
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of
the Securities Exchange Act of 1934

Date of Report: February 28, 2006
(Date of earliest event reported)

NATHAN'S FAMOUS, INC.

(Exact Name of Registrant as Specified in its Charter)

Delaware
(State of Incorporation)

1-3189
(Commission File Number)

11-3166443
(I.R.S. Employer Identification No.)

1400 Old Country Road, Westbury, New York
(Address of Principal Executive Offices)

11590
(Zip Code)

Registrant's telephone number including area code

(516) 338-8500

N/A

(Former name or former address, if changed since last report.)

Item 8.01. Other Events.

On February 28, 2006, PAT Franchise Systems, Inc. (“PFSI”) and NF Treachers Corp. (“NFTC”), a wholly-owned subsidiary of the Registrant, entered into an Asset Purchase Agreement pursuant to which NFTC purchased and PFSI sold all of the intellectual property that is associated with the “Arthur Treacher’s” brand, concept and franchise system, worldwide, including but not limited to the “Arthur Treacher’s” name, trademarks, service marks, copyrights, patents, trade secrets and all other intellectual property whatsoever associated with the “Arthur Treacher’s” fish and chips concept (the “Acquired Assets”).

Pursuant to, and simultaneously with the closing of, the Asset Purchase Agreement, NFTC entered into a license agreement pursuant to which NFTC licensed to PFSI the right to use the Acquired Assets in certain limited geographic regions.

A copy of the Asset Purchase Agreement is attached as exhibit 99.1 hereto and a copy of the License Agreement is attached as exhibit 99.2 hereto.

Item 9.01. Financial Statements and Exhibits.

<u>Exhibit</u>	<u>Description</u>
99.1	Asset Purchase Agreement dated as of February 28, 2006 between PAT Franchise Systems, Inc. and NF Treachers Corp.
99.2	License Agreement dated as of February 28, 2006 between PAT Franchise Systems, Inc. and NF Treachers Corp.

SIGNATURE

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.

NATHAN'S FAMOUS, INC.

Date: March 2, 2006

By: /s/ RONALD DEVOS

Name: Ronald DeVos
Title: Vice-President Finance and Chief Financial Officer
(Principal Financial and Accounting Officer)

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (the "Agreement") is made this 28th day of February 2006, by and among NF Treachers Corp., a Delaware corporation ("NFTC"), and PAT Franchise Systems, Inc., a Delaware corporation ("PFSI"). TruFoods Systems, Inc., the 100% stockholder of PFSI ("Parent"), is an additional party hereto for the purposes indicated herein.

R E C I T A L S:

WHEREAS, PFSI owns all worldwide right, title and interest in and to the trademarks, proprietary formulas, recipes, processes and other intellectual property related to the "Arthur Treacher's" brand, products and restaurant system; and

WHEREAS, NFTC wishes to acquire, and PFSI is prepared to sell, all right, title and interest in the intellectual property related to the "Arthur Treacher's" brand, products and restaurant system as more fully described, and upon the terms and conditions set forth, in this Agreement.

NOW, THEREFORE, in consideration of the Recitals and the mutual covenants, conditions and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed as follows:

ARTICLE I**PURCHASE OF ASSETS****1.1 Purchase.**

(a) At the Closing on the Closing Date, and upon all of the terms and subject to all of the conditions of this Agreement, PFSI shall sell, assign, convey, transfer and deliver to NFTC, on an exclusive, perpetual and irrevocable basis, all worldwide rights, titles and interests, legal and equitable, in and to:

- (i) all names, logos, trademarks and service marks relating to the "Arthur Treacher's" brand, products and/or restaurant system (the "AT Trademarks");
 - (ii) all proprietary formulas, recipes, systems, manufacturing and cooking procedures and processes, vendor agreements, equipment and fixture specifications, lists of equipment and fixture suppliers, operating manuals, marketing manuals, prototype plans and all other proprietary information relating to the "Arthur Treacher's" brand, products and/or restaurant system (the "Proprietary AT Information"); and
 - (iii) any and all other intellectual property (including, without limitation, trade secrets, domain names, websites, copyrights, etc.) relating to the "Arthur Treacher's" brand, products and/or restaurant system (the "Other AT Intellectual Property").
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The AT Trademarks, the Proprietary AT Information and the Other AT Intellectual Property are collectively referred to herein as the “Arthur Treacher’s System” and shall comprise the “Purchased Assets.” The assignment of the Arthur Treacher’s System to NFTC shall be made free and clear of any and all liabilities, obligations, claims, liens, levies, security interests, pledges and/or other encumbrances against and/or in any way relating to and/or otherwise affecting the Arthur Treacher’s System and/or any element thereof (collectively, the “Liabilities”), all of which Liabilities shall be satisfied by, retained by, and/or shall remain the sole responsibility of, PFSI. The Purchased Assets hereunder specifically exclude the Franchise Agreements in effect as of the date of the Closing and PFSI’s rights and obligations thereunder.

1.2 Consideration. At the Closing on the Closing Date, NFTC shall pay to PFSI, by wire transfer of immediately available U.S. funds to such account as shall be designated by PFSI to NFTC in writing at least three (3) days prior to the Closing Date, an amount equal to One Million Two Hundred Fifty Thousand Dollars (\$1,250,000), which amount shall be reduced by any amounts required to be paid by PFSI to satisfy the Liabilities. Prior to the Closing Date, PFSI will provide NFTC with a schedule outlining the uses of the proceeds to satisfy, and receive complete releases of, the Liabilities.

1.3 Closing Date Deliveries. At the Closing on the Closing Date:

(a) PFSI shall deliver or cause to be delivered, to NFTC, properly executed and dated as of the Closing Date:

(i) the Bill of Sale and Assignment;

(ii) the Trademark Assignment;

(iii) the License Agreement

(iv) PFSI’s Closing Certificate;

(v) PFSI’s Performance Certificate;

(vi) PFSI’s Fair Value Certificate

(vii) documentation, in a form reasonably satisfactory to NFTC in its sole discretion, executed by the applicable third parties indicating either: (A) that each Liability has been completely and finally satisfied; or (B) with respect to any Liability that has not been completely and finally satisfied, the applicable third party’s agreement to irrevocably release and forgo any claim against the Arthur Treacher’s System (and/or any element thereof) and NFTC;

(viii) PFSI’s Opinion of Counsel; and

(ix) such other documents as provided in Article VI of this Agreement or as NFTC shall reasonably request.

(b) In addition to the payments described in Section 1.2, NFTC shall deliver, or cause to be delivered, to PFSI, properly executed and dated as of the Closing Date:

(i) the Bill of Sale and Assignment;

(ii) the Trademark Assignment;

(iii) the License Agreement

(iv) NFTC Closing Certificate;

(v) NFTC Performance Certificate; and

(vi) such other documents as provided in Article VII hereof or as PFSI shall reasonably request.

1.4 Non-Assumption of Liabilities. NFTC does not and shall not assume or become obligated to pay any of the Liabilities or any other debt, obligation or liability of any kind or nature of PFSI or the Arthur Treacher's System, whether or not incurred or accrued in connection with the operation of the Arthur Treacher's System.

1.5 Taxes.

(a) All federal, state, and local transfer and sales and use taxes applicable to, imposed upon or arising out of the transfer to NFTC of the Purchased Assets as contemplated by this Agreement shall be paid by PFSI.

(b) The parties agree that in the event that the purchase of the Purchased Assets is an "applicable asset acquisition" governed by Section 1060 of the Code, NFTC and PFSI agree to complete IRS Form 8594 consistently with this Agreement, and, if requested by the other, to furnish the other with a copy of such Form prepared in draft form no less than 45 days prior to the filing due date of such Form.

1.6 Risk of Loss. The risk of all Events of Loss prior to the Closing shall be upon PFSI and the risk of all Events of Loss at or subsequent to the Closing shall be upon NFTC.

1.7 Special Provision Related to Vendors to Arthur Treacher's System. As a condition to Closing: (a) NFTC shall have entered into agreements with those vendors identified on Schedule 1.7 to purchase supplies for the Arthur Treacher's System on terms and conditions no less favorable to Purchaser than the terms and conditions applicable to purchases from such vendors by PFSI under its current contracts with such vendors; and (b) NFTC shall be entitled to receive under its agreements with vendors mutually-agreed upon rebates and/or marketing payments in amounts as set forth in Section 4.3 of the License Agreement.

1.8 Termination or Assignment of Certain Existing Agreements. Simultaneously with the Closing, the letter agreement dated January 1, 2003, as amended February 4, 2003, by and among PAT, Nathan's Famous Systems, Inc., Miami Subs USA, Inc., and NF Roasters Corp. (the "**Co-Branding Agreement**") is and shall be terminated, and the parties shall have no further rights and/or obligations thereunder. It is acknowledged that during the term of the Co-Branding Agreement, PAT and NFTC Franchisor Affiliates (defined below) established certain co-branded "*Arthur Treacher's*" concepts within host "*Nathan's Famous*" and "*Miami Subs*" company-owned and franchised restaurants (those remaining in operation as of the Closing Date are referred to herein as "**Existing Co-Branded Units**" and are identified on Schedule 1.8). Accordingly, all existing co-branding participation agreements by and among PFSI, the NFTC Franchisor Affiliates and franchisees of the NFTC Franchisor Affiliates (the "**Participation Agreements**") shall be revised as follows:

(a) From and after the Closing Date, PFSI shall have no further entitlement to receive any fees, royalties, or other compensation under any of the Participation Agreements;

(b) From and after the Closing Date, PFSI shall no longer have any rights whatsoever under any Participation Agreement or any other agreement entered into with a franchisee of NFTC's affiliates (except with respect to a Franchise Agreement with such Person for a stand-alone Arthur Treacher's restaurant, without a *Nathan's Famous*, *Kenny Rogers Roasters*, or *Miami Subs* operation);

(c) On the Closing Date, PFSI will assign all of its rights under the Participation Agreements for the Existing Co-Branded Units to NFTC, and PFSI agrees that it shall sign such documents as NFTC may deem necessary to implement this provision, including but not limited to any notices to franchisees party to such Participation Agreements.; and

1.9 Limited License of Arthur Treacher's System to PFSI. Simultaneously with the Closing, NFTC will license the Arthur Treacher's System back to PFSI for the sole purpose of PFSI conducting business as the franchisor of the Arthur Treacher's System in the geographic region and on the terms and conditions as set forth in the License Agreement attached hereto as Exhibit A.

ARTICLE II

REPRESENTATIONS AND WARRANTIES OF PFSI

PFSI and Parent jointly and severally represent and warrant to NFTC the following:

2.1 Organization. PFSI is a corporation duly organized and validly existing under the laws of the State of Delaware and is in good standing under such laws. PFSI has the power to own, license and operate the Arthur Treacher's System and to conduct the business related thereto as it is now being conducted. PFSI is duly qualified and licensed and in good standing as a foreign corporation in each jurisdiction set forth on Schedule 2.1, constituting each jurisdiction in which such qualification is required, except where the failure to be so qualified would not reasonably be expected to have a Material Adverse Effect on the Purchased Assets, Copies of the articles of incorporation and bylaws of PFSI, as amended and currently in force, have been delivered to NFTC, and are true, complete and correct as of the date hereof.

2.2 Authorization; Enforceability. The execution, delivery and performance of this Agreement and all of the documents and instruments delivered in connection herewith by PFSI and the consummation by PFSI of the transactions contemplated hereby and thereby are within the corporate power of PFSI and have been duly authorized by all necessary corporate action by PFSI and Parent. This Agreement is, and the other documents and instruments required hereby will be, when executed and delivered by PFSI, the valid and binding obligations of PFSI, enforceable against PFSI in accordance with their respective terms subject only to bankruptcy, insolvency, reorganization, moratorium or similar laws at the time in effect affecting the enforceability or right of creditors generally and by general equitable principles which may limit the right to obtain equitable remedies.

2.3 Absence of Conflicting Agreements. Except as set forth on Schedule 2.3, the execution, delivery and performance of this Agreement in accordance with its terms by PFSI, and the consummation of the sale of the Purchased Assets as contemplated by this Agreement does not, and will not, after the giving of notice, or the lapse of time or both, or otherwise:

(a) conflict with, result in a breach of, or constitute a default under, the articles of incorporation, bylaws or other organizational documents of PFSI, or any federal, state or local law, statute, ordinance, rule or regulation, or any court or administrative order or process or any Contract to which PFSI or Parent is a party or by which any of the Purchased Assets are bound or which relates to the ownership or operation of the Arthur Treacher's System;

(b) result in the creation of any Lien upon any of the Purchased Assets;

(c) require the consent, waiver, approval, permit, license, clearance or authorization of, or any declaration or filing with, any court or public agency or other authority; or

(d) require the consent of any Person under any agreement, arrangement or commitment of any nature to which PFSI or Parent is a party or the Purchased Assets are subject or by which PFSI, Parent or the Purchased Assets are bound.

2.4 Purchased Assets. The Purchased Assets include all of the assets, properties and rights of every type and description, tangible and intangible, that comprise the Arthur Treacher's System and will enable NFTC to operate the Arthur Treacher's System in the manner in which it has been and is now operated by PFSI.

2.5 Title to Purchased Assets; Liens and Encumbrances. Except as set forth on Schedule 2.5, PFSI owns good and marketable title to, or has a valid and enforceable license or leasehold interest in, all of the Purchased Assets free and clear of any and all Liabilities and Liens.

2.6 Contracts. Schedule 2.6 lists all Contracts of PFSI that are part of, or related to, the Arthur Treacher's System. Except as set forth on Schedule 2.6:

(a) PFSI has performed in all material respects each term, covenant and condition of each of the Contracts to which it is a party required to be listed on Schedule 2.6, and no material default on the part of PFSI or, to the Knowledge of PFSI or Parent, any other party thereto, or any event which with the passing of time or giving of notice would constitute a default on the part of PFSI or, to the Knowledge of PFSI or Parent, any other party thereto, exists under any of the Contracts required to be listed on Schedule 2.6;

(b) Schedule 2.6 lists all Contracts (i) pursuant to which PFSI has licensed the Arthur Treacher's System to, or the use of the Arthur Treacher's System is otherwise permitted (through non-assertion, settlement or similar agreements or otherwise) with respect to, any Person, and (ii) which are necessary to the operation of the Arthur Treacher's System;

(c) each of the Contracts required to be listed on Schedule 2.6 is in full force and effect and constitutes the legal and binding obligation of PFSI and, to the Knowledge of PFSI and Parent, the other parties thereto, in accordance with its terms;

(d) PFSI has furnished true and complete copies of all Contracts listed on Schedule 2.6, including all amendments, modifications and supplements thereto, and Schedule 2.6 contains accurate summaries of all oral contracts;

(e) except as set forth on Schedule 2.6, the transfer of the Arthur Treacher's System pursuant to this Agreement may be consummated without the consent, approval or waiver of any other Person, and none of the Contracts will be breached by the consummation of the transactions contemplated hereunder; and

(f) with the exception of the Contract identified in Section 1.7, none of the Contracts is necessary to the continued operation of the Arthur Treacher's System as conveyed to NFTC pursuant to this Agreement.

2.7 Intellectual Property; Trade Secrets.

(a) Items of Intellectual Property. Schedule 2.7(a) contains an accurate and complete list of the items of Intellectual Property that comprise the Arthur Treacher's System (including individual lists of the AT Trademarks, the Proprietary AT Information, and the Other AT Intellectual Property). Schedule 2.7(a) also identifies any third-party intellectual property which is used as part of the Arthur Treacher's System, and the agreements pursuant to which such third party intellectual property is used. If there is any omission from Schedule 2.7(a), whether intentional or inadvertent, said omission shall neither limit nor amend the transfer of the Arthur Treacher's System to NFTC.

(b) Ownership and Right to Use. PFSI either owns exclusively or has valid licenses to use all Intellectual Property which comprises the Arthur Treacher's System. There are no facts or circumstances that would render the Intellectual Property which comprises the Arthur Treacher's System or rights in or to such Intellectual Property invalid or unenforceable.

(c) Registered Intellectual Property. Except as set forth on Schedule 2.7(c), there is no Registered Intellectual Property which is part of the Arthur Treacher's System.

(i) The Registered Intellectual Property remains valid and subsisting, in good standing, with all application fees, and other amounts due as of the Closing Date duly paid, and, except as set forth on Schedule 2.7(c), all necessary documents in connection with the Registered Intellectual Property have been filed, in a timely manner. Except as set forth on Schedule 2.7(c), all of PFSI's rights in and to the Registered Intellectual Property are enforceable. PFSI has made available to Purchaser correct and complete copies of written documentation evidencing ownership and prosecution (if applicable) of each item of Registered Intellectual Property.

(ii) All registrations, applications and related documents with respect to Registered Intellectual Property are in good standing, and no actions for reissuance, reexamination or opposition are pending or, to PFSI's or Parent's Knowledge, threatened with respect to any issued registrations or pending applications. Neither PFSI nor Parent has received any notice of any pending actions or opposition with respect to the Registered Intellectual Property. Schedule 2.7(c) contains a complete and accurate list of all actions that must be taken within 90 days following the Closing Date relating to the payment of any Taxes, fees or other amounts, or the filing of any documents necessary or appropriate to maintain, perfect or renew any Registered Intellectual Property with the appropriate official office (e.g., patent or trademark office, or the appropriate governmental or regulatory agency).

(d) No Violations of Rights. The creation, use, license, operation and/or other exploitation of the Arthur Treacher's System does not infringe upon or misappropriate the Intellectual Property or other rights of any party, and, to PFSI's or Parent's Knowledge, there is no basis for such a claim to be made. No party has, to PFSI's or Parent's Knowledge, infringed, misappropriated or otherwise used without authorization any parts of the Arthur Treacher's System. Immediately after the Closing, NFTC shall have the sole right to bring actions for infringement or misappropriation regarding the Arthur Treacher's System, and NFTC shall have the sole right to retain any compensation or payment derived therefrom, no matter when the alleged infringement or misappropriation occurred. Except as set forth in Schedule 2.7(d): (1) PFSI has not received any written claim or notice in which any party alleges that PFSI, through the operation of the Arthur Treacher's System, has infringed, misappropriated or used without authorization any Intellectual Property rights of another party, and (2) to PFSI's or Parent's Knowledge, no basis for any such claim or allegation exists.

(e) Licenses and Rights. PFSI has not breached or violated any of the agreements to which it is a party governing use of any third party intellectual property that is part of the Arthur Treacher's System and, to the knowledge of PFSI, no other party to any such agreements has breached any of those agreements. Schedule 2.7(e) lists all agreements pursuant to which PFSI has licensed or otherwise granted rights in or to the Arthur Treacher's System to any third party, including without limitation any rights to use, market, distribute or otherwise exploit or commercialize any of the products or services or any other element of the Arthur Treacher's System, including franchised operations. PFSI has not breached or violated any of those agreements and, to the knowledge of PFSI and Parent, no other party to those agreements has breached any of those agreements. Except as set forth on Schedule 2.7(e), PFSI is not obligated to pay any royalties or other payments to third parties with respect to the marketing, sale, distribution, license or use of the Arthur Treacher's System.

(h) **Proprietary Information and Confidentiality.** PFSI has taken appropriate steps to protect and preserve trade secrets and the confidentiality of other confidential information included in the Arthur Treacher's System. PFSI has taken the appropriate steps necessary to comply with any duties of PFSI to protect the confidentiality of information provided to PFSI by any other Person in connection with the Arthur Treacher's System.

(i) **Legal Proceedings.** PFSI has not received any notice or threat of, and there is not, to the knowledge of PFSI and Parent, any legal proceeding, order, agreement to which PFSI is a party, or similar arrangement that prohibits or restricts (or would prohibit or restrict if adversely determined) PFSI from exploiting the Arthur Treacher's System in any manner whatsoever, throughout the world.

(k) **Effect of Closing.** The consummation of the transactions contemplated by this Agreement shall not cause PFSI to be in violation of any license, sublicense, agreement or instrument relating to the Arthur Treacher's System to which PFSI is a party or otherwise bound, nor will the consummation of the transactions contemplated by this Agreement cause: (1) the diminution, termination or forfeiture of any rights of PFSI (or after Closing, NFTC) therein or thereto, or the increase of any financial or other burden with respect to the Arthur Treacher's System; (2) there to be a breach of any agreement to which PFSI is a party; and/or (3) there to arise any impairment, claim or Lien on any component of the Arthur Treacher's System or any rights of PFSI (or after Closing, NFTC) therein or thereto. Immediately following consummation of the transactions contemplated by this agreement, NFTC shall have the same rights in and to the Arthur Treacher's System as PFSI had immediately prior to Closing, including valid and marketable title thereto (subject only to the limitations set forth in the License Agreement).

2.8 Real Property. The Purchased Assets do not included any owned or leased real property or any leased personal property.

2.9 Financial Statements.

(a) Attached as Schedule 2.9(a) are true and complete copies of the audited balance sheets of PFSI as at December 31, 2002 and December 31, 2003, and the related statements of operations and statement of cash flows, for the fiscal years then ended, including any notes and schedules thereto (the "Financial Statements"). The Financial Statements have been prepared in accordance with GAAP throughout the periods covered thereby and present fairly in all material respects the financial condition of PFSI as at the dates indicated and the results of their operations and changes in cash flow for the periods then ended.

(b) Attached as Schedule 2.9(b) are true and complete copies of the unaudited consolidated balance sheet of PFSI as at December 31, 2005, and the related operating statements and statements of cash flow for the eleven-month period then ended (the "Interim Financial Statements"). The Interim Financial Statements have been prepared in accordance with GAAP applied on a basis consistent with the Financial Statements and present fairly in all material respects the financial condition of PFSI as at the dates indicated and the results of its operations for the periods then ended; subject, however, to year-end adjustments which, in the aggregate, will not be materially adverse, and provided, that the Interim Financial Statements do not contain footnotes.

2.10 Absence of Undisclosed Liabilities.

(a) PFSI has no debt, liability or obligation of any kind, whether accrued, absolute, contingent or otherwise, including, without limitation, any liability or obligation on account of Taxes or any governmental charges or penalties, interest or fines, except (i) the Liabilities, all of which are either reflected in the Financial Statements and Interim Financial Statements, or to the extent incurred since November 30, 2005, are identified on Schedule 2.10(a); and (ii) liabilities incurred in connection with the transactions provided for in this Agreement.

(b) Except as set forth on Schedule 2.10(b), PFSI has not, by written instrument or otherwise, guaranteed the payment or collection or pledged any of its assets to secure payment of any unsatisfied indebtedness or other obligation of any Person.

(c) Except as set forth on Schedule 2.10(c), there are no debts or liabilities of any kind owed by PFSI to Parent or any related Person or Affiliate thereof.

2.11 No Material Adverse Change. Except as set forth on Schedule 2.11, since September 30, 2005, there has been no:

(a) Material Adverse Effect with respect to the Purchased Assets or PFSI;

(b) default under any indebtedness of PFSI or any event which with the lapse of time or the giving of notice, or both, would constitute such a default which default would, or could reasonably be expected to have a Material Adverse Effect on the Purchased Assets or PFSI;

(c) declaration, setting aside or payment, directly or indirectly, of any cash or non-cash dividend or other cash or noncash distribution in respect of any of the securities of PFSI;

(d) damage, destruction or loss, whether or not covered by insurance which has resulted in a Material Adverse Effect;

(e) Co-Branding Agreement, Contract, Franchise Agreement, Lease, License, commitment or transaction entered into or consummated by PFSI except in the ordinary course of business consistent with past practice;

(f) amendment or termination of any Co-Branding Agreement, Contract, Franchise Agreement, Lease or License, except in the ordinary course of business;

(g) extraordinary losses (whether or not covered by insurance) or waiver by PFSI of any extraordinary rights of value with respect to, or affecting the Purchased Assets;

(h) sale, assignment, license, lease or other transfer or disposition of any of the Purchased Assets (including for the purpose of this Section 2.11(h), the Co-Branding Agreements);

(i) amendment to the articles of incorporation or bylaws of PFSI;

(j) notice from any customer, supplier or Franchisee (including for the purpose of this Section 2.11(j), a franchisee under a Co-Branding Agreement) as to the customer's, supplier's or Franchisee's intention not to conduct business with PFSI or, the result of which loss or losses of business, individually or in the aggregate, has had, or could reasonably be expected to have a Material Adverse Effect on the Purchased Assets or PFSI;

(k) write-down or write-off of the value of any of the Purchased Assets;

(l) change in the accounting methods or principles of PFSI;

(m) agreement by PFSI to do any of the foregoing; or

(n) other event or condition of any character, that has or might reasonably have a Material Adverse Effect on the Purchased Assets or PFSI.

2.12 No Litigation; Labor Disputes; Compliance with Law Except as set forth on Schedule 2.12:

(a) there is no decree, judgment, order, investigation or litigation at law or in equity, no arbitration proceeding, and no proceeding before or by any commission, agency or other administrative or regulatory body or authority, pending or, to the Knowledge of PFSI or Parent, threatened, to which PFSI is a party or otherwise relating to the Purchased Assets;

(b) PFSI is not subject to or bound by any labor agreement or collective bargaining agreement and there is no labor dispute, grievance, controversy, strike or request for union representation pending or, to the Knowledge of PFSI or Parent, threatened against PFSI, and to the Knowledge of PFSI and Parent, there has been no occurrence of any events which would give rise to any such labor dispute, controversy, strike or request for representation; and

(c) PFSI owns and operates, and has owned and operated, the Arthur Treacher's System and the business related thereto in material compliance with all federal, foreign, state and local laws, statutes, ordinances, rules and regulations, and all court or administrative orders or processes.

2.13 Taxes. Except as set forth on Schedule 2.13:

(a) PFSI has duly and timely filed all required federal, state and local Tax returns, reports and estimates for all years and periods (and portions thereof) for which any such returns, reports and estimates were due, and any and all amounts shown on such returns and reports to be due and payable have been paid in full except as may be contested in good faith. All of such Tax returns, reports and estimates are true and complete in all respects. All taxes due and owing by PFSI (whether or not shown on any Tax Return) have been paid. PFSI has withheld all Tax required to be withheld under applicable law and regulations (including but not limited to, Tax required to be withheld in connection with any amounts paid or owing to any employee, independent contractor, creditor, partner, stockholder or other third party), and such withholdings have either been paid to the proper governmental agency or set aside in accounts for such purpose, or accrued, reserved against and entered upon the books of PFSI, as the case may be;

(b) There are no Tax deficiencies (including penalties and interest) or claims of any kind assessed against or relating to PFSI or the Purchased Assets with respect to any taxable periods ending on or before, or including, the Closing Date of a character or nature that would result in Liens or claims on any of the Purchased Assets or on NFTC title or use of the Purchased Assets or that would result in any claim against, or liability or obligation of, NFTC;

(c) PFSI: (i) is not a party to or bound by, and has no obligation under, any Tax sharing or similar agreement; (ii) has no liability for the payment of Taxes of any Person (other than PFSI) under Treasury Regulation § 1.1502-6 (or any similar provision of state, local or foreign law), as a transferee or successor, by contract or otherwise; (iii) is not currently the beneficiary of any extension of time within which to file any Tax return; and (iv) has not waived any statute of limitations or otherwise agreed to any extension of the period for assessment or collection with respect to Taxes, which waiver or agreement is currently in force;

(d) PFSI is not currently under audit with respect to Taxes by any government agency and there have been no claims or issues (other than a claim or issue that has been finally settled) concerning any liability for Taxes of PFSI asserted by any government agencies;

(e) Schedule 2.13 lists: (i) all income Tax returns that have been filed with respect to PFSI; and (ii) each jurisdiction in which PFSI is required (or was required during any of the last three years) to file a Tax return or pay Taxes and each type of Tax giving rise to such obligation.

(f) PFSI has not agreed to, or been requested to make, any adjustment by reason of a change in accounting method or otherwise.

(g) PFSI has not made any payments, is not obligated to make any payments, and is not a party to any agreement that under certain circumstances could obligate it to make any payments that are not deductible under Section 280G of the Code. PFSI has disclosed on its federal income Tax returns all positions taken therein that could give rise to a substantial understatement of federal income Tax within the meaning of Section 6662 of the Code.

2.14 Inventory. No Inventory is included among the Purchased Assets.

2.15 Insurance. Schedule 2.15 is a true and complete list of all liability and casualty insurance and errors and omissions insurance policies insuring the Arthur Treacher's System. All of such policies are in full force and effect and are for such coverage and in such amounts as is usual and customary for businesses similar to that Business. PFSI is not in default with respect to such insurance policies, nor has PFSI failed to give any notice or present any claim under any policies in due and timely fashion.

2.16 Brokers. Neither this Agreement nor the transaction contemplated by this Agreement was induced or procured through any Person acting on behalf of, working for or representing PFSI as broker, finder, investment banker, financial advisor or in any similar capacity.

2.17 Employee Matters. Except as set forth on Schedule 2.17, the consummation of the transactions contemplated under this Agreement will not cause NFTC or PFSI to incur or suffer: (i) any liability relating to, or obligation to pay, severance, termination, or other payments to any Person or entity; or (ii) any liability or obligations with respect to any Employee Benefit Plan maintained or offered by PFSI or Parent.

2.18 Affiliated Transactions. Except as provided in Schedule 2.18 hereto, no officer, director, partner or employee of PFSI or Parent, and no family member of any of the foregoing, has any contractual relationship with PFSI (other than as an employee) or any direct or indirect interest in any customer, franchisee, supplier or competitor of PFSI, or in any other Person with whom PFSI is doing business or otherwise has an agreement, arrangement or understanding, written or oral with PFSI, whether in existence as of the date hereof or proposed, other than the ownership of stock of publicly traded corporations that does not exceed 1% of the issued and outstanding stock of such corporation.

2.19 Disputes with Customers and Franchisees. Schedule 2.19 identifies with specificity all material unresolved disputes that PFSI has with any customers or Franchisees relating to the Arthur Treacher's System and the manner in which PFSI proposes to resolve such disputes.

2.20 Off Balance Sheet Transactions. Except for transactions, arrangements and other relationships otherwise specifically identified on PFSI's Financial Statements, including but not limited to identification of the information set forth below, Schedule 2.20 sets forth a true, complete and correct list of all transactions, arrangements and other relationships between and/or among PFSI, Parent any of their Affiliates and any unconsolidated entity or other Person, including but not limited to any structured finance, special purpose or limited purpose entity or Person (each, an "Off-Balance Sheet Transaction"). Schedule 2.20 also sets forth: (a) the business purpose and activities of each Off-Balance Sheet Transaction; (b) the economic substance of each Off-Balance Sheet Transaction; (c) the key terms and conditions of each Off-Balance Sheet Transaction; (d) PFSI's, Parent's and/or its Affiliates' potential risk associated with each such Off-Balance Sheet Transaction; (e) the amounts of any guarantees, lines of credit, standby letters of credit or commitments or take or pay contracts, throughput contracts or other similar types of arrangements, including tolling, capacity or leasing arrangements, that could create a Lien on any of the Purchased Assets, including but not limited to guarantees of repayments, make whole agreements or value guarantees; and (f) any other information with respect to each such Off-Balance Sheet Transaction that could have a material adverse effect on the financial condition or results of operations of the Arthur Treacher's System.

2.21 Disclosure. No statement by PFSI contained in this Agreement and no written statement furnished or to be furnished by PFSI to NFTC pursuant to or in connection with this Agreement contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary in order to make the statements herein or therein contained not misleading.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF NFTC

NFTC represents and warrants to PFSI as follows:

3.1 Organization. NFTC is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and is duly qualified to do business as a foreign limited liability company in all jurisdictions where the failure to so qualify would have a Material Adverse Effect. NFTC has full power to purchase the Purchased Assets pursuant to this Agreement..

3.2 Authorization; Enforceability. The execution, delivery and performance of this Agreement and all of the documents and instruments required hereby from NFTC have been duly authorized by all necessary corporate action by NFTC. This Agreement is, and the other documents and instruments required hereby will be, when executed and delivered by NFTC, the valid and binding obligation of NFTC, enforceable against NFTC in accordance with their respective terms, subject only to bankruptcy, insolvency, reorganization, moratorium or similar laws at the time in effect affecting the enforceability or right of creditors generally and by general equitable principles which may limit the right to obtain equitable remedies.

3.3 Absence of Conflicting Laws and Agreements. Except as set forth on Schedule 3.3, neither the execution, delivery or performance of this Agreement by NFTC, nor the consummation of the sale of the Purchased Assets or any other transaction contemplated by this Agreement, does, or will after the giving of notice or the lapse of time or otherwise:

(a) conflict with, result in a breach of, or constitute a default under, the certificate of incorporation or bylaws of NFTC, or any federal, state or local law, statute, ordinance, rule or regulation, or any court or administrative order or process, or any contract, agreement, arrangement, commitment or plan to which NFTC is a party or by which NFTC or its assets is bound;

(b) require the consent, waiver, approval, permit, license, clearance or authorization of, or any declaration or filing with, any court or governmental or public agency; or

(c) require the consent of any Person under any contract, agreement, arrangement, commitment or plan of any nature to which a NFTC is a party to or by which it is bound.

3.4 Brokers. Neither this Agreement nor any other transaction contemplated by this Agreement was induced or procured through any Person acting on behalf of, working for or representing NFTC as broker, finder, investment banker, financial advisor or in any similar capacity.

3.5 Disclosure. No statement by NFTC contained in this Agreement and no written statement furnished or to be furnished by NFTC to PFSI pursuant to or in connection with this Agreement contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary in order to make the statements herein or therein contained not misleading.

ARTICLE IV

CERTAIN MATTERS PENDING THE CLOSING

From and after the date of this Agreement and until the Closing (unless otherwise provided herein) PFSI shall comply with each of the following provisions:

4.1 Access. NFTC and its authorized agents, officers and representatives shall have reasonable access to PFSI and the Purchased Assets to conduct such examination and investigation of the Arthur Treacher's System as they deem reasonably necessary, provided that such examinations shall be during the normal business hours and shall not unreasonably interfere with the PFSI's normal operations and activities.

4.2 Notice of Adverse Changes. Pending the Closing, PFSI shall give NFTC prompt written notice of the occurrence of any of the following:

(a) an Event of Loss involving the Arthur Treacher's System and which, individually or in the aggregate, is more than Five Thousand Dollars (\$5,000);

(b) the commencement or filing of any decree, judgment, order, proceeding or litigation at law or in equity, arbitration or other proceeding before any commission, agency or administrative or regulatory body or authority which involves the Arthur Treacher's System or which could have a material adverse effect on the Purchased Assets;

(c) any violation by PFSI, or written notice of any alleged violation, of any federal, state or local law, statute, ordinance, rule or regulation;

(d) any notice of breach, default, claimed default or termination of any contracts, agreement or rights related to the Arthur Treacher's System; or

(e) any other material adverse developments with respect to the Arthur Treacher's System .

4.3 Operations Pending Closing. Except as set forth in Schedule 4.3, after the date hereof and prior to the Closing, PFSI shall:

(a) operate the Arthur Treacher's System in the ordinary course of business in accordance with past practices;

(b) operate the Arthur Treacher's System in accordance with existing contracts and agreements related thereto and applicable governmental requirements, rules and regulations;

(c) not sell, lease, license, mortgage, pledge or otherwise dispose of any of the Purchased Assets, except for franchising transactions in the ordinary and regular course of the operations of PFSI;

(d) not take or agree to take any action inconsistent with the representations and warranties of PFSI contained herein being true and correct as of the Closing Date in all material respects, or the consummation of the Closing as contemplated by this Agreement.

4.4 Consents. PFSI will use its good faith best efforts to obtain all consents and approvals from third Persons whose consent or approval is required pursuant to any Contract or agreement prior to the Closing Date.

4.5 Exclusivity. Neither PFSI nor anyone acting on behalf of PFSI, shall, directly or indirectly, solicit or initiate discussions concerning, or enter into negotiation with or furnish information that is not publicly available to, any Person concerning any proposal with respect to the Arthur Treacher's System and will notify NFTC immediately in writing if PFSI receives a written proposal with respect to any such transactions. This exclusivity provision shall expire if the Closing has not occurred on or before March 24, 2006, unless such date is extended by mutual agreement of the parties hereto

4.6 Release of Liens. At or prior to the Closing, PFSI shall obtain the release of all Liens disclosed in the Schedules hereto and any other Liens on the Purchased Assets and shall duly file releases or terminations of all such Liens in each governmental agency or office in which any such Lien or evidence thereof shall have been previously filed.

4.7 Tax Returns and Payments.

(a) All tax returns, estimates and reports required to be filed by PFSI prior to the Closing Date will be timely filed when due with the appropriate governmental agencies or extensions will have been granted; and

(b) all Taxes pertaining to ownership of the Purchased Assets or operation of the Arthur Treacher's System due prior to the Closing Date will be paid when due and payable unless protested in good faith.

4.8 Public Announcement. No party hereto shall issue any press release or public announcement or, except as otherwise required in connection with obtaining any third party consent, otherwise divulge the existence of this Agreement or the transactions contemplated hereby without prior approval of the other parties hereto which shall not be unreasonably withheld, except as and to the extent that such party shall be obligated by law or regulation, in which case the other party shall be so advised and the parties shall use their best efforts to cause a mutually agreeable release or announcement to be issued. Prior to any disclosure to a third party in connection with obtaining consent of such third party to the transaction contemplated herein or obtaining the release of any Lien on the Purchased Assets, the third party will be required to execute a non-disclosure agreement in a form approved by NFTC.

4.9 Best Efforts. Without limiting the specific obligations of any party hereto under any agreement or covenant hereunder, each party hereto shall use reasonable best efforts to take all action and do all things necessary in order to consummate the transactions contemplated by this Agreement, including, without limitation, satisfaction, but not waiver, of the closing conditions set forth in Article V and Article VI.

ARTICLE VII

CONDITIONS PRECEDENT TO OBLIGATIONS OF NFTC

Each and every obligation of NFTC to be performed on the Closing Date shall be subject to the satisfaction prior to or at the Closing of the following express conditions precedent:

5.1 Compliance with Agreement. PFSI shall have performed and complied in all material respects with each of their obligations under this Agreement which are to be performed or complied with by them prior to or at the Closing.

5.2 Proceedings and Instruments Satisfactory. All proceedings, corporate or other, required to be taken by PFSI in connection with the performance of this Agreement, and all documents incident thereto, shall be complete in all material respects to the reasonable satisfaction of NFTC and NFTC counsel, and PFSI shall have made available to NFTC for examination the originals or true and correct copies of all documents which NFTC may reasonably request in connection with the transactions contemplated by this Agreement and in order to establish the existence and good standings of PFSI and the due authorization of this Agreement and the transactions contemplated hereby by PFSI.

5.3 Representations and Warranties. The representations and warranties made by PFSI and the PFSI Stockholders which are qualified in any respect as to materiality shall be true and correct as of the Closing Date with the same force and effect as though such representations and warranties had been made on the Closing Date, except for changes permitted or contemplated by this Agreement; all other representations and warranties made by PFSI in this Agreement shall be true and correct in all material respects as of the Closing Date with the same force and effect as though such representations and warranties had been made on the Closing Date, except for changes permitted or contemplated by this Agreement.

5.4 No Material Adverse Change. Between the date of this Agreement and the Closing, there shall have occurred no event, occurrence, fact, condition, change, development or effect with respect to or affecting the Arthur Treacher's System which would reasonably be expected to result in a Material Adverse Effect.

5.5 Event of Loss. Between the date of this Agreement and the Closing, PFSI shall not have sustained an Event of Loss impacting the Arthur Treacher's System which individually or in the aggregate would cost in excess of Twenty Thousand Dollars (\$20,000) to resolve and which resolution shall not have been completed on or prior to the Closing Date to NFTC reasonable satisfaction; provided, however, PFSI may elect to extend the Closing for a reasonable period of time not to exceed thirty (30) days necessary to complete such resolution.

5.6 Deliveries at Closing. PFSI shall have delivered or caused to be delivered to NFTC the documents, each properly executed and dated as of the Closing Date, as required pursuant to this Agreement and shall have satisfied each of the obligations as set forth in Article I to be satisfied as of the Closing Date.

5.7 Possession; Instruments of Conveyance and Transfer. PFSI shall have delivered to NFTC at the Closing such other documents as shall be effective to vest in NFTC good title to the Purchased Assets as contemplated by this Agreement.

5.8 Approvals and Consents. There shall have been secured such permissions, approvals, determinations, consents and waivers as listed on Schedule 5.8.

5.9 Absence of Investigations and Proceedings. There shall be no decree, judgment, order, or litigation at law or in equity, no arbitration proceedings, and no proceeding before or by any commission, agency or other administrative or regulatory body or authority pending to which PFSI or the Purchased Assets are subject which would materially adversely affect the ability of NFTC to operate the Arthur Treacher's System in the same manner as operated and used by PFSI. Without limiting the generality of the foregoing, no action or proceeding or formal investigation by any Person or governmental agency shall be pending with the object of challenging or preventing the Closing and no other proceedings shall be pending with such object or to collect damages from NFTC or PFSI on account thereof.

5.10 Governmental Consents. All authorizations, consents or approvals of any and all governmental regulatory authorities necessary in connection with the consummation of the transactions contemplated by this Agreement shall have been obtained and be in full force and effect.

5.11 No Liens. On the Closing Date and simultaneously with the Closing, there shall not be any Liens on the Purchased Assets.

Notwithstanding the above, if any of the conditions set forth in this Article V have not been satisfied, NFTC may in their sole discretion elect to proceed with the consummation of the transactions contemplated hereby.

ARTICLE VI

CONDITIONS PRECEDENT TO OBLIGATIONS OF PFSI

Each and every obligation of PFSI to be performed on the Closing Date shall be subject to the satisfaction prior to or at the Closing of the following express conditions precedent:

6.1 Compliance with Agreement. NFTC shall have performed and complied in all material respect with all of their obligations under this Agreement which are to be performed or complied with by them prior to or at the Closing.

6.2 Proceedings and Instruments Satisfactory. All proceedings to be taken by NFTC in connection with the transactions contemplated by this Agreement, and all documents incident thereto, shall be complete to the reasonable satisfaction of PFSI and PFSI's counsel, and NFTC shall have made available to PFSI for examination the originals or true and correct copies of all documents which PFSI may reasonably request in connection with the transactions contemplated by this Agreement and in order to establish the existence and good standing of NFTC and the due authorization of this Agreement and the transactions contemplated hereby by NFTC.

6.3 Representations and Warranties. The representations and warranties made by NFTC shall be true and correct in all material respects as of the Closing Date with the same force and effect as though such representations and warranties had been made on the Closing Date, except for changes permitted or contemplated by this Agreement.

6.4 Deliveries at Closing. NFTC shall have delivered or caused to be delivered to PFSI the documents, each properly executed and dated as of the Closing Date, required pursuant to this Agreement and shall have satisfied each of the obligation as set forth in Article I to be satisfied as of the Closing Date, including but not limited to, the execution of the License Agreement. NFTC shall also have paid the Purchase Price.

6.5 Absence of Investigations and Proceedings. No action or proceeding or formal investigation by any Person or governmental agency shall be pending with the object of challenging or preventing the Closing and no other proceeding shall be pending with such object or to collect damages from PFSI on account thereof.

6.6 Governmental Consents. All other material authorizations, consents or approvals of any and all governmental regulatory authorities shall have been obtained and be in full force and effect.

Notwithstanding the above, if any of the conditions set forth in this Article VI have not been satisfied, PFSI may nevertheless elect to proceed with the consummation of the transactions contemplated hereby.

ARTICLE VII

INDEMNIFICATION

From and after the Closing, the parties shall be indemnified as set forth below

7.1 Indemnification by PFSI and Parent. PFSI and Parent shall, jointly and severally, indemnify, exculpate and hold NFTC and NFTC stockholders, officers, employees and agents (collectively the "NFTC Indemnified Parties") harmless from and against, and agree promptly to defend NFTC Indemnified Parties from and reimburse NFTC Indemnified Parties for, any and all losses, damages, costs, expenses, liabilities, obligations and claims of any kind (including, without limitation, reasonable attorneys' fees and other costs and expenses incurred in connection herewith or in the investigation of any claims made hereunder) ("Claims") incurred by any of the NFTC Indemnified Parties that result from:

(a) any inaccuracy in or breach of any of the representations and warranties made by PFSI and Parent in or pursuant to this Agreement or in any instrument, certificate or affidavit delivered by PFSI at the Closing in accordance with the provisions of any Section hereof; provided that, NFTC makes a claim for indemnification within the applicable survival period set forth in Section 7.5 hereof;

(b) any failure by PFSI or the PFSI Stockholders to carry out, perform, satisfy and discharge any covenants, agreements, undertakings, liabilities or obligations under this Agreement or under any of the documents delivered by PFSI pursuant to this Agreement;

(c) any claims or litigation matters which relate to liabilities or Liens related to the operations of PFSI, either prior to or after the Closing Date (excluding liabilities or Liens related to or arising from the operations of the Arthur Treacher's System by NFTC from and after the Closing);

(d) any claims or litigation matters which relate to liabilities or Liens related to the operations of the Arthur Treacher's System prior to the Closing Date, including, without limitation, the claims described in Schedule hereto;

(e) any claims or litigation matters which relate to liabilities or obligations of PAT arising under or in connection with the Co-Branding Agreements with respect to facts that occurred prior to the Closing Date;

(f) any fees, expenses or other payments incurred or owed by PFSI to any brokers or comparable third parties retained or employed by them or their affiliates in connection with the transactions contemplated by this Agreement;

(g) any loss, claim, liability, expense, or other damage attributable to: (x) all Taxes (or the non-payment thereof) of PFSI and for time periods (or portions thereof) ending on or before the Closing Date; (y) any and all Taxes of any Person imposed on NFTC as a transferee or successor, by contract or pursuant to any law, rule, or regulation, which Taxes related to an event or transaction occurring before the Closing Date; and (z) any and all Taxes of PFSI, Parent or their affiliates which relate to the operations of PFSI's business from and after the Closing Date; and

(h) any suit, action or other proceeding brought by any governmental authority or Person arising out of, or in anyway related to, any of the matters referred to in Sections 7.1(a) through 7.1(g).

7.2 Indemnification by NFTC. NFTC shall indemnify, exculpate and hold PFSI and Parent, and their respective stockholders, officers, directors, employees and agents (collectively the "PFSI Indemnified Parties") harmless from and against, and agree promptly to defend PFSI Indemnified Parties from and reimburse PFSI Indemnified Parties for, any and all Claims incurred by PFSI Indemnified Parties that result from:

(a) any breach or inaccuracy of any representations and warranties made by NFTC in or pursuant to this Agreement, or in any instrument, certificate or affidavit delivered by NFTC at the Closing in accordance with the provisions of any Section hereof; provided that, PFSI makes a claim for indemnification within the applicable survival period set forth in Section 7.5 hereof;

(b) any failure by NFTC to carry out, perform, satisfy and discharge any of its covenants, agreements, undertakings, liabilities or obligations under this Agreement or under any of the documents and materials delivered by NFTC pursuant to this Agreement;

(c) any claim or litigation matters that relate to or are due to the operation or ownership of the Arthur Treacher's System after the Closing, excluding any claims or litigation matters related to PFSI's operations pursuant to the License;

(d) any fees, expenses or other payments incurred or owed by NFTC to any brokers or comparable third parties retained or employed by them or their affiliates in connection with the transactions contemplated by this Agreement; or

(e) any suit, action or other proceeding brought by any governmental authority or person arising out of, or in any way related to, any of the matters referred to in Sections 7.2(a) through 7.2(d).

7.3 Method of Asserting Claims.

(a) The party seeking indemnification (the "Indemnitee") will give prompt written notice to the other party or parties (the "Indemnitor") of any Claim which it discovers or of which it receives notice after the Closing and which might give rise to a claim by it against Indemnitor under Section 7 hereof, stating the nature, basis and (to the extent known) amount thereof; provided that failure to give prompt notice shall not jeopardize the right of any Indemnitee to indemnification except to the extent such failure shall have materially prejudiced the ability of the Indemnitor to defend such Claim. Subject to the Indemnitor's right to defend in good faith third party claims as hereinafter provided, the Indemnitor shall satisfy its obligations and this Section 9 within thirty (30) days after receipt of written notice thereof from the Indemnitee.

(b) In case of any Claim or suit by a third party or by any governmental body, or any legal, administrative or arbitration proceeding with respect to which Indemnitor may have liability under the indemnity agreement contained in this Section 7, which the Indemnitor acknowledges is a Claim or demand for which it must indemnify or hold harmless the Indemnitee under Section 7.1 or 7.2 above, Indemnitor shall be entitled to participate therein, and, to the extent desired by it, to assume the defense thereof and to employ counsel reasonably acceptable to the Indemnitee to defend any such Claim or demand asserted against the Indemnitee. After notice from Indemnitor to Indemnitee of the election so to assume the defense thereof, Indemnitor will not be liable to Indemnitee for any legal or other expenses subsequently incurred by Indemnitee in connection with the defense thereof, other than reasonable costs of investigation, unless Indemnitor does not actually assume the defense thereof following notice of such election. Indemnitee and Indemnitor will render to each other such assistance as may reasonably be required of each other in order to insure proper and adequate defense of any such suit, Claim or proceeding. If the Indemnitor actually assumes the defense of the Indemnitee, the Indemnitee will not make any settlement of any Claim which might give rise to liability of Indemnitor under the indemnity agreements contained in this Section without the written consent of Indemnitor, which consent shall not be unreasonably withheld if such settlement includes the unconditional release of Indemnitor, and the Indemnitor shall not agree to make any settlement of any Claim that does not include the unconditional release of the Indemnitee without the written consent of Indemnitee.

7.4 Payment of Claims. An Indemnitor which is liable for any Claim shall pay such Claim promptly to the Indemnitee within 10 business days of the final determination of the liability of the Indemnitor and the amount of the Claim.

7.5 Nature and Survival of Representations. All statements made by or on behalf of PFSI or Parent herein or in the Schedules, shall be deemed representations and warranties of PFSI and Parent regardless of any investigation made by or on behalf of NFTC. The representations and warranties made by PFSI and Parent, on the one hand, and by NFTC, on the other hand, under this Agreement shall survive for eighteen (18) months following the Closing Date, except that (i) the representations and warranties set forth in Section 2.5 (Title to Purchased Assets; Liens and Encumbrances), 2.7 (Intellectual Property; Trade Secrets), and 2.13 (Taxes) shall survive the Closing until the expiration of the applicable statute of limitations, and (ii) there shall be no limitation on any claim involving fraud or intentional misconduct.

7.6 Limitation on Claims. No Claims may be asserted by a party pursuant to Sections 7.1(a) or 7.1(h) (as it relates to Sections 7.1(a)) or 7.2(a) or 7.2(e) (as it relates to 7.2(a)) of this Agreement until the aggregate amount of all such Claims of such party shall exceed Fifteen Thousand Dollars (\$15,000) (the "Threshold Amount"), at which time the party seeking indemnification shall be entitled to recover only to the extent that the cumulative aggregate amount of such Claims, finally determined, exceeds the Threshold Amount. Notwithstanding anything in this Agreement to the contrary, the maximum aggregate amount for which PFSI and/or Parent shall be liable for Claims asserted by the NFTC Indemnified Parties under this Agreement shall be \$1,250,000.

7.7 Remedies. Except as otherwise specifically provided in this Agreement, the foregoing indemnification provisions, absent fraud or intentional misconduct, are the sole and exclusive remedy any party may have for a breach of any representation or warranty hereunder.

ARTICLE VIII

TERMINATION; MISCELLANEOUS

8.1 Termination. This Agreement may be terminated and the transactions contemplated hereby may be abandoned at any time prior to the Closing Date, as follows:

(a) by mutual written agreement of PFSI, Parent and NFTC; or

(b) by NFTC or PFSI and Parent if the Closing has not occurred on or before March 24, 2006, or such later date as mutually agreed; or

(c) by NFTC if NFTC is not then in material breach of this Agreement and PFSI or Parent are then in material breach of this Agreement, and such breach remains uncured for ten (10) days after receipt of written notice thereof from NFTC; or

(d) by PFSI and Parent, if PFSI and Parent are not then in material breach of this Agreement and NFTC is then in material breach of this Agreement, and such breach remains uncured for ten (10) days after receipt of written notice thereof from PFSI.

8.2 Rights on Termination. If this Agreement is terminated pursuant to Section 8.1 above, then except as otherwise provided herein, all further obligations of the parties under or pursuant to this Agreement shall immediately terminate without further liability of any party to the other, provided, however, that nothing in this Section 8.2 shall relieve liability or obligations hereunder of any party (the "Defaulting Party") to the other party or parties on account of a breach of a covenant or agreement contained herein, or any misrepresentation or warranty contained herein by the Defaulting Party. In the case of such a breach or misrepresentation, in addition to any damages for which the Defaulting Party may be liable, the Defaulting Party shall reimburse the other party or parties for any expenses incurred by such party or parties in order to enforce its or their rights under this Agreement (including reasonable attorney's fees and expenses). In addition, NFTC shall be entitled to pursue specific performance against PFSI (PFSI hereby acknowledging that the Purchased Assets are unique and that NFTC has no adequate remedy at law if PFSI breaches this Agreement).

8.3 Further Assurances. From time to time after the Closing Date, upon the reasonable request of any party hereto, the other party or parties hereto shall execute and deliver or cause to be executed and delivered such further instruments of conveyance, assignment and transfer and take such further action as the requesting party may reasonably request in order to effectuate fully the purposes, terms and conditions of this Agreement.

8.4 Entire Agreement; Amendment; and Waivers. This Agreement and the agreements required to be delivered pursuant hereto constitute the entire agreement between the parties pertaining to the subject matter hereof, and supersede all prior and contemporaneous agreements, understandings, negotiations and discussions of the parties, whether oral or written, and there are no warranties, representations or other agreements between the parties in connection with the subject matter hereof, except as specifically set forth herein. No amendment, supplement, modification, waiver or termination of this Agreement shall be binding unless executed in writing by the party to be bound thereby. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision of this Agreement, whether or not similar, unless otherwise expressly provided.

8.5 Expenses. Except as otherwise specifically provided herein, whether or not the transactions contemplated by this Agreement are consummated, each of the parties shall pay the fees and expenses of its respective counsel, accountants and other experts incident to the negotiation, drafting and execution of this Agreement and consummation of the transactions contemplated hereby.

8.6 Benefit; Assignment. This Agreement shall be binding upon and shall inure to the benefit of and shall be enforceable by NFTC, PFSI, Parent and their respective permitted successors and assigns. This Agreement (and any rights, obligation or liabilities hereunder) may not be assigned or delegated in whole or in part by any party without the prior written consent of each other party hereto.

8.7 Notices. All communications or notices required or permitted by this Agreement shall be in writing and shall be deemed to have been given (i) on the date of personal delivery to an officer of the other party, or (ii) when sent by telecopy or facsimile machine to the number shown below on the date of such confirmed facsimile or telecopy transmission, or (iii) when properly deposited for delivery by a nationally-recognized commercial overnight delivery service, prepaid, or by deposit in the United States mail, certified or registered mail, postage prepaid, return receipt requested on the date that is two (2) days after the date set forth in the records of such delivery service or on the return receipt, and addressed as follows, unless and until either of such parties notifies the other in accordance with this Section of a change of address or change of telecopy number:

If to NFTC:

NF Treachers Corp.
1400 Old Country Road, Suite 400
Westbury, New York 11590
Attention: President
Telephone No. (516) 338-8500, Fax No.: (516) 338-7220

With a copy to:

DLA Piper Rudnick Gray Cary US LLP
1775 Wiehle Avenue, Suite 400
Reston, Virginia 20190
Attention: Jay Gary Finkelstein, Esq.
Telephone No: (703) 773-4211, Fax No.: (202) 689-7479

If to PFSI or Parent:

PAT Franchise Systems, Inc.
14 Penn Plaza, Suite 1305
New York, New York 10122
Attention: Jeffrey Bernstein
Fax No. 516-918-3301
Telephone No: 516-918-3300

With a copy to:

Olsham Grundman Frome Rosenzweig & Wolosky LLP
Park Avenue Tower
65 East 55th Street
New York, New York 10022
Attention: Randy M. Friedberg, Esq.
Telephone No: (212) 451-2300, Fax No: (212) 451-2222

8.8 Counterparts; Headings. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but such counterparts shall together constitute but one and the same Agreement. This Agreement may be executed and delivered in counterpart signature pages executed and delivered via facsimile transmission, and any such counterpart executed and delivered via facsimile transmission shall be deemed an original for all intents and purposes. The Article and Section headings in this Agreement are inserted for convenience of reference only and shall not constitute a part hereof.

8.9 Severability. If any provision, clause or part of this Agreement or the application thereof under certain circumstances is held invalid or unenforceable, the remainder of this Agreement, or the application of such provision, clause or part under other circumstances, shall not be affected thereby.

8.10 No Reliance. Except for: (i) any assignees permitted by Section 8.6 of this Agreement; and (ii) investors providing financing for the consummation of the transactions contemplated by this Agreement:

(a) no third party is entitled to rely on any of the representations, warranties and agreements of NFTC, PFSI or Parent contained in this Agreement; and

(b) NFTC., PFSI and Parent assume no liability to any third party because of any reliance on the representations, warranties and agreements of NFTC, PFSI or Parent contained in this Agreement.

8.11 Judicial Interpretation. Should any provision of this Agreement require judicial interpretation, the parties hereto agree that the court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party which itself or through its agent prepared the same, it being agreed that the agents of each party have participated in the preparation hereof.

8.12 Saturdays, Sundays and Legal Holidays. If the time period by which any acts or payments required hereunder must be performed or paid expires on a Saturday, Sunday or federal or California State legal holiday, then such time period shall be automatically extended to the close of business on the next regularly scheduled business day.

8.13 Governing Law. This Agreement shall be construed and interpreted exclusively according to the laws of the State of New York, without regard to the conflict of law principles thereof.

8.14 Consent to Jurisdiction. The parties hereby consent to the jurisdiction of the State and Federal courts sitting in the County of New York, State of New York in any action arising out of or connected in any way with this Agreement. The parties hereto further agree that the service of process or of any other papers upon them or any of them by registered mail in the manner provided in Section 8.7 shall be deemed good, proper and effective service upon them, and each of them hereby waives any claim or objection it or he ay have to such jurisdiction and forum based on the principle of forum non conveniens, and acknowledges that such forum is and would be a convenient forum. Nothing in this Section shall affect the right of any party to serve process in any other manner permitted by law or limit the right of any party to bring any suit, action or proceeding against any other party in the courts of any other jurisdiction.

8.15 Singular/Plural; Gender. Where the context so requires or permits, the use of the singular form includes the plural, and the use of the plural form includes the singular, and the use of any gender includes any and all genders.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

NF TREACHERS CORP.

By: s/Eric Gatoff

Name: Eric Gatoff
Title: VP- Corporate Counsel

PAT FRANCHISE SYSTEMS, INC.

By: s/Jeffrey Bernstein

Name: Jeffrey Bernstein
Title: President

TRUFOODS SYSTEMS, INC.

By: s/Jeffrey Bernstein

Name: Jeffrey Bernstein
Title: President

APPENDIX I

DEFINITIONS

Except as specified otherwise, when used in this Agreement and any Exhibits or Schedules, the following terms shall have the meanings specified:

"Affiliate" shall mean with respect to any Person, any other Person that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such Person;

"Agreement" shall mean this Asset Purchase Agreement, together with the Schedules and Exhibits, as the same shall be amended from time to time in accordance with the terms hereof;

"Arthur Treacher's System" shall have the meaning set forth in Section 1.1;

"Bill of Sale and Assignment" shall mean the instrument in the form of EXHIBIT B attached hereto;

"Closing" shall mean the closing to be held at such time and place as the parties may mutually agree to in writing, at which the transactions contemplated by this Agreement shall be consummated;

"Closing Date" shall mean February 28, 2006, or such date as the parties may mutually agree upon in writing, after all of the conditions set forth in Articles V and VI hereof have been satisfied or waived, other than those conditions which by their terms are intended to be satisfied at Closing. The Closing shall be deemed effective as of 12:01 A.M. (Pacific Daylight Time) on the Closing Date;

"Code" shall mean the Internal Revenue Code of 1986, as amended;

"Contracts" shall mean those agreements to which PFSI or Parent is a party, whether written, oral, or implied, including without limitation those agreements listed on Schedule 2.6 which relate to the Arthur Treacher's System;

"Copyrights" shall mean all copyrights (including computer software, data and documentation) and any registrations and applications to register or renew the registration thereof owned, leased, licensed or used by PFSI, including without limitation those Copyrights described on Schedule 2.7;

"Customer" shall mean, individually or collectively and Person who is currently a customer or franchisee of PFSI or its Affiliates or who has been a customer or franchisee of PFSI or its Affiliates during the two (2) year period prior to the Closing Date;

"Customer Lists" shall mean all lists, documents, information in whatever form or media, including without limitation computer tapes and programs and other computer readable media used by, prepared for the benefit of or in the possession of PFSI concerning past, present and potential customers of the Business including without limitation, web site visitors to PFSI's website(s);

"**Event of Loss**" shall mean any loss, taking, condemnation, damage or destruction of or to any of the Purchased Assets ;

"**Financial Statements**" shall mean the financial statements of PFSI described in Section 2.9(a);

"**Franchise Agreements**" shall mean any and all contracts between PFSI and any other Person for the establishment and operation of an "Arthur Treacher's" restaurant (excluding Co-Branding Agreements);

"**Franchisees**" shall mean those Persons who have entered into a Franchise Agreement with PFSI;

"**GAAP**" shall mean United States generally accepted accounting principles, consistently applied;

"**Intellectual Property**" shall mean United States and foreign trademarks, service marks, trade names, trade dress, domain names, copyrights, and similar rights, including registrations and applications to register or renew the registrations of any of the foregoing, United States and foreign patents and patent applications, and trade secrets, ideas, author's rights and photographic releases, whether published or unpublished (including any rights to prepare, display, perform reproduce or distribute copies, compilations and derivative works), confidential business and technical information, inventions, designs, know-how, proprietary information, internet websites and domain names, computer software, data and documentation, processes, and rights of privacy and publicity and all similar intellectual property rights and licenses of any of the foregoing, including but not limited to, any and all other such or similar assets used in the Business but owned individually by the PFSI Stockholders or any other Person;

"**Interim Financial Statements**" shall mean the financial statements of PFSI described in Section 2.9(b);

"**Inventory**" shall mean all inventories held by PFSI, including but not limited to raw materials, work-in-process, finished goods, spare parts and supplies; and including all Inventory in transit or on order and not yet delivered, and all rights with respect to the processing and completion of any works-in-process;

"**IRS**" shall mean the Internal Revenue Service;

"**Knowledge**" shall mean the actual knowledge of Jeff Bernstein and each officer and director of PFSI or Parent, including such knowledge which any of such Persons should have possessed upon a reasonable investigation;

"**Lien**" shall mean any mortgage, deed of trust, pledge, hypothecation, security interest, encumbrance, claim, lien, lease (including any capitalized lease) or charge of any kind, whether voluntarily incurred or arising by operation of law or otherwise, including without limitation any agreement to give or grant any of the foregoing, any conditional sale or other title retention agreement and the filing of or agreement to give any financing statement with respect to any of the Purchased Assets under the applicable Uniform Commercial Code or comparable law of any jurisdiction;

“Material Adverse Effect” shall mean a material adverse effect on the financial condition, assets, liabilities or results of operations of PFSI taken as a whole, excluding any such effect resulting from or arising in connection with: (i) the entering into or performance of this Agreement, the transactions contemplated by this Agreement or the announcement thereof; (ii) changes or conditions generally affecting the sale of franchises and operations of franchises and franchisors involving fast food or related industries in which PFSI operates; or (iii) changes in general economic, regulatory or political conditions.

“NFTC” shall mean NF Treachers Corp., a Delaware corporation;

“NFTC Closing Certificate” shall mean the certificate of the Secretary of NFTC in the form of EXHIBIT C attached hereto;

“NFTC Franchisor Affiliates” means Nathan’s Famous Systems, Inc., NF Roasters Corp., and Miami Subs USA, Inc.;

“NFTC's Performance Certificate” shall mean the certificate of an officer of NFTC in the form of EXHIBIT D hereto;

“Patents” shall mean all of those United States and foreign patents and patent applications owned or filed by PFSI, including without limitation those patents listed on Schedule 2.7;

“Person” shall mean any natural person, general or limited partnership, corporation, association, limited liability company or other entity;

“PFSI” shall mean PAT Franchise Systems, Inc., a Delaware corporation;

“PFSI's Closing Certificate” shall mean a Closing Certificate of the Secretary of PFSI in the form of EXHIBIT E attached hereto;

“PFSI's Fair Value Certificate” means the certificate in the form of EXHIBIT F attached hereto;

“PFSI's Opinion of Counsel” means the legal opinion of counsel to PFSI addressed to NFTC in the form of EXHIBIT G attached hereto;

“PFSI's Performance Certificate” shall mean the certificate of an officer of PFSI in the form of EXHIBIT H attached hereto;

“Purchased Assets” shall have the meaning set forth in Section 1.1;

“Schedules” shall mean those schedules referred to in this Agreement;

"**Tax**" shall mean any federal, state, local, or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental (including taxes under Code Section 59A), customs duties, capital stock, franchise, profits, withholding, social security (or similar), unemployment, disability, real property, personal property, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated, or other tax of any kind whatsoever, including any interest, penalty, or addition thereto, whether disputed or not;

"**Trade Secrets**" shall mean all proprietary information owned, leased, licensed or used by PFSI relating to the Arthur Treacher's System in any form or media, including without limitation trade secrets, ideas, confidential business and technical information, inventions, designs, know-how, processes and Customer Lists;

"**Trademark Assignment**" shall mean an instrument in the form of EXHIBIT I attached hereto; and

"**Trademarks**" shall mean all foreign and United States trade names, trademarks, service marks, trade dress and domain names (including without limitation registrations and applications to register or renew the registrations of any of the foregoing), trademark and service mark registrations, and trademark and service mark applications that are owned, licensed, leased or used by PFSI, including without limitation, those Trademarks described on Schedule 2.7 (excluding only the trade names, trademarks, service marks, trade dress and domain names used by PFSI exclusively in conjunction with its "Pudgie's Famous Chicken" business).

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (the “**Agreement**”) is made as of February 28, 2006 (the “**Effective Date**”) by and between:

- NF Treachers Corp., a Delaware corporation having its principal place of business at 1400 Old Country Road, Westbury, New York 11590 (“**Licensor**”); and
- PAT Franchise Systems, Inc., a Delaware corporation having its principal place of business at 14 Penn Plaza, Suite 1305, New York, New York 10122 (“**Licensee**”).

RECITALS:

WHEREAS, on the same date as this Agreement is signed, Licensor and Licensee have entered into an agreement captioned the “Asset Purchase Agreement” (the “**APA**”) under which Licensee has sold, and Licensor has purchased, the IP Assets (defined below), on the terms and conditions set forth in the APA;

WHEREAS, the “**IP Assets**” that were sold to Licensor under the APA consist of, among other things, all of the intellectual property that is in any way associated with the “Arthur Treacher’s” brand, concept and franchise system, worldwide, which includes but is not limited to the “Arthur Treacher’s” name, trademarks, service marks, copyrights, patents, trade secrets, the rights under the Treacher Letter Agreement (defined below), and all other intellectual property whatsoever associated with the “Arthur Treacher’s” fish and chips concept, whether or not exploited in the past by Licensee or its predecessors, all as set forth in the APA;

WHEREAS, before the parties’ entry into the APA, Licensee operated, and licensed, the *Arthur Treacher’s* restaurant system to those System franchisees specified in Attachment A to this Agreement (the “**PAT Direct Unit Franchisees**”);

WHEREAS, before the parties’ entry into the APA, Licensee, on the one hand, and Nathan’s Famous Systems, Inc. (“**NFSI**”), NF Roasters Corp. (“**NFR**”), and Miami Subs USA, Inc. (“**MSUSA**”) (all affiliates of Licensor), on the other hand, were parties to a co-branding development agreement dated The letter agreement dated January 1, 2003, as amended February 4, 2003 (the “**Co-Branding Agreement**”) pursuant to which Licensee and one of NFSI, NFR, and/or MSUSA entered into separate participation agreements (the “**Participation Agreements**”) to permit certain franchisees of NFSI, NFR, and MSUSA (as well as those entities’ company-owned restaurants) operating NF Concept Restaurants the right to also operate under the *Arthur Treacher’s* name and to also sell *Arthur Treacher’s* products in their franchised NF Concept Restaurants (such NF Concept Restaurants in existence as of the date hereof being referred to herein as the “**Co-Branded Units**”);

WHEREAS, Licensor and Licensee have agreed that as part of the overall arrangement involving the transaction in which the parties agreed to the terms of the APA, Licensor would license back to Licensee the rights granted under this Agreement, which include, among other things, the right to sublicense and use certain of the IP Assets in connection with Licensee’s continued and uninterrupted management and operation of the PAT Direct Franchises and Licensee’s maintenance and expansion of that system within the PFSI Market, all on the terms set forth herein; and

WHEREAS, Licensee and Licensor wish to enter into this Agreement, which will confer upon Licensee the rights set forth herein;

NOW, THEREFORE, in consideration of the mutual undertakings and commitments set forth herein, and other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties agree as follows:

1. GRANT

1.1. Grant and Acceptance. Subject to the other terms of this Agreement, Licensor grants to Licensee the right to use the Proprietary Marks and System (defined below) solely for the purpose of operating and authorizing third parties to operate Restaurants which are: (a) within the PFSI Market; and (b) in Non-Captive Market Locations and Shopping Malls. Licensee accepts this grant of rights and agrees that it shall use the Proprietary Marks and System only on the terms of this Agreement. The grant of rights under this Section 1.1 shall also apply to the PAT Direct Unit Franchisees under the terms specified below in Section 1.8.1.

1.2. Fees. Licensee shall not be required to pay any fees, royalties, or make any other payments to Licensor for the rights granted under this Agreement and/or the exercise of those rights by Licensee's Unit Franchisees.

1.3. Limited Exclusivity. The grant of rights to use the Proprietary Marks and System, solely for the specific purposes described in Section 1.1 above, shall be exclusive during the term of this Agreement subject to the other terms of this Agreement (including but not limited to Sections 1.4, 1.5 and 1.6 below).

1.4. Development Schedule/Reversion of Sub-markets. If Licensee does not satisfy the Development Schedule for one or more of the Sub-markets comprising the Secondary PFSI Market, then for any such Sub-market as to which the Development Schedule has not been met, the rights granted to Licensee for such Sub-market shall revert to Licensor, such Sub-market shall no longer form part of the PFSI Market, and thereafter, Licensor shall have the sole right to operate and authorize other parties to operate Restaurants in that Sub-market. Nothing in this Section 1.4, however, shall negate, affect, or otherwise impact upon any rights already granted to a Unit Franchisee operating within the affected Sub-market by Licensee.

1.5. Shopping Malls. If Licensor has the opportunity to operate or authorize a third party to operate a Restaurant in a Shopping Mall within the PFSI Market, Licensor shall notify Licensee of the same. If, at the time of such notice, Licensee does not: (a) actually have a Restaurant already operating within such Shopping Mall (either as a company-owned or operated Restaurant or a Restaurant operated by a Unit Franchisee); or (b) have definitive plans to develop a Restaurant within such Shopping Mall; then Licensor shall be free to avail itself of such opportunity without liability or obligation to Licensee or its Unit Franchisees. (For the avoidance of any doubt, in no event will Licensee be considered to have "definitive plans" to develop a Restaurant within a particular Shopping Mall unless, at a minimum, Licensee has either: (a) begun and maintained ongoing bona fide negotiations with the landlord of said Shopping Mall (or a Unit Franchisee has done so); or (b) already submitted in writing to Licensor, for Licensor's approval pursuant to Section 3 below, a specific location within such Shopping Mall and such information as Licensor may reasonably require concerning the prospective Unit Franchisee for such Shopping Mall location.) However, in exercising its rights under this Section 1.5, Licensor shall not knowingly infringe upon any PAT Direct Unit Franchisee's Protected Rights.

1.6. Reservation of Rights. All rights not expressly granted to Licensee under this Agreement are hereby reserved to Licensor. For the avoidance of any doubt, Licensee acknowledges that such reserved rights include, without limitation, each of the following and that Licensor is free to exercise the same without liability or obligation to Licensee and/or its Unit Franchisees; however, in exercising its rights under this Section 1.6, Licensor shall not knowingly infringe upon any PAT Direct Unit Franchisee's Protected Rights:

1.6.1. Licensor hereby reserves for itself and its designees the right to use the Proprietary Marks and System to operate NF Concept Restaurants containing co-branded *Arthur Treacher's* operations anywhere within the PFSI Market (such co-branded operations to be included in a manner and extent substantially similar to which NFSI and MSUSA have, prior to the date hereof, included *Arthur Treacher's* menu-line extensions in the Co-Branded Units);

1.6.2. Licensor hereby reserves for itself and its designees the right to operate Restaurants in Shopping Malls located within the PFSI Market in accordance with the provisions of Section 1.5 above;

1.6.3. Licensor hereby reserves for itself and its designees the exclusive right to use the Proprietary Marks and System for the purpose of operating Restaurants within Captive Market Locations in the PFSI Market;

1.6.4. Licensor hereby reserves for itself and its designees the exclusive right to use the Proprietary Marks and System for the purpose of selling and distributing Retail Products in the PFSI Market;

1.6.5. Licensor hereby reserves for itself and its designees the exclusive right to use the Proprietary Marks and System for the purpose of selling and distributing Branded Food Service Products in the PFSI Market (provided that such sales shall be made to operators of Non-Traditional Restaurants);

1.6.6. Licensor hereby reserves for itself and its designees the exclusive right to solicit large institutional foodservice operators with operations that are national in scope, and whose operations encompass both the PFSI Market and other markets (including but not limited to companies such as Aramark, HMS Host, Sodexo, Compass Group, Delaware North, and BAA);

1.6.7. Licensor hereby reserves for itself and its designees the exclusive right to use (or to decide not to use) the Proprietary Marks and/or System anywhere outside of the PFSI Market; and

1.6.8. In no event shall Licensor and/or its affiliates, nor shall any of their respective designees, be prevented from operating and/or authorizing third parties to operate restaurants under systems other than the System and/or using trademarks other than the Proprietary Marks (including but not limited to the NF Concept Restaurants), which restaurants may offer or sell products that are the same as, similar to, those offered from Restaurants operated under the System. Conversely, nothing in this Agreement shall be construed to prevent Licensee and/or its affiliates, nor shall any of their respective designees, from operating and/or authorizing third parties to operate restaurants under systems other than the System and/or using trademarks other than the Proprietary Marks (including but not limited to Pudgie's Chicken, Wall Street Deli, and Burritoville), which restaurants may offer or sell products that are the same as, similar to, those offered from Restaurants operated under the System.

1.7. Restrictions on Licensee. In addition to any other provisions in this Agreement, Licensee agrees that:

1.7.1. It shall neither solicit any party or transaction, nor exercise or attempt to exercise, any right that is reserved to Licensor under this Agreement;

1.7.2. It shall not engage in the sale of Products other than through Restaurants;

1.7.3. It shall not use, nor shall it license to any other party the right to use, the Proprietary Marks and/or System (except that Licensee may license the Proprietary Marks to a Unit Franchisee that is operating a Restaurant solely for the purpose of operating the Restaurant, at the location set forth in the Franchise Agreement, and under the terms and conditions of the Franchise Agreement); and

1.7.4. It shall not use, nor license to any other party the right to use, the Proprietary Marks and/or System for the purpose of operating a co-branded restaurant featuring the Proprietary Marks and/or System and another concept's trademarks and system.

1.8. PAT Direct Unit Franchisees and Co-Branded Units.

1.8.1. PAT Direct Unit Franchisees. During the term of this Agreement, except as otherwise provided herein, Licensor shall not preclude the continued operation of, and use of the Proprietary Marks and System by, the PAT Direct Unit Franchisees that are still in operation as of the Effective Date (nor shall Licensor preclude Licensee from allowing Direct PAT Unit Franchisees to renew their Franchise Agreements to the extent such Franchise Agreements allow for such renewal rights). Notwithstanding the foregoing or anything to the contrary contained herein, Licensee agrees that it will not, without first obtaining Licensor's written consent, amend, extend or otherwise alter any Franchise Agreement concerning any PAT Direct Unit Franchisee which is located outside the PFSI Market or located in a Captive Market Location within the PFSI Market (and Licensee will immediately notify Licensor in the event that any such Franchise Agreement expires or is terminated for any reason). Furthermore, Licensee represents and warrants to Licensor that Licensee has not granted any Protected Rights other than as expressly noted and described in the column marked "Radius Restriction" in Attachment A to this Agreement.

1.8.2. Co-Branded Units.

1.8.2.1. The Co-Branding Agreement is terminated upon the Effective Date, and Licensee shall have no further rights thereunder, nor any right or entitlement to (and neither Licensor, NFSI, MSUSA or any of their respective franchisees shall have further obligation to pay) any fees, royalties, rebates or other consideration in connection with the Co-Branded Units (except as otherwise provided in Section 4.3 below).

1.8.2.2. Licensee hereby assigns to Licensor all of its future right, title, and interest in and to all of the Participation Agreements. In connection with such assignment, Licensor assumes all of Licensee's obligations arising under the Participation Agreements from and after the Effective Date (it being expressly understood that Licensee shall remain solely responsible for all of such obligations arising prior to the Effective Date and that it shall indemnify and hold Licensor harmless in connection with same). The parties agree that they will sign, and that Licensor will cause its affiliates to sign, the Letter Agreement in the form specified in Attachment C to this Agreement to implement this clause.

1.9. Definitions. The following terms shall have the following meanings as used in this Agreement:

1.9.1. **"Branded Food Service Products"** means products sold: (a) under and/or in conjunction with the Proprietary Marks; (b) at a food service location by a food service operator that is not a Unit Franchisee or a franchisee or licensee of Licensor's; (c) in a fully cooked or prepared state for on-site or take-away consumption by the customer.

1.9.2. **"Captive Market Locations"** means locations, other than "Shopping Malls" (as defined below), where the primary reason that patrons enter that environment is not to frequent food service establishments, and includes, among other things: airports; book stores; bus stations; department stores and big-box retail environments (such as Wal-Mart, Target, and similar stores); factories; government facilities; hospitals and other health-care facilities; military bases; recreational facilities and sports arenas; schools, colleges and other academic facilities; seasonal facilities (such as a state fair); supermarkets; theaters; train stations; and workplace cafeterias.

1.9.3. **"Development Schedule"** shall mean the schedule set out in Attachment B to this Agreement.

1.9.4. **"Franchise Agreement"** means the form of franchise agreement that Licensee uses to grant rights to a Unit Franchisee, subject to the provisions of Section 3 below.

1.9.5. **"IP Assets"** means the assets that were sold to Licensor under the APA, which among other things consist of the intellectual property that is in any way associated with the "Arthur Treacher's" brand, concept and franchise system, worldwide, which includes but is not limited to the "Arthur Treacher's" name, trademarks, service marks, copyrights, patents, trade secrets, the rights under the Treacher Letter Agreement (defined below), and all other intellectual property whatsoever associated with the "Arthur Treacher's" fish and chips concept, whether or not exploited in the past by Licensee or its predecessors.

1.9.6. **"Manuals"** means the operating manuals for the System, which have been transferred to Licensor pursuant to the APA, and which Licensor shall have the right to revise as it deems fit from time to time.

1.9.7. **“NF Concept Restaurant(s)”** means a restaurant concept owned, operated, and/or licensed by Licensor and/or its affiliates, including but not limited to restaurants that are part of the *Nathan’s Famous*, *Kenny Rogers Roasters*, and/or *Miami Subs* systems.

1.9.8. **“Non-Captive Market Locations”** means traditional, street-level free-standing and in-line restaurant locations that: (a) are not contained within larger retail or other foot traffic generating environments; and (b) are not co-branded with other retail food service concepts.

1.9.9. **“Non-Traditional Restaurants”** include, but are not limited to, those operating at military bases, hotels, high school and college campuses, airports, train stations, travel plazas, toll roads, beaches, parks and other seasonal facilities, government buildings and establishments, prisons, hospitals, convenience stores, cafeterias, snack bars, trucks, casinos, sports or entertainment venues or stadiums, and retail restaurant locations being sublet under a lease to a master concessionaire, whether currently existing or constructed or established subsequent to the date hereof.

1.9.10. **“Northern New York State”** means all of the counties in the State of New York except for the following counties: Nassau, Suffolk, Queens, Kings, Richmond, New York, Bronx, Westchester, Rockland, Orange, Putnam, Sullivan, Ulster, Dutchess, Delaware, Greene, and Columbia.

1.9.11. **“PFSI Market”** means the Principal PFSI Market and the Secondary PFSI Market, taken together (subject to the provisions of Sections 1.4, 1.5, and 1.6 above).

1.9.12. **“Principal PFSI Market”** means the States of Indiana, Michigan, and Ohio, and the Commonwealth of Pennsylvania.

1.9.13. **“Product(s)”** means any proprietary item that is produced according to confidential methods, recipes, and/or formulas, and/or using such ingredients as are either confidential and/or trade secrets, that belong to (or are licensed by) Licensor.

1.9.14. **“Proprietary Marks”** means the trade names, service marks, trademarks, logos, emblems, and indicia of origin, including but not limited to the mark *Arthur Treacher’s* and such other trade names, service marks, and trademarks as are now designated (and may hereinafter be designated by Licensor in writing) for use in connection with the System.

1.9.15. **“Protected Rights”** means a protected area, restricted radius, or other form of “exclusivity” that Licensee has granted to a PAT Direct Unit Franchisee under the terms of that PAT Direct Unit Franchisee’s Franchise Agreement that are in effect before the Effective Date, as detailed in Attachment A to this Agreement.

1.9.16. **“Restaurant”** means a business operating in a building that bears the interior and/or exterior trade dress typical of an *Arthur Treacher’s* restaurant, using the Proprietary Marks, and operated under the System.

1.9.17. **“Retail Products”** means products branded with the Proprietary Marks which are sold through a non-Restaurant channel of distribution for off-site preparation and consumption by the customer. (Solely by way of example, “Retail Products” shall include products branded with the Proprietary Marks which are sold for off-site preparation and consumption through grocery-type channels (*e.g.*, supermarkets, club stores, groceries, etc.) and/or direct-to-consumer channels (*e.g.*, mail-order, the Internet, online, and television shopping channels, etc.).)

1.9.18. **“Secondary PFSI Market”** means the area comprised of each of the Sub-markets, taken together.

1.9.19. **“Shopping Mall”** means an enclosed shopping mall located inside the PFSI Market, which shopping mall is not otherwise connected to and/or part of a larger Captive Market Location. (Solely by way of example, a shopping mall located within an airport shall not be considered a “Shopping Mall” for the purposes of this Agreement, but rather such shopping mall shall be considered a “Captive Market Location” hereunder.)

1.9.20. **“Sub-market(s)”** means each of the District of Columbia, the State of Maryland, Northern New York State, and the Commonwealth of Virginia.

1.9.21. **“System”** means the format and the methods and techniques that relate to the establishment and operation of Restaurants and specializing in the sale of proprietary items, which currently include fish sandwiches and meals, as well as non-proprietary items such as beverages and related products that Licensor may periodically designate.

1.9.22. **“Transfer”** (as applied to Licensee) shall mean any attempt to sell, assign, transfer, convey, give away, subcontract, issue stock, sell securities, pledge, mortgage, or otherwise encumber any direct or indirect interest in the rights granted under this Agreement, in Licensee (including any direct or indirect interest in an entity that is the Licensee), or in substantially all of the assets of the Licensee (and, as applied to a Unit Franchisee, “Transfer” shall mean any attempt to sell, assign, transfer, convey, give away, subcontract, issue stock, sell securities, pledge, mortgage, or otherwise encumber any direct or indirect interest in the franchise, in the Franchise Agreement, or in the Unit Franchisee (including any direct or indirect interest in an entity that is the Unit Franchisee), or in substantially all of the assets of the Restaurant);

1.9.23. **“Traicher Letter Agreement”** means the agreement dated March 14, 1972 between Mr. Arthur V. Treacher and Ms. Virginia Josephine Treacher, and NFF Corp., as subsequently assigned by NFF Corp., and, through various intermediate transfers, to Licensee, before Licensee’s sale of the IP Assets to Licensor under the APA.

1.9.24. **“Unit Franchisee”** means a party to whom Licensee has licensed rights, pursuant to a Franchise Agreement, to establish and operate a Restaurant. PAT Direct Unit Franchisees are included within the definition of the term “Unit Franchisees.”

1.9.25. **“Vittoria Agreements”** means a Franchise Agreement entered into by and between Licensee and one of the Vittoria Parties in the form appended to this Agreement as Attachment D for the establishment and operation of a Restaurant in the PFSI Market.

1.9.26. **“Vittoria Party”** means Mr. Greg Thomarios, Vittoria, Inc., and/or Garrett Vittoria, Inc.

2. **TERM.** The term of this Agreement shall start on the Effective Date and shall expire, unless sooner terminated, one hundred (100) years from the date hereof.

3. **LICENSEE'S OFFER AND SALE OF FRANCHISES.**

Licensee understands and acknowledges that Licensor shall have the right to review and approve all activities in conjunction with the offer and sale of franchises, and changes to the terms of existing Franchise Agreements with PAT Direct Unit Franchisees, and that Licensor shall also have the right to determine the details and characteristics of the System. Licensee also acknowledges and agrees that the terms and conditions set forth below also apply with respect to any "company-owned" or "company-operated" Restaurants established by Licensee and/or its affiliates.

3.1. **New Unit Franchisees.** Licensee shall not enter into a Franchise Agreement with a prospective Unit Franchisee unless and until Licensee has received Licensor's written approval of such prospective Unit Franchisee, which shall neither be unreasonably withheld nor unduly delayed. Before entering into any agreement with a prospective Unit Franchisee, Licensee shall submit to Licensor a copy of the UFOC receipt signed on behalf of such prospective Unit Franchisee, along with a unit franchise application in the form reasonably prescribed by Licensor, which form shall disclose, without limitation, details concerning the prospective Unit Franchisee and its principals and the prospective Unit Franchisee's personal and corporate financial statements. Nothing in this Section 3.1 shall prevent Licensee from entering into one or more Vittoria Agreements.

3.2. **Proposed Sites.** Licensee shall not approve a proposed site for the establishment and operation of a Restaurant without Licensor's prior written approval of said site. Licensee agrees to submit to Licensor such information as Licensor may reasonably request concerning the proposed site of each prospective Restaurant. Furthermore, in no event shall Licensee grant any prospective Unit Franchisee any protected area, restricted radius, or other form of "exclusivity" without first obtaining Licensor's prior written consent.

3.3. **Design.** Licensor will, from time to time, establish design, appearance and trade dress standards for the System and Licensee will (and will cause its Unit Franchisees to) comply with such standards in connection with their development and operation of Restaurants hereunder; provided, however, that Licensee understands and agrees that: (a) any such standards shall not take into account design, architectural, zoning, and/or other legal requirements; and (b) as between Licensor and Licensee, Licensee shall be solely responsible for compliance with any such design, architectural, zoning, and/or other legal requirements pertaining to the standards. Nothing in this Section 3.3 shall require a PAT Direct Unit Franchisee to renovate its Restaurant if Licensee does not have the right to require that PAT Direct Unit Franchisee to do so under the terms of that PAT Direct Unit Franchisee's Franchise Agreement in force as of the date of this Agreement; however, Licensee agrees to make commercially reasonable efforts to convince any such PAT Direct Unit Franchisees without a renovation obligations to renovate their Restaurants at reasonable intervals in order to meet the then-current System standards.

3.4. **Transfers.** Licensee shall not approve any proposed Transfer without Licensor's prior written approval therefor, which shall neither be unreasonably withheld nor unduly delayed. Licensor's approval may be conditioned on the receipt of such information concerning the transaction and the proposed transferee as Licensor may reasonably request, including, but not limited to, information that would be required in connection with a prospective Unit Franchisee under Section 3.1 above.

3.5. Inspections. Licensor shall have the right, but not the obligation, to conduct on-site visits or inspections in carrying out its rights and obligations under this Agreement. If Licensor exercises its rights under this Section 3.5 without providing prior notice to Licensee and the Unit Franchisee, then Licensor agrees to advise Licensee contemporaneously with conducting such inspections.

3.6. No Changes to the Franchise Agreement. Licensee shall not make any changes, amendments, or other revisions to the form of Franchise Agreement appended to the then-current form of UFOC prepared by Licensee without Licensor's prior written approval of said changes. Nothing in this Section 3.6 shall prevent Licensee from entering into one or more Vittoria Agreements.

3.7. The Restaurants and the Unit Franchisees.

3.7.1. Licensee acknowledges and agrees that every detail of the appearance and operation of the Restaurants is important to Licensor, Licensee, and Unit Franchisees in order to develop and maintain superior operating standards, to increase the demand for services and products sold by the Restaurants, and to protect Licensor's reputation and goodwill.

3.7.2. In addition to and not in place of other provisions of this Agreement, Licensee agrees that Licensee shall fulfill all of the duties of the "Franchisor" under each Franchise Agreement executed pursuant to this Agreement and shall use commercially reasonable efforts to maintain compliance by each Unit Franchisee under, and enforce, each Franchise Agreement according to the terms and conditions thereof; and Licensee further agrees that it shall comply with the terms of each Franchise Agreement; however, Licensee agrees that it shall not, without Licensor's prior written consent:

3.7.2.1. Approve a proposed site for any Restaurant;

3.7.2.2. Approve the use of any supplies, fixtures, furnishings, signs, equipment, interior or exterior design, or methods of operation not specified in the Manuals or otherwise approved in writing by Licensor;

3.7.2.3. Approve or disapprove suppliers to the Restaurant;

3.7.2.4. Approve the sale in a Restaurant of any product or service that has not previously been approved in writing by Licensor, or which has been disapproved by Licensor for sale in the Restaurants;

3.7.2.5. Permit any Unit Franchisee to engage in any action or make any use of the Proprietary Marks other than in compliance with the terms of Section 5.1 below (as if terms applied to the Unit Franchisee);

3.7.2.6. Approve any advertising or promotional materials proposed to be used, or marketing plans proposed to be implemented, by a Unit Franchisee; or

3.7.2.7. Permit (with knowledge thereof) any deviation by a Unit Franchisee from Licensor's standards, specifications, or procedures as set forth in the Manuals or otherwise in writing by Licensor.

3.8. Unit Franchise Fees. Licensee shall be responsible for the collection of all royalties and initial franchise fees due pursuant to each Franchise Agreement. Licensee shall not be obligated to pay any portion of those fees to Licensor.

3.9. Dealing with Unit Franchisees and Prospective Unit Franchisees. In all dealings and contacts with Unit Franchisees and prospective Unit Franchisees, Licensee shall do each of the following:

3.9.1. Make no representations that conflict with the terms and conditions of this Agreement, the Franchise Agreement, the Manual, or other related documents. Any document prepared by Licensee for the purpose of complying with any federal or state law or otherwise concerning the offer and sale of franchises, and any advertisement proposed to be used for the purpose of promoting the sale of franchises, shall be submitted to Licensor before such document is filed with a government authority and/or used by Licensee.

3.9.2. Not use any document or material in connection with the offer or solicitation of Unit Franchisees unless and until such proposed promotional material has been submitted to Licensor and Licensor has given its prior written approval thereof.

3.9.3. Carefully screen and evaluate prospective Unit Franchisees pursuant to the standards prescribed by Licensor, and prepare and submit to Licensor a written report in the form prescribed by Licensor for each prospective Unit Franchisee deemed qualified by Licensee, including any materials which may be required under Section 3.1 above and a site analysis prepared by Licensee concerning the location proposed by such prospective Unit Franchisee for the establishment of a Restaurant.

3.10. Obligations as to Unit Franchisees. For each Unit Franchisee, Licensee shall:

3.10.1. Provide an initial training program to a principal of each Unit Franchisee and any person hired by each Unit Franchisee for the position of Restaurant manager, and such other courses, seminars, and training programs for Unit Franchisees and their employees as may be prescribed by Licensor from time to time.

3.10.2. Provide plans and specifications for each Restaurant for the construction of the Restaurant and for the exterior and interior design and layout, fixtures, furnishings, equipment, and signs.

3.10.3. Review the proposed location of each Restaurant to be established by a Unit Franchisee (as provided in the Franchise Agreement) and provide to Licensor a written report concerning each such proposed location.

3.10.4. Provide advice and consultation with regard to equipping the Restaurant, grand-opening assistance, and such periodic and continuing assistance as Unit Franchisee may reasonably request and as may be prescribed by Licensor.

3.10.5. Monitor (and submit to Licensor, at Licensor's request, written reports on such form as Licensor shall provide and at such time as Licensor may request) and, upon Licensor's request, promptly take all steps necessary to remedy the following:

3.10.5.1. Any apparent deficiencies and problems concerning the uniformity and quality of service provided by the Unit Franchisee;

3.10.5.2. Any apparent opportunities for the Unit Franchisee to improve its performance;

3.10.5.3. Any apparent deviations from Licensor's operating procedures, standards, and specifications or from proper usage of the Proprietary Marks;

3.10.5.4. Any apparent violations of the Franchise Agreement; and

3.10.5.5. Any apparent violations of applicable laws, rules, or regulations.

3.10.6. Supply menu items, products, and services to Unit Franchisees as have been prescribed by Licensor in the Manuals or otherwise.

3.11. Laws Pertaining to Franchising and Licensing. Licensee shall comply with any and all federal and state laws and regulations that apply to the offer and sale of franchises as well as the relationship between a Licensor and its franchisees, and Licensee shall timely obtain any and all government approvals and/or registrations necessary for the full and proper conduct of the business contemplated hereunder.

3.11.1. Any documents necessary to be prepared to comply with said laws (whether or not filed with government authorities), including but not limited to the UFOC, shall be submitted to Licensor for Licensor's prior written approval before Licensee may use such documents and/or submit them to a government authority for approval or otherwise. Licensee shall forward to Licensor copies of all such government approvals, receipts, exemptions, and/or registrations obtained pursuant to this Section within ten (10) days of receipt thereof.

3.11.2. Licensee shall have the right to require Licensee to include such information and/or disclaimers with respect to the relationship between Licensee and Licensee as Licensee may reasonably require.

3.11.3. As used in this Agreement, the term "UFOC" means the Uniform Franchise Offering Circular prepared in the then-current form and format required under the Federal Trade Commission Franchise Rule and any applicable state franchise laws.

3.12. Sublicensing. In its agreements and relationship with Unit Franchisees, including but not limited to its licensing of the Proprietary Marks to Unit Franchisees, Licensee shall not take any action, tolerate or permit any action or use of Proprietary Marks, or otherwise include in its agreements any provision that is inconsistent with the provisions of this Agreement.

4. VENDOR RELATIONSHIPS AND REBATES.

4.1. Existing Relationships. Licensee and Licensor shall have separate and independent relationships with suppliers to the System, including but not limited to any financial terms, Rebates, and related matters; provided, that:

4.1.1. If it should be necessary to license the supplier's use of the Proprietary Marks, only Licensor shall have the right to do so;

4.1.2. Licensor and Licensee shall cooperate with one another so that, to the extent possible, they will seek to aggregate their respective purchases (and those of their respective franchisees) in order to maximize volume discounts, vendor rebates, and other beneficial treatment; and

4.1.3. Licensor shall have the sole right to designate and/or approve the identity of all suppliers to the System.

4.1.3.1. Licensor may approve suppliers and producers of Products, food items, ingredients, supplies, materials, and other products that meet its standards and requirements including, but not limited to, standards and requirements relating to product quality, prices, consistency, reliability, financial capability, labor and customer relations. Licensee shall purchase (and designate for purchase in the portion of the System that Licensee operates and licenses to Unit Franchisees) all Products, food items, ingredients, supplies, materials, and other products used or offered for sale at the Restaurant solely from suppliers (including manufacturers, producers, and other sources) who demonstrate, to the continuing reasonable satisfaction of Licensor, the ability to meet Licensor's then-current standards and specifications for such items; who possess adequate quality controls and capacity to supply Licensee's needs promptly and reliably; whose approval would enable the System, in Licensor's sole opinion, to take advantage of marketplace efficiencies; and who have been approved in writing by Licensor prior to any purchases by Licensee from any such supplier, and have not thereafter been disapproved (collectively, "**Approved Suppliers**"). Approval of a supplier may be conditioned on requirements relating to the frequency of delivery, standards of service, including prompt attention to complaints, or other criteria, and concentration of purchases, as set forth above, and may be temporary pending a further evaluation of such supplier by Licensor.

4.1.3.2. Licensor shall have the right to approve a single supplier as an Approved Supplier for any product or special equipment and may designate an Approved Supplier as to certain products. Licensor shall have the right to concentrate purchases with one or more suppliers to obtain lower prices and/or the best advertising support and/or services for any group of Restaurants franchised or operated by Licensor. Licensor may from time to time modify the list of Approved Suppliers, and Licensee shall not, after receipt of written notice of such modification, order any Products or other items from any supplier which is no longer an Approved Supplier.

4.1.3.3. If Licensee desires to purchase any products from an unapproved supplier, Licensee shall submit to Licensor a written request for such approval. Licensee shall not purchase from any supplier until, and unless, such supplier has been approved in writing by Licensor. Licensor shall have the right to require that its representatives be permitted to inspect the supplier's facilities, and that samples from the supplier be delivered, either to Licensor or to an independent laboratory designated by Licensor for testing. A charge not to exceed Licensor's actual reasonable cost of the inspection and the actual cost of the test shall be paid by Licensee or the supplier. Licensor shall also have the right to require that the supplier comply with such other requirements as Licensor may deem appropriate, including payment of reasonable continuing inspection fees and administrative costs, or other payment to Licensor by the supplier on account of their dealings with Licensee and other Licensees, for use, without restriction (unless instructed otherwise by the supplier) and for services that Licensor may render to such suppliers. Licensor reserves the right, at its option, to reinspect from time to time the facilities and products of any such approved supplier and to revoke its approval upon the supplier's failure to continue to meet any of Licensor's then-current quality-control and quality-related criteria. Nothing in the foregoing shall be construed to require Licensor to approve any particular supplier, nor to require Licensor to make available to prospective suppliers, standards and specifications for formulas that Licensor deems confidential. Licensor's approval of any Approved Supplier is not and shall not be a warranty on the part of Licensor as to the safety, fitness, or merchantability of any of the Products or other materials supplied by any Approved Supplier.

4.1.3.4. Licensor may establish Licensor or affiliate owned and operated food commissaries, which Licensor may designate as one of (or the only) Approved Supplier.

4.1.3.5. It shall be Licensee's sole responsibility to arrange for distribution of Products to its Unit Franchisees.

4.2. Relationships with Suppliers. Licensor shall not control the terms of Licensee's relationships with its vendors, and neither shall Licensee control the terms of Licensor's relationships with its vendors. Without limiting the foregoing, both Licensor and Licensee agree to timely disclose to each other the terms of their relationships with their respective vendors (including, without limitation, product pricing and rebates or other allowances).

4.3. Rebates. Notwithstanding Section 4.1 above, the parties agree that Licensor shall pay Licensee fifty percent (50%) of any Rebates that Licensor receives from Vendors for sales of the Selected Items by Vendors to Co-Branded Units during the Initial Period. As used in this Section 4, the following terms have the following meanings:

4.3.1. **"Initial Period"** means the one (1) year period following the Effective Date hereof.

4.3.2. **"Rebate"** means any payment to Licensor (or a related advertising/marketing fund) from the Vendor on account of the sale of Selected Items to a Co-Branded Restaurant.

4.3.3. **"Vendor"** means the food item manufacturers that are manufacturing and selling the Selected Items to the Co-Branded Units during the Initial Period.

4.3.4. **"Selected Items"** means only the following *Arthur Treacher's* products: (a) hush puppy mix (currently supplied by Griffith Laboratories); (b) fish batter mix (currently supplied by Griffith Laboratories); (c) frozen fish wedges (currently supplied by Odyssey Enterprises); (d) clam strips (currently supplied by SeaWatch International); and (e) shrimp (currently supplied by King & Prince Seafood Corporation).

5. **THE PROPRIETARY MARKS.**

5.1. Use and Licensing of the Marks. With respect to Licensee's use and licensing of the Proprietary Marks, in addition to the other provisions of this Agreement, Licensee agrees that:

5.1.1. Licensee shall use only the Proprietary Marks designated by Licensor, and shall use them only in the manner authorized and permitted by Licensor.

5.1.2. Licensee shall use the Proprietary Marks only for the operation of the Restaurants and only at the locations authorized under the Franchise Agreements, or in Licensor-approved advertising for the businesses conducted at or from those locations.

5.1.3. Unless otherwise authorized or required by Licensor, Licensee shall operate and advertise the Restaurant only under the names "ARTHUR TREACHER'S", or "ARTHUR TREACHER'S FISH AND CHIPS", without prefix or suffix.

5.1.4. During the term of this Agreement, Licensee and its Unit Franchisees shall identify themselves (in a manner reasonably acceptable to Licensor) as the owner of the Restaurants in conjunction with any use of the Proprietary Marks, including, but not limited to, uses on invoices, order forms, receipts, and contracts, as well as the display of a notice in such content and form and at such conspicuous locations on the premises of the Restaurants as Licensor may designate in writing.

5.1.5. Licensee's right to use the Proprietary Marks is limited to such uses as are authorized under this Agreement, and any unauthorized use thereof shall constitute an infringement of Licensor's rights.

5.1.6. Licensee shall not use the Proprietary Marks to incur any obligation or indebtedness on behalf of Licensor.

5.1.7. Licensee shall not use any of the Proprietary Marks as part of its corporate or other legal name, or as part of any e-mail address, domain name, or other identification of Licensee in any electronic medium.

5.1.8. Licensee shall execute any documents deemed necessary by Licensor or its counsel to obtain protection for the Proprietary Marks or to maintain their continued validity and enforceability.

5.1.8.1. Licensee shall promptly notify Licensor of any suspected infringement of the Proprietary Marks, any challenge to the validity of the Proprietary Marks, or any challenge to Licensor's ownership of, or Licensee's right to use, the Proprietary Marks licensed hereunder. Licensee acknowledges that Licensor shall have the sole right to initiate, direct, and control any administrative proceeding or litigation involving the Proprietary Marks, including any settlement thereof. Licensor shall also have the sole right, but not the obligation, to take action against uses by others that may constitute infringement of the Proprietary Marks.

5.1.8.2. Provided that Licensee has used the Proprietary Marks in accordance with this Agreement, Licensor shall defend Licensee at Licensor's expense against any third party claim, suit, or demand involving the Proprietary Marks arising out of Licensee's use thereof. Licensor shall have the sole right to determine whether Licensee has or has not used the Proprietary Marks in accordance with this Agreement, and if Licensor determines that Licensee's use of the Proprietary Marks is not in accordance with this Agreement, then Licensor shall defend Licensee, at Licensee's expense (which Licensee agrees to pay promptly upon demand from Licensor), against such third party claims, suits, or demands.

5.1.8.3. If Licensor undertakes the defense or prosecution of any litigation relating to the Proprietary Marks, Licensee shall execute any and all documents and do such acts and things as may, in the opinion of counsel for Licensor, be necessary to carry out such defense or prosecution, including, but not limited to, becoming a nominal party to any legal action. Except to the extent that such litigation is the result of Licensee's use of the Proprietary Marks in a manner inconsistent with the terms of this Agreement, Licensor agrees to reimburse Licensee for its out of pocket costs in doing such acts and things, except that Licensee shall bear the salary costs of its employees, and Licensor shall bear the costs of any judgment or settlement.

5.2. Acknowledgements. Licensee expressly understands and acknowledges that:

5.2.1. Licensor is the owner of all right, title and interest in and to the Proprietary Marks and the goodwill associated with and symbolized by them.

5.2.2. The Proprietary Marks are valid and serve to identify the System and those who are authorized to operate under the System.

5.2.3. Licensee shall not directly or indirectly contest the validity or Licensor's ownership of the Proprietary Marks, nor shall Licensee, directly or indirectly, seek to or assist any person in registering the Proprietary Marks with any government agency except with Licensor's express prior written consent.

5.2.4. Licensee's use and sublicensing of the Proprietary Marks does not give Licensee or any other party any ownership interest or other interest in or to the Proprietary Marks, except the license granted by this Agreement.

5.2.5. Any and all goodwill arising from Licensee's use (and/or that of its Unit Franchisees) of the Proprietary Marks shall inure solely and exclusively to Licensor's benefit, and upon expiration or termination of this Agreement and the license herein granted, no monetary amount shall be assigned as attributable to any goodwill associated with Licensee's use and sublicensing (and/or Unit Franchisees' use) of the System or the Proprietary Marks.

5.2.6. The right and license of the Proprietary Marks granted to Licensee under this Agreement is non-exclusive, and Licensor thus has and retains the rights, among others:

5.2.6.1. To use the Proprietary Marks itself in connection with selling products and services;

5.2.6.2. To grant other licenses for the Proprietary Marks, in addition to those licenses that have already been granted;

5.2.6.3. To develop and establish other systems using the same or similar Proprietary Marks, or any other proprietary marks, and to grant licenses or franchises thereto without providing any rights therein to Licensee.

5.2.7. The provisions of Section 5.2.6 above are not meant to, and shall neither be interpreted nor construed to, diminish any of Licensee's rights under Section 1.1 or 1.3 above.

5.3. Substitution. Licensor reserves the right to substitute different Proprietary Marks for use in identifying the System and the businesses operating thereunder if Licensor's currently owned Proprietary Marks no longer can be used, or if Licensor determines that substitution of different Proprietary Marks will be beneficial to the System. Nothing in this Section 5.3 shall require a PAT Direct Unit Franchisee to change its Proprietary Marks if Licensee does not have such right under the terms of that PAT Direct Unit Franchisee's Franchise Agreement in force as of the date of this Agreement; however, Licensee agrees to make commercially reasonable efforts to convince any such PAT Direct Unit Franchisees to update, refresh, or otherwise change its Proprietary Marks at reasonable intervals in order to meet the then-current System standards.

6. ADVERTISING.

6.1. General. All advertising and promotion by Licensee (and/or any Unit Franchisees) shall be in such media, and of such type and format as Licensor may approve; shall be conducted in a dignified manner; and, shall conform to such standards and requirements as Licensor may specify. Licensee shall not use, permit, or fail to disapprove any of its Unit Franchisees' use of any advertising or promotional plans or materials unless and until Licensee has received written approval from Licensor as provided in Section 6.2 below. Without limiting the generality of the foregoing, Licensee specifically agrees it shall not engage in (nor shall Licensee permit any other party and/or fail to disapprove any of its Unit Franchisees') advertising, marketing and/or other promotional activity that is not: (a) in accordance with the terms of this Agreement; (b) inside the PFSI Market; and/or (c) relating specifically to a PAT Direct Franchisee.

6.2. Approval. For all proposed advertising and promotional plans intended to be used by Licensee and/or by a Unit Franchisee, Licensee shall submit samples of such materials and details of such plans to Licensor's Advertising Designee for Licensor's prior written approval. If written approval is not received by Licensee from Licensor within seven (7) days of the date of receipt by Licensor of such samples or materials, Licensor shall be deemed to have approved them.

6.2.1. For the purpose of this Section 6.2, the term "Advertising Designee" shall mean: (a) Ms. Terry Kalish at Licensor's offices; or (b) such other individual that Licensor may designate in writing to Licensee with at least ten (10) days prior written notice.

6.2.2. If Licensor has not disapproved of proposed advertising samples or materials within the seven-day period noted above, and such proposed advertising samples or materials are therefore deemed "approved" under the terms set forth above, Licensor shall nonetheless have the right thereafter to notify Licensee that the proposed advertising samples or materials are disapproved; and if Licensor does so, Licensor shall compensate Licensee and/or the Unit Franchisees for the cost of replacing advertising samples or materials in reasonable quantities that were produced in reliance on any such implied approval.

6.2.3. Once proposed advertising samples or materials have been submitted to Licensor for review and either expressly approved or impliedly approved, said advertising samples or materials need not be resubmitted to Licensor.

6.2.4. Upon submission to Licensor, the proposed advertising and any copyrights in the proposed advertising shall become the property of Licensor, and Licensee agrees to sign and, where so requested, cause to be signed, such documents as may be necessary in order to implement this provision.

6.3. **Materials.** Licensor shall make available to Licensee from time to time, at Licensee's expense, advertising plans and promotional materials, including newspaper mats, coupons, merchandising materials, sales aids, point-of-purchase materials, special promotions, direct mail materials, community relations programs, and similar advertising and promotional materials. To the extent that these items are sold by Licensor, Licensor shall make them available to Licensee and the Unit Franchisees on the same terms as are generally available to Licensor's franchisees (however, this clause shall not be deemed to constitute a most favored nations clause).

6.4. **Websites.**

6.4.1. Licensee specifically acknowledges and agrees not to operate a Consumer Website (as defined below).

6.4.2. Licensee shall have the right to operate a Franchise Website (as defined below); provided that Licensee has obtained Licensor's prior written approval of the content of said Franchise Website and the domain name or other electronic address at which said Franchise Website is operated. Licensor hereby grants its approval to Licensee's use of the domain name <www.trufoods.com> for a Franchise Website.

6.4.3. **Definitions.**

6.4.3.1. **"Consumer Website"** shall mean a Website at which consumers can obtain information about Licensee, the Unit Franchisees, and the Restaurants operated by Unit Franchisees.

6.4.3.2. **"Franchise Website"** shall mean a Website at which a person seeking information about entering into a Franchise Agreement with Licensee for operation of a Restaurant in the PFSI Market is able to seek information and make an application to become a franchisee.

6.4.3.3. **"Website"** means an interactive electronic document, contained in a network of computers or other electronic devices, linked by communications software or other technology. The term Website includes, but is not limited to, Internet, intranet, extranet, e-mail, and World Wide Web home pages.)

7. CONFIDENTIAL INFORMATION

7.1. Each party understands and agrees that during the term of this Agreement it may be furnished with or otherwise have access to non-public information that the other party considers to be of a confidential, proprietary, or trade secret nature, including but not limited to business and marketing plans, as well as other know-how of the Licensor, whether in tangible or intangible form, and whether or not stored, compiled or memorialized physically, electronically, graphically, photographically, or in writing (collectively, the “**Confidential Information**”). The receiving party agrees to secure and protect the other party’s Confidential Information in a manner consistent with the maintenance of the other party’s rights therein, using at least as great a degree of care as the receiving party uses to maintain the confidentiality of its own confidential information of a similar nature or importance, but in no event using less than reasonable efforts. Neither party will sell, transfer, publish, disclose, or otherwise use or make available any portion of the Confidential Information of the other party to third parties, except to those of its directors, officers, employees or attorneys who clearly have a need-to-know the same, in furtherance of the specific purposes of this Agreement and as expressly authorized in this Agreement. All such disclosures shall be subject to all of the terms and conditions of this Agreement, and the party making such disclosures to such directors, officers, employees and/or attorneys shall be fully responsible for ensuring the compliance of all such parties with the terms and conditions of this Agreement. Nothing in this Agreement shall be deemed to obligate either party to disclose any Confidential Information to the other, or to accept any Confidential Information from the other.

7.2. The parties acknowledge that any failure to comply with the requirements of this Section 7 will cause the non-defaulting party irreparable injury, and the each party agrees to pay all court costs and reasonable attorneys’ fees incurred by the prevailing party in obtaining specific performance of, or an injunction against violation of, the requirements of this Section 7.

8. INSURANCE AND INDEMNIFICATION.

8.1. **Licensee’s Indemnity.** Licensee agrees that it shall defend, indemnify, hold harmless the Nathan’s Parties against any and all Claims, as well as all of the costs, including but not limited to attorneys’ fees, of defending against them.

8.1.1. “**Claims**” means all claims, lawsuits, actions, losses, obligations and damages directly or indirectly arising out of the operation of Licensee’s business conducted pursuant to this Agreement, whether or not caused by Licensee’s negligent or willful action or failure to act. Claims includes, but are not limited to, matters that arise directly or indirectly from, as a result of, or otherwise in connection with Licensee’s failure to comply with the terms of this Agreement, Licensee’s offer and sale of franchises, Licensee’s contact with and relationship to prospective Unit Franchisees, Unit Franchisees, prospective transferees, and suppliers to the System, Licensee’s conduct under the Franchise Agreements, Licensee’s ownership and/or operation of any Restaurants, Licensee’s contact with and relationship to franchisees operating Co-Branded Units (with respect to events that took place on or before the Effective Date), and Licensee’s compliance with applicable laws.

8.1.2. **“Nathan’s Parties”** means Licensor, its corporate parents and affiliates, and their respective past, present, and future officers, directors, employees, franchisees, and agents.

8.2. **Licensor’s Indemnity.** Licensor agrees that it shall defend, indemnify, hold harmless the Licensee Parties against any and all Assertions as well as all of the costs, including but not limited to attorneys’ fees, of defending against them.

8.2.1. **“Assertions”** means all claims, lawsuits, actions, losses, obligations and damages directly or indirectly arising out of the operation of Licensor’s business conducted pursuant to this Agreement, whether or not caused by Licensor’s negligent or willful action or failure to act. Assertions include, but are not limited to, matters that arise directly or indirectly from, as a result of, or otherwise in connection with Licensor’s failure to comply with the terms of this Agreement, Licensor’s offer and sale of franchises, Licensor’s contact with and relationship to its own prospective franchisees (not Unit Franchisees or prospective Unit Franchisees), and suppliers to the System, Licensor’s conduct under the franchise agreements with its own franchisees, Licensor’s ownership and/or operation of any Restaurants, Licensor’s contact with and relationship to franchisees operating Co-Branded Units (with respect to events that took place after the Effective Date), and Licensor’s compliance with applicable laws.

8.2.2. **“Licensee Parties”** means Licensee, its corporate parents and affiliates, and their respective past, present, and future officers, directors, employees, franchisees, and agents.

8.3. **Insurance.** Licensee shall maintain such insurance policies (containing such limits and other terms) as is customary and prudent for a restaurant system franchisor to maintain in the marketplace. Additionally, Licensee shall maintain such other insurance policies (containing such limits and other terms) as Licensor may deem advisable. If requested by Licensor, all such policies shall name Licensor and its affiliates as additional insureds.

9. TRANSFER OF INTEREST.

9.1. **Transfer by Licensor:** Licensor shall have the right to Transfer all or any part of its rights or obligations herein to any person or legal entity.

9.2. **Transfer by Licensee.** Licensee understands and acknowledges that the rights and duties set forth in this Agreement are personal to Licensee, and that Licensor has granted the rights hereunder in reliance on the business skill, financial capacity, and personal character of Licensee or the owners of Licensee. Accordingly, neither Licensee nor any immediate or remote successor to any part of Licensee’s interest in this franchise, nor any individual, partnership, corporation, or other legal entity which directly or indirectly owns any interest in this franchise shall make a Transfer without Licensor’s prior written consent (which consent shall not be unreasonably withheld). Any purported assignment or Transfer, by operation of law or otherwise, not having the written consent of Licensor shall be null and void and shall constitute a material breach of this Agreement, for which Licensor may terminate this Agreement and all rights hereunder without opportunity to cure pursuant to Section 10 below.

9.3. Offer of Securities by Licensee: All materials required for any offer or sale of securities of Licensee (or any entity that owns or is affiliated with Licensee) by federal or state law shall be submitted to Licensor for review, reasonable approval, and consent, prior to their being filed with any government agency; and any materials to be used in any exempt offering shall be submitted to Licensor for review, approval, and consent prior to their use. No such offering shall imply (by use of the Proprietary Marks or otherwise) that Licensor is participating as an underwriter, issuer, or offeror of Licensee's or Licensor's securities; and Licensor's review of any offering shall be limited solely to the subject of the relationship between Licensee and Licensor. Licensee and the other participants in the offering shall fully indemnify Licensor in connection with the offering. For each proposed offering, Licensee shall reimburse Licensor for Licensor's costs (including, but not limited to, legal and accounting fees) in an amount of at least Seven Thousand Five Hundred Dollars (\$7,500) associated with reviewing the proposed documents and offering. In addition, Licensee shall submit to Licensor an opinion of Licensee's legal counsel (which shall be addressed to Licensor and in a form acceptable to Licensor) that the offering documents properly use the Proprietary Marks and accurately describe Licensee's relationship with Licensor. Licensee shall give Licensor written notice at least thirty (30) days prior to the date of commencement of any offering or other transaction covered by this Section 9.3.

9.4. Special Provisions Relating to Existing Pledges. Licensee has advised Licensor that as of the date of this Agreement, Licensee already has in place arrangements with lenders as detailed below in Section 9.4.2 (the "**Pledges**").

9.4.1. Licensor agrees not to object to said Pledges on the following terms and with the following understandings, which Licensee acknowledges and to which Licensee agrees: (a) Licensor's agreement not to object to the Pledges is on the basis of Licensor's understanding that all aspects of the Pledge that apply to the IP Assets, the Proprietary Marks, and the System have been released and that neither Pledge shall hereafter apply to said assets transferred to Licensor under the APA; and (b) Licensor's agreement not to object to the Pledges shall in no way prevent or in any way restrict Licensor from exercising any of its rights under this Agreement (including but not limited to its rights under Sections 9.1-9.3 above) if a party holding a Pledge should foreclose upon and assume the position of Licensee under this Agreement.

9.4.2. The Pledges are:

9.4.2.1. A first position security interest granted to Porter Bridge Loan Co., Inc. for a term loan agreement; and

9.4.2.2. A second position security interest granted to David Alcalay for a term loan agreement.

10. DEFAULT AND TERMINATION.

10.1. Automatic. Licensee shall be deemed to be in default under this Agreement, and all rights granted herein shall automatically terminate without notice to Licensee, if Licensee enters into liquidation (whether compulsory or voluntarily), or makes any arrangement or composition with its creditors or has a receiver appointed in respect of all or any part of its assets, or takes any similar action in consequence of debt.

10.2. With Notice. Licensee shall be deemed to be in default and Licensor may, at its option, terminate this Agreement and all rights granted hereunder, without affording Licensee any opportunity to cure the default, effective immediately upon receipt of notice by Licensee, upon the occurrence of any of the following events:

10.2.1. If Licensee at any time violates the territorial restrictions contained herein by operating or authorizing any third party to operate a Restaurant outside of the PFSI Market or in a Captive Market Location within the PFSI Market;

10.2.2. If any transfer is made without Licensor's prior written consent, contrary to the terms of Section 9 above;

10.2.3. If Licensee, after curing a material default pursuant to Section 10.3 below, commits the same material default again within twelve (12) months, whether or not cured after notice; and

10.2.4. If, under Section 10.3 hereof, Licensee is repeatedly in default for failure to comply substantially with any of the material requirements imposed by this Agreement, whether or not cured after notice. For the purpose of this Section 10.2.4, "repeatedly" shall mean three or more times in one year.

10.3. With Notice and Opportunity to Cure. Except as provided in Sections 10.1 and 10.2 above, Licensor may terminate this Agreement only by giving written notice of termination stating the nature of such default to Licensee at least thirty (30) days prior to the effective date of termination. Licensee may avoid termination by immediately initiating a remedy to cure such default and curing it to Licensor's reasonable satisfaction within the thirty-day period and by promptly providing proof thereof to Licensor. If any such default is not cured within the specified time, this Agreement shall terminate without further notice to Licensee, effective immediately upon the expiration of the specified time period. Licensee shall be in default hereunder for any failure to comply with any of the requirements imposed by this Agreement, or any failure to carry out the terms of this Agreement in good faith.

10.4. -No Rights or Remedies are Exclusive. No right or remedy herein conferred upon or reserved to Licensor is exclusive of any other right or remedy provided or permitted by law.

11. OBLIGATIONS UPON TERMINATION OR EXPIRATION

Upon termination or expiration of this Agreement, all of the rights granted to Licensee under this Agreement shall immediately terminate and:

11.1. The Franchise Agreements. Licensor shall have the right, but not the obligation, to either assume Licensee's rights under some or all of the Franchise Agreements then in effect with regard to the Restaurants operated pursuant to such Franchise Agreements, or terminate such Franchise Agreements, pursuant to the terms thereof. If Licensor chooses, in its sole discretion, to exercise its right to assume Licensee's rights under any Franchise Agreement pursuant to this Section 11.1, Licensee shall: (a) in no way be relieved of its obligations under such Franchise Agreements, including, without limitation, amounts owed to or obligations assumed on behalf of the Unit Franchisees; and (b) execute and deliver to Licensor such documents as Licensor may request in order to implement this Section 11.1. Unless (and only to the extent that) Licensor assumes Licensee's obligations under one or more of the Franchise Agreements, Licensor shall have no obligation or responsibility to any of the Unit Franchisees.

11.2. Cessation of Operations. Licensee shall immediately cease to operate any company-owned Restaurants, and shall immediately cease to solicit or provide service to Unit Franchisees, and shall not at any time thereafter, directly or indirectly, represent to the public or hold itself out as a present or former franchisee, developer, Licensee, or any other relation to Licensor, the Proprietary Marks, the System, and/or the Products.

11.3. Activities with Respect to Unit Franchisees. Licensee: (a) shall immediately cease to solicit prospective Unit Franchisees and have contact with existing Unit Franchisees; (b) shall not enter into any Franchise Agreements with new Unit Franchisees nor any amendments to Unit Franchisee Agreements with then-existing Unit Franchisees; and (c) shall not exercise any right or perform any obligation under the Franchise Agreements except with Licensor's express prior written consent in each such instance.

11.4. Cease Use of Intellectual Property. Licensee shall immediately and permanently cease to use, in any manner whatsoever:

11.4.1. Any trade secrets, confidential methods, procedures, and techniques associated with the System;

11.4.2. The Proprietary Marks and all other proprietary marks and distinctive forms, slogans, signs, symbols, and devices associated with the System, including, without limitation:

11.4.2.1. All signs, advertising materials, displays, stationery, forms, and any other articles which display or make any reference to the Proprietary Marks; and

11.4.2.2. Any and all references whatsoever to Licensor, the Proprietary Marks, any other mark owned by Licensor, the System, and/or Licensee's status as a former Licensee.

11.5. Premises. Licensee shall make such modifications or alterations to the premises of each company-owned Restaurant (including, without limitation, the changing of the telephone numbers) immediately upon the termination or expiration of this Agreement as may be necessary to distinguish the appearance of the premises from that of restaurants under the System, and shall make such specific additional changes thereto as Licensor may reasonably request for that purpose.

11.6. No Use of Marks in Other Businesses. Licensee agrees, if it continues to operate or subsequently begins to operate any other business, not to use any reproduction, counterfeit, copy, or colorable imitation of the Proprietary Marks (nor any reference to the System, the Proprietary Marks, any other of Licensor's marks, Licensor, or Licensee's status as a former Licensee) in connection with either such other business or the promotion thereof, and further agrees not to use any designation of origin or description or representation that suggests, implies, or represents a past or present association or connection with Licensor, the System, the Proprietary Marks, or the Restaurants.

11.7. Damages. Licensee shall pay Licensor all damages, costs, and expenses, including reasonable legal fees, incurred by Licensor subsequent to the termination or expiration of this Agreement in obtaining injunctive or other relief for the enforcement of any provisions of this Section 11.

11.8. Return Manuals and Other Data. Licensee shall immediately deliver to Licensor all manuals, including the Manual (and any copies of the Manual, even if made in violation of this Agreement), in all media where recorded whatsoever, and all other records and reports, correspondence, and instructions containing trade secrets or confidential information of Licensor.

11.9. Return Documents. Licensee shall, at its own expense: (a) immediately deliver to Licensor any and all materials, agreements, amendments, correspondence, and records relating to the Franchise Agreements, Unit Franchisees, and any prospective Unit Franchisees with whom Licensee has had contact; (b) cooperate fully with Licensor, at Licensee's expense, in any subsequent interaction between Licensor and the Unit Franchisees; and (c) cooperate fully with Licensor if Licensor (or its designee) seeks to be substituted as the Licensor under the Franchise Agreements. Licensee agrees to execute such documents as Licensor deems necessary in order to implement this Section 11.9.

12. TAXES, PERMITS, AND INDEBTEDNESS

12.1. Taxes Imposed on Licensee. Licensee shall promptly pay when due all taxes levied or assessed, including, without limitation, sales taxes and payroll taxes, and all accounts and other indebtedness of every kind incurred by Licensee in the operation of its business (including but not limited to any company-owned Restaurants).

12.2. Tax Disputes. In the event of any *bona fide* dispute as to Licensee's liability for taxes assessed or other indebtedness, Licensee may contest the validity or the amount of the tax or indebtedness in accordance with procedures of the taxing authority or applicable law, but in no event shall Licensee permit a tax sale or seizure by levy of execution or similar writ or warrant, or attachment by a creditor, to occur against Licensee and/or the premises of any company-owned Restaurant or any improvements thereon.

12.3. Permits. Licensee shall timely obtain any and all permits, certificates, or licenses necessary for the full and proper operation of each company-owned Restaurant, including, without limitation, licenses to do business, tax permits, and fire clearances.

12.4. Legal Actions with Possible Adverse Consequences. Licensee shall notify Licensor in writing within five (5) days after Licensee becomes aware of the commencement of any action, suit, or proceeding, and of the issuance of any order, writ, injunction, award, or decree of any court, agency, or other governmental instrumentality, which may adversely affect the operation or financial condition of any Restaurant.

13. PARTIES -INDEPENDENT RELATIONSHIP

13.1. No Fiduciary Relationship. It is understood and agreed by the parties hereto that this Agreement does not create a fiduciary relationship between them; that Licensee is an independent contractor, and that nothing in this Agreement is intended to constitute either party an agent, legal representative, subsidiary, joint venturer, partner, employee, or servant of the other for any purpose whatsoever.

13.2. No Franchise Relationship. It is understood and agreed by the parties that while both Licensor and Licensee will, in turn, enter into franchise agreements with their respective franchisees, the relationship between Licensor and Licensee is not a franchise, as there are no payments or other fees due from Licensee to Licensor.

13.3. Independent Contractor. During the term of this Agreement, the parties shall hold themselves out to the public as independent parties operating pursuant to this Agreement. Licensee agrees to take such actions as shall be necessary to that end including, without limitation, posting a conspicuous notice (in such form as may be reasonably acceptable to Licensor) that Licensee operates under a license from Licensor, on the premises of any company-owned Restaurants as well as in all contracts, checks, invoices, business stationery, etc., in which reference is made to the Proprietary Marks in any manner. Licensee further agrees to require its Unit Franchisees to meet similar requirements in connection with their operations and uses of the Proprietary Marks.

13.4. No Right to Bind Each Other. Nothing in this Agreement authorizes either party to make any contract, agreement, warranty, or representation on the other party's behalf, or to incur any debt or other obligation in the other party's name; and in no event shall one of the parties to this Agreement assume liability for, or be deemed liable as a result of, any such action, or by reason of any act or omission of the other party, or any claim or judgment arising therefrom.

14. APPROVALS AND WAIVERS

14.1. Request for Approval. Whenever this Agreement requires Licensor's prior approval or consent, Licensee shall make a timely written request to Licensor therefor and such approval or consent shall be obtained in writing. Licensor shall neither unreasonably withhold nor unduly delay its approval or consent.

14.2. No Waivers. No delay, waiver, omission, or forbearance on the part of Licensor to exercise any right, option, duty, or power arising out of any breach or default by Licensee under any of the terms, provisions, covenants, or conditions hereof shall constitute a waiver by Licensor to exercise any such right, option, duty, or power as against Licensee, or as to subsequent breach or default by Licensee. Subsequent acceptance by either party of any performance due to it hereunder shall not be deemed to be a waiver of any preceding breach of any terms, provisions, covenants, or conditions of this Agreement.

15. NOTICES. Any and all notices required or permitted under this Agreement shall be in writing and shall be delivered by any means that affords the sender evidence of delivery or of attempted delivery, to the respective parties at the addresses designated on the signature page of this Agreement, unless and until a different address has been designated by written notice to the other party. Any notice by a means which affords the sender evidence of delivery, or rejected delivery, shall be deemed to have been given at the date and time of receipt or rejected delivery.

16. SEVERABILITY AND CONSTRUCTION

16.1. Each Clause Severable. Except as expressly provided to the contrary herein, each portion, section, part, term, and/or provision of this Agreement shall be considered severable; and if, for any reason, any portion, section, part, term, and/or provision herein is determined to be invalid and contrary to, or in conflict with, any existing or future law or regulation by a court or agency having valid jurisdiction, such determination shall not impair the operation of, or have any other effect upon, such other portions, sections, parts, terms, and/or provisions of this Agreement as may remain otherwise intelligible. The latter shall continue to be given full force and effect and bind the parties hereto, and the invalid portions, sections, parts, terms, and/or provisions shall be deemed not to be a part of this Agreement.

16.2. Consents. Provisions of this Agreement under which one party requires the consent of the other party before undertaking an action or doing a thing are not meant, and shall not be construed, to impose any obligation on the part of the party whose consent is sought except as otherwise stated in this Agreement.

16.3. No Third-Party Beneficiary Rights; No Rights Conferred on Others. This parties agree that this Agreement is not intended to, and shall not be deemed to, create, establish or in any way confer upon any person the right of a third party beneficiary or any similar such right. Except as expressly provided to the contrary herein, nothing in this Agreement is intended or shall be deemed to confer upon any person or legal entity other than Licensee, Licensor, Licensor's officers, directors, and employees, and such of Licensee's and Licensor's respective successors and assigns as may be contemplated (and, as to Licensee, permitted) by Section 9 above, any rights or remedies under or by reason of this Agreement.

16.4. Provisions Meant to Survive Agreement. All covenants, obligations, and agreements hereunder that by their terms or by reasonable implication are to be performed, in whole or in part, after the termination or expiration of this Agreement, shall survive such termination or expiration.

16.5. Costs. Each party shall bear its own costs in complying with its obligations under this Agreement

16.6. Captions and Headings. The captions and headings in this Agreement are merely for the sake of convenient reference and shall not amend, modify, or have any effect whatsoever on the terms of this Agreement.

17. ENTIRE AGREEMENT AND AMENDMENTS

17.1. Complete Agreement. This Agreement and the APA constitute the entire agreement between Licensor and Licensee concerning the subject matter hereof and supersede any and all prior agreements concerning the same subject matter. The parties agree that in deciding whether to enter into this Agreement, they did not rely on anything other than the words of this Agreement.

17.2. Amendment. Except for those permitted to be made unilaterally by Licensor hereunder, no amendment, change, or variance from this Agreement shall be binding on either party unless mutually agreed to by the parties and executed by their authorized officers or agents in writing.

18. APPLICABLE LAW

18.1. Choice of Law. This Agreement takes effect upon its acceptance and execution by Licensor, and shall be interpreted and construed exclusively under the laws of the State of New York which laws shall prevail in the event of any conflict of law (without regard to, and without giving effect to, the application of New York choice-of-law rules).

18.2. Choice of Venue. Subject to Sections 18.3 and 18.4 below, the parties agree that any action brought by either party in any court, whether federal or state, shall be brought only within such state and in the judicial district in which Licensor has its principal place of business. The parties agree that this Section shall not be construed as preventing either party from removing an action from state to federal court; provided, however, that venue shall be as set forth above. Licensee hereby waives all questions of personal jurisdiction or venue for the purpose of carrying out this provision. Any such action shall be conducted on an individual basis, and not as part of a consolidated, common, or class action.

18.3. Injunctions. Nothing contained in this Agreement shall bar either party's right to obtain injunctive relief against threatened conduct that will cause it loss or damages, under the usual equity rules, including the applicable rules for obtaining restraining orders and preliminary injunctions.

18.4. Parties Rights Are Cumulative. No right or remedy conferred upon or reserved to Licensor or Unit Franchisee by this Agreement is intended to be, nor shall be deemed, exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy.

18.5. Waiver of Jury Trial. Licensor and Licensee irrevocably waive trial by jury in any action, proceeding, or counterclaim, whether at law or in equity, brought by either of them against the other, whether or not there are other parties in such action or proceeding.

18.6. Payment of Legal Fees. In any litigation between the parties, the parties agree that the prevailing party shall be entitled to recover its costs (including but not limited to lawyers' fees) from the other party.

19. ACKNOWLEDGMENTS

19.1. No Warranties or Guarantees. Each party expressly disclaims the making of any warranty or guarantee, express or implied, as to the potential volume, profits, or success of the business ventures that are contemplated by this Agreement.

19.2. Cooperation. Licensor and Licensee agree to cooperate reasonably and amicably with one another in terms of exchange and transfer of know-how and information concerning the System to Licensor, including for example meetings between the parties' personnel, Licensor's questions regarding the Manuals and the System, the and such other matters as may be necessary in order to implement the APA and this Agreement.

19.3. Representations and Warranties. Each party to this Agreement hereby represents and warrants to the other that: (a) the person signing this Agreement on such party's behalf has been duly authorized to do so; (b) any and all corporate actions necessary to be taken in order to authorize entry into this Agreement have been duly taken; and (c) there are no other agreements, court orders, or other legal obligations that limit or prevent such party from negotiating, entering into, exercising its rights, and/or carrying out its responsibilities under this Agreement.

[Signature Page to Follow]

IN WITNESS WHEREOF, the parties hereto have duly signed and delivered this Agreement in duplicate on the day and year first above written.

NF Treachers Corp.

Licensor

PAT Franchise Systems, Inc.

Licensee

By: s/Eric Gatoff

By: s/Jeffrey Bernstein

Name: Eric Gatoff

Title: VP-Corporate Counsel

Address for Notices:

1400 Old Country Road, Suite 400

Westbury, New York 11590

Attn: President

Fax: 516.338.7220

Name: Jeffrey Bernstein

Title: President

Address for Notices:

1111 Marcus Avenue, Suite M27

Lake Success, New York 11042

Attn: President

Fax: 516.918.3301

Attachments:

A - List of PAT Direct Unit Franchises

B - Development Schedule

C - Participation Agreement Transfer Agreement

D - Vittoria Agreement

Attachment A

List of PAT Direct Unit Franchises

[see two attached pages]

Attachment B

Development Schedule

The following number of Restaurants shall be open and in operation in each Sub-market - either by Licensee and/or one or more Unit Franchisees

By this Date	Washington, D.C.	Maryland	Northern New York	Virginia
September 30, 2007	Four (4)	Four (4)	Four (4)	Four (4)
March 31, 2009	Eight (8)	Eight (8)	Eight (8)	Eight (8)
March 31, 2010	Twelve (12)	Twelve (12)	Twelve (12)	Twelve (12)
March 31, 2011	Sixteen (16)	Sixteen (16)	Sixteen (16)	Sixteen (16)
March 31, 2012	Twenty (20)	Twenty (20)	Twenty (20)	Twenty (20)
March 31, 2013	Twenty-four (24)	Twenty-four (24)	Twenty-four (24)	Twenty-four (24)
March 31, 2014	Twenty-seven (27)	Twenty-seven (27)	Twenty-seven (27)	Twenty-seven (27)
March 31, 2015	Thirty (30)	Thirty (30)	Thirty (30)	Thirty (30)
March 31, 2016	Thirty-three (33)	Thirty-three (33)	Thirty-three (33)	Thirty-three (33)
March 31, 2017	Thirty-six (36)	Thirty-six (36)	Thirty-six (36)	Thirty-six (36)
March 31, 2018	Thirty-eight (38)	Thirty-eight (38)	Thirty-eight (38)	Thirty-eight (38)
March 31, 2019	Forty (40)	Forty (40)	Forty (40)	Forty (40)
March 31, 2020	Forty-two (42)	Forty-two (42)	Forty-two (42)	Forty-two (42)
March 31, 2021	Forty-four (44)	Forty-four (44)	Forty-four (44)	Forty-four (44)
Thereafter	Forty-four (44)	Forty-four (44)	Forty-four (44)	Forty-four (44)

Attachment C

Participation Agreement Transfer Agreement

February 28, 2006

PAT Franchise Systems, Inc.
1111 Marcus Avenue, Suite M27
Lake Success, New York 11042

NF Treachers Corp.
Nathan's Famous Systems, Inc.
NF Roasters Corp.
Miami Subs USA, Inc.
1400 Old Country Road
Westbury, New York 11590

Re: Transfer to NF Treachers Corp. of all Participation Agreements

Dear Sir or Madam:

Effective as of the date of this letter agreement, PAT Franchise Systems, Inc. ("**PFSI**") hereby transfers to NF Treachers Corp. ("**NFTC**") all of PFSI's rights and obligations under the Participation Agreements (defined below), in conjunction with and in consideration for other agreements between the parties as of this same date.

Effective as of the date of this letter agreement:

- (a) PFSI shall have no further entitlement to receive any fees, royalties, or other compensation under any of the Participation Agreements;
- (b) PFSI shall no longer have any rights whatsoever under any Participation Agreement or any other agreement entered into with Nathan's Famous Systems, Inc. ("**NFSI**"), NF Roasters Corp. ("**NFR**"), and Miami Subs USA, Inc. ("**MSUSA**"), or any of those companies' respective franchisees (except with respect to a Franchise Agreement with such a franchisee for a stand-alone Arthur Treacher's restaurant, without a *Nathan's Famous*, *Kenny Rogers Roasters*, or *Miami Subs* operation); and
- (c) NFTC shall assume PFSI's obligations under the Participation Agreements, with PFSI's express understanding and agreement that: (i) PFSI is and shall remain solely responsible for any and all obligations that arose prior to the date of this letter agreement; and (ii) PFSI shall indemnify and hold Licensor and its affiliates harmless in connection with same, as specified in the License Agreement between NFTC and PFSI of this same date.

The term "**Participation Agreement**" means an agreement among: (i) PFSI; (ii) Nathan's Famous Systems, Inc. ("**NFSI**"), NF Roasters Corp. ("**NFR**"), and/or Miami Subs USA, Inc. ("**MSUSA**"); and (iii) a franchisee of NFSI, NFR, and/or MSUSA (the "**NF Franchisee**"); pursuant to which agreement the NF Franchisee was granted the right to also operate its franchised *Nathan's Famous*, *Miami Subs*, and/or *Kenny Rogers Roasters* franchised restaurant under the *Arthur Treacher's* name and to sell *Arthur Treacher's* products in said franchised restaurant.

Acknowledged and agreed, as of this 28th day of February 2006.

PAT Franchise Systems, Inc.

By:
Printed Name:
Title:

Nathan's Famous Systems, Inc.

By:
Printed Name:
Title:

Miami Subs USA, Inc.

By:
Printed Name:
Title:

NF Treachers Corp.

By:
Printed Name:
Title:

NF Roasters Corp.

By:
Printed Name:
Title:

Attachment D

Form of Vittoria Agreement

[see attached pages]