

**CHARTER OF THE AUDIT COMMITTEE OF THE BOARD OF DIRECTORS  
DEERFIELD TRIARC CAPITAL CORP.  
(As Amended through January 25, 2005)**

The following shall constitute the Charter of the Audit Committee of the Board of Directors of Deerfield Triarc Capital Corp. (the “Company”):

**I. Purpose**

The primary purpose of the Audit Committee is to assist the Board of Directors in fulfilling its oversight responsibility relating to: (i) the integrity of the Company’s financial statements and financial reporting process, the Company’s systems of internal accounting and financial controls and other financial information provided by the Company; (ii) the performance of the internal audit services function; (iii) the annual independent audit of the Company’s financial statements, the engagement of the independent auditors and the evaluation of the independent auditors’ qualifications, independence and performance; (iv) the compliance by the Company with legal and regulatory requirements, including the Company’s disclosure controls and procedures; (v) the evaluation of risk assessment and risk management policies; and (vi) the fulfillment of the other responsibilities set out herein. The Audit Committee shall also prepare the report of the Audit Committee required by the Securities and Exchange Commission to be included in the Company’s annual proxy statement.

**II. Organization**

The Audit Committee shall be appointed by the Board of Directors and shall consist of three or more directors, as determined by the Board of Directors, each of whom shall satisfy the independence, financial literacy and experience requirements of Section 10A of the Securities Exchange Act and the rules thereunder, and upon listing of the Company’s common stock of the New York Stock Exchange (the “NYSE”), the requirements of the NYSE and any other applicable legal or regulatory requirements. At least one member of the Audit Committee shall be an “audit committee financial expert” as defined by the Securities and Exchange Commission and as determined by the Board of Directors in its business judgment. The Board of Directors shall also designate the Audit Committee Chairman. While there is no limit on the number of public company audit committees on which a director may serve, if a director serves on more than three, his or her service on this Audit Committee shall be subject to the Board of Directors’ determination that such simultaneous service on such other audit committees will not impair his or her ability to effectively serve on this Audit Committee. The Audit Committee may form and delegate authority to subcommittees comprised of one or more members of the Audit Committee. The Audit Committee may also delegate authority to the Chairman of the Audit Committee. No member of the Audit Committee may accept, either directly or indirectly, consulting, advisory or other compensatory fees from the Company or any of its subsidiaries, other than the Company’s or its subsidiaries’ standard directors’ fees (including, additional amounts, if any, that may be paid for serving on the Audit Committee or other committees of the Board of Directors).

### **III. Meetings**

The Audit Committee shall meet as circumstances require. A quorum at any Audit Committee meeting shall be at least a majority of the members. The Audit Committee may require any officer or employee of the Company or its subsidiaries, the Company's outside auditors, the Company's outside counsel, the Company's internal audit service providers or others to attend meetings of the Audit Committee or to meet with any members of, or consultants to, the Audit Committee, and to provide pertinent information as necessary. As part of its job to foster open communication, the Audit Committee shall meet periodically with management, the internal audit service provider and the independent auditors in separate executive sessions to discuss any matters that the Audit Committee or any of these groups believe should be discussed privately.

### **IV. Authority and Responsibilities**

In recognition of the fact that the independent auditors are ultimately accountable to the Audit Committee, the Audit Committee shall have the sole authority and responsibility to select, evaluate and, where appropriate, replace the independent auditors (or to recommend or nominate the independent auditors for stockholder approval), and shall approve all audit engagement fees and terms and all non-audit engagements with the independent auditors. The Audit Committee shall consult with management and the internal audit service provider, but shall not delegate these responsibilities.

To fulfill its responsibilities, the Audit Committee shall:

#### **With respect to the independent auditors:**

1. Be directly responsible for the appointment, compensation, retention (and termination) and oversight of the work of the independent auditors (including resolution of disagreements between management and the independent auditors regarding financial reporting) for the purpose of preparing or issuing an audit report or performing other audit, review, attest services or tax services for the Company, and such independent auditors must report directly to the Audit Committee.
2. Have the sole authority to review in advance, and grant any appropriate pre-approvals, of (a) all auditing services to be provided by the independent auditors and (b) all non-audit services to be provided by the independent auditors as permitted by Section 10A of the Securities Exchange Act, and, in connection therewith, to approve all fees and other terms of engagement, all as required by applicable law or the NYSE listing standards. The Audit Committee shall approve guidelines for the retention of the independent auditors for any non-audit service and the fee for such service and shall determine policies and procedures for the approval of audit and non-audit services in advance. The Audit Committee shall also review and approve disclosures required to be included in Securities and Exchange Commission periodic reports filed under Section 13(a) of the Securities Exchange Act with respect to audit, audit related and non-audit

services. The Audit Committee shall consult with management but shall not delegate these responsibilities.

3. Review on an annual basis (a) the performance of the independent auditors, including the lead audit partner and (b) the experience and qualifications of the senior members of the independent auditors' team assigned to the Company and its subsidiaries. At least annually, obtain and review a report from the independent auditors describing (a) the independent auditors' internal quality control procedures and (b) any material issues raised by the most recent internal quality control review, or peer review, of the independent auditors, or by any inquiry or investigation by governmental or professional authorities, within the preceding five years, respecting one or more independent audits carried out by the independent auditors, and any steps taken to deal with any such issues.
4. Request and ensure that the independent auditors submit to the Audit Committee on an annual basis a written statement consistent with Independent Standards Board Standard No. 1 delineating all relationships between the independent auditors and the Company, discuss with the independent auditors any disclosed relationships or services that may impact the objectivity and independence of the independent auditors and satisfy itself that the provision of services by the independent auditors not related to the audit of the Company's annual financial statements and the review of the Company's interim financial statements included in the Company's Form 10-Q for such year is compatible with maintaining the outside auditors' independence.
5. Confirm, on an annual basis, that each of the lead audit partner, the audit partner responsible for reviewing the audit and all other audit partners have been and will be rotated in accordance with the requirements of the Securities Exchange Act and the rules promulgated thereunder. In addition, the Audit Committee should consider, on an annual basis, whether there should be regular rotation of the independent auditors.
6. Review all reports required to be submitted by the independent auditors to the Audit Committee under Section 10A of the Securities Exchange Act.
7. Review, based upon the recommendation of the independent auditors, the scope and plan of the work to be done by the independent auditors, including any special audit steps adopted in light of any material control deficiencies.

**With respect to the annual financial statements:**

8. Review and discuss with management, the internal audit service provider and the independent auditors the Company's annual audited financial statements, including specific disclosures made in "Management's Discussion and Analysis of Financial Condition and Results of Operations." This review shall include a discussion of major issues regarding accounting principles and financial statement presentations, including a review of any analyses prepared by management and/or

the independent auditors setting forth significant financial reporting issues and judgments made in connection with the preparation of the financial statements, including analyses of the effects of alternative GAAP methods on the Company's financial statements. The review shall also include a discussion of the independent auditors' judgments about the quality and appropriateness of the Company's accounting principles and financial disclosure practices, as applied in its financial reporting, including, without limitation, a review of critical accounting policies, estimates, reserves and accruals, judgmental areas, audit adjustments, whether or not recorded, any significant changes in the Company's selection or application of accounting principles, the effects of significant policies in controversial or emerging areas for which there is a lack of authoritative guidance, all material off-balance sheet transactions, arrangements, obligations (including contingent obligations) and other relationships of the Company with unconsolidated entities or other persons, that may have a material current or future effect on financial condition, changes in financial condition, results of operations, liquidity, capital resources, capital reserves or significant components of revenues or expenses, and such other inquiries as may be appropriate. Based on this review, the Audit Committee shall make its recommendation to the Board of Directors as to the inclusion of the Company's audited financial statements in the Company's Annual Report on Form 10-K for filing with the Securities and Exchange Commission.

9. Discuss with the independent auditors the matters required to be discussed by Statement on Auditing Standards No. 61, as amended, relating to the conduct of the audit and any other material written communications between the independent auditor and management, including but not limited to, the management representation letter and schedule of adjusted differences and a listing of adjustments and reclassifications not recorded, if any.
10. Prepare the report required by the Securities and Exchange Commission to be included in the Company's annual proxy statement and any other reports of the Audit Committee that may be required by applicable securities laws or the NYSE listing requirements or rules.
11. Discuss with the independent auditors and internal audit provider whether they are aware of any action by an officer, director, or person acting under their direction which would violate Rule 13b2-2(b)(1) under the Securities Exchange Act of 1934 which prohibits improper influence on the conduct of audits.

**With respect to quarterly financial statements:**

12. Review and discuss with management, the internal audit service provider and the independent auditors the Company's quarterly financial statements, including specific disclosures made in "Management's Discussion and Analysis of Financial Condition and Results of Operations," and the independent auditors' review of the quarterly financial statements (including a review of the matters included in paragraph 8 above), prior to submission to stockholders, any governmental body,

the NYSE or the public. The Chairman of the Audit Committee or any subcommittee of the Audit Committee may represent the entire Audit Committee for the purpose of this review.

13. Discuss with the independent auditors the matters required to be discussed by Statement on Auditing Standards No. 61, as amended, relating to the conduct of their review.

**Periodic reviews:**

14. Periodically review separately with each of management, the independent auditors and the internal audit service provider (a) any significant disagreement between management and the independent auditors or the internal audit service provider in connection with the preparation of the financial statements, (b) any difficulties encountered during the course of the audit, including any restrictions on the scope of work or access to required information and (c) management's response to each.
15. Periodically discuss with the independent auditors, without management being present, (a) their judgments about the quality and appropriateness of the Company's accounting principles and financial disclosure practices as applied in its financial reporting and (b) the completeness and accuracy of the Company's financial statements.
16. Consider and approve, if appropriate, significant changes to the Company's accounting principles and financial disclosure practices as suggested by management. Review with the independent auditors, management and the internal audit service provider, at appropriate intervals, the extent to which any changes or improvements in accounting or financial practices, as approved by the Audit Committee, have been implemented.
17. Review and discuss with management, the internal audit service provider, the independent auditors and the Company's in-house and independent counsel, as appropriate, any legal, accounting, regulatory or compliance matters that could have a significant impact on the Company's financial statements, including the effect of any new or proposed regulatory or accounting initiatives, statements or rules, as well as off-balance sheet structures, on the Company's financial statements and other public disclosures.

**Discussions with management:**

18. Review and discuss with management the Company's earnings press releases, including the use, if any, of "pro forma" or "adjusted" non-GAAP financial measures (as defined in Regulation G), as well as any financial information and earnings guidance that may be provided to analysts and rating agencies. Such discussions may be done generally (i.e., discussion of the types of information to be disclosed and the types of presentations to be made).

**With respect to the internal audit function and internal controls:**

19. Review, based upon the recommendation of the internal audit service provider, the scope and plan of the work to be done by the internal audit service provider and the responsibilities, budget and staffing needs of the internal audit service provider. In this connection, the Audit Committee shall discuss with management, the internal audit service providers and the independent auditors, the Company's major risk exposures (whether financial, operating, or otherwise), the adequacy and effectiveness of the accounting and financial controls, and the steps management has taken to monitor and control such exposures, including the Company's risk assessment and risk management policies and the guidelines and policies to govern the processes by which risk assessment and risk management are undertaken.
20. Review and approve the appointment and replacement of the Company's internal audit service provider and the fees to be paid to the internal audit service provider.
21. Review periodically the performance of the internal audit service provider.
22. In consultation with the independent auditors and the internal audit service provider, review the adequacy of the Company's internal control structure and procedures.
23. Establish procedures for (a) the receipt, retention and treatment of complaints received by the Company regarding accounting, internal accounting controls or auditing matters and (b) the confidential, anonymous submission by employees of the Company of concerns regarding the questionable accounting or auditing matters.
24. Review (i) the internal control report prepared by management, including management's assessment of the effectiveness of the Company's internal control structure and procedures for financial reporting and (ii) the independent auditors' attestation, and report, on the assessment made by management. Management and the internal audit service providers shall report periodically to the Audit Committee regarding any significant deficiencies and material weaknesses in the design or operation of the Company's internal control over financial reporting which are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information; and any fraud (whether or not material) involving management or other employees having a significant role in internal control over financial reporting, as well as any change in internal control over financial reporting that occurred during the Company's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting.

**Other:**

25. Review and approve related-party and conflict of interest transactions, using appropriate specialists and counsel as necessary.

26. Review and approve (a) any change or waiver in the Company's code of business conduct and ethics with respect to executive officers, including the chief executive officer, the president and chief operating officer, the general counsel and senior financial officers (including the chief financial officer and chief accounting officer) and (b) any public disclosure made regarding such change or waiver.
27. Establish and review and approve a policy addressing the Company's hiring of employees or former employees of the independent auditors.
28. Review and reassess the adequacy of this Charter (including, upon listing of the Company's common stock on the NYSE, with respect to compliance with the listing requirements of the NYSE) annually and recommend to the Board of Directors any changes deemed appropriate by the Audit Committee.
29. Review its own performance annually to the extent required by applicable laws, regulations, or the NYSE requirements.
30. Report regularly to the full Board of Directors and review with the full Board of Directors any issues that have arisen with respect to the quality or integrity of the Company's financial statements, the Company's compliance with legal or regulatory requirements, the performance and independence of the Company's independent auditors or the performance of the internal audit service provider.
31. Perform any other activities consistent with this Charter, the Company's by-laws and governing law, as the Audit Committee or the Board of Directors deems necessary or appropriate. The Audit Committee shall also carry out such other duties that may be delegated to it by the Board of Directors from time to time.

## **V. Resources**

The Audit Committee shall have the authority (i) to investigate any matter brought to its attention with full access to all books, records, facilities, and personnel of the Company and (ii) to retain, at the Company's expense, independent legal, accounting and other consultants to advise the Audit Committee as it deems necessary. The Company shall provide such funding as is determined by the Audit Committee to be necessary for payment of compensation to the independent auditors for the purpose of rendering or issuing an annual audit report or performing other audit, review, or attest services for the Company, and to any independent legal, accounting and other consultants retained to advise the Audit Committee. The members of the Audit Committee shall be reimbursed for ordinary administrative expenses necessary or appropriate in carrying out their duties.

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While the Audit Committee has the responsibilities and powers set forth in this Charter, the Company's management is responsible for preparing the Company's financial statements and the Company's independent auditors are responsible for

performing an independent audit of such financial statements in accordance with generally accepted auditing standards and for issuing a report thereon. The Audit Committee is responsible for overseeing the conduct of these activities and is not expected to audit the Company, to define the scope of the audit, to control the Company's accounting practices or to define the standards to be used in the preparation of the Company's financial statements. Nor is it the duty of the Audit Committee to conduct investigations or to assure compliance with laws and regulations or the Company's Code of Conduct. The Audit Committee may rely, without independent verification, on the information provided to it and on the representations made by management that the financial statements have been prepared in conformity with generally accepted accounting principles and the corresponding reports of the independent auditors prepared in connection with their reviews and audits. Consequently, in carrying out its responsibilities, the Audit Committee is not determining that the Company's financial statements are complete and accurate and are in accordance with generally accepted accounting principles, nor is the Audit Committee providing any expert or special assurance as to the Company's financial statements or any professional certification as to the independent auditors' work.