Eleventh Intercollegiate Negotiation Competition Problem

(November 12, 2012 version)

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1. Negoland is an advanced nation with a population of approximately 100 million. The total area of the nation is approximately 1,000,000 square kilometers and about one-half of the nation's land is mountains. Its climate is temperate with four seasons. Negoland's 2011 GDP was approximately 4.3 trillion US dollars. GDP composition by major industries is as follows: services sector - 25%; manufacturing - 20%; wholesale and retail trade - 15%; real estate - 10%; and agriculture, forestry and fishing - 2%. Employees by industry are: primary industry - approximately 5%; secondary industry - approximately 25%; and tertiary industry - approximately 70%. Negoland's capital is Negotown and its currency is the Nego Lira.
2. Arbitria is an advanced nation with a population of approximately 50 million. The total area of the nation is approximately 5,000,000 square kilometers. Although the northern part of the nation has a cool climate, the southern part has a mild climate. Arbitria is known for good public safety and beautiful nature. Its 2011 GDP was approximately 2.0 trillion US dollars. The backbone of Arbitria's economy is the services sector, accounting for 75% of its GDP. Mining and industrial sectors and forestry are also thriving. Arbitria's capital is Abu Abu and its currency is the Abu Dollar.
3. Both Negoland and Arbitria are situated on the Pacific coast and have built friendly relations with each other. The price level of both nations is almost equal. Favorability rating for Arbitrian people of Negolanders is high. Likewise, favorability rating for Negolanders of Arbitrian people is high. Many people in both nations visit the other nation and trade between the nations also has been active. However, no free trade agreement or economic partnership agreement has been signed between Negoland and Arbitria. Both Negoland and Arbitria are WTO members.
4. Red Corp. was founded by its last president John Nomura in 1990. The company profile of Red is as outlined in Exhibit 1. After working for a bank for 15 years, in 1985, John Nomura switched his career to agriculture when his father who was a farmer passed away. John's father was an independent farmer with 3 hectares' land where he produced carrots, potatoes and other vegetables. John, unlike his father, aimed to produce vegetables that would meet the market's demand and repeatedly developed improved varieties of vegetables. John's efforts paid off and a large number of orders for John's vegetables started to come in from department stores and food wholesalers in Negoland. Thus, John started Red Corp. in 1990 to undertake agricultural business on a larger scale. He purchased additional land in various areas of Negoland and employed workers. By purchasing land in different areas and developing new varieties, John established a system that allowed him to supply a wide variety of vegetables throughout the year. In addition, he was also concerned about health and environment and made efforts to minimize the use of agricultural chemicals.

5. In the late 1990s, Red's vegetables built a safe and delicious vegetable brand, and they became known to many people in Negoland. Some of Red's vegetables were purchased directly by department stores and supermarkets. Some of them were sold by local retail stores through food wholesalers. The prices of Red's vegetables and chickens were somewhat higher than for middle-tier vegetables and chickens. From 2000, John started to produce chicken meat. John was also successful in the chicken meat business. In 2002, a Negoland scholar published a report suggesting that ingredients contained in Red's vegetables and chicken meat are effective for diet and long life, and for activating the brain. Owing partially to this report, in 2003, Red's annual turnover from production of vegetables and chicken meat amounted to 50 million Nego Lira.
6. In 2004, Red opened a restaurant called "Smart Choice" in Negoland's capital Negotown. The principle of Smart Choice is to provide dishes using vegetables and chicken meat produced by Red that are good for brain and body. The name "Smart Choice" contains John's wish to provide dishes that give customers a sense of satisfaction for their choice and make them smart by eating the restaurant's food. Smart Choice restaurants use a mark with an emphasis on the color red representing Red, and the restaurants' exterior also emphasizes the color wine red. Due partially to increasing interest in health and food in Negoland since around 2003, Smart Choice was very well received from the beginning, and in the following year, the second Smart Choice restaurant opened in Negoland's second largest city, Negosaka. As the second restaurant was also successful, John decided to make Smart Choice into a nation-wide restaurant, and opened new restaurants around the nation as a franchise chain.
7. Under franchise agreements concluded by Red in Arbitria, a franchisee is required to pay 50,000 Nego Lira as the initial fee at the time of entering into the agreement as well as 3% of monthly sales as royalty. Also, Red required franchisees to use vegetables and chicken meat produced by Red as main ingredients of their dishes; as the basis of the business model Smart Choice was to provide dishes that use vegetables and chicken meat produced by Red.
8. Trends in the number of Smart Choice restaurants in Negoland are as shown below. Owing partially to favorable coverage of Smart Choice by a popular TV program in Negoland in 2006, the number of franchisees and their sales steadily grew.

	2004	2005	2006	2007	2008	2009	2010	2011	2012
Directly managed restaurants	1	2	2	4	5	5	5	5	5
Franchise restaurants	0	0	5	20	35	70	90	120	145
Total	1	2	7	24	40	75	95	125	150

9. Blue Corp. is a retailer in Arbitria established by its last president, Hiromi Ohta, in 1980. The company profile of Blue Corp. is as outlined in Exhibit 2. In 1975, Hiromi opened a foods

supermarket called “AOZORA” in Arbitria’s capital Abu Abu. This name reflects Hiromi’s wish to provide cooking ingredients that are freshly grown under the AOZORA (meaning blue sky) and to enable all employees to work with a pure mind like the AOZORA, along with a “customer first” philosophy. AOZORA uses a mark that emphasizes blue. Hiromi did not rely on the existing way of purchasing through wholesalers. Instead, she travelled around the nation to purchase delicious ingredients at the price as low as possible. Farmers and producers who empathized with Hiromi's attitude started to supply good items directly to AOZORA. In addition to purchasing items within Arbitria, she also made efforts to select trusted overseas suppliers to import safe and good items from overseas. As a result of such efforts, AOZORA gained in popularity. In 1980, Hiromi established Blue Corp. and AOZORA came under Blue Corp.’s business operations.

10. AOZORA's sales steadily grew, and by 1995 Blue had opened 100 directly managed stores in Arbitria. Trends in the number of AOZORA stores are as follows.

1980	1985	1990	1995	2000	2005	2006	2007	2008	2009	2010	2011
3	20	50	100	150	200	201	203	204	206	207	209

* The above stores are all directly managed stores. By 2005, necessary store expansion to main areas in Arbitria was almost over, and thus an increase in the number of stores has slowed down thereafter.

Although the size of AOZORA stores varies depending on the store, it gained status as a middle-sized supermarket selling primarily foods and daily supplies which closely reflected the daily life of the people in Arbitria. At the end of 2000, Hiromi suddenly passed away. Hiromi’s only surviving family was her daughter Tomomi Ohta. Tomomi Ohta was involved in the management of Blue Corp. as the Planning Department Manager even while Hiromi was still alive. After Hiromi’s sudden death, Tomomi assumed the position as the president of Blue Corp. Tomomi also inherited all Blue Corp.’s stocks owned by Hiromi.

11. Tomomi continued on Hiromi’s path and concentrated on the management of the AOZORA supermarkets for two years after taking office as president. However, she thought that the strategy of increasing the number of AOZORA stores would have its limit and that diversification would be necessary to develop Blue Corp. further. Thus, together with Brown Corp. from Japan, she established a joint venture company Yellow Corp. Brown Corp. and Blue Corp. contributed 50:50 to Yellow Corp. In 2003, Yellow Corp. opened a fast food chain that sold a Japanese food, Onigiri (rice balls). Brown Corp. had earlier had great success in Japan in developing a franchise fast-food chain “Onigiri-kun” that sold onigiri, and wanted to expand its business to Arbitria. As Brown Corp. had no experience in operating business in Arbitria, it chose a form of business collaboration with Blue Corp. Yellow Corp. chose to use

franchises to develop the Onigiri-kun chain.

12. In Onigiri-kun restaurants, a mascot in the shape of onigiri, which was also used in Japan, was displayed, and franchisees are required to pay 30,000 Abu dollars as an initial fee as well as 5% of monthly sales as royalty. Rice is the main ingredient of onigiri, but franchisees were not required to use Japanese rice for the rice of the onigiri. Use of rice produced in Arbitria was allowed. It was recommended to create an innovative style of onigiri suited for Arbitria. For franchisees that wished to use Japanese rice, Brown in Japan was to provide support in purchasing good quality Japanese rice at the lowest possible price. In doing so, no extra cost for the profit of Brown or Yellow was added. In Arbitria, since around 2003, there was a Japanese food boom. Riding this Japanese food boom, Onigiri-kun racked up profits and the number of franchisees steadily grew. The rise in the number of franchisees of Onigiri-kun is shown below.

Year	2003	2004	2005	2006	2007	2008	2009	2010	2011
Franchisees	5	20	35	45	55	65	75	85	95

13. In 2007, the president of Red Corp., John Nomura, passed away. Pat Tiger, who had been John's right hand man since the establishment of Red, became the next president. After assuming the office as president, Pat Tiger came up with a policy to expand Red's business overseas. More specifically, he proposed to export Red's vegetables and chicken meat, and open Smart Choice restaurants overseas. Tiger proposed such overseas expansion because of Negoland's sluggish market. In Negoland, the population is aging and the birthrate is falling. Since 2005, its population has been declining. Negoland's economy has also been sluggish. Tiger thought that if the company limited its operations only within Negoland's domestic market, there was no prospect of further growth. Tiger's policy was also supported by Red Corp.'s Board of Directors. Red Corp. selected Arbitria as the first target nation for its overseas expansion. The reason for this decision was that Arbitria had a good relationship with Negoland and research results showed that the Arbitrian people had great interest in good quality cooking ingredients. It was therefore expected to attract a large number of customers who would buy good quality food and eat healthy food even if it was more expensive. For the same reason, Japan was also selected as a target country. In pursuing overseas expansion, Red Corp. selected high-reputation department stores and supermarkets in Arbitria and Japan as distributers of Red's vegetables and chicken meat. As for Smart Choice, as local operators' knowhow and resources were required to manage restaurants overseas, Red decided to appoint an appropriate local master franchisee, instead of operating directly managed restaurants itself.
14. In Japan, the company that caught the news about Red Corp.'s overseas expansion and first approached Red Corp. was Black Corp. Black Corp. was operating department stores in Japan and Arbitria, having 10 stores in 10 major cities in Japan and 10 stores in major cities in Arbitria.

In recent years, Black Corp. has been focusing on food, healthy food in particular. Black Corp. thought that the vegetables and chicken meat produced by Red Corp., which were famous for being healthy and good for the brain, were perfect items to sell at the food section of its department stores. Black Corp. promised Red Corp. that it would purchase Red Corp.'s vegetables and chicken meat at a considerably higher price than their selling price in Negoland. Furthermore, Black Corp. promised that it would purchase a certain quantity of products. However, Black Corp. proposed, as a condition of the above, that Red Corp. should not sell its vegetables and chicken meat to other wholesalers and retailers in Japan and Arbitria without Black Corp.'s consent. This is because Black Corp. intended to sell Red Corp.'s vegetables and chicken meat as rare high-end products. Regarding Smart Choice, as Black Corp. had adopted a management policy to focus on the management of department stores, it did not show any interest in franchising Smart Choice.

15. As was the case with Black Corp., Blue Corp. also showed interest in Red Corp.'s expansion into Arbitria. Blue Corp. had been importing food ingredients from Negoland. When the Purchasing Department Manager of Blue Corp., Ruby, was visiting Negoland to have a business meeting with a manufacturer in Negoland, he heard from a vendor in Negoland a rumor that Red Corp. was thinking of expanding its business into Arbitria. Ruby immediately communicated with Tomomi in the home country to seek advice on whether or not he should approach Red Corp.. At that time, based on Tomomi's management policy that Blue Corp.'s further development should be achieved by diversifying its business, Blue Corp. was expanding its Onigiri-kun chain. Blue Corp. also learned from its customers who came to AOZORA and Onigiri-kun restaurants about Arbitrians' needs for good quality eat-out food and was interested in developing its restaurant business on a larger scale. However, Blue Corp. did not have enough time and capacity to start restaurants alone. Even though AOZORA was importing food ingredients from various countries, Red Corp.'s high quality vegetables and chicken meat could become one of AOZORA's featured products, if Blue Corp. could import and sell them. Tomomi had heard about the high quality of Red Corp.'s vegetables and chicken meat and had been to Smart Choice a few times when she visited Negoland. Tomomi liked the quality of their food. Therefore, Tomomi told Ruby that he should make an appointment with Red Corp. and that Tomomi was coming too. As for Red Corp., it knew that Blue Corp. was operating a supermarket chain called AOZORA in Arbitria and that Blue Corp. was putting most of its efforts into food products. Red Corp. saw Blue Corp. as a core company among food retailers in Arbitria. Red Corp. also knew that Blue Corp. established a joint venture company with Brown Corp. from Japan and was successfully expanding a fast food chain called Onigiri-kun. When Blue Corp. contacted Red Corp., Red Corp. was also considering the possibility of forming a partnership with Blue Corp. in expanding its business into Arbitria.

16. On September 15, 2007, Tomomi, Ruby and Pearl, the head of the Planning Department of Blue Corp., visited Red Corp. and a meeting between Red Corp. and Blue Corp. was held.

Attendants from Red Corp. were President Tiger; the head of the Planning Department, Tom Nomura, who was the first son of John Nomura; and the head of the Food Service Department, Bob Orange. At this meeting, the following conversation was exchanged.
Tomomi: "I heard that your company is thinking of expanding your business into Arbitria. We would very much like to assist your company."
Tiger: "Thank you very much for coming all the way here. It is true that our company has started considering specific ways to expand our business into Arbitria. Going into Arbitria is our first attempt to expand our business overseas and we hope to succeed at any cost."
Tomomi: "Have you already selected a partner in Arbitria?"
Tiger: "Not yet. We are hoping to find a first-class and trust worthy partner."
Tomomi: "We have been paying attention to the quality of your vegetables and chicken meat and thinking about selling them at our AOZORA stores. I have also been to Smart Choice a few times. I think the food is excellent. We would be grateful if you choose us as your partner in expanding your business into Arbitria. I believe that your vegetables and chicken meat will become the leading products of AOZORA. As for Smart Choice, we would like to be the master franchisee and develop franchisees in Arbitria."
Tiger: "We have been paying attention to your company's AOZORA and Onigiri-kun too. We were internally considering the possibility of your company becoming our partner in expanding our business into Arbitria."
Tomomi: "Great timing. Let us discuss specific terms and move forward."
Tiger: "We think so too. However, we have already received a proposal from Black Corp. from Japan regarding export of our vegetables and chicken meat. As you know, Black Corp. has been operating department stores in Japan and Arbitria and they told us that they would like to deal with our vegetables and chicken meat at their department stores. Black Corp. highly values our products and we are thinking of having Black Corp. as our retailer for our vegetables and chicken meat."
Tomomi: "Has it been decided already?"
Tiger: "Yes. You should consider it that way."
Tomomi: "How about Smart Choice then?"
Tiger: "Nothing has been decided regarding Smart Choice yet."
Tomomi: "We regret your decision on a retailer for your vegetables and chicken meat. But we would appreciate it if you could consider us as a joint venture partner for Smart Choice."
Tiger: "We would like to talk about it in detail too."
Tomomi: "Do you have anything particular about the development of Smart Choice in Arbitria?"
Orange: "Let me explain, as I am in charge of this matter. As I explained earlier, Smart Choice features dishes that use Red Corp.'s vegetables and chicken meat. This is our fundamental policy and we wish to maintain this in Arbitria too. However, I suppose that there

are good food ingredients that are specific to Arbitria. I understand that your company buys good quality food ingredients within Arbitria and sells them at your AOZORA stores. We certainly wish to add healthy dishes that use Arbitria-specific food ingredients to our menu. The main point is to offer healthy food that is also good for the brain. Upon receiving an order from your company for the necessary quantity, we will sell our vegetables and chicken meat to your company. In our country, we require our franchisees to pay an initial fee at the time of the franchise agreement as well as a 3% royalty. We would like to use the same scheme for the master franchise agreement with your company. We will let you know more specific terms in writing later. Since we will leave the franchising business in Arbitria to your company as our master franchisee, we would like you to guarantee a certain franchisee development schedule."

Tomomi: "I understand. In any event, we would like to consider this after we receive and examine the documents from you. We fully understand that it is important to emphasize that Smart Choice features healthy food that uses your vegetables and chicken meat. From our experience in developing Onigiri-kun business, people's tastes are different to a certain degree depending on the country. Therefore, it is important to be flexible in changing and improving seasoning of food, menus and interior of Smart Choice to suit to the taste of Arbitrians while keeping the characteristics of Smart Choice."

Tiger: "We understand that too. We would like to have a thorough discussion with you to move forward. We wish our master franchisee to be our partner, who can help us both to maximize our strength through constructive discussions. We are also prepared to be flexible."

Tomomi: "Of course. We have one more request for you. As Smart Choice features dishes that use Red Corp.'s vegetables and chicken meat, we need to supply a sufficient quantity of vegetables and chicken meat to our franchisees. We would like to place an order for all of our franchisees in Arbitria and deliver them to each franchisee. We will try to place an order as early as possible. But we would like you to promise us that you will supply good quality food ingredients in a stable manner."

Tiger: "Of course. That is Smart Choice's basic principle."

Tomomi: "All right then. We are looking forward to receiving your detailed proposal."

17. On September 30, 2007, a letter, which appears in Exhibit 3, was sent from Red Corp. to Blue Corp. Blue Corp. immediately examined the contents and sent a reply letter, which appears in Exhibit 4, to Red Corp. In response to this letter, which appears in Exhibit 4, Red Corp. sent another letter, which appears in Exhibit 5, to Blue Corp. Then, in response to this letter, Blue Corp. sent another letter, which appears in Exhibit 6, to Red Corp. On November 10, 2007, Red Corp. and Blue Corp. had a meeting at Blue Corp.'s head office in Arbitria to discuss issues that were not resolved through this exchange of these letters.
18. During the meeting on November 10, 2007, the following conversation took place between the parties. The participants were Vice President Bear and Nomura from Red Corp. and Tomomi, Vice President Diamond and Pearl from Blue Corp.

Tomomi: “Thank you very much for coming all the way here.”
Bear: “Our pleasure. Our negotiation has come to the final stage. We have two major issues still to be discussed.”
Diamond: “That’s right. We have not reached an agreement on a contract fee and the target number of restaurants to be opened. Regarding the fee, we have reviewed your proposal again, but we still think that paying 500,000 Nego Lira as an initial fee at the time of the contract is too much of a risk considering the fact that we have to bear a significant amount of the cost for developing sub-franchisees, training the sub-franchisees, support for the opening of the restaurants, promotion of Smart Choice and other things, and it is not certain how successful Smart Choice will be. Regarding the royalty, if the royalty we have to pay to your company is set at 3%, there is no profit for us. Since your company will make a profit from selling your vegetables and chicken meat and we will be doing the major work as a franchiser, we would like our royalty to be 1%.”
Nomura: “That is a bold proposal. If we have to reduce both an initial fee and royalty, it just does not pay for us. We cannot work with your company under such terms.”
Diamond: “Which will you be able to accept, reducing the initial fee or the royalty?”
Bear: “It depends on how many franchisees you can promise to us. This is a critical point for us. If only a limited number of restaurants can be opened, then directly managed restaurants will be sufficient for us. The reason why we wish to have a master franchisee rather than having directly managed restaurants is that we would like people in Arbitria to know the merits of our vegetables and chicken meat and Smart Choice by having a large number of restaurants. We think it very important for the food service industry to increase name recognition. If name recognition is increased, customers will come automatically. We have confidence that if customers visit Smart Choice once, they will be satisfied with its high quality food.”
Diamond: “Does that mean that there is a possibility of reducing the initial fee and royalty depending on the target number of restaurants we set?"
Bear: “Yes, you can think that way. We do appreciate the experience you gained through franchising Onigiri-kun. But we do not wish you to prioritize Onigiri-kun and neglect Smart Choice. A target number needs to be set from this standpoint too.”
Tomomi: “You do not need to worry about that. We will certainly do our best for the success of Smart Choice. I understand what you are saying. We will agree to set a target number of restaurants. But such being the case, would you please lower the target number and reduce the initial fee and royalty? I don't probably need to say this, but, since Smart Choice’s biggest draw is the food that uses your vegetables and chicken meat, we will agree to these terms on the condition that you ensure the supply of your vegetables and chicken meat to us.”
Nomura: “Then, how about setting a target number of restaurants to 10 restaurants per year for the third and subsequent years? And, if you cannot achieve the target number, you pay us a penalty for breach of contract of 50,000 Abu dollars per restaurant for the number of restaurants

below the target each year. This will cover the amount which our company would have earned otherwise through royalties. As for the initial fee and royalty, how about 400,000 Nego Lira as the initial fee and 1.5% as the royalty? This is the best we can offer."

Tomomi: "I see. That will be OK. I will appreciate it if you ensure that we get sufficient supply of vegetables and chicken meat from you."

Bear: "We will do our best. But please understand that there might be a situation beyond our control such as a poor harvest."

Based on the result of this meeting, a contract, which appears in Exhibit 7, was entered into. A draft of Exhibit 7 was prepared by Red Corp. and submitted to Blue Corp. Blue Corp. requested only some formal changes, and did not request any changes that required reconsideration of the subject matter.

19. Blue Corp. started to prepare for the opening of Smart Choice restaurants in Arbitria and called for franchisees. From among the larger-than-expected number of applicants, Blue selected sub-franchisees which it thought would be the most trustworthy, and had them operate the first three restaurants. Blue Corp. obtained Red Corp.'s consent in selecting these three restaurants. The first restaurant opened in Arbitria's capital, Abu Abu on February 1, 2008, the second restaurant opened in Arbitria's second largest city Abu-city on April 1, 2008 and the third restaurant opened in Arbitria's third largest city Abu-town on May 1, 2008. Under Blue's franchise agreements with its sub-franchisees in Arbitria, a franchisee is required to pay 50,000 Abu dollars as the initial fee at the time of entering into the agreement as well as 3% of sales as royalty. This condition was decided following the terms of franchise agreements between Red and its franchisees in Negoland. Blue paid a royalty of 1.5%, which was half as much as the royalty paid by the sub-franchisees to Red. All three restaurants enjoyed great success from the very beginning, and people lined up every day. With this success, Blue Corp. opened the fourth and fifth restaurants in the capital Abu Abu in August and September 2008, which were both very prosperous. As described above, during the first 3 years, Blue Corp. opened new restaurants at a faster rate than scheduled under the contract. The number of restaurants opened and sales of Smart Choice restaurants are as shown below.

	Number of new franchise restaurants	Total number	Sales(10,000 Abu Dollars)
2008	5	5	500
2009	7	12	1500
2010	12	24	2800
2011	5	29	2500
2012(as of November)	20	49	5200

20. Prior to the opening of each restaurant, the sub-franchisee and the person in charge of cooking had to undergo training in Arbitria provided by Blue Corp. The franchise contract between Blue Corp. and each sub-franchisee contained a provision requiring the operator and the person in charge of cooking for the franchise restaurant to undergo training provided by Blue Corp.

At this training, the manual for sub-franchisees was explained and cooking practice for the main dishes on the menu was offered. The following statements were contained in the manual for sub-franchisees which was made jointly by Red and Blue and distributed at this training.

"3. Food ingredients

(1) All sub-franchisees and their employees shall be aware that Red's vegetables and chicken meat are scientifically proved as effective for health and the brain and that the selection of good food ingredients is the life line of Smart Choice.

(2) Of dishes on the menu, Red Corp.'s vegetables and chicken meat shall be used for those for which the use of Red Corp.'s vegetables and chicken meat is mandatory. Sub-franchisees shall place an order for the necessary amount of Red Corp.'s vegetables and chicken meat with Blue Corp. and receive ordered items from Blue Corp. As a rule, Blue Corp. shall deliver the ordered vegetables and chicken meat on the day following the order date. In case of a rush order, the sub-franchisee shall notify Blue Corp. thereof.

(3) When using other food ingredients, sub-franchisees shall use food ingredients that are recognized locally as being healthy and of high quality. Red Corp. or Blue Corp. may inspect food ingredients used at a franchise restaurant without prior notice.

(4) Particular attention shall be paid to the best-before dates for food ingredients. It is not permitted under any circumstances to use expired food ingredients. Strict attention shall be also paid to the storage of food ingredients. For the storage method for food ingredients, refer to the Guidelines separately set out."

(The rest is omitted.)

21. Blue Corp. held a meeting semi-annually (in March and September) with the participation of all restaurant managers. Blue Corp. also invited people from Red Corp. who provided guidance concerning the management of Smart Choice. Bob Orange, Food Service Department Manager from Red Corp., attended the meetings held in September 2008, March 2009, September 2009 and March 2010. At these four meetings, Department Manager Orange gave the following explanation to the participants.

Orange: "As stated in the manual, please pay extra attention to the selection and management of food ingredients. Red Corp.'s vegetables and chicken meat will be delivered on the day following the day you place your order with Blue Corp. As the dishes that use Red Corp.'s vegetables and chicken meat are Smart Choice's sales point, please pay enough attention to the arrangement and storage of these food ingredients. You should not use left-over food ingredients. They should be disposed of. Let me emphasize this. You should not use expired food ingredients even if you feel it would be a waste not to use them."

During the question and answer period at these four meetings, in response to Orange's above explanation, the following Q&A exchange was made between participants and Orange.

Participant: "Wouldn't there be a case where we cannot get enough of Red Corp.'s food ingredients?"

Orange: "We supply our food ingredients to Blue Corp. in a quantity that is more than needed, and Blue Corp. is storing them at its warehouse. So you do not need to worry."

Participant: "The dishes that use Red Corp.'s food ingredients rank high in sales at our restaurant, and therefore, we should avoid the situation where we cannot get enough food ingredients under any circumstances. Please make sure that the situation where you don't have enough and cannot deliver your food ingredients to us will never occur."

Orange: "Don't worry. Smart Choice in Arbitria is very important to us. We will deliver our food ingredients to you before anyone else."

Participant: "Is it correct to think that there will never be such a case where Red Corp.'s food ingredients are sold at Black Corp.'s department stores but Smart Choice restaurants will not be able to get them."

Orange: "That will never happen."

The person in charge from Blue Corp. who was chairing the meeting and listening to this conversation also said, "Please do not worry. Our company will also ensure to get enough food ingredients."

22. In 2010, some major issues concerning the development of Smart Choice in Arbitria started to emerge. The first issue was concerning the exterior appearance of the 23rd restaurant. The 23rd restaurant was going to open in Abunea-city which is the most historic city in Arbitria. A franchise contract was entered into with the sub-franchisee, Apple Corp. Apple Corp. purchased land for the restaurant and started construction of the building. (All Smart Choice restaurants in Arbitria were built in stand-alone buildings.) Blue Corp. obtained the approval of Red Corp. for the land. However, on August 10, 2010, when the construction work was at the last stage where only painting of the exterior and final touch-up of the interior were left, Abunea-city contacted Apple Corp. concerning the exterior of this restaurant, saying: "we cannot issue a business permit as it is, because the exterior with the key color of wine red will impair the surrounding scenery." Abunea-city has a city ordinance allowing the city to refuse to issue a building permit or a business permit as a commercial facility for a building that impairs the scenery. In this case, the city refused to issue a business permit as a restaurant under this ordinance. However, this ordinance was applied in the past only to high rise buildings and large-scale commercial facilities. This ordinance has almost never been applied to restaurants like Smart Choice. (Therefore, Blue had not informed Red of the ordinance and Red didn't know about it.) Furthermore, the exterior color never became an issue at the stage of obtaining a building permit, because the exterior color was not the item to be mentioned in the application for the building permission. Apple Corp. requested Abunea-city's person in charge to reconsider, but Abunea-city's person in charge did not change his stance and insisted that they "could not issue a permit with the building's current color."

23. After receiving the report concerning this issue from Apple Corp., Blue Corp. discussed with

Red Corp. the measures to be taken. On August 15, 2010, Pearl of Blue Corp. called Orange and the following conversation took place.

Pearl: "Abunea-city contacted us and said that in accordance with the Abunea-city Ordinance, they would not issue a business permit unless the exterior color of the 23rd restaurant is changed from red to a different color. I have discussed this with the sub-franchisee Apple Corp. and, since the construction is at the final stage, we would like to change the exterior color immediately to deal with this issue."

Orange: "That's not good. Wine red for the exterior represents the heart of Smart Choice and there is no way to change this color to any other color. He should have opened a restaurant somewhere else if there was such a restriction. Didn't you know about this before this happened?"

Pearl: "I knew about the existence of this ordinance, but I never thought the ordinance would apply to this restaurant."

Orange: "This is your company's fault."

Pearl: "No. In any event, it is unimaginable not to open a restaurant in Abunea-city as Abunea-city is one of the major cities in our country. I would like you to leave this matter to us. We will discuss further with the city regarding an exterior which can be accepted by the city."

Orange: "No. I can't do that."

Pearl: "The exterior color is not restricted under the agreement. The sub-franchisee has already purchased land for 300,000 Abu dollars and spent 200,000 Abu dollars for construction of the building. It is the season when we could expect increasing numbers of customers toward the year-end. Unless we resolve this issue quickly and open the restaurant, the sub-franchisee's loss would be huge. As we are opening this restaurant in Abunea-city due to the strong request of local residents, once the restaurant opens up, we can expect 100,000 Abu dollars in sales per month."

Orange: "OK then. Please discuss this well with the city. Please report to me about the progress again. But, first, please negotiate with the city again to get a permit to open the restaurant with wine red exterior color."

Pearl: "I understand."

After this phone conversation, Orange sent an e-mail to Pearl as follows:

"Thank you for your phone call. As I mentioned, the color of the exterior has been decided to be wine red. Please persuade Abunea-city."

The reply from Pearl was as follows:

"I will do my best and contact you again."

The exterior color of all Smart Choice restaurants that had been opened in Negoland and Arbitria was wine red and Blue knew that fact. There was no description of the exterior color either in the manual for the master franchisee which was provided by Red to Blue or in the manual for sub-franchisees which was jointly made by Red and Blue.

24. Blue Corp. negotiated with Abunea-city, but Abunea-city did not change its position. Meanwhile, on September 5, President Apple of Apple Corp. requested Blue Corp. to resolve the issue in a prompt manner.

    Apple: “Unless this issue is resolved soon, we will have to bear a loss of 50,000 Abu dollars per month due to an increase in construction costs, salary and lost sales. I think that there is nothing we can do about it as that is the city’s policy. How about light blue based on the company name Blue? I asked about it in private to the person in charge of the city, and he said that light blue would be fine.”

    Pearl: "All right. We have no choice. Let’s go for it.”

    The 23rd restaurant opened on October 1 with the exterior in light blue. The 23rd restaurant was successful from the very beginning. The restaurant generated 250,000 Abu dollars in sales in October, 250,000 Abu dollars in November and 300,000 Abu dollars in December. (Assume that Apple Corp.’s profit was 10%)

25. Blue Corp. reported to Red Corp. about the 23rd restaurant at a meeting with Red Corp. held at the end of 2010.

    Pearl: “The 23rd restaurant finally opened on October 1 after obtaining a permit from Abunea-city by changing the exterior color to light blue. The restaurant has been very prosperous and achieved 800,000 Abu dollars in sales within three month from October to December.”

    Orange: “What? What do you mean by light blue for the exterior color? I told you to report the progress to me as you consult with Abunea-city about the color of the exterior. Since I have not heard from you, I thought that the exterior with the key color of wine red was finally approved by Abunea-city. How could you decide to make it light blue without asking us?”

    Pearl: “You said you would leave this to our company."

    Orange: “I never said that. I said to report to me about the progress again.”

    Pearl: “In any event, the restaurant has already opened and is operating now. There is nothing we can do about it."

    Orange: “There is nothing we can do about it? This issue is not finished. We want you to change the color immediately. Otherwise, we cannot approve the restaurant as a Smart Choice restaurant.”

    Pearl: "It's impossible. It will cost about 20,000 Abu dollars to repaint and if they do, they will lose at least 200,000 Abu dollars for sales as they will not be able to operate the restaurant for almost a month. The sub-franchisee will never agree with it.”

    Orange: "If you don’t comply with the contract, we have no choice but considering taking certain measures.”

    Pearl: “You have agreed to be flexible depending on the local laws and situation.”

    Orange: “The color of the exterior is a different issue. If you keep a passive attitude, then we will have to directly contact the sub-franchisee and instruct them to repaint the exterior. You must have known that the color of the exterior was important."

Pearl: "As I said before, we have proceeded with this project upon consultation with the sub-franchisee and the city because you left it entirely up to us. In this case, repainting is not necessary and the restaurant should continue its operation as is."

Orange: "Unfortunately, that's not going to happen. We will have to contact the sub-franchisee then."

Pearl: "If you insist, we have nothing to say. Please do so at your own responsibility.

Orange: "We have no other choice but to step up, because your company is not fulfilling your responsibilities. This is not a matter of doing things on our own."

Discussion between Orange and Pearl ended up without any progress.

26. In the end, Orange contacted Mr. Apple of Apple Corp. in January 2011.

Orange: "You must know that the exterior wall of Smart Choice should be wine red. As Red's policy, we cannot approve the restaurant as a Smart Choice restaurant if you continue to operate the restaurant with the exterior color in light blue. Therefore, I am very sorry to say this, but you must repaint the exterior wall and do other necessary work. We are planning to negotiate with the city concerning the color for repainting."

Apple: "We discussed this with Blue Corp. before we did it, and it does not make any sense that we have to repaint the exterior walls at this point. Moreover, our loss from repainting and suspension of business will be huge."

Orange: "I have to say that Blue Corp. was at fault in making the decision on this. However, we cannot allow you to continue to operate the restaurant as it is. We will make some arrangement for the repainting cost. We will also pay you 50,000 Abu dollars as compensation for suspension of business and 50,000 Abu dollars for your inconvenience, a total of 100,000 Abu dollars. This has to be done to protect Smart Choice's image. We urge you to cooperate."

Apple: "All right, since you insist."

After this, Red Corp. negotiated with Abunea-city. As a result of negotiation, Abunea-city agreed to issue a permit with the exterior wall in wine red on the condition that a hedge is built around the building. Red paid 100,000 Abu dollars as compensation for suspension and payment for inconvenience to Apple Corp. and commenced the repainting. As an arrangement was made for repainting and other work to make the business suspension period as short as possible, the actual suspension period was only two weeks and the cost for repainting (including the cost for the exterior wall) was 20,000 Abu dollars. Immediately after this, Red Corp. announced that it would donate 100,000 Abu dollars to Abunea-city for maintaining Abunea-city's scenery. The payment of money for inconvenience was not extraordinarily unreasonable under the circumstances in Arbitria.

27. Red Corp. argued that the 100,000 Abu dollars Red Corp. paid to Apple Corp. and 20,000 Abu

dollars for repainting occurred because Blue Corp. approved light blue exterior walls in violation of its contractual obligation and by not following the instructions of Red Corp., and demanded payment from Blue Corp. In response, Blue Corp. is refusing payment, arguing that these payments were made by Red Corp. based on its own decision and Blue Corp. had nothing to do with it. Also, Blue argues that Blue is not required to get Red's approval on the exterior color under the franchise agreement, that the blue exterior was a necessary measure to comply with the regulation of Arbitria and that the compensation to Apple Corp. could be less because the restaurant was open from October to December (The following is not disputed: if Blue had continued the negotiation with Abunea-city on the same stance, it was highly possible that the attitude of Abunea-city would not have changed. As a result, the 23rd restaurant could not have been opened by December, so the 800,000 Abu dollars as the sales during the period from October to December would have been lost. If Red had negotiated with Abunea city, it is uncertain whether the attitude of Abunea city would have changed.).

削除: Blue

This case is referred to as the "23rd restaurant case."

28. The second trouble was that the number of restaurants opened in 2011 in Arbitria did not reach the target number stipulated in the agreement. In accordance with the master franchise agreement, 10 restaurants were supposed to be opened in 2011. However, the actual number of restaurants opened was only 5. In January 2012, Red Corp. sent a letter saying, "according to Article 2.2 of the Agreement, please pay to us, as soon as possible, 250,000 Abu dollars, which is equal to the sum calculated by multiplying the number of restaurants below the target for 2011 (5 restaurants) by 50,000 Abu dollars." Blue Corp. argues that, when considering the excess number of restaurants opened during the first three years, the target number of 28 in four years was achieved accumulatively. However, Red Corp. argues that the target number is to be achieved each year, and the number of restaurants opened in the past cannot be carried over. Blue Corp. also argued that, even if the target number is to be achieved each year, the number of restaurants opened in 2011 was below the target number because of two problems that occurred at the beginning of 2011, for which Blue Corp. was not responsible, and refused payment.

29. The first problem took place in January 2011, regarding a TV program that was broadcast by a TV station in Arbitria. In this TV program, the claim that Red's vegetables and chicken meat were good for health and the brain was investigated and a view was expressed that the Negoland's scholar's analysis that Red's vegetables and chicken meat were good for health and brain was wrong (Red and Blue were interviewed just before the broadcast, but they did not expect the program to contain such contents). As a result, a consumer group in Arbitria embarked on a campaign claiming that Smart Choice's advertisements were false, and under the influence of this campaign, customers coming to Smart Choice dropped considerably and no one wished to become a franchisee. In response to this event, Red Corp. and Blue Corp. teamed up and collected data to make a counter-argument, and had a TV station produce and broadcast a TV program disproving the claim made in the original TV program. In this TV

program, scientists representing Arbitria verified Red Corp.'s claim that its vegetables and chicken meat were actually good for health and the brain for anyone including people in Arbitria. This verification work and production of the TV program took time, and the TV program was finally broadcast in June 2011. After the TV program disproving the claim in the original TV program was broadcast, Smart Choice attracted even more customers than before and people who wished to become franchisees increased. However, during the time of this event, the opening of new restaurants had to be suspended (the parties do not dispute this fact). Blue Corp. once considered seeking damages from the TV station which broadcast the original TV program. However, the consensus of lawyers in Arbitria was that it would be difficult to seek damages legally as the TV program only expressed scholarly views.

30. After this TV program case settled down, in August 2011, a food poisoning incident occurred at a Smart Choice franchise restaurant in Negoland. At this food poisoning incident, by chance, Arbitria's former prime minister and his wife were visiting Negoland from Arbitria for sightseeing and they were involved in the incident and had to be hospitalized almost one week. Due partially to the involvement of Arbitria's former prime minister and his wife in this incident, the Negoland government took this incident seriously and temporarily shut down all Smart Choice restaurants and investigated the cause. As a result, it was discovered that the food poisoning was caused by the head chef of the restaurant, who mistakenly hit the temperature setting control when he cleaned the storage area for the food ingredients, which resulted in setting the temperature higher than normal. Although there were no food poisoning incidents in Arbitria and no restaurants were shut down in Arbitria, this incident drew a great deal of attention from people in Arbitria as this incident was reported in Arbitria as a food poisoning incident involving Arbitria's former prime minister and his wife. As a result of media coverage of this incident, Smart Choice, which was just recovering from the impact of the aforementioned TV program, suddenly lost its customers dramatically. The media coverage of this food poisoning incident created an environment in which calling for new franchisees and the opening of new restaurants were impossible. After this incident, Red Corp. revised its manual concerning handling of storage areas, and established a more stringent sanitary management system, making a public announcement in early September 2011. However, it was not until November 2011 that customers in Arbitria finally started to return to Smart Choice. All work toward the opening of new restaurants had to be suspended during this time (the parties do not dispute this fact). Before this incident, the manual contained provisions regarding regular clean-up of the storage area and adequate temperature of the storage area, but contained no provision anticipating the risk that a franchisee might mistakenly hit the temperature setting control when cleaning the storage area. Therefore, in the new manual, there is a provision to instruct the franchisee to check the temperature of the storage area after cleaning the storage area. The manual for sub-franchisees in Arbitria made by Red and Blue was revised in the same way. Due to these two incidents, only five new restaurants opened up

in 2011. The parties do not dispute the fact that in 2011, ten more restaurants could have been opened if there had been no TV program incident, and five more restaurants could have been opened if there had been no food poisoning incident. In both incidents, Blue had made timely notice to Red that the work toward the opening of the new restaurants had to be suspended.

31. The number of restaurants opened in 2011 was far below the target number. On the other hand, in 2012, as there are many suitable locations and qualified franchisees due to the fact few restaurants opened in 2011, 20 restaurants, which is beyond the target number of 10 restaurants set by the agreement, were certainly expected to open (the parties do not dispute this fact). In fact, from January to November of 2012, 20 restaurants opened and 2 additional restaurants are planned to open in December.

In January 2012, the exchange rate between the Abu Dollar and the Nego Lira was 1 Abu Dollar to 1 Nego Lira (1:1). However, the Nego Lira rapidly went up and the current exchange rate is now 1.4 Abu Dollar to 1 Nego Lira (1.4:1). According to the agreement, which appears in Exhibit 7, Red Corp. may request payment in either Abu Dollars or Nego Liras. 250,000 Abu Dollars for Red, under the current exchange rate, means less than 180,000 Nego Lira. Therefore, Red Corp. is now arguing that Blue Corp. must pay the penalty in Nego Liras in the amount equal to 250,000 Abu Dollars calculated in accordance with the exchange rate as of January 2012, which amounts to 350,000 Nego Liras. This case is referred to as the "penalty case." Movements of the Abu Dollar, the Nego Lira and the US Dollar are as shown below.

		2007	2008	2009	2010	2011	2012.1	12.3	12.5	12.7	12.9	12.11	Current
1 Nego Lira	Abu Dollar	1.10	1.10	1.00	0.90	0.90	1.00	1.10	1.20	1.30	1.40	1.40	1.40
	US Dollar	1.10	1.10	1.00	0.90	0.90	1.00	1.10	1.20	1.30	1.40	1.40	1.40
1 Abu Dollar	Nego Lira	0.91	0.91	1.00	1.11	1.11	1.00	0.91	0.83	0.77	0.71	0.71	0.71
	US Dollar	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00

During this time, the exchange rate of the Abu Dollar was moving almost in tandem with the exchange rate of the US Dollar. The currency for accounting for Red is Nego Lira and the same for Blue is Abu Dollar. When Red receives Abu Dollars, it changes them to Nego Lira with the spot exchange rate at the time of the receipt. When Blue pay in Nego Lira, it purchases Nego Lira for Abu Dollars with the spot exchange rate at the time of payment. The amount of interest need not be taken into account when you consider the amount to be paid by Blue.

32. The third trouble was the opening of a restaurant that used Red Corp.'s food ingredients in Black Corp.'s department stores. From January 2012, Black Corp.'s department stores adopted a sales strategy which aimed to sell food ingredients and at the same time to make customers know more about the food ingredients they sold. To realize this strategy, Black Corp. requested some of the suppliers of food ingredients to open restaurants in its department stores. This request was also made to Red Corp. According to the request made by Black Corp., the purpose of this restaurant was to introduce dishes which consumers who bought Red Corp.'s vegetables and chicken meat could make at home. Red Corp. discussed internally about the

relationship of such restaurant with Smart Choice. It was concluded that as far as the restaurant limits its menu to the dishes that were different from those of Smart Choice and could be made relatively easily at home, the restaurant could be differentiated from Smart Choice, and furthermore, this could be the first step for Red Corp. to find the possibility of a new business model. Therefore, Red Corp. opened a home cuisine restaurant Healthy Choice in Black's department store in Abu Abu on April 1, 2012. Healthy Choice's menu was different from that of Smart Choice. Dishes on Smart Choice's menu were not on the menu of Healthy Choice. Healthy Choice's prices were about 20% cheaper than Smart Choice. Healthy Choice sold cooking cards to customers who wished to cook dishes on Healthy Choice's menu at home and offered a 10% discount for vegetables and chicken meat sold at the food section of the department store to customers who brought the cooking cards. Furthermore, a cooking class was offered three times a week and an event where a cook from Healthy Choice taught dishes of Healthy Choice was held.

33. Thus Healthy Choice won popularity among Black Corp.'s customers. Upon Black Corp.'s request, in May 2012, Red Corp. opened Healthy Choice in two other department stores of Black Corp. These Healthy Choice restaurants were also very popular. All Healthy Choices were opened in response to Black Corp's requests. No profit has been earned from Healthy Choice up until now, because only a short period has passed since their opening, the prices are kept low and operation cost has been high because of the cost of cooking school. Instead, Black Corp. has paid 10,000 Abu Dollars each month as financial support for the operation of Healthy Choice. The number of customer seats of Healthy Choice is about 50 (Smart Choice in Arbitria has about 150 on average), and the color of the wall facing the corridor of the department is wine red.

34. To this, Blue Corp. claimed that the opening of Healthy Choice was a breach of the master franchise agreement which prohibited others, including Red Corp. itself, from opening Smart Choice restaurants. Sales in Smart Choice restaurants decreased by 5% in the three cities where three of Black Corp.'s department stores had opened Healthy Choice restaurants. According to Blue Corp. there is no possible cause for the decrease of sales other than the opening of Healthy Choice. Furthermore, Healthy Choice was discussed on the food-service-industry-related Internet site where people who went to restaurants in Arbitria could write their experience and reviews. This web site is very popular in Arbitria and people often visit it when they choose restaurants. Many comments written on this site included statements such as: "Pretty good. Like Smart Choice, you can enjoy Red Corp.'s vegetables and chicken there," "Cooking class is a good idea," "This restaurant is for people who want to eat Red Corp.'s vegetables and chicken meat that are supposed to be good for health and the brain."

35. In response to the claim made by Blue Corp., Red Corp. argues that dishes offered by Smart Choice and Healthy Choice are different and Smart Choice's concept also differs from that of

Healthy Choice, and the Healthy Choice only constitutes Red Corp.'s cooperation with the sales promotion activity by Black, and thus Red Corp. did not commit any breach of the master franchise agreement; and Red Corp. further argues that even if Smart Choice and Healthy Choice have some overlapping part, at least under the current situation where Blue Corp. has failed to open the number of restaurants set under the agreement, Red Corp. is allowed to open restaurants itself. Red Corp. is currently preparing to open Healthy Choice restaurants in all of Black Corp.'s stores in Arbitria. Blue Corp. claims that this is a breach of the franchise agreement and thus such acts shall not be allowed. In the event of immediate closure, each Healthy Choice restaurant closed would result in a cost of 10,000 Abu dollars for Red.

This case is referred as the "Healthy Choice case."

36. Due to bad weather in Negoland in the fall of 2012, crop yields of Red Corp.'s vegetables are expected to fall to two-thirds of the normal amount. Under these circumstances, Red Corp. sent a notice, which appears in Exhibit 8, to Blue Corp. entitled "Delivery of Red Corp.'s Vegetables in the first half of 2013." In the past, Blue Corp. ordered from Red Corp. the necessary amount of vegetables and chicken when necessary, and no quota system was applied. No basic agreement on the sale of vegetables and chicken between Red and Blue has existed. There was no case in which Red refused Blue's order or Red failed to supply vegetables ordered by Blue.

37. In response to this notice, Blue Corp. requested that Red Corp. increase the quota for each Smart Choice restaurant in Arbitria, as the impact of the TV program incident and food poisoning incident was finally disappearing, customers are coming back and the opening of a large number of restaurants is expected in 2013. However, Red Corp. showed reluctance to accept this request. Therefore, Sapphire, the head of the Food Service Department of Blue, visited Red Corp. and requested an increase in the quota.

    Sapphire: "We received a notice concerning the quota system. We cannot accept that. From late 2012, Smart Choice's customers are returning and in 2013, we are expecting to open a series of new restaurants. We ask you to set a quota at the level so that we could get at least the same amount as in 2012."

    Orange: "That would be difficult. We have reduced the quota for all others too. And this is the decision we had to make to allocate limited food ingredients in the most effective way. Our main business is the sale of vegetables and chicken. Smart Choice may use other alternate food materials. Under these circumstances, in setting Black Corp.'s quota and your quota, we have no other choice but to keep Black Corp.'s quota higher than yours. I understand your situation. But I have to ask you to deal with this by adding other dishes to your menu."

    Sapphire: "We have considered other dishes on our menu. But Smart Choice's feature dishes are those that use Red Corp.'s vegetables and chicken meat, which come to about 50% of the total sales. Even if we use other ingredients and offer other dishes, it is undeniable that we will lose customers. It is our conclusion after a review of your proposal that if we accept the quota in your notice, sales of each franchisee will drop by at least an average of 20%."

Orange: "I understand your situation. But we are free to make a decision on where we sell limited ingredients."

Sapphire: "At the briefing session for sub-franchisees, you promised them to supply ingredients to Smart Choice in Arbitria before anyone else, didn't you? In addition, considering the nature of the franchise contract, whether or not it is stipulated in the written agreement, a franchisor shall not be allowed to interfere with the business of franchisees and shall cooperate with franchisee in good faith. Your company has the obligation to do your best effort to satisfy the orders from Blue. "

Orange: "That was the explanation made to sub-franchisees, and moreover, it was made orally. That does not impose any legal obligation on us to Blue Corp. Nor does the franchise agreement impose on us the obligation to deliver vegetables on a priority basis."

Discussion between Red and Blue remained as far apart as ever. In the event Red sells vegetables directly, it will receive about 10% more profit than it does on the sale to Black Corp., Blue Corp. and Smart Choice restaurants.

This is referred to as the "quota case."

Round A (Arbitration)

38. Negotiations between Red Corp. and Blue Corp. concerning the "23rd restaurant case," "penalty case", "Healthy Choice case" and "quota case" all ran into difficulties, and Red Corp. and Blue Corp. have agreed to resolve all these cases by arbitration.

    Claims made by each party in each case are as stated in Exhibit 9. The arbitrator instructed the parties to prepare their argument on the issues stated in Exhibit 9, as he would hear their argument particularly concerning these issues on the day of the hearing, set for December 1, and furthermore, to submit a brief summarizing their argument by the specified date (in preparing the brief, each party should examine the argument of both parties described in this question regardless of the party with whom the burden of proof lies).

Round B (Negotiation)

39. The parties agreed to settle the "23rd restaurant case" and "penalty case" concerning Smart Choice, which were to be resolved by arbitration, and to share the relevant loss and cost equally. Because of the bankruptcy of Black Corp., the parties agreed to hold a negotiation about the Healthy Choice case (the parties may submit the case to arbitration again if an agreement is not reached). As for the "quota case," due to subsequent changes considering the weather situation, normal crop yields became possible, contrary to the original expectation. Therefore, it became unnecessary to worry about the yield of Red Corp.'s vegetables. Under these circumstances, at the end of 2012, Red Corp. and Blue Corp. agreed to discuss the future development of Smart Choice in Arbitria including necessary changes to be made in light of the lessons learned from these troubles. Very recently, both Negoland and Arbitria announced to enter into the negotiation for TPP (Trans-Pacific Partnership).

40. Currently, the following three issues are presented for discussion.

    (1) The way to develop restaurants in Arbitria in the future

    The target numbers of restaurants up to 2012 are set out in the agreement. However, the numbers for 2013 and subsequent years are to be determined by separate negotiation. Red Corp. insists that as the total number of restaurants as of the end of 2012 still remains 51, Blue Corp. shall guarantee to continue to open new restaurants in a positive manner. Red Corp. thinks that it is necessary to make the name "Smart Choice" better known and plans to increase the number of restaurants in Negoland to the 250 level in the near future. Given the market size of Arbitria, which has half the population of Negoland, Red Corp. thinks that there should be around 100 restaurants in Arbitria as early as possible. Therefore, Red Corp. is proposing to set the target number of restaurants to be opened in 2013 and 2014 to 20 each. In contrast, Blue Corp. argues that although it agrees to aim to open more than 100 restaurants in total in the future, the more important thing now is to make efforts to increase the earning power of each franchisee and that they should not focus solely on the opening of new restaurants. More specifically, Blue Corp. argues that they should plan to open around 5 restaurants in 2013, but in 2014 and subsequent years, they should open new restaurants as needed after making a careful selection of locations where the earning power of a franchisee can be expected, instead of setting a specific target for the number of new restaurants.

    (2) Menu and ingredients

    In light of the confusion that occurred after the bad weather in 2012, and considering the increasing number of franchisees, Red Corp. requests Blue Corp. to develop dishes that do not limit ingredients to Red Corp.'s vegetables and chicken meat, while maintaining the dishes that use Red Corp.'s vegetables and chicken meat as the restaurant's featured dishes. Blue Corp. insists that if Red Corp. requests Blue Corp. to diversify the menu and ingredients, Red Corp. should grant the right to decide menu and ingredients, which Red Corp. currently has, to Blue Corp.

(3) Royalty

Up until now, under the tax treaty between Negoland and Arbitria, withholding tax was not imposed on royalties in the country where royalties are paid. However, from January 2013, a 5% withholding tax will be imposed (both countries have foreign tax credit mechanisms). As no deduction at source has been made in the past, the current agreement does not provide for the treatment of withholding tax. Red Corp. argues that after the introduction of withholding tax, Blue Corp. should pay the amount equal to the withholding tax on top of the royalty (so-called "tax gross up"). However, Blue Corp. argues that Red Corp. is responsible for paying tax, and thus withholding tax shall be borne by Red Corp., and it cannot accept tax gross up. Just before the coming negotiation, Red requested Blue to raise the royalty from 1.5% to 3% to cover the increased cost.

41. In addition to the above issues, an important event for both companies occurred recently. That event is Black Corp.'s bankruptcy. Although the food section of Black Corp.'s department stores was doing well, sales of other sections were on a decline and the uncertainty of Black Corp.'s business management had been pointed out since 2009. In addition, Black Corp. had purchased exchange derivative products on US dollars and Japanese Yen (See the Note below) following the advice of its financial institution, and due to the recent strong Japanese Yen, the loss from these derivative products drastically increased, which in turn triggered Black's bankruptcy. (Note: exchange derivative products: a currency option by which Black Corp. receives cash called "premium" at the time of contract, and in exchange, when the Japanese Yen goes up, the financial institution requires Black Corp. to buy a certain amount of USD every month at an unfavorable exchange rate which will be lower than the market rate) (There is no disclosure requirement for derivative transactions in Arbitria which needs to be considered in this Problem). Bankruptcy proceedings have commenced not only in Japan but also in Arbitria in parallel. Both Negoland and Arbitria have the law whose content is the same as the UNCITRAL Model Law on Cross-Border Insolvency. No company is expected to assume the business of Black and it is certain that Black will be liquidated.

42. When Black Corp. went bankrupt, Red Corp. had to immediately discuss the measures to be taken for the business previously operated by Black Corp. in Japan and Arbitria. Blue Corp. had been interested in the sales of vegetables and chicken meat from the beginning, and it now wishes to take Black Corp.'s position and deal with Red Corp.'s vegetables and chicken meat at AOZORA. Thus Blue Corp. asked Red Corp. about its intention. Red Corp. expressed its strong intention to discuss it with Blue Corp. Currently, the following points are presented as the major points of discussion.

(1) Whether or not the agreement should be an exclusive distributorship agreement

Red Corp. insists that the agreement will be a non-exclusive agreement for the following reasons: it wishes to keep an option to sell its product itself through mail orders, etc., and the risk is too high with a sole distributor due to the possibility of bankruptcy of the distributor, as was the case with Black Corp. In response, Blue Corp. insists on making the agreement exclusive for the following reasons: AOZORA has a nation-wide network of stores and thus no other sales channel is needed; and Blue Corp. will put great efforts to sell Red Corp.'s vegetables and chicken meat.

(2) Sales strategy

Black Corp. sold Red Corp.'s vegetables and chicken meat with the image of relatively high-end food ingredients. In contrast, AOZORA has been considered as a supermarket closer to people when compared with Black Corp.'s department stores. The parties need to present their own ideas about the best way to deal with Red Corp.'s vegetables and chicken meat for Blue Corp. regarding the above-mentioned AOZORA network.

(3) Healthy Choice

Another issue is how to deal with the popular Healthy Choice. All Healthy Choice restaurants have stopped their operations, because all Black department stores were closed after Black's bankruptcy. Considering the success of cooking classes offered by Healthy Choice, Red Corp. is thinking of making a continued effort to expand the cooking class business. Red Corp. first renovated its directly managed Smart Choice restaurant in Negotown, and changed it to "Smart Choice Cooking School" where cooking classes were offered, teaching how to prepare the dishes served in Smart Choice and Healthy Choice. This was a great hit. Red Corp. is planning to open about five directly managed cooking schools in Negoland. For Arbitria, Red Corp. is currently debating on whether it should open directly managed cooking schools or operate Healthy Choice as is but as a directly managed restaurant. To this, Blue Corp. insists that Smart Choice should observe Healthy Choice's successful operation and Smart Choice should be the only store instead of having Healthy Choice together with Smart Choice. Therefore, Blue Corp. is also against Red Corp.'s plan to open Healthy Choice and Smart Choice Cooking Schools directly managed by Red Corp.

43. At the negotiation on December 2, although discussing other issues related to the business of the parties such as other improvements to be made to the franchise agreement is permitted, it is desirable to discuss thoroughly about at least the above issues, and determine a certain direction on these issues regardless of whether the parties reach an agreement or the negotiation breaks down. The research department of Arbitria Industrial Bank, the leading bank in Arbitria, issued the report on the trend of food service business in Arbitria as shown in Exhibit 10. The report of Arbitria Industrial Bank is known as very reliable. Also, Exhibit 11 is the result of the questionnaire to the customers which was conducted by Blue Corp. in the early and middle part of November for this negotiation.

44. At the negotiation on December 2, Bear, Nomura, Orange and others from Red and Diamond, Pearl, Sapphire and others from Blue are expected to attend.

(Exhibit 1)

Particulars of Red Corp.

Business Name: Red Corporation

Head Office: Negotown, Negoland

Name of President: Pat Tiger

Shareholders' Equity on the Balance Sheets: Ten Million Nego Lira (NL10,000,000.00)

Shares: not publicly traded

Business: Among others, production and sales of agricultural products, operation of restaurants,

10,000 Nego Lira

	Year		2003	2004	2005	2006	2007	2008	2009	2010	2011
Agricultural Products Sales	Sales of agricultural products		5,000	5,500	7,000	8,000	9,000	12,400	13,800	16,000	15,000
	Sales to	Negoland, etc.	5,000	5,500	7,000	8,000	9,000	9,500	10,500	11,500	10,000
		Black (Arbitria)						400	500	700	1,000
		Blac (Japan)						400	500	800	1,000
		Smart Choice (Negoland)						1,500	1,600	2,100	2,000
		Smart Choice (Arbitria)						300	700	900	1,000
		Profit	500	550	680	790	850	1,050	1,350	1,500	1,200
Smart Choice	Directly Managed	Number		1	2	2	4	5	5	5	5
		Sales		150	300	300	600	750	750	750	700
		Profit		7	15	15	30	35	35	35	28
	Franchise (Negoland)	Number				5	20	35	70	90	120
		Initial Fee				25	65	65	175	100	150
		Royalty				15	55	100	205	275	300
	Franchise (Arbitria)	Number						5	12	24	29
		Sales						500	1,500	2,800	2,500
		Initial Fee					40				
		Royalty						7	22	42	37
Total Profit			500	557	695	845	1,040	1,257	1,787	1,952	1,715

(Exhibit 2)

Particulars of Blue Corporation

Business Name: Blue Corporation

Principal Office: Abu Abu, Arbitria

President: Tomomi Ohta

Shareholders' Equity on the Balance Sheets: Ten million Abu Dollar (Ab$10,000,000.00)

Shares: Not publicly traded (all shares are held by Ohta family)

Business: Among others, operation of supermarkets and restaurants

							10,000 Abu Dollar	
	Year	2005	2006	2007	2008	2009	2010	2011
AOZORA	Number of Shops	200	201	203	204	206	207	209
	Sales	120,000	119,000	120,000	125,000	130,000	140,000	150,000
	Profit	2,400	2,380	2,400	2,500	2,600	2,800	3,000
Onigiri-kun	Number of Shops	35	45	55	65	75	85	95
	Initial Fee for Yellow	30	30	30	30	30	30	30
	Royalty for Yellow	30	40	50	60	70	80	90
	Profit for Yellow	60	70	80	90	100	110	120
	Dividend to Blue	6	7	8	9	10	11	12
Smart Choice	Number of Shops				5	12	24	29
	Sales				500	1,500	2,800	2,500
	Initial Fee				25	35	60	25
	Royalty				7	22	42	37
Total Profit		2,406	2,387	2,408	2,541	2,667	2,913	3,074

(Exhibit 3)

September 30, 2007

To: Lisa Pearl
Blue Corp.
Head of Planning Department

Thank you very much for coming all the way to our office the other day.

We are writing to inform you of our opinions on the main provisions to be included in the master franchise agreement with your company concerning franchising in Arbitria.

Should you have any opinions, please let us know in writing within fifteen days.

① Red Corp. appoints Blue Corp. as the master franchisee for Smart Choice in Arbitria and grants the authority to manage Smart Choice restaurants through sub-franchisees in Arbitria.

② Red Corp. itself may operate Smart Choice in Arbitria.

③ Blue Corp. shall not carry out any business which competes with Smart Choice during the term of the franchise agreement and for three years after the expiration or termination of the term of the franchise agreement.

④ Blue Corp. shall pay to Red Corp. an initial fee in the amount of five hundred thousand (500,000) Nego Lira within ten (10) days after the conclusion of the agreement. In addition, Blue Corp. shall pay to Red Corp. three (3) % of sales from Smart Choice in Arbitria as royalty every month. The payment shall be made in Abu Dollars.

⑤ Blue Corp. shall open at least the following number of Smart Choice restaurants each year. The number of restaurants to be opened during the sixth and subsequent years shall be determined by separate negotiation between Red Corp. and Blue Corp. in light of the previous situation of opening of the restaurants. Restaurants shall meet the style requirements specified by Red Corp.

First year:	3 restaurants
Second year:	5 restaurants
Third year:	12 restaurants
Fourth year:	15 restaurants
Fifth year:	15 restaurants

⑥ The term of this agreement shall be ten (10) years, and unless either party notifies the other party in writing at least six (6) months prior to the expiration of the term, the term shall be automatically renewed for an additional period of five (5) years.

⑦ Red Corp. shall prepare and provide Blue Corp. with rules, manuals and other regulations for the management of Smart Choice.

⑧ Red Corp. shall provide Blue Corp. and sub-franchisees with necessary know-how and guidance for the management of Smart Choice.

⑨ Blue Corp. shall obtain Red Corp.'s approval in advance for the menu of each sub-franchisee of Smart Choice. Red Corp. may specify ingredients to be used at Smart Choice and Blue Corp. shall ensure that all Smart Choice restaurants use such specified ingredients.

⑩ Blue Corp. shall supervise sub-franchisees to ensure that they manage Smart Choice in accordance with the rules, manuals and other regulations established by Red Corp.

⑪ Blue Corp. shall continuously supervise sub-franchisees and educate and train people who perform the work of sub-franchisees to manage Smart Choice in a proper manner.

⑫ If a sub-franchisee fails to manage Smart Choice in a proper manner or a sub-franchisee violates the rules, manuals or other regulations established by Red Corp., Blue Corp. shall have the obligation to correct such violation in a prompt manner.

⑬ Blue Corp. may submit a proposal concerning Smart Choice to Red Corp. for better management of Smart Choice in Arbitria.

⑭ Red Corp. shall provide Blue Corp. with consultation at any time upon request concerning the management of Smart Choice.

⑮ If Blue Corp. breaches this agreement, Red Corp. reserves the right to suspend performing its obligations under this agreement and/or to select new sub-franchisees

⑯ All disputes concerning the franchise agreement shall be submitted to the courts in Negoland, which shall have exclusive jurisdiction.

⑰ All matters concerning this franchise agreement shall be governed by the laws of Negoland.

Yours truly,
Bob Orange
Red Corp.

Head of Food Service Division

(Exhibit 4)

October 15, 2007

To: Bob Orange
Red Corp.
Head of Food Service Division

We have received a notice dated September 30 from your company. We have carefully reviewed your proposals, and we regret that there are more than a few points which we cannot accept. More specifically, we wish your company to reconsider the following points. We look forward to hearing from you.

Specific issues are as stated below.

(1) According to ②, your company is permitted to manage Smart Choice in Arbitria itself. We would like you to entrust the management of Smart Choice in Arbitria exclusively to our company.
(2) We would like you to limit the period during which we are prohibited from carry out competing business to the term of the franchise agreement.
(3) The 500,000 Nego Lira initial fee and 3% royalty are too high. We would like you to explain to us the reason why such a high initial fee and royalty need to be paid.
(4) The appropriate number of Smart Choice restaurants to be opened or whether or not it is possible to open Smart Choice restaurants cannot be determined based on your company's circumstances alone. It depends on various factors including whether or not we can obtain cooperation from your company and whether or not we are able to respond properly to the needs of customers in Arbitria. Therefore, at this moment, we cannot guarantee the number of Smart Choice restaurants we will open.
(5) Ingredients to be used at Smart Choice in Arbitria should be determined through discussion between your company and our company in consideration of, among other things, ingredients our company is able to obtain and tastes of customers in Arbitria. It is not appropriate for your company to determine them unilaterally.
(6) There is no doubt that our company has the duty to supervise sub-franchisees. However, this is based on the premise that your company provides us with sufficient know-how and information. If this premise is not met, our company alone cannot assume responsibility for the acts committed by sub-franchisees.
(7) Regarding dispute resolution, we request that the court of jurisdiction be a court in Arbitria, as this business is carried out in Arbitria.

(8) For the same reason, we request that governing law be the laws of Arbitria.

Sincerely,
Lisa Pearl
Blue Corp.
Head of Planning Department

(Exhibit 5)

October 25, 2007

To: Lisa Pearl
Blue Corp.
Head of Planning Department

After a careful review of the comments from your company dated October 15, our response is as stated below.

(1) The reason why we thought that we needed to reserve the right to manage Smart Choice in Arbitria ourselves is that we will be able to know the situation in Arbitria better through operating directly-managed restaurants, and that it will be better for us to be prepared in the case where, for some reason, the management of Smart Choice by your company does not go well. However, we will accept your request and we will not open Smart Choice in Arbitria ourselves unless you breach the franchise agreement. However, this is on the condition that you ensure that our employees may visit Smart Choice restaurants under your control at any time and confirm and ask questions about the status of management of the restaurants.

(2) How about shortening the period for prohibiting competition to one year?

(3) After entering into the agreement, we will provide you with the know-how and skills we have accumulated, as well as the necessary training. To do so, we need to receive appropriate consideration. If restaurants open according to our schedule, there will be 50 restaurants by the end of the fifth year. In our country, sales of each restaurant amount to 1,500,000 Nego Lira on average and our Smart Choice section's profit ratio has been about 5% each year. Therefore, you should be able to recover this level of investment in no time. Please think that this is an investment worth the money. And, your company must have the financial capacity for it.

(4) Since we are entrusting our business in a market with good potential like Arbitria with you, we would like you to realize certain results. If you have problems with the number we have proposed, please let us know the reason for it.

(5) We accept your proposal on the ingredients. However, we would like you to follow our instructions for the dishes that use Red Corp.'s vegetables and chicken meat which are the feature dishes of Smart Choice. As for the menu, the menu represents Smart Choice's concept, and we cannot accept that you set a menu on your own. We agree to the point that it is necessary to have a menu suitable for the management of restaurants in Arbitria and we will not unreasonably refuse your proposal on the menu. However, we think that we need to maintain

the right to make the final decision.

(6) We will promise in the agreement that we will provide sufficient know-how and the necessary guidance. If your company fails to supervise sub-franchisees in a proper manner due to breach of obligations committed by us, then, of course, we are also responsible for it.

(7) Regarding dispute resolution, how about using arbitration?

(8) Regarding governing law, how about using the UNIDROIT Principles of International Commercial Contracts as a neutral choice of law?

Yours truly,
Bob Orange
Red Corp.
Head of Food Service Division

(Exhibit 6)

November 3, 2007

To: Red Corp.
Bob Orange, Head of Food Service Department

Thank you very much for your prompt reply. We agree with your proposal stated in (1), (2), (5), (6), (7) and (8). However, we cannot agree with (3) and (4). We would like to meet with you to discuss these points.

Sincerely,
Lisa Pearl
Blue Corp.
Head of Planning Department

(Exhibit 7)

MASTER FRANCHISE AGREEMENT

THIS MASTER FRANCHISE AGREEMENT (the "Agreement") is made and entered into this the 1st day of December, 2007, by and between Red Corporation, a Negoland corporation ("Red"), and Blue Corporation, an Arbitrian corporation ("Blue").

WHEREAS, Red operates and franchises others to operate restaurants under the trade name and service mark "Smart Choice" (the "Franchised Restaurants");
WHEREAS, Red is the owner of certain proprietary rights and interests in and to the "Smart Choice" name and logo and such other related trademarks, service marks, designs and goodwill (the "Trademarks") and the processes, trade secrets and procedures for the operation of the Franchised Restaurants, including advertising, sales techniques, materials, signs, exterior decoration, personnel management, bookkeeping and accounting methods and other system and method of business operation developed through and by reason of its prior business experience (the "System") in connection with the Franchised Restaurants;
WHEREAS, Red desires to expand and develop the Franchised Restaurants, and seeks Blue who will build, open, and/or operate or procure and assist subfranchisees ("Subfranchisee") to build, open and/or operate numerous restaurants conducting business under the Trademarks and System within the development area, defined herein; and
WHEREAS, Blue desires to build, open, and/or operate Franchised Restaurants, and assist Subfranchisees to build, open, and/or operate Franchised Restaurants;
WHEREAS Red desires to grant to Blue the right to build, open and/or operate, and assist the Subfranchisee to build open, and/or operate Franchised Restaurants in accordance with the terms and upon the conditions contained in this Agreement.

NOW, THEREFORE, the parties mutually agree as follows:

1. GRANT

1.1 Red grants to Blue the exclusive right in the country of Arbitria (the "Territory") and Blue accepts the obligations, pursuant to the terms and conditions of this Agreement in complete compliance with applicable laws, rules, and regulations and in accordance with the development schedule described in Section 2.3 hereof. The right of Blue includes the right;

(a) To use the Trademarks in connection with the Franchised Restaurants to be conducted by Blue pursuant to the provisions of this Agreement;
(b) To sub-license and assist Subfranchisees to establish and operate Franchised Restaurants pursuant to a separate Franchise Agreement by and between Blue and the Subfranchisee for each such Franchised Restaurant unit as described in Section 2 hereof (Master Franchised Restaurants and Franchised Restaurants shall he referred to collectively in this Agreement as "Subfranchises" or "Franchised Restaurants"); and
(c) To enforce the Franchise Agreements.

1.2 Blue agrees that it shall not open or approve for opening any Franchised Restaurant or operating a territory or area without first receiving Red's written consent to the identity of the Subfranchisee and Franchised Restaurant location and/or territory or area.

1.3 Red shall not own, acquire, establish, operate, and/or license others to establish and operate businesses using the Trademarks, or other trademarks, and the System within the Territory; provided, however, that, in case Blue breaches any obligation under this Agreement and such breach continues for more than three months, Red is entitled to own, acquire, establish, operate, and/or license others to establish and operate businesses using the Trademarks, or other trademarks, and System within the Territory.

2. TERM, RENEWAL AND DEVELOPMENT OF THE TERRITORY

2.1 Except as otherwise provided herein, the term of this Agreement shall commence on December 1, 2007 and shall expire ten (10) years from the date of its execution. This Agreement shall automatically renew for an additional term of five (5) years unless either party notifies its intention to terminate this Agreement in writing at latest six (6) months prior to the end of the current term.

2.2 Blue expressly acknowledges and agrees to open and/or operate a minimum number of Franchised Restaurants each year in the Territory either by itself or through Subfranchisees as set forth on Exhibit A hereto ("Minimum Development Obligation"). In case Blue fails to open and/or operate the minimum number of Subfranchisees as described in the previous subparagraph, upon Red's written demand, Blue shall pay to Red the amount of Abu Dollar 50,000 multiplied by the difference between the minimum number and the actually opened number of the Subfranchisee, either in Abu Dollar or Nego Lira as designated by Red.

2.3 Each Subfranchise shall be established and operated pursuant to a unit franchise agreement ("Franchise Agreement") prepared by Blue and approved by Red.

3.FEES

3.1 Blue shall pay to Red an initial master franchise fee of Four Hundred Thousand Nego Lira (NL400,000.00) (the "Fee") upon the execution of this Agreement. Blue acknowledges and agrees that the Fee is fully earned and non-refundable upon execution of this Agreement.

3.2 In addition to the Fee, Blue shall also pay to Red by the tenth (10th) of each month during the term hereof an ongoing royalty fee in the amount of one point five Percent (1.5%) of the Gross Revenues of all Franchised Restaurants operated by the Subfranchisees. The Gross Revenue is the amount which each Subfranchisee is paid by customers of its Franchised Restaurant.

3.3 Blue agrees that all payments under this Agreement shall be made to Red with funds transfer to the bank account as specified in Exhibit B of this Agreement.

4. DUTIES OF RED

4.1 Red shall offer an initial training program, in Negoland, to such individuals described in Section 5.1 hereof. Such training shall consist of a minimum of two (2) weeks, at Red's sole and absolute discretion, in the areas of franchise sales and marketing, site selection, store layout and design, store development, coordination of products and services, franchisee training and support, and on-going marketing, merchandising and product development. In addition, Red shall, at Blue's own cost and expense, provide on-site training of not more than ten (10) days within the Territory. Such training will consist of equipment operations, marketing, store policies and daily operation.

4.2 Red shall loan to Blue for the duration of this Agreement one copy of Red's Operating Manual for Master Franchisee, and such other manuals as Red may develop and issue (the "Master-Manual").

4.3 Red shall cooperate with Blue to make the manual for Subfranchisees in Arbitria (the "Sub-Manual").

4.4 Blue acknowledges and agrees that Red is authorized to conduct, when and as frequently as it deems advisable, inspections of the business premises of Subfranchisees in the Territory and evaluations of Blue's operations, in order to: (a) assist Blue and to maintain the System's standards of quality appearance and service: (b) determine whether Blue is in compliance with this Agreement and any other agreement between the parties; and (c) enforce, if it deems necessary, the terms of this or any other agreements between the parties and/or Subfranchisees.

4.5 Blue shall as necessary submit for review by Red any modifications which it proposes are necessary to comply with applicable laws, ordinances, rules, regulations, administrative orders, decrees and policies of any government authority within the Territory. Red agrees to consider and incorporate all such modifications it deems necessary to the Manual in order to reflect each such modification to the System.

4.6 In addition, Blue may, from time to time, submit for review and approval by Red any modifications which it proposes to make to the System to the extent such modifications it deems may be necessary to comply with current commercial usage, custom, practice and market characteristics within the Territory. Red agrees to consider each such proposed modification within a reasonable time after there is a submission to Red. However, Blue acknowledges the importance of maintaining, to the extent possible, the uniformity of the System. Accordingly, Red shall have sole and absolute discretion in approving or disapproving such proposed modification. No such proposed modifications shall be effective without the prior written consent of Red. Red agrees to make all changes to the Manual in order to reflect modifications to the System that it has so approved.

削除: 5

5. DUTIES OF BLUE

5.1 Up to two individuals designated by Blue shall attend and complete, to Red's sole satisfaction, the initial training program offered by Red in Negoland.

5.2 Blue shall cause each Subfranchisee to among other things:

a. use and occupy the premises of each Franchised Restaurant solely for the operation of the business franchised hereunder;

b. be open and in normal operation for at least such minimum hours and days as Red may specify in the Sub-Manual or otherwise in writing; and

c. timely comply with all terms and conditions of the Franchise Agreement.

5.3 To insure that the highest degree of quality and service is maintained, Blue shall cause each Subfranchisee to operate its Franchised Restaurant(s) in strict conformity with such methods, standards and specifications as may from time to time be prescribed in the Manual or otherwise in writing. Blue shall cause the Subfranchisees to refrain from:

a. deviating from such standards, specifications, and procedures without Red's prior written consent; and,

b. otherwise operating in any manner which reflects adversely on the Trademarks or the System.

5.4 Blue shall cause each Subfranchisee to sell or offer for sale only such products and services as have been expressly approved for sale in the Sub-Manual and the menu approved by Red, or otherwise in writing. Blue shall require Subfranchisees to discontinue selling any products or services which are not provided for in the Manual and shall require Subfranchisee to refrain from offering any unapproved products or services.

5.5 Blue shall cause each Subfranchisee to purchase all products, equipment, supplies and materials used or sold from Red, if required, and/or suppliers (including manufacturers, wholesalers and distributors) who have the ability to meet Red's reasonable standards and specifications for such items; who possess adequate quality controls and capacity to supply Blue's needs promptly and reliably; whose approval would enable the System, in Red's reasonable opinion, to take advantage of marketplace efficiencies; and who have been approved by Red in the Manual or otherwise in writing or otherwise not thereafter disapproved.

5.6 Blue shall protect the integrity of the System and Trademarks in the Territory, including, without limitation, by fulfilling all of its obligations imposed on it by this Agreement and each Franchise Agreement, by supervising the manner in which the Trademarks are used and the System is implemented, and otherwise shall take all such steps, including, where reasonable and appropriate, the commencement and diligent prosecution of legal proceedings, as may be necessary to cause each Subfranchisee in the Territory to observe and perform in a timely fashion all of its obligations under each relevant Franchise Agreement.

5.7 Blue shall at all times comply with all applicable laws and regulations in the Territory, including those applicable to the solicitation of prospective franchisees and the offering and granting of franchises by Blue.

5.8 Red shall have the right at all reasonable times to inspect the premises from which Blue conducts its business. Furthermore, Red shall have the right to inspect Franchised Restaurants and the equipment and fixtures therein and the products and services being sold and generally to investigate the manner in which Subfranchisees are conducting their business; in the event of any such inspections, Blue and its employees shall cooperate fully and use its best efforts to cause Subfranchisees and their employees to cooperate fully with Red.

5.9 In dealing with prospective Subfranchisees, Blue shall carefully screen and evaluate prospective Subfranchisees pursuant to the standards prescribed by Red.

5.10 Blue shall provide necessary advice and instruction to, and supervise each Subfranchisee to ensure the Subfranchisee complies with the Sub Manual and maintains the integrity of the System and the Trademark; and

5.11 For each Subfranchisee, Blue shall, at its sole expense, fulfill all its duties, and enforce all the terms and conditions under each Franchise Agreement, including, without limiting the foregoing, to:

(i) Provide site selection counseling and assistance, onsite inspections, site evaluations, and site recommendations, without guaranteeing that any Franchised Restaurant will be profitable or successful;

(ii) Provide initial training required and optional training programs, seminars and workshops;

(iii) Provide to Subfranchisees standard plans (in the form of "blue-line drawings") and specifications for the construction of the interior design and layout of the Franchised Restaurants adapted by Blue for the use in the Territory, advise and consult with the Subfranchisee regarding the construction and/or renovation of the Franchised Restaurants, conduct on-site inspections during construction and/or renovation, and ensure upon completion of construction and/or renovation that construction and/or renovation has been completed in accordance with the plans and specifications;

(iv) Upon completion of construction and/or renovation, inspect the Franchised Restaurants to confirm that it has been equipped in accordance with approved plans and specifications;

(v) Provide the Sub-Manual and all updates thereto:

(vi) Visit each Franchised Restaurant in the Territory at least once each quarter during the term of the relevant Franchise Agreement and any renewals thereof, in order to provide continuing assistance as reasonably determined by Blue and/or Red, inspect the premises of such Subfranchisee to determine whether Subfranchisee's continued operation is in conformity with Red's procedures, standards and specifications, and verify compliance by Subfranchisee and Subfranchisee's employees with all applicable laws, rules, regulations, and procedures, and prepare a report thereon in such form as Red shall designate, which completed form shall be submitted to Red within five (5) days after such visit.

6. TRADEMARKS

6.1 Blue acknowledges and agrees that Red owns all right, title, and interest to the Trademarks, and to all applications, registrations, and other filings or notices which may be made with respect thereto in any jurisdiction.

. . .

7. CONFIDENTIAL MANUALS AND INFORMATION

7.1 In order to protect the reputation and goodwill of Red, and to maintain high standards of operation under the Trademarks and the System, Blue shall conduct its business in accordance with the Manual and all other directives of Red. Blue shall treat the Manual, and the information contained therein, as confidential, and shall use all reasonable efforts to maintain such information as secret and confidential.

. . .

8. ACCOUNTING AND RECORDS

8.1 Blue shall maintain during the term of this Agreement and shall preserve for at least five (5) years from the dates of their preparation full, complete, and accurate books, records, and accounts in accordance with generally accepted accounting principles as well as in the form and manner reasonably prescribed by Red from time to time in the Manual or otherwise.

. . .

9. TRANSFER OF INTEREST

9.1 Red shall have the right to transfer or assign all or any part of its rights or obligations under this Agreement to any person or legal entity.

9.2 Blue shall not, without the prior written consent of Red, which consent may be withheld in Red's sole discretion, sell, assign, transfer, convey, give away, pledge, mortgage, or otherwise encumber, voluntarily or involuntarily, in whole or in part, by operation of law or otherwise, in any manner (a) any direct or indirect interest in the rights granted in this Agreement; (b) any shares of Blue which would effect a change of control of Blue; or (c) all or substantially all of the assets of Blue.

10. DEFAULT AND TERMINATION

10.1 Blue shall be deemed to be in default hereunder, and all rights granted herein shall automatically terminate without notice to Blue, if Blue shall become insolvent or make a general assignment for the benefit of creditors; or, if a petition in bankruptcy is filed by Blue or such a petition is filed against and not opposed by Blue or, if Blue is adjudicated as bankrupt or insolvent.

10.2 Upon the occurrence of any of the following events. Blue shall be deemed to be in default and Red may, at its option, terminate this Agreement and all rights granted hereunder without affording Blue any opportunity to cure the default, effective immediately upon the provision of notice to Blue:
(a) Failure to use best efforts to enforce the terms of any Franchise Agreement or to provide services to Subfranchisees in accordance with the Franchise Agreement and such default is not remedied within ten (10) business days of written notice of termination from Red stating the nature of the default and requiring it to be remedied;
(b) If Blue does not pay any monies owing to Red or Red's affiliates, or Blue's suppliers, at the time that payment is required and payment in full is not made within ten (10) business days of written notice of termination from Red stating the nature of the default and requiring it to be remedied; and
(c) Failure of Blue to meet the Minimum Development Obligation set forth in Article 2.2 in two consecutive years;

10.3 Any other breach of this Agreement shall be an event of default hereunder. In the case of all other defaults or breaches of this Agreement (not provided for in Section 10.1 and 10.2 hereof), Blue shall have thirty (30) days after Red provides written notice of termination stating the nature of the default and requiring it to be remedied to provide evidence thereof to Red. If any such default is not cured within such time or such greater time as Red deems reasonably necessary to cure such default, this

Agreement shall terminate without further notice to Blue, effective immediately upon the expiration of such period. Blue shall be in default hereunder for any failure to comply with any of the requirements imposed by this Agreement, or to carry out the terms hereof in good faith. Blue shall not be in default hereunder if a Subfranchisee fails to fulfill its obligations under the Franchise Agreement provided that Blue takes prompt and reasonable steps to enforce any and all rights and remedies to which Blue is entitled under the Franchise Agreement or at law.

11. OBLIGATIONS UPON TERMINATION OR EXPIRATION

Upon termination or expiration of this Agreement, all rights granted hereunder to Blue shall forthwith terminate and:

11.1 Blue shall immediately cease to operate the business licensed hereunder and shall not thereafter, directly or indirectly, represent to the public or hold itself out as a present or former franchisee or master-franchisee of Red.

11.2 Blue shall immediately and permanently cease to use, in any manner whatsoever, any confidential methods, procedures, and techniques associated with the System, the Trademarks, and all other Trademarks and distinctive forms, slogans, signs, symbols, and devices associated with the System.

11.3 Blue shall immediately return to Red the Master-Manual and all other documents in its possession or under its control either directly or indirectly and shall notify Red of other known whereabouts or other documents which contain confidential information relating to the business licensed hereunder and operation of the Subfranchise.

11.4 Blue shall not conduct any business which may compete with the business of Red, including but not limited to the restaurant and food business, for one year anywhere.

12. GENERAL PROVISIONS

12.1 All questions arising out of or under the Agreement shall be governed by and construed in accordance with UNIDROIT Principles of International Commercial Contracts (2010 version).

12.2 Any dispute, controversy or difference arising out of or in relation to or in connection with this Agreement or for the breach thereof, shall be settled by arbitration in Tokyo, Japan, pursuant to the UNCITRAL Arbitration Rules and by three (3) arbitrators. The arbitration award shall be final and binding on both parties.

12.3 This Agreement, and any attachments hereto, constitute the entire and complete agreement between Red and Blue concerning the subject matter hereof, and supersede any and all prior agreements. Except for those permitted hereunder to be made unilaterally by Red, 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.

IN WITNESS WHEREOF, Red and Blue have executed this Agreement on the day and the year first above written.

Red Corporation	Blue Corporation
____________________	____________________

Exhibit A

Year	Minimum number of New Subfranchisees
2008	3
2009	5
2010	10
2011	10
2012	10

Exhibit B

Payment in Nego Lira	Nego Bank, Head Office (in Negotown), Account No. 1234567
Payment in US Dollar	Nego Bank, Head Office (in Negotown), Account No. 1231234
Payment in Abu Dollar	Arbitria Bank, Head Office (in Abu Abu), Account No. 7654321

(Exhibit 8)

November 20, 2012

To: Blue Corp.
Lisa Pearl, Head of Planning Department
Alex Sapphire, Head of Food Service Department

As we already informed you, due to Negoland's bad weather in 2012, it has become clear that in the first half of 2013 we will be able to produce only two-thirds of our regular crop yields of vegetables (quality will remain the same). After conducting an internal review, we have decided to adopt a quota system.

If the vegetable production volume in 2010 has a base score of 100, the actual scores for 2010, 2011 and 2012 are as stated in the table below, and the scores for 2013 will be as stated in the same table.

	Direct Sales	Black		Smart Choice	
		Arbitria	Japan	Negoland	Arbitria
2010	70	5	5	15	5
2011	65	7	7	14	7
2012	65	7	6	15	9
2013 Forcast	45	5	5	8	4

If your order quantity is beyond this quota, as a rule, we will not be able to accept your order. Therefore, please try to develop alternative dishes.

Yours truly,
Bob Orange
Red Corp.
Head of Food Service Division

(Exhibit 9)

Claims and Issues in Arbitration

1. 23rd restaurant case

Red Corp.'s claim

Red Corp. demands that an arbitral award be rendered requiring Blue Corp. to pay 120,000 Abu dollars to Red Corp.

Blue Corp.'s claim

Blue Corp. demands that an arbitral award be rendered dismissing Red Corp.'s claim.

(Issues)

① Is Blue Corp. legally liable for permitting the franchisee of the 23rd restaurant to build the building with exterior walls in light blue color?

② If Red Corp.'s argument concerning ① is accepted, should the amount to be paid by Blue Corp. to Red Corp. be 120,000 Abu dollars?

2. Penalty case

Red Corp.'s claim

Red Corp. demands that an arbitral award be rendered requiring Blue Corp. to pay 250,000 Nego Lira to Red Corp.

Blue Corp.'s claim

Blue Corp. demands that an arbitral award be rendered dismissing Red Corp.'s claim.

(Issues)

① Does Blue Corp. have the obligation to pay a penalty for breach of contract to Red Corp. under the agreement, which appears in Exhibit 7?

② If Blue Corp. has the obligation to pay a penalty for breach of contract, how many Nego Liras is Blue obliged to pay?

3. Healthy Choice case

Blue Corp.'s claim

Blue Corp. demands that an arbitral award be rendered prohibiting Red Corp. from operating Healthy Choice in Arbitria.

Red Corp.'s claim

Red Corp. demands that an arbitral award be rendered dismissing Blue Corp.'s claim.

(Issue)

① Does the operation of Healthy Choice by Red Corp. constitute a breach of the agreement, which appears in Exhibit 7, and should the arbitral tribunal order Red Corp. not to operate Healthy Choice and not to open new Healthy Choice restaurants in the future?

4. Quota case

Blue Corp.'s claim

Blue Corp. demands that an arbitral award be rendered prohibiting Red Corp. from selling Red Corp.'s vegetables to any other parties without fulfilling the demand of Blue Corp. .

Red Corp.'s claim

Red Corp. demands that an arbitral award be rendered dismissing Blue Corp.'s claim.

(Issue)

① Does Red Corp. owe legal duty not to sell Red Corp.'s vegetables to any other parties without fulfilling the demand of Blue Corp.?

(Exhibit 10)

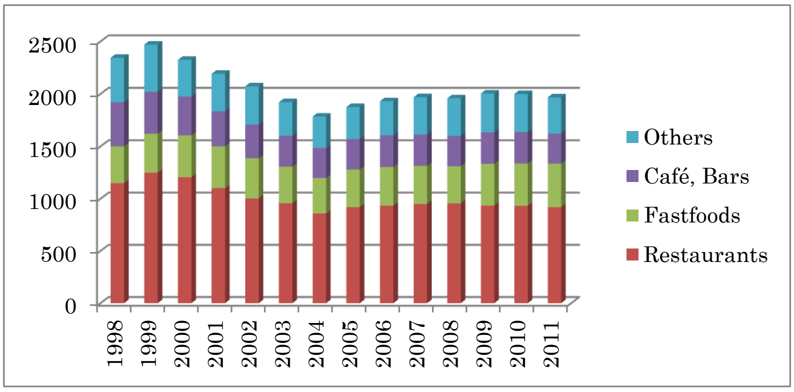
Current Situation and Prospect of Eating-out Industry in Arbitria

Research Department
The Industrial Bank of Arbitria

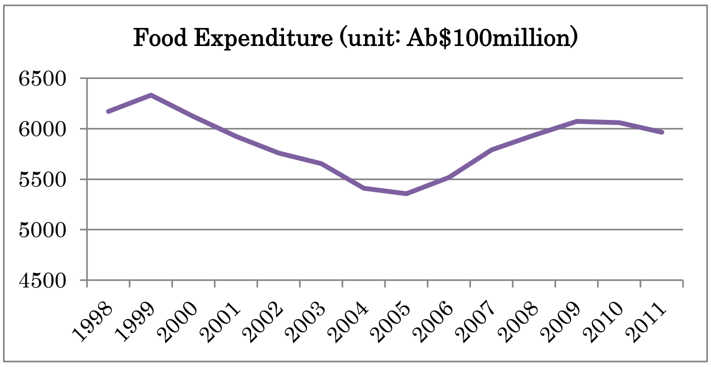
1. Current Situation

The market for eating-out industry in our country peaked in 1999. Then, the market shrank until 2004 due to the setback of the economy of Arbitria. Since 2004, the market has remained at the same level, due to steady performance of the economy of Arbitria.

(unit: Ab$100million)



Change of food expenditure in Arbitria is as follows:



With regard to the respective percentage of (i) sales of meals taken at restaurants, (ii) sales of take-out meals to be eaten at home and (iii) sales of food to be cooked and eaten at homes, out of total food expenditure, the percentage of sales of meals taken at restaurants is declining a little and the percentage of sales of take-out meals is increasing.

2. Prospect of Eating-out Industry in Arbitria

The future of the eating-out market in Arbitria:

* It is expected that the population of Arbitria will not change during the coming 5-10 years.

*Robust upturn of economy is not expected.

*The market for take-out meals to be eaten at home seems likely to increase steadily.

For these reasons, we do not expect a strong increase of the eating-out industry.

On the other hand, the companies that can pursue such a business model that properly captures the needs of consumers will be able to achieve remarkable business performance. Actually, while the top ten chains of restaurants sold 5% of total restaurant market sales in 2000, their share increased to 7% in 2010. The business models employed by these top 10 chains are different from each other. It is difficult to point out some common features. However, high recognition of names, feeling of security of consumers, good cost performance and a specialty that no other chain has, seem to have attracted consumers. Once a company gains a good reputation, it proliferates immediately as consumers exchange information through the Internet or other means. To the contrary, it is true that if a company suffers bad reputation or a scandal, consumers go away quickly.

3. Comments

The needs of consumers for eating-out industry differ from person to person and change with time. However, the following two trend patterns will continue:

* Health trend (The trend that people prefer good healthy meals with no strong impact on the human body.)
* Good cost performance (It is not necessary to maintain low prices. The important point is to offer satisfaction commensurate to the price. A company operating high-end restaurants that offer foods that are commensurate to the price can attract consumers.)

With these two points in mind, we suggest the following policy directions: The first is the use of multi-brands in order to meet the variety of consumer needs. While one company may promote the multi-brands operations, it will also be effective to promote alliances with other companies. On the other hand, it will also be effective to increase the value of existing brands by identifying the brand's own strength and improving it by concentrated investment of management resources.

It depends upon the characteristics of the business model that is employed by each company.

(Exhibit 11)

Survey Results

Time of Survey: From November 1 to November 10, 2012

Place of Survey: Each Restaurant of Smart Choice

Number of Answers: 2,000

Question 1: What do you appreciate about Smart Choice? (multiple answers allowed)

* Healthy Dishes Good for Health	70%
* Taste of Dishes	70%
* Price	50%
* Services	30%

Question 2: What do you think Smart Choice should improve? (multiple answers allowed)

* Services 30%
  (Services are mediocre presumably because staff is all part time employees.)
* Atmosphere 30%
  (Interior of restaurants can be improved.)
* Price 30%
  (It would help if the price is cheaper)
* Name recognition 20%
  (Quite a few of my friends do not know the name Smart Choice.)
* Number of restaurants 15%
  (It would be more convenient if there is one near my house.)

*In this survey, the customers are requested to write their comments freely (not multiple-choice).