

# AFC ENTERPRISES INC

## FORM 8-K

(Current report filing)

Filed 11/07/07 for the Period Ending 11/01/07

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| Address     | 5555 GLENRIDGE CONNECTOR, NE, SUITE 300<br>ATLANTA, GA 30342 |
| Telephone   | 4044594450   |
| CIK         | 0001041379   |
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| Sector      | Services   |
| Fiscal Year | 12/30  |

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

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**FORM 8-K**

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

**Date of Report (Date of earliest event reported):**  
November 1, 2007

**AFC Enterprises, Inc.**

(Exact name of registrant as specified in its charter)

Minnesota  
(State or other  
jurisdiction  
of incorporation)

000-32369  
(Commission  
File Number)

58-2016606  
(IRS Employer  
Identification Number)

5555 Glenridge Connector, NE, Suite 300,  
Atlanta, Georgia

(Address of principal executive offices)

30342

(Zip Code)

Registrant's telephone number, including area code: (404) 459-4450

Not applicable

(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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### **Item 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.**

On October 12, 2007, AFC Enterprises, Inc. (the “Company”) filed a Current Report on Form 8-K (the “October 12 Current Report”) relating to the appointment of Cheryl A. Bachelder as Chief Executive Officer of the Company and as President of the Company’s Popeyes<sup>®</sup> Chicken & Biscuits brand. On November 1, 2007, the Company, in connection with certain equity awards to Ms. Bachelder described in the October 12 Current Report, executed a Restricted Stock Grant Certificate, a Non-Qualified Stock Option Certificate relating to options with time-based vesting and a Non-Qualified Stock Option Certificate relating to options with performance-based vesting. The material terms of these awards are described in the October 12 Current Report, which descriptions are incorporated herein by reference. Copies of the certificates are attached to this Current Report on Form 8-K as exhibits 10.1, 10.2 and 10.3 and are incorporated herein by reference.

### **Item 9.01. Financial Statements and Exhibits.**

- (d) Exhibits.
    - 10.1 Restricted Stock Grant Certificate
    - 10.2 Non-Qualified Stock Option Certificate (time-based vesting)
    - 10.3 Non-Qualified Stock Option Certificate (performance-based vesting)
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### Signatures

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

AFC ENTERPRISES, INC.

Date: November 7, 2007

By: /s/ Harold M. Cohen  
Harold M. Cohen  
Senior Vice President, General Counsel and  
Corporate Secretary



**AFC ENTERPRISES, INC.  
2006 INCENTIVE STOCK PLAN  
RESTRICTED STOCK GRANT CERTIFICATE**

**GRANT**

This Certificate evidences the grant by AFC Enterprises, Inc. (the "Company"), in accordance with the AFC Enterprises, Inc. 2006 Incentive Stock Plan (the "Plan"), to Cheryl A. Bachelder ("Employee") of 30,000 shares of \$.01 par value common stock of the Company (the "Stock") subject to all of the terms and conditions set forth in the Plan and in this Certificate (the "Grant"). This Grant is made effective November 1, 2007 (the "Grant Date").

**AFC ENTERPRISES, INC.**

By: /s/ Frank J. Belatti

Title: Chairman

**TERMS AND CONDITIONS**

§ 1 Plan. This Grant is subject to all of the terms and conditions set forth in this Certificate and in the Plan (including, without limitation, the provisions of § 13 and § 14 of the Plan that (a) provide for adjustment upon a change in capitalization (including stock splits) of the Company or upon certain corporate transactions and (b) address a sale, merger or change in control of the Company). All capitalized terms not otherwise defined in this Certificate shall have the respective meaning of such terms as defined in the Plan. If a determination is made that any term or condition set forth in this Certificate is inconsistent with the Plan, the Plan shall control. A copy of the Plan will be made available to Employee at the Company's principal executive offices upon written request to the Secretary of the Company.

§ 2 Vesting.

(a) General Rule. Employee's interest in all of the shares of Stock subject to this Grant shall become fully vested and non-forfeitable if Employee remains an employee of the Company from the Grant Date through the first anniversary of the Grant Date and, subject to § 2(b), Employee shall forfeit her interest in all of the shares of Stock subject to this Grant if she fails to remain an Employee of the Company through the first anniversary of the Grant Date.

(b) Special Rules. This Grant has been made as provided in Section 5(a) of the Employment Agreement between Employee and the Company which was signed on October 9, 2007, and any acceleration in

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the time for this Grant to become fully vested and non-forfeitable shall be determined under the terms of such Employment Agreement.

§ 3 Stockholder Rights. Employee before her interest in the shares of Stock either vests and becomes non-forfeitable or is forfeited will have (a) the right to receive any ordinary cash dividends paid with respect to the shares of Stock subject to this Grant as soon as practicable after the date such ordinary cash dividend is paid with respect to all other shares of Stock, but in no event later than 2 <sup>1</sup>/<sub>2</sub> months after the calendar year in which the ordinary cash dividend is paid and (b) the right to vote such shares. If Employee forfeits any shares of Stock under § 2, Employee will at the same time forfeit her right to vote such shares of Stock and to receive future cash dividends paid with respect to such shares of Stock.

Any dividends or other distributions of property made with respect to shares of Stock (other than ordinary cash dividends) that remain subject to forfeiture under § 2 will be held by the Company, and Employee's rights to receive such dividends or other distributions property will vest and become non-forfeitable under § 2 at the same time as the shares of Stock with respect to which the dividends or other property are attributable.

Except for the right to receive ordinary cash dividends and vote the share of Stock as described in this § 3, Employee will have no rights as a stockholder with respect to any shares of Stock subject to this Grant until her interest in such shares become vested and non-forfeitable under § 2.

§ 4 Stock Issuance. The Company will cause issuance in book entry shares of Stock in the name of Employee upon Employee's execution of the irrevocable stock power in favor of the Company which is attached to this Certificate as Exhibit A. Such shares and any distributions made with respect to such shares (other than ordinary cash dividends) shall be held on behalf of the Company by its transfer agent until such time as Employee's interest in such shares of Stock has become vested and non-forfeitable or has been forfeited. If Employee's interest in the shares of Stock subject to this Grant become vested and non-forfeitable on any date, the Company will transfer to Employee or Employee's delegate such shares of Stock (together with any dividends or other distributions made with respect to the shares that have been held by the Company) promptly thereafter and, in any event, no later than 75 days after such date.

§ 5 Nontransferable. Except as expressly authorized by the Committee, no rights granted under this Certificate shall be transferable by Employee. Any attempt to sell, pledge, assign, hypothecate, transfer or otherwise dispose of this Grant in contravention of this Certificate and the Plan shall be null and void and shall have no effect. The person or persons, if any, to whom this Grant is transferred through a Committee authorization shall be treated the same as Employee's under this Certificate.

§ 6 No Right to Continue Service. Neither the Plan nor this Certificate shall give Employee the right to continue in employment by the Company or any Subsidiary

or shall adversely affect the right of the Company or any Subsidiary to terminate Employee's employment with or without cause at any time.

§ 7 Securities Registration . As a condition to the delivery of the certificate for the shares of Stock subject to this Grant, Employee shall, if so requested by the Company, hold such shares of Stock for investment and not with a view of resale or distribution to the public and, if so requested by the Company, shall deliver to the Company a written statement satisfactory to the Company to that effect. Federal and state securities laws may require the placement of certain restrictive legends upon the certificate(s) evidencing the Stock issued upon exercise of this Grant.

§ 8 Other Agreement . If so requested by the Committee, Employee shall (as a condition to the transfer of the Stock) enter into such additional shareholder, buy-sell or other agreement or agreements prepared by the Company as the Company deems appropriate, which may restrict the transfer of the shares of Stock and provide for the repurchase of such Stock by the Company under certain circumstances. The certificate(s) evidencing the Stock may include one or more legends that reference or describe the conditions upon transfer referenced in this § 8.

§ 9 Withholding . The Company shall have the right to satisfy the minimum statutory federal and state tax withholding requirements arising out of this Grant by withholding shares of Stock that otherwise would be transferred to Employee. In addition, the Company or any Parent, Subsidiary or Affiliate shall have the right to take such other action, if any, as the Company or any Parent, Subsidiary or Affiliate deems necessary or appropriate to satisfy the minimum statutory federal and state tax withholding requirements arising out of this Grant including (but not limited to) requiring Employee to make a cash payment to the Company or any Parent, Subsidiary or Affiliate to satisfy the minimum statutory withholding requirements.

§ 10 Governing Law . The Plan and this Grant shall be governed by the laws of the State of Georgia.

§ 11 Binding Effect . This Grant shall be binding upon the Company and Employee and their respective heirs, executors, administrators and successors.

§ 12 Headings and Sections . The headings contained in this Certificate are for reference purposes only and shall not affect in any way the meaning or interpretation of this Grant. Any references to sections in this Certificate shall be to sections (§) of this Certificate unless otherwise expressly stated as part of such reference.

**EXHIBIT A**

**IRREVOCABLE STOCK POWER**

For value received, as a condition to the issuance to the undersigned of the 30,000 shares of restricted common stock (the "Restricted Stock") of AFC ENTERPRISES, INC. (the "Company") subject to that certain Restricted Stock Grant Certificate dated as of November 1, 2007 (the "Certificate"), the undersigned hereby assigns and transfers to the Company, effective upon the occurrence of any forfeiture event described in the Certificate, any then-unvested shares of Restricted Stock for purposes of effecting any forfeiture called for under § 2 of the Certificate, and does hereby irrevocably give the Company the power (without any further action on the part of the undersigned) to transfer such shares of stock on the books of the Company to effect any such forfeiture. This irrevocable stock power shall expire automatically with respect to the shares of Restricted Stock subject to such Restricted Stock grant on the date such shares of Restricted Stock are no longer subject to forfeiture under § 2 of the Certificate or, if earlier, immediately after such a forfeiture has been effected with respect to such shares of Restricted Stock.

Signed by: /s/ Cheryl A. Bachelder

November 1, 2007

Date



**AFC ENTERPRISES, INC.  
2006 INCENTIVE STOCK PLAN  
NON-QUALIFIED STOCK OPTION CERTIFICATE**

**TIME VESTING GRANT**

This Option Certificate evidences the grant by AFC Enterprises, Inc. (the "Company"), in accordance with the AFC Enterprises, Inc. 2006 Incentive Stock Plan (the "Plan"), of a Non-Qualified Stock Option ("Option") to Cheryl A. Bachelder ("Employee") to purchase from the Company 200,000 shares of \$.01 par value common stock of the Company (the "Stock") at an Option Price of \$12.81 per share. This Option is granted effective November 1, 2007 (the "Grant Date"). The Company does not intend that this Option constitute an incentive stock option under Section 422 of the Code.

**AFC ENTERPRISES, INC.**

By: /s/ Frank J. Belatti

Title: Chairman

**TERMS AND CONDITIONS**

§ 1 Plan. This Option is subject to all of the terms and conditions set forth in this Option Certificate and in the Plan (including, without limitation, the provisions of § 13 and § 14 of the Plan that (a) provide for adjustment upon a change in capitalization (including stock splits) of the Company or upon certain corporate transactions and (b) address a sale, merger or change in control of the Company). All capitalized terms not otherwise defined in this Option Certificate shall have the respective meaning of such terms as defined in the Plan. If a determination is made that any term or condition set forth in this Option Certificate is inconsistent with the Plan, the Plan shall control. A copy of the Plan will be made available to Employee at the Company's principal executive offices upon written request to the Secretary of the Company.

§ 2 Exercise Rights.

(a) General Rule. Employee automatically shall have the vested right to exercise this Option with respect to:

- (1) Twenty-five percent (25%) of the number of shares of Stock underlying the grant of this Option (rounding down to the nearest whole share) if Employee remains an employee of the Company from the Grant Date through the first anniversary of the Grant Date,



- (2) An additional twenty-five percent (25%) of the number of shares of Stock underlying the grant of this Option (rounding down to the nearest whole share) on each of the second, third and fourth anniversaries of the Grant Date, if Employee remains an employee of the Company from the Grant Date through the respective anniversary of the Grant Date.

If rounding down to the nearest whole share results in a fractional share, the fractional share shall be carried forward and added to the number of shares which vest on the next anniversary of the Grant Date and, if a fractional share remains on the fourth anniversary of the Grant Date, Employee shall forfeit the right to exercise this Option with respect to such fractional share.

(b) Special Rules.

- (1) Employment Agreement. This Option has been granted as provided in Section 5(b) of the Employment Agreement between Employee and the Company which was signed on October 9, 2007 (the "Employment Agreement"), and any acceleration in Employee's right under § 2(a) to exercise this Option shall be determined under the terms of the Employment Agreement.
- (2) Termination. If Employee's employment with the Company terminates for any reason other than death, "Disability" (as defined in § 2(c)(3)) or "Cause" (as defined in § 2(c)(5)), Employee shall have the right to exercise this Option with respect to any portion of this Option with respect to which her exercise right has vested under this Certificate on or before the date her employment terminates during the 90 day period which starts on the date her employment so terminates (or during the 180 day period which starts on the date her employment so terminates if Employee dies within 30 days after her termination of employment) or the seventh anniversary of the Grant Date, whichever comes first (the "Standard Exercise Period"). At the end of such Standard Exercise Period, her right to exercise this Option shall expire immediately and automatically. To the extent Employee's right to exercise all or any portion of this Option has not vested under the terms of this Certificate on the date of Employee's termination of employment, this Option (or such portion of this Option) shall expire immediately and automatically upon such termination and shall have no further force of effect whatsoever.

- (3) Death or Disability. If Employee's employment with the Company terminates because Employee dies or has a "Disability", Employee or Employee's estate (whichever is applicable) shall have the right to exercise this Option with respect to any portion of this Option that has vested under the terms of this Certificate on the date of Employee's termination. In such event, Employee or Employee's estate (whichever is applicable), shall have the right to exercise the vested portion of this Option, if any, until the earlier of (A) 180 days after the date of Employee's termination or (B) the seventh anniversary of the Grant Date (the "Death or Disability Exercise Period"). At the end of such Death or Disability Exercise Period, this Option shall expire immediately and automatically. To the extent Employee's right to exercise all or any portion of this Option has not vested under the terms of this Certificate on the date of Employee's termination of employment, this Option (or such portion of this Option) shall expire immediately and automatically upon such termination and shall have no further force of effect whatsoever.
- (4) Termination for Cause. If the Company terminates Employee's employment as a result of "Cause", the Employee's right to exercise this Option shall expire immediately and automatically upon such termination and shall have no further force or effect whatsoever unless the Committee acting in its sole and absolute discretion grants Employee an extension of time to exercise this Option.
- (5) Cause. For purposes of this Option Certificate, "Cause" shall mean Cause as defined in the Employment Agreement.
- (6) Disability. For purposes of this Option Certificate, the term "Disability" shall mean Disability as defined in the Employment Agreement.

§ 3. Life of Option. This Option shall expire and shall not be exercisable for any reason on or after the seventh anniversary of the Grant Date.

§ 4. Method of Exercise of Option. Employee may exercise that portion of this Option that has vested under § 2 above (in whole or in part) for not less than 100 shares of Stock (or all of the shares of Stock for which this Option is then vested if less than 100), on any business day of the Company by (a) delivering written notice of the exercise of the Option to the Company at its principal corporate offices to the attention of the Company's Stock Manager or to the Company's designee at such other address designated by the Company, and (b) simultaneously paying to the Company the Option

Price and applicable taxes referenced in § 11 of this Option Certificate. The payment of such Option Price shall be made either by check acceptable to the Company, by delivery to the Company of certificates (properly endorsed) for shares of Stock registered in Employee's name that have been held by Employee for at least 6 months, or in any combination of check and Stock that results in payment in full of the Option Price. In addition, the Option Price and applicable taxes referenced in § 11 hereof may be paid through any broker-facilitated procedure that is acceptable to the Committee or its delegate and that is facilitated through a sale of Stock. Stock that is so tendered as payment (in whole or in part) of the Option Price shall be valued at its Fair Market Value on the date the Option is exercised.

§ 5 Stock Issuance. The Company shall register on the Company's books and issue in the name of Employee any Stock purchased pursuant to the exercise of this Option as soon as practicable after such exercise, and such registration and issuance shall discharge the Company of all of its duties and responsibilities with respect to that portion of this Option that is exercised.

§ 6 Nontransferable. Except as expressly authorized by the Committee, no rights granted under this Option shall be transferable by Employee other than by will or by the laws of descent and distribution, and the rights granted under this Option shall be exercisable during Employee's lifetime only by Employee. Any attempt to sell, pledge, assign, hypothecate, transfer or otherwise dispose of this Option in contravention of this Option Certificate and the Plan shall be null and void and shall have no effect. Employee's legal representative and the person or persons, if any, to whom this Option is transferred by will or by the laws of descent and distribution or through a Committee authorization shall be treated after Employee's death the same as Employee under this Option Certificate.

§ 7 No Right to Continue Service. Neither the Plan, this Option Certificate, nor any related material shall give Employee the right to continue in employment by the Company or any Subsidiary or shall adversely affect the right of the Company or any Subsidiary to terminate Employee's employment with or without Cause at any time, subject to the terms of any written employment agreement to which Employee and the Company are parties.

§ 8 Stockholder Status. Employee shall have no rights as a stockholder with respect to any shares of Stock under this Option until such shares have been registered on the Company's books and duly issued in the name of Employee. In addition, except as expressly set forth in the Plan, no adjustment shall be made for dividends of any kind or description whatsoever or for distributions of other rights of any kind or description whatsoever respecting such Stock.

§ 9 Securities Registration. As a condition to the delivery of the certificate for any shares of Stock purchased pursuant to the exercise of this Option, Employee shall, if so requested by the Company, hold such shares of Stock for investment and not with a view of resale or distribution to the public and, if so requested by the Company, shall

deliver to the Company a written statement satisfactory to the Company to that effect. Federal and state securities laws may require the placement of certain restrictive legends upon the certificate(s) evidencing the Stock issued upon exercise of this Option.

§ 10 Other Agreement. If so requested by the Committee, Employee shall (as a condition to the exercise of this Option) enter into such additional shareholder, buy-sell or other agreement or agreements prepared by the Company as the Company deems appropriate, which may restrict the transfer of shares of Stock acquired pursuant to this Option and provide for the repurchase of such Stock by the Company under certain circumstances. The certificate(s) evidencing the Stock may include one or more legends that reference or describe the conditions upon exercise referenced in this § 10.

§ 11 Withholding. Employee shall have the right to satisfy the minimum statutory federal and state tax withholding requirements arising out of the exercise of this Option by electing to have the Company withhold shares of Stock that otherwise would be transferred to Employee as a result of the exercise of this Option in an amount equal to the tax liabilities. In addition, the Company or any Parent, Subsidiary or Affiliate shall have the right upon the exercise of this Option to take such action, if any, as the Company or any Parent, Subsidiary or Affiliate deems necessary or appropriate to satisfy the minimum statutory federal and state tax withholding requirements arising out of the exercise of this Option including (but not limited to) requiring Employee to make a cash payment to the Company or any Parent, Subsidiary or Affiliate to satisfy the minimum statutory withholding requirements.

§ 12 Governing Law. The Plan and this Option shall be governed by the laws of the State of Georgia.

§ 13 Binding Effect. This Option shall be binding upon the Company and Employee and their respective heirs, executors, administrators and successors.

§ 14 Headings and Sections. The headings contained in this Option Certificate are for reference purposes only and shall not affect in any way the meaning or interpretation of this Option. Any references to sections in this Option Certificate shall be to sections (§) of this Option Certificate unless otherwise expressly stated as part of such reference.



**AFC ENTERPRISES, INC.**  
**2006 INCENTIVE STOCK PLAN**  
**NON-QUALIFIED STOCK OPTION CERTIFICATE**  
**STOCK PRICE PERFORMANCE GRANT**

This Option Certificate evidences the grant by AFC Enterprises, Inc. (the "Company"), in accordance with the AFC Enterprises, Inc. 2006 Incentive Stock Plan (the "Plan"), of a Non-Qualified Stock Option ("Option") to Cheryl A. Bachelder ("Employee") to purchase from the Company 200,000 shares of \$.01 par value common stock of the Company (the "Stock") at an Option Price of \$12.81 per share. This Option is granted effective November 1, 2007 (the "Grant Date"). The Company does not intend that this Option constitute an incentive stock option under Section 422 of the Code.

**AFC ENTERPRISES, INC.**

By: /s/ Frank J. Belatti

Title: Chairman

**TERMS AND CONDITIONS**

§ 1 Plan. This Option is subject to all of the terms and conditions set forth in this Option Certificate and in the Plan (including, without limitation, the provisions of § 13 and § 14 of the Plan that (a) provide for adjustment upon a change in capitalization (including stock splits) of the Company or upon certain corporate transactions and (b) address a sale, merger or change in control of the Company). All capitalized terms not otherwise defined in this Option Certificate shall have the respective meaning of such terms as defined in the Plan. If a determination is made that any term or condition set forth in this Option Certificate is inconsistent with the Plan, the Plan shall control. A copy of the Plan will be made available to Employee at the Company's principal executive offices upon written request to the Secretary of the Company.

§ 2 Exercise Rights.

- (a) General Rule. Subject to satisfying the Stock price performance criteria set forth § 2(b), Employee shall have the right to exercise this Option will vest with respect to:
- (1) Twenty-five percent (25%) of the number of shares of Stock underlying the grant of this Option (rounding down to the nearest whole share) if Employee remains an employee of the Company from the Grant Date through the first anniversary of the Grant Date,



- (2) An additional twenty-five percent (25%) of the number of shares of Stock underlying the grant of this Option (rounding down to the nearest whole share) on each of the second, third and fourth anniversaries of the Grant Date, if Employee remains an employee of the Company from the Grant Date through the respective anniversary of the Grant Date.

If rounding down to the nearest whole share results in a fractional share, the fractional share shall be carried forward and added to the number of shares which vest on the next anniversary of the Grant Date and, if a fractional share remains on the fourth anniversary of the Grant Date, Employee shall forfeit the right to exercise this Option with respect to such fractional share on such anniversary of the Grant Date.

(b) Stock Price Performance Criteria.

- (1) If at any time between the Grant Date and the fifth anniversary of the Grant Date the Stock price maintains an average of \$20.00 per share for twenty (20) consecutive trading days, Employee shall have the right (to the extent Employee's exercise right is then or thereafter vested under § 2(a)) to exercise this Option to purchase 66,668 of the shares of Stock subject to this Option. If the Stock price fails to maintain such average before the fifth anniversary of the Grant Date, Employee shall forfeit any right to exercise this Option with respect to such shares of Stock.
- (2) If at any time between the Grant Date and the fifth anniversary of the Grant Date the Stock price maintains an average of \$25.00 per share for twenty (20) consecutive trading days, Employee shall have the right (to the extent Employee's exercise right is then or thereafter vested under § 2(a)) to exercise this Option to purchase an additional 66,666 of the shares of Stock subject to this Option. If the Stock price fails to maintain such average before the fifth anniversary of the Grant Date, Employee shall forfeit any right to exercise this Option with respect to such shares of Stock.
- (3) If at any time between the Grant Date and the fifth anniversary of the Grant Date the Stock price maintains an average of \$30.00 per share for twenty (20) consecutive trading days, Employee shall have the right (to the extent Employee's exercise right is then or thereafter vested under § 2(a)) to exercise this Option to purchase an additional

66,666 of the shares of Stock subject to this Option. If the Stock price fails to maintain such average before the fifth anniversary of the Grant Date, Employee shall forfeit any right to exercise this Option with respect to such shares of Stock.

(c) Special Rules.

- (1) Employment Agreement. This Option has been granted as provided in Section 5(c) of the Employment Agreement between Employee and the Company which was signed on October 9, 2007 (the "Employment Agreement"), and any acceleration in Employee's right under § 2(a) to exercise this Option and any modification to the Stock price performance criteria set forth in § 2(b) shall be determined under the terms of the Employment Agreement.
- (2) Termination. If Employee's employment with the Company terminates for any reason other than death, "Disability" (as defined in § 2(c)(3)) or "Cause" (as defined in § 2(c)(5)), Employee shall have the right to exercise this Option with respect to any portion of this Option with respect to which her exercise right has vested under this Certificate on or before the date her employment terminates during the 90 day period which starts on the date her employment so terminates (or during the 180 day period which starts on the date her employment so terminates if Employee dies within 30 days after her termination of employment) or the seventh anniversary of the Grant Date, whichever comes first (the "Standard Exercise Period"). At the end of such Standard Exercise Period, her right to exercise this Option shall expire immediately and automatically. To the extent Employee's right to exercise all or any portion of this Option has not vested under the terms of this Certificate on the date of Employee's termination of employment, this Option (or such portion of this Option) shall expire immediately and automatically upon such termination and shall have no further force of effect whatsoever.
- (3) Death or Disability. If Employee's employment with the Company terminates because Employee dies or has a "Disability", Employee or Employee's estate (whichever is applicable) shall have the right to exercise this Option with respect to any portion of this Option that has vested under the terms of this Certificate on the date of Employee's termination. In such event, Employee or Employee's estate

(whichever is applicable), shall have the right to exercise the vested portion of this Option, if any, until the earlier of (A) 180 days after the date of Employee's termination or (B) the seventh anniversary of the Grant Date (the "Death or Disability Exercise Period"). At the end of such Death or Disability Exercise Period, this Option shall expire immediately and automatically. To the extent Employee's right to exercise all or any portion of this Option has not vested under the terms of this Certificate on the date of Employee's termination of employment, this Option (or such portion of this Option) shall expire immediately and automatically upon such termination and shall have no further force of effect whatsoever.

- (4) Termination for Cause. If the Company terminates Employee's employment as a result of "Cause", the Employee's right to exercise this Option shall expire immediately and automatically upon such termination and shall have no further force or effect whatsoever unless the Committee acting in its sole and absolute discretion grants Employee an extension of time to exercise this Option.
- (5) Cause. For purposes of this Option Certificate, "Cause" shall mean Cause as defined in the Employment Agreement.
- (6) Disability. For purposes of this Option Certificate, the term "Disability" shall mean Disability as defined in the Employment Agreement.

§ 3. Life of Option. This Option shall expire and shall not be exercisable for any reason on or after the seventh anniversary of the Grant Date.

§ 4. Method of Exercise of Option. Employee may exercise that portion of this Option that has vested under § 2 above (in whole or in part) for not less than 100 shares of Stock (or all of the shares of Stock for which this Option is then vested if less than 100), on any business day of the Company by (a) delivering written notice of the exercise of the Option to the Company at its principal corporate offices to the attention of the Company's Stock Manager or to the Company's designee at such other address designated by the Company, and (b) simultaneously paying to the Company the Option Price and applicable taxes referenced in § 11 of this Option Certificate. The payment of such Option Price shall be made either by check acceptable to the Company, by delivery to the Company of certificates (properly endorsed) for shares of Stock registered in Employee's name that have been held by Employee for at least 6 months, or in any combination of check and Stock that results in payment in full of the Option Price. In addition, the Option Price and applicable taxes referenced in § 11 hereof may be paid through any broker-facilitated procedure that is acceptable to the Committee or

its delegate and that is facilitated through a sale of Stock. Stock that is so tendered as payment (in whole or in part) of the Option Price shall be valued at its Fair Market Value on the date the Option is exercised.

§ 5 Stock Issuance. The Company shall register on the Company's books and issue in the name of Employee any Stock purchased pursuant to the exercise of this Option as soon as practicable after such exercise, and such registration and issuance shall discharge the Company of all of its duties and responsibilities with respect to that portion of this Option that is exercised.

§ 6 Nontransferable. Except as expressly authorized by the Committee, no rights granted under this Option shall be transferable by Employee other than by will or by the laws of descent and distribution, and the rights granted under this Option shall be exercisable during Employee's lifetime only by Employee. Any attempt to sell, pledge, assign, hypothecate, transfer or otherwise dispose of this Option in contravention of this Option Certificate and the Plan shall be null and void and shall have no effect. Employee's legal representative and the person or persons, if any, to whom this Option is transferred by will or by the laws of descent and distribution or through a Committee authorization shall be treated after Employee's death the same as Employee under this Option Certificate.

§ 7 No Right to Continue Service. Neither the Plan, this Option Certificate, nor any related material shall give Employee the right to continue in employment by the Company or any Subsidiary or shall adversely affect the right of the Company or any Subsidiary to terminate Employee's employment with or without Cause at any time, subject to the terms of any written employment agreement to which Employee and the Company are parties.

§ 8 Stockholder Status. Employee shall have no rights as a stockholder with respect to any shares of Stock under this Option until such shares have been registered on the Company's books and duly issued in the name of Employee. In addition, except as expressly set forth in the Plan, no adjustment shall be made for dividends of any kind or description whatsoever or for distributions of other rights of any kind or description whatsoever respecting such Stock.

§ 9 Securities Registration. As a condition to the delivery of the certificate for any shares of Stock purchased pursuant to the exercise of this Option, Employee shall, if so requested by the Company, hold such shares of Stock for investment and not with a view of resale or distribution to the public and, if so requested by the Company, shall deliver to the Company a written statement satisfactory to the Company to that effect. Federal and state securities laws may require the placement of certain restrictive legends upon the certificate(s) evidencing the Stock issued upon exercise of this Option.

§ 10 Other Agreement. If so requested by the Committee, Employee shall (as a condition to the exercise of this Option) enter into such additional shareholder, buy-

sell or other agreement or agreements prepared by the Company as the Company deems appropriate, which may restrict the transfer of shares of Stock acquired pursuant to this Option and provide for the repurchase of such Stock by the Company under certain circumstances. The certificate(s) evidencing the Stock may include one or more legends that reference or describe the conditions upon exercise referenced in this § 10.

§ 11 Withholding . Employee shall have the right to satisfy the minimum statutory federal and state tax withholding requirements arising out of the exercise of this Option by electing to have the Company withhold shares of Stock that otherwise would be transferred to Employee as a result of the exercise of this Option in an amount equal to the tax liabilities. In addition, the Company or any Parent, Subsidiary or Affiliate shall have the right upon the exercise of this Option to take such action, if any, as the Company or any Parent, Subsidiary or Affiliate deems necessary or appropriate to satisfy the minimum statutory federal and state tax withholding requirements arising out of the exercise of this Option including (but not limited to) requiring Employee to make a cash payment to the Company or any Parent, Subsidiary or Affiliate to satisfy the minimum statutory withholding requirements.

§ 12 Governing Law . The Plan and this Option shall be governed by the laws of the State of Georgia.

§ 13 Binding Effect . This Option shall be binding upon the Company and Employee and their respective heirs, executors, administrators and successors.

§ 14 Headings and Sections . The headings contained in this Option Certificate are for reference purposes only and shall not affect in any way the meaning or interpretation of this Option. Any references to sections in this Option Certificate shall be to sections (§) of this Option Certificate unless otherwise expressly stated as part of such reference.