other forward purchase contracts of $130.5 million.

Refer to Note 8, Long-Term Debt, Note 9, Leases, and Note 15, Commitments and Contingencies, to the audited Consolidated Financial Statements included in Item 8 of Part II of this Annual Report on Form 10-K for further information.

We had cash and cash equivalents of $38.2 million and $35.4 million as of December 31, 2023 and January 1, 2023, respectively. We believe that our existing cash and cash equivalents and debt facilities will be sufficient to fund our operating and capital needs for at least the next twelve months. In fiscal 2024, we expect to use our available cash to continue to position the business for sustainable growth, including investing in shop improvements, ways to better serve our consumers, and ways to increase our omni-channel presence as we expand our DFD Doors in priority areas, as well as investing in new shop openings and new market penetration within the U.S. and internationally. Total capital expenditures for fiscal 2024 are expected to be between 7% and 8% of net revenues, as we continue to deploy the capital-efficient Hub and Spoke model globally. We also expect to continue to reduce leverage by repaying debt, as well as to continue to return cash to shareholders through common stock cash dividend payments.

Our assessment of the period of time through which our financial resources will be adequate to support our operations is a forward-looking statement and involves risks and uncertainties. Our actual results could vary because of, and our future capital requirements will depend on, many factors, including our growth rate, the timing and extent of spending to acquire franchises, the growth of our presence in new markets and the expansion of our omni-channel model in existing markets. We may enter into arrangements in the future to acquire or invest in complementary businesses, services and technologies. We have based this estimate on assumptions that may prove to be wrong, and we could use our available capital resources sooner than we currently expect. We may be required to seek additional equity or debt financing. In the event that additional financing is required from outside sources, we may not be able to raise it on terms acceptable to us or at all. If we are unable to raise additional capital when desired, or if we cannot expand our operations or otherwise capitalize on our business opportunities because we lack sufficient capital, our business, results of operations and financial condition would be adversely affected.

Cash Flows

We generate significant cash from operations and have substantial credit availability and capacity to fund operating and discretionary spending such as capital expenditures and debt repayments. Our requirement for working capital is not significant because our consumers pay us in cash or on debit or credit cards at the time of the sale and we are able to sell many of our inventory items before payment is due to the vendor of such items. The following table and discussion present, for the periods indicated, a summary of our key cash flows from operating, investing and financing activities:

	Fiscal Years Ended	
(in thousands)	December 31, 2023 (52 weeks)	January 1, 2023 (52 weeks)
Net cash provided by operating activities	$ 45,544	$ 139,818
Net cash used for investing activities	(112,588)	(121,474)
Net cash provided by/(used for) financing activities	71,862	(16,838)

Cash Flows Provided by Operating Activities

Cash provided by operations totaled $45.5 million for fiscal 2023, a decrease of $94.3 million compared with fiscal 2022. Cash provided by operations decreased primarily due to payments of obligations due under our SCF programs discussed in Note 7, Vendor Finance Programs to the audited Consolidated Financial Statements included in Item 8 of Part II of this Annual Report on Form 10-K. In an effort to normalize payment terms, we have reduced outstanding balances under the SCF programs by approximately $108.2 million during fiscal 2023.

Cash Flows Used for Investing Activities

Cash used for investing activities totaled $112.6 million for fiscal 2023, a decrease of $8.9 million compared with fiscal 2022. The decrease is primarily due to $17.3 million cash used for acquisitions of franchised shops in fiscal 2022, partially offset by an increase in cash spent on property and equipment purchases in fiscal 2023 related to Hub and Spoke expansion.

Cash Flows Provided by/(Used for) Financing Activities

Cash provided by financing activities totaled $71.9 million for fiscal 2023, an increase of $88.7 million compared with fiscal 2022. The increase was primarily due to draws on our 2023 Facility used in part to fund payments to reduce our vendor finance program obligations, including the SCF programs, during fiscal 2023. The increase was also impacted by payments of $12.5 million during fiscal 2022 for issuance costs in connection with the IPO.

Payments on our structured payables resulted in a net $39.0 million change in cash flows (net proceeds from structured payables of $26.6 million in fiscal 2023 compared to net payments on structured payables of $12.4 million in fiscal 2022). Refer to Note 7, Vendor Finance Programs to the audited Consolidated Financial Statements included in Item 8 of Part II of this Annual Report on Form 10-K for further information.

Debt

Our long-term debt obligations consist of the following:

(in thousands)	December 31, 2023	January 1, 2023
2023 Facility — term loan	$ 682,500	$ —
2023 Facility — revolving credit facility	155,000	—
Short-term lines of credit	11,000	—
2019 Facility - term loan	—	586,250
2019 Facility - revolving credit facility	—	162,500
Less: Debt issuance costs	(4,371)	(2,247)
Financing obligations	47,117	32,583
Total long-term debt	**891,246**	**779,086**
Less: Current portion of long-term debt	(54,631)	(40,034)
Long-term debt, less current portion	**$ 836,615**	**$ 739,052**

2023 Secured Credit Facility

In March 2023, we refinanced our existing credit agreement (the 2019 Facility) and entered into the 2023 Facility consisting of a $300.0 million senior secured revolving credit facility and a term loan with a principal amount of $700.0 million. The loans and commitments under the 2019 Facility were due to mature in June 2024, and the loans and commitments under the 2023 Facility will mature in March 2028. Refer to Note 8, Long-Term Debt to the audited Consolidated Financial Statements included in Item 8 of Part II of this Annual Report on Form 10-K for further information.

Under the terms of the 2023 Facility, we are subject to a requirement to maintain a leverage ratio of less than 5.00 to 1.00 as of the end of each quarterly Test Period (as defined in the 2023 Facility) through maturity in March 2028. The leverage ratio under the 2023 Facility is defined as the ratio of (a) Total Indebtedness (as defined in the 2023 Facility, which includes all debt and finance lease obligations) minus unrestricted cash and cash equivalents to (b) a defined calculation of Adjusted EBITDA (2023 Facility Adjusted EBITDA) for the most recently ended Test Period. Our leverage ratio was 3.48 to 1.00 as of the end of fiscal 2023 compared to 3.41 to 1.00 as of the end of fiscal 2022, primarily due to the increase in long-term debt.

We were in compliance with the financial covenants related to the 2023 Facility as of December 31, 2023 and expect to remain in compliance over the next 12 months. If we are unable to meet the 2023 Facility financial or other covenants in future periods, it may negatively impact our liquidity by limiting our ability to draw on the revolving credit facility, could result in the lenders accelerating the maturity of such indebtedness and foreclosing upon the collateral pledged thereunder, and could require the replacement of the 2023 Facility with new sources of financing, which there is no guaranty we could secure.

Short-Term Lines of Credit

In September 2023, the Company approved two new agreements with existing lenders providing for short-term, uncommitted lines of credit up to $25.0 million. Borrowings under these short-term lines of credit are payable to the lenders on a revolving basis for tenors up to a maximum of three months and are subject to an interest rate of adjusted term Secured Overnight Financing Rate (“SOFR”) plus a credit spread adjustment of 0.10% plus a margin of 1.75%. As of December 31, 2023, the Company had drawn $11.0 million under the agreements which is classified within Current portion of long-term debt on the Consolidated Balance Sheets.

Critical Accounting Estimates

The financial information discussed in this “Management’s Discussion and Analysis of Financial Condition and Results of Operations” is based upon or derived from the audited Consolidated Financial Statements, which have been prepared in conformity with GAAP. The preparation of the financial statements requires the use of judgments, estimates and assumptions that affect the reported amounts of assets, liabilities, revenues and expenses as well as related disclosures. We consider an accounting judgment, estimate or assumption to be critical when (1) the estimate or assumption is complex in nature or requires a high degree of judgment and (2) the use of different judgments, estimates and assumptions could have a material impact on the audited Consolidated Financial Statements.

On an ongoing basis, we evaluate our estimates and judgments based on historical experience and various other factors that are believed to be reasonable under the circumstances. We review our financial reporting and disclosure practices and accounting policies quarterly to confirm that they provide accurate and transparent information relative to the current economic and business environment. A summary of our significant accounting policies is included in Note 1, Description of Business and Summary of Significant Accounting Policies, to the audited Consolidated Financial Statements. We believe that our critical accounting estimates are:

Self-Insurance Risks and Receivables from Insurers

We are subject to workers' compensation, vehicle, and general liability claims and are self-insured for a significant portion of our workers' compensation, vehicle and general liability claims up to the amount of stop-loss insurance coverage purchased from commercial insurance carriers. We maintain accruals for the estimated cost of claims, without regard to the effects of stop-loss coverage, using actuarial methods which evaluate known open and incurred but not reported claims and consider historical loss development experience. In addition, we record receivables from the insurance carriers for claims amounts estimated to be recovered under the stop-loss insurance policies when these amounts are estimable and probable of collection. We estimate such stop-loss receivables using the same actuarial methods used to establish the related claims accruals and taking into account the amount of risk transferred to the carriers under the stop-loss policies. The stop-loss policies provide coverage for claims in excess of retained self-insurance risks, which are determined on a claim-by-claim basis. As of December 31, 2023 and January 1, 2023, the Company had approximately $21.0 million and $17.7 million, respectively, reserved for such programs. Inclusive of the receivables from the stop-loss insurance policies, the Company's limited liability balance was $10.8 million and $8.4 million as of December 31, 2023 and January 1, 2023, respectively.

Our estimated liability is not discounted and is based on a number of assumptions and factors. The critical assumptions used in determining these related expenses and obligations are future cost projections of claims, which include healthcare cost projections. These critical assumptions are calculated based on historical Company data and experience, as well as appropriate market indicators including inflation, societal attitudes toward legal action, and changes in law. The assumptions are evaluated at least semiannually by us in conjunction with outside actuaries and are closely monitored and adjusted when warranted by changing circumstances. If a greater amount of claims are reported, or if medical costs increase beyond our expectations, our liabilities may not be sufficient, and we could recognize additional expense.

Income Taxes

Our provision for income taxes, deferred tax assets and liabilities including valuation allowance requires the use of estimates based on our management's interpretation and application of complex tax laws and accounting guidance. We establish reserves for uncertain tax positions for material, known tax exposures in accordance with ASC 740, *Income Taxes* relating to deductions, transactions and other matters involving some uncertainty as to the measurement and recognition of the item. We may adjust these reserves when our judgment changes as a result of the evaluation of new information not previously available and will be reflected in the period in which the new information is available. While we believe that our reserves are adequate, issues raised by a tax authority may be resolved at an amount different than the related reserve and could materially increase or decrease our income tax provision in future periods.

Realization of deferred tax assets involves estimates regarding (i) the timing and amount of the reversal of taxable temporary differences, (ii) expected future taxable income, (iii) the ability to carry back or carry forward net operating losses and tax credits, and (iv) the impact of tax planning strategies. We believe that it is more likely than not that we will not realize the benefit of certain deferred tax assets and, accordingly, have established a valuation allowance against them. In assessing the need for a valuation allowance, we consider all available positive and negative evidence, including past operating results, projections of future taxable income and the feasibility of and potential changes to ongoing tax planning strategies. The projections of future taxable income include a number of estimates and assumptions regarding our volume, pricing and costs. Although realization is not assured for the remaining deferred tax assets, we believe it is more likely than not that the remaining deferred tax assets will be realized through future taxable earnings or alternative tax strategies. However, deferred tax assets could be reduced in the near term if our estimates of taxable income are significantly reduced or tax strategies are no longer viable.

Goodwill and Indefinite Lived Intangible Assets

For each reporting unit, the Company assesses goodwill for impairment annually at the beginning of the fourth fiscal quarter or more frequently when impairment indicators are present. If the carrying value of the reporting unit exceeds its fair value, the

Company recognizes an impairment charge for the difference up to the carrying value of the allocated goodwill. The fair value is estimated using a combination of a discounted cash flow approach and a market approach.

When assessing goodwill for impairment, our decision to perform a qualitative impairment assessment for an individual reporting unit is influenced by a number of factors, inclusive of the carrying value of the reporting unit's goodwill, the significance of the excess of the reporting unit's estimated fair value over carrying value at the last quantitative assessment date, the amount of time in between quantitative fair value assessments and the date of acquisition. If we perform a quantitative assessment of an individual reporting unit's goodwill, our impairment calculations contain uncertainties because they require management to make assumptions and to apply judgment when estimating future cash flows and asset fair values, including projected revenue growth and operating expenses related to existing businesses, product innovation and new shop concepts, as well as utilizing valuation multiples of similar publicly traded companies and selecting an appropriate discount rate. Estimates of revenue growth and operating expenses are based on internal projections considering the reporting unit's past performance and forecasted growth, strategic initiatives, local market economics, and the local business environment impacting the reporting unit's performance. The discount rate is selected based on the estimated cost of capital for a market participant to operate the reporting unit in the region. These estimates, as well as the selection of comparable companies and valuation multiples used in the market approaches are highly subjective, and our ability to realize the future cash flows used in our fair value calculations is affected by factors such as the success of strategic initiatives, changes in economic conditions, changes in our operating performance, and changes in our business strategies, including retail initiatives and international expansion.

For the fiscal years 2023, 2022, and 2021, there were no goodwill impairment charges. We continue to believe the fair value of each of our reporting units is significantly in excess of its carrying value, and absent a sustained multi-year global decline in our business in key markets such as the U.S., we do not anticipate incurring significant goodwill impairment in the next 12 months.

Other intangible assets, net primarily represent the trade names for our brands, franchise agreements (domestic and international), reacquired franchise rights, and customer relationships. The trade names have been assigned an indefinite useful life and are reviewed annually for impairment. The fair value calculation for the trade names includes estimates of revenue growth, which are based on past performance and internal projections for the intangible asset group's forecasted growth and royalty rates, which are adjusted for our particular facts and circumstances. The discount rate is selected based on the estimated cost of capital that reflects the risk profile of the related business. These estimates are highly subjective, and our ability to achieve the forecasted cash flows used in our fair value calculations is affected by factors such as the success of strategic initiatives, changes in economic conditions, changes in our operating performance, and changes in our business strategies, including retail initiatives and international expansion. All other intangible assets are amortized on a straight-line basis over their estimated useful lives. Definite-lived intangible assets are assessed for impairment whenever triggering events or indicators of potential impairment occur. We did not have any impairment charges of indefinite-lived intangible assets during any of the periods presented, and we do not anticipate incurring significant impairment charges in the next 12 months.

New Accounting Pronouncements

Refer to Note 1, Description of Business and Summary of Significant Accounting Policies, to the audited Consolidated Financial Statements for a detailed description of recent accounting pronouncements.

Item 7A. Quantitative and Qualitative Disclosures About Market Risk

Effects of Changing Prices – Inflation

We are exposed to the effects of commodity price fluctuations in the cost of ingredients of our products, of which flour, sugar and shortening are the most significant. Throughout fiscal 2023 we have experienced headwinds from commodity inflation globally. We have undertaken efforts to effectively manage inflationary cost increases through rapid inventory turnover and reduced inventory waste, increased focus on resiliency of our supply chains, and an ability to adjust pricing of our products. Additionally, from time to time we may enter into forward contracts for supply through our vendors for raw materials that are ingredients of our products or that are components of such ingredients, including wheat and soybean oil.

We are also exposed to the effects of commodity price fluctuations in the cost of fuel used by our delivery vehicles. To mitigate the risk of fluctuations in the price of our fuel purchases, we may directly purchase commodity futures contracts.

Interest Rate Risk

We are exposed to changes in interest rates on any borrowings under our debt facilities, which bear interest based on the one-month SOFR (with a floor of zero). Generally, interest rate changes could impact the amount of our interest paid and, therefore, our future earnings and cash flows, assuming other factors are held constant. To mitigate the impact of changes in SOFR on interest expense for a portion of our variable rate debt, we have entered into interest rate swaps on $505.0 million notional of our $848.5 million of outstanding debt under the 2023 Facility and short-term lines of credit as of December 31, 2023, which we account for as cash flow hedges. The interest rate swap agreements are scheduled to mature in June 2024. Based on the $343.5 million of unhedged outstanding as of December 31, 2023, a 100 basis point increase or decrease in the one-month SOFR would result in a $3.4 million increase or decrease, respectively, in interest expense for a 12-month period, based on the daily average of the one-month SOFR for the fiscal year ended December 31, 2023.

Foreign Currency Risk

We are exposed to foreign currency translation risk on the operations of our subsidiaries that have functional currencies other than the U.S. dollar, whose revenues accounted for approximately 29% of our total net revenues through the fiscal year ended December 31, 2023. A substantial majority of these revenues, or approximately $490.2 million through the fiscal year ended December 31, 2023, were attributable to subsidiaries whose functional currencies are the Canadian dollar, the British pound sterling, the Euro, the Australian dollar, the New Zealand dollar, the Mexican peso, and the Japanese yen. A 10% increase or decrease in the average fiscal 2023 exchange rate of the Canadian dollar, the British pound sterling, the Euro, the Australian dollar, the New Zealand dollar, the Mexican peso, and the Japanese yen against the U.S. dollar would have resulted in a decrease or increase of approximately $49.0 million in our total net revenues through the fiscal year ended December 31, 2023.

From time to time, we engage in foreign currency exchange and credit transactions with our non-U.S. subsidiaries, which we typically hedge. To date, the impact of such transactions, including the cost of hedging, has not been material. We do not engage in foreign currency or hedging transactions for speculative purposes.

Item 8. Financial Statements and Supplementary Data

Krispy Kreme, Inc.
Index to Consolidated Financial Statements

Report of Independent Registered Accounting Firm

Board of Directors and Shareholders
Krispy Kreme, Inc.

Opinion on the financial statements

We have audited the accompanying consolidated balance sheets of Krispy Kreme, Inc. (a Delaware corporation) and subsidiaries (the "Company") as of December 31, 2023 and January 1, 2023, the related consolidated statements of operations, comprehensive (loss)/income, changes in shareholders' equity, and cash flows for each of the three fiscal years in the period ended December 31, 2023, and the related notes (collectively referred to as the "financial statements"). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2023 and January 1, 2023, and the results of its operations and its cash flows for each of the three fiscal years in the period ended December 31, 2023, in conformity with accounting principles generally accepted in the United States of America.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (U.S.) ("PCAOB"), the Company's internal control over financial reporting as of December 31, 2023, based on criteria established in the 2013 *Internal Control—Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO"), and our report dated February 27, 2024 expressed an unqualified opinion.

Basis for opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

Critical audit matters

Critical audit matters are matters arising from the current period audit of the financial statements that were communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the financial statements and (2) involved our especially challenging, subjective, or complex judgments. We determined there are no critical audit matters.

/s/GRANT THORNTON LLP

We have served as the Company's auditor since 2017.

Denver, Colorado

February 27, 2024

Report of Independent Registered Accounting Firm

Board of Directors and Shareholders
Krispy Kreme, Inc.

Opinion on internal control over financial reporting

We have audited the internal control over financial reporting of Krispy Kreme, Inc. (a Delaware corporation) and subsidiaries (the "Company") as of December 31, 2023, based on criteria established in the 2013 *Internal Control—Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO"). In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2023, based on criteria established in the 2013 *Internal Control—Integrated Framework* issued by COSO.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (U.S.) ("PCAOB"), the consolidated financial statements of the Company as of and for the fiscal year ended December 31, 2023, and our report dated February 27, 2024 expressed an unqualified opinion on those financial statements.

Basis for opinion

The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Annual Report on Internal Control Over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

Definition and limitations of internal control over financial reporting

A company's internal control over financial reporting is a process designed 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. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/GRANT THORNTON LLP

Denver, Colorado

February 27, 2024

Krispy Kreme, Inc.
Consolidated Statements of Operations
(in thousands, except per share amounts)

	Fiscal Years Ended		
	December 31, 2023 (52 weeks)	**January 1, 2023 (52 weeks)**	**January 2, 2022 (52 weeks)**
Net revenues			
Product sales	$ 1,651,166	$ 1,497,882	$ 1,353,466
Royalties and other revenues	34,938	32,016	30,925
Total net revenues	**1,686,104**	**1,529,898**	**1,384,391**
Product and distribution costs	443,243	406,227	354,093
Operating expenses	776,589	704,287	630,239
Selling, general and administrative expense	266,863	223,198	222,394
Marketing expenses	45,872	42,566	39,489
Pre-opening costs	4,120	4,227	5,568
Other expenses/(income), net	10,378	10,157	(10,102)
Depreciation and amortization expense	125,894	110,261	101,608
Operating income	**13,145**	**28,975**	**41,102**
Interest expense, net	50,341	34,102	32,622
Interest expense – related party	—	—	10,387
Other non-operating expense, net	3,798	3,036	2,191
Loss before income taxes	**(40,994)**	**(8,163)**	**(4,098)**
Income tax (benefit)/expense	(4,347)	612	10,745
Net loss	**(36,647)**	**(8,775)**	**(14,843)**
Net income attributable to noncontrolling interest	1,278	6,847	9,663
Net loss attributable to Krispy Kreme, Inc.	**$ (37,925)**	**$ (15,622)**	**$ (24,506)**
Net loss per share:			
Common stock - Basic	$ (0.23)	$ (0.10)	$ (0.18)
Common stock - Diluted	$ (0.23)	$ (0.10)	$ (0.18)
Weighted average shares outstanding:			
Basic	168,289	167,471	147,655
Diluted	168,289	167,471	147,655

See accompanying notes to Consolidated Financial Statements.

Krispy Kreme, Inc.
Consolidated Statements of Comprehensive (Loss)/Income
(in thousands)

	Fiscal Years Ended		
	December 31, 2023 (52 weeks)	January 1, 2023 (52 weeks)	January 2, 2022 (52 weeks)
Net loss	**$ (36,647)**	**$ (8,775)**	**$ (14,843)**
Other comprehensive income/(loss), net of income taxes:			
Foreign currency translation adjustment	26,007	(33,637)	(14,955)
Unrealized (loss)/income on cash flow hedges, net of income taxes [1]	(8,622)	25,251	13,609
Unrealized income/(loss) on employee benefit plans	6	70	(338)
Total other comprehensive income/(loss)	**17,391**	**(8,316)**	**(1,684)**
Comprehensive loss	**(19,256)**	**(17,091)**	**(16,527)**
Net income attributable to noncontrolling interest	1,278	6,847	9,663
Foreign currency translation adjustment attributable to noncontrolling interest	994	(1,642)	(414)
Total comprehensive income attributable to noncontrolling interest	**2,272**	**5,205**	**9,249**
Comprehensive loss attributable to Krispy Kreme, Inc.	**$ (21,528)**	**$ (22,296)**	**$ (25,776)**

[1] Net of income tax benefit/(expense) of $2.9 million, ($8.4 million), and ($4.5 million) for the fiscal years ended December 31, 2023, January 1, 2023, and January 2, 2022, respectively.

See accompanying notes to Consolidated Financial Statements.

Krispy Kreme, Inc.
Consolidated Balance Sheets
(in thousands, except per share amounts)

	As of	
	December 31, 2023	**January 1, 2023**
ASSETS		
Current assets:		
Cash and cash equivalents	$ 38,185	$ 35,371
Restricted cash	429	359
Accounts receivable, net	59,362	51,089
Inventories	34,716	46,239
Taxes receivable	15,526	18,263
Prepaid expense and other current assets	25,363	26,953
Total current assets	**173,581**	**178,274**
Property and equipment, net	538,220	472,358
Goodwill	1,101,939	1,087,908
Other intangible assets, net	946,349	966,088
Operating lease right of use asset, net	456,964	417,381
Other assets	23,539	26,528
Total assets	**$ 3,240,592**	**$ 3,148,537**
LIABILITIES AND SHAREHOLDERS' EQUITY		
Current liabilities:		
Current portion of long-term debt	$ 54,631	$ 40,034
Current operating lease liabilities	50,365	43,160
Accounts payable	156,488	225,276
Accrued liabilities	134,005	104,424
Structured payables	130,104	103,575
Total current liabilities	**525,593**	**516,469**
Long-term debt, less current portion	836,615	739,052
Noncurrent operating lease liabilities	454,583	412,759
Deferred income taxes, net	123,925	143,124
Other long-term obligations and deferred credits	36,093	38,258
Total liabilities	**1,976,809**	**1,849,662**
Commitments and contingencies		
Shareholders' equity:		
Common stock, $0.01 par value; 300,000 shares authorized as of both December 31, 2023 and January 1, 2023; 168,628 and 168,137 shares issued and outstanding as of December 31, 2023 and January 1, 2023, respectively	1,686	1,681
Additional paid-in capital	1,443,591	1,426,105
Shareholder note receivable	(3,850)	(4,813)
Accumulated other comprehensive income/(loss), net of income tax	7,246	(9,151)
Retained deficit	(278,990)	(217,490)
Total shareholders' equity attributable to Krispy Kreme, Inc.	**1,169,683**	**1,196,332**
Noncontrolling interest	94,100	102,543
Total shareholders' equity	**1,263,783**	**1,298,875**
Total liabilities and shareholders' equity	**$ 3,240,592**	**$ 3,148,537**

See accompanying notes to Consolidated Financial Statements.

Krispy Kreme, Inc.
Consolidated Statements of Changes in Shareholders' Equity
(in thousands, except per share amounts)

	Common Stock				Accumulated Other Comprehensive Income/(Loss)					
	Shares Outstanding	Amount	Additional Paid-in Capital	Shareholder Note Receivable	Foreign Currency Translation Adjustment	Unrealized (Loss)/Income on Cash Flow Hedges	Unrealized Loss on Employee Benefit Plans	Retained Deficit	Noncontrolling Interest	Total
Balance at January 3, 2021	**124,987**	**$ 1,250**	**$ 845,499**	**$ (18,660)**	**$ 23,508**	**$ (24,610)**	**$ (106)**	**$ (142,197)**	**$ 163,675**	**$ 848,359**
Net (loss)/income for the fiscal year ended January 2, 2022	—	—	—	—	—	—	—	(24,506)	9,663	(14,843)
Other comprehensive (loss)/income for the fiscal year ended January 2, 2022 before reclassifications	—	—	—	—	(14,541)	3,318	(338)	—	(414)	(11,975)
Reclassification from AOCI	—	—	—	—	—	10,291	—	—	—	10,291
Capital contribution from shareholders, net of loans issued	6,997	70	120,845	(383)	—	—	—	—	—	120,532
Share-based compensation	—	—	22,923	—	—	—	—	—	—	22,923
Purchase of shares by noncontrolling interest	—	—	—	14,427	—	—	—	—	38,976	53,403
Noncontrolling interest of acquired entity	—	—	—	—	—	—	—	—	9,822	9,822
Dividends declared on common stock and equivalents ($0.035 per share)	—	—	—	—	—	—	—	(11,705)	—	(11,705)
Distribution to shareholders	—	—	(42,334)	—	—	—	—	—	—	(42,334)
Distribution to noncontrolling interest	—	—	(13,413)	363	—	—	—	—	(10,304)	(23,354)
Conversion of noncontrolling interest to additional paid-in capital in connection with the Merger	9,371	93	107,258	—	—	—	—	—	(107,351)	—
Issuance of common stock in connection with initial public offering, net of underwriting discounts and issuance costs	32,912	329	514,542	—	—	—	—	—	—	514,871
Issuance of common stock upon settlement of RSUs, net of shares withheld	1,423	15	(17,184)	—	—	—	—	—	—	(17,169)
Repurchase of common stock	(8,439)	(84)	(122,922)	—	—	—	—	—	—	(123,006)
Other	—	—	(29)	(129)	—	—	—	(1)	(1)	(160)
Balance at January 2, 2022	**167,251**	**$ 1,673**	**$ 1,415,185**	**$ (4,382)**	**$ 8,967**	**$ (11,001)**	**$ (444)**	**$ (178,409)**	**$ 104,066**	**$ 1,335,655**
Net (loss)/income for the fiscal year ended January 1, 2023	—	—	—	—	—	—	—	(15,622)	6,847	(8,775)
Other comprehensive (loss)/income for the fiscal year ended January 1, 2023 before reclassifications	—	—	—	—	(31,995)	22,524	70	—	(1,642)	(11,043)
Reclassification from AOCI	—	—	—	—	—	2,727	—	—	—	2,727
Capital contribution from shareholders, net of loans issued	—	—	(72)	(216)	—	—	—	—	—	(288)
Share-based compensation	—	—	18,170	—	—		—	—	—	18,170
Purchase of shares by noncontrolling interest	—	—	—	(258)	—	—	—	—	851	593
Dividends declared on common stock and equivalents ($0.035 per share)	—	—	—	—	—	—	—	(23,459)	—	(23,459)
Distribution to noncontrolling interest	—	—	(4,229)	88	—	—	—	—	(7,580)	(11,721)
Issuance of common stock upon settlement of RSUs, net of shares withheld	886	8	(2,951)	—	—	—	—	—	—	(2,943)
Other	—	—	2	(45)	—	1	—	—	1	(41)
Balance at January 1, 2023	**168,137**	**$ 1,681**	**$ 1,426,105**	**$ (4,813)**	**$ (23,028)**	**$ 14,251**	**$ (374)**	**$ (217,490)**	**$ 102,543**	**$ 1,298,875**
Net (loss)/income for the fiscal year ended December 31, 2023	—	—	—	—	—	—	—	(37,925)	1,278	(36,647)
Other comprehensive income for the fiscal year ended December 31, 2023 before reclassifications	—	—	—	—	25,013	2	6	—	994	26,015
Reclassification from AOCI	—	—	—	—	—	(8,624)	—	—	—	(8,624)
Capital contribution from shareholders, net of loans issued	—	—	—	764	—	—	—	—	—	764
Share-based compensation	—	—	24,196	—	—	—	—	—	—	24,196
Purchase of shares by noncontrolling interest	—	—	—	(133)	—	—	—	—	425	292
Dividends declared on common stock and equivalents ($0.035 per share) (1)	—	—	—	—	—	—	—	(23,576)	—	(23,576)
Distribution to noncontrolling interest	—	—	(4,825)	426	—	—	—	—	(11,139)	(15,538)
Issuance of common stock upon settlement of RSUs, net of shares withheld	491	5	(1,885)	—	—	—	—	—	—	(1,880)
Other	—	—	—	(94)	—	—	—	1	(1)	(94)
Balance at December 31, 2023	**168,628**	**$ 1,686**	**$ 1,443,591**	**$ (3,850)**	**$ 1,985**	**$ 5,629**	**$ (368)**	**$ (278,990)**	**$ 94,100**	**$ 1,263,783**

(1) Includes a $0.035 cash dividend per common share declared in the fourth quarter of fiscal 2023 and expected to be paid in the first quarter of fiscal 2024.

See accompanying notes to Consolidated Financial Statements.

Krispy Kreme, Inc.
Consolidated Statements of Cash Flows
(in thousands)

	Fiscal Years Ended		
	December 31, 2023 (52 weeks)	January 1, 2023 (52 weeks)	January 2, 2022 (52 weeks)
CASH FLOWS FROM OPERATING ACTIVITIES:			
Net loss	$ (36,647)	$ (8,775)	$ (14,843)
Adjustments to reconcile net loss to net cash provided by operating activities:			
Depreciation and amortization expense	125,894	110,261	101,608
Deferred and other income taxes	(18,486)	(14,237)	(3,496)
Loss on extinguishment of debt	472	—	1,700
Impairment and lease termination charges	24,909	18,297	3,507
Loss on disposal of property and equipment	110	393	458
Gain on sale-leaseback	(9,646)	(6,549)	(8,673)
Share-based compensation	24,196	18,170	22,923
Change in accounts and notes receivable allowances	654	570	275
Inventory write-off	11,248	868	4,071
Settlement of interest rate swap derivatives	7,657	8,476	—
Amortization related to settlement of interest rate swap derivatives	(10,289)	—	—
Other	2,155	2,232	594
Change in operating assets and liabilities, excluding business acquisitions and foreign currency translation adjustments:			
Accounts, notes, and taxes receivable	(3,523)	(9,485)	(3,817)
Inventories	780	(12,515)	(301)
Other current and noncurrent assets	(2,395)	(1,691)	(316)
Operating lease assets and liabilities	5,111	(793)	7,787
Accounts payable and accrued liabilities	(74,471)	32,015	30,240
Other long-term obligations and deferred credits	(2,185)	2,581	(493)
Net cash provided by operating activities	**45,544**	**139,818**	**141,224**
CASH FLOWS USED FOR INVESTING ACTIVITIES:			
Purchase of property and equipment	(121,427)	(111,717)	(119,497)
Proceeds from disposals of assets	218	1,077	218
Proceeds from sale-leaseback	10,025	8,401	11,091
Acquisition of shops and franchise rights from franchisees, net of cash acquired	—	(17,330)	(46,330)
Purchase of equity method investment	(1,424)	(989)	—
Principal payments received from loans to franchisees	20	59	92
Disbursement for loan receivable	—	(975)	—
Maturities of held-to-maturity debt securities	—	—	1,019
Net cash used for investing activities	**(112,588)**	**(121,474)**	**(153,407)**
CASH FLOWS FROM/(USED FOR) FINANCING ACTIVITIES:			
Proceeds from the issuance of debt	1,175,698	149,000	695,000
Repayment of long-term debt and lease obligations	(1,084,390)	(101,181)	(1,147,049)
Payment of financing costs	(5,175)	—	(1,700)
Proceeds from structured payables	241,148	282,023	266,851
Payments on structured payables	(214,574)	(294,457)	(287,625)
Payment of contingent consideration related to a business combination	(925)	(900)	—
Capital contribution from shareholders, net of loans issued	764	(288)	120,532
Proceeds from IPO, net of underwriting discounts (excluding unpaid issuance costs)	—	—	527,329
Payments of issuance costs in connection with IPO	—	(12,458)	—
Proceeds from sale of noncontrolling interest in subsidiary	292	593	53,404
Distribution to shareholders	(23,558)	(23,430)	(48,187)
Payments for repurchase and retirement of common stock	(1,880)	(4,019)	(139,103)
Distribution to noncontrolling interest	(15,538)	(11,721)	(23,356)
Net cash provided by/(used for) financing activities	**71,862**	**(16,838)**	**16,096**
Effect of exchange rate changes on cash, cash equivalents and restricted cash	(1,934)	(4,968)	(2,204)
Net increase/(decrease) in cash, cash equivalents and restricted cash	2,884	(3,462)	1,709
Cash, cash equivalents and restricted cash at beginning of the fiscal year	35,730	39,192	37,483
Cash, cash equivalents and restricted cash at end of the fiscal year	**$ 38,614**	**$ 35,730**	**$ 39,192**
Supplemental schedule of non-cash investing and financing activities:			
Increase/(decrease) in accrual for property and equipment	$ 51,820	$ 20,629	$ (1,159)
Stock issuance under shareholder notes	—	614	963
Accrual for distribution to shareholders	(5,902)	(5,884)	(6,928)
Reconciliation of cash, cash equivalents and restricted cash at end of fiscal year:			
Cash and cash equivalents	$ 38,185	$ 35,371	$ 38,562
Restricted cash	429	359	630
Total cash, cash equivalents and restricted cash	**$ 38,614**	**$ 35,730**	**$ 39,192**

See accompanying notes to Consolidated Financial Statements.

Krispy Kreme, Inc.
Index to Notes to Consolidated Financial Statements

Krispy Kreme, Inc.
Notes to Consolidated Financial Statements
(dollars in thousands, unless otherwise specified)

Note 1 — Description of Business and Summary of Significant Accounting Policies

Description of Business

Krispy Kreme, Inc. ("KKI") and its subsidiaries (collectively, the "Company" or "Krispy Kreme") operate through an omni-channel business model to provide doughnut experiences and produce doughnuts for Doughnut Shops, Delivered Fresh Daily ("DFD") outlets, and Ecommerce and delivery channels, expanding consumer access to the Krispy Kreme brand.

The Company has three reportable operating segments: 1) U.S., which includes all Krispy Kreme Company-owned operations in the U.S. and Insomnia Cookies Bakeries; 2) International, which includes all Krispy Kreme Company-owned operations in the U.K., Ireland, Australia, New Zealand and Mexico; and 3) Market Development, which includes franchise operations across the globe, as well as Krispy Kreme Company-owned shops in Japan and Canada. Unallocated corporate costs are excluded from the Company's measurement of segment performance.

As of December 31, 2023, the Company had 2,177 Krispy Kreme-branded shops and Insomnia Cookies Bakeries in 39 countries around the world. The ownership and location of those shops is as follows:

	U.S.	International	Market Development	Total
Krispy Kreme Company-owned Shops	299	448	79	826
Insomnia Cookies Company-owned Bakeries	265	—	2	267
Krispy Kreme Franchise Shops	—	—	1,084	1,084
Total	**564**	**448**	**1,165**	**2,177**

Basis of Presentation and Consolidation

The Company operates and reports financial information on a 52 or 53-week year with the fiscal year ending on the Sunday closest to December 31. The data periods contained within fiscal years 2023, 2022, and 2021 reflect the results of operations for the 52-week period ended December 31, 2023, the 52-week period ended January 1, 2023, and the 52-week period ended January 2, 2022.

The accompanying audited Consolidated Financial Statements include the accounts of Krispy Kreme and subsidiaries and have been prepared in accordance with accounting principles generally accepted in the U.S. ("GAAP"). All significant intercompany balances and transactions among Krispy Kreme and subsidiaries have been eliminated in consolidation. Investments in entities over which the Company has the ability to exercise significant influence but which it does not control and whose financial statements are not otherwise required to be consolidated are accounted for using the equity method.

Noncontrolling interest in the Company's audited Consolidated Financial Statements represents the interest in subsidiaries held by joint venture partners and employee shareholders. The joint venture partners hold noncontrolling interests in the Company's consolidated subsidiaries Awesome Doughnut, LLC ("Awesome Doughnut"), W.K.S. Krispy Kreme, LLC ("WKS Krispy Kreme"), and Krispy K Canada, Inc. ("KK Canada"). Employee shareholders hold noncontrolling interests in the consolidated subsidiaries Krispy Kreme Holding U.K. Ltd. ("KKUK"), Krispy Kreme Holdings Pty Ltd. ("KK Australia"), Krispy Kreme Mexico S. de R.L. de C.V. ("KK Mexico"), and Insomnia Cookies Holdings, LLC ("Insomnia Cookies"). Since the Company consolidates the financial statements of these subsidiaries, the noncontrolling owners' share of each subsidiary's net assets and results of operations are deducted and reported as a noncontrolling interest on the Consolidated Balance Sheets and as net income attributable to noncontrolling interest in the Consolidated Statements of Operations and comprehensive income attributable to noncontrolling interest in the Consolidated Statements of Comprehensive (Loss)/Income.

Use of Estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities as of the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates under different assumptions or conditions.

Initial Public Offering

The Company's registration statement on Form S-1 related to its initial public offering ("IPO") was declared effective on June 30, 2021 and the Company's common stock began trading on the Nasdaq Global Select Market on July 1, 2021. On July 1, 2021, the Company completed its IPO, in which the Company sold 29.4 million shares of common stock at a price to the public of $17.00 per share. The Company received aggregate net proceeds of $458.8 million after deducting underwriting discounts and commissions of $28.7 million and offering expenses of $12.5 million.

In connection with the IPO, the Company and its affiliates completed the following transactions:

- On June 10, 2021, the Company's wholly-owned (excluding certain management equity interests) subsidiary, Krispy Kreme Holdings, Inc. ("KKHI"), entered into a term loan credit agreement, as borrower, which provided for term loans in an initial aggregate principal amount of $500.0 million (the "Term Loan Facility"). On June 17, 2021, KKHI borrowed $500.0 million under the Term Loan Facility, with debt issuance costs of $1.7 million which were included in Interest expense, net on the Consolidated Statements of Operations during the second quarter of fiscal 2021. On July 7, 2021, the Company repaid in full and terminated the Term Loan Facility with a cash outflow of $500.7 million, which included $0.7 million of accrued interest.
- On June 28, 2021, KKHI merged into KKI (the "Merger"). As a result of the Merger, the Company eliminated $107.4 million of noncontrolling interest at KKHI as of the merger date. The management equity interests at KKHI were exchanged for common shares in KKI. Restricted stock units ("RSUs") and stock options held at KKHI were exchanged for RSUs and stock options held at KKI at a rate of 317.24 KKI shares to 1 KKHI share.
- On June 30, 2021, the Company effected a 1,745-for-1 split of each outstanding share of common stock (the "Stock Split"). All share and per share information has been retroactively adjusted to effect the Stock Split for all periods presented.

In connection with the IPO, the Company used the proceeds from the Term Loan Facility for the following: (1) repay the related party notes payable (including accrued interest of $17.8 million) of $355.0 million, (2) redeem certain common stock of $102.7 million held by Krispy Kreme, G.P. ("KK GP") and (3) pay a pro rata dividend to members of its management who, prior to the Merger, held equity interests in KKHI in an aggregate amount of $42.3 million. Additionally, the Company paid $20.3 million to repurchase approximately 1.3 million shares of common stock from certain of the Company's executive officers at the price paid by the underwriters and $15.5 million to repurchase approximately 1.0 million shares of common stock from certain of its executive officers for payment of their withholding taxes with respect to the RSUs vesting or for which vesting was accelerated in connection with the offering.

On August 2, 2021, the underwriters exercised their over-allotment option and purchased an additional 3.5 million shares of common stock at the IPO price less the underwriting discounts and commissions. The net proceeds received on August 2, 2021 were $56.1 million after deducting underwriting discounts and commissions of $3.4 million. This brought total net IPO proceeds to $514.9 million.

Revenue Recognition

Revenue is recognized when control of promised goods or services is transferred to a customer in an amount that reflects the consideration expected to be received for those goods or services.

Product Sales

Product sales include revenue derived from (1) the sale of doughnuts, cookies, and complementary products to in-shop, Ecommerce and delivery, and DFD customers and (2) the sale of doughnut mix, other ingredients and supplies, and doughnut-making equipment to franchisees. Revenue is recognized at the time of delivery for in-shop sales, Ecommerce and delivery sales, and sales to franchisees. For DFD sales, control transfers and revenue is recognized either at the time of delivery or, with respect to those customers that take title to products purchased from the Company at the time those products are sold by the customer to the end consumers, simultaneously with such consumer purchases. Revenues are recognized net of provisions for estimated product returns. Revenues from the sale of doughnut mix, other ingredients, supplies, and doughnut-making equipment to franchisees include any applicable shipping and handling costs invoiced to the customer, and the expense of such shipping and handling costs is included in Operating expenses. The Company recorded shipping revenue of approximately $13.3 million, $11.2 million, and $13.3 million in the fiscal years ended December 31, 2023, January 1, 2023, and January 2, 2022, respectively.

Franchise Revenue

Franchise revenue included in Royalties and other revenues is derived from development and initial franchise fees relating to new shop openings and ongoing royalties charged to franchisees based on their sales. The Company sells individual franchises domestically and internationally, as well as development agreements that grant the right to develop shops in designated areas. Generally, the franchise license granted for each individual shop within an arrangement represents a single performance obligation. The franchise agreements and development agreements typically require the franchisee to pay initial nonrefundable franchise fees (i.e., initial services such as training and assisting with shop set-up) prior to opening. The franchisees also pay a royalty on a monthly basis based upon a percentage of franchisee gross sales. Royalties are recognized in income as underlying franchisee sales occur. The initial term of domestic franchise agreements is typically 15 years. The Company recognizes the initial nonrefundable fees over the term of the franchise agreements on an output method based on time elapsed, corresponding with the customer's right to use the franchise for the term of the agreement. A franchisee may elect to renew the term of a franchise agreement and, if approved, will typically pay a renewal fee upon execution of the renewal term.

Franchise-related Advertising Fund Revenue

Franchise-related advertising fund revenue included in Royalties and other revenues is derived from domestic and international franchise agreements that typically require the franchisee to pay advertising fees on a continuous monthly basis based on a percentage of franchisee net sales, which are recognized based on fees earned each period. Total advertising fund revenue for the fiscal years ended December 31, 2023, January 1, 2023, and January 2, 2022 is $3.8 million, $3.6 million, and $4.3 million, respectively.

Gift Card Sales

The Company and its franchisees sell gift cards that are redeemable for products in the Company-owned or franchise shops. The Company manages the gift card program and collects all funds from the activation of gift cards and reimburses franchisees for the redemption of gift cards in their shops. Deferred revenue for unredeemed gift cards is included in Accrued liabilities in the Consolidated Balance Sheets. As of December 31, 2023 and January 1, 2023, the gross amount of deferred revenue recognized for unredeemed gift cards was $29.6 million and $26.4 million, respectively. Gift cards sold do not have an expiration date or service fees charged. The likelihood of redemption may be determined to be remote for certain cards due to long periods of inactivity. In these circumstances, the Company recognizes revenue from unredeemed gift cards ("breakage revenue") within Product sales if they are not subject to unclaimed property laws. The Company estimates breakage for the portfolio of gift cards and recognizes it based on the estimated pattern of gift card use. As of December 31, 2023 and January 1, 2023, deferred revenue, net of breakage revenue recognized, was $12.1 million and $11.9 million, respectively.

Gift card costs incurred to fulfill obligations under a contract are capitalized when such costs generate or enhance resources to be used in satisfying future performance obligations and the costs are deemed recoverable. Judgement is used in determining whether certain contract costs can be capitalized. These costs are capitalized and amortized on a systematic basis to match the timing of revenue recognition, depending on when the gift card is used. This amortization expense is recorded in Operating expenses in the Company's Consolidated Statements of Operations. As of December 31, 2023 and January 1, 2023, the capitalized gift card costs were $1.8 million and $1.5 million, respectively.

Consumer Loyalty Program

Consumers can participate in spend-based loyalty programs. Consumers who join the loyalty programs will receive a credit or point for each purchase of eligible product. After accumulating a certain number of credits or points, the consumers can redeem their credits or points for a free product. The Company defers revenue based on an estimated selling price of the free product earned by the consumer and establishes a corresponding liability in deferred revenue. As of December 31, 2023 and January 1, 2023, the deferred revenue related to loyalty programs is $4.1 million and $3.1 million, respectively.

Revenue-based Taxes

The Company reports revenue net of any revenue-based taxes assessed by governmental authorities that are imposed on and concurrent with specific revenue-producing transactions. The primary revenue-based taxes are sales tax and value-added tax ("VAT").

Product and Distribution Costs

Product and distribution costs include mainly raw material costs (principally sugar, flour, wheat, oil, and their derivatives) and production costs (including labor) related to doughnuts, cookies, other sweet treats, doughnut mix, packaging, and logistics costs related to raw materials.

Operating Expenses

Operating expenses consist of expenses primarily related to Company-owned shops including payroll and benefit costs for service employees at Company-operated locations, rent and utilities, expenses associated with Company operations, costs associated with procuring materials from vendors, and other shop-level operating costs.

Marketing Expenses

Costs associated with marketing the products, including advertising and other brand promotional activities, are expensed as incurred, and were approximately $45.9 million, $42.6 million, and $39.5 million in the fiscal years ended December 31, 2023, January 1, 2023, and January 2, 2022, respectively.

Pre-opening Costs

Pre-opening costs include labor, rent, utilities, and other expenses that are required as part of the set-up and use of a new shop, prior to generating sales. Pre-opening costs also include costs to integrate acquired franchises back into the Company-owned model, which typically occur with the relevant shop closed over a one to three-day period subsequent to acquisition. Pre-opening costs do not include expenses related to strategic planning (for example, new site lease negotiations), which are recorded in SG&A.

Cash and Cash Equivalents and Restricted Cash

Cash equivalents consist of demand deposits in banks and short-term, highly liquid debt instruments with original maturities of three months or less.

All credit and debit card transactions that are processed in less than five days are classified as Cash and cash equivalents. The amounts due from banks for these transactions totaled $9.7 million and $8.0 million as of December 31, 2023 and January 1, 2023, respectively.

Restricted cash consists primarily of funds related to employee benefit plans.

Account Receivable, Net of Allowance for Expected Credit Losses

Accounts receivable relate primarily to payments due for sale of products, franchise fees, royalties, advertising fees, and licensing fees. The Company maintains allowances for expected credit losses related to its accounts receivable, including receivables from franchisees, in amounts which the Company believes are sufficient to provide for losses estimated to be sustained on realization of these receivables. The measurement of expected credit losses is based on relevant information about past events, including historical experience, current conditions, and reasonable and supportable forecasts that affect the collectibility of amounts from customers. Such estimates inherently involve uncertainties and assessments of the outcome of future events, and changes in facts and circumstances may result in adjustments to the allowance for expected credit losses. The Company had allowance for expected credit losses of $0.6 million and $0.3 million as of December 31, 2023 and January 1, 2023, respectively.

Concentration of Credit Risk

Financial instruments that subject the Company to credit risk consist principally of receivables from DFD customers and franchisees. DFD receivables are primarily from grocer/mass merchants and convenience stores. For the fiscal years ended December 31, 2023, January 1, 2023, and January 2, 2022, no customer accounted for more than 10% of revenue or a significant amount of receivables that would result in a concentration.

Management also evaluates the recoverability of receivables from the franchisees and maintains allowances for expected credit losses. Management believes these allowances are sufficient to provide for realized losses that may be sustained on realization of these receivables.

Inventories

Inventories, which consist of raw materials, work in progress, finished goods, and purchased merchandise, are recorded at the lower of cost and net realizable value, where cost is determined using the first-in, first-out method. Raw materials inventory also includes doughnut equipment spare parts. Finished goods and purchased merchandise are net of reserves for excess or obsolete finished goods. These reserves totaled $2.0 million and $2.7 million as of December 31, 2023, and January 1, 2023, respectively.

Taxes Receivable

Taxes receivable relate primarily to expected refunds of VAT as well as prepayments of income taxes to governmental authorities.

Prepaid Expense and Other Current Assets

Prepaid expense and other current assets consist primarily of prepaid assets related to service contracts and insurance premiums of $20.7 million and $17.0 million as of December 31, 2023 and January 1, 2023, respectively.

Property and Equipment, net

Property and equipment are recorded at cost, net of impairment. Depreciation of property and equipment is provided using the straight-line method over the estimated useful lives of the respective assets.

The lives used in computing depreciation are as follows:

Buildings	20 to 35 years
Machinery and equipment	3 to 15 years
Computer software	2 to 7 years

Leasehold improvements are depreciated over the shorter of the estimated useful life of the asset or the lease term.

The Company assesses long-lived fixed asset groups for potential impairment whenever events or changes in circumstances indicate that their carrying amount may not be recoverable. If the carrying amount of the assets exceeds the sum of the undiscounted cash flows, the Company records an impairment charge in an amount equal to the excess of the carrying value of the assets over their estimated fair value.

Impairment charges related to the Company's long-lived assets were $18.1 million, $8.4 million, and $2.9 million for the fiscal years ended December 31, 2023, January 1, 2023, and January 2, 2022, respectively. Such charges related to underperforming shops, shops closed or likely to be closed, and shops which management believes will not generate sufficient future cash flows to enable the Company to recover the carrying value of the shops' assets, but has not yet decided to close. The impaired shop assets include real properties, the fair values of which were estimated based on independent appraisals or, in the case of any properties which the Company is negotiating to sell, based on its negotiations with unrelated third-party buyers; leasehold improvements, which are typically abandoned when the leased properties revert to the lessor; and doughnut-making and other equipment the fair values of which were estimated based on the replacement cost of the equipment, after considering refurbishment and transportation costs. The impairment charges are primarily attributable to the U.S. segment and are included within Other expenses/(income), net on the Consolidated Statements of Operations.

Leases

Contracts entered into by the Company are evaluated to determine whether such contracts contain leases. A contract contains a lease if the contract conveys the right to control the use of identified property, plant, and equipment for a period of time in exchange for consideration. At commencement, contracts containing a lease are further evaluated for classification as an operating or finance lease based on the principle of whether or not the lease is effectively a financed purchase by the lessee. This classification determines whether lease expense is recognized based on an effective interest method or on a straight-line basis over the term of the lease.

The lease term and incremental borrowing rate ("IBR") for each lease requires judgement by management and can impact the classification of leases as well as the value of the lease assets and liabilities. When determining the lease term, management considers option periods available, and includes option periods in the measurement of the lease right of use asset and lease liability where the exercise is reasonably certain to occur. The Company uses the rate implicit in the lease whenever that rate is readily determinable. If the rate implicit in the lease is not readily determinable, the Company uses its IBR.

Upon the adoption of Accounting Standards Codification ("ASC") 842, *Leases*, the Company has elected to not separate the lease and non-lease components within the contract. Therefore, all fixed payments associated with the lease are included in the right of use asset and the lease liability. These costs often relate to the payments for a proportionate share of real estate taxes, insurance, common area maintenance and other operating costs in addition to a base rent. Any variable payments related to the lease are recorded as lease expense when and as incurred. The Company has elected this practical expedient for its real estate, vehicles and equipment leases. The Company has also elected the short-term lease expedient. A short-term lease is a lease that, as of the commencement date, has a lease term of 12 months or less and does not include an option to purchase the underlying asset that the lessee is reasonably certain to exercise. For such leases, the Company will not apply the recognition requirements of ASC 842 and instead will recognize the lease payments as lease cost on a straight-line basis over the lease term.

In the same manner as long-lived fixed assets, the Company assesses lease right of use assets for potential impairment whenever events or changes in circumstances indicate that their carrying amount may not be recoverable. If the carrying amount of the right of use assets exceeds the sum of their undiscounted cash flows, the Company records an impairment charge in an amount equal to the excess of the carrying value of the assets over their estimated fair value. If a lease contract is terminated before the expiration of the lease term the remaining right of use asset and lease liability are derecognized, with any difference recognized as a gain or loss on lease termination. If the Company is required to make any payments or receives consideration when terminating the lease, it would include such amounts in the determination of the gain or loss upon termination. For the fiscal years ending December 31, 2023, January 1, 2023, and January 2, 2022 the Company recorded lease impairment and termination costs of $6.6 million, $8.2 million and $0.6 million, respectively, which are included within Other expenses/(income), net on the Consolidated Statements of Operations.

Goodwill and Other Intangible Assets

Goodwill represents the excess of the purchase price over the fair value of identifiable net assets acquired in a business combination. For each reporting unit, the Company assesses goodwill for impairment annually at the beginning of the fourth quarter or more frequently when impairment indicators are present. If the carrying value of the reporting unit exceeds its fair value, the Company recognizes an impairment charge for the difference up to the carrying value of the allocated goodwill. The value is estimated under a discounted cash flow approach, which incorporates assumptions regarding future growth rates, terminal values and discount rates. For the fiscal years ended December 31, 2023, January 1, 2023, and January 2, 2022, there were no goodwill impairment charges.

Other intangible assets primarily represent the trade names for the Company's brands, franchise agreements (domestic and international), reacquired franchise rights, and customer relationships. The trade names have been assigned an indefinite useful life and are reviewed annually for impairment. All other intangible assets are amortized on a straight-line basis over their estimated useful lives. Definite-lived intangible assets are assessed for impairment whenever triggering events or indicators of potential impairment occur. The Company recognized impairment charges to other intangible assets of $0.2 million and $0.8 million for the fiscal years ended December 31, 2023 and January 1, 2023, respectively, related to franchise agreement terminations, including Russia in fiscal 2022. There were no impairment charges to other intangible assets for the fiscal year ended January 2, 2022.

Accrued Liabilities

Accrued liabilities include accrued compensation, accrued legal fees, accrued utilities, accrued marketing, and other accrued liabilities. As of December 31, 2023 and January 1, 2023, accrued compensation and benefits included in the Accrued liabilities balance was $42.6 million and $28.0 million, respectively.

Supply Chain Financing Program

The Company has an agreement with a third-party administrator which allows participating vendors to track payments from the Company, and if voluntarily elected by the vendor, to sell payment obligations from the Company to financial institutions (the "supply chain financing program" or the "SCF program"). The Company agrees on commercial terms with vendors for the goods and services procured, which are consistent with payment terms observed at other peer companies in the industry, and as the terms are not impacted by the SCF program, such obligations are classified as Accounts payable on the Consolidated Balance Sheets and the associated cash flows are included in operating activities in the Consolidated Statements of Cash Flows. Refer to Note 7, Vendor Finance Programs, to the audited Consolidated Financial Statements for more information.

Cards Program

The Company utilizes various purchase cards issued by financial institutions to facilitate purchases of goods and services. By using the cards, the Company receives rebates and differing levels of discounts based on timing of repayment. The payment obligations under these purchased cards are classified as Structured payables on the Consolidated Balance Sheets and constitute the entire Structured payables balance. The associated cash flows are included in the financing section of the Consolidated Statements of Cash Flows. Refer to Note 7, Vendor Finance Programs, to the audited Consolidated Financial Statements for more information.

Share-based Compensation

The Company measures and recognizes compensation expense for share-based payment awards based on the fair value of each award at its grant date and recognizes expense on a straight-line basis over the requisite service period for the entire award, including for those awards with a graded vesting schedule. The Company accounts for forfeitures of share-based compensation awards as they occur. Compensation expense is included in Selling, general and administrative expenses in the Consolidated Statements of Operations.

Fair Value

The accounting standards for fair value measurements define fair value as the price that would be received for an asset or paid to transfer a liability in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants at the measurement date. The accounting standards for fair value measurements establish a three-level fair value hierarchy that prioritizes the inputs used to measure fair value. This hierarchy requires entities to maximize the use of observable inputs and minimize the use of unobservable inputs. The three levels of inputs used to measure fair value are as follows:

- Level 1: Quoted prices in active markets that are accessible as of the measurement date for identical assets or liabilities.
- Level 2: Observable inputs other than quoted prices included within Level 1, such as quoted prices for similar assets and liabilities in active markets; quoted prices for identical or similar assets and liabilities in markets that are not active; or other inputs that are observable or can be corroborated by observable market data.
- Level 3: Unobservable inputs that are supported by little or no market activity and that are significant to the fair value measurement of the assets or liabilities. These include certain pricing models, discounted cash flow methodologies and similar techniques that use significant unobservable inputs.

The Company's financial instruments not measured at fair value on a recurring basis include cash and cash equivalents, receivables, accounts payable and accrued liabilities and are reflected in the audited Consolidated Financial Statements at cost which approximates fair value for these items due to their short-term nature. Management believes the fair value determination of these short-term financial instruments is a Level 1 measure. The Company's other assets and liabilities measured at fair value on a non-recurring basis include long-lived assets, lease right of use assets, goodwill, and other indefinite-live intangible assets, if determined to be impaired. Refer to the Property and Equipment, net policy section in Note 1, Description of Business and Summary of Significant Accounting Policies, to the audited Consolidated Financial Statements, for information about impairment charges on long-lived assets. The fair values of assets evaluated for impairment were determined using an income-based approach and are classified as Level 3 measures within the fair value hierarchy.

Derivative Financial Instruments

Management reflects derivative financial instruments, which typically consist of interest rate derivatives, foreign currency derivatives, and fuel commodity derivatives in the Consolidated Balance Sheets at their fair value. For interest rate derivatives, changes in fair value are reflected in other comprehensive income as the Company applies cash flow hedge accounting. Consistent with the classification of interest paid, cash flows from interest rate derivatives are classified as operating on the Consolidated Statements of Cash Flows. The changes in the fair values of the foreign currency and fuel commodity derivatives are reflected in income as the Company does not apply hedge accounting to those derivatives.

Self-Insurance Risks and Receivables from Insurers

The Company is subject to workers' compensation, vehicle, and general liability claims. The Company is self-insured for the cost of workers' compensation, vehicle, and general liability claims up to the amount of stop-loss insurance coverage purchased by the Company from commercial insurance carriers. The Company maintains accruals for the estimated cost of claims, without regard to the effects of stop-loss coverage, using actuarial methods which evaluate known open and incurred but not reported claims and consider historical loss development experience. As of December 31, 2023 and January 1, 2023, the Company had approximately $21.0 million and $17.7 million, respectively, reserved for such programs. The liability recorded for assessments has not been discounted. In addition, the Company records receivables from the insurance carriers for claims amounts estimated to be recovered under the stop-loss insurance policies when these amounts are estimable and probable of collection. The Company estimates such stop-loss receivables using the same actuarial methods used to establish the related claims accruals and considering the amount of risk transferred to the carriers under the stop-loss policies. The stop-loss policies provide coverage for claims in excess of retained self-insurance risks, which are determined on a claim-by-claim basis. Inclusive of the receivables from the stop-loss insurance policies, the Company's limited liability balance was $10.8 million and $8.4 million as of December 31, 2023 and January 1, 2023, respectively.

Preferred Stock

The Company has 50.0 million shares of authorized preferred stock with $0.01 par value per share. There were no shares of preferred stock issued nor outstanding as of December 31, 2023 and January 1, 2023.

Earnings (Loss) per Share (EPS)

The Company discloses two calculations of earnings (loss) per share ("EPS"): basic EPS and diluted EPS. The numerator in calculating common stock basic and diluted EPS is net income (loss) attributable to the Company. The denominator in calculating common stock basic EPS is the weighted average shares outstanding. The denominator in calculating common stock diluted EPS includes the additional dilutive effect of unvested RSUs, PSUs, and time-vested stock options when the effect is not antidilutive. Refer to Note 18, Net Loss per Share, to the audited Consolidated Financial Statements for further discussion.

Reclassifications

Segment information is prepared on the same basis that the Company's management reviews financial information for operational decision-making purposes. Effective January 2, 2023, the Company realigned its segment reporting structure such that the Company-owned Canada business has moved from the U.S. and Canada reportable operating segment to the Market Development reportable operating segment. As a result, the U.S. and Canada reportable operating segment has been renamed to the U.S. reportable operating segment. All segment information has been restated to be consistent with current presentation.

Exiting the Branded Sweet Treats Business

During the fiscal year ended December 31, 2023, the Company decided to exit its pre-packaged Branded Sweet Treats business due in part to its dilutive impact on profit margins, as well as to allow the Company to focus on its fresh doughnuts business. As such, the Company recognized non-recurring expenses, including property, plant and equipment impairments, inventory write-offs, employee severance, and other related costs, totaling approximately $17.9 million (gross of income taxes) in fiscal 2023. Of these expenses, $10.1 million were recorded within Product and distribution costs, primarily relating to inventory write-offs, and the rest were recorded within Other expenses/(income), net on the on the Consolidated Statements of Operations. Refer to "Management's Discussion and Analysis of Financial Condition and Results of Operations — Significant Events and Transactions" included in Item 7 of Part II of this Annual Report on Form 10-K for further information.

Exploring Strategic Alternatives for Insomnia Cookies

On October 3, 2023, the Company announced it is exploring strategic alternatives for Insomnia Cookies, to include considering a sale. This decision would enable the Company to unlock shareholder value and focus on its core strategy of producing, selling, and distributing fresh doughnuts daily. As of the date of issuance of this Annual Report on Form 10-K, the Company continues to explore strategic alternatives.

Recent Accounting Pronouncements

Recently Adopted

Accounting Standards Adopted at the Beginning of Fiscal Year 2023

In March 2020, the FASB issued Accounting Standards Update ("ASU") 2020-04, *Reference Rate Reform (Topic 848): Facilitation of the Effects of Reference Rate Reform on Financial Reporting*, which provides companies with optional guidance to ease the potential accounting burden associated with transitioning away from reference rates that are expected to be discontinued. It was effective for all entities as of March 12, 2020 through December 31, 2022. A company may elect to apply the amendments for contract modifications as of any date from the beginning of an interim period that includes or is subsequent to March 12, 2020, or prospectively from a date within an interim period that includes or is subsequent to March 12, 2020, up to the date that the financial statements are available to be issued. In December 2022, the FASB issued ASU 2022-06, *Reference Rate Reform (Topic 848): Deferral of the Sunset Date of Topic 848*, which provides optional guidance to ease the potential burden in accounting for (or recognizing the effects of) reference rate reform by delaying the effective date of the guidance issued in ASU 2020-04 to December 31, 2024. As described in Note 8, Long-Term Debt, during the quarter ended April 2, 2023 the Company refinanced its debt with interest to be calculated prospectively with reference to SOFR, and accordingly adopted this standard, which did not materially impact the financial statements presented herein.

In September 2022, the FASB issued ASU 2022-04, *Liabilities — Supplier Finance Programs (Subtopic 405-50): Disclosure of Supplier Finance Program Obligations*, which requires certain disclosures be made by a buyer in a supplier finance program, including the key terms of the program and, for the obligations that the buyer has confirmed as valid to the finance provider, the amount outstanding that remains unpaid by the buyer as of the end of the fiscal period, a description of where those obligations are presented in the balance sheet, and a rollforward of those obligations during the fiscal period. It is effective for all entities for fiscal years beginning after December 15, 2022, including interim periods within those fiscal years, except for the amendment on rollforward information, which is effective for fiscal years beginning after December 15, 2023. Early adoption is permitted. As such, the Company adopted this standard in the quarter ended April 2, 2023 and has disclosed the required information in Note 7, Vendor Finance Programs, other than the rollforward information which is not effective until fiscal years beginning after December 15, 2023.

Accounting Standards Adopted at the Beginning of Fiscal Year 2022

In November 2021, the FASB issued ASU 2021-10, *Government Assistance (Topic 832): Disclosures by Business Entities about Government Assistance*, which requires certain disclosures to be made when an entity receives government assistance, including the types of assistance, an entity's accounting for the assistance, and the effect of the assistance on an entity's financial statements. It is effective for all entities for financial statements issued for annual periods beginning after December 15, 2021. The adoption of this standard did not materially impact the financial statements presented herein.

In October 2021, the FASB issued ASU 2021-08, *Business Combinations (Topic 805): Accounting for Contract Assets and Contract Liabilities from Contracts with Customers*, which prescribes the measurement of acquired contract assets and contract liabilities arising from revenue contracts with customers recognized in a business combination. It is effective for public business entities for fiscal years beginning after December 15, 2022, including interim periods within those fiscal years. The amendments in this update should be applied prospectively to business combinations occurring on or after the effective date of the amendments. Early adoption is permitted, including adoption in an interim period. The adoption of this standard did not materially impact the financial statements presented herein.

Accounting Standards Adopted at the Beginning of Fiscal Year 2021

In December 2019, the FASB issued ASU 2019-12, *Income Taxes (Topic 740) Simplifying the Accounting for Income Taxes*. ASU 2019-12 simplifies the accounting for income taxes by removing certain exceptions in Topic 740 and clarifying and amending existing guidance. It is effective for annual and interim periods beginning after December 15, 2020, and interim periods within those fiscal years. There are several adoption methods for different amendments in this ASU, including retrospective method for amendments related to separate financial statements of legal entities that are not subject to tax, modified retrospective method for amendments related to changes in ownership of foreign equity method investments or subsidiaries, either retrospective or modified retrospective method for amendments related to franchise taxes that are partially based on income and prospective method for all other amendments. The adoption of this standard did not materially impact the financial statements presented herein.

Not Yet Adopted

In November 2023, the FASB issued ASU 2023-07, *Segment Reporting (Topic 280): Improvements to Reportable Segment Disclosures*, which requires a public entity to disclose significant segment expenses and other segment items on an annual and interim basis and provide in interim periods all disclosures about a reportable segment's profit or loss and assets that are currently required annually. Additionally, it requires a public entity to disclose the title and position of the Chief Operating Decision Maker ("CODM"). The ASU does not change how a public entity identifies its operating segments, aggregates them, or applies the quantitative thresholds to determine its reportable segments. The new standard is effective for fiscal years beginning after December 15, 2023, and interim periods within fiscal years beginning after December 15, 2024, with early adoption permitted. A public entity should apply the amendments in this standard retrospectively to all prior periods presented in the financial statements. We expect this standard to impact our segment disclosures, but with no impacts to our results of operations, cash flows, and financial condition.

In December 2023, the FASB issued ASU 2023-09, *Income Taxes (Topic 740): Improvements to Income Tax Disclosures*, which focuses on the rate reconciliation and income taxes paid disclosures. The standard requires a public business entity ("PBE") to disclose, on an annual basis, a tabular rate reconciliation using both percentages and currency amounts, broken out into specified categories with certain reconciling items further disaggregated by nature and jurisdiction to the extent those items exceed a specified threshold. In addition, all entities are required to disclose income taxes paid, net of refunds received disaggregated by federal, state, and foreign and by individual jurisdiction if the amount is at least 5% of total income tax payments, net of refunds received. For PBEs, the standard is effective for annual periods beginning after December 15, 2024, with early adoption permitted. An entity should apply the amendments in this standard prospectively, with retrospective application permitted. We expect this standard to impact our income tax disclosures, but with no impacts to our results of operations, cash flows, and financial condition.

There are other new accounting pronouncements issued by the FASB that the Company has adopted or will adopt, as applicable, and the Company does not believe any of these accounting pronouncements have had, or will have, a material impact on its audited Consolidated Financial Statements or disclosures.

Note 2 — Acquisitions

The Company strategically acquires companies in order to increase its footprint and sell products that diversify its existing offerings. These acquisitions are accounted for as business combinations using the acquisition method, whereby the purchase price is allocated to the assets acquired and liabilities assumed, based on their estimated fair values as of the date of the acquisition.

Transaction-related expenses as a result of these acquisitions, which exclude costs incurred to integrate the acquired entities, were recorded within Operating income in the Consolidated Statements of Operations (primarily Selling, general and administrative expenses) during the fiscal year such costs were incurred.

Goodwill recognized for these acquisitions represents the intangible assets that do not qualify for separate recognition and primarily includes the acquired customer base, the acquired workforce including shop partners in the region that have strong relationships with these customers, and the existing geographic shop and Ecommerce presence.

2023 Acquisitions

In the fiscal year ended December 31, 2023, there were no acquisitions accounted for as business combinations.

Equity Method Investment in KK France

In the fourth quarter of fiscal 2023, the Company invested approximately $1.4 million in cash to maintain a 33% noncontrolling ownership interest in Krispy Kreme Doughnuts France SAS ("KK France"). As the Company has the ability to exercise significant influence over KK France, but it does not exercise control, the investment is accounted for using the equity method, and equity method earnings are recognized within Other expenses/(income), net on the Consolidated Statements of Operations.

2022 Acquisitions

Acquisition of Krispy Kreme U.S. Shops in 2022

In the third quarter of fiscal 2022, the Company acquired the business and operating assets of one franchisee, consisting of seven Krispy Kreme shops in the U.S. The Company paid total consideration of $19.4 million, consisting of $17.3 million of cash at the acquisition date, $1.2 million of consideration payable to the sellers within 12 months of the acquisition date, and $0.9 million settlement of amounts related to pre-existing relationships, to acquire substantially all of the shops' assets.

The settlement of pre-existing relationships included in the purchase consideration includes the write-off of accounts and notes receivable, net of deferred revenue, of $0.3 million. It also includes the disposal of the franchise intangible asset related to the franchisee recorded at time of the acquisition of Krispy Kreme by JAB ("the JAB Merger"). The cumulative net book value of the franchise intangible asset was $0.6 million at the acquisition date. The Company accounted for the transaction as a business combination.

The following table summarizes the fair values of assets acquired and liabilities assumed as of the date of acquisition for the acquisition above.

		KK U.S. Shops
Assets acquired:		
Cash and cash equivalents	$	7
Prepaid expense and other current assets		138
Property and equipment, net		1,542
Other intangible assets, net		11,203
Operating lease right of use asset, net		4,702
Deferred income taxes, net		2,678
Other assets		11
Total identified assets acquired		**20,281**
Liabilities assumed:		
Accrued liabilities		(106)
Current operating lease liabilities		(221)
Noncurrent operating lease liabilities		(4,481)
Total liabilities assumed		**(4,808)**
Goodwill		3,975
Purchase consideration, net	**$**	**19,448**
Transaction costs in 2022	$	840
Transaction costs in 2021		6
Reportable segment		U.S.

The results of operations of the aforementioned acquired shops were consolidated by the Company from the date of acquisition and include $3.7 million of total revenue and $0.3 million of net income attributable to the Company for fiscal year 2022. The amounts do not reflect adjustments for franchise royalties and related expenses that the Company could have generated as revenue and expenses from the acquired franchisees during the fiscal year had the transaction not been completed.

Equity Method Investment in KK France

In the third quarter of fiscal 2022, the Company acquired a 33% noncontrolling ownership interest in the newly formed entity KK France, for approximately $1.0 million in cash.

2021 Acquisitions

Acquisition of KK Canada

On October 4, 2021, the Company acquired a 60% controlling ownership interest in ten franchise shops in Canada, KK Canada, for total consideration of approximately $14.7 million, consisting of approximately $14.4 million in cash and approximately $0.3 million related to settlement of pre-existing relationships.

The settlement of pre-existing relationships included in the purchase consideration includes the disposal of the franchise intangible asset related to the franchisee recorded by the Company in connection with the JAB Merger. The cumulative net book value of the franchise intangible asset was $0.3 million at the acquisition date. The Company accounted for the transaction as a business combination.

Other intangible assets consist of reacquired franchise rights with an estimated useful life equal to the weighted average remaining franchise agreement term. A total of $0.1 million of goodwill and reacquired franchise rights are expected to be deductible as goodwill for income tax purposes.

The fair value of the 40% noncontrolling interest in KK Canada was estimated to be $9.8 million. The fair value estimate was based on a total value of the equity in KK Canada derived from the consideration paid by the Company for its equity interests.

Acquisition of Other Krispy Kreme Shops in 2021

In the first quarter of fiscal 2021, the Company acquired the business and operating assets of two franchisees, collectively consisting of 17 Krispy Kreme shops in the U.S. The Company paid total consideration of $38.1 million, consisting of $33.9 million of cash at the respective acquisition dates, $0.9 million of consideration payable to the sellers within 12 months of the respective acquisition dates, and $3.3 million settlement of amounts related to pre-existing relationships, to acquire substantially all of the shops' assets.

The settlement of pre-existing relationships included in the purchase consideration includes the write-off of accounts and notes receivable, net of deferred revenue, of $0.6 million. It also includes the disposal of the franchise intangible asset related to the two franchisees recorded by the Company in connection with the JAB Merger. The cumulative net book value of the franchise intangible assets was $2.7 million at the acquisition dates. The Company accounted for the transactions as business combinations.

The following table summarizes the fair values of assets acquired and liabilities assumed as of the date of acquisition for the acquisitions above.

	KK Canada	KK U.S. Shops	Total Purchase Price Allocation for Acquisitions
Assets acquired:			
Cash and cash equivalents	$ 2,015	$ 40	$ 2,055
Prepaid expense and other current assets	301	474	775
Property and equipment, net	2,365	3,829	6,194
Other intangible assets, net	6,873	23,906	30,779
Operating lease right of use asset, net	2,894	19,292	22,186
Other assets	103	897	1,000
Total identified assets acquired	**14,551**	**48,438**	**62,989**
Liabilities assumed:			
Accounts payable	(1,639)	—	(1,639)
Accrued liabilities	(489)	(334)	(823)
Current operating lease liabilities	(554)	(2,093)	(2,647)
Noncurrent operating lease liabilities	(2,327)	(17,199)	(19,526)
Deferred income taxes, net	(2,021)	—	(2,021)
Total liabilities assumed	**(7,030)**	**(19,626)**	**(26,656)**
Goodwill	17,036	9,254	26,290
Noncontrolling interest	(9,822)	—	(9,822)
Purchase consideration, net	**$ 14,735**	**$ 38,066**	**$ 52,801**
Transaction costs in 2021	$ 2,502	$ 1,251	$ 3,753
Transaction costs in 2020	24	184	208
Reportable segment	Market Development	U.S.	

The results of operations of the aforementioned acquired shops were consolidated by the Company from the date of acquisition and include $44.1 million of total revenue and $4.3 million of net income attributable to the Company for fiscal year 2021. The amounts do not reflect adjustments for franchise royalties and related expenses that the Company could have generated as revenue and expenses from the acquired franchisees during the fiscal year had the transaction not been completed.

Supplemental unaudited pro forma information

The following unaudited pro forma information presents estimated combined results of the Company as if the 2022 acquisitions had occurred on January 4, 2021, and the 2021 acquisitions had occurred on December 30, 2019:

	Fiscal Years Ended		
	December 31, 2023	January 1, 2023	January 2, 2022
Revenue	$ 1,686,104	$ 1,529,898	$ 1,384,391
Loss before income taxes	(40,994)	(8,163)	(4,098)

The acquisitions of KK Canada and "Other Krispy Kreme U.S. Shops" are not material to the Company's financial statements, and therefore, the supplemental pro forma financial information related to these acquisitions is not included herein. These supplemental pro forma results are unaudited and are not necessarily indicative of results of operations that would have occurred had the acquisitions actually closed in the prior period. The pro forma results are also not indicative of results of operations for any future period.

Note 3 — Accounts Receivable, net

The components of Accounts receivable, net are as follows:

	December 31, 2023	January 1, 2023
Trade receivables, net	$ 45,858	$ 40,131
Other receivables, net	12,478	10,262
Receivables from related parties, net	1,026	696
Total accounts receivable, net	**$ 59,362**	**$ 51,089**

Receivables from related parties, net includes receivables from equity method investees. Refer to Note 16, Related Party Transactions, to the audited Consolidated Financial Statements for further information.

Note 4 — Inventories

The components of Inventories are as follows:

	December 31, 2023	January 1, 2023
Raw materials	$ 21,000	$ 20,713
Work in progress	211	476
Finished goods and purchased merchandise [1]	13,505	25,050
Total inventories	**$ 34,716**	**$ 46,239**

[1] During the fiscal years ended December 31, 2023, January 1, 2023, and January 2, 2022, the Company recognized inventory write-offs of $11.2 million, $0.9 million, and $4.1 million respectively. The inventory write-offs in the fiscal year ended December 31, 2023, primarily related to the decision to exit the Branded Sweet Treats business.

Note 5 — Property and Equipment, net

Property and equipment, net consist of the following:

	December 31, 2023	January 1, 2023
Land	$ 12,115	$ 11,534
Buildings	158,672	154,768
Leasehold improvements	285,012	216,507
Machinery and equipment	355,044	282,222
Computer software	90,019	66,054
Construction and projects in progress	42,816	62,405
Property and equipment, gross	**943,678**	**793,490**
Less: Accumulated depreciation	(405,458)	(321,132)
Total property and equipment, net	**$ 538,220**	**$ 472,358**

Computer software includes $10.4 million and $9.6 million of costs to develop, code, test and license software under hosting arrangements as of December 31, 2023 and January 1, 2023, respectively. Software under hosting arrangements consists primarily of solutions that empower the Company's consumer-facing website and mobile application. Total depreciation expense was $88.9 million, $76.8 million, and $68.6 million in the fiscal years ended December 31, 2023, January 1, 2023, and January 2, 2022, respectively.

Note 6 — Goodwill and Other Intangible Assets

Goodwill

Changes in the carrying amount of goodwill by reportable segment are as follows:

	U.S.	International	Market Development	Total
Balance as of January 2, 2022	**$ 669,564**	**$ 283,342**	**$ 152,416**	**$ 1,105,322**
Acquisitions	8,504	—	(4,417)	4,087
Foreign currency impact	—	(20,460)	(1,041)	(21,501)
Balance as of January 1, 2023	**678,068**	**262,882**	**146,958**	**1,087,908**
Measurement period adjustments related to fiscal year 2022 acquisitions	(112)	—	—	(112)
Foreign currency impact	—	13,797	346	14,143
Balance as of December 31, 2023	**$ 677,956**	**$ 276,679**	**$ 147,304**	**$ 1,101,939**

Acquisitions of franchises result in a reclassification of goodwill between segments.

Other Intangible Assets

Other intangible assets consist of the following:

	December 31, 2023			January 1, 2023		
	Gross Carrying Amount	Accumulated Amortization	Net Amount	Gross Carrying Amount	Accumulated Amortization	Net Amount
Intangible assets with indefinite lives						
Trade name	$ 657,980	$ —	$ 657,980	$ 657,900	$ —	$ 657,900
Intangible assets with definite lives						
Franchise agreements	30,390	(10,744)	19,646	30,632	(9,372)	21,260
Customer relationships	15,000	(6,413)	8,587	15,000	(5,548)	9,452
Reacquired franchise rights [(1)]	397,279	(137,143)	260,136	383,002	(105,526)	277,476
Website development costs	—	—	—	6,500	(6,500)	—
Total intangible assets with definite lives	**442,669**	**(154,300)**	**288,369**	**435,134**	**(126,946)**	**308,188**
Total intangible assets	**$ 1,100,649**	**$ (154,300)**	**$ 946,349**	**$ 1,093,034**	**$ (126,946)**	**$ 966,088**

(1) Reacquired franchise rights include the impact of foreign currency fluctuations associated with the respective countries.

Amortization expense related to intangible assets included in Depreciation and amortization expense was $29.4 million, $28.5 million, and $29.8 million for the fiscal years ended December 31, 2023, January 1, 2023 and January 2, 2022, respectively.

Estimated future amortization expense as of December 31, 2023 is as follows:

Fiscal year	Estimated amortization expense
2024	$ 29,768
2025	29,768
2026	29,849
2027	29,585
2028	29,537
Thereafter	139,862
Total	**$ 288,369**

The aforementioned estimates do not reflect the impact of future foreign exchange rate changes.

Note 7 — Vendor Finance Programs

The following table presents liabilities related to vendor finance programs which the Company participates in as a buyer as of December 31, 2023 and January 1, 2023:

	December 31, 2023	January 1, 2023	Balance Sheet Location
Supply chain financing programs	$ 51,239	$ 159,426	Accounts payable
Structured payables programs	130,104	103,575	Structured payables
Total Liabilities	**$ 181,343**	**$ 263,001**	

Supply Chain Financing Programs

The Company has an agreement with a third-party administrator which allows participating vendors to track payments from the Company, and if voluntarily elected by the vendor, to sell payment obligations from the Company to financial institutions as part of the SCF program. The Company's typical payment terms for trade payables range up to 180 days outside of the SCF program, depending on the type of vendors and the nature of the supplies or services. For vendors under the SCF program, the Company has established payable terms ranging up to, but not exceeding, 360 days. When participating vendors elect to sell one or more of the Company’s payment obligations, the Company’s rights and obligations to settle the payables on their contractual due date are not impacted. The Company has no economic or commercial interest in a vendor’s decision to enter into these agreements and the financial institutions do not provide the Company with incentives such as rebates or profit sharing to the Company under the SCF program. The Company and vendors agree on commercial terms for the goods and services procured, which are consistent with payment terms observed at other peer companies in the industry. The Company’s obligations to its vendors, including amounts due, are not impacted by the SCF program and thus remain classified as Accounts payable on the Consolidated Balance Sheets and the associated cash flows are included in operating activities in the Consolidated Statements of Cash Flows.

Structured Payables Programs

The Company utilizes various card products issued by financial institutions to facilitate purchases of goods and services. By using these products, the Company may receive differing levels of rebates based on timing of repayment. The payment obligations under these card products are classified as Structured payables on the Consolidated Balance Sheets and the associated cash flows are included in financing activities in the Consolidated Statements of Cash Flows.

Note 8 — Long-Term Debt

The Company’s long-term debt obligations consists of the following:

	December 31, 2023	January 1, 2023
2023 Facility — term loan	$ 682,500	$ —
2023 Facility — revolving credit facility	155,000	—
Short-term lines of credit	11,000	—
2019 Facility - term loan	—	586,250
2019 Facility - revolving credit facility	—	162,500
Less: Debt issuance costs	(4,371)	(2,247)
Financing obligations	47,117	32,583
Total long-term debt	**891,246**	**779,086**
Less: Current portion of long-term debt	(54,631)	(40,034)
Long-term debt, less current portion	**$ 836,615**	**$ 739,052**

2023 and 2019 Secured Credit Facilities

In March 2023, the Company entered into a credit agreement (the “2023 Facility”) consisting of a $300.0 million senior secured revolving credit facility and a term loan with a principal amount of $700.0 million. The initial proceeds of the 2023 Facility were used, in part, to refinance the loans and commitments under the Company’s existing credit agreement (the “2019 Facility”), and thereupon terminate the 2019 Facility. The loans and commitments under the 2019 Facility were due to mature in June 2024, and the loans and commitments under the 2023 Facility will mature in March 2028. In addition to refinancing the loans and commitments under the 2019 Facility, loans made pursuant to the 2023 Facility may be used for general corporate purposes of the Company (including, but not limited to, financing working capital needs, capital expenditures, acquisitions, other investments, dividends, and stock repurchases) and for any other purpose not prohibited under the related loan documents. The 2023 Facility is secured by a first priority lien on substantially all of the Company’s personal property assets, certain real properties, and all of the Company’s domestic wholly owned subsidiaries.

The Company capitalized $7.5 million of debt issuance costs related to the 2023 Facility, $5.3 million of which is related to the term loan and $2.2 million related to the revolving credit facility. Additionally, the Company recognized $0.5 million expenses during the fiscal year ended December 31, 2023 related to unamortized debt issuance costs from the 2019 Facility associated with extinguished lenders, which are included in Interest expense, net in the Consolidated Statements of Operations.

After consideration of outstanding borrowings and letters of credit secured by the 2023 Facility, the Company had $145.0 million of available borrowing capacity under the revolving credit facility as of December 31, 2023. After consideration of outstanding borrowings and letters of credit secured by the 2019 Facility, the Company had $137.5 million of available borrowing capacity under the revolving credit facility as of January 1, 2023.

The 2023 Facility provides for quarterly scheduled principal payments on the term loan and repayment of all outstanding balances on the term loan and revolving credit facility at maturity, March 23, 2028. Further, the Company may be required to prepay additional amounts annually upon the occurrence of a prepayment event as defined in the 2023 Facility. Because the amounts of any such future repayments are not currently determinable, they are excluded from the long-term debt maturities schedule below.

The terms of the 2023 Facility are substantially similar to those of the 2019 Facility, except for the maturity date and the benchmark interest rate. Borrowings under the 2023 Facility are generally subject to an interest rate of adjusted term SOFR plus a credit spread adjustment of 0.10% plus (i) 2.25% if the Company’s leverage ratio (as defined in the 2023 Facility) equals or exceeds 4.00 to 1.00, (ii) 2.00% if the Company’s leverage ratio is less than 4.00 to 1.00 but greater than or equal to 3.00 to 1.00, or (iii) 1.75% if the Company’s leverage ratio is less than 3.00 to 1.00. As of December 31, 2023 and January 1, 2023, the unhedged interest rate was 7.46% under the 2023 Facility and 4.44% under the 2019 Facility, respectively. As of December 31, 2023 and January 1, 2023, $505.0 million out of the $682.5 million term loan balance and $505.0 million out of the $586.3 million term loan balance, respectively, was hedged, with the interest rate swap agreements scheduled to mature in June 2024. The effective interest rate on the term loan was approximately 6.80% and 5.45% for the fiscal years ended December 31, 2023 and January 1, 2023, respectively. Refer to Note 11, Derivative Instruments for further discussion of the interest rate swap arrangements.

The 2023 Facility allows the Company to obtain letters of credit by applying those amounts against the usage of the senior secured revolving credit facility. If obtained, the Company would be required to pay a fee equal to the Applicable Rate for SOFR-based loans on the outstanding amount of letters of credit plus a fronting fee to the issuing bank. Commitment fees on the unused portion of the senior secured revolving credit facility range from 0.25% to 0.375%, based on the Company's leverage ratio. At December 31, 2023, January 1, 2023 and January 2, 2022, the fee on the unused portion of the senior secured revolving credit facility was 0.25%, included in Interest expense in the Consolidated Statements of Operations.

Restrictions and Covenants

The 2023 Facility requires the Company to meet a maximum leverage ratio financial test. The leverage ratio is required to be less than 5.00 to 1.00 as of the end of each quarterly Test Period (as defined in the 2023 Facility) through maturity in March 2028. The leverage ratio under the 2023 Facility is defined as the ratio of (a) Total Indebtedness (as defined in the 2023 Facility, which includes all debt and finance lease obligations) minus unrestricted cash and cash equivalents to (b) a defined calculation of Adjusted EBITDA ("2023 Facility Adjusted EBITDA") for the most recently ended Test Period. The 2023 Facility Adjusted EBITDA for purposes of these restrictive covenants includes incremental adjustments beyond those included in the Company's Adjusted EBITDA non-GAAP measure. Specifically, the 2023 Facility Adjusted EBITDA definition includes pro forma impact of EBITDA to be received from new shop openings and acquisitions for periods not yet in operation, certain acquisition related synergies and cost optimization activities, and incremental add-backs for pre-opening costs.

The 2023 Facility also contains covenants which, among other things, generally limit (with certain exceptions): mergers, amalgamations, or consolidations; the incurrence of additional indebtedness (including guarantees); the incurrence of additional liens; the sale, assignment, lease, conveyance, or transfer of assets; certain investments; dividends and stock redemptions or repurchases in excess of certain amounts; transactions with affiliates; engaging in materially different lines of business; and other activities customarily restricted in such agreements. The 2023 Facility also prohibits the transfer of cash or other assets to the parent company, whether by dividend, loan, or otherwise, but provides for exceptions to enable the parent company to pay taxes, directors' fees, and operating expenses, as well as exceptions to permit dividends in respect of the Company's common stock and stock redemptions and repurchases, to the extent permitted by the 2023 Facility. Subject to certain exceptions, the borrowings under the 2023 Facility are collateralized by substantially all of the Company's assets (including its equity interests in its subsidiaries). As of December 31, 2023 and January 1, 2023, the Company was in compliance with the financial covenants related to the 2023 Facility and 2019 Facility, respectively.

The 2023 Facility also contains customary events of default including, but not limited to, payment defaults, breaches of representations and warranties, covenant defaults, non-loan party indebtedness in excess of $35.0 million, certain events of bankruptcy and insolvency, judgment defaults in excess of $35.0 million, and the occurrence of a change of control.

Borrowings and issuances of letters of credit under the 2023 Facility are subject to the satisfaction of usual and customary conditions, including the accuracy of representations and warranties and the absence of defaults.

The aggregate maturities of the 2023 Facility for each of the following five years by fiscal year are as follows:

Fiscal year	Principal Amount
2024	$ 35,000
2025	35,000
2026	35,000
2027	35,000
2028	697,500

Short-Term Lines of Credit

In September 2023, the Company approved two new agreements with existing lenders providing for short-term, uncommitted lines of credit up to $25.0 million. Borrowings under these short-term lines of credit are payable to the lenders on a revolving basis for tenors up to a maximum of three months and are subject to an interest rate of adjusted term SOFR plus a credit spread adjustment of 0.10% plus a margin of 1.75%. As of December 31, 2023, the Company had drawn $11.0 million under the agreements which is classified within Current portion of long-term debt on the Consolidated Balance Sheets.

Term Loan Facility

On June 10, 2021, the Company entered into the Term Loan Facility. On June 17, 2021, the Company borrowed $500.0 million under the Term Loan Facility. The borrowings under the Term Loan Facility bore an all-in interest rate of 2.68175%. As of December 31, 2023, there was no outstanding principal amount under the Term Loan Facility, as it was paid off in full and terminated on July 7, 2021, primarily using the net IPO proceeds with the difference being partially funded by a drawdown of $100.0 million on the 2019 Facility's revolving credit facility. The Term Loan Facility would have matured on the earlier of (i) June 10, 2022 and (ii) within four business days following consummation of the IPO. The interest expense was $2.4 million for the fiscal year ended January 2, 2022, which included $1.7 million of debt issuance costs incurred and recognized as expenses.

Cash Payments of Interest

Interest paid, inclusive of debt issuance costs, totaled $55.8 million, $30.7 million, and $44.3 million in the fiscal years ended December 31, 2023, January 1, 2023, and January 2, 2022, respectively.

Financing Obligations

The Company has long-term financing obligations primarily in the form of lease obligations (related to both Company-owned and franchised restaurants). Refer to Note 9, Leases, to the audited Consolidated Financial Statements for additional discussion of the financing obligations.

Note 9 — Leases

The Company has various lease agreements related to real estate, vehicles, and equipment. Its operating leases include real estate (buildings and ground), vehicles, and equipment. Operating lease right of use assets and operating lease liabilities are recognized based on the present value of the future lease payments over the term. The operating lease right of use asset also includes accrued lease expense resulting from the straight-line accounting under prior accounting methods, which is now being amortized over the remaining life of the lease.

The Company is the lessee on a number of ground leases and multiple building leases, which were classified as operating leases prior to the adoption of ASC 842. As the Company elected the package of practical expedients upon adoption of ASC 842, the Company was not required to reassess the classification of these existing leases and as such, these leases continue to be accounted for as operating leases. In the event the Company modifies the existing leases or enters into new ground or building leases in the future, such leases may be classified as finance leases.

The Company's finance leases relate primarily to vehicles and equipment. The lease payments are largely fixed in nature. The Company is generally obligated for the cost of property taxes, insurance, and common area maintenance relating to its leases, which are variable in nature. The Company determines the variable payments based on invoiced amounts from lessors. The Company has elected to not apply the recognition requirements to leases of 12 months or less. These leases will be expensed on a straight-line basis, and no operating lease liability will be recorded.

The Company included the following amounts related to operating and finance lease assets and liabilities within the Consolidated Balance Sheets:

		As of	
		December 31, 2023	**January 1, 2023**
Assets	**Classification**		
Operating lease	Operating lease right of use asset, net	$ 456,964	$ 417,381
Finance lease	Property and equipment, net	41,411	26,958
Total leased assets		**$ 498,375**	**$ 444,339**
Liabilities			
Current			
Operating lease	Current operating lease liabilities	$ 50,365	$ 43,160
Finance lease	Current portion of long-term debt	8,631	5,034
Noncurrent			
Operating lease	Noncurrent operating lease liabilities	454,583	412,759
Finance lease	Long-term debt, less current portion	38,486	27,549
Total leased liabilities		**$ 552,065**	**$ 488,502**

The Company has long-term contractual obligations primarily in the form of lease obligations related to Company-operated restaurants and franchised restaurants. Interest expense associated with the finance lease obligations is computed using the IBR at the time the lease is entered into and is based on the amount of the outstanding lease obligation.

The weighted-average remaining lease term and weighted-average discount rate for operating and finance leases were as follows:

	As of	
	December 31, 2023	January 1, 2023
Weighted average remaining lease term:		
Operating lease	10.8 years	11.3 years
Finance lease	7.7 years	10.1 years
Weighted average discount rate:		
Operating lease	7.03 %	6.69 %
Finance lease	7.29 %	6.98 %

Lease costs were as follows:

		Fiscal Years Ended		
		December 31, 2023	January 1, 2023	January 2, 2022
Lease cost	**Classification**			
Operating lease cost	Selling, general and administrative expense	$ 3,541	$ 3,390	$ 2,481
Operating lease cost	Operating expenses	89,539	85,173	85,429
Short-term lease cost	Operating expenses	5,064	5,234	2,513
Variable lease costs	Operating expenses	31,726	23,996	16,414
Sublease income	Royalties and other revenues	(140)	(210)	(386)
Finance lease cost:				
Amortization of right of use assets	Depreciation and amortization expense	$ 7,639	$ 5,027	$ 3,217
Interest on lease liabilities	Interest expense, net	2,709	1,958	2,002

Supplemental disclosures of cash flow information related to leases were as follows:

	Fiscal Years Ended		
	December 31, 2023	January 1, 2023	January 2, 2022
Other information			
Cash paid for leases:			
Operating cash flows for operating leases (1)	$ 117,977	$ 104,506	$ 91,967
Operating cash flows for finance leases	2,649	2,116	1,916
Financing cash flows for finance leases	8,442	4,681	4,901
Right of use assets obtained in exchange for new lease liabilities:			
Operating leases	$ 86,549	$ 50,368	$ 95,284
Finance leases	22,785	8,158	2,328

(1) Operating cash flows for operating leases include variable rent payments which are not included in the measurement of lease liabilities. For the fiscal years ending December 31, 2023, January 1, 2023, and January 2, 2022, variable rent payments were $31.7 million, $24.0 million, and $16.4 million, respectively.

A majority of the leases include options to extend the lease. If the Company is reasonably certain to exercise an option to extend a lease, the extension period is included as part of the right of use asset and the lease liability. The Company's leases do not contain restrictions or covenants that restrict the Company from incurring other financial obligations. The Company also does not provide any residual value guarantees for the leases or have any significant leases that have yet to be commenced.

At the inception of the contract, management determines if the contract is or contains a lease. A contract is or contains a lease if it conveys the right to control the use of an identified asset for a period of time in exchange for consideration. The IBR reflects a fully secured rate based on the credit rating taking into consideration the repayment timing of the lease and any impacts due to the economic environment in which the lease operates. The estimate of the IBR reflects considerations such as market rates for the outstanding debt, interpolations of rates for leases with terms that differ from the outstanding debt, and market rates for debt of companies with similar credit ratings.

Future lease commitments to be paid by the Company as of December 31, 2023 were as follows:

Fiscal year	Operating Leases	Finance Leases
2024	$ 88,830	$ 12,384
2025	81,611	9,863
2026	79,807	9,838
2027	66,174	6,340
2028	56,068	4,407
Thereafter	386,706	20,513
Total lease payments	**759,196**	**63,345**
Less: Interest	(254,248)	(16,228)
Present value of lease liabilities	**$ 504,948**	**$ 47,117**

In the fiscal year ended December 31, 2023, the Company completed a sale-leaseback transaction whereby it disposed of the land at one real estate property for proceeds of $10.0 million. The Company subsequently leased back the property, which is accounted for as an operating lease. The Company recognized a cumulative gain on sale of $9.6 million, which is included in Other expenses/(income), net on the Consolidated Statements of Operations.

In the fiscal year ended January 1, 2023, the Company completed sale-leaseback transactions whereby it disposed of the land at three real estate properties for proceeds of $8.4 million. The Company subsequently leased back the properties, which are accounted for as operating leases. The Company recognized cumulative gains on sale of $6.5 million, which are included in Other expenses/(income), net on the Consolidated Statements of Operations.

Note 10 — Fair Value Measurements

The following table presents assets and liabilities that are measured at fair value on a recurring basis as of December 31, 2023 and January 1, 2023:

	December 31, 2023	
	Level 1	Level 2
Assets:		
Interest rate derivatives	—	1,596
Total Assets	**$ —**	**$ 1,596**
Liabilities:		
Foreign currency derivatives	$ —	$ 345
Commodity derivatives	—	113
Total Liabilities	**$ —**	**$ 458**

	January 1, 2023	
	Level 1	Level 2
Assets:		
401(k) mirror plan assets	$ 6	$ —
Interest rate derivatives	—	10,461
Commodity derivatives	—	514
Total Assets	**$ 6**	**$ 10,975**
Liabilities:		
Foreign currency derivatives	$ —	$ 170
Total Liabilities	**$ —**	**$ 170**

There were no assets nor liabilities measured using Level 3 inputs and no transfers of financial assets or liabilities among the levels within the fair value hierarchy during the fiscal years ended December 31, 2023 and January 1, 2023. The Company's derivatives are valued using discounted cash flow analyses that incorporate observable market parameters, such as interest rate yield curves and currency rates.

Note 11 — Derivative Instruments

The Company is exposed to certain risks relating to its ongoing business operations. Management evaluates various strategies in managing its exposure to market-based risks, such as entering into transactions to manage its exposure to commodity price risk and floating interest rates. The Company does not hold or issue derivative instruments for trading purposes. The Company is exposed to credit-related losses in the event of non-performance by the counterparties to its derivative instruments. The Company mitigates this risk of nonperformance by dealing with highly rated counterparties.

Commodity Price Risk

The Company uses forward contracts to protect against the effects of commodity price fluctuations in the cost of ingredients of its products, of which flour, sugar, and shortening are the most significant, and the cost of fuel used by its delivery vehicles. Management has not designated these forward contracts as hedges. As of December 31, 2023 and January 1, 2023 the total notional amount of commodity derivatives was 1.8 million and 1.7 million gallons of fuel, respectively. They were scheduled to mature between January 1, 2024 and December 31, 2024, and January 2, 2023 and December 1, 2024, respectively. As of December 31, 2023 and January 1, 2023, the Company has recorded a liability of $0.1 million and an asset of $0.5 million, respectively, related to the fair market values of its commodity derivatives. The settlement of commodity derivative contracts is reported in the Consolidated Statements of Cash Flows as a cash flow from operating activities.

Interest Rate Risk

The Company is exposed to market risk from increases in interest rates on any borrowings under its debt facilities. As of the end of fiscal 2020, the Company was entered into various interest rate swap agreements with a notional amount totaling $505.0 million. Under these interest rate swap agreements, the Company made payments based on a fixed rate of 1.99% for $300.0 million of the hedged notional, 2.72% for $155.0 million of the hedged notional, and 0.95% for $50.0 million of the hedged notional, and in exchange received payments at a variable rate based on the one-month LIBOR. These agreements were all due to mature in June 2024.

In the fourth quarter of fiscal 2022, the Company cancelled certain interest rate swap agreements with an aggregate notional amount of $240.0 million, collecting $8.5 million in cash proceeds, and entered into new agreements with the same counterparties. The only difference between these new agreements and the prior versions included the setting of a new payment rate on the fixed component of the swaps (4.64%).

In the first quarter of fiscal 2023, the Company cancelled certain interest rate swap agreements with an aggregate notional amount of $265.0 million, collecting $7.7 million in cash proceeds, and entered into new agreements with the same counterparties. The primary difference between these new agreements and the prior versions included the setting of a new payment rate on the fixed component of the swaps (4.38%). At the same time, the Company also amended the benchmark interest rate on the floating component of all $505.0 million hedged notional to one-month SOFR, corresponding to the new interest rate on its refinanced credit facility discussed in Note 8, Long-Term Debt, to the audited Consolidated Financial Statements.

The net effect of the interest rate swap arrangements will be to fix the interest rate on the term loan under the 2023 Facility up to the notional amount outstanding at the rates payable under the swap agreements plus the Applicable Rate (as defined by the 2023 Facility), through the swap maturity dates in June 2024. Management has designated the interest rate swap agreements as cash flow hedges and recognized the changes in the fair value of these swaps in other comprehensive income. As of December 31, 2023 and January 1, 2023, the Company has recorded assets of $1.6 million and $10.5 million, respectively, related to the fair market values of its interest rate derivatives. The cash flows associated with the interest rate swaps are reflected in the operating activities in the Consolidated Statements of Cash Flows, which is consistent with the classification as operating activities of the interest payments on the term loan.

All of the interest rate swap derivatives have certain early termination triggers caused by an event of default or termination. The events of default include failure to make payments when due, failure to give notice of a termination event, failure to comply with or perform obligations under the agreements, bankruptcy or insolvency, and defaults under other agreements (cross-default provisions).

Foreign Currency Exchange Rate Risk

The Company is exposed to foreign currency risk primarily from its investments in consolidated subsidiaries that operate in Canada, the U.K., Ireland, Australia, New Zealand, Mexico, and Japan. In order to mitigate foreign exchange fluctuations, the Company enters into foreign exchange forward contracts. Management has not designated these forward contracts as hedges. As of December 31, 2023 and January 1, 2023, the total notional amount of foreign exchange derivatives was $49.8 million and $59.0 million, respectively. They were scheduled to mature in January 2024 and between January 2023 and February 2023, respectively. As of December 31, 2023 and January 1, 2023, the Company has recorded liabilities of $0.3 million and $0.2 million, respectively, related to the fair market values of its foreign exchange derivatives.

Quantitative Summary of Derivative Positions and Their Effect on Results of Operations

The following tables present the fair values of derivative instruments included in the Consolidated Balance Sheets as of December 31, 2023 and January 1, 2023 for derivatives not designated as hedging instruments and derivatives designed as hedging instruments, respectively. The Company only has cash flow hedges that are designated as hedging instruments.

Derivatives Not Designated as Hedging Instruments	Derivatives Fair Value December 31, 2023	January 1, 2023	Balance Sheet Location
Commodity derivatives	$ —	$ 514	Prepaid expense and other current assets
Total Assets	**$ —**	**$ 514**	
Foreign currency derivatives	$ 345	$ 170	Accrued liabilities
Commodity derivatives	113	—	Accrued liabilities
Total Liabilities	**$ 458**	**$ 170**	

Derivatives Designated as Hedging Instruments	Derivatives Fair Value December 31, 2023	January 1, 2023	Balance Sheet Location
Interest rate derivatives (current)	$ 1,596	$ 7,218	Prepaid expense and other current assets
Interest rate derivatives (noncurrent)	—	3,243	Other assets
Total Assets	**$ 1,596**	**$ 10,461**	

The effect of derivative instruments on the Consolidated Statements of Operations for the fiscal years ended December 31, 2023, January 1, 2023, and January 2, 2022 is as follows:

Derivatives Designated as Hedging Instruments	Derivative Gain/(Loss) Recognized in Income in Fiscal Years Ended December 31, 2023	January 1, 2023	January 2, 2022	Location of Derivative Gain/(Loss) Recognized in Income
Gain/(loss) on interest rate derivatives	$ 8,624	$ (2,727)	$ (10,291)	Interest expense, net
	$ 8,624	**$ (2,727)**	**$ (10,291)**	

Derivatives Not Designated as Hedging Instruments	Derivative (Loss)/Gain Recognized in Income in Fiscal Years Ended December 31, 2023	January 1, 2023	January 2, 2022	Location of Derivative (Loss)/Gain Recognized in Income
Loss on foreign currency derivatives	$ (175)	$ (90)	$ (62)	Other non-operating expense, net
(Loss)/gain on commodity derivatives	(627)	(972)	1,066	Other non-operating expense, net
	$ (802)	**$ (1,062)**	**$ 1,004**	

Note 12 — Employee Benefit Plans

Defined Contribution Plans

The Company has a 401(k) savings plan for Krispy Kremers in the U.S. (the "401(k) Plan") to which eligible employees may contribute up to 100% of their salary and bonus on a tax deferred basis, subject to statutory limitations. The Company currently matches 100% of the first 3% and 50% of the next 2% of compensation contributed by each employee to the 401(k) Plan. The Company match is immediately 100% vested.

The Company operates defined contribution plans in the U.K. and Ireland ("KKUK and Ireland Contribution Plans"), to which eligible employees may contribute up to 100% of their salary, subject to statutory limitations. The Company currently matches contributions at a rate of 3% of pensionable earnings. The KKUK and Ireland Contribution Plans are pension plans under which the Company pays fixed contributions into a separate entity. The Company has no legal or constructive obligations to pay further contributions if the fund does not hold sufficient assets to pay all employees the benefits relating to employee service in the current and prior periods. The Company has no further payment obligations once the contributions have been paid. The contributions are recognized as employee benefit expense when they are due. Prepaid contributions are recognized as an asset to the extent that a cash refund or a reduction in the future payments is available.

Insomnia Cookies sponsors a 401(k) plan (the "Insomnia Plan") which allows all its eligible employees to elect to defer up to 100% of their annual compensation not to exceed statutory limits. The Insomnia Plan provides for discretionary matching contributions, which may not exceed 2% of the employee's overall compensation.

KK Australia operates a defined contribution retirement benefit plan for its employees in Australia (the "Australia Plan") and in New Zealand (the "New Zealand Plan"). The Company contributes 11% of employee compensation to the Australia Plan and matches employee contributions of up to 3% of compensation to the New Zealand Plan.

KK Canada operates a Registered Retirement Savings Plan ("RRSP") for its employees in Canada (the "Canada Plan") which allows eligible employees to contribute. For certain salaried employees, the Company will match eligible employee contributions up to 2.5% of their annual base salary.

Total contribution plan expense for defined contribution plans is $8.5 million, $7.4 million, and $6.6 million for the fiscal years ended December 31, 2023, January 1, 2023, and January 2, 2022, respectively.

Other Employee Benefit Plans

The Company has a Nonqualified Deferred Compensation Plan (the "401(k) Mirror Plan") designed to enable officers of the Company whose contributions to the 401(k) Plan are limited by certain statutory limitations to have the same opportunity to defer compensation as is available to other employees of the Company under the qualified 401(k) savings plan. The investments are not a legally separate fund of assets and are subject to the claims of the Company's general creditors. Such investments are included in Other assets in the Consolidated Balance Sheets. The corresponding liability to participants is included in Other long-term obligations and deferred credits in the Consolidated Balance Sheets. There was no balance in the asset and corresponding liability account as of December 31, 2023 and the balance was less than $0.1 million as of January 1, 2023.

KK Mexico operates defined benefit plans for its employees related to seniority premium (the "Mexico Seniority Premium Plan") and termination indemnity (the "Mexico Termination Indemnity Plan"). The Mexico Seniority Premium Plan provides eligible employees a defined benefit of 12 days of salary per full year of service, and the Mexico Termination Indemnity Plan provides eligible employees a defined benefit of up to three months of base salary plus 20 days per year worked. Net periodic benefit cost for these plans totaled less than $0.2 million for the fiscal years ended December 31, 2023 and January 1, 2023, respectively.

Note 13 — Share-based Compensation

Restricted Stock Units ("RSUs") and Performance Stock Units ("PSUs")

The Company and certain of its subsidiaries issue time-vested RSUs and PSUs under their respective executive ownership plans and long-term incentive plans.

The time-vested RSUs are awarded to eligible employees and non-employee directors and entitle the grantee to receive shares of common stock at the end of a vesting period. The majority of RSUs vest in 54 months from the date of grant and include a minimum holding period of six months before the shareholder may redeem the shares. Certain RSUs vest over a 60-month period subsequent to the grant date (with 60% vesting during the third year following the grant date, 20% vesting during the fourth year, and 20% vesting at the end of the 60-month term). Throughout the vesting period and the holding period, shareholders are subject to the market risk on the value of their shares.

The PSU vesting is contingent upon the achievement of certain performance objectives and the awards are subject to a requisite service period. If the Company meets targets for the performance objectives at the end of the performance cycle, the Company awards a resulting number of shares of its common stock to the award holders. The number of shares may be increased to a maximum threshold (up to 200% of the target threshold set at the grant date, for a majority of the awards) or reduced to a minimum threshold (a floor of zero) based on the achievement of these performance objectives in accordance with the terms established at the award's grant date. The Company estimates the probability that the performance objectives will be achieved periodically and adjusts compensation expenses accordingly.

RSUs and PSUs held by KKI are granted to U.S. employees and directors as well as certain employees of the Company's subsidiaries. Certain U.K. employees receive RSUs held by KKUK. Certain Insomnia Cookies employees receive RSUs held by Insomnia Cookies. Certain Australia employees receive RSUs held by KK Australia. Certain Mexico employees receive RSUs held by KK Mexico.

Effective March 22, 2022 (the "modification date"), the Company amended certain KKI time-vested RSU agreements issued in fiscal 2021 to change the vesting terms to a graded-vesting schedule over a 54-month period subsequent to the original commencement date (with one-third vesting in 18 months following the vesting commencement date, one-third vesting in 36 months, and one-third vesting in 54 months). The impacted awards previously had a 54-month cliff vesting schedule. The modification affected approximately 615 grantees and approximately 1.1 million unvested RSUs. The amended vesting terms as of the modification date resulted in no incremental compensation cost and the remaining unrecognized compensation cost for each award will be recognized on a straight-line basis over the remaining requisite service period for the entire award.

RSU and PSU activity under the various plans during the fiscal years presented is as follows:

(in thousands, except per share amounts)	**Non-vested shares outstanding at January 2, 2022**	Granted	Vested	Forfeited	**Non-vested shares outstanding at January 1, 2023**	Granted	Vested	Forfeited	**Non-vested shares outstanding at December 31, 2023**
KKI									
RSUs and PSUs	**5,866**	1,049	1,060	909	**4,946**	3,063	669	555	**6,785**
Weighted Average Grant Date Fair Value	**$ 13.78**	14.27	11.79	14.24	**$ 14.23**	14.48	11.62	14.89	**$ 14.54**
KKUK									
RSUs	**60**	—	—	—	**60**	—	50	3	**7**
Weighted Average Grant Date Fair Value	**$ 15.77**	—	—	—	**$ 15.77**	—	13.41	21.21	**$ 29.80**
Insomnia Cookies									
RSUs	**33**	11	1	5	**38**	15	3	3	**47**
Weighted Average Grant Date Fair Value	**$ 79.66**	168.57	74.12	102.67	**$ 101.54**	156.25	63.70	116.58	**$ 120.21**
KK Australia									
RSUs	**1,897**	21	1,564	—	**354**	—	169	—	**185**
Weighted Average Grant Date Fair Value	**$ 1.48**	1.73	1.49	—	**$ 1.47**	—	1.36	—	**$ 1.57**
KK Mexico									
RSUs	**58**	2	—	—	**60**	—	—	40	**20**
Weighted Average Grant Date Fair Value	**$ 32.86**	40.14	—	—	**$ 33.08**	—	—	34.58	**$ 30.18**

The Company recorded total non-cash compensation expense related to the RSUs and PSUs under the plans of $20.6 million, $15.5 million, and $19.6 million for fiscal years ended December 31, 2023, January 1, 2023, and January 2, 2022, respectively. The net deferred tax benefit/(expense) recognized was $2.1 million, ($0.3 million), and ($4.9 million) for fiscal years ended December 31, 2023, January 1, 2023, and January 2, 2022, respectively.

The unrecognized compensation cost related to the unvested RSUs and PSUs and the weighted-average period over which such cost is expected to be recognized are as follows:

	As of December 31, 2023	
	Unrecognized Compensation Cost	Recognized Over a Weighted-Average Period of
KKI	$ 61,029	3.1 years
KKUK	105	2.5 years
Insomnia Cookies	3,661	1.0 year
KK Australia	92	1.5 years
KK Mexico	266	1.6 years

The estimated fair value of restricted stock is calculated using a market approach (i.e., market multiple is used for the KKI, KKUK and Insomnia Cookies' plans and an agreed-upon EBITDA buyout multiple is used for KK Australia and KK Mexico plans).

The total grant date fair values of shares vested under the KKI plan were $7.8 million, $12.5 million, and $24.0 million for the fiscal years ended December 31, 2023, January 1, 2023, and January 2, 2022, respectively. The total grant date fair values of shares vested under the KKUK plan was $0.7 million and $4.3 million for the fiscal years ended December 31, 2023 and January 2, 2022, respectively; no shares vested during the fiscal year ended January 1, 2023. The total grant date fair values of shares vested under the Insomnia Cookies plan was $0.2 million for the fiscal year ended December 31, 2023, and $0.1 million for each of the fiscal years ended January 1, 2023, and January 2, 2022. The total grant date fair values of shares vested under the KK Australia plan were $0.2 million and $2.3 million for the fiscal years ended December 31, 2023 and January 1, 2023, respectively; no shares vested for the fiscal year ended January 2, 2022. No shares under the KK Mexico plan vested during the three fiscal years presented.

Time-Vested Stock Options

KKI issues time-vested stock options under its Omnibus Incentive Plan. The stock options are awarded to eligible employees and entitle the grantee to purchase shares of common stock at the respective exercise price at the end of a vesting period. Stock options vest over a 60-month period subsequent to the grant date (with 60% vesting during the third year following the grant date, 20% vesting during the fourth year, and 20% vesting at the end of the 60-month term), and as such are subject to a service condition. The maximum contractual term of the stock options is 10 years.

The fair value of time-vested stock options was estimated on the date of grant using the Black-Scholes option pricing model. This model is impacted by the Company's stock price and certain assumptions related to the Company's stock and employees' exercise behavior. The expected term for stock options granted was estimated utilizing the simplified method. Management utilized the simplified method because the Company did not have sufficient historical exercise data to provide a reasonable basis upon which to estimate expected term. The risk-free interest rate assumption was based on yields of U.S. Treasury securities in effect at the date of grant with terms similar to the expected term. Expected volatility was estimated based on the Company's historical volatility, and also considering historical volatility of peer companies over a period equivalent to the expected term. Additionally, the dividend yield was estimated based on dividends currently being paid on the underlying common stock at the date of grant. Estimated and actual forfeitures have not had a material impact on share-based compensation expense.

The following weighted-average assumptions were utilized in determining the fair value of the time-vested stock options granted during the fiscal years presented:

	Fiscal Years Ended	
	December 31, 2023	January 1, 2023
KKI		
Risk-free interest rate	3.7 %	— %
Expected volatility	35.1 %	— %
Dividend yield	1.0 %	— %
Expected term (years)	6.5 years	—

A summary of the status of the time-vested stock options as of December 31, 2023 and changes during fiscal years presented is as follows:

(in thousands, except per share amounts)	Share options outstanding at January 2, 2022	Granted	Exercised	Forfeited or expired	Share options outstanding at January 1, 2023	Granted	Exercised	Forfeited or expired	Share options outstanding at December 31, 2023
KKI									
Options	**2,817**	—	—	248	**2,569**	424	—	—	**2,993**
Weighted Average Grant Date Fair Value	**$ 6.10**	—	—	6.10	**$ 6.10**	4.72	—	—	**$ 5.90**
Weighted Average Exercise Price	**$ 14.61**	—	—	14.61	**$ 14.61**	12.45	—	—	**$ 14.30**
Weighted Average Remaining Contractual Term (years)	**9.3 years**				**8.3 years**				**7.5 years**
Aggregate Intrinsic Value (in thousands)	**$ 12,151**				**$ —**				**$ 2,352**

The Company recorded total non-cash compensation expense related to the time-vested stock options of $3.6 million, $2.7 million, and $3.3 million for the fiscal years ended December 31, 2023, January 1, 2023, and January 2, 2022, respectively.

The unrecognized compensation cost related to the unvested stock options and the weighted-average period over which such cost is expected to be recognized are as follows:

	As of December 31, 2023	
	Unrecognized Compensation Cost	Recognized Over a Weighted-Average Period of
KKI	$ 8,203	2.3 years

No time-vested stock options under the KKI plan vested nor were exercised during the fiscal periods presented.

Note 14 — Income Taxes

Income (loss) before income taxes consisted of:

	Fiscal Years Ended		
	December 31, 2023	January 1, 2023	January 2, 2022
Domestic	$ (59,174)	$ (49,910)	$ (49,348)
Foreign	18,180	41,747	45,250
Loss before income taxes	**$ (40,994)**	**$ (8,163)**	**$ (4,098)**

Domestic income (loss) before income taxes includes unallocated corporate costs, which include general corporate expenses.

The components of the provision for income taxes are as follows:

	Fiscal Years Ended		
	December 31, 2023	**January 1, 2023**	**January 2, 2022**
Current:			
Federal	$ (2,213)	$ —	$ —
State	138	1,033	347
International	16,214	13,816	13,894
Total current	**$ 14,139**	**$ 14,849**	**$ 14,241**
Deferred and other:			
Federal	$ (10,971)	$ (13,960)	$ 4,310
State	(2,552)	4,280	(5,739)
International	(4,963)	(4,557)	(2,067)
Total deferred and other	**$ (18,486)**	**$ (14,237)**	**$ (3,496)**
Income tax (benefit)/expense	**$ (4,347)**	**$ 612**	**$ 10,745**

A reconciliation of the statutory U.S. federal income tax rate and the Company's effective tax rate is as follows:

	Fiscal Years Ended		
	December 31, 2023	**January 1, 2023**	**January 2, 2022**
Statutory federal rate	21.0 %	21.0 %	21.0 %
State income taxes, net of federal benefit	6.3	12.6	(2.8)
Foreign operations	(11.0)	(66.8)	(12.9)
Change in valuation allowance	(2.0)	24.9	14.3
Noncontrolling interest	(0.2)	17.2	46.8
Impact of uncertain tax positions	6.2	62.2	9.1
Other permanent differences	(0.6)	(1.5)	(14.2)
Transaction costs	—	(0.1)	(5.1)
Deferred adjustments	(3.8)	(48.7)	(96.1)
Share-based compensation	(6.3)	(30.3)	(217.4)
Other	1.0	2.0	(4.9)
Effective tax rate	**10.6 %**	**(7.5)%**	**(262.2)%**

The Company establishes valuation allowances for deferred income tax assets in accordance with GAAP, which provides that such valuation allowances shall be established unless realization of the income tax benefits is more likely than not.

The Company recognizes deferred income tax assets and liabilities based upon its expectation of the future tax consequences of temporary differences between the income tax and financial reporting bases of assets and liabilities. Deferred tax liabilities generally represent tax expense recognized for which payment has been deferred, or expenses which have been deducted in the Company's tax returns, but which have not yet been recognized as an expense in the financial statements. Deferred tax assets generally represent tax deductions or credits that will be reflected in future tax returns for which the Company has already recorded a tax benefit in the audited Consolidated Financial Statements.

The Company continues to assert permanent reinvestment with respect to its initial basis differences of international affiliates but does not assert indefinite reinvestment on the earnings of the foreign subsidiaries with the exception of its subsidiaries in Canada. Accordingly, no deferred taxes have been provided for with regard to the Company's initial basis difference in international affiliates. Due to the complexities of tax law in the respective jurisdictions, it is not practicable to estimate the tax liability that might be incurred if such earnings were remitted to the U.S. The Company has not established a deferred tax liability for the earnings of the foreign subsidiaries as any distributions made from those jurisdictions are expected to be made in a tax neutral manner.

The tax effects of temporary differences are as follows:

	As of	
	December 31, 2023	January 1, 2023
Deferred income tax assets:		
Intangible assets	$ 1,283	$ 1,499
Accrued compensation	6,450	3,019
Insurance accruals	2,642	2,296
Share-based compensation	4,553	2,483
Deferred revenue	2,451	2,016
Transaction costs	1,339	1,481
Disallowed interest expense	30,087	20,685
Lease liabilities	113,626	107,850
Foreign net operating loss carryforward	2,517	2,147
Federal net operating loss carryforward	22,755	27,086
Federal tax credits	15,426	15,121
State net operating loss and credit carryforwards	11,842	11,888
Other	13,899	11,333
Gross deferred income tax assets	228,870	208,904
Valuation allowance	(29,084)	(27,940)
Deferred income tax assets, net of valuation allowance	**$ 199,786**	**$ 180,964**
Deferred income tax liabilities:		
Intangible assets	$ (151,610)	$ (149,928)
Subsidiary investments	(15,145)	(12,181)
Property and equipment	(19,514)	(23,912)
Foreign reacquired franchise rights	(29,573)	(31,677)
Lease right of use assets	(102,178)	(97,076)
Unrealized income on foreign currency translation	(1,876)	(4,750)
Other	(1,702)	(1,831)
Gross deferred income tax liabilities	(321,598)	(321,355)
Net deferred income tax liabilities	**$ (121,812)**	**$ (140,391)**

The presentation of deferred income taxes on the Consolidated Balance Sheets is as follows:

	As of	
	December 31, 2023	January 1, 2023
Included in:		
Other assets	$ 2,113	$ 2,733
Deferred income taxes, net	(123,925)	(143,124)
Net deferred income tax liabilities	**$ (121,812)**	**$ (140,391)**

As of December 31, 2023, the Company had net operating loss ("NOL") carryforwards of approximately $248.8 million for U.S. state tax purposes and $108.4 million for U.S. federal tax purposes. As of January 1, 2023, the Company had NOL carryforwards of approximately $249.8 million for U.S. state tax purposes and $129.0 million for U.S. federal tax purposes. U.S. federal NOL carryforwards are eligible to be carried forward indefinitely. A portion of the Company's U.S. state tax carryforwards began to expire in fiscal 2023. As of December 31, 2023 and January 1, 2023 the Company had foreign NOL carryforwards of approximately $8.7 million and $7.5 million, respectively. As of December 31, 2023, $6.6 million of the foreign NOL carryforwards have a 10-year carryover period and the remaining $2.1 million have no expiration.

As of December 31, 2023, the Company had various tax credit carryforwards of $15.4 million for U.S. federal purposes and none for U.S. state purposes. As of January 1, 2023, the Company had various tax credit carryforwards of $15.0 million for U.S. federal purposes and none for U.S. state purposes. If not utilized, the credits can be carried forward between 10 and 20 years. A portion of the U.S. tax credit carryforwards began to expire in fiscal 2023. If certain substantial changes in the entity's ownership occur, there would be an annual limitation on the amount of the NOLs and credits that can be utilized.

The valuation allowances of $29.1 million and $27.9 million as of December 31, 2023 and January 1, 2023 respectively, represent the portion of its deferred tax assets that the Company does not believe would more likely than not be realized in the future. Of the $29.1 million as of December 31, 2023, $2.3 million is for foreign NOL carryforwards, $11.9 million is for U.S. state tax carryforwards, and $14.8 million is for U.S. foreign tax credits and other business credits, for which sufficient taxable income is not expected to be generated. The increase in valuation allowance is primarily attributable to additional foreign and state NOLs for which future sufficient taxable income is not expected to be generated. Of the $27.9 million as of January 1, 2023, $1.5 million is for KK Mexico loss carryforwards, $11.9 million is for U.S. state tax carryforwards, and $14.5 million is for U.S. foreign tax credits and other business credits, for which sufficient taxable income is not expected to be generated.

Realization of net deferred tax assets generally is dependent on generation of taxable income in future periods. While the Company believes its forecast of future taxable income is reasonable, actual results will inevitably vary from management's forecasts. Such variances could result in adjustments to the valuation allowance on deferred tax assets in future periods, and such adjustments could be material to the financial statements.

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") was enacted to provide economic relief to those impacted by the COVID-19 pandemic. The CARES Act made various tax law changes including among other things (i) modifications to the federal NOL carryback rules, (ii) increased the limitation under IRC Section 163(j) for 2019 and 2020 to permit additional expensing of interest, (iii) enacted a technical correction so that qualified improvement property can be immediately expensed under IRC Section 168(k), and (iv) permitted the deferral of the employer's portion of social security taxes. The Company was able to defer $7.3 million of social security taxes to future years during the fiscal year ended January 3, 2021. During the fiscal year ended January 2, 2022, the Company repaid half of the deferred social security taxes and repaid the remaining deferred social security taxes on January 3, 2023.

The Company files income tax returns in the U.S. federal jurisdiction and various U.S. state and foreign jurisdictions. With few exceptions, the Company is no longer subject to examination by U.S., state, or foreign tax authorities for years before 2017.

Income tax payments, net of refunds, were $11.1 million, $16.7 million, and $13.6 million in the fiscal years ended December 31, 2023, January 1, 2023, and January 2, 2022, respectively.

The following table presents a reconciliation of the beginning and ending amounts of unrecognized tax benefits:

	As of	
	December 31, 2023	January 1, 2023
Unrecognized tax benefits at beginning of year	$ 13,513	$ 18,478
Decreases related to positions taken in prior years	(160)	(221)
Decreases related to positions taken in prior years due to lapse of statute	(2,817)	(4,744)
Unrecognized tax benefits at end of year	**$ 10,536**	**$ 13,513**

Approximately all of the aggregate $10.5 million and $13.5 million of unrecognized income tax benefits as of December 31, 2023 and January 1, 2023, respectively, would, if recognized, impact the annual effective tax rate. The Company does not believe that changes in its uncertain tax benefits will result in a material impact during the next 12 months.

The Company's policy is to recognize interest and penalties related to income tax issues as components of income tax expense. The Company's Consolidated Balance Sheets reflect approximately $1.6 million, and $1.9 million of accrued interest and penalties as of December 31, 2023 and January 1, 2023, respectively. Interest and penalties were not material during the years presented in the Company's Consolidated Statements of Operations.

Note 15 — Commitments and Contingencies

Pending Litigation

Illinois BIPA litigation

In March 2023, an employee filed a lawsuit on behalf of himself and all others similarly situated against the Company, alleging violations of the Illinois Biometric Information Privacy Act. In May 2023, the Company moved for a stay pending resolution of a similar case before the Illinois Supreme Court. The Company believes that it has meritorious defenses to the complaint and will vigorously defend against these claims. The Company has accrued an immaterial amount and management does not believe that this matter will have a material adverse effect on the Company's audited Consolidated Financial Statements.

Resolved Litigation

TSW litigation

On November 13, 2020 TSW Foods, LLC ("TSW"), a reseller of certain Krispy Kreme packaged products, filed a demand for arbitration and statement of claim alleging Anticipatory Repudiation of the Master Reseller Agreement, Breach of the Master Reseller Agreement, and Breach of the Implied Covenant of Good Faith and Fair Dealing. On July 14, 2022, the Company and TSW negotiated a net settlement of approximately $3.3 million, for which the related payment has been reflected in the accompanying audited Consolidated Financial Statements.

Other Legal Matters

The Company also is engaged in various legal proceedings arising in the normal course of business. The Company maintains insurance policies against certain kinds of such claims and suits, including insurance policies for workers' compensation and personal injury, all of which are subject to deductibles. While the ultimate outcome of these matters could differ from management's expectations, management currently does not believe their resolution will have a material adverse effect on the Company's audited Consolidated Financial Statements.

Purchase Commitments

The Company is exposed to the effects of commodity price fluctuations on the cost of ingredients for its products, of which flour, shortening, and sugar are the most significant. In order to secure adequate supplies of products and bring greater stability to the cost of ingredients, the Company routinely enters into forward purchase contracts with vendors under which it commits to purchase agreed-upon quantities of ingredients at agreed-upon prices at specified future dates. Typically, the aggregate outstanding purchase commitment at any point in time will range from one month to several years of anticipated ingredients purchases, depending on the ingredient. In addition, from time to time the Company enters into contracts for the future delivery of equipment purchased for resale and components of doughnut-making equipment manufactured by the Company. As of December 31, 2023 and January 1, 2023, the Company had approximately $130.5 million and $118.5 million, respectively, of commitments under ingredient and other forward purchase contracts. These ingredient and other forward purchase contracts are for physical delivery in quantities expected to be used over a reasonable period in the normal course of business. These agreements often meet the definition of a derivative. However, the Company does not measure its forward purchase commitments at fair value as the amounts under contract meet the physical delivery criteria in the normal purchase exception under ASC 815, *Derivatives and Hedging*. While the Company has multiple vendors for most of the ingredients, the termination of the Company's relationships with vendors with whom it has forward purchase agreements, or those vendors' inability to honor the purchase commitments, could adversely affect the Company's results of operations and cash flows.

Other Commitments and Contingencies

The Company's primary banks issued letters of credit on its behalf totaling $15.4 million and $11.1 million as of December 31, 2023 and January 1, 2023, respectively, a majority of which secure the Company's reimbursement obligations to insurers under its self-insurance arrangements.

Note 16 — Related Party Transactions

As of December 31, 2023 and January 1, 2023, the Company had an equity ownership in three franchisees, KremeWorks USA, LLC (20% ownership), KremeWorks Canada, L.P. (25% ownership), and KK France (33% ownership), with an aggregate carrying value of $2.8 million and $1.9 million, respectively. Revenues from sales of ingredients and equipment to these franchisees were $9.5 million, $8.8 million, and $7.4 million for the fiscal years ended December 31, 2023, January 1, 2023, and January 2, 2022, respectively. Royalty revenues from these franchisees were $1.6 million, $1.4 million, and $1.3 million for the fiscal years ended December 31, 2023, January 1, 2023, and January 2, 2022, respectively. Trade receivables from these franchisees are included in Accounts receivable, net on the Consolidated Balance Sheets. These transactions were conducted pursuant to franchise agreements, the terms of which are substantially the same as the agreements with unaffiliated franchisees. Refer to Note 3, Accounts Receivable, net, to the audited Consolidated Financial Statements for more information.

Keurig Dr Pepper Inc. ("KDP"), an affiliated company of JAB, licenses the Krispy Kreme trademark for the Company in the manufacturing of portion packs for the Keurig brewing system. KDP also sells beverage concentrates and packaged beverages to Krispy Kreme for resale through Krispy Kreme's shops. Licensing revenues from KDP were $2.2 million, $2.3 million, and $1.9 million for the fiscal years ended December 31, 2023, January 1, 2023, and January 2, 2022, respectively.

The Company had service agreements with BDT Capital Partners, LLC ("BDT"), a minority investor in KKI, to provide advisory services to the Company, including valuation services related to certain acquisitions. The Company recognized expenses of $1.1 million and $1.0 million related to the service agreements with BDT for the fiscal years ended January 1, 2023 and January 2, 2022, respectively. No related costs were incurred for the fiscal year ended December 31, 2023. In connection with valuation assistance provided by BDT in preparation for the IPO, the Company incurred costs of $6.3 million that were capitalized in Additional paid-in capital for the fiscal year ended January 2, 2022. No related costs were incurred for the fiscal years ended December 31, 2023 and January 1, 2023.

The Company was party to a senior unsecured note agreement ("the original agreement") with KK GP for an aggregate principal amount of $283.1 million. In April 2019, the Company entered into an additional unsecured note with KK GP for $54.0 million (such notes together, the "Related Party Notes"). As of January 3, 2021, the outstanding amount of principal and interest was $344.6 million. The Related Party Notes were paid off in full during the second quarter of fiscal 2021. The interest expense for the fiscal year ended January 2, 2022 was $10.4 million. No interest expense was recorded for the fiscal years ended December 31, 2023 and January 1, 2023.

The Company granted loans to employees of KKI, KKUK, KK Australia, KK Mexico and Insomnia Cookies for the purchase of shares in those subsidiaries. The loan balance was $3.9 million and $4.8 million as of December 31, 2023 and January 1, 2023, respectively, and it is presented as a reduction from Shareholders' equity on the Consolidated Balance Sheets.

Note 17 — Revenue Recognition

Disaggregation of Revenues

Revenues are disaggregated as follows:

	Fiscal Years Ended		
	December 31, 2023	January 1, 2023	January 2, 2022
Company Shops, DFD and Branded Sweet Treats	$ 1,592,573	$ 1,443,261	$ 1,305,597
Mix and equipment revenue from franchisees	58,593	54,621	47,869
Franchise royalties and other	34,938	32,016	30,925
Total net revenues	**$ 1,686,104**	**$ 1,529,898**	**$ 1,384,391**

Other revenues include advertising fund contributions from franchisees, rental income, development and franchise fees, and licensing royalties from Keurig related to Krispy Kreme brands coffee sales.

Contract Balances

Deferred revenue and related receivables are as follows:

	December 31, 2023	January 1, 2023	Balance Sheet Location
Trade receivables, net of allowances of $564 and $282, respectively	$ 45,858	$ 40,131	Accounts receivables, net
Deferred revenue:			
Current	$ 22,066	$ 19,417	Accrued liabilities
Noncurrent	6,005	3,946	Other long-term obligations and deferred credits
Total deferred revenue	**$ 28,071**	**$ 23,363**	

Trade receivables at the end of each fiscal year relate primarily to payments due for royalties, franchise fees, advertising fees, sale of products, and licensing fees. Deferred revenue primarily represents the Company’s remaining performance obligations under gift cards and franchise and development agreements for which consideration has been received or is receivable and is generally recognized on a straight-line basis over the remaining term of the related agreement. The noncurrent portion of deferred revenue primarily relates to the remaining performance obligations in the franchise and development agreements. Of the deferred revenue balances as of January 1, 2023, $12.2 million was recognized as revenue in the fiscal year ended December 31, 2023. Of the deferred revenue balance as of January 2, 2022, $10.8 million was recognized as revenue in fiscal the year ended January 1, 2023.

Transaction Price Allocated to Remaining Performance Obligations

Estimated revenue expected to be recognized in the future related to performance obligations that are either unsatisfied or partially satisfied as of December 31, 2023 is as follows:

Fiscal year	
2024	$ 14,930
2025	4,022
2026	1,730
2027	2,161
2028	925
Thereafter	4,303
	$ 28,071

The estimated revenue in the table above relates to gift cards, consumer loyalty programs, and franchise fees paid upfront which are recognized over the life of the franchise agreement. The estimated revenue does not contemplate future issuances of gift cards nor benefits to be earned by members of consumer loyalty programs. The estimated revenue also does not contemplate future franchise renewals or new franchise agreements for shops for which a franchise agreement or development agreement does not exist as of December 31, 2023. The Company has applied the sales-based royalty exemption which permits exclusion of variable consideration in the form of sales-based royalties from the disclosure of remaining performance obligations in the table above.

Note 18 — Net Loss per Share

The following table presents the calculations of basic and diluted EPS:

	Fiscal Years Ended		
(in thousands, except per share amounts)	**December 31, 2023**	**January 1, 2023**	**January 2, 2022**
Net loss attributable to Krispy Kreme, Inc.	$ (37,925)	$ (15,622)	$ (24,506)
Adjustment to net loss attributable to common shareholders	—	(374)	(1,468)
Net loss attributable to common shareholders — Basic	$ (37,925)	$ (15,996)	$ (25,974)
Additional income attributed to noncontrolling interest due to subsidiary potential common shares	(28)	(143)	(122)
Net loss attributable to common shareholders — Diluted	$ (37,953)	$ (16,139)	$ (26,096)
Basic weighted average common shares outstanding	168,289	167,471	147,655
Dilutive effect of outstanding common stock options, RSUs, and PSUs	—	—	—
Diluted weighted average common shares outstanding	168,289	167,471	147,655
Loss per share attributable to common shareholders:			
Basic	$ (0.23)	$ (0.10)	$ (0.18)
Diluted	$ (0.23)	$ (0.10)	$ (0.18)

Potential dilutive shares consist of unvested RSUs and PSUs, calculated using the treasury stock method. The calculation of dilutive shares outstanding excludes certain unvested RSUs granted under certain subsidiaries' executive ownership plans and long-term incentive plans, because their inclusion would have been antidilutive. Refer to Note 13, Share-based Compensation, to the audited Consolidated Financial Statements for further information about the plans.

The following table summarizes the gross number of potential dilutive unvested RSUs and PSUs excluded due to antidilution (unadjusted for the treasury stock method):

	Fiscal Years Ended		
(in thousands)	**December 31, 2023**	**January 1, 2023**	**January 2, 2022**
KKI	6,785	4,946	5,866
KKUK	7	60	—
Insomnia Cookies	47	—	—
KK Australia	—	—	—
KK Mexico	—	—	—

For the fiscal years ended December 31, 2023 and January 1, 2023, all 3.0 million and 2.6 million time-vested stock options, respectively, were excluded from the computation of diluted weighted average common shares outstanding based on application of the treasury stock method.

Note 19 — Segment Reporting

The Company conducts business through the following three reportable segments:

- ***U.S.:*** Includes all Company-owned operations in the U.S., including Krispy Kreme-branded shops and Insomnia Cookies Bakeries, DFD, and the recently exited Branded Sweet Treats business;

- ***International:*** Includes all Krispy Kreme's Company-owned operations in the U.K., Ireland, Australia, New Zealand, and Mexico; and
- ***Market Development:*** Includes franchise operations across the globe, as well as the Company-owned operations in Japan and Canada.

Unallocated corporate costs are excluded from the Company's measurement of segment performance. These costs include general corporate expenses.

Segment information is identified and prepared on the same basis that the Chief Executive Officer ("CEO"), the Company's CODM, evaluates financial results, allocates resources and makes key operating decisions. The CODM allocates resources and assesses performance based on geography and line of business, which represents the Company's operating segments. The operating segments within the U.S. and International reportable segments have been evaluated and combined into reportable segments because they have met the similar economic characteristics and qualitative aggregation criteria set forth in the relevant accounting guidance.

The primary financial measures used by the CODM to evaluate the performance of its operating segments are net revenues and segment Adjusted EBITDA. The following tables reconcile segment results to consolidated results reported in accordance with GAAP. The accounting policies used for internal management reporting at the operating segments are consistent with those described in Note 1, Description of Business and Summary of Significant Accounting Policies, to the audited Consolidated Financial Statements. The Company manages its assets on a total company basis and the CODM does not review asset information by segment when assessing performance or allocating resources. Consequently, the Company does not report total assets by reportable segment.

The reportable segment results are as follows:

	Fiscal Years Ended		
	December 31, 2023	**January 1, 2023**	**January 2, 2022**
Net revenues:			
U.S.	$ 1,104,944	$ 1,010,250	$ 923,129
International	401,801	365,916	332,995
Market Development	179,359	153,732	128,267
Total net revenues	**$ 1,686,104**	**$ 1,529,898**	**$ 1,384,391**

	Fiscal Years Ended		
	December 31, 2023	**January 1, 2023**	**January 2, 2022**
Depreciation and amortization:			
U.S.	$ 70,884	$ 61,112	$ 55,157
International	39,651	35,717	36,139
Market Development	3,993	3,584	2,332
Corporate	11,366	9,848	7,980
Total depreciation and amortization	**$ 125,894**	**$ 110,261**	**$ 101,608**

	Fiscal Years Ended		
	December 31, 2023	January 1, 2023	January 2, 2022
Segment Adjusted EBITDA:			
U.S	$ 130,979	$ 112,283	$ 105,753
International	76,503	75,512	81,422
Market Development	62,995	50,621	42,642
Corporate	(58,853)	(47,687)	(41,872)
Adjusted EBITDA	**211,624**	**190,729**	**187,945**
Interest expense, net	50,341	34,102	32,622
Interest expense — related party (1)	—	—	10,387
Income tax (benefit)/expense	(4,347)	612	10,745
Depreciation and amortization expense	125,894	110,261	101,608
Share-based compensation	24,196	18,170	22,923
Employer payroll taxes related to share-based compensation	395	312	2,044
Other non-operating expense, net (2)	3,798	3,036	2,191
Strategic initiatives (3)	29,057	2,841	—
Acquisition and integration expenses (4)	511	2,333	5,255
New market penetration expenses (5)	1,380	1,511	—
Shop closure expenses (6)	17,335	19,465	2,766
Restructuring and severance expenses (7)	5,050	7,125	1,733
IPO-related expenses (8)	—	—	14,534
Gain on sale-leaseback	(9,646)	(6,549)	(8,673)
Other (9)	4,307	6,285	4,653
Net Loss	**$ (36,647)**	**$ (8,775)**	**$ (14,843)**

(1) Consists of interest expense related to the Related Party Notes which were paid off in full during the second quarter of fiscal 2021.

(2) Primarily foreign translation gains and losses in each period.

(3) Fiscal 2023 consists primarily of costs associated with global transformation and U.S. initiatives such as the decision to exit the Branded Sweet Treats business, including property, plant and equipment impairments, inventory write-offs, employee severance, and other related costs (approximately $17.9 million of the total). Fiscal 2022 consists mainly of equipment disposals, equipment relocation and installation, consulting and advisory fees, and other costs associated with our shift of Branded Sweet Treats manufacturing capability from Burlington, Iowa to Winston-Salem, North Carolina.

(4) Consists of acquisition and integration-related costs in connection with the Company's business and franchise acquisitions, including legal, due diligence, and advisory fees incurred in connection with acquisition and integration-related activities for the applicable period.

(5) Consists of start-up costs associated with entry into new countries for which the Company's brands have not previously operated, including the Insomnia Cookies brand entering Canada and the U.K.

(6) Fiscal 2023 includes lease termination costs, impairment charges, and loss on disposal of property, plant and equipment, primarily associated with strategic shop exits, primarily in the U.S. (approximately $16.0 million of the total). Fiscal 2022 includes lease termination costs, impairment charges, and loss on disposal of property, plant and equipment, primarily associated with strategic shop exits.

(7) Fiscal 2023 and fiscal 2022 consist primarily of costs associated with restructuring of the global executive team. Fiscal 2021 consists of severance and related benefits costs associated with the Company's realignment of the Company Shop organizational structure to better support the DFD and Branded Sweet Treats businesses.

(8) Includes consulting and advisory fees incurred in connection with preparation for and execution of the Company's IPO.

(9) Fiscal 2023, fiscal 2022, and fiscal 2021 consist primarily of legal and other regulatory expenses incurred outside the ordinary course of business on matters described in Note 15, Commitments and Contingencies, to the Company's audited Consolidated Financial Statements, including the net settlement of approximately $3.3 million negotiated with TSW Foods, LLC in fiscal 2022.

Geographical information related to consolidated revenues and long-lived assets is as follows:

	Fiscal Years Ended		
	December 31, 2023	January 1, 2023	January 2, 2022
Net revenues:			
U.S.	$ 1,144,564	$ 1,049,824	$ 955,384
U.K.	154,775	144,911	147,233
Australia / New Zealand	117,328	114,250	99,582
Mexico	120,072	96,354	77,831
All other	149,365	124,559	104,361
Total net revenues	**$ 1,686,104**	**$ 1,529,898**	**$ 1,384,391**

	Fiscal Years Ended		
	December 31, 2023	January 1, 2023	January 2, 2022
Long-lived assets:			
U.S.	$ 735,955	$ 679,706	$ 684,790
U.K.	79,039	66,776	69,112
Australia / New Zealand	62,080	62,759	61,155
Mexico	69,616	50,481	30,944
All other	48,494	30,017	28,085
Total long-lived assets	**$ 995,184**	**$ 889,739**	**$ 874,086**

Total long-lived assets consist of Property and equipment, net and Operating lease right of use asset, net.

Note 20 — Subsequent Events

The Company evaluated subsequent events and transactions for potential recognition or disclosure in the audited Consolidated Financial Statements through February 27, 2024, the date the audited Consolidated Financial Statements were available to be issued. All subsequent events requiring recognition and disclosure have been incorporated into these audited Consolidated Financial Statements.

On February 8, 2024, the Company's Board of Directors declared a $0.035 per share cash dividend payable on May 8, 2024, to shareholders of record on April 24, 2024.

Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure

None.

Item 9A. Controls and Procedures

Disclosure Controls and Procedures

We maintain disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) promulgated under the Securities Exchange Act of 1934, as amended (the "Exchange Act")) that are designed to ensure that information required to be disclosed in Exchange Act reports is recorded, processed, summarized, and reported within the time periods specified in the Securities and Exchange Commission's rules and forms, and that such information is accumulated and communicated to our management, including our CEO and Chief Financial Officer ("CFO"), as appropriate, to allow timely decisions regarding required disclosure.

As of December 31, 2023, we carried out an evaluation, under the supervision and with the participation of our management, including our CEO and CFO, of the effectiveness of the design and operation of our disclosure controls and procedures. Based on the foregoing, our CEO and CFO concluded that our disclosure controls and procedures were effective as of the end of the period covered by this Annual Report on Form 10-K.

Management's Annual Report on Internal Control Over Financial Reporting

Management is responsible for establishing and maintaining adequate internal control over financial reporting. Internal control over financial reporting is a process to provide reasonable assurance regarding the reliability of our financial reporting for external purposes in accordance with GAAP. Internal control over financial reporting includes maintaining records that in reasonable detail accurately and fairly reflect our transactions; providing reasonable assurance that transactions are recorded as necessary for preparation of our financial statements; providing reasonable assurance that receipts and expenditures are made in accordance with management authorization; and providing reasonable assurance that unauthorized acquisition, use, or disposition of Company assets that could have a material effect on our financial statements would be prevented or detected on a timely basis. Because of its inherent limitations, internal control over financial reporting is not intended to provide absolute assurance that a misstatement of our financial statements would be prevented or detected.

Management has assessed the effectiveness of our internal control over financial reporting as of December 31, 2023 based on the framework and criteria established in *Internal Control — Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission. As a result of the evaluation, management concluded that our internal control over financial reporting was effective as of December 31, 2023.

Grant Thornton LLP, an independent registered public accounting firm, has issued an audit report on the effectiveness of the Company's internal control over financial reporting included herein.

Changes in Internal Controls over Financial Reporting

There were no changes during the fiscal quarter ended December 31, 2023 in our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) that have materially affected or are reasonably likely to materially affect our internal control over financial reporting.

Item 9B. Other Information

Adoption or Termination of Rule 10b5-1 Trading Plans

On March 15, 2023, our then-CEO, Michael Tattersfield, adopted a trading arrangement for the sale of the Company's common stock that is intended to satisfy the affirmative defense conditions of the Securities Exchange Act Rule 10b5-1(c) (a "Rule 10b5-1 Trading Plan"). Mr. Tattersfield's Rule 10b5-1 Trading Plan was effective on June 15, 2023 and has a term of one year. Mr. Tattersfield's Rule 10b5-1 Plan provides for the sale of up to 155,000 shares of the Company's common stock pursuant to the terms of such plan.

Item 9C. Disclosure Regarding Foreign Jurisdictions that Prevent Inspections

Not applicable.

PART III

Item 10. Directors, Executive Officers and Corporate Governance

The information required by this item, including information about our Directors, Executive Officers, and Audit Committee and Code of Conduct, is incorporated by reference to the definitive Proxy Statement for our 2024 Annual Meeting of Shareholders, which will be filed with the SEC no later than 120 days after December 31, 2023.

Item 11. Executive Compensation

The information required by this item is incorporated by reference to the definitive Proxy Statement for our 2024 Annual Meeting of Shareholders, which will be filed with the SEC no later than 120 days after December 31, 2023.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters

The information required by this item is incorporated by reference to the definitive Proxy Statement for our 2024 Annual Meeting of Shareholders, which will be filed with the SEC no later than 120 days after December 31, 2023.

Item 13. Certain Relationships and Related Transactions and Director Independence

The information required by this item is incorporated by reference to the definitive Proxy Statement for our 2024 Annual Meeting of Shareholders, which will be filed with the SEC no later than 120 days after December 31, 2023.

Item 14. Principal Accountant Fees and Services

The information required by this item is incorporated by reference to the definitive Proxy Statement for our 2024 Annual Meeting of Shareholders, which will be filed with the SEC no later than 120 days after December 31, 2023.

PART IV

Item 15. Exhibits and Financial Statement Schedules

(a) List the Following Documents Filed as Part of this Annual Report on Form 10-K:

1. Financial Statements

See Index to Consolidated Financial Statements in Item 8 of this Annual Report on Form 10-K.

2. Financial Statement Schedules

All schedules have been omitted because they are not required or the required information is shown in the Consolidated Financial Statements or notes thereto.

3. Exhibits

EXHIBIT NO.	DESCRIPTION OF EXHIBIT
3.1	Amended and Restated Certificate of Incorporation of the Registrant (filed as Exhibit 3.1 to the Company's Quarterly Report on Form 10-Q, File number 001-40573, filed on August 18, 2021, and incorporated by reference herein)
3.2	Amended and Restated Bylaws of the Registrant (filed as Exhibit 3.2 to the Company's Quarterly Report on Form 10-Q, File number 001-40573, filed on August 18, 2021, and incorporated by reference herein)
4.1*	Description of Capital Stock
10.1†	Krispy Kreme, Inc. 2021 Omnibus Incentive Plan (filed as Exhibit 10.8 to the Company's Registration Statement on Form S-1/A, File number 333-256664, filed on June 22, 2021, and incorporated by reference herein
10.2†	Form of Indemnification Agreement between the Registrant and each of its Executive Officers and Directors (filed as Exhibit 10.5 to the Company's Registration Statement on Form S-1/A, File number 333-256664, filed on June 22, 2021, and incorporated by reference herein
10.3	Investors' Rights Agreement by and among Krispy Kreme, Inc., JAB Holdings B.V. and the Holders Listed on Schedule A thereto, dated as of July 6, 2021 (filed as Exhibit 10.6 to the Company's Registration Statement on Form S-1/A, File number 333-256664, filed on June 22, 2021, and incorporated by reference herein)
10.4	Term Loan Agreement, dated June 10, 2021, among Krispy Kreme Holdings, Inc., as borrower, the lenders party thereto, JPMorgan Chase Bank, N.A., as administrative agent, and Morgan Stanley Senior Funding, Inc. and Santander Bank, N.A., as joint lead arrangers and joint bookrunners (filed as Exhibit 10.4 to the Company's Registration Statement on Form S-1/A, File number 333-256664, filed on June 22, 2021, and incorporated by reference herein)
10.5†	Form of Share Repurchase Agreement (filed as Exhibit 10.7 to the Company's Registration Statement on Form S-1/A, File number 333-256664, filed on June 22, 2021, and incorporated by reference herein)
10.6†	Employee Stock Purchase Plan (filed as Exhibit 10.9 to the Registrant's Registration Statement on Form S-1/A, File number 333-256664, filed on June 22, 2021, and incorporated by reference herein)
10.7	Master Amendment No. 1, dated as of July 8, 2021, among Cotton Parent, Inc., Krispy Kreme Doughnuts, Inc., the other guarantors party thereto, the lenders party thereto and Citibank, N.A., as administrative agent (filed as Exhibit 10.1 to the Registrant's Current Report on Form 8-K, File number 001-40573, filed on July 13, 2021, and incorporated by reference herein)
10.8	Joinder to Credit Agreement, dated as of July 8, 2021, between Krispy Kreme, Inc. and Citibank, N.A., as administrative agent (filed as Exhibit 10.2 to the Registrant's Current Report on Form 8-K, File number 001-40573, filed on July 13, 2021, and incorporated by reference herein)
10.9†	Krispy Kreme Holdings, Inc. Long-Term Incentive Plan (filed as Exhibit 10.12 to the Company's Registration Statement on Form S-1/A, File number 333-256664, filed on June 22, 2021, and incorporated by reference herein)

10.10†	Award Under the Krispy Kreme Holdings, Inc. Long-Term Incentive Plan Restricted Stock Unit Grant Notice (filed as Exhibit 10.13 to the Company's Registration Statement on Form S-1/A, File number 333-256664, filed on June 22, 2021, and incorporated by reference herein)
10.11†	Stock Option Award Terms and Conditions Under Krispy Kreme Holdings, Inc. Long-Term Incentive Plan (filed as Exhibit 10.14 to the Company's Registration Statement on Form S-1/A, File number 333-256664, filed on June 22, 2021, and incorporated by reference herein)
10.12†	Restricted Stock Unit Award Terms and Conditions Under Krispy Kreme Holdings, Inc. Long-Term Incentive Plan (filed as Exhibit 10.15 to the Company's Registration Statement on Form S-1/A, File number 333-256664, filed on June 22, 2021, and incorporated by reference herein)
10.13†	Krispy Kreme Holdings, Inc. Executive Ownership Plan (filed as Exhibit 10.16 to the Company's Registration Statement on Form S-1/A, File number 333-256664, filed on June 22, 2021, and incorporated by reference herein)
10.14†	Matching Award under the Krispy Kreme Holdings, Inc. Executive Ownership Plan Restricted Stock Unit Grant Notice (filed as Exhibit 10.17 to the Company's Registration Statement on Form S-1/A, File number 333-256664, filed on June 22, 2021, and incorporated by reference herein)
10.15	Letter Agreement, dated March 14, 2022, by and among Krispy Kreme, Inc., JAB Indulgence B.V., and JAB Holdings B.V. (filed as Exhibit 10.1 to the Company's Current Report on Form 8-K, File number 001-40573, filed on March 16, 2022, and incorporated by reference herein)
10.16	Exclusive distribution agreement dated March 15, 2022, by and among Krispy Kreme Doughnut Corporation and BakeMark USA LLC (filed as Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q, File number 001-40573, filed on May 11, 2022, and incorporated by reference herein)
10.17†	Form of Restricted Stock Unit Agreement (filed as Exhibit 10.1 to the Company's Current Report on Form 8-K, File number 001-40573, filed on February 9, 2023, and incorporated by reference herein)
10.18†	Form of Performance-Based Restricted Stock Unit Agreement (filed as Exhibit 10.2 to the Company's Current Report on Form 8-K, File number 001-40573, filed on February 9, 2023, and incorporated by reference herein)
10.19†	Form of Option Agreement (filed as Exhibit 10.3 to the Company's Current Report on Form 8-K, File number 001-40573, filed on February 9, 2023, and incorporated by reference herein
10.20	Credit Agreement, dated March 23, 2023, by and among Krispy Kreme, Inc., Cotton Parent, Inc., Krispy Kreme Doughnuts, Inc., the other borrowers party thereto from time to time, the lenders party thereto and BNP Paribas as administrative agent and collateral agent (filed as Exhibit 10.1 to the Company's Current Report on Form 8-K, File number 001-40573, filed on March 23, 2023, and incorporated by reference herein)
10.21†*	Transition & Director and Advisor Services Agreement effective December 1, 2023 between Michael Tattersfield, Krispy Kreme, Inc., and Krispy Kreme Doughnut Corporation
10.22†	Key Employment Agreement between Krispy Kreme Doughnut Corporation and Josh Charlesworth, dated October 12, 2023 (filed as Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q, File number 001-40573, filed on November 13, 2023, and incorporated by reference herein)
10.23†*	Insomnia Cookies Holdings, LLC Executive Ownership Plan
10.24†*	Matching Award Agreement effective December 11, 2023 evidencing a grant of Restricted Equity Units to Michael J. Tattersfield by Insomnia Cookies Holdings, LLC)
10.25†*	Matching Award Agreement effective December 11, 2023 evidencing a grant of Restricted Equity Units to Joshua A. Charlesworth by Insomnia Cookies Holdings, LLC
2.1	Joint Filing Agreement (filed as Exhibit 2 to the Company's Schedule 13D, File number 001-40573, filed on July 16, 2021, and incorporated by reference herein)
21.1*	List of Subsidiaries
23.1*	Consent of Grant Thornton LLP, an Independent Registered Public Accounting Firm
31.1*	Certification of Chief Executive Officer of Krispy Kreme, Inc. pursuant to Rule 13a-14(a) or 15d-14(a) promulgated under the Exchange Act
31.2*	Certification of Chief Financial Officer of Krispy Kreme, Inc. pursuant to Rule 13a-14(a) or 15d-14(a) promulgated under the Exchange Act
32.1**	Certifications of Chief Executive Officer and Chief Financial Officer of Krispy Kreme, Inc. pursuant to Rule 13a-14(b) or 15d-14(b) promulgated under the Exchange Act, and Section 1350 of Chapter 63 of Title 18 of the United States Code

97.1†*	Krispy Kreme, Inc. Clawback Policy, effective as of October 2, 2023
101*	The following financial statements from the Company's Annual Report on Form 10-K for the year ended December 31, 2023, formatted in Inline XBRL: (i) Consolidated Statements of Operations, (ii) Consolidated Statements of Comprehensive (Loss)/Income, (iii) Consolidated Balance Sheets, (iv) Consolidated Statements of Changes in Shareholders' Equity, (v) Consolidated Statements of Cash Flows, and (vi) Notes to Consolidated Financial Statements
104*	Cover Page Interactive Data File (formatted as inline XBRL and contained in Exhibit 101)

* Filed herewith.
** Furnished herewith.
† Compensatory plan or arrangement.

Item 16. Form 10-K Summary

None.

SIGNATURES

Pursuant to the requirements of Section 13 of 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this Annual Report on Form 10-K to be signed on its behalf of the undersigned, thereunto duly authorized.

Date: February 27, 2024

Krispy Kreme, Inc.

By:	/s/ Josh Charlesworth
Name:	Josh Charlesworth
Title:	Chief Executive Officer

Pursuant to the requirements of the Securities Act of 1934, this Annual Report on Form 10-K has been signed by the following persons in the capacities indicated as of February 27, 2024.

Signature	Title
/s/ Josh Charlesworth Josh Charlesworth	Director, President and Chief Executive Officer (Principal Executive Officer)
/s/ Jeremiah Ashukian Jeremiah Ashukian	Chief Financial Officer (Principal Financial Officer)
/s/ Kelly McBride Kelly McBride	Chief Accounting Officer (Principal Accounting Officer)
/s/ Olivier Goudet Olivier Goudet	Director, Chairman of the Board
/s/ Paul Michaels Paul Michaels	Director
/s/ David Bell David Bell	Director
/s/ Gerhard Pleuhs Gerhard Pleuhs	Director
/s/ Philip Telfer Philip Telfer	Director
/s/ David Deno David Deno	Director
/s/ Debbie Roberts Debbie Roberts	Director
/s/ Michelle Weese Michelle Weese	Director

/s/ Marissa Andrada Marissa Andrada	Director
/s/ Michael Tattersfield Michael Tattersfield	Director

DESCRIPTION OF CAPITAL STOCK

The following description summarizes important terms of our capital stock. This summary does not purport to be complete and is qualified in its entirety by the provisions of our amended and restated certificate of incorporation (our "certificate of incorporation") and our amended and restated by-laws (our "by-laws"), copies of which have been filed by us with the Securities and Exchange Commission. For a complete description of our capital stock, you should refer to our certificate of incorporation, our by-laws and applicable provisions of Delaware law. As used in this section, "we," "us," and "our," mean Krispy Kreme, Inc., a Delaware corporation, and its successors, but not any of its subsidiaries.

Our authorized capital stock consists of 300,000,000 shares of common stock, par value $0.01 per share, and 50,000,000 shares of preferred stock, par value $0.01 per share.

Common Stock

Holders of our common stock are entitled to one vote for each share held of record on all matters submitted to a vote of stockholders. Generally, all matters to be voted on by stockholders must be approved by a majority of the votes entitled to be cast by all holders of shares of common stock present in person or represented by proxy. Except as otherwise provided by law, amendments to the certificate of incorporation must be approved by a majority or, in some cases, a super-majority of the voting power of all shares of common stock.

Holders of our common stock will be entitled to receive dividends when and if declared by our board of directors out of funds legally available therefor, subject to any statutory or contractual restrictions on the payment of dividends and to any restrictions on the payment of dividends imposed by the terms of any outstanding preferred stock.

Upon our liquidation, dissolution or winding up and after payment in full of all amounts required to be paid to creditors and to the holders of preferred stock having liquidation preferences, if any, the holders of shares of our common stock will be entitled to receive pro rata our remaining assets available for distribution.

Holders of our common stock do not have preemptive, subscription, redemption or conversion rights. The common stock will not be subject to further calls or assessment by us. There will be no redemption or sinking fund provisions applicable to the common stock. All shares of our common stock that will be outstanding at the time of the completion of the offering will be fully paid and non-assessable.

Preferred Stock

Our certificate of incorporation will authorize our board of directors to establish one or more series of preferred stock (including convertible preferred stock).

Unless required by law or by any stock exchange, the authorized shares of preferred stock will be available for issuance without further action by you. Our board of directors may determine, with respect to any series of preferred stock, the terms and rights of that series, including:

- the designation of the series;
- the number of shares of the series, which our board of directors may, except where otherwise provided in the preferred stock designation, increase or decrease, but not below the number of shares then outstanding;
- the dividend rights, conversion rights, redemption privileges and liquidation preferences of the series;
- whether the shares of the series will be convertible into shares of any other class or series, or any other security, of our Company or any other entity, and, if so, the specification of the other class or series or other security, the conversion price or prices or rate or rates, any rate adjustments, the date or dates as of which the shares will be convertible and all other terms and conditions upon which the conversion may be made;
- restrictions on the issuance of shares of the same series or of any other class or series; and
- the voting rights, if any, of the holders of the series.

We may issue a series of preferred stock that could, depending on the terms of the series, impede or discourage a takeover attempt or other transaction that a stockholder might consider to be in its best interests, including a takeover attempt that might result in a premium over the market price for holders of shares of common stock.

Investors' Rights Agreement

For the Investors' Rights Agreement that we have with JAB, see Exhibit 10.7 of the Company's Annual Report on Form 10-K for Fiscal Year ended January 2, 2022.

Anti-Takeover Effects of Delaware Law and Our Organizational Documents

The following is a summary of certain provisions of our certificate of incorporation and by-laws that may be deemed to have an anti-takeover effect and may delay, deter or prevent a tender offer or takeover attempt that a stockholder might consider to be in its best interests, including those attempts that might result in a premium over the market price for holders of shares of common stock.

Authorized but Unissued Shares

The authorized but unissued shares of our common stock and our preferred stock will be available for future issuance without obtaining stockholder approval. These additional shares may be utilized for a variety of corporate purposes, including future public offerings to raise additional capital, corporate acquisitions and employee benefit plans. The existence of authorized but unissued shares of our common stock and preferred stock could render more difficult or discourage an attempt to obtain control over us by means of a proxy contest, tender offer, merger or otherwise.

Certain Anti-takeover Provisions of Delaware Law

We will be subject to the provisions of Section 203 of the DGCL, regulating corporate takeovers. This statute prevents certain Delaware corporations, under certain circumstances, from engaging in a "business combination" with:

- a stockholder who owns 15% or more of our outstanding voting stock (otherwise known as an "interested stockholder");
- an affiliate of an interested stockholder; or
- an associate of an interested stockholder for three years following the date that the stockholder became an interested stockholder.

A "business combination" includes a merger or sale of more than 10% of our assets. However, the above provisions of Section 203 of the DGCL do not apply if:

- our board of directors approves the transaction that made the stockholder an "interested stockholder" prior to the date of the transaction;
- after the completion of the transaction that resulted in the stockholder becoming an interested stockholder, that stockholder owned at least 85% of our voting stock outstanding at the time the transaction commenced, other than statutorily excluded shares of common stock; or
- on or subsequent to the date of the transaction, the business combination is approved by our board of directors and authorized at a meeting of our stockholders, and not by written consent, by an affirmative vote of at least two-thirds of the outstanding voting stock not owned by the interested stockholder.

Choice of Forum

Our by-laws will provide that the Court of Chancery of the State of Delaware is the sole and exclusive forum for: (i) any derivative action or proceeding brought on behalf of us; (ii) any action asserting a claim of breach of a duty (including any fiduciary duty) owed by any of our current or former directors, officers, stockholders, employees or agents to us or our stockholders; (iii) any action asserting a claim against us or any of our current or former directors, officers, stockholders, employees or agents arising out of or relating to any provision of the DGCL or our certificate of incorporation or our by-laws; or (iv) any action asserting a claim against us or any of our current or former directors, officers, stockholders, employees or agents governed by the internal affairs doctrine of the State of Delaware. Our by-laws will also provide that the federal district courts of the United States of America will, to the fullest extent permitted by law, be the sole and exclusive forum for resolving any complaint asserting a cause of action arising under the Securities Act.

Moreover, Section 27 of the Exchange Act creates exclusive federal jurisdiction over all claims brought to enforce any duty or liability created by the Exchange Act or the rules and regulations thereunder and our by-laws will provide that the exclusive forum provision does not apply to suits brought to enforce any duty or liability created by the Exchange Act. Accordingly, actions by our stockholders to enforce any duty or liability created by the Exchange Act or the rules and regulations thereunder must be brought in federal court.

Our by-laws will also provide that any person or entity purchasing or otherwise acquiring any interest in shares of our common stock will be deemed to have notice of and to have consented to the foregoing provisions; *provided, however*, that stockholders will not be deemed to have waived our compliance with the federal securities laws and the rules and regulations thereunder. We recognize that the forum selection clause in our by-laws may impose additional litigation costs on stockholders in pursuing any such claims, particularly if the stockholders do not reside in or near the State of Delaware. Additionally, the forum selection clause in our by-laws may limit our stockholders' ability to bring a claim in a forum that they find favorable for disputes with us or our directors, officers, employees or agents, which may discourage such lawsuits against us and our directors, officers, employees and agents even though an action, if successful, might benefit our stockholders. The Court of Chancery of the State of Delaware may also reach different judgments or results than would other courts, including courts where a stockholder considering an action may be located or would otherwise choose to bring the action, and such judgments may be more or less favorable to us than our stockholders.

Limitations on Liability and Indemnification of Directors and Officers

Our certificate of incorporation provides that our directors will not be personally liable to us or our stockholders for monetary damages for any breach of fiduciary duty as a director, except to the extent such exemption from liability or limitation is not permitted under the DGCL, as may be amended.

Our by-laws provide that we must indemnify our directors and officers to the fullest extent permitted by law. We are also expressly authorized to advance certain expenses (including attorneys' fees) to our directors and officers and carry directors' and officers' insurance providing indemnification for our directors and officers for some liabilities. We believe that these indemnification provisions and insurance are useful to attract and retain qualified directors and executive officers.

Prior to completion of this offering, we intend to enter into separate indemnification agreements with each of our directors and executive officers. Each indemnification agreement will provide, among other things, for indemnification to the fullest extent permitted by law and our certificate of incorporation against any and all expenses and liabilities, including judgments, fines, penalties and amounts paid in settlement of any claim with our approval and counsel fees and disbursements and any liabilities incurred as a result of acting on our behalf (as a fiduciary or otherwise) in connection with an employee benefit plan. The indemnification agreements will provide for the advancement or payment of all expenses to the indemnitee and for reimbursement to us if it is found that such indemnitee is not entitled to such indemnification under applicable law and our by-law. These provisions and agreements may have the practical effect in some cases of eliminating our stockholders' ability to collect monetary damages from our directors and executive officers.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers or persons controlling the registrant pursuant to the foregoing provisions, we have been informed that, in the opinion of the SEC, such indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable.

Exhibit 10.21

TRANSITION &

DIRECTOR AND ADVISOR SERVICES AGREEMENT

This Transition & Director and Advisor Services Agreement (this "Agreement") is effective December 1, 2023 (the "Effective Date"), by and between **MICHAEL TATTERSFIELD** ("Executive"), **KRISPY KREME, INC.**, a Delaware corporation (the "Company"), and **KRISPY KREME DOUGHNUT CORPORATION**, a North Carolina corporation ("KKDC") (collectively, the "Parties").

WHEREAS, Executive currently serves as the President and Chief Executive Officer of the Company and of KKDC, pursuant to that certain Employment Agreement between Executive and KKDC, dated as of December 7, 2016 (the "Employment Agreement") and as a member of the Board (as defined below);

WHEREAS, Executive has notified the Board of Directors of the Company (the "Board") that he will step down as the President and Chief Executive Officer of the Company and of KKDC as of December 31, 2023, and Executive's employment with the Company and each of its Subsidiaries (as defined herein) will therefore end, effective as of December 31, 2023; and

WHEREAS, the Company desires to engage Executive as (i) a non-executive member of the Board of Directors of the Company (the "Board"), and (ii) a Company ambassador and a senior advisor to the successor President and Chief Executive Officer of the Company and KKDC (the "Successor CEO"), in each case, beginning January 1, 2024.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

1. **Resignation of Employment**.

(a) The Parties hereby acknowledge and agree that Executive will resign as President and Chief Executive Officer of the Company and of KKDC and all positions as director, trustee, officer, employee or service provider with the Company and its Subsidiaries, as may be applicable, except as otherwise provided herein, effective as of the close of business on December 31, 2023 (the "Transition Date"). Executive agrees to (i) sign any documentation as reasonably requested by the Company and/or any of its Subsidiaries to effect or facilitate such resignations, and (ii) not represent himself as being the President and Chief Executive Officer of the Company or KKDC or an officer, executive, employee or authorized agent of the Company or any of its Subsidiaries following the Transition Date. Further, Executive acknowledges and agrees that he will have no authority to act on behalf of the Company or any of its Subsidiaries following the Transition Date, other than the authority to act on behalf of the Company in his capacity as a member of the Board during the Director Term (as defined herein) in connection with actions taken by the Board and as a Company ambassador during the Advisor Term (as defined herein) in connection with Executive's provision of the Advisor Services (as defined herein). Prior to the Transition Date, Executive's employment may not be terminated by the Company or any of its

Subsidiaries except for Cause (as defined in the Employment Agreement) and in accordance with any process set forth in the Employment Agreement.

(b) Transition Period; Accrued Obligations. From the Effective Date through the Transition Date (the "Transition Period"), Executive shall continue to perform services diligently and in good faith in accordance with the Employment Agreement. During the Transition Period, Executive shall continue to receive base salary and be provided with employee benefits, in amounts or levels of coverage, as applicable, not less than in effect as of immediately prior to the Effective Date, and otherwise in accordance with the Employment Agreement. In connection with Executive's resignation hereunder, Executive shall be entitled to receive any base salary payable to the Executive accrued up to and including the Transition Date, less required statutory withholdings and deductions, payable in accordance with the regular payroll practices of the Company, and any employee benefits required to be provided upon such event by the terms of applicable benefit plans or by the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("COBRA") or any analogous provisions of state or local law. Further, provided that Executive remains employed through December 31, 2023, Executive shall be entitled to receive payment of any annual bonus earned for the 2023 bonus year, payable at the time such bonus would have otherwise been paid in accordance with Section 2.2 of the Employment Agreement.

(c) Insomnia Support; Insomnia Matching REU Award.

(i) Insomnia Support. During the Transition Period and during the Advisor Term, Executive shall continue to provide strategic support to Insomnia Cookies Holdings, LLC, as may be requested by the Company (the "Insomnia Support Services**").**

(ii) Insomnia Matching REU Award. As soon as practicable following the Effective Date (and in any event within 30 days following the Effective Date), Executive shall be granted an award under the Insomnia Cookies Holdings, LLC Executive Ownership Plan (the "Insomnia Equity Plan"), attached hereto as Exhibit II, of 15,699 Restricted Equity Units (as defined in the Insomnia Equity Plan) ("REUs") (the "Insomnia Matching REU Award"), subject to the prior approval of the Committee (as defined in the Insomnia Equity Plan), pursuant to an award agreement under the Insomnia Equity Plan in substantially the form attached hereto as Exhibit III. Subject to Section 5 of this Agreement, the terms of the Insomnia Equity Plan, and the agreement(s) or other instrument(s) or document(s) evidencing the Insomnia Matching REU Award, the Insomnia Matching REU Award will vest as follows: 60% of the Insomnia Matching REU Award will vest on the third (3rd) anniversary of the date the Insomnia Matching REU Award is granted (the "Grant Date"), 20% of the Insomnia Matching REU Award will vest on the fourth (4th) anniversary of the Grant Date, and 20% of the Insomnia Matching REU Award will vest on the fifth (5th) anniversary of the Grant Date; provided, that in the event that, prior to the vesting date, Insomnia Cookies Holdings, LLC ("Insomnia") undergoes a Change of Control (as defined in the Insomnia Equity Plan) or the Class A Units (as defined in the Insomnia Equity Plan) become Publicly Traded (as defined in the Insomnia Equity Plan), then as of the consummation date of such Change in Control or Underwritten Offering (as defined in the Insomnia Equity Plan), 100% of the Insomnia Matching REU Award shall accelerate and become fully vested.

(d) General Release. In consideration for and as a condition to receipt of the rights and monetary and non-monetary benefits and incentives set forth in Section 1(c) of this

Agreement, the Executive agrees to execute and deliver the release of claims in the form attached hereto as Exhibit I (the "General Release") within twenty-one (21) days following the Effective Date and to not subsequently revoke the General Release within seven (7) days thereafter. Executive acknowledges and agrees that the value of such benefits and incentives is greater than the value of any other payments or benefits to which Executive otherwise might be entitled in connection with his cessation of employment with the Company and KKDC.

2. **Director Services and Fees**.

(a) Director Term. Subject to Executive fulfilling his obligations set forth in this Agreement and provided that Executive remains employed by the Company through the Transition Date, then effective as of January 1, 2024 (the "Director Start Date"), Executive will serve as a non-employee director of the Board until the earliest of (i) the Executive's death, (ii) the Executive's removal from the Board by the majority stockholders of the Company with or without Cause (as defined herein), (iii) the resignation by the Executive from the Board for any reason, or (iv) Executive's service on the Board ends as a result of the Company failing to nominate the Executive for appointment or re-appointment (the period from the Director Start Date through such date, the "Director Term"), provided, that Executive will be provided written notice of any alleged event of Cause and not less than thirty (30) days to cure, if curable.

(b) Services. During the Director Term, Executive's duties, responsibilities and obligations as a member of the Board will be governed by applicable laws, the Company's Code of Conduct, applicable corporate governance guidelines, Board committee charters and other procedures and policies of the Company, as such documents may be adopted or modified by the Company from time to time. Further, during the Director Term, Executive will be expected to attend meetings of the Board in person or virtually on the same basis as other directors and perform tasks generally performed by a member of the board of directors of a company of a similar size as the Company and its Subsidiaries.

(c) Indemnification and D&O Insurance. Executive will be provided with indemnification and D&O insurance coverage for service during the Director Term in the same manner as may be applicable to other members of the Board.

(d) Administrative Support. During the Director Term, the Company will provide Executive with administrative support as reasonably necessary to perform Executive's duties as a non-employee director of the Board (including coordinating travel arrangements and scheduling Board meetings), on the same basis and to the same extent as such support is provided to other non-employee members of the Board pursuant to the applicable policies of the Company and its Subsidiaries.

(e) Consideration for Director Services.

(i) Director Fees. During the Director Term, the Company or one of its Subsidiaries will pay Executive an annual director fee for services as a member of the Board on the same basis as other non-employee directors (currently $60,000 per year) (the "Annual Director Fee"), which will be paid in accordance with Company policy (which currently provides for payment in quarterly installments in arrears).

(ii) Annual Long-Term Incentive Awards. During the Director Term, Executive will receive annual long-term incentive awards, in the amount, form, with such terms, and at such time as such awards are granted to other non-employee directors (currently $100,000 in RSUs per year) (the "Annual LTI Award"). The Executive's initial Annual LTI Award will be issued in 2024 at the same time that annual long-term incentive awards are granted to other non-employee directors (currently in March or April).

(f) Exclusivity of Benefits. Except as expressly provided in this Agreement, the Company and its Subsidiaries will have no further obligations to Executive upon termination of the Director Term and Executive's services as a director hereunder, other than as provided under the policies of the Company and its Subsidiaries then in-effect that are applicable to all non-employee directors generally.

(g) Release Re-Execution. In consideration for and as a condition to receipt of the rights and monetary and non-monetary benefits and incentives set forth in Sections 2, 3 and 5 of the Transition Agreement, as applicable, the Executive agrees to re-execute and deliver the release of claims in the form attached hereto as Exhibit I (the "General Release") within twenty-one (21) days following the Transition Date and to not subsequently revoke the General Release within seven (7) days thereafter.

3. **Advisor Services.**

(a) Advisor Term. Subject to Executive fulfilling his obligations set forth in this Agreement and provided that Executive remains employed by the Company through the Transition Date, then effective as of January 1, 2024 (the "Advisor Start Date"), Executive will serve as a Krispy Kreme Ambassador and as a non-employee senior advisor to the Successor CEO until the earliest of (i) June 30, 2026, (ii) the Executive's death, (iii) the Executive's termination by the Company with or without Cause (as defined herein), or (iv) the resignation by the Executive for any reason (the period from the Advisor Start Date through such date, the "Advisor Term"); provided, that the Company shall be required to give Executive at least 180 days' prior notice of a termination without Cause (excluding a termination due to Executive's death or Disability (as defined in the Company's 2021 Omnibus Incentive Plan) occurring prior to June 30, 2026, and provided further, that Executive will be provided notice of any alleged event of Cause and not less than thirty (30) days to cure, if curable. Subject to the other provisions of this Agreement and the provisions of any other restrictive covenants by which the Executive may be bound, the Executive shall be permitted to provide services as a director, employee, consultant or otherwise to other entities during the Advisor Term.

(b) Services. During the Advisor Term, the Executive shall (i) provide any support reasonably requested to transition his duties to the Successor CEO, (ii) provide to the Company and its Subsidiaries such advisory services as are reasonably requested by the Successor CEO, (iii) attend such community and charity events and functions on behalf of the Company as are designated by the Executive and approved in advance by the Successor CEO, and (iv) facilitate in-kind donations to be made to community and charitable organizations on the Company's behalf, not to exceed $20,000 in value in the aggregate in any calendar year (provided that any such donations exceeding $2,000 in value per individual location/event must be approved in advance by the Successor CEO, which such approval shall not be unreasonably withheld) (clauses (i)-(iv),

collectively the "Advisor Services"). During the Advisor Term, the Executive agrees to be reasonably available to provide the Advisor Services to the Company (on an as-needed basis as determined by the Company in good faith). The specific days and hours during which the Executive will perform the requested Advisor Services will be determined by the Executive, subject to reasonable alteration dependent on the business needs of the Company, and the Executive agrees to use the Executive's reasonable efforts to be available when requested by the Successor CEO, subject to the Executive's other professional and personal commitments. The Executive hereby represents and warrants that the Executive shall (1) act honestly and in good faith and in the best interests of the Company and its Subsidiaries at all times while providing the Advisor Services; (2) use professional care, diligence and skill and endeavor to provide and complete the Advisor Services to the reasonable satisfaction of the Company; (3) comply with all applicable laws, regulations, rules, codes, orders and standards imposed by applicable federal, state, provincial, or local government authorities with respect to the provision of any Advisor Services; and (4) not subcontract the provision of any Advisor Services to any third party without receiving prior written consent from the Successor CEO.

(c) Advisor Fees. During the Advisor Term, the Company or one of its Subsidiaries will pay Executive a consulting fee at a rate of $50,000 per month for providing the Advisor Services (the "Advisor Fees"). The Advisor Fees shall cease on termination of the Advisor Term, provided that the Advisor Fees shall be prorated for the month in which the Advisor Term terminates.

(d) Location. During the Advisor Term, Executive will be permitted to perform his services remotely, so long as such remote work does not materially interfere with the performance of Executive's duties hereunder; provided, that during the Advisor Term, Executive may be required to travel for business reasons as reasonably required by the Company. In connection with any business travel specifically requested by the Successor CEO, the Company will reimburse Executive for the costs and expenses of such travel on the same basis and to the same extent that travel expenses of non-employee members of the Board are reimbursed.

(e) Administrative Support. During the portion of the Advisor Term from January 1, 2024 until April 1, 2024, the Company will provide Executive with administrative support as reasonably necessary to perform the Advisor Services, pursuant to Company policy; provided, that such administrative support shall be limited to coordinating travel arrangements and scheduling Board meetings and events directly related to Executive's provision of the Advisor Services, transitioning any administrative support provided to Executive as of the Effective Date in connection with his service as the President and Chief Executive Officer of the Company and of KKDC, and any other administrative support approved in advance by the Successor CEO.

(f) Company Email Address. During the Advisor Term, Executive shall have the ability to continue to access and use Executive's Company email address (mjtattersfield@krispykreme.com); provided, that during such period, Executive agrees and covenants (i) to comply with all security policies and procedures of the Company and its Subsidiaries as in force from time to time, including without limitation, those regarding monitoring, access codes, Company intranet, internet, social media and instant messaging systems, computer systems, email systems, computer networks, document storage systems, software, data security, encryption, firewalls, passwords, and any and all other Company IT resources and

communication technologies (collectively, "Information Technology Resources"); and (ii) not to access or use any Information Technology Resources except as authorized by the Company.

(g) Notification. Executive hereby acknowledges and agrees that, during the Advisor Term, the Executive shall promptly notify the Successor CEO upon the Executive's acceptance of any offer (i) to become a director of a for-profit entity, (ii) for part-time employment or service at another entity, or (iii) to become a full-time employee or similar capacity at another entity, in each case, to the extent such entity could be considered to engage in Company Business (as defined below).

(h) Exclusivity of Benefits. Except as expressly provided in this Agreement, the Company and its Subsidiaries will have no further obligations to Executive upon termination of the Advisor Term and the Advisor Services hereunder, other than payment of any Advisor Fees payable through the date of termination.

4. **Status as an Independent Contractor**.

(a) The Parties understand and acknowledge that, as of January 1, 2024, the Executive's relationship with the Company and its Subsidiaries shall be that of an independent contractor and nothing in this Agreement creates a partnership, joint venture or any employer-employee relationship between the Executive on the one hand and the Company or any of its Subsidiaries on the other hand. Subject only to such specific limitations as are contained in this Agreement, during the Director Term and the Advisory Term, neither the Company nor any of its Subsidiaries shall have the authority to, nor shall it, supervise, direct or control the manner, means, details or methods utilized by the Executive to perform the Director Services or Advisor Services, as applicable, under this Agreement.

(b) The Executive shall be issued a tax form 1099 by the Company for each applicable calendar year which reflects the amount of any taxable payments received by the Executive in respect of the Director Services and the Advisor Services for such calendar year. The Executive will be responsible for the payment of all taxes relating to compensation received under Sections 2 and 3 of this Agreement (including, without limitation, income taxes, social security contributions, and similar obligations), and the Company shall not be obligated to withhold any such amounts from the Executive's compensation or pay any such taxes for or on the Executive's behalf. The Company shall not make any social security, workers' compensation or unemployment insurance payments on the Executive's behalf.

(c) The Parties understand and acknowledge that, following the Transition Date, the Executive will not be considered an employee of the Company or any of its Subsidiaries and, except as provided in Section 1(b) of this Agreement, will not be entitled to participate in any of the employee benefit plans, programs, policies or arrangements maintained by the Company or any of its Subsidiaries (the "Company Group Benefit Plans") (and if, for any reason, any government agency, court, or other entity determines that the Executive is entitled to participate in any Company Group Benefit Plan for any portion of the period during which the Executive is providing Director Services or Advisor Services to the Company, then the Executive hereby waives his right to receive any benefits under such Company Group Benefit Plan (except as provided in Section 1(b) of this Agreement).

5. **Treatment of Equity.**

(a) *Restricted Stock Units ("RSUs"), Performance-Based Vesting RSUs, and Options*. Equity awards granted to the Executive under the Company's 2021 Omnibus Incentive Plan, the Krispy Kreme Holdings, Inc. Long-Term Incentive Plan, the Krispy Kreme Holdings, Inc. Executive Ownership Plan, the Insomnia Equity Plan, and the Insomnia Cookies Holdings, LLC Long-Term Incentive Plan (each, an "Equity Plan," and collectively, the "Equity Plans") will be treated as follows:

(i) All equity awards that are outstanding and unvested on the Transition Date (collectively, the "Continuing Awards") will, except as set forth below, continue to vest in accordance with their terms during the Director Term and the Advisor Term, subject to the following conditions:

(1) Executive's use of reasonable efforts to support the successful transition of duties to the Successor CEO (including with respect to any internal and external communications regarding Executive's employment or transition of duties which must be pre-approved by the Company and developed with input from Executive);

(2) If both the Director Term and the Advisor Term terminate prior to June 30, 2026 for any reason (including death or Disability) other than (x) due to a termination by the Company for Cause or (y) due to the Executive's resignation for any reason (the date on which the later of such terminations occurs, the "Service Cessation Date"), then the portion of each of Executive's then-outstanding unvested Continuing Awards (other than the Insomnia Matching REU Award) that would have vested on or prior to June 30, 2026 will vest as of the Service Cessation Date; provided, that in the event any such Continuing Award is subject to any performance-based vesting conditions, vesting of such Continuing Award shall continue to be subject to achievement of such performance-based vesting conditions in accordance with the terms of such Continuing Award; and provided, further, that each Continuing Award shall be paid or settled at the time originally provided for in the terms applicable to such Continuing Award, unless the payment or settlement of such Continuing Award must be accelerated in order to comply with Section 409A of the Code, in which case such Continuing Award shall be paid or settled within thirty (30) days after the Service Cessation Date; and

(3) Notwithstanding anything to the contrary in this Agreement or any other agreement, the Continuing Awards (including the Insomnia Matching REU Award) will cease vesting on the date on which either the Director Term or the Advisor Term terminates due to a termination by the Company for Cause or the date on which the Executive resigns from both the Director Services and the Advisor Services for any reason (such date, the "Vesting End Date"), and any Continuing Awards (including the Insomnia Matching REU Award) that are outstanding and unvested as of the Vesting End Date will be immediately forfeited on the Vesting End Date.

(ii) Any equity awards granted to Executive after the Transition Date, including in connection with his service as a member of the Board during the Director Term, will vest or forfeit subject to the terms and conditions applicable to such awards.

(b) *Common Shares*.

(i) (A) Common shares of the Company or any of its Subsidiaries held by Executive as of the Transition Date ("Owned Common Shares"), and (B) common shares of the Company or any of its Subsidiaries acquired by Executive after the Transition Date pursuant to the vesting and settlement of equity awards ("Acquired Common Shares," and together with Owned Common Shares, "Common Shares") will continue to be subject to the terms and conditions of the underlying Equity Plan, award or purchase agreement and related documentation, and to all applicable laws. At all times during the Director Term and the Advisor Term, Executive covenants and agrees that Executive will retain at least 1,200,000 of the Common Shares (subject to any capitalization adjustments or a Change in Control of the Company or similar corporate event (e.g., tender offer)) held by Executive as of the Effective Date (excluding any common shares of Insomnia Cookies Holdings, LLC). Any sales of Common Shares during the Director Term shall be conducted in the window periods permitted by the Equity Plans and Company policy.

(ii) For purposes of the terms applicable to the Common Shares, Executive will not be deemed to have had an interruption in Service (as defined in the Equity Plans) upon the Transition Date for so long as Executive continues to serve as a member of the Board or provides the Advisor Services pursuant to this Agreement.

(iii) At the end of the Director Term or the Advisor Term (whichever occurs later), Executive will be treated as having experienced a separation from Service other than due to death, Disability or Retirement (as such terms are defined in the applicable Equity Plans) solely for purposes of the put rights and other repurchase provisions applicable to the Common Shares.

(c) *Additional Terms Applicable to All Equity*.

(i) Except as set forth in this Agreement, all outstanding equity awards granted to Executive under the Equity Plans will continue to be subject to the terms and conditions of the applicable Equity Plans and award agreements.

(ii) Upon a Covenant Breach, all outstanding unvested equity awards granted to Executive under the Equity Plans will immediately forfeit.

6. **Restrictive Covenants**.

(a) Executive acknowledges and agrees that each of the restrictive covenants to which Executive is subject as of the date hereof for the benefit of the Company and its Subsidiaries and shareholders, including the covenants set forth in (i) Sections 6 and 7 of the Employment Agreement; and (ii) the Equity Plans and any award agreements thereunder, will continue to apply in accordance with their terms for the applicable periods with respect thereto, except as modified by Section 8 of this Agreement (collectively, the "Continuing Obligations"). Without limiting Section 8, Executive hereby reaffirms the Continuing Obligations and acknowledges and agrees that the Continuing Obligations remain in full force and are incorporated by reference as if set forth herein and executed anew.

(b) Without limiting, decreasing, reducing the scope of, or otherwise affecting the validity of any of the Continuing Obligations, Executive agrees as follows (together with the Continuing Obligations, the "Restrictive Covenants"):

(i) For the period of time commencing on the Transition Date through the latest to occur of (A) the twelve (12) month anniversary of the Transition Date, (B) the date on which the Director Term ends, and (C) the twelve (12) month anniversary of the date on which the Advisor Term ends (such period, the "Restricted Period"), Executive will not, without first obtaining the prior written approval of the Board, serve in a management or executive-level role with, or provide business, strategic, sales, financial, operational or technical advice or services (to the extent that Executive provided such advice or services to the Company or any of its Subsidiaries at any time during the twenty-four (24) months immediately preceding the Transition Date), to any other Person engaged in or actively preparing to engage in any Company Business (as defined herein), within any state in the United States or in any country, in each case, in which Executive provided services or had a material presence or influence for or on behalf of the Company or any of its Subsidiaries at any time during the twenty-four (24) months immediately preceding the Transition Date unless the Company and its Subsidiaries have abandoned such area (the "Restricted Area"); provided, however, that, notwithstanding the foregoing, during the Restricted Period, Executive will not be prevented from providing services to a multi-division company so long as (x) Executive is not employed by or does not provide services to a division of such company that engages in and derives more than 15% of its revenues from the Company Business within the Restricted Area, (y) during the course of such employment or service, Executive undertakes not to, and does not, have any discussions with, or participate in, the governance, management or operations of any division of Executive's new employer or service recipient that is engaged in and derives more than 15% of its revenues from the Company Business within the Restricted Area, and (C) Executive does not engage in the Company Business within the Restricted Area.

(ii) During the Restricted Period, Executive will not, directly or indirectly, (A) solicit, attempt to solicit, induce, or otherwise cause or engage in any action intended to encourage (1) any employee of the Company or any of its Subsidiaries at the level of manager or above and with annual base salary in excess of $100,000; or (2) any independent contractor or consultant of the Company or any of its Subsidiaries with annual compensation or fee arrangement in excess of $100,000, in each case of clause (1) and (2), with whom Executive had contact or about whom Executive learned or obtained confidential information during Executive's provision of services to the Company and its Subsidiaries (each, a "Restricted Person"), to terminate his or her relationship with the Company or any of its Subsidiaries, as applicable, or (B) hire or engage, or offer to hire or engage, any Restricted Person; provided, that Executive shall not be prohibited from making a general advertisement for employees not focused specifically on employees of the Company and its Subsidiaries or from providing a personal reference upon request.

(iii) During the Restricted Period, Executive will not, directly or indirectly, solicit (for a business competitive with the Company or any of its Subsidiaries) the business of, or transact business with, any Person who or which was a customer or franchisee of the Company or any of its Subsidiaries on the Transition Date or at any time during the one (1) year period immediately preceding the Transition Date in each case, with whom or which

Executive had contact or about whom Executive developed, learned or obtained confidential information during Executive's employment with the Company or any of its Subsidiaries.

(iv) Without limiting the Protected Activities (as defined herein), which shall not be a violation of this provision, from and in perpetuity following the Transition Date, Executive will not make or publish, or cause to be made or published through any print or electronic media or otherwise, or through a third-party, any disparaging comments about any of the Company Related Parties (as defined herein). The Company and KKDC will instruct their respective officers and directors to not make disparaging statements about Executive and will refrain from making formal written statements that are disparaging to Executive.

(v) Executive will also be subject to the terms of any non-competition or other restrictive covenants applicable to other non-executive members of the Board or independent contractors to the Company and its Subsidiaries generally, pursuant to Company policy as set forth in the Company's Code of Conduct, in addition to the other restrictive covenants that apply as set forth above.

(c) The Parties acknowledge that a remedy at law for any breach or threatened breach by Executive of any of the Restrictive Covenants would be inadequate and the harm would be irreparable, and agree that the Company will be entitled to seek injunctive relief in case of any such breach or threatened breach. Executive and the Company agree and acknowledge that the promises and covenants contained in this Agreement are good, sufficient, fair, reasonable, and mutually agreed-upon consideration for Executive's agreement to be bound by the covenants set forth in Section 6(b) of this Agreement. Executive agrees that the restrictions contained in each of the Restrictive Covenants are reasonable and necessary to protect the confidential information and trade secrets of the Company and its Subsidiaries, and do not and will not prevent Executive from obtaining subsequent employment that is satisfactory to Executive. If, at the time of enforcement of any of the Restrictive Covenants, a court holds that the restrictions stated therein are unreasonable under circumstances then existing, the Parties agree that the maximum period, scope or geographical area reasonable under such circumstances will be substituted for the stated period, scope or area, and the Parties agree that a court may reform or otherwise revise one more of the Restrictive Covenants so as to render it valid and enforceable to the extent necessary.

7. Confidential Information.

(a) The Executive acknowledges that the Company and its Subsidiaries have a legitimate and continuing proprietary interest in the protection of all Confidential Information (as defined herein), including, their trade secrets, other confidential information and proprietary information and that they have invested and will invest substantial sums to develop, maintain and protect such Confidential Information. During the Director Term and the Advisor Term, and at all times thereafter, except with the prior written consent of the Company, the Executive shall not use for the Executive's own benefit or furnish or disclose to, or make accessible to, any other Person any Confidential Information; provided, however, that Executive may disclose Confidential Information as required to perform his duties under this Agreement. In addition, Executive may disclose the terms of this Agreement to subsequent potential employers or business partners to the extent reasonably necessary to demonstrate applicable restrictive covenants, so long as Executive

instructs each such person to whom he makes any such disclosure to keep such terms and conditions confidential.

(b) For purposes of this Agreement, "Confidential Information" shall include, but not be limited to, the following confidential and proprietary information: this Agreement; trade secrets; operating techniques, procedures and methods; product specifications; customer lists and customer information (including, but not limited to catering customers); account information; price lists and cost and pricing information, including both the Company's and its Subsidiaries' internal cost and pricing and external costs and pricing provided to the Company or any of its Subsidiaries by vendors and suppliers; discount schedules; budgets; correspondence with customers (including, but not limited to catering customers), vendors, competitors, employees, partners, franchisees or any other entity or person; business and development plans and strategies; training materials, sales techniques and supporting documentation; projections; drawings; software; samples; prototypes, schematics and other projects developed by or for the Company or any of its Subsidiaries; leads from any source; marketing techniques; total quality management operational procedures and other procedures and methods; employee lists; internal financial reports (including, but not limited to, internal sales and/or profit and loss reports) of the Company and its Subsidiaries and/or franchisees; sourcing lists; recruiting lists; digital technologies and other technological developments, including, but not limited to, ordering and delivery technologies and any other such proprietary information; enterprise application tools utilized for scheduling and cost management, and the information contained in same; and other competitive information developed by or on behalf of the Company or any of its Subsidiaries. "Confidential Information" shall not include (i) any such information which has become generally known to or available for use by the public due to reasons other than Executive's act(s) or omission(s) in breach of a confidentiality obligation to the Company or its Subsidiaries, and (ii) the Goals and Dreams Performance Management Framework and the Coaching and Values Compass, which were, in each case, developed by Executive prior to his employment with the Company.

(c) The Confidential Information will be used solely for the purpose of enabling the Executive, and solely to the extent necessary for the Executive, to perform the Director Services and the Advisor Services and not for any other purpose, and the Confidential Information will be kept strictly confidential and will not be disclosed, in whole or in part, by the Executive, except for Protected Activities. The Executive agrees to safeguard the Confidential Information and take such additional precautions as may be reasonably necessary to prevent the Confidential Information from disclosure to any person other than as permitted hereby.

(d) If the Executive becomes legally compelled (including by deposition, court order, interrogatory, request for documents, subpoena, civil investigative demand or similar process) or compelled by the rules of a regulatory body to disclose any of the Confidential Information, the Executive shall provide the Company with prompt prior written notice of such requirement to the extent permitted by law so that the Company may seek a protective order or other appropriate remedy. If such protective order or other remedy is not obtained, the Executive agrees to disclose only that portion of the Confidential Information which the Executive is advised by his outside legal counsel that he is legally required to disclose and to take all reasonable steps to preserve the confidentiality of the Confidential Information (including by obtaining an appropriate protective order or other reliable assurance that confidential treatment will be accorded the Confidential Information. In addition, the Executive will not oppose any action (and will, if

and to the extent requested by the Company, cooperate with, assist and join with the Company, at the Company's expense, in any reasonable action) by the Company to obtain an appropriate protective order or other reliable assurance that confidential treatment will be accorded the Confidential Information.

8. **Permitted Disclosures**. Notwithstanding the foregoing, nothing in this Agreement or any other agreement Executive may have with the Company or any of its Subsidiaries will prohibit or restrict Executive from (i) voluntarily communicating with an attorney or financial advisor retained by Executive for the purposes of securing professional advice; (ii) voluntarily communicating with any law enforcement, government agency, including the Securities and Exchange Commission ("SEC"), the U.S. Department of Justice, the U.S. Consumer Financial Protection Bureau, the U.S. Commodity Futures Trading Commission, the Equal Employment Opportunity Commission, the Massachusetts Commission Against Discrimination (or any other state or local commission on human rights), or any self-regulatory organization regarding possible violations of law, or otherwise initiating, testifying, assisting, complying with a subpoena from, or participating in any manner with an investigation conducted by such government agency, in each case, without advance notice to the Company; (iii) recovering a SEC whistleblower award as provided under Section 21F of the Securities Exchange Act of 1934; (iv) disclosing any information (including confidential information) to a court or other administrative or legislative body in response to a subpoena, court order or written request (with advance notice to the Company prior to any such disclosure to the extent legally permitted); or (v) making any disclosure of information or documents to a court for the purpose of enforcing or interpreting this Agreement (or in the case of any other litigation between Executive and the Company or any of its Subsidiaries). Further, Executive is hereby advised that pursuant to the Defend Trade Secrets Act of 2016 (18 U.S.C. §1833(b)), Executive will not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret of the Company where the disclosure is made (i) in confidence to a federal, state, or local government official, either directly or indirectly, or to Executive's attorney, and solely for the purpose of reporting or investigating a suspected violation of law; and (ii) in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. If Executive files a lawsuit for retaliation by the Company for reporting a suspected violation of law, Executive may disclose the trade secret to Executive's attorney and use the trade secret information in the court proceeding, if Executive (x) files any document containing the trade secret under seal; and (y) does not disclose the trade secret, except pursuant to court order. Nothing in this Agreement is intended to conflict with 18 U.S.C. §1833(b) or create liability for disclosures of trade secrets that are expressly allowed by such section. The activities and disclosures described in this Section 8 will be referred to collectively as the "Protected Activities."

9. **Cooperation**. Executive agrees to cooperate voluntarily and fully with the Company and its Subsidiaries regarding any actual or threatened litigation or internal review or investigation involving the Company or any of its Subsidiaries. Executive further agrees that Executive will cooperate with the Company and its Subsidiaries and provide the Company and its Subsidiaries, as applicable, with truthful information regarding the work that Executive has done for the Company or any of its Subsidiaries, including the location and contents of all files, including electronic files, relating to such work. Executive's cooperation shall include, but not be limited to, the following: (a) being available to meet and speak with officers, directors, or employees of the Company or any of its Subsidiaries, their counsel or any third-parties at the request of the Company

or any of its Subsidiaries at reasonable times and locations to be determined by the Company or its applicable Subsidiary in consultation with Executive, without unreasonably interfering with any of Executive's then-current work responsibilities; (b) giving accurate and truthful information at any interviews and accurate and truthful testimony; (c) producing documents or information, including electronic documents or information, in Executive's possession or control, as instructed by the Company or its Subsidiaries or its or their counsel; (d) executing accurate and truthful documents; and (e) taking such other actions as may reasonably be requested by the Company or its Subsidiaries or its or their counsel to effectuate the foregoing. The Parties expressly represent and agree that the payments made or to be made by the Company to Executive are not conditioned upon or related to the substance of any testimony or information provided by Executive pursuant to the foregoing. Notwithstanding the foregoing, this Section 9 shall not limit or in any way diminish the Protected Activities. As a condition to Executive's obligation to provide reasonable assistance and cooperation pursuant to this Section 9, or Section 7(d) above, to the extent permitted by law, the Company agrees that it shall promptly reimburse Executive for his reasonable and documented expenses incurred in connection with his rendering assistance and/or cooperation under this Section 9, or Section 7(d) above, upon his presentation of documentation for such expenses, in accordance with the applicable policies of the Company and its Subsidiaries. Executive will not be required to cooperate against his own legal interests.

10. **Definitions**. For purposes of this Agreement:

(a) "Cause" shall mean the occurrence of any of the following: (i) Executive's willful and continued failure substantially to perform his duties (other than as a result of total or partial incapacity due to physical or mental illness); (ii) any willful act or omission by Executive constituting fraud or other malfeasance or material dishonesty in connection with Executive's performance of his duties in connection with Executive's employment by or service to the Board, the Company or any of its Subsidiaries; (iii) Executive's indictment of (provided, that, if such indictment does not result in a conviction or plea of nolo contendere, any termination for Cause based upon the indictment shall be treated as a termination without Cause), conviction of, or entering of a plea of nolo contendere to, a crime constituting a felony under the laws of the United States or any state thereof or any other jurisdiction in which the Company or any of its Subsidiaries conducts business or a crime involving moral turpitude; (iv) Executive's material breach of any non-solicitation, noncompetition, confidentiality, or other restrictive covenant with the Company or any of its Subsidiaries by which he is bound; (v) gross negligence or willful misconduct in connection with Executive's performance of his duties in connection with Executive's employment by or service to the Board, the Company or any of its Subsidiaries; or (vi) Executive's willful failure to comply with any material policies or procedures of the Board, the Company and its Subsidiaries as in effect from time to time (provided that Executive shall have been delivered a copy of such policies or given notice that they have been posted on a Company website prior to such compliance failure); provided, that (i) with respect to the Director Services, references to the Executive's provision of services and duties hereunder are deemed to be references to the Executive's provision of the Director Services, and (ii) with respect to the Advisor Services, references to the Executive's provision of services and duties hereunder are deemed to be references to the Executive's provision of the Advisor Services.

(b) "Company Business" means (i) any business that provides customer direct retail doughnuts, cookies, bakery goods, or any other product which, as of the date of

determination, the Company or any of its Subsidiaries is producing or marketing, or planning to produce or market (collectively, the "Company Products"); (ii) any business that researches, develops, markets, manufactures, wholesales and/or distributes any of the Company Products; or (iii) any business that engages in any form of consumer packaged goods business or consumer direct retail business that is the same as, or similar to, the Company's business or planned business based upon demonstrable activity as of the date of determination, if, in the case of each of clauses (i)-(iii), the entity's revenue from the sale of Company Products exceeds 15% of the entity's business.

(c) "Covenant Breach" means Executive has breached a Restrictive Covenant that has not been cured (if capable of being cured as determined by the Board) within 30 days after the Company delivers written notice to Executive identifying the Covenant Breach.

(d) "Company Related Parties" means the Company and any of its Subsidiaries, or any of their respective direct or indirect significant franchisees, trustees, partners, agents, directors, officers or employees thereof (in their capacity as such), or any of the Company's direct or indirect shareholders owning more than 10% of the Company's common stock, or any of such shareholders' directors or officers.

(e) "Person" means any individual, corporation, partnership, limited liability company, joint venture, association, trust or other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

(f) "Subsidiary" means, with respect to any Person, as of any date of determination, any other Person as to which such first Person owns or otherwise controls, directly or indirectly, more than 50% of the voting shares or other similar interests or a sole general partner interest or managing member or similar interest of such other Person.

11. **Payments; Tax Considerations**. Notwithstanding anything herein to the contrary:

(a) Except as provided in Section 4(b), payment of all compensation and other amounts to Executive under this Agreement will be made in accordance with normal payroll practices, and will be subject to applicable federal, state and local withholding taxes and any other required or authorized withholdings or deductions.

(b) Executive agrees that the Company may set off against, and Executive authorizes the Company to deduct from, any payments due to Executive, or to his heirs, legal representatives, or successors, as a result of the termination of Executive's employment any specified amounts which may be due and owing to the Company or any of its Subsidiaries by Executive, whether arising under this Agreement or otherwise; provided, that no offset is allowed against payments to Executive which are subject to Section 409 of the Internal Revenue Code, as amended, and the regulations and guidance promulgated thereunder (collectively, "Section 409A") if such offset cannot be made in a manner that complies with Section 409A.

(c) The intent of the parties is that payments and benefits under this Agreement are exempt from or comply with Section 409A, to the extent subject thereto, and accordingly, to the maximum extent permitted, this Agreement will be interpreted and administered to be in compliance therewith. If the Company determines that any payment or benefit under this

Agreement is not either exempt from or in compliance with Section 409A, the parties will cooperate in good faith to modify this Agreement to comply with Section 409A while endeavoring to preserve the intended economic benefits.

(d) A termination of employment will not be deemed to have occurred for purposes of any provision of this Agreement providing for the payment of any amounts or benefits upon or following a termination of employment unless such termination is also a "separation from service" within the meaning of Section 409A.

(e) With regard to any provision herein that provides for reimbursement of costs and expenses or in-kind benefits, except as permitted by Section 409A, (i) the right to reimbursement or in-kind benefits will not be subject to liquidation or exchange for another benefit; (ii) the amount of expenses eligible for reimbursement, or in-kind benefits, provided during any taxable year will not affect the expenses eligible for reimbursement, or in-kind benefits to be provided, in any other taxable year; provided, that this clause (ii) will not be violated with regard to expenses reimbursed under any arrangement covered by Section 105(b) of the Code solely because such expenses are subject to a limit related to the period the arrangement is in effect; and (iii) such payments will be made on or before the last day of Executive's taxable year following the taxable year in which the expense was incurred.

(f) Whenever a payment under this Agreement specifies a payment period with reference to a number of days (e.g., "payment will be made within ten calendar days following the date of termination"), the actual date of payment within the specified period will be within the sole discretion of the Company. If under this Agreement, an amount is to be paid in two or more installments, for purposes of Section 409A, each installment will be treated as a separate payment.

12. **Miscellaneous**.

(a) *Attorneys' Fees*. Executive will be reimbursed up to $25,000 for reasonable legal fees incurred by Executive in connection with the review, drafting and execution of this Agreement and any ancillary documents, subject to submission to the Company of supporting documentation evidencing payment.

(b) *No Employment Obligations; No Offset*. Executive will not be obligated to obtain future employment and any compensation for future employment or other services will not serve as an offset to the payments, benefits or director fees provided hereunder.

(c) *Governing Law*. This Agreement will be governed by and construed in accordance with the internal laws of the State of North Carolina without giving effect to any choice or conflict of law provision or rule (whether of the State of North Carolina or any other jurisdiction). Notwithstanding Section 12(i) of this Agreement, or any other agreement to arbitrate that Executive has with the Company, all actions and proceedings arising out of or relating to the Restrictive Covenants will be heard and determined exclusively in the superior court or the business litigation session of the superior court in Charlotte, North Carolina, and the Parties hereby irrevocably submit to the exclusive jurisdiction and venue of such courts in any such action or proceeding and irrevocably waive the defense of an inconvenient forum or lack of jurisdiction to the maintenance of any such action or proceeding.

(d) *Assignment and Transfer*. Executive's rights and obligations under this Agreement will not be transferable by assignment or otherwise, and any purported assignment, transfer or delegation thereof will be void. Executive hereby agrees that the Company may assign this Agreement, in whole or in part, to a third party; provided, that, unless such assignment is to an acquirer of a majority of the equity of the Company or substantially all of the Company's assets who assumes this Agreement in writing, the Company will remain secondarily liable for all of its initial obligations hereunder. This Agreement will be binding upon, and inure to the benefit of, the Company, and its successors and assigns.

(e) *Third-Party Beneficiaries*. Each Subsidiary of the Company will be a third-party beneficiary of Executive's obligations under this Agreement and will have the right to enforce this Agreement as if a party hereto.

(f) *Entire Agreement*. This Agreement, together with any exhibits hereto or documents referred to or incorporated by reference, contains the entire agreement and understanding between the Parties with respect to the subject matter hereof, and supersedes any prior or contemporaneous written or oral agreements, representations and warranties between them respecting the subject matter hereof, including the Employment Agreement (including any rights Executive may have to receive severance payments or benefits set forth therein); provided, however, that this Agreement will not supersede or otherwise affect the validity of the Continuing Obligations. Without limiting the foregoing, except with respect to the Continuing Obligations, this Agreement expressly supersedes all prior agreements (written or oral) relating to Executive's employment with the Company or any of its Subsidiaries.

(g) *Amendment and Waiver; Rights Cumulative*. This Agreement may be amended, waived or discharged only if authorized by the Board and only by a writing referencing the amendment, waiver or discharge of this Agreement signed by Executive and by a duly authorized representative of the Company (other than Executive). No failure or neglect of any of the Parties in any instance to exercise any right, power or privilege hereunder or under law will constitute a waiver of any other right, power or privilege or of the same right, power or privilege in any other instance. All waivers by any of the Parties must be contained in a written instrument signed by the Party to be charged and, in the case of the Company, by a duly authorized representative of the Company (other than Executive). The rights and remedies provided by this Agreement are cumulative, and the exercise of any right or remedy by any of the Parties hereto (or by its successor), whether pursuant to this Agreement, to any other agreement, or to law, will not preclude or waive its right to exercise any or all other rights and remedies.

(h) *Severability*. If any term, provision, covenant or condition of this Agreement, or the application thereof to any person, place or circumstance, will be held to be invalid, unenforceable or void, the remainder of this Agreement and such term, provision, covenant or condition as applied to other Persons, places and circumstances will remain in full force and effect.

(i) *Dispute Resolution*. To provide a mechanism for rapid and economical dispute resolution, Executive and the Company agree that any and all disputes, claims, or causes of action, in law or equity, arising from or relating to this Agreement or its enforcement, performance, breach, or interpretation, will be resolved, to the fullest extent permitted by law, by final, binding,

and confidential arbitration held in Charlotte, North Carolina and conducted by JAMS Mediation, Arbitration and ADR Services ("JAMS"), or its successor, under its then-existing Rules and Procedures. **Executive acknowledges that by agreeing to this arbitration procedure, both Executive and the Company waive the right to resolve any such dispute through a trial by jury or judge or administrative proceeding.** The arbitrator will: (i) have the authority to compel adequate discovery for the resolution of the dispute and to award such relief as would otherwise be permitted by law; and (ii) issue a written arbitration decision including the arbitrator's essential findings and conclusions and a statement of the award. The arbitrator will be authorized to award any or all remedies that Executive or the Company would be entitled to seek in a court of law. Notwithstanding anything to the contrary herein, (x) Executive may, but is not required to, arbitrate claims for sexual harassment or assault to the extent applicable law renders a pre-dispute arbitration agreement covering such claims invalid or unenforceable; and (y) this Section 12(i) will not (1) cover any claim or charge which, by law, cannot be the subject of a compulsory arbitration agreement; or (2) preclude Executive from filing charges with the federal Equal Employment Opportunity Commission or similar state or local agencies. Nothing in this Section 12(i) is intended to prevent either Executive or the Company from obtaining injunctive relief in court to prevent irreparable harm pending the conclusion of any such arbitration.

(j) *Notices*. Any notice or other communication required or permitted under this Agreement will be effective only if it is in writing and will be deemed given when delivered personally, through electronic email (with receipt thereof confirmed), one (1) day after it is sent through a reputable overnight carrier, or three (3) business days after it is mailed by registered mail, return receipt requested, to the Parties at the following addresses (or at such other address as a Party may specify by notice given hereunder to the other Parties hereto):

If to Executive:

At the address listed in the Company's personnel records.

With a copy (which will not constitute notice) to:

Katzke & Morgenbesser LLP
1345 Avenue of the Americas, 11th Fl.
New York, NY 10105-0013
Attn: Michael S. Katzke, Esq.

If to the Company or any of its Subsidiaries:

2116 Hawkins Street
Charlotte, NC 28203
Attention: Chief Legal Officer & Corporate Secretary

(k) *Further Assurances*. Executive will, upon the Company's reasonable request, execute such further documents and take such other actions as may be permitted or reasonably required by law to implement the purposes, objectives, terms, and provisions of this Agreement.

(l) *Interpretation*. The headings and captions of this Agreement are provided for convenience only and are intended to have no effect in construing or interpreting this Agreement. The language in all parts of this Agreement will be in all cases construed according to its fair meaning and not strictly for or against the Company or Executive. As used herein: (i) reference to any agreement, document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof; (ii) reference to any law, rule or regulation means such law, rule or regulation 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 law, rule or regulation means that provision of such law, rule or regulation from time to time in effect and constituting the substantive amendment, modification, codification, replacement or reenactment of such section or other provision; (iii) "hereunder," "hereof," "hereto," and words of similar import will be deemed references to this Agreement as a whole and not to any particular article, section or other provision hereof; (iv) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term; (v) "or" is used in the inclusive sense of "and/or"; and (vi) references to documents, instruments or agreements will be deemed to refer as well to all addenda, exhibits, schedules or amendments thereto.

(m) *Counterparts; Facsimile, Digital or Electronic Signatures*. This Agreement may be executed in separate counterparts, any one of which need not contain signatures of more than one party, but all of which taken together will constitute one and the same Agreement. This Agreement may be transmitted and/or signed by facsimile, digital, or electronic transmission and/or signature. The effectiveness of any such signatures shall have the same force and effect as manually signed originals and shall be binding on all parties to this Agreement.

(n) *Legally Binding; Section Headings*. All of the terms contained in this Agreement, including the "whereas" clauses, are contractual, and not a mere recital; provided, however, that section headings in this Agreement are included herein for convenience of reference only and will not constitute a part of this Agreement for any other purpose. The words "Section" and "paragraph" herein will refer to such Sections or paragraphs of this Agreement unless expressly indicated otherwise.

(o) *Each Party the Drafter*. Executive understands the terms and conditions set forth in this Agreement and acknowledges having had adequate time to consider whether to agree to the terms and conditions and to consult a lawyer or other advisor of Executive's choice. This Agreement and the provisions contained herein will not be construed or interpreted for or against any party to this Agreement because that party drafted or caused that party's legal representative to draft any of its provisions.

(p) *Survival*. Upon the expiration or other termination of this Agreement, the respective rights and obligations of the parties hereto shall survive such expiration or other termination to the extent necessary to carry out the intentions of the parties under this Agreement.

[Remainder of Page Intentionally Left Blank / Signatures on Next Page]

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

/s/ Michael Tattersfield
MICHAEL TATTERSFIELD
Date: December 1, 2023

KRISPY KREME, INC.

By: /s/ Terri Zandhuis
Name: Terri Zandhuis
Its: Chief People Officer
Date: December 1, 2023

KRISPY KREME DOUGHNUT CORPORATION

By: /s/ Terri Zandhuis
Name: Terri Zandhuis
Its: Chief People Officer
Date: December 1, 2023

EXHIBIT I

RELEASE

This Release (the "Release") is entered into by and by and among Krispy Kreme, Inc., a Delaware corporation (the "Company"), Krispy Kreme Doughnut Corporation, a North Carolina corporation ("KKDC"), and Michael Tattersfield ("Executive"). Reference is made to the Transition and Director and Advisor Services Agreement, dated as of December 1, 2023, entered into by and between the Company, KKDC, and Executive (the "Transition Agreement"). Capitalized terms used, but not otherwise defined, herein will have the meanings given to such terms in the Transition Agreement.

1. In consideration for and as a condition to receipt of the rights and monetary and non-monetary benefits and incentives set forth in Section 1(c) of the Transition Agreement (the "Release Consideration") and in Sections 2, 3 and 5 of the Transition Agreement (collectively, the "Re-Execution Consideration"), Executive, for and on behalf of himself and his heirs, executors, administrators, successors and assigns, hereby voluntarily, knowingly and willingly releases and forever discharges the Company and all of its past and present parents Subsidiaries, and affiliates, and, in their capacities as such, each of their respective officers, directors, agents, representatives, attorneys, employees, shareholders, parents, Subsidiaries, affiliates, predecessors successors, and assigns (collectively, the "Released Parties"), of and from any and all rights, claims, charges, liabilities, demands, actions, causes of action, complaints, suits, sums of money, debts, costs, expenses, attorneys' fees, damages, indemnities and obligations of every kind and nature whatsoever, in law, equity, or otherwise, known or unknown, suspected and unsuspected, disclosed and undisclosed, liquidated or contingent (collectively, "Claims"), that Executive or Executive's heirs, executors, administrators, successors and assigns ever had, now has or may hereafter claim to have by reason of any matter, cause or thing whatsoever: (a) arising from the beginning of time up to the date Executive executes or re-executes this Release, as applicable, including any Claims (i) relating in any way to Executive's employment relationship with the Company or any of the other Released Parties; (ii) arising out of or relating to tort, fraud or defamation; and (iii) arising under any federal, local or state statute or regulation, including, without limitation, Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, the Age Discrimination in Employment Act as amended by the Older Workers Benefit Protection Act (the "ADEA"), the Family and Medical Leave Act, the Employee Retirement Income Security Act of 1974, the Americans with Disabilities Act, the North Carolina Wage and Hour Act, the North Carolina Equal Employment Practices Act, the North Carolina Handicapped Persons Protection Act, and the North Carolina Occupational Safety and Health Act; (b) arising out of or relating to the termination of Executive's employment with the Company or any of the other Released Parties; or (c) arising under or relating to any policy, agreement, understanding or promise, written or oral, formal or informal, between the Company or any of the other Released Parties and Executive; provided, however, that nothing in this Release will waive rights or Claims (1) to enforce the terms of this Release and to receive the Release Consideration or the Re-Execution Consideration, as applicable; (2) for accrued vested benefits under the terms of any of the medical, dental, life insurance or tax-qualified employee benefit plans of the Company or any of its Subsidiaries; (3) for coverage under the directors and officers liability insurance policies, or relating to indemnification rights Executive may have under the Transition Agreement, the Company's governing documents or otherwise; (4) as a stockholder

or equity award holder of the Company or any of its Subsidiaries; (5) that cannot be legally waived under applicable law, such as unemployment benefits, workers' compensation and disability benefits; (6) to challenge the validity of the release of ADEA claims set forth in this Release; or (7) that arise wholly out of events or actions that occur after the date Executive signs this Release.

2. Executive hereby acknowledges, represents and agrees that: (a) Executive has been given a period of twenty-one (21) days following the date upon which Executive executes this Release, or the date upon which Executive re-executes this Release, as applicable, to consider the terms of and sign this Release, and that Executive must sign or re-sign this Release, as applicable, within the applicable twenty-one (21)-day period to receive the Release Consideration or the Re-Execution Consideration, as applicable, although Executive may sign it sooner if Executive so chooses; provided, however, that **in no event can Executive re-execute this Agreement prior to the Transition Date**; (b) the Company has advised Executive in writing by way of this paragraph to consult with an attorney of Executive's choosing prior to executing and re-executing this Release; (c) Executive has received valuable and good consideration to which Executive would not otherwise be entitled in exchange for this Release; and (d) Executive is knowingly and voluntarily waiving and releasing any rights Executive may have, including those under the federal ADEA. Executive agrees that changes in this Release, whether material or not, will not restart the applicable twenty-one (21)-day consideration period.

3. Executive further acknowledges and agrees that this Release will not become effective or enforceable until the eighth (8th) day after it is executed or re-executed (as applicable) by Executive, and that Executive may revoke this Release at any time within seven (7) days after Executive executes or re-executes it, as applicable. Executive has been informed and understands that any such revocation must be in writing and delivered to the Company by hand, or sent by mail, within the seven (7)-day period. If delivered by mail, the revocation must be: (1) postmarked within the seven (7)-day period; (2) properly addressed as set forth in Section 12(j) of the Transition Agreement; and (3) sent by certified mail, return receipt requested. Executive understands that if Executive revokes or rescinds this Release within the seven (7)-day period, Executive will not be entitled to the Release Consideration or the Re-Execution Consideration, as applicable.

4. If any term or provision of this Release is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other term or provision of this Release or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision of this Release is invalid, illegal or unenforceable, this Release will be enforceable as closely as possible to its original intent, which is to provide the Released Parties with a full release of all legally releasable claims through the date upon which Executive signs this Release or the date upon which Executive re-signs this Release, as applicable.

5. Both Executive and the Company understand and agree that nothing contained in this Release or the Transition Agreement, or the fact that Executive receives any payment or benefit under such agreements, will be construed as an admission of any wrongdoing and/or liability on the part of anyone for any matter, all liability being expressly denied.

6. Executive acknowledges and agrees that all Released Parties are third-party beneficiaries of this Release and have the right to enforce this Release.

7. This Release will be governed by, and construed in accordance with, the laws of the State of North Carolina, without regard to the application of any choice-of-law rules that would result in the application of another state's laws.

8. All contests, disputes, controversies, or claims arising hereunder or related hereto will be resolved in accordance with the dispute resolution provisions in Section 12(i) of the Transition Agreement.

9. The Company, on behalf of itself and its Subsidiaries and their successors and assigns, represents that, as of the date of the Transition Agreement, neither the Board of Directors of the Company nor the Chief Executive Officer of the Company have actual knowledge of any claims, demands, causes of actions, fees and liabilities of any kind whatsoever, which it or they have against Executive as of the date of the Transition Agreement, by reason of any actual or alleged act, omission, transaction, practice, conduct, statement, occurrence, or any other matter related to Executive's employment with the Company, the termination of such employment or otherwise, not including any claims for fraud or criminal activity.

Signature page follows

IF EXECUTIVE CHOOSES TO RE-EXECUTE THIS RELEASE, AS A CONDITION TO RECEIVING THE RE-EXECUTION CONSIDERATION, EXECUTIVE MUST DO SO ON OR WITHIN 21 DAYS FOLLOWING THE TRANSITION DATE. IF EXECUTIVE RE-EXECUTES THIS RELEASE PRIOR TO SUCH TIME, THE COMPANY WILL RETURN THIS RELEASE TO EXECUTIVE AND EXECUTIVE WILL BE ASKED TO TIMELY RE-EXECUTE THE RELEASE ON OR AFTER THE TRANSITION DATE.

Michael Tattersfield

____

Signature

Date: ______________________________

<u>EXHIBIT II</u>

INSOMNIA COOKIES HOLDINGS, LLC EXECUTIVE OWNERSHIP PLAN

INSOMNIA COOKIES HOLDINGS, LLC
EXECUTIVE OWNERSHIP PLAN

(Effective September 17, 2018)

SECTION 1
PURPOSE AND DURATION

1.1 **Purpose.** The purpose of this Insomnia Cookies Holdings, LLC Executive Ownership Plan is to promote the interests of Insomnia Cookies Holdings, LLC, its ultimate parent company, Krispy Kreme Doughnut Corporation, and the equityholders of both such companies by (i) attracting and retaining exceptional executive personnel and other key employees of the Company and its Affiliates; (ii) motivating such employees to achieve long-range performance goals and (iii) enabling such employees to participate in the long-term growth and financial success of the Company.

1.2 **Effective Date and Term of the Plan**.

(a) The effective date of the Plan is September 17, 2018.

(b) The Plan will terminate upon the earlier of (i) the date on which all Units available for issuance under the Plan have been issued pursuant to the purchase of Purchased Units or Matching Awards made under the Plan (to the extent of any applicable limitation under Section 4.1), (ii) the fifth anniversary of the date specified in Section 1.2(a) and (iii) any other date specified by action of the Parent Board. Upon such Plan termination, all Purchased Units and Matching Awards outstanding under the Plan will continue to have full force and effect in accordance with the terms of the Unit Purchase Agreements and Matching Award Agreements, and any terms and conditions of the Plan that are intended to have continuing effect in respect to any Units issued under the Plan (e.g., the provisions related to the put rights of Participants and the call rights of the Company) shall continue in effect without regard to the termination of the Plan.

SECTION 2
DEFINITIONS

Whenever used in the Plan, the following terms have the meanings set forth below:

2.1 "**Acquisition Transaction**" means the transaction consummated pursuant to the Securities Purchase Agreement whereby the Company will become a wholly-owned subsidiary of Parent.

2.2 "**Affiliate**" means the Parent and any entity that, directly or indirectly, is controlled by the Company or the Parent, or in which the Company or the Parent has a significant equity interest as determined by the Committee.

2.3 "**Aggregate Investment Limit**" has the meaning set forth in Section 6.2.

2.4 "**Aggregate Matching Limit**" means, with respect to any Participant eligible for a Matching Award, the dollar amount specified by the Committee.

2.5 "**Applicable Fraction**" means a fraction, the numerator of which is the number of complete

months elapsed from the Grant Date of a Matching Award to the date of the Participant's termination of Service and the denominator of which is the number of months between the Grant Date and the date the Matching Award was scheduled to vest in full. For the avoidance of doubt, whenever a Matching Award is made on any date other than the first day of a calendar month, complete months with regard to such Matching Award shall be measured from the date of the month on which the Matching Award is granted to the date in a succeeding calendar month immediately prior to the monthly anniversary of the date of grant (e.g., if a Matching Award is granted on February 15 of any given year, service until the next following March 14 will be one complete month of service and continuous service until February 14 of the next calendar year shall equate to 12 completed months of service).

2.6 "**Board**" means the Board of Directors of the Company.

2.7 "**Business Day**" means any day other than a Saturday, Sunday, or federal legal holiday, or a day on which either of the NYSE or NASDAQ is closed for trading (regardless of whether the Units are qualified to trade on such exchange or system).

2.8 "**Cause**" has the meaning set forth in any employment, severance or other bilateral written agreement between the Company or an Affiliate and the Participant. If there is no such employment, severance or other bilateral written agreement between the Company or an Affiliate and the Participant, or if such agreement does not define "Cause," then "Cause" shall mean the occurrence of any of the following, as determined by the Committee:

(a) a Participant's willful and continued failure substantially to perform his or her duties (other than as a result of total or partial incapacity due to physical or mental illness or as a result of termination by such Participant for Good Reason), which failure continues for more than 30 days after receipt by the Participant of written notice setting forth the facts and circumstances identified by the Company as constituting adequate grounds for termination under this clause (a);

(b) any willful act or omission by a Participant constituting dishonesty, fraud or other malfeasance, and any act or omission by a Participant constituting immoral conduct, which in any such case is injurious to the financial condition or business reputation of the Company or any of its Affiliates;

(c) a Participant's indictment for a felony under the laws of the United States or any state thereof or any other jurisdiction in which the Company conducts business; or

(d) a Participant's breach of any nonsolicitation, noncompetition, confidentiality, or other restrictive covenant by which he or she is bound.

For purposes of this definition, no act or failure to act shall be deemed "willful" unless effected by a Participant not in good faith and without a reasonable belief that such action or failure to act was in or not opposed to the Company's best interests.

2.9 "**Change in Control**" has the meaning set forth in the Operating Agreement.

2.10 "**Class A Unit**" has the meaning set forth in the Operating Agreement.

2.11 "**Class B Unit**" has the meaning set forth in the Operating Agreement.

2.12 **"Code"** means the U.S. Internal Revenue Code of 1986, as amended from time to time.

2.13 **"Committee"** means the Compensation Committee of the Parent Board (or its equivalent) or any other committee of the Parent Board designated by the Parent Board, or, if no such committee has been designated, the Parent Board.

2.14 **"Company"** means Insomnia Cookies Holdings, LLC, a Delaware limited liability company, and any successor thereto as provided in Section 14.2.

2.15 "**Designated Beneficiary**" means the Person or Persons the Participant designates from time to time on a signed form prescribed by the Company, properly filed with the Company during the Participant's lifetime, as the beneficiary of any amounts or benefits the Participant owns or is to receive under the Plan, in accordance with Section 10. A properly filed beneficiary designation will revoke all prior designations by the same Participant.

2.16 "**Director**" means any person who is not an Employee serving as a member of the Board, the Parent Board or the board of directors or equivalent governing body of any of the Company's subsidiaries or affiliates.

2.17 "**Disability**" means either (i) disability as defined for purposes of the Company's disability benefit plan or (ii) a Participant's inability, as a result of physical or mental incapacity, to perform the duties of his or her position(s) for a period of six consecutive months or for an aggregate of six months in any consecutive 12-month period. Any question as to the existence of the Disability of a Participant as to which the Participant and the Company cannot agree shall be determined in writing by a qualified independent physician mutually acceptable to the Participant and the Company. If the Participant and the Company cannot agree as to a qualified independent physician, each shall appoint such a physician and those two physicians shall select a third who shall make such determination in writing. The determination of Disability made in writing to the Company and the Participant shall be final and conclusive for all purposes of the Plan. Following a Change in Control, the Company shall pay all expenses incurred in the determination of whether a Participant is disabled.

2.18 "**Eligible Employee**" means an Employee who is or has been designated to be a participant in the Plan; provided, however, that with respect to the Equity Rollover, each Rollover Participant shall be deemed an Eligible Employee.

2.19 "**Employee**" means an employee of the Company or an Affiliate (including Serve U Brands, Inc. for so long as it meets the requirements to be an Affiliate).

2.20 "**Equity Rollover**" has the meaning given to such term in Section 6.5.

2.21 "**Exchange Act**" means the U.S. Securities Exchange Act of 1934, as amended from time to time, or any successor act thereto.

2.22 "**Excluded Participant**" shall mean David Lasus.

2.23 "**Fair Market Value**" as it relates to a Unit means the fair market value of a Unit as of the most recent Valuation Date, as determined by the Committee or the Parent Board using a nationally recognized investment bank (or other comparable valuation expert) selected by the Committee or the Parent Board; provided, however, that if, prior to the time at which such

valuation shall be applied, significant events or other circumstances have occurred that cause such valuation no longer to represent the fair value of a Unit, the Committee or the Parent Board shall not apply such valuation and shall take such actions as shall be necessary or appropriate to secure a new valuation that reflects such then current fair value. The Committee's or the Parent Board's determination of Fair Market Value shall be final and binding on all parties. For so long as Seth Berkowitz is Chief Executive Officer of the Company and holds at least 10% of the Units he held as of the closing of the Acquisition Transaction, the Committee or the Parent Board, as applicable, shall consult with him regarding its determination of Fair Market Value hereunder. Notwithstanding the foregoing, (i) the Fair Market Value of a Unit for purposes of determining the Purchase Price in respect of Units retained via the Equity Rollover shall be determined by the Committee based on the aggregate price paid by Parent to acquire its interest in the Company in the Acquisition Transaction, (ii) at the discretion of the Committee, the Purchase Price for a sale of any Units occurring no more than six (6) months following the Acquisition Transaction may be determined in the same manner as applied with respect to the Equity Rollover, (iii) if at any time the Units are Publicly Traded, the Fair Market Value of a Unit on any date shall be the closing price of a Unit on such date on the principal national securities exchange on which the Units are then listed, or if there were no sales on such date, on the next preceding day on which there were sales, or if such Units are not listed on a national securities exchange, the last reported bid price in the applicable over-the-counter market and (iv) in connection with a Change in Control, the Fair Market Value of a Unit shall be determined based on the consideration payable for the Units in the transaction(s) giving rise to such Change in Control.

2.24 "**Good Reason**" shall have the meaning set forth in any employment, severance or other bilateral written agreement between the Company or an Affiliate and the Participant. If there is no employment, severance or other bilateral written agreement between the Company or an Affiliate and the Participant, or if such agreement does not define "Good Reason," then "Good Reason" shall mean the occurrence of any of the following:

(a) A material reduction in a Participant's base salary, other than as part of an overall expense reduction program that is generally applicable to all similarly situated employees;

(b) A material adverse reduction in a Participant's duties and responsibilities such that the Participant is required to serve in a position that is at least two salary grades lower than the position in which the Participant had been serving prior to such reduction; or

(c) The relocation of a Participant's principal workplace without his or her consent to a location more than 50 miles distant from the location at which the Participant had previously been principally providing services and which increases the Participant's commute to such workplace from his or her principal residence on the date of such relocation.

2.25 "**Grant Date**" means the Investment Date or Rollover Date, as applicable, on which a Matching Award is granted.

2.26 "**Investment Date**" has the meaning set forth in Section 6.1.

2.27 "**Investment Minimum**" has the meaning set forth in Section 6.2.

2.28 "**Investment Period**" has the meaning set forth in Section 6.1.

2.29 **"Loan Agreement"** means any agreement or other instrument or document evidencing a Unit Purchase Loan.

2.30 **"LTIP"** has the meaning set forth in Section 4.1

2.31 "**Matching Award**" means a contingent grant of Restricted Equity Units pursuant to Section 7 awarded to a Participant in respect of a purchase of Units under the Plan or Units held pursuant to an Equity Rollover under the Plan.

2.32 "**Matching Award Agreement**" means any agreement or other instrument or document evidencing a Matching Award.

2.33 "**Matured Units**" means Units that a Participant has acquired through the vesting of Restricted Equity Units or the acquisition of Units which, at the relevant date, the Participant has held for a minimum of six months and one day (or such greater or lesser period as the Committee may determine from time to time).

2.34 "**Operating Agreement**" means the Amended and Restated Operating Agreement of the Company dated as of September 17, 2018, as amended from time to time.

2.35 "**Parent**" means Krispy Kreme Doughnut Corporation, a North Carolina corporation, and any successor thereto as provided in Section 14.2.

2.36 "**Parent Board**" means the board of directors of Parent.

2.37 "**Participant**" means any Eligible Employee or Director who holds Purchased Units. Solely in respect of his Rollover Units, Seth Berkowitz shall not be deemed to be a Participant.

2.38 "**Participant Permitted Transferee**" means the Participant's spouse, the Participant's lineal descendants and/or any trust the beneficiaries of which consist only of the Participant, the Participant's spouse and/or the Participant's lineal descendants, or to a corporation in which the Participant, the Participant's spouse and/or the Participant's lineal descendants own 100% of the economic interest. Without limiting the generality of the foregoing, the Company and the Committee have the unfettered right to prevent further transfer or disposition of any Units.

2.39 "**Person**" means any individual, partnership, corporation, limited liability company, association, joint stock company, trust, joint venture, unincorporated organization and any governmental entity or any department, agency or political subdivision thereof.

2.40 "**Plan**" means this Insomnia Cookies Holdings, LLC Executive Ownership Plan, as amended from time to time.

2.41 "**Publicly Traded**" means, with respect to the Units, that the Units shall have been listed or qualified to trade on a national securities exchange or nationally recognized automated securities quotation system, or the Committee determines that the Units have become actively and regularly traded in an over-the-counter market.

2.42 "**Purchase Price**" of Purchased Units purchased on an Investment Date or retained on the Rollover Date, as applicable, means the Fair Market Value of such Purchased Units as of such

Investment Date or Rollover Date, as applicable.

2.43 "**Purchased Units**" means Units that are purchased and any Rollover Units held by a Participant, in either case pursuant to Section 6.

2.44 "**Put Right**" has the meaning set forth in Section 8.4.

2.45 "**Restricted Equity Units**" means a contingent grant of Class A Units awarded to a Participant pursuant to Section 7.

2.46 "**Retirement**" means, unless the Committee shall specify a different definition with respect to any Participant or any class of Participants which shall be set forth in the applicable Matching Award Agreement, with respect to (i) an Employee, a termination of Service (other than a termination of Service for Cause) after attaining age 60 and having completed at least 10 years of continuous service with the Company and its Affiliates (which for the avoidance of doubt shall include service for Serve U Brands, Inc. for so long as it meets the requirements to be an Affiliate) and (ii) with respect to a Director, a termination of Service (other than a termination for Cause) after attaining the mandatory retirement age for Directors, as specified by the Committee from time to time, or if no such age is stated, age 70. For this purpose, years of service shall be based on the period of time elapsed from a Person's commencement of services with the Company or any of its Affiliates to the date such services terminate, whether due to Retirement, death, Disability or for any other reason.

2.47 "**Retirement Eligible Unit**" means any Restricted Equity Unit held by a Participant who is or will become eligible for Retirement prior to the date that such Restricted Equity Unit would otherwise vest in accordance with the terms thereof.

2.48 "**Rollover Date**" means the date, if any, upon which the Acquisition Transaction was consummated.

2.49 "**Rollover Participant**" means a Person (other than Seth Berkowitz) who participates in the Equity Rollover.

2.50 "**Rollover Unit**" has the meaning set forth in the Securities Purchase Agreement.

2.51 "**Section 409A**" means Section 409A of the Code and the applicable regulations and other legal authority promulgated thereunder.

2.52 "**Securities Purchase Agreement**" means the Securities Purchase Agreement by and among the Company, Parent, Serve U Brands, Inc., the Sellers party thereto and Shareholder Representative Services LLC, dated as of July 20, 2018.

2.53 "**Service**" means the provision of services in the capacity of an Employee or as a Director. A transfer of Service from Serve U Brands, Inc. or the Company to an Affiliate or from an Affiliate to the Company or another Affiliate (including Serve U Brands, Inc. for so long as it meets the requirements to be an Affiliate) shall not constitute a termination of Service under the Plan or any Matching Award Agreement. All determinations regarding Service, including whether any leave of absence is a termination of Service, shall be made by the Committee. For the avoidance of doubt, a Person who was an Employee, but upon his or her termination of employment with the Company or an Affiliate, becomes or continues to serve as a member of the Board or the board of directors of an Affiliate shall not be deemed to have had an

interruption in Service.

2.54 "**Underwritten Offering**" means an underwritten public offering of the Units or any other equity capital of the Company, its successor or a subsidiary of the Company.

2.55 "**Unit**" means a Class A Unit or a Class B Unit or such other securities of the Company as may be designated by the Committee from time to time.

2.56 "**Unit Purchase Agreement**" means any agreement or other instrument or document evidencing Purchased Units.

2.57 **"Unit Purchase Loan"** means a loan made by the Company as the lender and the Participant as the borrower, in respect to the purchase of Purchased Units, subject to the terms and conditions of the accompanying Loan Agreement.

2.58 "**Valuation Announcement Date**" means, as of any time that the Units are not Publicly Traded, the date on which the Committee or the Parent Board announces a new determination of Fair Market Value or otherwise establishes the Fair Market Value for purposes of an Investment Period.

2.59 "**Valuation Date**" means, as of any time that the Units are not Publicly Traded, any date as of which the Fair Market Value of a Unit is determined in reliance upon the opinion of an independent appraiser. It is generally expected that the Committee or the Parent Board shall establish at least two Valuation Dates each calendar year, generally in June and December.

2.60 "**Window Period**" shall mean a period specified in advance by the Committee or the Parent Board, which shall not be more than 30 days, following any Valuation Announcement Date; provided, however, that, unless otherwise expressly determined by the Committee or the Parent Board, in no event shall any Window Period extend more than 75 days after the corresponding Valuation Date.

2.61 "**Withholding Tax**" means the aggregate federal, state, and local taxes, domestic or foreign, required by law or regulation to be withheld with respect to any taxable event arising under the Plan.

SECTION 3
ADMINISTRATION

3.1 **Plan Administration.** The Plan shall be administered by the Committee.

3.2 **Authority of the Committees.** Except as limited by law or the by-laws of the Company, and subject to the provisions of the Plan, the Committee shall have full power, discretion and authority to: (a) designate the Employees and Directors who shall be eligible to acquire Purchased Units or receive Matching Awards as of any Investment Date; (b) determine the terms and conditions of Purchased Units and Matching Awards in a manner consistent with the Plan; (c) determine whether, to what extent, and under what circumstances Awards may be settled in cash, Units, or other property, and the method or methods by which Awards may be settled; (d) construe and interpret the Plan and any agreement or instrument entered into under the Plan; (e) establish, amend or waive rules and regulations for the Plan's administration; and

(f) subject to the provisions of Section 13, amend the terms and conditions applicable to any outstanding Purchased Units or Matching Award to the extent the amended terms are within the Committee's authority under the Plan. Further, the Committee shall make all other determinations that may be necessary or advisable to administer the Plan. The Committee shall be empowered to make any determinations that are necessary or appropriate for the determination of the Fair Market Value and all other questions related to the process establishing such valuation for purposes of the Plan. Any power, authority, duty or obligation reserved or assigned to the Committee or the Parent Board pursuant to, or any determination or other judgment made by either the Committee or the Parent Board in the administration of the Plan or the determination of questions of valuation shall be exercised, performed or made by either the Committee or the Parent Board in its sole and absolute discretion.

3.3 **Decisions Binding.** All determinations and decisions made by the Committee, the Parent Board or by a Person or Persons delegated authority by either the Committee or the Parent Board pursuant to the provisions of the Plan shall be final, conclusive and binding on all Persons, including, without limitation, the Company, its equityholders, all Affiliates, Employees, Participants and their estates and beneficiaries, including any Participant Permitted Transferee.

SECTION 4
UNITS SUBJECT TO THE PLAN

4.1 **Available Units.** Subject to adjustment as provided in Section 4.3, the aggregate number of Units with respect to which Purchased Units (other than Purchased Units held as of the closing of the Acquisition Transaction pursuant to the Equity Rollover) and Matching Awards may be issued or granted under the Plan, when combined with Units subject to outstanding Restricted Equity Unit awards pursuant to the Insomnia Cookies Holdings, LLC Long Term Incentive Plan (the **"LTIP"**), shall not exceed 5% of fully diluted equity of the Company as of the date of the Acquisition Transaction. In calculating the fully diluted Units available for grant under this Section 4.1, (i) any Units that were subject to any award under the Plan or the LTIP that is canceled, terminates, expires, lapses, is settled or is forfeited for any reason, in whole or in part, without the issuance of the Units related thereto and (ii) any Units issued pursuant to the terms of the Plan or the LTIP that have been repurchased by the Company pursuant to the applicable provisions of the Plan or the LTIP shall not be counted as against such limit on the issuance of Units under the Plan.

4.2 **Lapsed Units.** If (i) any Matching Award granted under the Plan is canceled, terminates, expires, lapses, is settled or is forfeited for any reason, in whole or in part, without the issuance of the Units related thereto or (ii) any Units issued pursuant to the terms of the Plan are repurchased by the Company pursuant to the provisions of Section 9, then any Units to which such Matching Award relates (or the relevant portion thereof) and any such repurchased Units shall again be available for Purchased Unit purchases or the grant of a Matching Award under the Plan. Without limiting the generality of the foregoing, upon the settlement of any Matching Award in part in cash to settle the applicable Withholding Tax requirements, the number of Units corresponding to the portion of the Matching Award settled in cash shall again be available for Purchased Unit purchases or Matching Award grants under the Plan.

4.3 **Adjustments in Authorized Units.** If (i) the Units, as currently constituted, are changed into

or exchanged for a different number or kind of units or other securities of the Company or of another corporation (whether because of a merger, consolidation, recapitalization, reclassification, split, reverse split, combination of units), (ii) the number of Units is increased through a distribution or (iii) there shall occur another comparable event affecting the capitalization of the Company (other than the issuance of Units in exchange for fair value as determined by the Parent Board or the Committee), then the Committee shall substitute for or add to each Unit that may become subject to a Matching Award the number and kind of units or other securities into which each outstanding Unit was changed, for which each such Unit was exchanged, or to which each such Unit is entitled, as the case may be. For the avoidance of doubt, except as the Committee may otherwise determine to be equitable and appropriate and consistent with the provision, purposes and intent of the Plan, no adjustment in the authorized Units or in the terms of any outstanding Matching Award shall be made in connection with any issuance of Units for value, such as in connection with an Underwritten Offering or any other investment of capital in the Company.

SECTION 5
ELIGIBILITY AND PARTICIPATION

5.1 **Eligibility.** Any Eligible Employee or any Director shall be eligible to be designated a Participant, provided, that if requested by a Director, any Matching Award that would be made to a Director may be granted to (i) an entity or organization to which the Director provides services, (ii) any trust the sole beneficiary of which is the Director or (iii) an entity in which the Director owns 100% of the economic interest, and references herein to "Service" inrespect of such Matching Award shall be construed as the services of the Director in respect of whom the Matching Award was granted. The Committee may condition eligibility for the Plan upon the satisfaction of such requirements, including a Participant entering into restrictive covenants and/or agreeing to certain contractual provisions for the benefit of the Company and its Affiliates, including, without limitation, those specified in Section 11.

5.2 **Actual Participation.** The opportunity to invest in Purchased Units on a given Investment Date shall be limited to Eligible Employees and Directors (or their Participant Permitted Transferees) selected by the Parent Board or the Committee in its sole discretion as eligible to participate in the Plan as of such date. The opportunity to participate in the Equity Rollover shall be made available to each Rollover Participant as provided in Section 6.5.

SECTION 6
PURCHASED UNITS

6.1 **Investment Period.** To the extent that, in any year after 2018, the Committee or the Parent Board shall authorize the purchase hereunder of Purchased Units it shall establish up to two investment periods, each of which shall be a 30-day period (or such longer or shorter period specified by the Committee) commencing on a Valuation Announcement Date (each such period, an "**Investment Period**"). The Committee may also authorize an Investment Period beginning not later than 30 days after the Rollover Date. In connection with each Investment Period, the Committee shall establish a date on which the purchase of Purchased Units during such Investment Period shall take effect (each, an "**Investment Date**").

6.2 **Investment in Purchased Units.** On any Investment Date, an Eligible Employee selected for participation pursuant to Section 5.2 may purchase an aggregate number of Units that is equal

to or greater than the Investment Minimum; provided that the Committee may specify that Purchased Units may be acquired only in such minimum number of units (or such multiples of units) as the Committee shall determine. Notwithstanding the foregoing, in no event shall the aggregate value of Purchased Units acquired by any Participant pursuant to the Plan (as measured based on the Fair Market Value thereof on the Investment Date as of which such Purchased Units are acquired) exceed the Aggregate Investment Limit unless, and solely to the extent that, the Committee shall waive or increase the Aggregate Investment Limit at the request of the Participant or on its own initiative. For purposes of this Section 6.2, the "**Investment Minimum**" means (a) the Participant's annual base salary amount (as in effect on the Investment Date) multiplied by such percentage as the Committee shall specify, divided by (b) the Fair Market Value of a Unit on the Investment Date, and the "**Aggregate Investment Limit**" means the product of (x) such multiple as the Committee shall specify as to any or all Participants and (y) the Participant's annual base salary at the rate in effect on the applicable Investment Date or, in the case of any Director, the rate of annual base salary payable to the person serving as the Company's Chief Executive Officer (or, if on such date there is no Chief Executive Officer, the person otherwise serving as the Company's principal executive officer) on such Investment Date.

6.3 **Investment Procedure.** To purchase Purchased Units on an Investment Date, an Eligible Employee must satisfy the following conditions:

(a) The Eligible Employee must execute, on or before the Investment Date, a Unit Purchase Agreement, in such written or electronic form as the Committee shall designate, specifying the number of Units he or she elects to purchase. The Eligible Employee may by written notice to the Committee revoke his or her election at any time prior to the Investment Date.

(b) If the Eligible Employee is offered the opportunity to finance, in whole or in part, the purchase of Purchased Units as of any Investment Date using a Unit Purchase Loan and elects to enter into such Unit Purchase Loan, the Eligible Employee must execute, on or before the Investment Date, a Loan Agreement, in such written or electronic form as the Committee shall designate.

(c) The Eligible Employee must deliver to the Committee on or before the Investment Date payment, in cash or cash equivalents, of the Purchase Price for the Purchased Units.

(d) Subject to the terms and conditions of any applicable Loan Agreement, in the event of an Underwritten Offering of the Units (or of securities of the Parent or an Affiliate), the Company has the right to require each of the Participants whose Unit Purchase Loan has not been repaid in full to tender to the Company for purchase at Fair Market Value such amount of Units as the Company believes will make the Unit Purchase Loan no longer outstanding.

6.4 **Distributions.** Each Participant shall be entitled to receive any regular cash distributions that may be made from time to time on the Purchased Units in accordance with the terms of the Operating Agreement.

6.5 **Equity Rollover.** Each Rollover Participant may continue his or her investment in the Company by continuing to hold Rollover Units held by such Rollover Participant immediately

prior to the Rollover Date pursuant to the terms of the Securities Purchase Agreement (the "**Equity Rollover**"). Except as otherwise agreed to by the Company and a Rollover Participant, each Rollover Participant who participates in the Equity Rollover shall enter into a Matching Award Agreement that, among other things, will reflect the Matching Award made in respect of the Equity Rollover and will further enter into a Unit Purchase Agreement that, among other things, will acknowledge and confirm that any Purchased Units issued or held in connection with the Equity Rollover are subject to the terms and conditions hereof, including, without limitation, the provisions of Section 9. Any Purchased Units subject to the Equity Rollover shall be fully vested.

SECTION 7
MATCHING AWARDS

7.1 **Grant of Matching Awards.**

(a) Grant. The Committee shall specify as to each Investment Date the Participants, if any, who shall receive a grant of a Matching Award in respect of the purchase of Purchased Units on such Investment Date and any conditions required to be met to receive such a Matching Award. The Committee shall also specify as to the RolloverDate the Participants, if any, who shall receive a grant of a Matching Award in respect of their Rollover Units and any conditions required to be met to receive such a Matching Award.

(b) Number of Units. If the Committee grants a Matching Award, the Committee shall determine the number of Class A Units subject to a Matching Award, which may be fixed or variable depending on Company performance or such other criteria or events as the Committee may determine. In no event, however, may the number of Class A Units subject to a Matching Award exceed the number of Purchased Units giving rise to such Matching Award.

(c) Vesting. Except as otherwise provided in Section 7.3, the Matching Award shall become fully vested on the 54-month anniversary of the Grant Date or such other date or dates as may be specified by the Committee.

(d) Forfeiture. Unless the Committee shall otherwise specify, if, and to the extent any of the Purchased Units are sold, transferred or otherwise disposed of by a Participant for any reason, the Matching Award (to the extent then-unvested) that was granted in respect of such Purchased Unit shall be forfeited. For the avoidance of doubt, if a Purchased Unit is sold, only the proportionate amount of the Matching Award (to the extent then-unvested) that was granted in respect of such Purchased Unit shall be forfeited.

(e) Aggregate Match. Notwithstanding the foregoing provisions of this Section 7.1, in no event shall a Matching Award be granted to a Participant at any Investment Date or on the Rollover Date which would result in such Participant having received in the aggregate (taking into account all prior Matching Awards) the opportunity to receive Units pursuant to Matching Awards having a Fair Market Value (measured at the Grant Date for each such Matching Award) greater than the Participant's Aggregate Matching Limit.

7.2 **Matching Award Agreement.** Each Matching Award grant shall be evidenced by a Matching Award Agreement setting forth the number of Class A Units to which the Matching Award pertains and such terms not inconsistent with the Plan as the Committee determines.

7.3 **Termination of Service.** Except as otherwise provided in a Matching Award Agreement:

(a) Death or Disability. In the event a Participant's Service terminates by reason of death or Disability, the portion of any Restricted Equity Units held by such Participant which has not theretofore become vested shall immediately become vested.

(b) Retirement. In the event a Participant's Service terminates by reason of Retirement, any Matching Award granted to such Participant shall become vested, on a pro-rated basis, such that the aggregate number of Units in respect of such Matching Award in which such Participant shall become vested shall be equal to the number of Restricted Equity Units subject to such Matching Award times the Applicable Fraction, minus the number, if any, of such Restricted Equity Units that may have become vested prior to such date.

(c) Cause. Notwithstanding anything else contained in the Plan to the contrary, if the Participant's service with the Company and its Affiliates is terminated for Cause, any Restricted Equity Units held by the Participant, whether or not vested, shall be forfeited in their entirety as of such termination.

(d) Other Terminations. In the event a Participant's Service terminates other than by reason of death, Disability, Retirement, or Cause, any unvested portion of the Participant's Restricted Equity Units as of the date of termination shall be forfeited and canceled on the date of termination.

(e) Committee Power to Accelerate. Notwithstanding the foregoing, the Committee may accelerate the vesting of all or a portion of a Matching Award at any time.

7.4 **Nontransferability of Matching Award.** No Matching Award granted under the Plan may be sold, transferred, pledged, assigned, or otherwise alienated or hypothecated, other than to a Designated Beneficiary pursuant to Section 10.1. The Committee may, in its sole discretion, require a Participant's guardian or legal representative to supply it with the evidence the Committee deems necessary to establish the authority of the guardian or legal representative to act on behalf of the Participant.

7.5 **Change in Control.** In the event of a Change in Control, any outstanding Restricted Equity Units shall become vested and payable to the extent, and subject to the conditions, provided in Section 8.

7.6 **Settlement**.

(a) *Publicly Traded Units*. If the Units are or become Publicly Traded on or prior to the date at which Restricted Equity Units (other than Retirement Eligible Units) vest:(i) the Units related to such vested Restricted Equity Units shall be delivered promptly (and in all events within 60 days) following the date such Restricted Equity Units have become vested and (ii) Units related to Retirement Eligible Units shall be delivered promptly (and in all events within 60 days) following the earlier of the vesting date under Section 7.1(c) or the date of the Participant's termination of employment, unless

such Restricted Equity Units were granted at a time when the Units were not Publicly Traded, in which case they shall be delivered in accordance with Section 7.6(b) in all circumstances.

(b) *Non-Publicly Traded Units*. If the Units are not Publicly Traded as of the date at which the Restricted Equity Units vest, the Units related to such vested Restricted Equity Units shall be delivered during the first Window Period coincident with or next following the earliest date at which Restricted Equity Units become vested (but, with respect to any Restricted Equity Units that are not Retirement Eligible Units, in no event later than the March 15 of the calendar year immediately following the year in which such Restricted Equity Units become vested). Any Restricted Equity Units that are Retirement Eligible Units and which were granted at a time that the Units were not Publicly Traded shall be delivered at the time that they would have been delivered pursuant to the immediately preceding sentence, regardless of whether the Units are Publicly Traded at the date of settlement, and assuming that there are always two Valuation Dates each year, as of June 30 and as of December 31. For the avoidance of doubt, for this purpose, Retirement Eligible Units are deemed to vest at the time provided in Section 7.3(a) 7.1(c) or upon a termination described in 7.3(a) or 7.3(b), if earlier.

(c) *Alternative Settlement Mechanics*. The Committee may in its sole discretion establish alternative settlement mechanics in a Matching Award Agreement to the extent it determines to necessary in order to give effect to the intent that Matching Awards be exempt from or comply with Section 409A.

7.7 **Other Conditions.** The Committee may impose such other conditions and restrictions on any Restricted Equity Units as it deems advisable and sets forth in the Matching Award Agreement, including, without limitation, vesting restrictions based upon the achievement of specific performance objectives (Company-wide, business unit, and/or individual) or continued Service, and/or restrictions under applicable federal or state securities laws. The Committee may provide that restrictions established under this Section 7.7 as to any given Matching Award will lapse all at once or in installments.

7.8 **Participant to Have No Rights as a Member.** Before the date as of which the Participant is recorded on the books of the Company as the holder of any Units underlying any Restricted Equity Units, the Participant will have no rights as a member of the Company with respect to those Units.

SECTION 8
CHANGE IN CONTROL

8.1 **Double Trigger Protection upon a Change in Control**. In the event of a Change in Control, unless otherwise determined by the Committee prior to the occurrence of a Change in Control, the Company shall take all actions necessary or appropriate to assure that each Matching Award outstanding under the Plan shall be honored or assumed (in a manner that is intended to be Section 409A compliant), or new rights substituted therefor (such honored, assumed or substituted award hereinafter called an "**Alternative Award**") by the entity for which the Participant will be performing Service immediately following the Change in Control (or the parent or a subsidiary of such entity); provided that any such Alternative Award must provide that if the Participant's Service is terminated upon or following such Change in Control by the

Company other than for Cause or by the Participant for Good Reason within 24 months following the Change in Control, the Participant's rights under each such Alternative Award shall become fully vested and payable, in accordance with its otherwise applicable terms (including, without limitation, provisions similar to Section 8.4 hereof). In addition, any such Alternative Award must:

(i) provide such Participant (or each Participant in a class of Participants) with rights and entitlements substantially equivalent to or better than the rights and entitlements applicable under such Matching Award, including, but not limited to, an identical or better vesting schedule and identical or better timing and methods of payment (including all provisions applicable in respect of such Matching Award that provide for accelerated vesting); and

(ii) have substantially equivalent economic value to such Matching Award (as determined by the Committee as constituted immediately prior to the Change in Control).

8.2 **Accelerated Vesting and Payment**. Notwithstanding the provisions of Section 8.1, the Committee may otherwise determine that, upon the occurrence of a Change in Control, each outstanding Restricted Equity Unit (or any class of Restricted Equity Units) shall become vested and shall be immediately payable in Units (or, if so directed by the Committee, cash in an amount equal to the Fair Market Value of the Units that would otherwise have been deliverable to the Participant).

8.3 **Section 409A.** Notwithstanding the foregoing provisions of this Section 8, any Retirement Eligible Units or other Restricted Equity Units that are nonqualified deferred compensation subject to Section 409A) shall not become payable at the time specified under the provisions of Section 8.1 or 8.2. Instead, to the extent that any such Retirement Eligible Units or other Restricted Equity Units that are nonqualified deferred compensation subject to Section 409A become vested in accordance with the terms of the Plan (including Section 8.1 or 8.2 hereof) or the applicable Matching Award Agreement, such Restricted Equity Units shall be payable at the time that they would otherwise have been payable without regard to the occurrence of a Change in Control.

8.4 **Provisions Related to Golden Parachute Excise Tax.**

(a) Change in Control When the Units are Not Publicly Traded. Notwithstanding anything to the contrary contained in the Plan, to the extent that, upon a Change in Control prior to the time at which the Units (or if applicable, shares of Parent or its affiliate) have become Publicly Traded, any of the payments and benefits provided for under the Plan, any Matching Award Agreement or any other agreement or arrangement between the Company or any of its Affiliates and a Participant (collectively, the "**Payments**") would constitute a "parachute payment" within the meaning of section 280G of the Code (a "**Parachute Payment**"), the amount of such Payments shall be reduced to the amount (the "**Safe Harbor Amount**") that would result in no portion of the Payments being treated as an excess parachute payment pursuant to section 280G of the Code (the "**Excise Tax**"). If, upon a Change in Control prior to the time at which the Units (or if applicable, shares of Parent or its affiliate) have become Publicly Traded, the Parachute Payments that would otherwise be reduced or eliminated, as the case may be, pursuant to this Section 8.4(a) could be paid without

the loss of a deduction under Section 280G of the Code if the shareholder approval exception to treatment as a Parachute Payment can be and is satisfied, then the Company, or if applicable the Parent, shall use its reasonable best efforts to cause such Parachute Payments to be submitted for such approval in accordance with Section 280G(b)(5)(B) prior to the Change in Control giving rise to such Parachute Payments. If such approval is received, any reduction or forfeiture pursuant to the Section 8.4(a) shall be reversed, and the subject amount shall be payable to the Participant without regard to this Section 8.4.

(b) Change in Control When the Units are Publicly Traded. If upon a Change in Control occurring at any time that the Units (or if applicable, shares of Parent or its affiliate) are Publicly Traded, any Payments would constitute Parachute Payments, then, if and solely to the extent that reducing the benefits payable hereunder would result in the Participant receiving a greater amount, on an after-tax basis, taking into account any Excise Tax and all applicable income, employment and other taxes payable on such amounts, the amounts payable hereunder shall be reduced or eliminated, as the case may be, so that the total amount of Parachute Payments received by the Participant do not exceed the Safe Harbor Amount.

(c) Order of Reduction in Payments. Any reduction in the amount of compensation or benefits effected pursuant to this Section 8.4 shall first come, in order and, in each case, solely to the extent necessary, from any cash severance benefits payable to the Participant, then from any other payments which are treated in their entirety as Parachute Payments and then from any other Parachute Payments payable to the Participant.

8.5 **Suspension of Matching Awards Pending Consummation of a Change in Control.** In the event that a Participant's Service is terminated by the Company other than for Cause following the execution of an agreement, the consummation of which would constitute a Change in Control, but prior to the consummation of such agreement, then, notwithstanding the provisions of Section 7.3 (or any corresponding provision of any underlying Matching Award Agreement), any portion of the Matching Awards held by such Participant that are not vested at the date of such termination shall not be forfeited as of such date (except to the extent provided in this Section 8.5). Instead, such Matching Awards shall be suspended and remain outstanding until the consummation of such agreement, in which case they will be treated in the same manner as Matching Awards held by other similarly situated Participants pursuant to this Section 8 and, for purposes of applying the provisions of Section 8.1 or 8.3, the Participant shall be treated as if the Participant's termination of employment by the Company without Cause occurred immediately following the Change in Control. If such agreement is terminated without being consummated, or otherwise fails to be consummated within 180 days following its execution, then the unvested Matching Awards held by a Participant described in this Section 8.5 shall be deemed to have been forfeited as of the date of such Participant's termination of employment. For the avoidance of doubt, if any Matching Awards subject to this Section 8.5 do not become vested in accordance with this Section 8.5, they shall for all purposes of this Plan and any underlying Matching Award Agreement be treated as though they had been forfeited at the date of the Participant's termination and as though this Section 8.5 did not apply.

SECTION 9
UNIT RESTRICTIONS AND PURCHASE AND SALE RIGHTS

9.1 **Restrictions.**

(a) In General. The Committee may impose such restrictions on any Units as it deems necessary or advisable, including, without limitation, restrictions under applicable federal securities laws, under the requirements of any stock exchange or market upon which the Units are then listed and/or traded, and under any blue sky or state securities laws.

(b) Nontransferability. Purchased Units, whether through purchase or pursuant to the Equity Rollover, and any Units received in respect of the vesting of a Matching Award, cannot be sold, exchanged, conveyed or in any way transferred other than (i) to the Company or the Parent, (ii) by will or the laws of descent and distribution, (iii) pursuant to the exercise of a tag-along right under Section 8.3(a) of the Operating Agreement, a drag-along right under Section 8.3(c) of the Operating Agreement, the buyout right under Section 8.3(e) of the Operating Agreement or Parent's call right under Section 8.3(f) of the Operating Agreement, or (iv) if specified in a Unit Purchase Agreement or Matching Award Agreement, to a Participant Permitted Transferee. Any Units sold, exchanged, conveyed or in any way transferred pursuant to subsection (ii) or (iv) hereof may only be sold, exchanged, conveyed or in any way transferred by the transferee in accordance with this Section 9.1(b) and shall be subject in all respects to the terms of the Plan. For any such transfer to be effective, the Participant Permitted Transferee or other recipient of any Units shall promptly furnish the Company with written notice thereof and a copy of such other evidence as the Committee may deem necessary to establish the validity of the transfer and the acceptance of by the Participant Permitted Transferee or other transferee of the terms and conditions of the Plan and the Unit Purchase Agreement or Matching Award Agreement applicable to the Participant. For the avoidance of doubt, any transfer to a Participant Permitted Transferee shall provide such Participant Permitted Transferee the rights that were available to the Participant (and in no event any rights greater than were available to the Participant), and all restrictions on and obligations of the Participant with respect to the transferred Units or Matching Award granted in respect of such transferred Units shall continue to be applicable with the respect to such Units or Matching Award, with all conditions, rights and obligations related to Service continuing to be determined based on the Service of the Participant.

(c) Irrevocable Proxy. As a condition to receiving any Units or Matching Award hereunder, the Committee may at any time (including, without limitation, after the date the Units are transferred to the Participant) require that a Participant execute an irrevocable proxy in favor of such Person(s) as the Committee shall specify, in such form as the Committee shall prescribe.

(d) Limitation of Restrictions and Rights. The provisions of Sections 9.1(b), 9.1(c), 9.4 and 9.5 shall cease to apply at any time that the Units are Publicly Traded.

9.2 **Additional Conditions of Transfer.** The Company shall not be required (i) to transfer on its books any Units that have been sold or transferred or (ii) to treat as owner of such Units, to accord the right to vote as such owner or to pay distributions to, any transferee to whom such

Units have been transferred in violation of the Plan or any Matching Award Agreement.

9.3 **Legend.** If certificated, each certificate evidencing Units and each certificate issued in exchange for or upon the transfer of any Units shall be stamped or otherwise imprinted with such legend as the Committee requires.

9.4 **Participant's Put Right.**

(a) In Service. Unless otherwise provided in a Unit Purchase Agreement or Matching Award Agreement and except in respect of Rollover Units held by an Excluded Participant, a Participant that is still providing Service to the Company or an Affiliate shall have the right to require the Company to purchase any Units that are Purchased Units at their then Fair Market Value in any Window Period so long as, at the date of such purchase, the Purchased Units being put to the Company for purchase are Matured Units. Commencing with the first Window Period following the fifth anniversary of the Investment Date in respect of which a Matching Award is granted, a Participant that is still providing Service to the Company or an Affiliate shall have the right to require the Company to purchase during such Window Period or any subsequent Window Period any or all of his Units that relate to such Matching Award and that are Matured Units, at their then Fair Market Value.

(b) Following Termination of Service. If a Participant's Service with the Company and its Affiliates terminates due to death, Disability, or Retirement, the Participant can, unless otherwise provided in a Unit Purchase Agreement or Matching Award Agreement and except in respect of Rollover Units held by an Excluded Participant, require the Company to purchase any or all of his Matured Units (regardless of whether Purchased Units or related to a Matching Award) by delivery of a put notice during any Window Period occurring immediately following any of the three Valuation Dates coincident with or next following the date of the Participant's separation from Service. If a Participant's Service with the Company and its Affiliates terminates for any other reason than one specified in the immediately preceding sentence, the Participant can, unless otherwise provided in a Unit Purchase Agreement or Matching Award Agreement, require the Company to purchase any or all of his or her Matured Units (regardless of whether Purchased Units or related to a Matching Award) by delivery of a put notice during the Window Period occurring immediately following the Valuation Date coincident with or next following the date of the Participant's separation from Service or, to the extent that any Units held by such person at such time are not Matured Units, in the first Window Period in which the Units are Matured Units. If the Participant's Service with the Company and its Affiliates is terminated for Cause, then the put price shall be an amount equal to the lower of (i) the Participant's cost and (ii) the Fair Market Value determined as of the applicable Valuation Date. For this purpose, (*x*) cost with respect to Units issued upon settlement of Restricted Equity Units will mean the value included in the Participant's income at the time the corresponding Units were distributed or issued to the Participant and (*y*) cost with respect to a Rollover Unit shall be the "Closing Date Value" set forth in the Unit Purchase Agreement applicable to such Rollover Unit. In all other cases, the put right shall be at the Fair Market Value determined at the applicable Valuation Date.

(c) Put rights in respect of Rollover Units held by an Excluded Participant shall be as set

forth in the Operating Agreement or in any other agreement entered into between such Excluded Participant and the Company or its subsidiary.

9.5 **Call Right Following Termination of Service.** The Company shall have the right to repurchase (i.e., "call") from the Participant, and, if such right shall be exercised, the Participant shall sell to the Company or the Parent, as applicable, all of the Participant's Matured Units during the Window Period immediately following either of the next two Valuation Dates following the date the Participant's service with the Company and its Affiliates terminates. If the Participant's Service with the Company and its Affiliates is terminated for Cause, then the call price shall be an amount equal to the lower of (i) the Participant's cost and (ii) the Fair Market Value determined as of the applicable Valuation Date. For this purpose, (*x*) cost with respect to Units issued upon settlement of Restricted Equity Units will mean the value included in the Participant's income at the time the corresponding Units were distributed or issued to the Participant and (*y*) cost with respect to a Rollover Unit shall be the "Closing Date Value" set forth in the Unit Purchase Agreement applicable to such Rollover Unit. In all other cases, the call right shall be at the Fair Market Value determined at the applicable Valuation Date. The call right held by the Company pursuant to this Section 9.5 is in addition to the call right granted to Parent pursuant to Section 8.3(f) of the Operating Agreement and either such right may be exercised in accordance with its terms in the sole discretion of the Parent Board, provided, that if (i) the Company terminates a Participant without Cause following the fifth anniversary of the "Effective Date" (as defined in the Operating Agreement) and elects to exercise its call right under this Section 9.5 in respect of such termination and (ii) the "Per Unit Purchase Price" (as defined in the Operating Agreement) calculated as of the first day of the Window Period in which such call right is exercised is greater than the Fair Market Value of a Unit applicable to such Window Period, the call price for such Units shall be the Per Unit Purchase Price.

9.6 **Payment of Purchase Price upon Put or Call.**

(a) General Rule. Except as otherwise provided herein, the purchase price in respect of the exercise of any put right pursuant to Section 9.4 or call pursuant to Section 9.5 shall be payable in a single lump sum in cash within 30 days of the date such right is exercised.

(b) Limitation of Cash Payments. Notwithstanding the put and call rights specified in Sections 9.4 and 9.5, nor the provisions of Section 9.6(a), no put or call may be exercised if doing so at such time would cause the Company or the Parent to be in breach of any provision of any financing agreement. If any such put or call right can be exercised without a breach so long as the consideration paid for the Units is in the form of a promissory note (rather than cash), the put or call shall be effected for a promissory note (with interest at a rate consistent with then prevailing interest rates, as determined by the Committee, but in no event less than the then prevailing applicable federal rate) payable when, and to the extent, that cash payments can be made without the occurrence of such a breach. If a promissory note cannot be used without a breach, the put or call right will be suspended and be eligible to be exercised during the Window Period immediately following the first Valuation Date at which it can be exercised (for cash or for a promissory note) without breaching any such financing agreement.

(c) Alternative Means of Payment. The Company may elect either to suspend any put right and/or to pay the proceeds payable upon the exercise of any put or call via a

promissory note (with interest at a rate consistent with then prevailing interest rates, as determined by the Committee, but in no event less than the then prevailing applicable federal rate) if the total cash payable in respect of all puts and calls occurring during the current Window Period, together with any puts and calls exercised during any prior Window Period that the Committee specifies shall be included in determining whether the aggregate cap is exceeded, would exceed $2,000,000 (or such greater or lesser dollar amount that the Committee shall specify from time to time, provided that any change to reduce the amount available shall be decided in the year prior to the year in which it becomes effective). If this cap is exceeded (or any comparable cap applicable under a financing agreement), any cash available with respect to such Window Period date shall be applied in the following order of priority:

1) to satisfy any promissory note previously issued in connection with the redemption or repurchase of any Units;

2) to satisfy any put exercised following a Participant's death, Disability, or Retirement;

3) to satisfy any call exercised following a termination of Service; and

4) to satisfy any in-Service put.

If there is not sufficient cash to satisfy all claims in the same order of priority, then the available cash will be applied pro-rata to all claims in the same priority category, based on the gross amounts owed.

9.7 **Tag-Along Right.** All Units held by a Participant shall be subject to the tag-along rights set forth in Section 8.3(a) of the Operating Agreement.

9.8 **Drag-Along Right**. All Units held by a Participant shall be subject to the drag-along rights set forth in Section 8.3(c) of the Operating Agreement.

SECTION 10
BENEFICIARY DESIGNATION

10.1 Subject to the written consent of the Participant's spouse, if any, in such form as shall be acceptable to the Company, each Participant may, from time to time, name any Designated Beneficiary (who may be named contingently or successively) to whom any benefit under the Plan is to be paid in case the Participant should die before receiving any or all of his or her benefits under the Plan. Each beneficiary designation shall revoke all prior designations by the same Participant, must be in a form prescribed by the Company and must be made during the Participant's lifetime. If a Designated Beneficiary predeceases the Participant or no beneficiary has been designated, benefits remaining unpaid at the Participant's death shall be paid to the Participant's estate.

SECTION 11
BREACH OF RESTRICTIVE COVENANTS

11.1 Subject to the provisions of applicable law, if the Participant breaches, whether during or after termination of Service, a nonsolicitation, noncompetition, confidentiality, or other restrictive

covenant agreement by which he or she is bound, then in addition to any other penalties or restrictions that may apply under any such agreement, applicable law, or otherwise, the Participant shall forfeit:

(a) any vested or unvested Matching Awards and any Units received in respect of a Matching Award held by him or her; and

(b) any profit the Participant realized from the sale of Units to the Company pursuant to Section 9.4 or Section 9.5 (i) within the six-month period immediately preceding the Participant's termination of Service or (ii) after terminating Service. For purposes of this Section 11.1(b), "profits" in respect of Rollover Units shall mean the amount by which the put or call price of the Rollover Units, as applicable, exceeds the aggregate "Closing Date Value" set forth in the Unit Purchase Agreement applicable to such Rollover Units.

SECTION 12
RIGHTS OF PARTICIPANTS

12.1 **Service.** Nothing in the Plan or any Matching Award Agreement or other document provided pursuant to the Plan shall interfere with or limit in any way the right of the Company or any Affiliate to terminate any Participant's Service at any time, or confer upon any Participant any right to continue in the Service of the Company or any Affiliate. The purchase of Purchased Units, the acquisition of Purchased Units pursuant to the Equity Rollover, or the grant of a Matching Award under the Plan shall not in any way affect the right or power of the Company to make adjustments, reclassifications or changes in its capital or business structure, or to merge, consolidate, dissolve, liquidate, sell or transfer all or any part of its business or assets.

12.2 **Participation.** No Employee or Director shall have the right to purchase Purchased Units under the Plan, or, having received Purchased Units, to purchase Purchased Units in the future.

SECTION 13
AMENDMENT OR TERMINATION, ADJUSTMENTS TO AWARDS

13.1 **Amendment, Modification and Termination.** The Parent Board may at any time and from time to time alter, amend, modify or terminate the Plan in whole or in part, without the approval of the Company's equityholders, except to the extent such approval is required by law. Subject to the terms and conditions of the Plan, the Committee may modify, extend or renew outstanding Purchased Units or Matching Awards under the Plan, or accept the surrender of outstanding Matching Awards and grant new Matching Awards in substitution of them, in order to comply with the requirements of applicable law or otherwise. Notwithstanding the foregoing, no modification of Purchased Units or Matching Awards shall, without the prior written consent of the Participant, materially alter or impair any rights or obligations under any Purchased Units or Matching Awards already granted under the Plan, except such an amendment made to comply with the requirements of applicable law.

13.2 **Adjustments upon the Occurrence of Certain Events.**

(a) In General. If the Units, as currently constituted, are changed into or exchanged for a

different number or kind of units or other securities of the Company or of another corporation (whether because of a merger, consolidation, recapitalization, reclassification, split, reverse split, combination of units, or otherwise, but not including an Underwritten Offering or other capital infusion from any source) or if the number of Units is increased through a distribution or if the Company shall pay an extraordinary dividend (within the meaning of Section 424(a) of the Code and the regulations thereunder), then the Committee shall substitute for or add to each Unit underlying a Matching Award the number and kind of units or other securities into which each outstanding Unit was changed, for which each such Unit was exchanged, or to which each such Unit is entitled, as the case may be, which units or other securities shall be subject to the same terms and conditions as the underlying Matching Award.

(b) Reciprocal Transactions. The Committee shall make an appropriate and proportionate adjustment to a Matching Award, and/or grant an additional Matching Award to the holder of any outstanding Matching Award, to compensate for a material diminution in the intrinsic value of the Units resulting from any reciprocal transaction, in all cases as the Committee determines to be equitable under the circumstances in its sole discretion.

(c) Certain Unusual or Nonrecurring Events. In recognition of unusual or nonrecurring events affecting the Company or its financial statements, or in recognition of changes in applicable laws, regulations, or accounting principles, and, whenever the Committee determines that adjustments are appropriate in order to prevent dilution or enlargement of the benefits or potential benefits intended to be made available under the Plan, the Committee may, using reasonable care, make adjustments in the terms and conditions of Matching Awards or Purchased Units (other than Rollover Units).

(d) Notice. The Committee shall give notice of any adjustment to each Participant who holds an award that has been adjusted and the adjustment (whether or not such notice is given) shall be effective and binding for all Plan purposes.

(e) Section 409A. Notwithstanding any provision herein to the contrary, no adjustment shall be made under this Section 13.2 to the extent it would give rise to adverse tax consequences under Section 409A.

13.3 **Fractional Units.** Fractional Units, whether resulting from any adjustment in Matching Awards or Purchased Units pursuant to Section 13.2 or otherwise, may be settled in cash or otherwise as the Committee determines.

SECTION 14
MISCELLANEOUS PROVISIONS

14.1 **Tax Withholding.** The Company shall have the right to deduct or withhold, or require a Participant to remit to the Company, an amount (either in cash or Units) sufficient to satisfy any Withholding Tax. In the event that any such Withholding Tax shall be satisfied by withholding Units otherwise deliverable upon the vesting of any Matching Award, such Withholding Tax shall be effected on the basis of the minimum statutory withholding required at law (even if the expected tax liability of the Participant in respect of the Matching Award would be greater than such minimum required withholding), unless full withholding can be

effected without adverse financial accounting consequences to the Parent or the Company. In all other cases, the Company shall determine the Withholding Tax pursuant to any method permissible under applicable law.

14.2 **Successors.** All obligations of the Company under the Plan or any Unit Purchase Agreement or Matching Award Agreement shall be binding on any successor to the Company whether the existence of the successor results from a direct or indirect purchase of all or substantially all of the Company's securities, or a merger or consolidation, or otherwise.

14.3 **Continued Effect of Matching Award Agreement.** To the extent that the Plan or a Participant's Matching Award Agreement contain provisions that are intended to have effect after the date(s) as of which the Participant's rights in respect to the underlying Matching Award become vested (including, but not limited to, following the date of the Participant's termination of Service), such Matching Award and any Units issued in respect of such Matching Award shall continue to be subject to the terms of the Plan and the applicable Matching Award Agreement.

14.4 **Legal Construction.**

(a) Number. Except where otherwise indicated by the context, any plural term used in the Plan includes the singular and any singular term includes the plural.

(b) Severability. If any provision of the Plan is held illegal or invalid for any reason, the illegality or invalidity shall not affect the remaining parts of the Plan, and the Plan shall be construed and enforced as if the illegal or invalid provision had not been included.

(c) Termination of Service. As used in the Plan, the phrase "termination of Service" and similar terms means a "separation from service" within the meaning of Section 409A. If and to the extent applicable, if a Participant is deemed be a "specified employee" within the meaning of Section 409A, any payment due hereunder that is deferred compensation subject to Section 409A and payable upon a separation from service shall be delayed until six months and one day following such separation.

(d) Operating Agreement. The Units issued under this Plan, including Units issued in respect to a vested Matching Award, shall be subject to the terms of the Operating Agreement. To the extent of any inconsistency between the terms of this Plan and the terms of the Operating Agreement, the terms of the Plan shall control.

(e) Publicly Traded Units. All references herein to the Units as Publicly Traded securities and any similar statements shall be construed to mean securities of a successor to the Company or a wholly-owned subsidiary of the Company which have been the subject of an Underwritten Offering.

14.5 **Business Day.** In the event the day prescribed for the performance of any act under the Plan, or deadline by which such act must be performed, shall fall on a day other than a Business Day, such day or deadline shall be extended until the close of business on the next succeeding Business Day.

14.6 **Requirements of Law.** The purchase of Purchased Units, the Equity Rollover, the granting of Matching Awards, the issuance of Units, and the payment of cash under the Plan shall be

subject to all applicable laws, rules and regulations, and to any approvals by governmental agencies or national securities exchanges as may be required.

14.7 **Securities Law Compliance.**

(a) As to any individual who is, on the relevant date, an officer, director or greater than 10% percent beneficial owner of any class of the Company's or Parent's equity securities that is registered pursuant to Section 12 of the Exchange Act, all as defined under Section 16 of the Exchange Act, transactions under the Plan are intended to comply with all applicable conditions of Rule 16b-3 under the Exchange Act, or any successor rule. To the extent any provision of the Plan or action by the Committee fails to so comply, it shall be deemed null and void, to the extent permitted by law and deemed advisable by the Committee.

(b) To the extent the Committee deems it necessary, appropriate or desirable to comply with state securities laws or practice and to further the purposes of the Plan, the Committee may, without amending the Plan, (i) establish rules applicable to Purchased Units or Matching Awards granted to Participants, including rules that differ from those set forth in the Plan, and (ii) grant Purchased Units or Matching Awards to such Participants in accordance with those rules that would require the application of the securities laws of any state.

14.8 **Data Protection**. By accepting the opportunity to purchase Purchased Units and to become eligible for a Matching Award, a Participant shall agree to permit the Company , the Parent and their respective affiliates to process personal data and sensitive personal data about the Participant in connection with the Plan. Such data includes, but is not limited to, the information provided in the Participant's grant documents and any changes thereto, other appropriate personal and financial data, and information about the Participant's participation in the Plan and Units granted under the Plan from time to time (collectively, "**Personal Data**"). A Participant consents to each and any of the Company, the Parent and their respective affiliates processing and transferring any Personal Data outside the country in which the Participant works or is employed to the United States and any other third countries. The legal persons for whom Personal Data is intended include the Company, the Parent and their respective affiliates, the Committee and the Parent Board, any administrator selected from time to time to administer the Plan, and any other person or entity that the Company, the Committee or the Parent Board involves in the administration of the Plan. The Company, the Parent and their respective affiliates will take all reasonable measures to keep Personal Data confidential and accurate. A Participant can access and correct their Personal Data by contacting their human resources representative. By accepting participation in the Plan, a Participant agrees and acknowledges that the transfer of information is important to the administration of the Plan and failure to consent to the transmission of that information may limit his or her ability to participate in the Plan.

14.9 **Unfunded Status of the Plan.** The Plan is intended to constitute an "unfunded" plan for incentive compensation. With respect to any payments or deliveries of Units not yet made to a Participant by the Company, the Participant's rights are no greater than those of a general creditor of the Company. The Committee may authorize the establishment of trusts or other arrangements to meet the obligations created under the Plan, so long as the arrangement does not cause the Plan to lose its legal status as an unfunded plan.

14.10 **Non-U.S. Based Employee.** Notwithstanding any other provision of the Plan to the contrary, the Committee may make awards to Employees who are not citizens or residents of the United States, or to Employees outside the United States, on terms and conditions that are different from those specified in the Plan as may, in the Committee's judgment, be necessary or desirable to foster and promote achievement of the Plan's purposes. In furtherance of such purposes, the Committee may, without amending the Plan, establish or modify rules, procedures and subplans as may be necessary or advisable to comply with provisions of laws in other countries or jurisdictions in which the Company operates or has employees.

14.11 **Governing Law.** To the extent not preempted by Federal law, the Plan and all agreements hereunder shall be construed and enforced in accordance with, and governed by, the laws of the State of Delaware, without giving effect to its conflicts of law principles that would require the application of the law of any other jurisdiction.

EXHIBIT III

INSOMNIA MATCHING REU AWARD AGREEMENT

Final Form

MATCHING AWARD AGREEMENT
TERMS AND CONDITIONS UNDER
INSOMNIA COOKIES HOLDINGS,
LLC EXECUTIVE OWNERSHIP
PLAN
(AS EFFECTIVE SEPTEMBER 17, 2018)

This Matching Award Agreement (the "**Agreement**") evidences the grant effective on December_, 2023 (the "**Grant Date**") of an award of Restricted Equity Units (the **"Restricted Equity Units"**) by Insomnia Cookies Holdings, LLC, a Delaware limited liability company (the "**Company**"). Any term capitalized but not defined in this Agreement will have the meaning set forth in the Insomnia Cookies Holdings, LLC Executive Ownership Plan (the "**Plan**").

1. **Restricted Equity Unit Grant.** In accordance with the terms of the Plan and subject to this Agreement, as of the Grant Date the undersigned Participant ("**you**") are hereby granted Restricted Equity Units in respect of 15,699 Class A Units. The Restricted Equity Units, any Units acquired upon settlement thereof are subject to the following terms and conditions and to the provisions of the Plan, the terms of which are incorporated by reference herein.

2. **Vesting Period for Restricted Equity Units.**

   (a) In General. The Restricted Equity Units shall vest as follows: (i) sixty percent (60%) of the Restricted Equity Units shall vest on the 36-month anniversary of the Grant Date, (ii) an additional twenty percent (20%) of the Restricted Equity Units shall vest on the 48- month anniversary of the Grant Date, and (iii) the remaining twenty percent (20%) of the Restricted Equity Units shall vest on the 60-month anniversary of the Grant Date, provided that, in each case, you have remained in continuous Service through the applicable vesting date.

   (b) Death or Disability. The Restricted Equity Units shall vest in full in the event of your termination of Service by reason of death or Disability.

   (c) Retirement. If before the Restricted Equity Units have otherwise become vested your Service terminates by reason of Retirement, then the Restricted Equity Units shall (i) immediately become vested with respect to the Applicable Fraction of the Restricted Equity Units, and (ii) be immediately forfeited and canceled with respect to the remaining Restricted Equity Units. For purposes of applying the Applicable Fraction to the Restricted Equity Units under this Section 2(c), the numerator shall be the number of full months elapsed between the applicable Grant Date and the date of your termination, and the denominator shall be sixty (60).

   (d) Change in Control. In the event of a Change in Control, any Restricted Equity Units then outstanding shall continue in effect or shall become vested and payable, in either case, as provided in, and subject to the conditions of, Section 4.

3. **Settlement of Restricted Equity Units.**

(a) Timing of Settlement.

(i) *Publicly Traded Units*. If the Units are or become Publicly Traded on or prior to the date at which Restricted Equity Units (other than Retirement Eligible Units) vest:(i) the Units related to such vested Restricted Equity Units shall be delivered promptly (and in all events within 60 days) following the date such Restricted Equity Units have become vested and (ii) Units related to Retirement Eligible Units shall be delivered promptly (and in all events within 60 days) following the earlier of the vesting date under Section 2(a) or the date of the Participant's termination of employment, unless such Restricted Equity Units were granted at a time when the Units were not Publicly Traded, in which case they shall be delivered in accordance with Section 3(a)(ii) in all circumstances.

(ii) *Non-Publicly Traded Units*. If the Units are not Publicly Traded as of the date at which the Restricted Equity Units vest, the Units related to such vested Restricted Equity Units shall be delivered during the first Window Period coincident with or next following the earliest date at which Restricted Equity Units become vested (but, with respect to any Restricted Equity Units that are not Retirement Eligible Units, in no event later than the March 15 of the calendar year immediately following the year in which such Restricted Equity Units become vested). Any Restricted Equity Units that are Retirement Eligible Units and which were granted at a time that the Units were not Publicly Traded shall be delivered at the time that they would have been delivered pursuant to the immediately preceding sentence, regardless of whether the Units are Publicly Traded at the date of settlement, and assuming that there are always two Valuation Dates each year, as of June 30 and as of December 31. For the avoidance of doubt, for this purpose, Retirement Eligible Units are deemed to vest at the time provided in Section 2(a)or upon a termination described in Section 2(b) or 2(c), if earlier.

(b) Irrevocable Proxy. As a condition to receiving any Units in settlement of any vested Restricted Equity Units, you are required to execute an irrevocable proxy in the form attached hereto as Appendix A.

(c) Withholding Obligation. Upon settlement of any Restricted Equity Units, any applicable Withholding Tax must be satisfied either (i) by you paying the amount of required Withholding Tax to the Company in cash, (ii) by you delivering to the Company that number of whole Matured Units having a Fair Market Value at least equal to the amount of the required Withholding Tax, (iii) from the Units issuable in respect of the Restricted Equity Units or (iv) by a combination of the foregoing; provided, however, that if and to the extent that the Withholding Tax is satisfied using Units issuable in settlement of the Restricted Equity Units and if necessary to avoid an adverse financial accounting consequence for the Company, the applicable Withholding Tax shall be based on the minimum amount required to be withheld at

applicable law. If you elect not to satisfy the Withholding Tax using Units in settlement of the Restricted Equity Units, but do not otherwise satisfy the amount of required Withholding Tax by delivery of cash or Matured Units to the Company, the Company will withhold from the Units to be delivered the minimum amount of funds required to cover any Withholding Tax required to be withheld by the Company by reason of such settlement.

4. **Change in Control.**

(a) Double Trigger Protection Upon a Change in Control. In the event of a Change in Control, unless otherwise determined by the Committee prior to the occurrence of a Change in Control, the Company shall take all actions necessary or appropriate to assure that each Matching Award outstanding under the Plan shall be honored or assumed, or new rights substituted therefor (such honored, assumed or substituted award hereinafter called an "**Alternative Award**") by the entity for which you will be performing Service immediately following the Change in Control (or the parent or a subsidiary of such entity); provided that any such Alternative Award must provide that if your Service is terminated upon or following such Change in Control (x) by the Company other than for Cause or (y) by you for Good Reason, in either case, within 24 months following the Change in Control, your rights under each such Alternative Award shall become fully vested and payable in accordance with its otherwise applicable terms (including, without limitation, provisions similar to Section 4(d) hereof). In addition, any such Alternative Award granted to you must:

(i) provide you with rights and entitlements substantially equivalent to or better than the rights and entitlements applicable under the corresponding Matching Award, including, but not limited to, an identical or better vesting schedule and identical or better timing and methods of payment (including all provisions applicable in respect of such Matching Award that provide for accelerated vesting); and

(ii) have substantially equivalent economic value to such Matching Award (as determined by the Committee as constituted immediately prior to the Change in Control).

(b) Accelerated Vesting and Payment. Notwithstanding the provisions of Section 4(a), the Committee may otherwise determine that, upon the occurrence of a Change in Control, all or any portion of the Restricted Equity Units that are then still outstanding shall become vested and shall be immediately payable in Units (or, if so directed by the Committee, cash in an amount equal to the Fair Market Value of the Units that would otherwise have been deliverable to you).

(c) Deferred Compensation Subject to Section 409A. Notwithstanding the foregoing provisions of this Section 4, any Retirement Eligible Units or other Restricted Equity

Units that are nonqualified deferred compensation subject to Section 409A) shall not become payable at the time specified under the provisions of Section 4(a) or 4(b). Instead, to the extent that any such Retirement Eligible Units or other Restricted Equity Units that are nonqualified deferred compensation subject to Section 409A become vested in accordance with the terms of the Plan (including Section 4(a) or 4(b) hereof), such Restricted Equity Units shall be payable at the time that they would otherwise have been payable without regard to the occurrence of a Change in Control.

(d) **Provisions Related to Golden Parachute Excise Tax.**

(i) Change in Control When the Units are Not Publicly Traded. Notwithstanding anything to the contrary contained in this Agreement, to the extent that, upon a Change in Control prior to the time at which the Units have become Publicly Traded, any of the payments and benefits provided for under the Plan, any Matching Award Agreement or any other agreement or arrangement between the Company or any of its Affiliates and you (collectively, the "**Payments**") would constitute a "parachute payment" within the meaning of Section 280G of the Code (a "**Parachute Payment**"), the amount of such Payments shall be reduced to the amount (the "**Safe Harbor Amount**") that would result in no portion of the Payments being treated as an excess parachute payment pursuant to Section 280G of the Code (the "**Excise Tax**"). If, upon a Change in Control prior to the time at which the Units have become Publicly Traded, the Parachute Payments that would otherwise be reduced or eliminated, as the case may be, pursuant to this Section 4(d)(i) could be paid without the loss of a deduction under Section 280G of the Code if the shareholder approval exception to treatment as a Parachute Payment can be and is satisfied, then the Company shall use its reasonable best efforts to cause such Parachute Payments to be submitted for such approval in accordance with Section 280G(b)(5)(B) prior to the Change in Control giving rise to such Parachute Payments. If such approval is received, any reduction or forfeiture pursuant to this Section 4(d)(i) shall be reversed, and the subject amount shall be payable to you without regard to this Section 4(d)(i).

(ii) Change in Control When the Units are Publicly Traded. If upon a Change in Control occurring at any time that the Units are Publicly Traded, any Payments would constitute Parachute Payments, then, if and solely to the extent that reducing the benefits payable hereunder would result in your receiving a greater amount, on an after-tax basis, taking into account any Excise Tax and all applicable income, employment and other taxes payable on such amounts, the amounts payable hereunder shall be reduced or eliminated, as the case may be, so that the total amount of Parachute Payments received by you do not exceed the Safe Harbor Amount.

(iii) Order of Reduction in Payments. Any reduction in the amount of compensation or benefits effected pursuant to this Section 4 shall first come, in order and, in each case, solely to the extent necessary, from any cash

severance benefits payable to you, then from any other payments which are treated in their entirety as Parachute Payments and then from any other Parachute Payments payable to you.

5. **Nontransferability of Restricted Equity Units; Transferability of Units.**

(a) The Restricted Equity Units granted hereby may not be sold, transferred, pledged, assigned, or otherwise alienated or hypothecated, other than by will or by the laws of descent or distribution and all rights with respect to the Restricted Equity Units shall be available during your lifetime only to you or your guardian or legal representative. The Committee may, in its sole discretion, require your guardian or legal representative to supply it with evidence the Committee deems necessary to establish the authority of the guardian or legal representative to act on behalf of you.

(b) Units issued in settlement of Restricted Equity Units cannot be sold, exchanged, conveyed or in any way transferred other than (i) to the Company or the Parent, (ii) by will or the laws of descent and distribution, (iii) pursuant to the exercise of a tag-along right under Section 8.3(a) of the Operating Agreement, a drag-along right under Section 8.3(c) of the Operating Agreement or the buyout right under Section 8.3(e) of the Operating Agreement, or (iv) to a Participant Permitted Transferee. The Company will not be required (i) to transfer on its books any Units that have been sold or transferred, or (ii) to treat as the owner of such Units, to accord the right to vote as such an owner or to pay dividends to any transferee to whom such Units have been transferred in violation of the Plan or this Agreement.

(c) You acknowledge and agree that the Restricted Equity Units granted in accordance with this Agreement were granted to you because you purchased Units (the "**Purchased Units**") from the Company having a value at least equal to your minimum investment amount as communicated to you and in effect at the date of purchase. Except as provided in the last sentence of this Section 5(c), if you transfer any such Purchased Units prior to the date that all of the Restricted Equity Units subject to this Agreement have become vested you shall forfeit a corresponding portion of Restricted Equity Units for each Purchased Unit you transfer. The portion so forfeited shall be determined by multiplying the number of Restricted Equity Units granted hereunder by a fraction, the numerator of which is the number of Purchased Units so transferred and the denominator of which is the total number of Purchased Units that are still held as of immediately prior to such transfer. However, no forfeiture shall occur under this Section 5(c) upon a transfer of Purchased Units (i) pursuant to Section 10 or 11 hereof or (ii) to a Participant Permitted Transferee, so long as following such transfer all of the transfer and forfeiture restrictions otherwise applicable in respect of your Purchased Units continue to apply to such Participant Permitted Transferee on the same terms as applied to you immediately prior to such transfer.

6. **Put Right.**

(a) In Service. Commencing with the first Window Period following the fifth anniversary of the Grant Date in respect of the Restricted Equity Units, while you

are still providing Service to the Company or an Affiliate you shall have the right to require the Company to purchase during such Window Period or any subsequent Window Period any or all of your Units received in settlement of vested Restricted Equity Units and that are Matured Units at their then Fair Market Value.

(b) Following Termination of Service. If your Service with the Company and its Affiliates terminates due to death, Disability or Retirement, you (or your representative or Participant Permitted Transferees) can require the Company to purchase any or all of your Matured Units that were acquired in connection with the vesting of Restricted Equity Units by delivery of a put notice during any Window Period occurring immediately following any of the three Valuation Dates coincident with or next following the date of your separation from Service. If your Service with the Company and its Affiliates terminates for any other reason than one specified in the immediately preceding sentence, you (or your representative or Permitted Transferees) can require the Company to purchase any or all of your Matured Units that were acquired in connection with the vesting of Restricted Equity Units by delivery of a put notice during the Window Period occurring immediately following the Valuation Dates coincident with or next following the date of your separation from Service or, to the extent that the Units held by such person at such time are not Matured Units, in the next Window Period in which the Units are Matured Units. If your Service is terminated by the Company or any of its Affiliates for Cause, then the put price shall be an amount equal to the lower of (i) your cost and (ii) the Fair Market Value determined as of the applicable Valuation Date. For this purpose, cost with respect to Units issued upon settlement of Restricted Equity Units will mean the value included in your income at the time the corresponding Units were distributed to you. In all other cases, the put right shall be at the Fair Market Value determined at the applicable Valuation Date.

7. **Call Right of the Company Following Termination of Service.** The Company shall have the right to repurchase (i.e., "call") from you and, if such right shall be exercised, you shall sell to the Company, all of your Matured Units during the Window Period immediately following either of the two Valuation Dates next following the date your Service with the Company and its Affiliates terminates. If your Service is terminated by the Company or any of its Affiliates for Cause, then the call price shall be an amount equal to the lower of (i) your cost and (ii) the Fair Market Value determined as of the applicable Valuation Date. For this purpose, cost with respect to Units issued upon settlement of Restricted Equity Units will mean the value included in your income at the time the corresponding Units were distributed to you. In all other cases, the call right shall be at the Fair Market Value determined at the applicable Valuation Date.

8. **Payment of Purchase Price upon Put or Call.**

(a) General Rule. Except as otherwise provided herein, the purchase price in respect of the exercise of any put right pursuant to Section 6 or call right pursuant to Section 7 shall be payable in a single lump sum in cash within 30 days of the date such right is exercised.

(b) Limitation of Cash Payments. Notwithstanding the put and call rights specified in

Sections 6 and 7, or the provisions of Section 8(a) of this Agreement, no put or call may be exercised if doing so at such time would cause the Company to be in breach of any provision of any financing agreement. If any such put or call right can be exercised without a breach so long as the consideration paid for the Matured Units is in the form of a promissory note (rather than cash), the put or call shall be effected for a promissory note (with interest at a rate consistent with then prevailing interest rates, as determined by the Committee, but in no event less than the then prevailing applicable federal rate) payable when, and to the extent, that cash payments can be made without the occurrence of such a breach. If a promissory note cannot be used without a breach, the put or call right will be suspended and be eligible to be exercised during the Window Period immediately following the first Valuation Date at which it can be exercised (for cash or for a promissory note) without breaching any such financing agreement.

(c) Alternative Means of Payment. The Company may elect either to suspend any put right and/or to pay the proceeds payable upon the exercise of any put or call via a promissory note (with interest at a rate consistent with then prevailing interest rates, as determined by the Committee, but in no event less than the then prevailing applicable federal rate) if the total cash payable in respect of all puts and calls occurring during the current Window Period, together with any puts and calls exercised during any prior Window Period that the Committee specifies shall be included in determining whether the aggregate cap is exceeded, would exceed $2,000,000 (or such greater or lesser dollar amount that the Committee shall specify from time to time, provided that any change to reduce the amount available shall be decided in the year prior to the year in which it becomes effective). If this cap is exceeded (or any comparable cap applicable under a financing agreement), any cash available with respect to such Window Period date shall be applied in the following order of priority:

i) to satisfy any promissory note previously issued in connection with the redemption or repurchase of any Units;

ii) to satisfy any put exercised following the death, Disability or Retirement of a Participant under the Plan or the LTIP;

iii) to satisfy any call exercised following a termination of Service; and

iv) to satisfy any in-Service put.

If there is not sufficient cash to satisfy all claims in the same order of priority, then the available cash will be applied pro-rata to all claims in the same priority category, based on the gross amounts owed.

9. **Clawback for Breach of Restrictive Covenants.** Subject to the provisions of applicable law, if you breach, whether during or after termination of your Service, a nonsolicitation, noncompetition, confidentiality, or other restrictive covenant agreement by which you are bound, then in addition to any other penalties or restrictions that may apply under any such agreement, applicable law, or otherwise, you will forfeit any vested or unvested Matching Awards and any Units received in respect of a Matching Award held by you and the

Company may require you to return to the Company any profit you realized from the sale of Units to the Company or the Parent pursuant to Section 6 or Section 7 (i) within the six-month period immediately preceding your termination of Service or (ii) after terminating Service.

10. **Tag-Along Right**. All Units that were acquired in connection with the vesting of Restricted Equity Units and held by you shall be subject to the tag-along rights set forth in Section 8.3(a) of the Operating Agreement.

11. **Drag-Along Right**. All Units that were acquired in connection with the vesting of Restricted Equity Units and held by you shall be subject to the drag-along rights set forth in Section 8.3(c) of the Operating Agreement.

12. **Lapse of Effectiveness**. In the event that the Units shall become Publicly Traded, the provisions of Sections 5(b), 6 and 7 shall cease to apply.

13. **No Limitation on Rights of the Company.** The grant of the Restricted Equity Units does not and will not in any way affect the right or power of the Company to make adjustments, reclassifications or changes in its capital or business structure, or to merge, consolidate, dissolve, liquidate, sell or transfer all or any part of its business or assets.

14. **Plan and Terms and Conditions Not a Contract of Employment or Service**. Neither the Plan nor this Agreement are a contract of employment or Service, and no terms of your employment or Service will be affected in any way by the Plan, this Agreement or related instruments, except to the extent specifically expressed therein. Neither the Plan nor this Agreement will be construed as conferring any legal rights on you to continue to be employed or remain in Service with the Company, nor will it interfere with any right of the Company or any of its affiliates to discharge you or to deal with you regardless of the existence of the Plan, this Agreement or the Restricted Equity Units.

15. **Participant to Have No Rights as a Member.** Before the date as of which you are recorded on the books of the Company as the holder of any Units related to the Restricted Equity Units, you will have no rights as a member of the Company with respect to those Units.

16. **Continued Effect of Award Agreement**. To the extent that the Plan or this Agreement contain provisions that are intended to have effect after the date(s) as of which your rights in respect to the Restricted Equity Unit award have become vested (including, but not limited to, following the date of your termination of Service), this Restricted Equity Unit award and any Units issued in respect of such Restricted Equity Unit award shall continue to be subject to the terms of the Plan and this Agreement

17. **Securities Law Requirements.**

    (a) If at any time the Committee determines that issuing Units would violate applicable securities laws, the Company will not be required to issue such Units. The Committee may declare any provision of this Agreement or action of its own null and void, if it determines the provision or action fails to comply with the short-swing trading rules. As a condition to issuance, the Company may require you to

make written representations it deems necessary or desirable to comply with applicable securities laws.

(b) In addition the transfer restrictions and limitations applicable under Section 5, no Person who acquires Units under this Agreement may sell the Units, unless they make the offer and sale pursuant to an effective registration statement under the Securities Act of 1933, as amended (the "**Securities Act**"), which is current and includes the Units to be sold, or an exemption from the registration requirements of the Securities Act.

18. **Notice.** Any notice or other communication required or permitted under this Agreement must be in writing and must be delivered personally, sent by certified, registered or express mail, or sent by overnight courier, at the sender's expense. Notice will be deemed given when delivered personally or, if mailed, three (3) days after the date of deposit in the United States mail or, if sent by overnight courier, on the regular business day following the date sent. Notice to the Company should be sent to:

Insomnia Cookies Holdings, LLC
One South Broad Street, Suite
1705 Philadelphia, PA 19701
Attn: Chief Legal Officer

Notice to you should be sent to the address on file with the Company. Either party may change the Person and/or address to which the other party must give notice under this Section 18 by giving such other party written notice of such change, in accordance with the procedures described above.

19. **Successors.** All obligations of the Company under this Agreement will be binding on any successor to the Company, whether the existence of the successor results from a direct or indirect purchase of all or substantially all of the business of the Company, or a merger, consolidation, or otherwise.

20. **Governing Law.** To the extent not preempted by federal law, this Agreement will be construed and enforced in accordance with, and governed by, the laws of the State of Delaware, without giving effect to its conflicts of law principles that would require the application of the law of any other jurisdiction.

21. **Waiver of Jury Trial**. Each party hereby waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or proceeding arising out of this Agreement or any transaction contemplated hereby. Each party (i) certifies that no representative, agent or attorney of any other party has represented, expressly or otherwise, that such other party would not, in the event of litigation, seek to enforce the foregoing waiver and (ii) acknowledges that it and the other parties have been induced to enter into the Agreement by, among other things, the mutual waivers and certifications in this Section 21.

22. **Plan Document Controls.** The rights granted under this Agreement are in all respects subject to the provisions set forth in the Plan to the same extent and with the same effect as if set forth fully in this Agreement. If the terms of this Agreement conflict with the terms of

the Plan document, the Plan document will control. The Units issued in respect to a vested Matching Award shall also be subject to the terms of the Operating Agreement. To the extent of any inconsistency between the terms of this Agreement and the terms of the Operating Agreement, the terms of this Agreement shall control.

23. **Amendment.** This Agreement may be amended unilaterally by the Company to the extent determined by the Committee and permitted under the Plan, or by a written instrument signed by both parties.

24. **Entire Agreement.** This Agreement, together with the Plan and the Operating Agreement, constitute the entire obligation of the parties with respect to the subject matter of this Agreement and supersede any prior written or oral expressions of intent or understanding with respect to such subject matter.

25. **Section and Other Headings, etc**. The section and other headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

26. **Administration.** The Committee administers the Plan and this Agreement. Your rights under this Agreement are expressly subject to the terms and conditions of the Plan, including any guidelines the Committee adopts from time to time. You hereby acknowledge receipt of a copy of the Plan.

27. **Section 409A.** The Restricted Equity Units awarded pursuant to this Agreement are intended to comply with or, in the alternative, be exempt from Section 409A and this Agreement shall be shall be construed and interpreted in accordance with such intent. Any reference to a termination of Service shall be construed as a "separation from service" for purposes of Section 409A. If and to the extent applicable, if you are deemed to be a "specified employee" within the meaning of Section 409A, any payment due hereunder that is deferred compensation subject to Section 409A and payable upon a separation from service shall be delayed until six months and one day following such separation.

28. **Counterparts; Facsimile, Digital or Electronic Signatures**. This Agreement may be signed in counterparts with the same effect as if the signatures hereto and thereto were upon the same instrument. This Agreement may be transmitted and/or signed by facsimile, digital, or electronic transmission and/or signature. The effectiveness of any such signatures shall have the same force and effect as manually-signed originals and shall be binding on all parties to this Agreement.

29. **Data Protection.** By accepting the award of Restricted Equity Units, you hereby agree to permit the Company and its affiliates to process personal data and sensitive personal data about you in connection with the Plan. Such data includes, but is not limited to, the information provided hereunder and any changes thereto, other appropriate personal and financial data, and information about your participation in the Plan and the Restricted Equity Units granted to you under the Plan from time to time (collectively, "**Personal Data**"). You consent to each and any of the Company and its affiliates processing and transferring any Personal Data outside the country in which you work or are employed to the United States and any other third countries. The legal persons for whom Personal Data is intended include the Company and its affiliates, the Committee and the Parent Board,

any administrator selected from time to time to administer the Plan, and any other person or entity that the Company, the Committee or the Parent Board involves in the administration of the Plan. Each of the Company and its affiliates will take all reasonable measures to keep Personal Data confidential and accurate. You can access and correct their Personal Data by contacting your human resources representative. By accepting participation in the Plan, you agree and acknowledge that the transfer of information is important to the administration of the Plan and failure to consent to the transmission of that information may limit your ability to participate in the Plan.

[*Signature Page Follows*]

INSOMNIA COOKIES HOLDINGS, LLC

By:___________________________
Name: Louis Smookler
Title: Chief Legal Officer

PARTICIPANT

By:___________________________
Name: Michael J. Tattersfield

APPENDIX A

IRREVOCABLE PROXY AGREEMENT

As a condition to your receiving a Matching Award pursuant to the Insomnia Cookies Holdings, LLC Executive Ownership Plan (the "**Plan**"), you must execute this Irrevocable Proxy Agreement (the "**Agreement**").

By entering into this Agreement, you hereby irrevocably grant a proxy to, and appoint as your proxy and attorney-in-fact (with full power of substitution), the persons from time to time serving as the principal financial officer and as the principal legal officer of Krispy Kreme Doughnut Corporation (the "**Designated Officers**"), for and in your name, place and stead, to vote or act by unanimous written consent with respect to all Units that you may from time to time hold, including Purchased Units and Units you receive pursuant to the settlement of Restricted Equity Units. You also agree that the Designated Officers may delegate the authority conveyed hereby to vote such Units to such other officer(s), employee(s) or agent(s) of Krispy Kreme Doughnut Corporation or any of its affiliates as the Designated Officers may specify from time to time. In addition, if at any time prior to an Underwritten Offering, Krispy Kreme Doughnut Corporation transfers a controlling interest in the Units to any third party (including Units transferred involuntarily by enforcement of any pledge of Units to secure the obligations of Krispy Kreme Doughnut Corporation) (a "**Transferee**"), this Irrevocable Proxy shall be deemed assigned to, and granted by you to, such person(s) as the Transferee shall designate from time to time.

You hereby affirm that the proxy set forth in this Agreement is irrevocable. This proxy will continue in effect, and be valid, until the consummation of an Underwritten Offering or the last date otherwise permitted by law. Any term capitalized but not defined in this Agreement will have the meaning set forth in the Plan.

____

Name: Michael J. Tattersfield

Date:

Exhibit 10.23

INSOMNIA COOKIES HOLDINGS, LLC
EXECUTIVE OWNERSHIP PLAN

(Effective September 17, 2018)

SECTION 1
PURPOSE AND DURATION

1.1 **Purpose.** The purpose of this Insomnia Cookies Holdings, LLC Executive Ownership Plan is to promote the interests of Insomnia Cookies Holdings, LLC, its ultimate parent company, Krispy Kreme Doughnut Corporation, and the equityholders of both such companies by (i) attracting and retaining exceptional executive personnel and other key employees of the Company and its Affiliates; (ii) motivating such employees to achieve long-range performance goals and (iii) enabling such employees to participate in the long-term growth and financial success of the Company.

1.2 **Effective Date and Term of the Plan**.

(a) The effective date of the Plan is September 17, 2018.

(b) The Plan will terminate upon the earlier of (i) the date on which all Units available for issuance under the Plan have been issued pursuant to the purchase of Purchased Units or Matching Awards made under the Plan (to the extent of any applicable limitation under Section 4.1), (ii) the fifth anniversary of the date specified in Section 1.2(a) and (iii) any other date specified by action of the Parent Board. Upon such Plan termination, all Purchased Units and Matching Awards outstanding under the Plan will continue to have full force and effect in accordance with the terms of the Unit Purchase Agreements and Matching Award Agreements, and any terms and conditions of the Plan that are intended to have continuing effect in respect to any Units issued under the Plan (e.g., the provisions related to the put rights of Participants and the call rights of the Company) shall continue in effect without regard to the termination of the Plan.

SECTION 2
DEFINITIONS

Whenever used in the Plan, the following terms have the meanings set forth below:

2.1 "**Acquisition Transaction**" means the transaction consummated pursuant to the Securities Purchase Agreement whereby the Company will become a wholly-owned subsidiary of Parent.

2.2 "**Affiliate**" means the Parent and any entity that, directly or indirectly, is controlled by the Company or the Parent, or in which the Company or the Parent has a significant equity interest as determined by the Committee.

2.3 "**Aggregate Investment Limit**" has the meaning set forth in Section 6.2.

2.4 "**Aggregate Matching Limit**" means, with respect to any Participant eligible for a Matching Award, the dollar amount specified by the Committee.

2.5 "**Applicable Fraction**" means a fraction, the numerator of which is the number of complete months elapsed from the Grant Date of a Matching Award to the date of the Participant's termination of Service and the denominator of which is the number of months between the Grant Date and the date the Matching Award was scheduled to vest in full. For the avoidance of doubt, whenever a Matching Award is made on any date other than the first day of a calendar month, complete months with regard to such Matching Award shall be measured from the date of the month on which the Matching Award is granted to the date in a succeeding calendar month immediately prior to the monthly anniversary of the date of grant (e.g., if a Matching Award is granted on February 15 of any given year, service until the next following March 14 will be one complete month of service and continuous service until February 14 of the next calendar year shall equate to 12 completed months of service).

2.6 "**Board**" means the Board of Directors of the Company.

2.7 "**Business Day**" means any day other than a Saturday, Sunday, or federal legal holiday, or a day on which either of the NYSE or NASDAQ is closed for trading (regardless of whether the Units are qualified to trade on such exchange or system).

2.8 "**Cause**" has the meaning set forth in any employment, severance or other bilateral written agreement between the Company or an Affiliate and the Participant. If there is no such employment, severance or other bilateral written agreement between the Company or an Affiliate and the Participant, or if such agreement does not define "Cause," then "Cause" shall mean the occurrence of any of the following, as determined by the Committee:

(a) a Participant's willful and continued failure substantially to perform his or her duties (other than as a result of total or partial incapacity due to physical or mental illness or as a result of termination by such Participant for Good Reason), which failure continues for more than 30 days after receipt by the Participant of written notice setting forth the facts and circumstances identified by the Company as constituting adequate grounds for termination under this clause (a);

(b) any willful act or omission by a Participant constituting dishonesty, fraud or other malfeasance, and any act or omission by a Participant constituting immoral conduct, which in any such case is injurious to the financial condition or business reputation of the Company or any of its Affiliates;

(c) a Participant's indictment for a felony under the laws of the United States or any state thereof or any other jurisdiction in which the Company conducts business; or

(d) a Participant's breach of any nonsolicitation, noncompetition, confidentiality, or other restrictive covenant by which he or she is bound.

For purposes of this definition, no act or failure to act shall be deemed "willful" unless effected by a Participant not in good faith and without a reasonable belief that such action or failure to act was in or not opposed to the Company's best interests.

2.9 "**Change in Control**" has the meaning set forth in the Operating Agreement.

2.10 "**Class A Unit**" has the meaning set forth in the Operating Agreement.

2.11 "**Class B Unit**" has the meaning set forth in the Operating Agreement.

2.12 **"Code"** means the U.S. Internal Revenue Code of 1986, as amended from time to time.

2.13 **"Committee"** means the Compensation Committee of the Parent Board (or its equivalent) or any other committee of the Parent Board designated by the Parent Board, or, if no such committee has been designated, the Parent Board.

2.14 **"Company"** means Insomnia Cookies Holdings, LLC, a Delaware limited liability company, and any successor thereto as provided in Section 14.2.

2.15 "**Designated Beneficiary**" means the Person or Persons the Participant designates from time to time on a signed form prescribed by the Company, properly filed with the Company during the Participant's lifetime, as the beneficiary of any amounts or benefits the Participant owns or is to receive under the Plan, in accordance with Section 10. A properly filed beneficiary designation will revoke all prior designations by the same Participant.

2.16 "**Director**" means any person who is not an Employee serving as a member of the Board, the Parent Board or the board of directors or equivalent governing body of any of the Company's subsidiaries or affiliates.

2.17 "**Disability**" means either (i) disability as defined for purposes of the Company's disability benefit plan or (ii) a Participant's inability, as a result of physical or mental incapacity, to perform the duties of his or her position(s) for a period of six consecutive months or for an aggregate of six months in any consecutive 12-month period. Any question as to the existence of the Disability of a Participant as to which the Participant and the Company cannot agree shall be determined in writing by a qualified independent physician mutually acceptable to the Participant and the Company. If the Participant and the Company cannot agree as to a qualified independent physician, each shall appoint such a physician and those two physicians shall select a third who shall make such determination in writing. The determination of Disability made in writing to the Company and the Participant shall be final and conclusive for all purposes of the Plan. Following a Change in Control, the Company shall pay all expenses incurred in the determination of whether a Participant is disabled.

2.18 "**Eligible Employee**" means an Employee who is or has been designated to be a participant in the Plan; provided, however, that with respect to the Equity Rollover, each Rollover Participant shall be deemed an Eligible Employee.

2.19 "**Employee**" means an employee of the Company or an Affiliate (including Serve U Brands, Inc. for so long as it meets the requirements to be an Affiliate).

2.20 "**Equity Rollover**" has the meaning given to such term in Section 6.5.

2.21 “**Exchange Act**” means the U.S. Securities Exchange Act of 1934, as amended from time to time, or any successor act thereto.

2.22 “**Excluded Participant**” shall mean David Lasus.

2.23 “**Fair Market Value**” as it relates to a Unit means the fair market value of a Unit as of the most recent Valuation Date, as determined by the Committee or the Parent Board using a nationally recognized investment bank (or other comparable valuation expert) selected by the Committee or the Parent Board; provided, however, that if, prior to the time at which such valuation shall be applied, significant events or other circumstances have occurred that cause such valuation no longer to represent the fair value of a Unit, the Committee or the Parent Board shall not apply such valuation and shall take such actions as shall be necessary or appropriate to secure a new valuation that reflects such then current fair value. The Committee’s or the Parent Board’s determination of Fair Market Value shall be final and binding on all parties. For so long as Seth Berkowitz is Chief Executive Officer of the Company and holds at least 10% of the Units he held as of the closing of the Acquisition Transaction, the Committee or the Parent Board, as applicable, shall consult with him regarding its determination of Fair Market Value hereunder. Notwithstanding the foregoing, (i) the Fair Market Value of a Unit for purposes of determining the Purchase Price in respect of Units retained via the Equity Rollover shall be determined by the Committee based on the aggregate price paid by Parent to acquire its interest in the Company in the Acquisition Transaction, (ii) at the discretion of the Committee, the Purchase Price for a sale of any Units occurring no more than six (6) months following the Acquisition Transaction may be determined in the same manner as applied with respect to the Equity Rollover, (iii) if at any time the Units are Publicly Traded, the Fair Market Value of a Unit on any date shall be the closing price of a Unit on such date on the principal national securities exchange on which the Units are then listed, or if there were no sales on such date, on the next preceding day on which there were sales, or if such Units are not listed on a national securities exchange, the last reported bid price in the applicable over-the-counter market and (iv) in connection with a Change in Control, the Fair Market Value of a Unit shall be determined based on the consideration payable for the Units in the transaction(s) giving rise to such Change in Control.

2.24 “**Good Reason**” shall have the meaning set forth in any employment, severance or other bilateral written agreement between the Company or an Affiliate and the Participant. If there is no employment, severance or other bilateral written agreement between the Company or an Affiliate and the Participant, or if such agreement does not define “Good Reason,” then “Good Reason” shall mean the occurrence of any of the following:

(a) A material reduction in a Participant’s base salary, other than as part of an overall expense reduction program that is generally applicable to all similarly situated employees;

(b) A material adverse reduction in a Participant’s duties and responsibilities such that the Participant is required to serve in a position that is at least two salary grades lower than the position in which the Participant had been serving prior to such reduction; or

(c) The relocation of a Participant's principal workplace without his or her consent to a location more than 50 miles distant from the location at which the Participant had previously been principally providing services and which increases the Participant's commute to such workplace from his or her principal residence on the date of such relocation.

2.25 "**Grant Date**" means the Investment Date or Rollover Date, as applicable, on which a Matching Award is granted.

2.26 "**Investment Date**" has the meaning set forth in Section 6.1.

2.27 "**Investment Minimum**" has the meaning set forth in Section 6.2.

2.28 "**Investment Period**" has the meaning set forth in Section 6.1.

2.29 **"Loan Agreement"** means any agreement or other instrument or document evidencing a Unit Purchase Loan.

2.30 **"LTIP"** has the meaning set forth in Section 4.1

2.31 "**Matching Award**" means a contingent grant of Restricted Equity Units pursuant to Section 7 awarded to a Participant in respect of a purchase of Units under the Plan or Units held pursuant to an Equity Rollover under the Plan.

2.32 "**Matching Award Agreement**" means any agreement or other instrument or document evidencing a Matching Award.

2.33 "**Matured Units**" means Units that a Participant has acquired through the vesting of Restricted Equity Units or the acquisition of Units which, at the relevant date, the Participant has held for a minimum of six months and one day (or such greater or lesser period as the Committee may determine from time to time).

2.34 "**Operating Agreement**" means the Amended and Restated Operating Agreement of the Company dated as of September 17, 2018, as amended from time to time.

2.35 "**Parent**" means Krispy Kreme Doughnut Corporation, a North Carolina corporation, and any successor thereto as provided in Section 14.2.

2.36 "**Parent Board**" means the board of directors of Parent.

2.37 "**Participant**" means any Eligible Employee or Director who holds Purchased Units. Solely in respect of his Rollover Units, Seth Berkowitz shall not be deemed to be a Participant.

2.38 "**Participant Permitted Transferee**" means the Participant's spouse, the Participant's lineal descendants and/or any trust the beneficiaries of which consist only of the Participant, the Participant's spouse and/or the Participant's lineal descendants, or to a corporation in which the Participant, the Participant's spouse and/or the Participant's lineal descendants own 100%

of the economic interest. Without limiting the generality of the foregoing, the Company and the Committee have the unfettered right to prevent further transfer or disposition of any Units.

2.39 "**Person**" means any individual, partnership, corporation, limited liability company, association, joint stock company, trust, joint venture, unincorporated organization and any governmental entity or any department, agency or political subdivision thereof.

2.40 "**Plan**" means this Insomnia Cookies Holdings, LLC Executive Ownership Plan, as amended from time to time.

2.41 "**Publicly Traded**" means, with respect to the Units, that the Units shall have been listed or qualified to trade on a national securities exchange or nationally recognized automated securities quotation system, or the Committee determines that the Units have become actively and regularly traded in an over-the-counter market.

2.42 "**Purchase Price**" of Purchased Units purchased on an Investment Date or retained on the Rollover Date, as applicable, means the Fair Market Value of such Purchased Units as of such Investment Date or Rollover Date, as applicable.

2.43 "**Purchased Units**" means Units that are purchased and any Rollover Units held by a Participant, in either case pursuant to Section 6.

2.44 "**Put Right**" has the meaning set forth in Section 8.4.

2.45 "**Restricted Equity Units**" means a contingent grant of Class A Units awarded to a Participant pursuant to Section 7.

2.46 "**Retirement**" means, unless the Committee shall specify a different definition with respect to any Participant or any class of Participants which shall be set forth in the applicable Matching Award Agreement, with respect to (i) an Employee, a termination of Service (other than a termination of Service for Cause) after attaining age 60 and having completed at least 10 years of continuous service with the Company and its Affiliates (which for the avoidance of doubt shall include service for Serve U Brands, Inc. for so long as it meets the requirements to be an Affiliate) and (ii) with respect to a Director, a termination of Service (other than a termination for Cause) after attaining the mandatory retirement age for Directors, as specified by the Committee from time to time, or if no such age is stated, age 70. For this purpose, years of service shall be based on the period of time elapsed from a Person's commencement of services with the Company or any of its Affiliates to the date such services terminate, whether due to Retirement, death, Disability or for any other reason.

2.47 "**Retirement Eligible Unit**" means any Restricted Equity Unit held by a Participant who is or will become eligible for Retirement prior to the date that such Restricted Equity Unit would otherwise vest in accordance with the terms thereof.

2.48 "**Rollover Date**" means the date, if any, upon which the Acquisition Transaction was consummated.

2.49 "**Rollover Participant**" means a Person (other than Seth Berkowitz) who participates in the Equity Rollover.

2.50 "**Rollover Unit**" has the meaning set forth in the Securities Purchase Agreement.

2.51 "**Section 409A**" means Section 409A of the Code and the applicable regulations and other legal authority promulgated thereunder.

2.52 "**Securities Purchase Agreement**" means the Securities Purchase Agreement by and among the Company, Parent, Serve U Brands, Inc., the Sellers party thereto and Shareholder Representative Services LLC, dated as of July 20, 2018.

2.53 "**Service**" means the provision of services in the capacity of an Employee or as a Director. A transfer of Service from Serve U Brands, Inc. or the Company to an Affiliate or from an Affiliate to the Company or another Affiliate (including Serve U Brands, Inc. for so long as it meets the requirements to be an Affiliate) shall not constitute a termination of Service under the Plan or any Matching Award Agreement. All determinations regarding Service, including whether any leave of absence is a termination of Service, shall be made by the Committee. For the avoidance of doubt, a Person who was an Employee, but upon his or her termination of employment with the Company or an Affiliate, becomes or continues to serve as a member of the Board or the board of directors of an Affiliate shall not be deemed to have had an interruption in Service.

2.54 "**Underwritten Offering**" means an underwritten public offering of the Units or any other equity capital of the Company, its successor or a subsidiary of the Company.

2.55 "**Unit**" means a Class A Unit or a Class B Unit or such other securities of the Company as may be designated by the Committee from time to time.

2.56 "**Unit Purchase Agreement**" means any agreement or other instrument or document evidencing Purchased Units.

2.57 **"Unit Purchase Loan"** means a loan made by the Company as the lender and the Participant as the borrower, in respect to the purchase of Purchased Units, subject to the terms and conditions of the accompanying Loan Agreement.

2.58 "**Valuation Announcement Date**" means, as of any time that the Units are not Publicly Traded, the date on which the Committee or the Parent Board announces a new determination of Fair Market Value or otherwise establishes the Fair Market Value for purposes of an Investment Period.

2.59 "**Valuation Date**" means, as of any time that the Units are not Publicly Traded, any date as of which the Fair Market Value of a Unit is determined in reliance upon the opinion of an independent appraiser. It is generally expected that the Committee or the Parent Board shall establish at least two Valuation Dates each calendar year, generally in June and December.

2.60 "**Window Period**" shall mean a period specified in advance by the Committee or the Parent Board, which shall not be more than 30 days, following any Valuation Announcement Date;

provided, however, that, unless otherwise expressly determined by the Committee or the Parent Board, in no event shall any Window Period extend more than 75 days after the corresponding Valuation Date.

2.61 "**Withholding Tax**" means the aggregate federal, state, and local taxes, domestic or foreign, required by law or regulation to be withheld with respect to any taxable event arising under the Plan.

SECTION 3
ADMINISTRATION

3.1 **Plan Administration.** The Plan shall be administered by the Committee.

3.2 **Authority of the Committees.** Except as limited by law or the by-laws of the Company, and subject to the provisions of the Plan, the Committee shall have full power, discretion and authority to: (a) designate the Employees and Directors who shall be eligible to acquire Purchased Units or receive Matching Awards as of any Investment Date; (b) determine the terms and conditions of Purchased Units and Matching Awards in a manner consistent with the Plan; (c) determine whether, to what extent, and under what circumstances Awards may be settled in cash, Units, or other property, and the method or methods by which Awards may be settled; (d) construe and interpret the Plan and any agreement or instrument entered into under the Plan; (e) establish, amend or waive rules and regulations for the Plan's administration; and (f) subject to the provisions of Section 13, amend the terms and conditions applicable to any outstanding Purchased Units or Matching Award to the extent the amended terms are within the Committee's authority under the Plan. Further, the Committee shall make all other determinations that may be necessary or advisable to administer the Plan. The Committee shall be empowered to make any determinations that are necessary or appropriate for the determination of the Fair Market Value and all other questions related to the process establishing such valuation for purposes of the Plan. Any power, authority, duty or obligation reserved or assigned to the Committee or the Parent Board pursuant to, or any determination or other judgment made by either the Committee or the Parent Board in the administration of the Plan or the determination of questions of valuation shall be exercised, performed or made by either the Committee or the Parent Board in its sole and absolute discretion.

3.3 **Decisions Binding.** All determinations and decisions made by the Committee, the Parent Board or by a Person or Persons delegated authority by either the Committee or the Parent Board pursuant to the provisions of the Plan shall be final, conclusive and binding on all Persons, including, without limitation, the Company, its equityholders, all Affiliates, Employees, Participants and their estates and beneficiaries, including any Participant Permitted Transferee.

SECTION 4
UNITS SUBJECT TO THE PLAN

4.1 **Available Units.** Subject to adjustment as provided in Section 4.3, the aggregate number of Units with respect to which Purchased Units (other than Purchased Units held as of the closing of the Acquisition Transaction pursuant to the Equity Rollover) and Matching Awards

may be issued or granted under the Plan, when combined with Units subject to outstanding Restricted Equity Unit awards pursuant to the Insomnia Cookies Holdings, LLC Long Term Incentive Plan (the **"LTIP"**), shall not exceed 5% of fully diluted equity of the Company as of the date of the Acquisition Transaction. In calculating the fully diluted Units available for grant under this Section 4.1, (i) any Units that were subject to any award under the Plan or the LTIP that is canceled, terminates, expires, lapses, is settled or is forfeited for any reason, in whole or in part, without the issuance of the Units related thereto and (ii) any Units issued pursuant to the terms of the Plan or the LTIP that have been repurchased by the Company pursuant to the applicable provisions of the Plan or the LTIP shall not be counted as against such limit on the issuance of Units under the Plan.

4.2 **Lapsed Units.** If (i) any Matching Award granted under the Plan is canceled, terminates, expires, lapses, is settled or is forfeited for any reason, in whole or in part, without the issuance of the Units related thereto or (ii) any Units issued pursuant to the terms of the Plan are repurchased by the Company pursuant to the provisions of Section 9, then any Units to which such Matching Award relates (or the relevant portion thereof) and any such repurchased Units shall again be available for Purchased Unit purchases or the grant of a Matching Award under the Plan. Without limiting the generality of the foregoing, upon the settlement of any Matching Award in part in cash to settle the applicable Withholding Tax requirements, the number of Units corresponding to the portion of the Matching Award settled in cash shall again be available for Purchased Unit purchases or Matching Award grants under the Plan.

4.3 **Adjustments in Authorized Units.** If (i) the Units, as currently constituted, are changed into or exchanged for a different number or kind of units or other securities of the Company or of another corporation (whether because of a merger, consolidation, recapitalization, reclassification, split, reverse split, combination of units), (ii) the number of Units is increased through a distribution or (iii) there shall occur another comparable event affecting the capitalization of the Company (other than the issuance of Units in exchange for fair value as determined by the Parent Board or the Committee), then the Committee shall substitute for or add to each Unit that may become subject to a Matching Award the number and kind of units or other securities into which each outstanding Unit was changed, for which each such Unit was exchanged, or to which each such Unit is entitled, as the case may be. For the avoidance of doubt, except as the Committee may otherwise determine to be equitable and appropriate and consistent with the provision, purposes and intent of the Plan, no adjustment in the authorized Units or in the terms of any outstanding Matching Award shall be made in connection with any issuance of Units for value, such as in connection with an Underwritten Offering or any other investment of capital in the Company.

SECTION 5
ELIGIBILITY AND PARTICIPATION

5.1 **Eligibility.** Any Eligible Employee or any Director shall be eligible to be designated a Participant, provided, that if requested by a Director, any Matching Award that would be made to a Director may be granted to (i) an entity or organization to which the Director provides services, (ii) any trust the sole beneficiary of which is the Director or (iii) an entity in which the Director owns 100% of the economic interest, and references herein to "Service" in

respect of such Matching Award shall be construed as the services of the Director in respect of whom the Matching Award was granted. The Committee may condition eligibility for the Plan upon the satisfaction of such requirements, including a Participant entering into restrictive covenants and/or agreeing to certain contractual provisions for the benefit of the Company and its Affiliates, including, without limitation, those specified in Section 11.

5.2 **Actual Participation.** The opportunity to invest in Purchased Units on a given Investment Date shall be limited to Eligible Employees and Directors (or their Participant Permitted Transferees) selected by the Parent Board or the Committee in its sole discretion as eligible to participate in the Plan as of such date. The opportunity to participate in the Equity Rollover shall be made available to each Rollover Participant as provided in Section 6.5.

SECTION 6
PURCHASED UNITS

6.1 **Investment Period.** To the extent that, in any year after 2018, the Committee or the Parent Board shall authorize the purchase hereunder of Purchased Units it shall establish up to two investment periods, each of which shall be a 30-day period (or such longer or shorter period specified by the Committee) commencing on a Valuation Announcement Date (each such period, an "**Investment Period**"). The Committee may also authorize an Investment Period beginning not later than 30 days after the Rollover Date. In connection with each Investment Period, the Committee shall establish a date on which the purchase of Purchased Units during such Investment Period shall take effect (each, an "**Investment Date**").

6.2 **Investment in Purchased Units.** On any Investment Date, an Eligible Employee selected for participation pursuant to Section 5.2 may purchase an aggregate number of Units that is equal to or greater than the Investment Minimum; provided that the Committee may specify that Purchased Units may be acquired only in such minimum number of units (or such multiples of units) as the Committee shall determine. Notwithstanding the foregoing, in no event shall the aggregate value of Purchased Units acquired by any Participant pursuant to the Plan (as measured based on the Fair Market Value thereof on the Investment Date as of which such Purchased Units are acquired) exceed the Aggregate Investment Limit unless, and solely to the extent that, the Committee shall waive or increase the Aggregate Investment Limit at the request of the Participant or on its own initiative. For purposes of this Section 6.2, the "**Investment Minimum**" means (a) the Participant's annual base salary amount (as in effect on the Investment Date) multiplied by such percentage as the Committee shall specify, divided by (b) the Fair Market Value of a Unit on the Investment Date, and the "**Aggregate Investment Limit**" means the product of (x) such multiple as the Committee shall specify as to any or all Participants and (y) the Participant's annual base salary at the rate in effect on the applicable Investment Date or, in the case of any Director, the rate of annual base salary payable to the person serving as the Company's Chief Executive Officer (or, if on such date there is no Chief Executive Officer, the person otherwise serving as the Company's principal executive officer) on such Investment Date.

6.3 **Investment Procedure.** To purchase Purchased Units on an Investment Date, an Eligible Employee must satisfy the following conditions:

(a) The Eligible Employee must execute, on or before the Investment Date, a Unit Purchase Agreement, in such written or electronic form as the Committee shall designate, specifying the number of Units he or she elects to purchase. The Eligible Employee may by written notice to the Committee revoke his or her election at any time prior to the Investment Date.

(b) If the Eligible Employee is offered the opportunity to finance, in whole or in part, the purchase of Purchased Units as of any Investment Date using a Unit Purchase Loan and elects to enter into such Unit Purchase Loan, the Eligible Employee must execute, on or before the Investment Date, a Loan Agreement, in such written or electronic form as the Committee shall designate.

(c) The Eligible Employee must deliver to the Committee on or before the Investment Date payment, in cash or cash equivalents, of the Purchase Price for the Purchased Units.

(d) Subject to the terms and conditions of any applicable Loan Agreement, in the event of an Underwritten Offering of the Units (or of securities of the Parent or an Affiliate), the Company has the right to require each of the Participants whose Unit Purchase Loan has not been repaid in full to tender to the Company for purchase at Fair Market Value such amount of Units as the Company believes will make the Unit Purchase Loan no longer outstanding.

6.4 **Distributions.** Each Participant shall be entitled to receive any regular cash distributions that may be made from time to time on the Purchased Units in accordance with the terms of the Operating Agreement.

6.5 **Equity Rollover.** Each Rollover Participant may continue his or her investment in the Company by continuing to hold Rollover Units held by such Rollover Participant immediately prior to the Rollover Date pursuant to the terms of the Securities Purchase Agreement (the "**Equity Rollover**"). Except as otherwise agreed to by the Company and a Rollover Participant, each Rollover Participant who participates in the Equity Rollover shall enter into a Matching Award Agreement that, among other things, will reflect the Matching Award made in respect of the Equity Rollover and will further enter into a Unit Purchase Agreement that, among other things, will acknowledge and confirm that any Purchased Units issued or held in connection with the Equity Rollover are subject to the terms and conditions hereof, including, without limitation, the provisions of Section 9. Any Purchased Units subject to the Equity Rollover shall be fully vested.

SECTION 7
MATCHING AWARDS

7.1 **Grant of Matching Awards.**

(a) Grant. The Committee shall specify as to each Investment Date the Participants, if any, who shall receive a grant of a Matching Award in respect of the purchase of Purchased Units on such Investment Date and any conditions required to be met to receive such a Matching Award. The Committee shall also specify as to the Rollover

Date the Participants, if any, who shall receive a grant of a Matching Award in respect of their Rollover Units and any conditions required to be met to receive such a Matching Award.

(b) Number of Units. If the Committee grants a Matching Award, the Committee shall determine the number of Class A Units subject to a Matching Award, which may be fixed or variable depending on Company performance or such other criteria or events as the Committee may determine. In no event, however, may the number of Class A Units subject to a Matching Award exceed the number of Purchased Units giving rise to such Matching Award.

(c) Vesting. Except as otherwise provided in Section 7.3, the Matching Award shall become fully vested on the 54-month anniversary of the Grant Date or such other date or dates as may be specified by the Committee.

(d) Forfeiture. Unless the Committee shall otherwise specify, if, and to the extent any of the Purchased Units are sold, transferred or otherwise disposed of by a Participant for any reason, the Matching Award (to the extent then-unvested) that was granted in respect of such Purchased Unit shall be forfeited. For the avoidance of doubt, if a Purchased Unit is sold, only the proportionate amount of the Matching Award (to the extent then-unvested) that was granted in respect of such Purchased Unit shall be forfeited.

(e) Aggregate Match. Notwithstanding the foregoing provisions of this Section 7.1, in no event shall a Matching Award be granted to a Participant at any Investment Date or on the Rollover Date which would result in such Participant having received in the aggregate (taking into account all prior Matching Awards) the opportunity to receive Units pursuant to Matching Awards having a Fair Market Value (measured at the Grant Date for each such Matching Award) greater than the Participant's Aggregate Matching Limit.

7.2 **Matching Award Agreement.** Each Matching Award grant shall be evidenced by a Matching Award Agreement setting forth the number of Class A Units to which the Matching Award pertains and such terms not inconsistent with the Plan as the Committee determines.

7.3 **Termination of Service.** Except as otherwise provided in a Matching Award Agreement:

(a) Death or Disability. In the event a Participant's Service terminates by reason of death or Disability, the portion of any Restricted Equity Units held by such Participant which has not theretofore become vested shall immediately become vested.

(b) Retirement. In the event a Participant's Service terminates by reason of Retirement, any Matching Award granted to such Participant shall become vested, on a pro-rated basis, such that the aggregate number of Units in respect of such Matching Award in which such Participant shall become vested shall be equal to the number of Restricted Equity Units subject to such Matching Award times the Applicable Fraction, minus the number, if any, of such Restricted Equity Units that may have become vested prior to such date.

(c) Cause. Notwithstanding anything else contained in the Plan to the contrary, if the Participant's service with the Company and its Affiliates is terminated for Cause, any Restricted Equity Units held by the Participant, whether or not vested, shall be forfeited in their entirety as of such termination.

(d) Other Terminations. In the event a Participant's Service terminates other than by reason of death, Disability, Retirement, or Cause, any unvested portion of the Participant's Restricted Equity Units as of the date of termination shall be forfeited and canceled on the date of termination.

(e) Committee Power to Accelerate. Notwithstanding the foregoing, the Committee may accelerate the vesting of all or a portion of a Matching Award at any time.

7.4 **Nontransferability of Matching Award.** No Matching Award granted under the Plan may be sold, transferred, pledged, assigned, or otherwise alienated or hypothecated, other than to a Designated Beneficiary pursuant to Section 10.1. The Committee may, in its sole discretion, require a Participant's guardian or legal representative to supply it with the evidence the Committee deems necessary to establish the authority of the guardian or legal representative to act on behalf of the Participant.

7.5 **Change in Control.** In the event of a Change in Control, any outstanding Restricted Equity Units shall become vested and payable to the extent, and subject to the conditions, provided in Section 8.

7.6 **Settlement**.

(a) *Publicly Traded Units*. If the Units are or become Publicly Traded on or prior to the date at which Restricted Equity Units (other than Retirement Eligible Units) vest:(i) the Units related to such vested Restricted Equity Units shall be delivered promptly (and in all events within 60 days) following the date such Restricted Equity Units have become vested and (ii) Units related to Retirement Eligible Units shall be delivered promptly (and in all events within 60 days) following the earlier of the vesting date under Section 7.1(c) or the date of the Participant's termination of employment, unless such Restricted Equity Units were granted at a time when the Units were not Publicly Traded, in which case they shall be delivered in accordance with Section 7.6(b) in all circumstances.

(b) *Non-Publicly Traded Units*. If the Units are not Publicly Traded as of the date at which the Restricted Equity Units vest, the Units related to such vested Restricted Equity Units shall be delivered during the first Window Period coincident with or next following the earliest date at which Restricted Equity Units become vested (but, with respect to any Restricted Equity Units that are not Retirement Eligible Units, in no event later than the March 15 of the calendar year immediately following the year in which such Restricted Equity Units become vested). Any Restricted Equity Units that are Retirement Eligible Units and which were granted at a time that the Units were not Publicly Traded shall be delivered at the time that they would have been delivered pursuant to the immediately preceding sentence, regardless of whether the Units are

Publicly Traded at the date of settlement, and assuming that there are always two Valuation Dates each year, as of June 30 and as of December 31. For the avoidance of doubt, for this purpose, Retirement Eligible Units are deemed to vest at the time provided in Section 7.3(a) 7.1(c) or upon a termination described in 7.3(a) or 7.3(b), if earlier.

(c) *Alternative Settlement Mechanics*. The Committee may in its sole discretion establish alternative settlement mechanics in a Matching Award Agreement to the extent it determines to necessary in order to give effect to the intent that Matching Awards be exempt from or comply with Section 409A.

7.7 **Other Conditions.** The Committee may impose such other conditions and restrictions on any Restricted Equity Units as it deems advisable and sets forth in the Matching Award Agreement, including, without limitation, vesting restrictions based upon the achievement of specific performance objectives (Company-wide, business unit, and/or individual) or continued Service, and/or restrictions under applicable federal or state securities laws. The Committee may provide that restrictions established under this Section 7.7 as to any given Matching Award will lapse all at once or in installments.

7.8 **Participant to Have No Rights as a Member.** Before the date as of which the Participant is recorded on the books of the Company as the holder of any Units underlying any Restricted Equity Units, the Participant will have no rights as a member of the Company with respect to those Units.

SECTION 8
CHANGE IN CONTROL

8.1 **Double Trigger Protection upon a Change in Control**. In the event of a Change in Control, unless otherwise determined by the Committee prior to the occurrence of a Change in Control, the Company shall take all actions necessary or appropriate to assure that each Matching Award outstanding under the Plan shall be honored or assumed (in a manner that is intended to be Section 409A compliant), or new rights substituted therefor (such honored, assumed or substituted award hereinafter called an "**Alternative Award**") by the entity for which the Participant will be performing Service immediately following the Change in Control (or the parent or a subsidiary of such entity); provided that any such Alternative Award must provide that if the Participant's Service is terminated upon or following such Change in Control by the Company other than for Cause or by the Participant for Good Reason within 24 months following the Change in Control, the Participant's rights under each such Alternative Award shall become fully vested and payable, in accordance with its otherwise applicable terms (including, without limitation, provisions similar to Section 8.4 hereof). In addition, any such Alternative Award must:

(i) provide such Participant (or each Participant in a class of Participants) with rights and entitlements substantially equivalent to or better than the rights and entitlements applicable under such Matching Award, including, but not limited to, an identical or better vesting schedule and identical or better timing and methods of payment

(including all provisions applicable in respect of such Matching Award that provide for accelerated vesting); and

(ii) have substantially equivalent economic value to such Matching Award (as determined by the Committee as constituted immediately prior to the Change in Control).

8.2 **Accelerated Vesting and Payment**. Notwithstanding the provisions of Section 8.1, the Committee may otherwise determine that, upon the occurrence of a Change in Control, each outstanding Restricted Equity Unit (or any class of Restricted Equity Units) shall become vested and shall be immediately payable in Units (or, if so directed by the Committee, cash in an amount equal to the Fair Market Value of the Units that would otherwise have been deliverable to the Participant).

8.3 **Section 409A.** Notwithstanding the foregoing provisions of this Section 8, any Retirement Eligible Units or other Restricted Equity Units that are nonqualified deferred compensation subject to Section 409A) shall not become payable at the time specified under the provisions of Section 8.1 or 8.2. Instead, to the extent that any such Retirement Eligible Units or other Restricted Equity Units that are nonqualified deferred compensation subject to Section 409A become vested in accordance with the terms of the Plan (including Section 8.1 or 8.2 hereof) or the applicable Matching Award Agreement, such Restricted Equity Units shall be payable at the time that they would otherwise have been payable without regard to the occurrence of a Change in Control.

8.4 **Provisions Related to Golden Parachute Excise Tax.**

(a) Change in Control When the Units are Not Publicly Traded. Notwithstanding anything to the contrary contained in the Plan, to the extent that, upon a Change in Control prior to the time at which the Units (or if applicable, shares of Parent or its affiliate) have become Publicly Traded, any of the payments and benefits provided for under the Plan, any Matching Award Agreement or any other agreement or arrangement between the Company or any of its Affiliates and a Participant (collectively, the "**Payments**") would constitute a "parachute payment" within the meaning of section 280G of the Code (a "**Parachute Payment**"), the amount of such Payments shall be reduced to the amount (the "**Safe Harbor Amount**") that would result in no portion of the Payments being treated as an excess parachute payment pursuant to section 280G of the Code (the "**Excise Tax**"). If, upon a Change in Control prior to the time at which the Units (or if applicable, shares of Parent or its affiliate) have become Publicly Traded, the Parachute Payments that would otherwise be reduced or eliminated, as the case may be, pursuant to this Section 8.4(a) could be paid without the loss of a deduction under Section 280G of the Code if the shareholder approval exception to treatment as a Parachute Payment can be and is satisfied, then the Company, or if applicable the Parent, shall use its reasonable best efforts to cause such Parachute Payments to be submitted for such approval in accordance with Section 280G(b)(5)(B) prior to the Change in Control giving rise to such Parachute Payments. If such approval is received, any reduction or forfeiture pursuant to the Section 8.4(a) shall be reversed, and the subject amount shall be payable to the Participant without regard to this Section 8.4.

(b) Change in Control When the Units are Publicly Traded. If upon a Change in Control occurring at any time that the Units (or if applicable, shares of Parent or its affiliate) are Publicly Traded, any Payments would constitute Parachute Payments, then, if and solely to the extent that reducing the benefits payable hereunder would result in the Participant receiving a greater amount, on an after-tax basis, taking into account any Excise Tax and all applicable income, employment and other taxes payable on such amounts, the amounts payable hereunder shall be reduced or eliminated, as the case may be, so that the total amount of Parachute Payments received by the Participant do not exceed the Safe Harbor Amount.

(c) Order of Reduction in Payments. Any reduction in the amount of compensation or benefits effected pursuant to this Section 8.4 shall first come, in order and, in each case, solely to the extent necessary, from any cash severance benefits payable to the Participant, then from any other payments which are treated in their entirety as Parachute Payments and then from any other Parachute Payments payable to the Participant.

8.5 **Suspension of Matching Awards Pending Consummation of a Change in Control.** In the event that a Participant's Service is terminated by the Company other than for Cause following the execution of an agreement, the consummation of which would constitute a Change in Control, but prior to the consummation of such agreement, then, notwithstanding the provisions of Section 7.3 (or any corresponding provision of any underlying Matching Award Agreement), any portion of the Matching Awards held by such Participant that are not vested at the date of such termination shall not be forfeited as of such date (except to the extent provided in this Section 8.5). Instead, such Matching Awards shall be suspended and remain outstanding until the consummation of such agreement, in which case they will be treated in the same manner as Matching Awards held by other similarly situated Participants pursuant to this Section 8 and, for purposes of applying the provisions of Section 8.1 or 8.3, the Participant shall be treated as if the Participant's termination of employment by the Company without Cause occurred immediately following the Change in Control. If such agreement is terminated without being consummated, or otherwise fails to be consummated within 180 days following its execution, then the unvested Matching Awards held by a Participant described in this Section 8.5 shall be deemed to have been forfeited as of the date of such Participant's termination of employment. For the avoidance of doubt, if any Matching Awards subject to this Section 8.5 do not become vested in accordance with this Section 8.5, they shall for all purposes of this Plan and any underlying Matching Award Agreement be treated as though they had been forfeited at the date of the Participant's termination and as though this Section 8.5 did not apply.

SECTION 9
UNIT RESTRICTIONS AND PURCHASE AND SALE RIGHTS

9.1 **Restrictions.**

(a) In General. The Committee may impose such restrictions on any Units as it deems necessary or advisable, including, without limitation, restrictions under applicable federal securities laws, under the requirements of any stock exchange or market upon

which the Units are then listed and/or traded, and under any blue sky or state securities laws.

(b) Nontransferability. Purchased Units, whether through purchase or pursuant to the Equity Rollover, and any Units received in respect of the vesting of a Matching Award, cannot be sold, exchanged, conveyed or in any way transferred other than (i) to the Company or the Parent, (ii) by will or the laws of descent and distribution, (iii) pursuant to the exercise of a tag-along right under Section 8.3(a) of the Operating Agreement, a drag-along right under Section 8.3(c) of the Operating Agreement, the buyout right under Section 8.3(e) of the Operating Agreement or Parent's call right under Section 8.3(f) of the Operating Agreement, or (iv) if specified in a Unit Purchase Agreement or Matching Award Agreement, to a Participant Permitted Transferee. Any Units sold, exchanged, conveyed or in any way transferred pursuant to subsection (ii) or (iv) hereof may only be sold, exchanged, conveyed or in any way transferred by the transferee in accordance with this Section 9.1(b) and shall be subject in all respects to the terms of the Plan. For any such transfer to be effective, the Participant Permitted Transferee or other recipient of any Units shall promptly furnish the Company with written notice thereof and a copy of such other evidence as the Committee may deem necessary to establish the validity of the transfer and the acceptance of by the Participant Permitted Transferee or other transferee of the terms and conditions of the Plan and the Unit Purchase Agreement or Matching Award Agreement applicable to the Participant. For the avoidance of doubt, any transfer to a Participant Permitted Transferee shall provide such Participant Permitted Transferee the rights that were available to the Participant (and in no event any rights greater than were available to the Participant), and all restrictions on and obligations of the Participant with respect to the transferred Units or Matching Award granted in respect of such transferred Units shall continue to be applicable with the respect to such Units or Matching Award, with all conditions, rights and obligations related to Service continuing to be determined based on the Service of the Participant.

(c) Irrevocable Proxy. As a condition to receiving any Units or Matching Award hereunder, the Committee may at any time (including, without limitation, after the date the Units are transferred to the Participant) require that a Participant execute an irrevocable proxy in favor of such Person(s) as the Committee shall specify, in such form as the Committee shall prescribe.

(d) Limitation of Restrictions and Rights. The provisions of Sections 9.1(b), 9.1(c), 9.4 and 9.5 shall cease to apply at any time that the Units are Publicly Traded.

9.2 **Additional Conditions of Transfer.** The Company shall not be required (i) to transfer on its books any Units that have been sold or transferred or (ii) to treat as owner of such Units, to accord the right to vote as such owner or to pay distributions to, any transferee to whom such Units have been transferred in violation of the Plan or any Matching Award Agreement.

9.3 **Legend.** If certificated, each certificate evidencing Units and each certificate issued in exchange for or upon the transfer of any Units shall be stamped or otherwise imprinted with such legend as the Committee requires.

9.4 **Participant's Put Right.**

(a) In Service. Unless otherwise provided in a Unit Purchase Agreement or Matching Award Agreement and except in respect of Rollover Units held by an Excluded Participant, a Participant that is still providing Service to the Company or an Affiliate shall have the right to require the Company to purchase any Units that are Purchased Units at their then Fair Market Value in any Window Period so long as, at the date of such purchase, the Purchased Units being put to the Company for purchase are Matured Units. Commencing with the first Window Period following the fifth anniversary of the Investment Date in respect of which a Matching Award is granted, a Participant that is still providing Service to the Company or an Affiliate shall have the right to require the Company to purchase during such Window Period or any subsequent Window Period any or all of his Units that relate to such Matching Award and that are Matured Units, at their then Fair Market Value.

(b) Following Termination of Service. If a Participant's Service with the Company and its Affiliates terminates due to death, Disability, or Retirement, the Participant can, unless otherwise provided in a Unit Purchase Agreement or Matching Award Agreement and except in respect of Rollover Units held by an Excluded Participant, require the Company to purchase any or all of his Matured Units (regardless of whether Purchased Units or related to a Matching Award) by delivery of a put notice during any Window Period occurring immediately following any of the three Valuation Dates coincident with or next following the date of the Participant's separation from Service. If a Participant's Service with the Company and its Affiliates terminates for any other reason than one specified in the immediately preceding sentence, the Participant can, unless otherwise provided in a Unit Purchase Agreement or Matching Award Agreement, require the Company to purchase any or all of his or her Matured Units (regardless of whether Purchased Units or related to a Matching Award) by delivery of a put notice during the Window Period occurring immediately following the Valuation Date coincident with or next following the date of the Participant's separation from Service or, to the extent that any Units held by such person at such time are not Matured Units, in the first Window Period in which the Units are Matured Units. If the Participant's Service with the Company and its Affiliates is terminated for Cause, then the put price shall be an amount equal to the lower of (i) the Participant's cost and (ii) the Fair Market Value determined as of the applicable Valuation Date. For this purpose, (*x*) cost with respect to Units issued upon settlement of Restricted Equity Units will mean the value included in the Participant's income at the time the corresponding Units were distributed or issued to the Participant and (*y*) cost with respect to a Rollover Unit shall be the "Closing Date Value" set forth in the Unit Purchase Agreement applicable to such Rollover Unit. In all other cases, the put right shall be at the Fair Market Value determined at the applicable Valuation Date.

(c) Put rights in respect of Rollover Units held by an Excluded Participant shall be as set forth in the Operating Agreement or in any other agreement entered into between such Excluded Participant and the Company or its subsidiary.

9.5 **Call Right Following Termination of Service.** The Company shall have the right to repurchase (i.e., "call") from the Participant, and, if such right shall be exercised, the Participant shall sell to the Company or the Parent, as applicable, all of the Participant's Matured Units during the Window Period immediately following either of the next two Valuation Dates following the date the Participant's service with the Company and its Affiliates terminates. If the Participant's Service with the Company and its Affiliates is terminated for Cause, then the call price shall be an amount equal to the lower of (i) the Participant's cost and (ii) the Fair Market Value determined as of the applicable Valuation Date. For this purpose, (*x*) cost with respect to Units issued upon settlement of Restricted Equity Units will mean the value included in the Participant's income at the time the corresponding Units were distributed or issued to the Participant and (*y*) cost with respect to a Rollover Unit shall be the "Closing Date Value" set forth in the Unit Purchase Agreement applicable to such Rollover Unit. In all other cases, the call right shall be at the Fair Market Value determined at the applicable Valuation Date. The call right held by the Company pursuant to this Section 9.5 is in addition to the call right granted to Parent pursuant to Section 8.3(f) of the Operating Agreement and either such right may be exercised in accordance with its terms in the sole discretion of the Parent Board, provided, that if (i) the Company terminates a Participant without Cause following the fifth anniversary of the "Effective Date" (as defined in the Operating Agreement) and elects to exercise its call right under this Section 9.5 in respect of such termination and (ii) the "Per Unit Purchase Price" (as defined in the Operating Agreement) calculated as of the first day of the Window Period in which such call right is exercised is greater than the Fair Market Value of a Unit applicable to such Window Period, the call price for such Units shall be the Per Unit Purchase Price.

9.6 **Payment of Purchase Price upon Put or Call.**

(a) General Rule. Except as otherwise provided herein, the purchase price in respect of the exercise of any put right pursuant to Section 9.4 or call pursuant to Section 9.5 shall be payable in a single lump sum in cash within 30 days of the date such right is exercised.

(b) Limitation of Cash Payments. Notwithstanding the put and call rights specified in Sections 9.4 and 9.5, nor the provisions of Section 9.6(a), no put or call may be exercised if doing so at such time would cause the Company or the Parent to be in breach of any provision of any financing agreement. If any such put or call right can be exercised without a breach so long as the consideration paid for the Units is in the form of a promissory note (rather than cash), the put or call shall be effected for a promissory note (with interest at a rate consistent with then prevailing interest rates, as determined by the Committee, but in no event less than the then prevailing applicable federal rate) payable when, and to the extent, that cash payments can be made without the occurrence of such a breach. If a promissory note cannot be used without a breach, the put or call right will be suspended and be eligible to be exercised during the Window Period immediately following the first Valuation Date at which it can be exercised (for cash or for a promissory note) without breaching any such financing agreement.

(c) Alternative Means of Payment. The Company may elect either to suspend any put right and/or to pay the proceeds payable upon the exercise of any put or call via a promissory note (with interest at a rate consistent with then prevailing interest rates, as determined by the Committee, but in no event less than the then prevailing applicable federal rate) if the total cash payable in respect of all puts and calls occurring during the current Window Period, together with any puts and calls exercised during any prior Window Period that the Committee specifies shall be included in determining whether the aggregate cap is exceeded, would exceed $2,000,000 (or such greater or lesser dollar amount that the Committee shall specify from time to time, provided that any change to reduce the amount available shall be decided in the year prior to the year in which it becomes effective). If this cap is exceeded (or any comparable cap applicable under a financing agreement), any cash available with respect to such Window Period date shall be applied in the following order of priority:

1) to satisfy any promissory note previously issued in connection with the redemption or repurchase of any Units;

2) to satisfy any put exercised following a Participant's death, Disability, or Retirement;

3) to satisfy any call exercised following a termination of Service; and

4) to satisfy any in-Service put.

If there is not sufficient cash to satisfy all claims in the same order of priority, then the available cash will be applied pro-rata to all claims in the same priority category, based on the gross amounts owed.

9.7 **Tag-Along Right.** All Units held by a Participant shall be subject to the tag-along rights set forth in Section 8.3(a) of the Operating Agreement.

9.8 **Drag-Along Right**. All Units held by a Participant shall be subject to the drag-along rights set forth in Section 8.3(c) of the Operating Agreement.

SECTION 10
BENEFICIARY DESIGNATION

10.1 Subject to the written consent of the Participant's spouse, if any, in such form as shall be acceptable to the Company, each Participant may, from time to time, name any Designated Beneficiary (who may be named contingently or successively) to whom any benefit under the Plan is to be paid in case the Participant should die before receiving any or all of his or her benefits under the Plan. Each beneficiary designation shall revoke all prior designations by the same Participant, must be in a form prescribed by the Company and must be made during the Participant's lifetime. If a Designated Beneficiary predeceases the Participant or no beneficiary has been designated, benefits remaining unpaid at the Participant's death shall be paid to the Participant's estate.

SECTION 11
BREACH OF RESTRICTIVE COVENANTS

11.1 Subject to the provisions of applicable law, if the Participant breaches, whether during or after termination of Service, a nonsolicitation, noncompetition, confidentiality, or other restrictive covenant agreement by which he or she is bound, then in addition to any other penalties or restrictions that may apply under any such agreement, applicable law, or otherwise, the Participant shall forfeit:

(a) any vested or unvested Matching Awards and any Units received in respect of a Matching Award held by him or her; and

(b) any profit the Participant realized from the sale of Units to the Company pursuant to Section 9.4 or Section 9.5 (i) within the six-month period immediately preceding the Participant's termination of Service or (ii) after terminating Service. For purposes of this Section 11.1(b), "profits" in respect of Rollover Units shall mean the amount by which the put or call price of the Rollover Units, as applicable, exceeds the aggregate "Closing Date Value" set forth in the Unit Purchase Agreement applicable to such Rollover Units.

SECTION 12
RIGHTS OF PARTICIPANTS

12.1 **Service.** Nothing in the Plan or any Matching Award Agreement or other document provided pursuant to the Plan shall interfere with or limit in any way the right of the Company or any Affiliate to terminate any Participant's Service at any time, or confer upon any Participant any right to continue in the Service of the Company or any Affiliate. The purchase of Purchased Units, the acquisition of Purchased Units pursuant to the Equity Rollover, or the grant of a Matching Award under the Plan shall not in any way affect the right or power of the Company to make adjustments, reclassifications or changes in its capital or business structure, or to merge, consolidate, dissolve, liquidate, sell or transfer all or any part of its business or assets.

12.2 **Participation.** No Employee or Director shall have the right to purchase Purchased Units under the Plan, or, having received Purchased Units, to purchase Purchased Units in the future.

SECTION 13
AMENDMENT OR TERMINATION, ADJUSTMENTS TO AWARDS

13.1 **Amendment, Modification and Termination.** The Parent Board may at any time and from time to time alter, amend, modify or terminate the Plan in whole or in part, without the approval of the Company's equityholders, except to the extent such approval is required by law. Subject to the terms and conditions of the Plan, the Committee may modify, extend or renew outstanding Purchased Units or Matching Awards under the Plan, or accept the surrender of outstanding Matching Awards and grant new Matching Awards in substitution of them, in order to comply with the requirements of applicable law or otherwise. Notwithstanding the foregoing, no modification of Purchased Units or Matching Awards shall, without the prior written consent of the Participant, materially alter or impair any rights

or obligations under any Purchased Units or Matching Awards already granted under the Plan, except such an amendment made to comply with the requirements of applicable law.

13.2 **Adjustments upon the Occurrence of Certain Events.**

(a) In General. If the Units, as currently constituted, are changed into or exchanged for a different number or kind of units or other securities of the Company or of another corporation (whether because of a merger, consolidation, recapitalization, reclassification, split, reverse split, combination of units, or otherwise, but not including an Underwritten Offering or other capital infusion from any source) or if the number of Units is increased through a distribution or if the Company shall pay an extraordinary dividend (within the meaning of Section 424(a) of the Code and the regulations thereunder), then the Committee shall substitute for or add to each Unit underlying a Matching Award the number and kind of units or other securities into which each outstanding Unit was changed, for which each such Unit was exchanged, or to which each such Unit is entitled, as the case may be, which units or other securities shall be subject to the same terms and conditions as the underlying Matching Award.

(b) Reciprocal Transactions. The Committee shall make an appropriate and proportionate adjustment to a Matching Award, and/or grant an additional Matching Award to the holder of any outstanding Matching Award, to compensate for a material diminution in the intrinsic value of the Units resulting from any reciprocal transaction, in all cases as the Committee determines to be equitable under the circumstances in its sole discretion.

(c) Certain Unusual or Nonrecurring Events. In recognition of unusual or nonrecurring events affecting the Company or its financial statements, or in recognition of changes in applicable laws, regulations, or accounting principles, and, whenever the Committee determines that adjustments are appropriate in order to prevent dilution or enlargement of the benefits or potential benefits intended to be made available under the Plan, the Committee may, using reasonable care, make adjustments in the terms and conditions of Matching Awards or Purchased Units (other than Rollover Units).

(d) Notice. The Committee shall give notice of any adjustment to each Participant who holds an award that has been adjusted and the adjustment (whether or not such notice is given) shall be effective and binding for all Plan purposes.

(e) Section 409A. Notwithstanding any provision herein to the contrary, no adjustment shall be made under this Section 13.2 to the extent it would give rise to adverse tax consequences under Section 409A.

13.3 **Fractional Units.** Fractional Units, whether resulting from any adjustment in Matching Awards or Purchased Units pursuant to Section 13.2 or otherwise, may be settled in cash or otherwise as the Committee determines.

SECTION 14
MISCELLANEOUS PROVISIONS

14.1 **Tax Withholding.** The Company shall have the right to deduct or withhold, or require a Participant to remit to the Company, an amount (either in cash or Units) sufficient to satisfy any Withholding Tax. In the event that any such Withholding Tax shall be satisfied by withholding Units otherwise deliverable upon the vesting of any Matching Award, such Withholding Tax shall be effected on the basis of the minimum statutory withholding required at law (even if the expected tax liability of the Participant in respect of the Matching Award would be greater than such minimum required withholding), unless full withholding can be effected without adverse financial accounting consequences to the Parent or the Company. In all other cases, the Company shall determine the Withholding Tax pursuant to any method permissible under applicable law.

14.2 **Successors.** All obligations of the Company under the Plan or any Unit Purchase Agreement or Matching Award Agreement shall be binding on any successor to the Company whether the existence of the successor results from a direct or indirect purchase of all or substantially all of the Company's securities, or a merger or consolidation, or otherwise.

14.3 **Continued Effect of Matching Award Agreement.** To the extent that the Plan or a Participant's Matching Award Agreement contain provisions that are intended to have effect after the date(s) as of which the Participant's rights in respect to the underlying Matching Award become vested (including, but not limited to, following the date of the Participant's termination of Service), such Matching Award and any Units issued in respect of such Matching Award shall continue to be subject to the terms of the Plan and the applicable Matching Award Agreement.

14.4 **Legal Construction.**

(a) Number. Except where otherwise indicated by the context, any plural term used in the Plan includes the singular and any singular term includes the plural.

(b) Severability. If any provision of the Plan is held illegal or invalid for any reason, the illegality or invalidity shall not affect the remaining parts of the Plan, and the Plan shall be construed and enforced as if the illegal or invalid provision had not been included.

(c) Termination of Service. As used in the Plan, the phrase "termination of Service" and similar terms means a "separation from service" within the meaning of Section 409A. If and to the extent applicable, if a Participant is deemed be a "specified employee" within the meaning of Section 409A, any payment due hereunder that is deferred compensation subject to Section 409A and payable upon a separation from service shall be delayed until six months and one day following such separation.

(d) Operating Agreement. The Units issued under this Plan, including Units issued in respect to a vested Matching Award, shall be subject to the terms of the Operating Agreement. To the extent of any inconsistency between the terms of this Plan and the terms of the Operating Agreement, the terms of the Plan shall control.

(e) Publicly Traded Units. All references herein to the Units as Publicly Traded securities and any similar statements shall be construed to mean securities of a successor to the Company or a wholly-owned subsidiary of the Company which have been the subject of an Underwritten Offering.

14.5 **Business Day.** In the event the day prescribed for the performance of any act under the Plan, or deadline by which such act must be performed, shall fall on a day other than a Business Day, such day or deadline shall be extended until the close of business on the next succeeding Business Day.

14.6 **Requirements of Law.** The purchase of Purchased Units, the Equity Rollover, the granting of Matching Awards, the issuance of Units, and the payment of cash under the Plan shall be subject to all applicable laws, rules and regulations, and to any approvals by governmental agencies or national securities exchanges as may be required.

14.7 **Securities Law Compliance.**

(a) As to any individual who is, on the relevant date, an officer, director or greater than 10% percent beneficial owner of any class of the Company's or Parent's equity securities that is registered pursuant to Section 12 of the Exchange Act, all as defined under Section 16 of the Exchange Act, transactions under the Plan are intended to comply with all applicable conditions of Rule 16b-3 under the Exchange Act, or any successor rule. To the extent any provision of the Plan or action by the Committee fails to so comply, it shall be deemed null and void, to the extent permitted by law and deemed advisable by the Committee.

(b) To the extent the Committee deems it necessary, appropriate or desirable to comply with state securities laws or practice and to further the purposes of the Plan, the Committee may, without amending the Plan, (i) establish rules applicable to Purchased Units or Matching Awards granted to Participants, including rules that differ from those set forth in the Plan, and (ii) grant Purchased Units or Matching Awards to such Participants in accordance with those rules that would require the application of the securities laws of any state.

14.8 **Data Protection**. By accepting the opportunity to purchase Purchased Units and to become eligible for a Matching Award, a Participant shall agree to permit the Company , the Parent and their respective affiliates to process personal data and sensitive personal data about the Participant in connection with the Plan. Such data includes, but is not limited to, the information provided in the Participant's grant documents and any changes thereto, other appropriate personal and financial data, and information about the Participant's participation in the Plan and Units granted under the Plan from time to time (collectively, "**Personal Data**"). A Participant consents to each and any of the Company, the Parent and their respective affiliates processing and transferring any Personal Data outside the country in which the Participant works or is employed to the United States and any other third countries. The legal persons for whom Personal Data is intended include the Company, the Parent and their respective affiliates, the Committee and the Parent Board, any administrator selected from time to time to administer the Plan, and any other person or entity that the Company, the Committee or the Parent Board

involves in the administration of the Plan. The Company, the Parent and their respective affiliates will take all reasonable measures to keep Personal Data confidential and accurate. A Participant can access and correct their Personal Data by contacting their human resources representative. By accepting participation in the Plan, a Participant agrees and acknowledges that the transfer of information is important to the administration of the Plan and failure to consent to the transmission of that information may limit his or her ability to participate in the Plan.

14.9 **Unfunded Status of the Plan.** The Plan is intended to constitute an "unfunded" plan for incentive compensation. With respect to any payments or deliveries of Units not yet made to a Participant by the Company, the Participant's rights are no greater than those of a general creditor of the Company. The Committee may authorize the establishment of trusts or other arrangements to meet the obligations created under the Plan, so long as the arrangement does not cause the Plan to lose its legal status as an unfunded plan.

14.10 **Non-U.S. Based Employee.** Notwithstanding any other provision of the Plan to the contrary, the Committee may make awards to Employees who are not citizens or residents of the United States, or to Employees outside the United States, on terms and conditions that are different from those specified in the Plan as may, in the Committee's judgment, be necessary or desirable to foster and promote achievement of the Plan's purposes. In furtherance of such purposes, the Committee may, without amending the Plan, establish or modify rules, procedures and subplans as may be necessary or advisable to comply with provisions of laws in other countries or jurisdictions in which the Company operates or has employees.

14.11 **Governing Law.** To the extent not preempted by Federal law, the Plan and all agreements hereunder shall be construed and enforced in accordance with, and governed by, the laws of the State of Delaware, without giving effect to its conflicts of law principles that would require the application of the law of any other jurisdiction.

Exhibit 10.24

<u>MATCHING AWARD AGREEMENT</u>
<u>TERMS AND CONDITIONS UNDER</u>
INSOMNIA COOKIES HOLDINGS, LLC
EXECUTIVE OWNERSHIP PLAN
(AS EFFECTIVE SEPTEMBER 17, 2018)

This Matching Award Agreement (the "**Agreement**") evidences the grant effective on December 11, 2023 (the "**Grant Date**") of an award of Restricted Equity Units (the **"Restricted Equity Units"**) by Insomnia Cookies Holdings, LLC, a Delaware limited liability company (the "**Company**"). Any term capitalized but not defined in this Agreement will have the meaning set forth in the Insomnia Cookies Holdings, LLC Executive Ownership Plan (the "**Plan**").

1. **Restricted Equity Unit Grant.** In accordance with the terms of the Plan and subject to this Agreement, as of the Grant Date the undersigned Participant ("**you**") are hereby granted Restricted Equity Units in respect of 15,699 Class A Units. The Restricted Equity Units, any Units acquired upon settlement thereof are subject to the following terms and conditions and to the provisions of the Plan, the terms of which are incorporated by reference herein.

2. **Vesting Period for Restricted Equity Units.**

   (a) <u>In General</u>. The Restricted Equity Units shall vest as follows: (i) sixty percent (60%) of the Restricted Equity Units shall vest on the 36-month anniversary of the Grant Date, (ii) an additional twenty percent (20%) of the Restricted Equity Units shall vest on the 48-month anniversary of the Grant Date, and (iii) the remaining twenty percent (20%) of the Restricted Equity Units shall vest on the 60-month anniversary of the Grant Date, provided that, in each case, you have remained in continuous Service through the applicable vesting date.

   (b) <u>Death or Disability</u>. The Restricted Equity Units shall vest in full in the event of your termination of Service by reason of death or Disability.

   (c) <u>Retirement.</u> If before the Restricted Equity Units have otherwise become vested your Service terminates by reason of Retirement, then the Restricted Equity Units shall (i) immediately become vested with respect to the Applicable Fraction of the Restricted Equity Units, and (ii) be immediately forfeited and canceled with respect to the remaining Restricted Equity Units. For purposes of applying the Applicable Fraction to the Restricted Equity Units under this Section 2(c), the numerator shall be the number of full months elapsed between the applicable Grant Date and the date of your termination, and the denominator shall be sixty (60).

   (d) <u>Change in Control.</u> In the event of a Change in Control, any Restricted Equity Units then outstanding shall continue in effect or shall become vested and payable, in either case, as provided in, and subject to the conditions of, Section 4.

3. **Settlement of Restricted Equity Units.**

   (a) Timing of Settlement.

      (i) *Publicly Traded Units*. If the Units are or become Publicly Traded on or prior to the date at which Restricted Equity Units (other than Retirement Eligible Units) vest:(i) the Units related to such vested Restricted Equity Units shall be delivered

promptly (and in all events within 60 days) following the date such Restricted Equity Units have become vested and (ii) Units related to Retirement Eligible Units shall be delivered promptly (and in all events within 60 days) following the earlier of the vesting date under Section 2(a) or the date of the Participant's termination of employment, unless such Restricted Equity Units were granted at a time when the Units were not Publicly Traded, in which case they shall be delivered in accordance with Section 3(a)(ii) in all circumstances.

(ii) *Non-Publicly Traded Units*. If the Units are not Publicly Traded as of the date at which the Restricted Equity Units vest, the Units related to such vested Restricted Equity Units shall be delivered during the first Window Period coincident with or next following the earliest date at which Restricted Equity Units become vested (but, with respect to any Restricted Equity Units that are not Retirement Eligible Units, in no event later than the March 15 of the calendar year immediately following the year in which such Restricted Equity Units become vested). Any Restricted Equity Units that are Retirement Eligible Units and which were granted at a time that the Units were not Publicly Traded shall be delivered at the time that they would have been delivered pursuant to the immediately preceding sentence, regardless of whether the Units are Publicly Traded at the date of settlement, and assuming that there are always two Valuation Dates each year, as of June 30 and as of December 31. For the avoidance of doubt, for this purpose, Retirement Eligible Units are deemed to vest at the time provided in Section 2(a)or upon a termination described in Section 2(b) or 2(c), if earlier.

(b) Irrevocable Proxy. As a condition to receiving any Units in settlement of any vested Restricted Equity Units, you are required to execute an irrevocable proxy in the form attached hereto as Appendix A.

(c) Withholding Obligation. Upon settlement of any Restricted Equity Units, any applicable Withholding Tax must be satisfied either (i) by you paying the amount of required Withholding Tax to the Company in cash, (ii) by you delivering to the Company that number of whole Matured Units having a Fair Market Value at least equal to the amount of the required Withholding Tax, (iii) from the Units issuable in respect of the Restricted Equity Units or (iv) by a combination of the foregoing; provided, however, that if and to the extent that the Withholding Tax is satisfied using Units issuable in settlement of the Restricted Equity Units and if necessary to avoid an adverse financial accounting consequence for the Company, the applicable Withholding Tax shall be based on the minimum amount required to be withheld at applicable law. If you elect not to satisfy the Withholding Tax using Units in settlement of the Restricted Equity Units, but do not otherwise satisfy the amount of required Withholding Tax by delivery of cash or Matured Units to the Company, the Company will withhold from the Units to be delivered the minimum amount of funds required to cover any Withholding Tax required to be withheld by the Company by reason of such settlement.

4. **Change in Control.**

(a) Double Trigger Protection Upon a Change in Control. In the event of a Change in Control, unless otherwise determined by the Committee prior to the occurrence of a Change in Control, the Company shall take all actions necessary or appropriate to assure that each Matching Award outstanding under the Plan shall be honored or assumed, or new rights substituted therefor (such honored, assumed or substituted award hereinafter called an

"**Alternative Award**") by the entity for which you will be performing Service immediately following the Change in Control (or the parent or a subsidiary of such entity); provided that any such Alternative Award must provide that if your Service is terminated upon or following such Change in Control (x) by the Company other than for Cause or (y) by you for Good Reason, in either case, within 24 months following the Change in Control, your rights under each such Alternative Award shall become fully vested and payable in accordance with its otherwise applicable terms (including, without limitation, provisions similar to Section 4(d) hereof). In addition, any such Alternative Award granted to you must:

(i) provide you with rights and entitlements substantially equivalent to or better than the rights and entitlements applicable under the corresponding Matching Award, including, but not limited to, an identical or better vesting schedule and identical or better timing and methods of payment (including all provisions applicable in respect of such Matching Award that provide for accelerated vesting); and

(ii) have substantially equivalent economic value to such Matching Award (as determined by the Committee as constituted immediately prior to the Change in Control).

(b) Accelerated Vesting and Payment. Notwithstanding the provisions of Section 4(a), the Committee may otherwise determine that, upon the occurrence of a Change in Control, all or any portion of the Restricted Equity Units that are then still outstanding shall become vested and shall be immediately payable in Units (or, if so directed by the Committee, cash in an amount equal to the Fair Market Value of the Units that would otherwise have been deliverable to you).

(c) Deferred Compensation Subject to Section 409A. Notwithstanding the foregoing provisions of this Section 4, any Retirement Eligible Units or other Restricted Equity Units that are nonqualified deferred compensation subject to Section 409A) shall not become payable at the time specified under the provisions of Section 4(a) or 4(b). Instead, to the extent that any such Retirement Eligible Units or other Restricted Equity Units that are nonqualified deferred compensation subject to Section 409A become vested in accordance with the terms of the Plan (including Section 4(a) or 4(b) hereof), such Restricted Equity Units shall be payable at the time that they would otherwise have been payable without regard to the occurrence of a Change in Control.

(d) **Provisions Related to Golden Parachute Excise Tax.**

(i) Change in Control When the Units are Not Publicly Traded. Notwithstanding anything to the contrary contained in this Agreement, to the extent that, upon a Change in Control prior to the time at which the Units have become Publicly Traded, any of the payments and benefits provided for under the Plan, any Matching Award Agreement or any other agreement or arrangement between the Company or any of its Affiliates and you (collectively, the "**Payments**") would constitute a "parachute payment" within the meaning of Section 280G of the Code (a "**Parachute Payment**"), the amount of such Payments shall be reduced to the amount (the "**Safe Harbor Amount**") that would result in no portion of the Payments being treated as an excess parachute payment pursuant to Section 280G of the Code (the "**Excise Tax**"). If, upon a Change in Control prior to the time at which the Units have become Publicly Traded, the Parachute Payments that would

otherwise be reduced or eliminated, as the case may be, pursuant to this Section 4(d)(i) could be paid without the loss of a deduction under Section 280G of the Code if the shareholder approval exception to treatment as a Parachute Payment can be and is satisfied, then the Company shall use its reasonable best efforts to cause such Parachute Payments to be submitted for such approval in accordance with Section 280G(b)(5)(B) prior to the Change in Control giving rise to such Parachute Payments. If such approval is received, any reduction or forfeiture pursuant to this Section 4(d)(i) shall be reversed, and the subject amount shall be payable to you without regard to this Section 4(d)(i).

(ii) Change in Control When the Units are Publicly Traded. If upon a Change in Control occurring at any time that the Units are Publicly Traded, any Payments would constitute Parachute Payments, then, if and solely to the extent that reducing the benefits payable hereunder would result in your receiving a greater amount, on an after-tax basis, taking into account any Excise Tax and all applicable income, employment and other taxes payable on such amounts, the amounts payable hereunder shall be reduced or eliminated, as the case may be, so that the total amount of Parachute Payments received by you do not exceed the Safe Harbor Amount.

(iii) Order of Reduction in Payments. Any reduction in the amount of compensation or benefits effected pursuant to this Section 4 shall first come, in order and, in each case, solely to the extent necessary, from any cash severance benefits payable to you, then from any other payments which are treated in their entirety as Parachute Payments and then from any other Parachute Payments payable to you.

5. **Nontransferability of Restricted Equity Units; Transferability of Units.**

(a) The Restricted Equity Units granted hereby may not be sold, transferred, pledged, assigned, or otherwise alienated or hypothecated, other than by will or by the laws of descent or distribution and all rights with respect to the Restricted Equity Units shall be available during your lifetime only to you or your guardian or legal representative. The Committee may, in its sole discretion, require your guardian or legal representative to supply it with evidence the Committee deems necessary to establish the authority of the guardian or legal representative to act on behalf of you.

(b) Units issued in settlement of Restricted Equity Units cannot be sold, exchanged, conveyed or in any way transferred other than (i) to the Company or the Parent, (ii) by will or the laws of descent and distribution, (iii) pursuant to the exercise of a tag-along right under Section 8.3(a) of the Operating Agreement, a drag-along right under Section 8.3(c) of the Operating Agreement or the buyout right under Section 8.3(e) of the Operating Agreement, or (iv) to a Participant Permitted Transferee. The Company will not be required (i) to transfer on its books any Units that have been sold or transferred, or (ii) to treat as the owner of such Units, to accord the right to vote as such an owner or to pay dividends to any transferee to whom such Units have been transferred in violation of the Plan or this Agreement.

(c) You acknowledge and agree that the Restricted Equity Units granted in accordance with this Agreement were granted to you because you purchased Units (the "**Purchased Units**") from the Company having a value at least equal to your minimum investment amount as communicated to you and in effect at the date of purchase. Except as provided in the last

sentence of this Section 5(c), if you transfer any such Purchased Units prior to the date that all of the Restricted Equity Units subject to this Agreement have become vested you shall forfeit a corresponding portion of Restricted Equity Units for each Purchased Unit you transfer. The portion so forfeited shall be determined by multiplying the number of Restricted Equity Units granted hereunder by a fraction, the numerator of which is the number of Purchased Units so transferred and the denominator of which is the total number of Purchased Units that are still held as of immediately prior to such transfer. However, no forfeiture shall occur under this Section 5(c) upon a transfer of Purchased Units (i) pursuant to Section 10 or 11 hereof or (ii) to a Participant Permitted Transferee, so long as following such transfer all of the transfer and forfeiture restrictions otherwise applicable in respect of your Purchased Units continue to apply to such Participant Permitted Transferee on the same terms as applied to you immediately prior to such transfer.

6. **Put Right.**

(a) In Service. Commencing with the first Window Period following the fifth anniversary of the Grant Date in respect of the Restricted Equity Units, while you are still providing Service to the Company or an Affiliate you shall have the right to require the Company to purchase during such Window Period or any subsequent Window Period any or all of your Units received in settlement of vested Restricted Equity Units and that are Matured Units at their then Fair Market Value.

(b) Following Termination of Service. If your Service with the Company and its Affiliates terminates due to death, Disability or Retirement, you (or your representative or Participant Permitted Transferees) can require the Company to purchase any or all of your Matured Units that were acquired in connection with the vesting of Restricted Equity Units by delivery of a put notice during any Window Period occurring immediately following any of the three Valuation Dates coincident with or next following the date of your separation from Service. If your Service with the Company and its Affiliates terminates for any other reason than one specified in the immediately preceding sentence, you (or your representative or Permitted Transferees) can require the Company to purchase any or all of your Matured Units that were acquired in connection with the vesting of Restricted Equity Units by delivery of a put notice during the Window Period occurring immediately following the Valuation Dates coincident with or next following the date of your separation from Service or, to the extent that the Units held by such person at such time are not Matured Units, in the next Window Period in which the Units are Matured Units. If your Service is terminated by the Company or any of its Affiliates for Cause, then the put price shall be an amount equal to the lower of (i) your cost and (ii) the Fair Market Value determined as of the applicable Valuation Date. For this purpose, cost with respect to Units issued upon settlement of Restricted Equity Units will mean the value included in your income at the time the corresponding Units were distributed to you. In all other cases, the put right shall be at the Fair Market Value determined at the applicable Valuation Date.

7. **Call Right of the Company Following Termination of Service.** The Company shall have the right to repurchase (i.e., "call") from you and, if such right shall be exercised, you shall sell to the Company, all of your Matured Units during the Window Period immediately following either of the two Valuation Dates next following the date your Service with the Company and its Affiliates terminates. If your Service is terminated by the Company or any of its Affiliates for Cause, then the call price shall be an amount equal to the lower of (i) your cost and (ii) the Fair Market Value determined as of the applicable Valuation Date. For this purpose, cost with respect to Units issued upon settlement of Restricted Equity Units will mean the value included in your income at the time

the corresponding Units were distributed to you. In all other cases, the call right shall be at the Fair Market Value determined at the applicable Valuation Date.

8. **Payment of Purchase Price upon Put or Call.**

(a) General Rule. Except as otherwise provided herein, the purchase price in respect of the exercise of any put right pursuant to Section 6 or call right pursuant to Section 7 shall be payable in a single lump sum in cash within 30 days of the date such right is exercised.

(b) Limitation of Cash Payments. Notwithstanding the put and call rights specified in Sections 6 and 7, or the provisions of Section 8(a) of this Agreement, no put or call may be exercised if doing so at such time would cause the Company to be in breach of any provision of any financing agreement. If any such put or call right can be exercised without a breach so long as the consideration paid for the Matured Units is in the form of a promissory note (rather than cash), the put or call shall be effected for a promissory note (with interest at a rate consistent with then prevailing interest rates, as determined by the Committee, but in no event less than the then prevailing applicable federal rate) payable when, and to the extent, that cash payments can be made without the occurrence of such a breach. If a promissory note cannot be used without a breach, the put or call right will be suspended and be eligible to be exercised during the Window Period immediately following the first Valuation Date at which it can be exercised (for cash or for a promissory note) without breaching any such financing agreement.

(c) Alternative Means of Payment. The Company may elect either to suspend any put right and/or to pay the proceeds payable upon the exercise of any put or call via a promissory note (with interest at a rate consistent with then prevailing interest rates, as determined by the Committee, but in no event less than the then prevailing applicable federal rate) if the total cash payable in respect of all puts and calls occurring during the current Window Period, together with any puts and calls exercised during any prior Window Period that the Committee specifies shall be included in determining whether the aggregate cap is exceeded, would exceed $2,000,000 (or such greater or lesser dollar amount that the Committee shall specify from time to time, provided that any change to reduce the amount available shall be decided in the year prior to the year in which it becomes effective). If this cap is exceeded (or any comparable cap applicable under a financing agreement), any cash available with respect to such Window Period date shall be applied in the following order of priority:

i) to satisfy any promissory note previously issued in connection with the redemption or repurchase of any Units;

ii) to satisfy any put exercised following the death, Disability or Retirement of a Participant under the Plan or the LTIP;

iii) to satisfy any call exercised following a termination of Service; and

iv) to satisfy any in-Service put.

If there is not sufficient cash to satisfy all claims in the same order of priority, then the available cash will be applied pro-rata to all claims in the same priority category, based on the gross amounts owed.

9. **Clawback for Breach of Restrictive Covenants.** Subject to the provisions of applicable law, if you breach, whether during or after termination of your Service, a nonsolicitation, noncompetition, confidentiality, or other restrictive covenant agreement by which you are bound, then in addition to any other penalties or restrictions that may apply under any such agreement, applicable law, or otherwise, you will forfeit any vested or unvested Matching Awards and any Units received in respect of a Matching Award held by you and the Company may require you to return to the Company any profit you realized from the sale of Units to the Company or the Parent pursuant to Section 6 or Section 7 (i) within the six-month period immediately preceding your termination of Service or (ii) after terminating Service.

10. **Tag-Along Right**. All Units that were acquired in connection with the vesting of Restricted Equity Units and held by you shall be subject to the tag-along rights set forth in Section 8.3(a) of the Operating Agreement.

11. **Drag-Along Right**. All Units that were acquired in connection with the vesting of Restricted Equity Units and held by you shall be subject to the drag-along rights set forth in Section 8.3(c) of the Operating Agreement.

12. **Lapse of Effectiveness**. In the event that the Units shall become Publicly Traded, the provisions of Sections 5(b), 6 and 7 shall cease to apply.

13. **No Limitation on Rights of the Company.** The grant of the Restricted Equity Units does not and will not in any way affect the right or power of the Company to make adjustments, reclassifications or changes in its capital or business structure, or to merge, consolidate, dissolve, liquidate, sell or transfer all or any part of its business or assets.

14. **Plan and Terms and Conditions Not a Contract of Employment or Service**. Neither the Plan nor this Agreement are a contract of employment or Service, and no terms of your employment or Service will be affected in any way by the Plan, this Agreement or related instruments, except to the extent specifically expressed therein. Neither the Plan nor this Agreement will be construed as conferring any legal rights on you to continue to be employed or remain in Service with the Company, nor will it interfere with any right of the Company or any of its affiliates to discharge you or to deal with you regardless of the existence of the Plan, this Agreement or the Restricted Equity Units.

15. **Participant to Have No Rights as a Member.** Before the date as of which you are recorded on the books of the Company as the holder of any Units related to the Restricted Equity Units, you will have no rights as a member of the Company with respect to those Units.

16. **Continued Effect of Award Agreement**. To the extent that the Plan or this Agreement contain provisions that are intended to have effect after the date(s) as of which your rights in respect to the Restricted Equity Unit award have become vested (including, but not limited to, following the date of your termination of Service), this Restricted Equity Unit award and any Units issued in respect of such Restricted Equity Unit award shall continue to be subject to the terms of the Plan and this Agreement

17. **Securities Law Requirements.**

    (a) If at any time the Committee determines that issuing Units would violate applicable securities laws, the Company will not be required to issue such Units. The Committee may declare any provision of this Agreement or action of its own null and void, if it determines

the provision or action fails to comply with the short-swing trading rules. As a condition to issuance, the Company may require you to make written representations it deems necessary or desirable to comply with applicable securities laws.

(b) In addition the transfer restrictions and limitations applicable under Section 5, no Person who acquires Units under this Agreement may sell the Units, unless they make the offer and sale pursuant to an effective registration statement under the Securities Act of 1933, as amended (the "**Securities Act**"), which is current and includes the Units to be sold, or an exemption from the registration requirements of the Securities Act.

18. **Notice.** Any notice or other communication required or permitted under this Agreement must be in writing and must be delivered personally, sent by certified, registered or express mail, or sent by overnight courier, at the sender's expense. Notice will be deemed given when delivered personally or, if mailed, three (3) days after the date of deposit in the United States mail or, if sent by overnight courier, on the regular business day following the date sent. Notice to the Company should be sent to:

Insomnia Cookies Holdings, LLC
One South Broad Street, Suite 1705
Philadelphia, PA 19701
Attn: Chief Legal Officer

Notice to you should be sent to the address on file with the Company. Either party may change the Person and/or address to which the other party must give notice under this Section 18 by giving such other party written notice of such change, in accordance with the procedures described above.

19. **Successors.** All obligations of the Company under this Agreement will be binding on any successor to the Company, whether the existence of the successor results from a direct or indirect purchase of all or substantially all of the business of the Company, or a merger, consolidation, or otherwise.

20. **Governing Law.** To the extent not preempted by federal law, this Agreement will be construed and enforced in accordance with, and governed by, the laws of the State of Delaware, without giving effect to its conflicts of law principles that would require the application of the law of any other jurisdiction.

21. **Waiver of Jury Trial**. Each party hereby waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or proceeding arising out of this Agreement or any transaction contemplated hereby. Each party (i) certifies that no representative, agent or attorney of any other party has represented, expressly or otherwise, that such other party would not, in the event of litigation, seek to enforce the foregoing waiver and (ii) acknowledges that it and the other parties have been induced to enter into the Agreement by, among other things, the mutual waivers and certifications in this Section 21.

22. **Plan Document Controls.** The rights granted under this Agreement are in all respects subject to the provisions set forth in the Plan to the same extent and with the same effect as if set forth fully in this Agreement. If the terms of this Agreement conflict with the terms of the Plan document, the Plan document will control. The Units issued in respect to a vested Matching Award shall also be subject to the terms of the Operating Agreement. To the extent of any inconsistency between the terms of this Agreement and the terms of the Operating Agreement, the terms of this Agreement shall control.

23. **Amendment.** This Agreement may be amended unilaterally by the Company to the extent determined by the Committee and permitted under the Plan, or by a written instrument signed by both parties.

24. **Entire Agreement.** This Agreement, together with the Plan and the Operating Agreement, constitute the entire obligation of the parties with respect to the subject matter of this Agreement and supersede any prior written or oral expressions of intent or understanding with respect to such subject matter.

25. **Section and Other Headings, etc**. The section and other headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

26. **Administration.** The Committee administers the Plan and this Agreement. Your rights under this Agreement are expressly subject to the terms and conditions of the Plan, including any guidelines the Committee adopts from time to time. You hereby acknowledge receipt of a copy of the Plan.

27. **Section 409A.** The Restricted Equity Units awarded pursuant to this Agreement are intended to comply with or, in the alternative, be exempt from Section 409A and this Agreement shall be shall be construed and interpreted in accordance with such intent. Any reference to a termination of Service shall be construed as a "separation from service" for purposes of Section 409A. If and to the extent applicable, if you are deemed to be a "specified employee" within the meaning of Section 409A, any payment due hereunder that is deferred compensation subject to Section 409A and payable upon a separation from service shall be delayed until six months and one day following such separation.

28. **Counterparts; Facsimile, Digital or Electronic Signatures**. This Agreement may be signed in counterparts with the same effect as if the signatures hereto and thereto were upon the same instrument. This Agreement may be transmitted and/or signed by facsimile, digital, or electronic transmission and/or signature. The effectiveness of any such signatures shall have the same force and effect as manually-signed originals and shall be binding on all parties to this Agreement.

29. **Data Protection.** By accepting the award of Restricted Equity Units, you hereby agree to permit the Company and its affiliates to process personal data and sensitive personal data about you in connection with the Plan. Such data includes, but is not limited to, the information provided hereunder and any changes thereto, other appropriate personal and financial data, and information about your participation in the Plan and the Restricted Equity Units granted to you under the Plan from time to time (collectively, "**Personal Data**"). You consent to each and any of the Company and its affiliates processing and transferring any Personal Data outside the country in which you work or are employed to the United States and any other third countries. The legal persons for whom Personal Data is intended include the Company and its affiliates, the Committee and the Parent Board, any administrator selected from time to time to administer the Plan, and any other person or entity that the Company, the Committee or the Parent Board involves in the administration of the Plan. Each of the Company and its affiliates will take all reasonable measures to keep Personal Data confidential and accurate. You can access and correct their Personal Data by contacting your human resources representative. By accepting participation in the Plan, you agree and acknowledge that the transfer of information is important to the administration of the Plan and failure to consent to the transmission of that information may limit your ability to participate in the Plan.

[*SIGNATURE PAGE FOLLOWS*]

INSOMNIA COOKIES HOLDINGS, LLC

By: /s/ Louis Smookler
Name: Louis Smookler
Title: Chief Legal Officer

PARTICIPANT

By: /s/ Michael J. Tattersfield

Name: Michael J. Tattersfield

APPENDIX A

IRREVOCABLE PROXY AGREEMENT

As a condition to your receiving a Matching Award pursuant to the Insomnia Cookies Holdings, LLC Executive Ownership Plan (the "**Plan**"), you must execute this Irrevocable Proxy Agreement (the "**Agreement**").

By entering into this Agreement, you hereby irrevocably grant a proxy to, and appoint as your proxy and attorney-in-fact (with full power of substitution), the persons from time to time serving as the principal financial officer and as the principal legal officer of Krispy Kreme Doughnut Corporation (the "**Designated Officers**"), for and in your name, place and stead, to vote or act by unanimous written consent with respect to all Units that you may from time to time hold, including Purchased Units and Units you receive pursuant to the settlement of Restricted Equity Units. You also agree that the Designated Officers may delegate the authority conveyed hereby to vote such Units to such other officer(s), employee(s) or agent(s) of Krispy Kreme Doughnut Corporation or any of its affiliates as the Designated Officers may specify from time to time. In addition, if at any time prior to an Underwritten Offering, Krispy Kreme Doughnut Corporation transfers a controlling interest in the Units to any third party (including Units transferred involuntarily by enforcement of any pledge of Units to secure the obligations of Krispy Kreme Doughnut Corporation) (a "**Transferee**"), this Irrevocable Proxy shall be deemed assigned to, and granted by you to, such person(s) as the Transferee shall designate from time to time.

You hereby affirm that the proxy set forth in this Agreement is irrevocable. This proxy will continue in effect, and be valid, until the consummation of an Underwritten Offering or the last date otherwise permitted by law. Any term capitalized but not defined in this Agreement will have the meaning set forth in the Plan.

/s/ Michael J. Tattersfield

____

Name: Michael J. Tattersfield
Date: 12/11/2023

Exhibit 10.25

<u>MATCHING AWARD AGREEMENT</u>
<u>TERMS AND CONDITIONS UNDER</u>
INSOMNIA COOKIES HOLDINGS, LLC
EXECUTIVE OWNERSHIP PLAN
(AS EFFECTIVE SEPTEMBER 17, 2018)

This Matching Award Agreement (the "**Agreement**") evidences the grant effective on December 11, 2023 (the "**Grant Date**") of an award of Restricted Equity Units (the **"Restricted Equity Units"**) by Insomnia Cookies Holdings, LLC, a Delaware limited liability company (the "**Company**"). Any term capitalized but not defined in this Agreement will have the meaning set forth in the Insomnia Cookies Holdings, LLC Executive Ownership Plan (the "**Plan**").

1. **Restricted Equity Unit Grant.** In accordance with the terms of the Plan and subject to this Agreement, as of the Grant Date the undersigned Participant ("**you**") are hereby granted Restricted Equity Units in respect of 2,355 Class A Units. The Restricted Equity Units, any Units acquired upon settlement thereof are subject to the following terms and conditions and to the provisions of the Plan, the terms of which are incorporated by reference herein.

2. **Vesting Period for Restricted Equity Units.**

   (a) <u>In General</u>. The Restricted Equity Units shall vest as follows: (i) sixty percent (60%) of the Restricted Equity Units shall vest on the 36-month anniversary of the Grant Date, (ii) an additional twenty percent (20%) of the Restricted Equity Units shall vest on the 48-month anniversary of the Grant Date, and (iii) the remaining twenty percent (20%) of the Restricted Equity Units shall vest on the 60-month anniversary of the Grant Date, provided that, in each case, you have remained in continuous Service through the applicable vesting date.

   (b) <u>Death or Disability</u>. The Restricted Equity Units shall vest in full in the event of your termination of Service by reason of death or Disability.

   (c) <u>Retirement.</u> If before the Restricted Equity Units have otherwise become vested your Service terminates by reason of Retirement, then the Restricted Equity Units shall (i) immediately become vested with respect to the Applicable Fraction of the Restricted Equity Units, and (ii) be immediately forfeited and canceled with respect to the remaining Restricted Equity Units. For purposes of applying the Applicable Fraction to the Restricted Equity Units under this Section 2(c), the numerator shall be the number of full months elapsed between the applicable Grant Date and the date of your termination, and the denominator shall be sixty (60).

   (d) <u>Change in Control.</u> In the event of a Change in Control, any Restricted Equity Units then outstanding shall continue in effect or shall become vested and payable, in either case, as provided in, and subject to the conditions of, Section 4.

3. **Settlement of Restricted Equity Units.**

   (a) Timing of Settlement.

      (i) *Publicly Traded Units*. If the Units are or become Publicly Traded on or prior to the date at which Restricted Equity Units (other than Retirement Eligible Units) vest:(i) the Units related to such vested Restricted Equity Units shall be delivered

promptly (and in all events within 60 days) following the date such Restricted Equity Units have become vested and (ii) Units related to Retirement Eligible Units shall be delivered promptly (and in all events within 60 days) following the earlier of the vesting date under Section 2(a) or the date of the Participant's termination of employment, unless such Restricted Equity Units were granted at a time when the Units were not Publicly Traded, in which case they shall be delivered in accordance with Section 3(a)(ii) in all circumstances.

(ii) *Non-Publicly Traded Units*. If the Units are not Publicly Traded as of the date at which the Restricted Equity Units vest, the Units related to such vested Restricted Equity Units shall be delivered during the first Window Period coincident with or next following the earliest date at which Restricted Equity Units become vested (but, with respect to any Restricted Equity Units that are not Retirement Eligible Units, in no event later than the March 15 of the calendar year immediately following the year in which such Restricted Equity Units become vested). Any Restricted Equity Units that are Retirement Eligible Units and which were granted at a time that the Units were not Publicly Traded shall be delivered at the time that they would have been delivered pursuant to the immediately preceding sentence, regardless of whether the Units are Publicly Traded at the date of settlement, and assuming that there are always two Valuation Dates each year, as of June 30 and as of December 31. For the avoidance of doubt, for this purpose, Retirement Eligible Units are deemed to vest at the time provided in Section 2(a)or upon a termination described in Section 2(b) or 2(c), if earlier.

(b) Irrevocable Proxy. As a condition to receiving any Units in settlement of any vested Restricted Equity Units, you are required to execute an irrevocable proxy in the form attached hereto as Appendix A.

(c) Withholding Obligation. Upon settlement of any Restricted Equity Units, any applicable Withholding Tax must be satisfied either (i) by you paying the amount of required Withholding Tax to the Company in cash, (ii) by you delivering to the Company that number of whole Matured Units having a Fair Market Value at least equal to the amount of the required Withholding Tax, (iii) from the Units issuable in respect of the Restricted Equity Units or (iv) by a combination of the foregoing; provided, however, that if and to the extent that the Withholding Tax is satisfied using Units issuable in settlement of the Restricted Equity Units and if necessary to avoid an adverse financial accounting consequence for the Company, the applicable Withholding Tax shall be based on the minimum amount required to be withheld at applicable law. If you elect not to satisfy the Withholding Tax using Units in settlement of the Restricted Equity Units, but do not otherwise satisfy the amount of required Withholding Tax by delivery of cash or Matured Units to the Company, the Company will withhold from the Units to be delivered the minimum amount of funds required to cover any Withholding Tax required to be withheld by the Company by reason of such settlement.

4. **Change in Control.**

(a) Double Trigger Protection Upon a Change in Control. In the event of a Change in Control, unless otherwise determined by the Committee prior to the occurrence of a Change in Control, the Company shall take all actions necessary or appropriate to assure that each Matching Award outstanding under the Plan shall be honored or assumed, or new rights substituted therefor (such honored, assumed or substituted award hereinafter called an

"**Alternative Award**") by the entity for which you will be performing Service immediately following the Change in Control (or the parent or a subsidiary of such entity); provided that any such Alternative Award must provide that if your Service is terminated upon or following such Change in Control (x) by the Company other than for Cause or (y) by you for Good Reason, in either case, within 24 months following the Change in Control, your rights under each such Alternative Award shall become fully vested and payable in accordance with its otherwise applicable terms (including, without limitation, provisions similar to Section 4(d) hereof). In addition, any such Alternative Award granted to you must:

(i) provide you with rights and entitlements substantially equivalent to or better than the rights and entitlements applicable under the corresponding Matching Award, including, but not limited to, an identical or better vesting schedule and identical or better timing and methods of payment (including all provisions applicable in respect of such Matching Award that provide for accelerated vesting); and

(ii) have substantially equivalent economic value to such Matching Award (as determined by the Committee as constituted immediately prior to the Change in Control).

(b) Accelerated Vesting and Payment. Notwithstanding the provisions of Section 4(a), the Committee may otherwise determine that, upon the occurrence of a Change in Control, all or any portion of the Restricted Equity Units that are then still outstanding shall become vested and shall be immediately payable in Units (or, if so directed by the Committee, cash in an amount equal to the Fair Market Value of the Units that would otherwise have been deliverable to you).

(c) Deferred Compensation Subject to Section 409A. Notwithstanding the foregoing provisions of this Section 4, any Retirement Eligible Units or other Restricted Equity Units that are nonqualified deferred compensation subject to Section 409A) shall not become payable at the time specified under the provisions of Section 4(a) or 4(b). Instead, to the extent that any such Retirement Eligible Units or other Restricted Equity Units that are nonqualified deferred compensation subject to Section 409A become vested in accordance with the terms of the Plan (including Section 4(a) or 4(b) hereof), such Restricted Equity Units shall be payable at the time that they would otherwise have been payable without regard to the occurrence of a Change in Control.

(d) **Provisions Related to Golden Parachute Excise Tax.**

(i) Change in Control When the Units are Not Publicly Traded. Notwithstanding anything to the contrary contained in this Agreement, to the extent that, upon a Change in Control prior to the time at which the Units have become Publicly Traded, any of the payments and benefits provided for under the Plan, any Matching Award Agreement or any other agreement or arrangement between the Company or any of its Affiliates and you (collectively, the "**Payments**") would constitute a "parachute payment" within the meaning of Section 280G of the Code (a "**Parachute Payment**"), the amount of such Payments shall be reduced to the amount (the "**Safe Harbor Amount**") that would result in no portion of the Payments being treated as an excess parachute payment pursuant to Section 280G of the Code (the "**Excise Tax**"). If, upon a Change in Control prior to the time at which the Units have become Publicly Traded, the Parachute Payments that would

otherwise be reduced or eliminated, as the case may be, pursuant to this Section 4(d)(i) could be paid without the loss of a deduction under Section 280G of the Code if the shareholder approval exception to treatment as a Parachute Payment can be and is satisfied, then the Company shall use its reasonable best efforts to cause such Parachute Payments to be submitted for such approval in accordance with Section 280G(b)(5)(B) prior to the Change in Control giving rise to such Parachute Payments. If such approval is received, any reduction or forfeiture pursuant to this Section 4(d)(i) shall be reversed, and the subject amount shall be payable to you without regard to this Section 4(d)(i).

(ii) Change in Control When the Units are Publicly Traded. If upon a Change in Control occurring at any time that the Units are Publicly Traded, any Payments would constitute Parachute Payments, then, if and solely to the extent that reducing the benefits payable hereunder would result in your receiving a greater amount, on an after-tax basis, taking into account any Excise Tax and all applicable income, employment and other taxes payable on such amounts, the amounts payable hereunder shall be reduced or eliminated, as the case may be, so that the total amount of Parachute Payments received by you do not exceed the Safe Harbor Amount.

(iii) Order of Reduction in Payments. Any reduction in the amount of compensation or benefits effected pursuant to this Section 4 shall first come, in order and, in each case, solely to the extent necessary, from any cash severance benefits payable to you, then from any other payments which are treated in their entirety as Parachute Payments and then from any other Parachute Payments payable to you.

5. **Nontransferability of Restricted Equity Units; Transferability of Units.**

(a) The Restricted Equity Units granted hereby may not be sold, transferred, pledged, assigned, or otherwise alienated or hypothecated, other than by will or by the laws of descent or distribution and all rights with respect to the Restricted Equity Units shall be available during your lifetime only to you or your guardian or legal representative. The Committee may, in its sole discretion, require your guardian or legal representative to supply it with evidence the Committee deems necessary to establish the authority of the guardian or legal representative to act on behalf of you.

(b) Units issued in settlement of Restricted Equity Units cannot be sold, exchanged, conveyed or in any way transferred other than (i) to the Company or the Parent, (ii) by will or the laws of descent and distribution, (iii) pursuant to the exercise of a tag-along right under Section 8.3(a) of the Operating Agreement, a drag-along right under Section 8.3(c) of the Operating Agreement or the buyout right under Section 8.3(e) of the Operating Agreement, or (iv) to a Participant Permitted Transferee. The Company will not be required (i) to transfer on its books any Units that have been sold or transferred, or (ii) to treat as the owner of such Units, to accord the right to vote as such an owner or to pay dividends to any transferee to whom such Units have been transferred in violation of the Plan or this Agreement.

(c) You acknowledge and agree that the Restricted Equity Units granted in accordance with this Agreement were granted to you because you purchased Units (the "**Purchased Units**") from the Company having a value at least equal to your minimum investment amount as communicated to you and in effect at the date of purchase. Except as provided in the last

sentence of this Section 5(c), if you transfer any such Purchased Units prior to the date that all of the Restricted Equity Units subject to this Agreement have become vested you shall forfeit a corresponding portion of Restricted Equity Units for each Purchased Unit you transfer. The portion so forfeited shall be determined by multiplying the number of Restricted Equity Units granted hereunder by a fraction, the numerator of which is the number of Purchased Units so transferred and the denominator of which is the total number of Purchased Units that are still held as of immediately prior to such transfer. However, no forfeiture shall occur under this Section 5(c) upon a transfer of Purchased Units (i) pursuant to Section 10 or 11 hereof or (ii) to a Participant Permitted Transferee, so long as following such transfer all of the transfer and forfeiture restrictions otherwise applicable in respect of your Purchased Units continue to apply to such Participant Permitted Transferee on the same terms as applied to you immediately prior to such transfer.

6. **Put Right.**

(a) In Service. Commencing with the first Window Period following the fifth anniversary of the Grant Date in respect of the Restricted Equity Units, while you are still providing Service to the Company or an Affiliate you shall have the right to require the Company to purchase during such Window Period or any subsequent Window Period any or all of your Units received in settlement of vested Restricted Equity Units and that are Matured Units at their then Fair Market Value.

(b) Following Termination of Service. If your Service with the Company and its Affiliates terminates due to death, Disability or Retirement, you (or your representative or Participant Permitted Transferees) can require the Company to purchase any or all of your Matured Units that were acquired in connection with the vesting of Restricted Equity Units by delivery of a put notice during any Window Period occurring immediately following any of the three Valuation Dates coincident with or next following the date of your separation from Service. If your Service with the Company and its Affiliates terminates for any other reason than one specified in the immediately preceding sentence, you (or your representative or Permitted Transferees) can require the Company to purchase any or all of your Matured Units that were acquired in connection with the vesting of Restricted Equity Units by delivery of a put notice during the Window Period occurring immediately following the Valuation Dates coincident with or next following the date of your separation from Service or, to the extent that the Units held by such person at such time are not Matured Units, in the next Window Period in which the Units are Matured Units. If your Service is terminated by the Company or any of its Affiliates for Cause, then the put price shall be an amount equal to the lower of (i) your cost and (ii) the Fair Market Value determined as of the applicable Valuation Date. For this purpose, cost with respect to Units issued upon settlement of Restricted Equity Units will mean the value included in your income at the time the corresponding Units were distributed to you. In all other cases, the put right shall be at the Fair Market Value determined at the applicable Valuation Date.

7. **Call Right of the Company Following Termination of Service.** The Company shall have the right to repurchase (i.e., "call") from you and, if such right shall be exercised, you shall sell to the Company, all of your Matured Units during the Window Period immediately following either of the two Valuation Dates next following the date your Service with the Company and its Affiliates terminates. If your Service is terminated by the Company or any of its Affiliates for Cause, then the call price shall be an amount equal to the lower of (i) your cost and (ii) the Fair Market Value determined as of the applicable Valuation Date. For this purpose, cost with respect to Units issued upon settlement of Restricted Equity Units will mean the value included in your income at the time

the corresponding Units were distributed to you. In all other cases, the call right shall be at the Fair Market Value determined at the applicable Valuation Date.

8. **Payment of Purchase Price upon Put or Call.**

(a) General Rule. Except as otherwise provided herein, the purchase price in respect of the exercise of any put right pursuant to Section 6 or call right pursuant to Section 7 shall be payable in a single lump sum in cash within 30 days of the date such right is exercised.

(b) Limitation of Cash Payments. Notwithstanding the put and call rights specified in Sections 6 and 7, or the provisions of Section 8(a) of this Agreement, no put or call may be exercised if doing so at such time would cause the Company to be in breach of any provision of any financing agreement. If any such put or call right can be exercised without a breach so long as the consideration paid for the Matured Units is in the form of a promissory note (rather than cash), the put or call shall be effected for a promissory note (with interest at a rate consistent with then prevailing interest rates, as determined by the Committee, but in no event less than the then prevailing applicable federal rate) payable when, and to the extent, that cash payments can be made without the occurrence of such a breach. If a promissory note cannot be used without a breach, the put or call right will be suspended and be eligible to be exercised during the Window Period immediately following the first Valuation Date at which it can be exercised (for cash or for a promissory note) without breaching any such financing agreement.

(c) Alternative Means of Payment. The Company may elect either to suspend any put right and/or to pay the proceeds payable upon the exercise of any put or call via a promissory note (with interest at a rate consistent with then prevailing interest rates, as determined by the Committee, but in no event less than the then prevailing applicable federal rate) if the total cash payable in respect of all puts and calls occurring during the current Window Period, together with any puts and calls exercised during any prior Window Period that the Committee specifies shall be included in determining whether the aggregate cap is exceeded, would exceed $2,000,000 (or such greater or lesser dollar amount that the Committee shall specify from time to time, provided that any change to reduce the amount available shall be decided in the year prior to the year in which it becomes effective). If this cap is exceeded (or any comparable cap applicable under a financing agreement), any cash available with respect to such Window Period date shall be applied in the following order of priority:

i) to satisfy any promissory note previously issued in connection with the redemption or repurchase of any Units;

ii) to satisfy any put exercised following the death, Disability or Retirement of a Participant under the Plan or the LTIP;

iii) to satisfy any call exercised following a termination of Service; and

iv) to satisfy any in-Service put.

If there is not sufficient cash to satisfy all claims in the same order of priority, then the available cash will be applied pro-rata to all claims in the same priority category, based on the gross amounts owed.

9. **Clawback for Breach of Restrictive Covenants.** Subject to the provisions of applicable law, if you breach, whether during or after termination of your Service, a nonsolicitation, noncompetition, confidentiality, or other restrictive covenant agreement by which you are bound, then in addition to any other penalties or restrictions that may apply under any such agreement, applicable law, or otherwise, you will forfeit any vested or unvested Matching Awards and any Units received in respect of a Matching Award held by you and the Company may require you to return to the Company any profit you realized from the sale of Units to the Company or the Parent pursuant to Section 6 or Section 7 (i) within the six-month period immediately preceding your termination of Service or (ii) after terminating Service.

10. **Tag-Along Right**. All Units that were acquired in connection with the vesting of Restricted Equity Units and held by you shall be subject to the tag-along rights set forth in Section 8.3(a) of the Operating Agreement.

11. **Drag-Along Right**. All Units that were acquired in connection with the vesting of Restricted Equity Units and held by you shall be subject to the drag-along rights set forth in Section 8.3(c) of the Operating Agreement.

12. **Lapse of Effectiveness**. In the event that the Units shall become Publicly Traded, the provisions of Sections 5(b), 6 and 7 shall cease to apply.

13. **No Limitation on Rights of the Company.** The grant of the Restricted Equity Units does not and will not in any way affect the right or power of the Company to make adjustments, reclassifications or changes in its capital or business structure, or to merge, consolidate, dissolve, liquidate, sell or transfer all or any part of its business or assets.

14. **Plan and Terms and Conditions Not a Contract of Employment or Service**. Neither the Plan nor this Agreement are a contract of employment or Service, and no terms of your employment or Service will be affected in any way by the Plan, this Agreement or related instruments, except to the extent specifically expressed therein. Neither the Plan nor this Agreement will be construed as conferring any legal rights on you to continue to be employed or remain in Service with the Company, nor will it interfere with any right of the Company or any of its affiliates to discharge you or to deal with you regardless of the existence of the Plan, this Agreement or the Restricted Equity Units.

15. **Participant to Have No Rights as a Member.** Before the date as of which you are recorded on the books of the Company as the holder of any Units related to the Restricted Equity Units, you will have no rights as a member of the Company with respect to those Units.

16. **Continued Effect of Award Agreement**. To the extent that the Plan or this Agreement contain provisions that are intended to have effect after the date(s) as of which your rights in respect to the Restricted Equity Unit award have become vested (including, but not limited to, following the date of your termination of Service), this Restricted Equity Unit award and any Units issued in respect of such Restricted Equity Unit award shall continue to be subject to the terms of the Plan and this Agreement

17. **Securities Law Requirements.**

    (a) If at any time the Committee determines that issuing Units would violate applicable securities laws, the Company will not be required to issue such Units. The Committee may declare any provision of this Agreement or action of its own null and void, if it determines

the provision or action fails to comply with the short-swing trading rules. As a condition to issuance, the Company may require you to make written representations it deems necessary or desirable to comply with applicable securities laws.

(b) In addition the transfer restrictions and limitations applicable under Section 5, no Person who acquires Units under this Agreement may sell the Units, unless they make the offer and sale pursuant to an effective registration statement under the Securities Act of 1933, as amended (the "**Securities Act**"), which is current and includes the Units to be sold, or an exemption from the registration requirements of the Securities Act.

18. **Notice.** Any notice or other communication required or permitted under this Agreement must be in writing and must be delivered personally, sent by certified, registered or express mail, or sent by overnight courier, at the sender's expense. Notice will be deemed given when delivered personally or, if mailed, three (3) days after the date of deposit in the United States mail or, if sent by overnight courier, on the regular business day following the date sent. Notice to the Company should be sent to:

Insomnia Cookies Holdings, LLC
One South Broad Street, Suite 1705
Philadelphia, PA 19701
Attn: Chief Legal Officer

Notice to you should be sent to the address on file with the Company. Either party may change the Person and/or address to which the other party must give notice under this Section 18 by giving such other party written notice of such change, in accordance with the procedures described above.

19. **Successors.** All obligations of the Company under this Agreement will be binding on any successor to the Company, whether the existence of the successor results from a direct or indirect purchase of all or substantially all of the business of the Company, or a merger, consolidation, or otherwise.

20. **Governing Law.** To the extent not preempted by federal law, this Agreement will be construed and enforced in accordance with, and governed by, the laws of the State of Delaware, without giving effect to its conflicts of law principles that would require the application of the law of any other jurisdiction.

21. **Waiver of Jury Trial**. Each party hereby waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or proceeding arising out of this Agreement or any transaction contemplated hereby. Each party (i) certifies that no representative, agent or attorney of any other party has represented, expressly or otherwise, that such other party would not, in the event of litigation, seek to enforce the foregoing waiver and (ii) acknowledges that it and the other parties have been induced to enter into the Agreement by, among other things, the mutual waivers and certifications in this Section 21.

22. **Plan Document Controls.** The rights granted under this Agreement are in all respects subject to the provisions set forth in the Plan to the same extent and with the same effect as if set forth fully in this Agreement. If the terms of this Agreement conflict with the terms of the Plan document, the Plan document will control. The Units issued in respect to a vested Matching Award shall also be subject to the terms of the Operating Agreement. To the extent of any inconsistency between the terms of this Agreement and the terms of the Operating Agreement, the terms of this Agreement shall control.

23. **Amendment.** This Agreement may be amended unilaterally by the Company to the extent determined by the Committee and permitted under the Plan, or by a written instrument signed by both parties.

24. **Entire Agreement.** This Agreement, together with the Plan and the Operating Agreement, constitute the entire obligation of the parties with respect to the subject matter of this Agreement and supersede any prior written or oral expressions of intent or understanding with respect to such subject matter.

25. **Section and Other Headings, etc**. The section and other headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

26. **Administration.** The Committee administers the Plan and this Agreement. Your rights under this Agreement are expressly subject to the terms and conditions of the Plan, including any guidelines the Committee adopts from time to time. You hereby acknowledge receipt of a copy of the Plan.

27. **Section 409A.** The Restricted Equity Units awarded pursuant to this Agreement are intended to comply with or, in the alternative, be exempt from Section 409A and this Agreement shall be shall be construed and interpreted in accordance with such intent. Any reference to a termination of Service shall be construed as a "separation from service" for purposes of Section 409A. If and to the extent applicable, if you are deemed to be a "specified employee" within the meaning of Section 409A, any payment due hereunder that is deferred compensation subject to Section 409A and payable upon a separation from service shall be delayed until six months and one day following such separation.

28. **Counterparts; Facsimile, Digital or Electronic Signatures**. This Agreement may be signed in counterparts with the same effect as if the signatures hereto and thereto were upon the same instrument. This Agreement may be transmitted and/or signed by facsimile, digital, or electronic transmission and/or signature. The effectiveness of any such signatures shall have the same force and effect as manually-signed originals and shall be binding on all parties to this Agreement.

29. **Data Protection.** By accepting the award of Restricted Equity Units, you hereby agree to permit the Company and its affiliates to process personal data and sensitive personal data about you in connection with the Plan. Such data includes, but is not limited to, the information provided hereunder and any changes thereto, other appropriate personal and financial data, and information about your participation in the Plan and the Restricted Equity Units granted to you under the Plan from time to time (collectively, "**Personal Data**"). You consent to each and any of the Company and its affiliates processing and transferring any Personal Data outside the country in which you work or are employed to the United States and any other third countries. The legal persons for whom Personal Data is intended include the Company and its affiliates, the Committee and the Parent Board, any administrator selected from time to time to administer the Plan, and any other person or entity that the Company, the Committee or the Parent Board involves in the administration of the Plan. Each of the Company and its affiliates will take all reasonable measures to keep Personal Data confidential and accurate. You can access and correct their Personal Data by contacting your human resources representative. By accepting participation in the Plan, you agree and acknowledge that the transfer of information is important to the administration of the Plan and failure to consent to the transmission of that information may limit your ability to participate in the Plan.

[*SIGNATURE PAGE FOLLOWS*]

INSOMNIA COOKIES HOLDINGS, LLC

By: /s/ Louis Smookler
Name: Louis Smookler
Title: Chief Legal Officer

PARTICIPANT

By: /s/ Joshua A. Charlesworth

Name: Joshua A. Charlesworth

<u>APPENDIX A</u>

<u>IRREVOCABLE PROXY AGREEMENT</u>

As a condition to your receiving a Matching Award pursuant to the Insomnia Cookies Holdings, LLC Executive Ownership Plan (the "**Plan**"), you must execute this Irrevocable Proxy Agreement (the "**Agreement**").

By entering into this Agreement, you hereby irrevocably grant a proxy to, and appoint as your proxy and attorney-in-fact (with full power of substitution), the persons from time to time serving as the principal financial officer and as the principal legal officer of Krispy Kreme Doughnut Corporation (the "**Designated Officers**"), for and in your name, place and stead, to vote or act by unanimous written consent with respect to all Units that you may from time to time hold, including Purchased Units and Units you receive pursuant to the settlement of Restricted Equity Units. You also agree that the Designated Officers may delegate the authority conveyed hereby to vote such Units to such other officer(s), employee(s) or agent(s) of Krispy Kreme Doughnut Corporation or any of its affiliates as the Designated Officers may specify from time to time. In addition, if at any time prior to an Underwritten Offering, Krispy Kreme Doughnut Corporation transfers a controlling interest in the Units to any third party (including Units transferred involuntarily by enforcement of any pledge of Units to secure the obligations of Krispy Kreme Doughnut Corporation) (a "**Transferee**"), this Irrevocable Proxy shall be deemed assigned to, and granted by you to, such person(s) as the Transferee shall designate from time to time.

You hereby affirm that the proxy set forth in this Agreement is irrevocable. This proxy will continue in effect, and be valid, until the consummation of an Underwritten Offering or the last date otherwise permitted by law. Any term capitalized but not defined in this Agreement will have the meaning set forth in the Plan.

/s/ Joshua A. Charlesworth

Name: Joshua A. Charlesworth
Date: 12/20/2023

Subsidiaries of Krispy Kreme, Inc.
As of December 31, 2023

Name of Subsidiary		Jurisdiction of Formation
1.	1456212 Ontario Inc.	Canada
2.	Awesome Doughnut, LLC	Delaware
3.	Cotton Parent, Inc.	Delaware
4.	Glaze International Holding Ltd.	England & Wales
5.	HDN Development Corporation	Kentucky
6.	HDN Motor Coach, LLC	North Carolina
7.	Insomnia Cookies Canada, LLC	Delaware
8.	Insomnia Cookies Canada, ULC	British Columbia
9.	Insomnia Cookies Holdings, LLC	Delaware
10.	Insomnia Cookies, LLC	Delaware
11.	Insomnia Cookies Operators, LLC	Delaware
12.	Insomnia Cookies UK Ltd	England & Wales
13.	KK Canada AcquisitionCo Inc.	Canada
14.	KK Canada HoldCo ULC	British Columbia
15.	KK Canada Holdings, LLC	Delaware
16.	KremeWorks Canada, L.P.	Delaware
17.	KremeWorks, LLC	Illinois
18.	Krispy K Canada Inc.	Canada
19.	Krispy Kreme Asia Pacific Ltd.	Hong Kong
20.	Krispy Kreme Australia PTY Ltd.	Australia
21.	Krispy Kreme Canada, Inc.	North Carolina
22.	Krispy Kreme Doughnut Corporation	North Carolina
23.	Krispy Kreme Doughnuts DMCC	United Arab Emirates
24.	Krispy Kreme Doughnuts, Inc.	North Carolina
25.	Krispy Kreme Doughnuts France SAS	Republic of France
26.	Krispy Kreme Holding UK Ltd.	England & Wales
27.	Krispy Kreme Holdings PTY Ltd.	Australia
28.	Krispy Kreme Ireland Limited	Republic of Ireland
29.	Krispy Kreme Japan Co., Ltd.	Japan
30.	Krispy Kreme Mexico Holding, S.A. P.I. de C.V.	Mexico
31.	Krispy Kreme Mexico S. de R.L. de C.V.	Mexico
32.	Krispy Kreme New Zealand Limited	New Zealand
33.	Krispy Kreme Servicios Administrativos, S.A. de C.V.	Mexico
34.	Krispy Kreme Texas, LLC	Delaware
35.	Krispy Kreme UK Limited	England & Wales
36.	Serve U Brands Inc.	New York
37.	Sonoflou, LLC	Delaware
38.	W.K.S. Krispy Kreme, LLC	Delaware

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We have issued our reports dated February 27, 2024, with respect to the consolidated financial statements and internal control over financial reporting included in the Annual Report of Krispy Kreme, Inc. and subsidiaries on Form 10-K for the year ended December 31, 2023. We consent to the incorporation by reference of said report in the Registration Statement of Krispy Kreme, Inc. and subsidiaries on Form S-1/A (File No. 333-256664) and on Form S-8 (File No. 333-276045).

/s/ GRANT THORNTON LLP

Denver, Colorado
February 27, 2024

Certification Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

I, Josh Charlesworth, certify that:

1. I have reviewed this Annual Report on Form 10-K for the annual period ended December 31, 2023 of Krispy Kreme, 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: February 27, 2024

/s/ Josh Charlesworth
Josh Charlesworth
Chief Executive Officer

Exhibit 31.2

Certification Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

I, Jeremiah Ashukian, certify that:

1. I have reviewed this Annual Report on Form 10-K for the annual period ended December 31, 2023 of Krispy Kreme, 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: February 27, 2024

/s/ Jeremiah Ashukian
Jeremiah Ashukian
Chief Financial Officer

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

In connection with the Annual Report on Form 10-K of Krispy Kreme, Inc. (the “Company”), for the annual period ended December 31, 2023, as filed with the Securities and Exchange Commission on the date hereof (the “Report”), each of the undersigned officers of the Company certifies pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, 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 Company.

Date: February 27, 2024

/s/ Josh Charlesworth
Josh Charlesworth
Chief Executive Officer

Date: February 27, 2024

/s/ Jeremiah Ashukian
Jeremiah Ashukian
Chief Financial Officer

Exhibit 97.1

CLAWBACK POLICY

Originating Department:	Legal
Approved By:	Board of Directors of Krispy Kreme, Inc.
Date Issued:	September 22, 2023
Supersedes:	June 21, 2021

CLAWBACK POLICY

Background

The Board of Directors (the "***Board***") of Krispy Kreme, Inc. (the "***Company***") has adopted, based on the recommendation of the Remuneration & Nomination Committee of the Board (the "***Committee***"), this Krispy Kreme, Inc. Clawback Policy (this "***Policy***"). It is the intention of the Board that this Policy be interpreted and administered in a manner consistent with applicable laws and regulations and Nasdaq listing requirements. In the event of a conflict between this Policy and such laws, regulations, and listing requirements, the applicable laws, regulations, and listing requirements shall govern.

This Policy applies to awards of Incentive-Based Compensation received on or after October 2, 2023, by current and former Executive Officers of the Company. The Krispy Kreme, Inc. Clawback Policy adopted on June 21, 2021 shall apply to awards of Incentive-Based Compensation received before October 2, 2023.

Definitions

"***Executive Officer***" means the Company's president, principal financial officer, principal accounting officer (or if there is no such accounting officer, the controller), any vice president of the Company in charge of a principal business unit, division, or function (such as sales, administration, or finance), any other officer who performs a policy-making function, or any other person who performs similar policymaking functions for the Company. Executive officers of the Company's subsidiaries are deemed Executive Officers of the Company if they perform such policymaking functions for the Company. The Company's Executive Officers are those officers who are listed in the Company's Annual Report on Form 10-K.

"***Excess Incentive-Based Compensation***" means the amount of Incentive-Based Compensation received by a current or former Executive Officer that exceeds the amount of Incentive-Based Compensation that otherwise would have been received had the amount of such Incentive-Based Compensation been determined based on the accounting restatement, computed without regard to taxes paid by the Executive Officer. For Incentive-Based Compensation based on stock price or total shareholder return, where the amount of Excess Incentive-Based Compensation is not subject to mathematical recalculation directly from the information in an accounting restatement, Excess Incentive-Based Compensation means a reasonable estimate of the effect of the accounting restatement on the applicable Financial Reporting Measure.

"***Financial Reporting Measure***" means any measure that is determined and presented in accordance

with the accounting principles used to prepare the Company's financial statements, and any measures that are derived wholly or in part from such measures. Stock price and total shareholder return metrics are also Financial Reporting Measures. For the avoidance of doubt, a Financial Reporting Measure need not be presented in the Company's financial statements or included in a filing with the U.S. Securities and Exchange Commission.

"***Incentive-Based Compensation***" means any compensation that is granted, earned, or vested based wholly or in part upon the attainment of a Financial Reporting Measure.

"***Lookback Period***" means the three completed fiscal years immediately preceding the date on which the Company is required to prepare an accounting restatement. For purposes of this definition, the date on which the Company is required to prepare an accounting restatement shall be deemed to be the earlier of (a) the date the Company's Board, a committee of the Board, or the officer(s) of the Company authorized to take such action (if Board action is not required) concludes, or reasonably should have concluded, that the Company is required to prepare an accounting restatement; and (b) the date a court, regulator, or other legally authorized body directs the Company to prepare an accounting restatement.

"***Nasdaq***" means Nasdaq Global Select Market or any other securities exchange upon which the Company's common stock trades.

Recoupment for an Accounting Restatement

The Company shall recover reasonably promptly any Excess Incentive-Based Compensation in the event that the Company is required to restate its financial statements due to the material noncompliance of the Company with any financial reporting requirement under the federal securities laws, including any required accounting restatement to correct an error (i) in previously issued financial statements that is material to the previously issued financial statements or (ii) that would result in a material misstatement if the error were corrected in the current period or left uncorrected in the current period. The preceding sentence shall apply to Excess Incentive-Based Compensation received by any current or former Executive Officer: (a) after beginning service as an Executive Officer; (b) who served as an Executive Officer at any time during the performance period for the applicable Incentive-Based Compensation; (c) while the Company has a class of securities listed on a national securities exchange or a national securities association; and (d) during the Lookback Period. For purposes of this paragraph, Incentive-Based Compensation is deemed "received" in the Company's fiscal period during which the Financial Reporting Measure specified in the Incentive-Based Compensation is attained, even if the payment or grant of the Incentive-Based Compensation occurs after the end of that period.

Notwithstanding the foregoing, if the Committee makes a determination that recovery would be impracticable, and one of the following enumerated conditions is satisfied, the Company need not recover such Excess Incentive-Based Compensation.

- Expenses Exceed Recovery Amount: If the direct expense to be paid to a third party to assist in enforcing this Policy would exceed the amount to be recovered; provided, however, that the Company must make a reasonable attempt to recover the Excess Incentive-Based Compensation and document such attempt(s) prior to the Committee's determination that recovery would be impracticable. The Company must provide documentation evidencing the attempt(s) to Nasdaq consistent with Nasdaq listing standards.

- Recovery Would Violate Home Country Law: If recovery would violate home country law where that law was adopted prior to November 28, 2022; *provided*, *however*, that the Company must obtain an opinion of home country counsel, in a form acceptable to Nasdaq, that recovery would result in such violation. The Company must provide the opinion to Nasdaq consistent with Nasdaq listing standards.

- Recovery Would Violate ERISA Anti-Alienation Provisions: If recovery would likely cause an otherwise tax-qualified plan, under which benefits are broadly available to employees of the Company, to fail to meet the anti-alienation provisions of the Employee Retirement Income Security Act of 1974, as amended, contained in 26 U.S.C. § 401(a)(13) or 26 U.S.C. § 411(a), and regulations promulgated thereunder.

Method of Recoupment

The Committee shall have the sole discretion and authority to determine the means, timing (which shall in all circumstances be reasonably prompt) and any other terms by which any recoupment required by this Policy shall occur and impose any other terms, conditions or procedures (*e.g.*, the imposition of interest charges on un-repaid amounts) to govern the current or former Executive Officer's repayment of Excess Incentive-Based Compensation. The means of recoupment may include, without limitation (a) seeking reimbursement of all or part of any cash or equity-based award, (b) cancelling prior cash or equity-based awards, whether vested or unvested or paid or unpaid, (c) cancelling or offsetting against any planned future cash or equity-based awards, (d) forfeiture of deferred compensation, subject to compliance with Section 409A of the Internal Revenue Code and the regulations promulgated thereunder, and (e) any other method permitted by applicable law or contract.

Other Policy Terms

Any applicable award agreement, plan or other document setting forth the terms and conditions of any Incentive-Based Compensation covered by this Policy shall be deemed to (a) incorporate this Policy by reference and (b) be governed by the terms of this Policy in the event of any inconsistency with the terms of the Incentive-Based Compensation. Acceptance of any Incentive-Based Compensation by an Executive Officer shall be deemed to include acceptance of this Policy.

Any recoupment under this Policy is in addition to, and not in lieu of, any other remedies or rights that may be available to the Company or its affiliates under applicable law, including, without limitation: (a) terminating the employment of an Executive Officer; (b) adjusting the future compensation of an Executive Officer; or (c) authorizing legal action or taking such other action to enforce an Executive Officer's obligations to the Company or its affiliates as it may deem appropriate in view of all of the facts and circumstances surrounding the particular case.

Incentive-Based Compensation and other compensation paid to employees of the Company and its affiliates may also be subject to other recoupment or similar policies, and this Policy does not supersede any such other policies. However, in the event of any conflict or duplication between any such policy and this Policy, this Policy shall govern and take precedence.

Executive Officers shall not be entitled to any indemnification by or from the Company or its affiliates with respect to any amounts subject to recoupment pursuant to this Policy.

This Policy is made, and actions taken hereunder shall be governed by and construed, in accordance with the laws of North Carolina, excluding any conflicts or choice of law rule or principle that might otherwise refer construction or interpretation of the Plan to the substantive law of another jurisdiction. Claims or disputes under this Policy are subject to the exclusive jurisdiction and venue of the federal or state courts of North Carolina.

Administration

The Board has delegated the administration of this Policy to the Committee. The Committee is responsible for monitoring the application of this Policy with respect to all Executive Officers. The Committee shall have the sole authority to review, interpret, construe, and implement the provisions of this Policy and to delegate to one or more Executive Officers and/or employees certain administrative and record-keeping responsibilities, as appropriate, with respect to the implementation of this Policy; provided, however, that no such action shall contravene the federal securities laws or Nasdaq rules. Any determinations of the Board or the Committee under this Policy shall be binding on the applicable individual.

The Board may amend, modify, or change this Policy, as well as any related rules and procedures, at any time and from time to time as it may determine, in its sole discretion, is necessary or appropriate.