

**TRADEMARK ASSIGNMENT**

Electronic Version v1.1  
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
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NATURE OF CONVEYANCE:	SECURITY INTEREST
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CONVEYING PARTY DATA

Name	Formerly	Execution Date	Entity Type
Minyard Food Stores, Inc.		08/15/2007	CORPORATION: TEXAS

RECEIVING PARTY DATA

Name:	Wells Fargo Retail Finance, LLC
Street Address:	One Boston Place
City:	19th Floor
State/Country:	MASSACHUSETTS
Postal Code:	02108
Entity Type:	LIMITED LIABILITY COMPANY: DELAWARE

PROPERTY NUMBERS Total: 8

Property Type	Number	Word Mark
Registration Number:	3232490	MINYARD
Registration Number:	3214805	CARNIVAL FOOD STORES
Registration Number:	3214804	CARNIVAL
Registration Number:	3200586	MINYARD FOOD STORES
Registration Number:	3070178	CARNIVAL FOODS
Registration Number:	3070154	CARNIVAL FOODS
Serial Number:	78639948	CARNAVAL FOOD STORES
Serial Number:	78639923	CARNAVAL

CORRESPONDENCE DATA

Fax Number: (703)415-1557  
*Correspondence will be sent via US Mail when the fax attempt is unsuccessful.*  
 Phone: 703-415-1555  
 Email: mail@specializedpatent.com  
 Correspondent Name: Christopher E. Kondracki  
 Address Line 1: 2001 Jefferson Davis, Hwy., Suite 1007

CH \$215.00 3232490

Address Line 4: Arlington, VIRGINIA 22202

ATTORNEY DOCKET NUMBER: 7080808

NAME OF SUBMITTER: Christopher E. Kondracki

Signature: /Christopher E. Kondracki/

Date: 09/15/2007

Total Attachments: 14  
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## TRADEMARK SECURITY AGREEMENT

TRADEMARK SECURITY AGREEMENT (this "Agreement"), dated as of August 15, 2007, by and between MINYARD FOOD STORES, INC., a Texas corporation (the "Grantor"), and (b) WELLS FARGO RETAIL FINANCE, LLC, a Delaware limited liability company (the "Lender"), in consideration of the mutual covenants contained herein and benefits to be derived herefrom.

WITNESSETH:

WHEREAS, reference is made to that certain Credit Agreement, dated as of August 15, 2007 (as amended, modified, supplemented or restated and in effect from time to time, the "Credit Agreement"), by and among (i) the Lead Borrower, (ii) the other Borrowers from time to time party thereto (collectively, with the Lead Borrower, the "Borrowers"), (iii) the Guarantors party thereto, and (iv) Wells Fargo Retail Finance, LLC, as Lender, pursuant to which the Lender has agreed to make Loans to the Borrowers, and the L/C Issuer has agreed to issue Letters of Credit for the account of the Borrowers, upon the terms and subject to the conditions specified in the Credit Agreement; and

WHEREAS, the obligations of the Lender to make Loans and of the L/C Issuer to issue Letters of Credit are each conditioned upon, among other things, the execution and delivery by the Grantor of (i) that certain Security Agreement, dated as of August 15, 2007 (as amended, modified, supplemented or restated and in effect from time to time, the "Security Agreement"), by, among others, the Grantor and the Lender, pursuant to which the Grantor grants to the Lender (for its own benefit and the benefit of the other Credit Parties) a security interest in and to the Collateral (as defined herein), and (ii) an agreement in the form hereof, pursuant to which the Grantor ratifies the grant of the Security Interest (as defined in the Security Agreement) and grants to the Lender (for its own benefit and the benefit of the other Credit Parties) a security interest in and to the IP Collateral (as defined herein), in order to secure the Obligations.

NOW, THEREFORE, in consideration of the mutual conditions and agreements set forth in this Agreement, and for good and valuable consideration, the receipt of which is hereby acknowledged, the Grantor and the Lender, on its own behalf and on behalf of the other Credit Parties (and each of their respective successors or assigns), hereby agree as follows:

### SECTION 1. Definitions.

1.1 Generally. All references herein to the UCC shall mean the Uniform Commercial Code as in effect from time to time in the State of New York; provided, however, that if a term is defined in Article 9 of the UCC differently than in another Article thereof, the term shall have the meaning set forth in Article 9; provided further that, if by reason of mandatory provisions of law, perfection, or the effect of perfection or non-perfection, of the security interest in any IP Collateral or the availability of any remedy hereunder is governed by the Uniform Commercial Code as in effect in a jurisdiction other than New York, "UCC" means the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such

perfection or effect of perfection or non-perfection or availability of such remedy, as the case may be.

1.2 Definition of Certain Terms Used Herein. Unless the context otherwise requires, all capitalized terms used but not defined herein shall have the meanings set forth in the Credit Agreement. In addition, as used herein, the following terms shall have the following meanings:

“Collateral” shall have the meaning assigned to such term in the Security Agreement.

“Credit Agreement” shall have the meaning assigned to such term in the preliminary statement of this Agreement.

“Grantor” shall have the meaning assigned to such terms in the preamble of this Agreement.

“Intellectual Property” shall have the meaning assigned to such term in SECTION 3 of this Agreement.

“IP Collateral” shall have the meaning assigned to such term in SECTION 2 of this Agreement.

“Lender” shall have the meaning assigned to such term in the preliminary statement of this Agreement.

“Licenses” shall mean, collectively, the Trademark Licenses and any other license providing for the grant by or to the Grantor of any right under any Intellectual Property.

“PTO” shall mean the United States Patent and Trademark Office or any other federal governmental agency which may hereafter perform its functions.

“Security Agreement” shall have the meaning assigned to such term in the preliminary statement of this Agreement.

“Trademarks” shall mean all trademarks, trade names, corporate names, company names, domain names, business names, fictitious business names, trade dress, trade styles, service marks, designs, logos and other source or business identifiers of the Grantor, whether registered or unregistered, including, without limitation, the United States and state trademark registrations and trademark applications listed on **EXHIBIT A** annexed hereto and made a part hereof, together with any goodwill of the business connected with, and symbolized by, any of the foregoing.

“Trademark Licenses” shall mean all agreements, whether written or oral, providing for the grant by or to the Grantor of any right under any Trademark, including, without limitation, the agreements listed on **EXHIBIT A** annexed hereto and made a part hereof.

1.3 Rules of Interpretation. The rules of interpretation specified in Sections 1.02 through 1.06 of the Credit Agreement shall be applicable to this Agreement.

SECTION 2. Grant of Security Interest. In furtherance and as confirmation of the Security Interest (as defined in the Security Agreement) granted by the Grantor to the Lender (for its own benefit and the benefit of the other Credit Parties) under the Security Agreement, and as further security for the payment or performance, as the case may be, in full of the Obligations, the Grantor hereby ratifies such Security Interest and grants to the Lender (for its own benefit and the benefit of the other Credit Parties) a continuing security interest, with a power of sale (which power of sale shall be exercisable only following the occurrence and during the continuance of an Event of Default), in all of the present and future right, title and interest of the Grantor in and to the following property, and each item thereof, whether now owned or existing or hereafter acquired or arising, together with all products, proceeds, substitutions, and accessions of or to any of the following property (collectively, the "IP Collateral"):

- (a) All Trademarks and Trademark Licenses;
- (b) All other Licenses;
- (c) All renewals of any of the foregoing;
- (d) All trade secrets, know-how and other proprietary information; books, records, writings, computer tapes or disks, flow diagrams, specification sheets, computer software, source codes, object codes, executable code, data, databases, and other physical manifestations, embodiments or incorporations of any of the foregoing, and any Licenses in any of the foregoing, and all other Intellectual Property and proprietary rights;
- (e) All General Intangibles connected with the use of, or related to, any and all Intellectual Property (including, without limitation, all goodwill of the Grantor and its business, products and services appurtenant to, associated with, or symbolized by, any and all Intellectual Property and the use thereof);
- (f) All income, royalties, damages and payments now and hereafter due and/or payable under and with respect to any of the foregoing, including, without limitation, payments under all Licenses entered into in connection therewith and damages and payments for past or future infringements, misappropriations or dilutions thereof;
- (g) The right to sue for past, present and future infringements, misappropriations, and dilutions of any of the foregoing; and
- (h) All of the Grantor's rights corresponding to any of the foregoing throughout the world.

SECTION 3. Protection of Intellectual Property By Grantor. Except as set forth below in this SECTION 3, the Grantor shall undertake the following with respect to each of the items

respectively described in Sections 2(a), (b), (c), (d), and (e) (collectively, the "Intellectual Property"), except, in each case, where the failure to do so would not reasonably be expected to result in a Material Adverse Effect:

(a) Pay all renewal fees and other fees and costs associated with maintaining the Intellectual Property and with the processing and prosecution of the Intellectual Property and take all other steps reasonably necessary to maintain each registration of the Intellectual Property.

(b) Take all actions reasonably necessary to prevent any of the Intellectual Property from becoming forfeited, abandoned, dedicated to the public, invalidated or impaired in any way.

(c) At the Grantor's sole cost, expense, and risk, pursue the processing and prosecution of each application for registration which is the subject of the security interest created herein and not abandon or delay any such efforts.

(d) At the Grantor's sole cost, expense, and risk, take any and all action which the Grantor reasonably deems necessary or desirable under the circumstances to protect the Intellectual Property from infringement, misappropriation or dilution, including, without limitation, the prosecution and defense of infringement actions.

SECTION 4. Grantor's Representations and Warranties. In addition to any representations and warranties contained in any of the other Loan Documents, the Grantor represents and warrants that:

(a) **EXHIBIT A** is a true, correct and complete list of all registered United States and state Trademarks owned by the Grantor and all Trademark Licenses to which the Grantor is a party as of the date hereof.

(b) Except as set forth in **EXHIBIT A**, none of the Intellectual Property owned by the Grantor is the subject of any licensing or franchise agreement pursuant to which the Grantor is the licensor or franchisor as of the date hereof.

(c) the Grantor owns, or is licensed to use, all Intellectual Property reasonably necessary for the conduct of its business as currently conducted. No claim has been asserted and is pending by any Person challenging or questioning the use by the Grantor of any of its material Intellectual Property, or the validity or effectiveness of any of its Intellectual Property. To the best knowledge of the Grantor, the use by the Grantor of the Intellectual Property does not infringe the rights of any Person in any material respect. No holding, decision or judgment has been rendered by any Governmental Authority which would limit, cancel or question the validity of, or the Grantor's rights in, any Intellectual Property in any respect.

(d) The Grantor shall give the Lender prompt written notice, with reasonable detail, following the occurrence of any of the following:

(i) The Grantor's obtaining rights to, and filing applications for registration of, any new Intellectual Property, or otherwise acquiring ownership of any registered Intellectual Property (other than the acquisition by the Grantor of the right to sell products containing the trademarks of others in the ordinary course of the Grantor's business).

(ii) The Grantor's becoming entitled to the benefit of any registered Intellectual Property whether as licensee or licensor (other than commercially available off the shelf computer programs, products or applications and the Grantor's right to sell products containing the trademarks of others in the ordinary course of the Grantor's business).

(iii) The Grantor's entering into any new Licenses with respect to the Intellectual Property (other than commercially available off the shelf computer programs, products or applications and the Grantor's right to sell products containing the trademarks of others in the ordinary course of the Grantor's business).

(iv) The Grantor's knowing, or having reason to know, that any application or registration relating to any material Intellectual Property may, other than as provided in SECTION 3 above, become forfeited, abandoned or dedicated to the public, or of any adverse determination or development (including, without limitation, the institution of, or any such determination or development in, any proceeding in the PTO or any court or tribunal) regarding the Grantor's ownership of, or the validity or enforceability of, any material Intellectual Property or the Grantor's right to register the same or to own and maintain the same.

**SECTION 5. Agreement Applies to Future Intellectual Property.**

(a) The provisions of this Agreement shall automatically apply to any such additional property or rights described in subsections (i), (ii), and (iii) of SECTION 4(d), above, all of which shall be deemed to be and treated as "Intellectual Property" within the meaning of this Agreement. Within ten (10) Business Days of the date on which the Grantor acquires any additional Intellectual Property, the Grantor shall deliver to the Lender an updated **EXHIBIT A** to this Agreement and hereby authorizes the Lender to file, at the Grantor's expense, such updated Exhibit as set forth in SECTION 5(b).

(b) The Grantor shall execute and deliver, and have recorded, any and all agreements, instruments, documents and papers as the Lender may reasonably request to evidence the Lender's security interest in any Intellectual Property (including, without limitation, filings with the PTO or any similar office), and the Grantor hereby constitutes the Lender as its attorney-in-fact to execute and file all such writings for the foregoing

purposes, all such acts of such attorney being hereby ratified and confirmed; provided, however, that the Lender's taking of such action shall not be a condition to the creation or perfection of the security interest created hereby.

SECTION 6. Grantor's Rights To Enforce Intellectual Property. Prior to the occurrence of an Event of Default, the Grantor shall have the exclusive right to sue for past, present and future infringement of the Intellectual Property, including the right to seek injunctions and/or money damages in an effort by the Grantor to protect the Intellectual Property against encroachment by third parties, provided, however, that:

(a) The Grantor provides the Lender with written notice of the Grantor's institution of any legal proceedings for enforcement of any Intellectual Property.

(b) Any money damages awarded or received by the Grantor on account of such suit (or the threat of such suit) shall constitute IP Collateral.

(c) Upon the occurrence and during the continuance of any Event of Default, the Lender, by notice to the Grantor, may terminate or limit the Grantor's rights under this SECTION 6.

SECTION 7. Lender's Actions To Protect Intellectual Property. In the event of

(a) the Grantor's failure, within thirty (30) days of written notice from the Lender, to cure any failure by the Grantor to observe or perform any of the Grantor's covenants, agreements or other obligations hereunder; and/or

(b) the occurrence and continuance of any other Event of Default,

the Lender, acting in its own name or in that of the Grantor, may (but shall not be required to) act in the Grantor's place and stead and/or in the Lender's own right in connection therewith.

SECTION 8. Rights Upon Default. Upon the occurrence and during the continuance of an Event of Default, in addition to all other rights and remedies, the Lender may exercise all rights and remedies of a secured party under the Uniform Commercial Code as adopted in the State of New York, with respect to the Intellectual Property, in addition to which the Lender may sell, license, assign, transfer, or otherwise dispose of the Intellectual Property, subject to those restrictions to which the Grantor is subject under applicable Law and by contract. Any person may conclusively rely upon an affidavit of an officer of the Lender that an Event of Default has occurred and that the Lender is authorized to exercise such rights and remedies.

SECTION 9. Lender As Attorney-In-Fact.

(a) The Grantor hereby irrevocably makes, constitutes and appoints the Lender (and all officers, employees or agents designated by the Lender) as and for the



Grantor's true and lawful agent and attorney-in-fact, effective following the occurrence and during the continuance of any Event of Default, and in such capacity the Lender shall have the right, with power of substitution for the Grantor and in the Grantor's name or otherwise, for the use and benefit of the Lender and the other Credit Parties:

(i) To supplement and amend from time to time **EXHIBIT A** of this Agreement to include any newly developed, applied for, registered, or acquired Intellectual Property of the Grantor and any intent-to-use Trademark applications for which a statement of use or an amendment to allege use has been filed and accepted by the PTO.

(ii) To exercise any of the rights and powers referenced herein.

(iii) To execute all such instruments, documents, and papers as the Lender reasonably determines to be necessary or desirable in connection with the exercise of such rights and remedies and to cause the sale, license, assignment, transfer, or other disposition of the Intellectual Property, subject to those restrictions to which the Grantor is subject under applicable Law and by contract.

(b) The power of attorney granted herein, being coupled with an interest, shall be irrevocable until this Agreement is terminated in writing by a duly authorized officer of the Lender.

(c) The Lender shall not be obligated to do any of the acts or to exercise any of the powers authorized by SECTION 9(a), but if the Lender elects to do any such act or to exercise any of such powers, it shall not be accountable for more than it actually receives as a result of such exercise of power, and shall not be responsible to the Grantor for any act or omission to act, except where a court of competent jurisdiction determines by final and nonappealable judgment that the subject act or omission to act has resulted from the gross negligence or willful misconduct of the Lender.

**SECTION 10. Lender's Rights.** Any use by the Lender of the Intellectual Property, as authorized hereunder in connection with the exercise of the Lender's rights and remedies under this Agreement, the Credit Agreement and the Security Agreement shall be coextensive with the Grantor's rights thereunder and with respect thereto and without any liability for royalties or other related charges.

**SECTION 11. Intent.** This Agreement is being executed and delivered by the Grantor for the purpose of registering and confirming the grant of the security interest of the Lender in the IP Collateral with the PTO. It is intended that the security interest granted pursuant to this Agreement is granted as a supplement to, and not in limitation of, the Security Interest (as defined in the Security Agreement) granted to the Lender, for its own benefit and the benefit of the other Credit Parties, under the Security Agreement. All provisions of the Security Agreement (including, without limitation, the rights, remedies, powers, privileges and discretions of the Lender thereunder) shall apply to the IP Collateral. In the event of a conflict between this

Agreement and the Security Agreement, the terms of this Agreement shall control with respect to the IP Collateral and the terms of the Security Agreement shall control with respect to all other Collateral.

SECTION 12. Further Assurances. The Grantor agrees, at its own expense, to execute, acknowledge, deliver and cause to be duly filed all such further documents, financing statements, agreements and instruments and take all such further actions as the Lender may from time to time reasonably request to better assure, preserve, protect and perfect the security interest in the IP Collateral granted pursuant to this Agreement and the rights and remedies created hereby or the validity or priority of such security interest, including the payment of any fees and taxes required in connection with the execution and delivery of this Agreement, the granting of the security interest and the filing of any financing statements or other documents in connection herewith or therewith.

SECTION 13. Choice of Laws. It is intended that all rights and obligations under this Agreement, including matters of construction, validity, and performance, shall be governed by the laws of the State of New York.

**[SIGNATURE PAGE FOLLOWS]**

IN WITNESS WHEREOF, the Grantor and the Lender have caused this Agreement to be executed by their duly authorized officers as of the date first above written.

**GRANTOR:**

MINYARD FOOD STORES, INC., a Texas  
corporation

By: Michael D. Byars  
Name: Michael Byars  
Title: President and Chief Executive Officer

**LENDER:**

WELLS FARGO RETAIL FINANCE, LLC

By: \_\_\_\_\_  
Name: Robert C. Chakarian  
Title: Vice President

Signature Page to Trademark Security Agreement

TRADEMARK  
REEL: 003621 FRAME: 0698

IN WITNESS WHEREOF, the Grantor and the Lender have caused this Agreement to be executed by their duly authorized officers as of the date first above written.

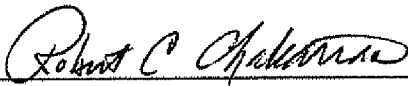
**GRANTOR:**

MINYARD FOOD STORES, INC., a Texas corporation

By: \_\_\_\_\_  
Name: Michael Byars  
Title: President and Chief Executive Officer

**LENDER:**

WELLS FARGO RETAIL FINANCE, LLC

By:  \_\_\_\_\_  
Name: Robert C. Chakarian  
Title: Vice President

Signature Page to Trademark Security Agreement

**TRADEMARK**  
**REEL: 003621 FRAME: 0699**

**EXHIBIT A**

**List of Trademarks and Trademark Licenses**

**Federal Trademark Registrations/Applications**

<b>Registered Owner of Trademark or Servicemark</b>	<b>Trademark or Servicemark</b>	<b>Country</b>	<b>Reg./App. Number</b>	<b>Reg./App. Date</b>
Minyard Food Stores, Inc.	Minyard	United States	3232490	April 24, 2007
Minyard Food Stores, Inc.	Carnival Food Stores	United States	3214805	March 6, 2007
Minyard Food Stores, Inc.	Carnival	United States	3214804	March 6, 2007
Minyard Food Stores, Inc.	Minyard Food Stores	United States	3200586	January 23, 2007
Minyard Food Stores, Inc.	Carnaval Food Stores	United States	N/A (Serial No. 78639948)	Filed May 31, 2005
Minyard Food Stores, Inc.	Carnaval	United States	N/A (Serial No. 78639923)	Filed May 31, 2005
Minyard Food Stores, Inc.	Carnival Foods	United States	3070178	March 21, 2006
Minyard Food Stores, Inc.	Carnival Foods	United States	3070154	March 21, 2006

Exhibit A to Trademark Security Agreement

**STATE TRADEMARK REGISTRATIONS/APPLICATIONS**

<b>MARK</b>	<b>CLASS-SERVICES</b>	<b>STATUS</b>	<b>OWNER OF MARK</b>
BUDDY RUN	35 -- Advertising & Business	TXSOS Registration No. 5324217 Date of Registration: Feb. 3, 1994 Renewal Date: Feb. 3, 2014	Minyard Food Stores, Inc.
BUDDY UP WITH BUDY BUCK\$	36 -- Insurance & Financial	TXSOS Registration No. 800200714 Date of Registration: Nov. 12, 2003 Renewal Date: Nov. 12, 2013	Minyard Food Stores, Inc.
CARNIVAL	42 -- Miscellaneous *	TXSOS Registration No. 5062317 Date of Registration: Sep. 24, 1990 Renewal Date: Sep. 24, 2010	Minyard Food Stores, Inc.
DOLLAR DOLLAR & Design	35 -- Advertising & Business	TXSOS Registration No. 800273562 Date of Registration: Jan. 12, 2004 Renewal Date: Jan. 12, 2014	Minyard Food Stores, Inc.
FIRST CLASS & Design	41 -- Education & Entertainment	TXSOS Registration No. 5184317 Date of Registration: Jun. 4, 1992 Renewal Date: Jun. 4, 2012	Minyard Food Stores, Inc.
MINYARD BUDDY RUN	35 -- Advertising & Business	TXSOS Registration 5324317 Date of Registration: Feb. 3, 1994 Renewal Date: Feb. 3, 2014	Minyard Food Stores, Inc.
MINYARD FOOD STORES	42 -- Miscellaneous *	TXSOS Registration No. 800018285 Date of Registration: Dec. 10, 2001 Renewal Date: Dec. 10, 2011	Minyard Food Stores, Inc.

MARK	CLASS-SERVICES	STATUS	OWNER OF MARK
MINYARD PROPERTIES & Design	35 - Advertising & Business	TXSOS Registration No. 800020236 Date of Registration: Dec. 31, 2001 Renewal Date: Dec. 31, 2011	Minyard Food Stores, Inc
RX CHOICE	42 - Miscellaneous *	TXSOS Registration No. 5184117 Date of Registration: Jun. 4, 1992 Renewal Date: Jun. 4, 2012	Minyard Food Stores, Inc
SACK'N \$AVE & Design	42 - Miscellaneous *	TXSOS Registration No. 4050417 Date of Registration: Jul. 22, 1982 Renewal Date: Jul 23, 2012	Minyard Food Stores, Inc

\* Miscellaneous includes all services not otherwise classified in the original application.

Trademarks in the State of Texas can be renewed every 10 years. Trademarks may be renewed within 6 months prior to the expiration date.

**Trademark Licenses**

None.

Exhibit A to Trademark Security Agreement