

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

FORM 8-K/A

CURRENT REPORT

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

Date of report (Date of earliest event reported): February 7, 2024

NIGHTFOOD HOLDINGS, INC.
(Exact Name of Registrant as Specified in Charter)

Nevada
(State or Other Jurisdiction
of Incorporation)

000-55406
(Commission File Number)

46-3885019
(I.R.S. Employer
Identification No.)

520 White Plains Road - Suite 500
Tarrytown, New York 10591
(Address of Principal Executive Offices) (Zip Code)

Registrant's telephone number, including area code: **(888) 888-6444**

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

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (17 CFR §230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR §240.12b-2).

Emerging Growth Company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Not applicable	Not applicable	Not applicable

Explanatory Note

Nightfood Holdings, Inc. ("NGTF") is filing this Amendment No. 1 on Form 8-K/A to amend the Current Report on Form 8-K filed on February 12, 2024, to disclose that, on February 1, 2024, Fourth Man, LLC ("Fourth Man") and NGTF entered into a letter agreement whereby Fourth Man agreed to amend certain promissory notes in exchange for 1,667 shares of NGTF's Series D Preferred Stock.

Item 3.02 Unregistered Sales of Equity Securities

To the extent required by this Item 3.02, the information contained in Item 5.03 is incorporated herein by reference.

Item 5.03 Amendment to Articles of Incorporation or Bylaws; Change in Fiscal Year

On February 7, 2024, the Certificate of Designation of Preferences, Rights and Limitations of Series C Convertible Preferred Stock (the "Series C Preferred Stock") of Nightfood Holdings, Inc. ("NGTF") was amended (the "Amended Series C COD") by revising Section G to include a provision for adjustments for reverse stock splits. Pursuant to the Amended Series C COD, if the corporation at any time combines its outstanding shares of common stock into a smaller number of shares, then the number of shares of common stock issuable upon conversion of the Series C Preferred Stock pursuant to Section G(a) shall be proportionately decreased. No other changes were made.

Also on February 7, 2024, NGTF filed a Certificate of Designation of Preferences, Rights and Limitations of Series D Convertible Preferred Stock (the “Series D COD”), which established 100,000 shares of Series D Convertible Preferred Stock (the “Series D Preferred Stock”), par value of \$0.001 per share, having such designations, rights and preferences as set forth in the Series D COD. The shares of Series D Preferred Stock are convertible six (6) months after issuance into common stock of NGTF at a rate of six thousand (6,000) shares of common stock for each share of Series D Preferred Stock. The shares of Series D Preferred Stock do not have voting rights and rank junior to the Series B Preferred Stock. The holders of Series D Preferred Stock are not entitled to dividends.

NGTF’s board of directors unanimously approved the Amended Series C COD and the Series D COD. The Amended Series C COD was also approved by the affirmative vote of NGTF’s majority stockholder entitling it to a majority of the voting power. The forgoing description of the amendment to the Series C Preferred Stock and rights, powers and preferences of the Series D Preferred Stock are each qualified in their entirety by reference to the Amended Series C COD and the Series D COD, which are filed as Exhibits 3.1 and 3.2, respectively, to this Current Report on Form 8-K, and are incorporated herein by reference.

On February 1, 2024, Fourth Man and NGTF entered into a letter agreement whereby Fourth Man agreed to amend that certain promissory note in the principal amount of \$65,000 issued by NGTF to Fourth Man on June 29, 2023 (the “Note”) and that certain promissory note in the principal amount of \$60,000 to Fourth Man on August 28, 2023 (the “Subsequent Note”, together with the Note, the “Notes”), effective as of January 23, 2024.

The amendment removed the right to the adjustment to the conversion price of the note to the price per share specified in Section 3.21 of the promissory note (“the Affected Adjustment”) issued on August 28, 2023 by NGTF to Fourth Man (the “Subsequent Note”). The letter also amended the Subsequent Note to remove the right to the adjustment to the conversion price during the effective period, solely with respect to the Affect Adjustment.

In exchange for Fourth Man’s execution of the letter, NGTF agreed, to (i) increase the total outstanding principal and accrued interest of the Notes and (ii) issue 1,667 shares of NGTF’s Series D Preferred Stock to Fourth Man.

The forgoing description of the amendment to the Series C Preferred Stock and rights, powers and preferences of the Series D Preferred Stock, and the letter agreement are each qualified in their entirety by reference to the Amended Series C COD, the Series D COD, and the letter agreement which are filed as Exhibits 3.1, 3.2, and 10.1 respectively, to this Current Report on Form 8-K, and are incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

Exhibit Number	Description
3.1	Amendment to the Certificate of Designation of Preferences, Rights and Limitations of Series C Convertible Preferred Stock
3.2	Certificate of Designation of Preferences, Rights and Limitations of Series D Convertible Preferred Stock
10.1	Letter Agreement between Fourth Man, LLC and Nightfood Holdings, Inc. dated February 1, 2024
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

SIGNATURES

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

Date: March 19, 2024

NIGHTFOOD HOLDINGS, INC.

By: /s/ Lei Sonny Wang
Name: Lei Sonny Wang
Title: Chief Executive Officer

NIGHTFOOD HOLDINGS, INC.
AMENDMENT
TO
CERTIFICATE OF DESIGNATION OF PREFERENCES,
RIGHTS AND LIMITATIONS
OF
SERIES C CONVERTIBLE PREFERRED STOCK

PURSUANT TO SECTION 78 OF THE
NEVADA REVISED STATUTES

The undersigned, Chief Executive Officer of Nightfood Holdings, Inc., a Nevada corporation (the "Corporation") DOES HEREBY CERTIFY that the following resolution was (i) duly adopted by the Board of Directors of the Corporation in a meeting on February 7, 2024 and (ii) approved by the vote of stockholders holding shares of Series C Convertible Preferred Stock entitling them to exercise a majority of the voting power pursuant to NRS 78.1955 on February 7, 2024.

NOW, THEREFORE, BE IT RESOLVED:

Section G is revised to include the below:

- (c) **Adjustments for Reverse Stock Split.** If the Corporation at any time combines (by combination, reverse stock split, or otherwise) its outstanding shares of Common Stock into a smaller number of shares, the number of shares of Common Stock issuable upon conversion of the Series C Preferred Stock pursuant to Section G(a) shall be proportionately decreased.

IN WITNESS WHEREOF, the undersigned have executed this Certificate on February 7, 2024.

NIGHTFOOD HOLDINGS, INC.

/s/ Lei Sonny Wang
Lei Sonny Wang
Chief Executive Officer

NIGHTFOOD HOLDINGS, INC.
CERTIFICATE OF DESIGNATION OF PREFERENCES,
RIGHTS AND LIMITATIONS
OF
SERIES D CONVERTIBLE PREFERRED STOCK

PURSUANT TO SECTION 78 OF THE
NEVADA REVISED STATUTES

The undersigned, Chief Executive Officer of Nightfood Holdings, Inc., a Nevada corporation (the "Corporation") DOES HEREBY CERTIFY that the following resolutions were duly adopted by the Board of Directors of the Corporation through a meeting on February 7, 2024.

WHEREAS, the Board of Directors is authorized within the limitations and restrictions stated in the Articles of Incorporation of the Corporation, as amended, to provide by resolution or resolutions for the issuance of 1,000,000 shares of preferred stock, par value \$0.001 per share ("Preferred Stock"), of the Corporation, in such series and with such designations, preferences and relative, participating, optional or other special rights and qualifications, limitations or restrictions as the Corporation's Board of Directors shall fix by resolution or resolutions providing for the issuance thereof duly adopted by the Board of Directors; and

WHEREAS, it is the desire of the Board of Directors, pursuant to its authority as aforesaid, to authorize and fix the terms of a series of Preferred Stock and the number of shares constituting such series.

NOW, THEREFORE, BE IT RESOLVED:

A. Designation and Number.

One Hundred Thousand (100,000) of the One Million (1,000,000) authorized shares of Preferred Stock of the Corporation shall be designated as the Series D Preferred Stock (the "Series D Preferred Stock") and shall possess the rights and privileges set forth below.

B. Par Value and Purpose of Issuance

Each share of Series D Preferred Stock shall have a par value of \$0.001, and the shares of Series D Preferred Stock shall be issued by the Corporation in book-entry form.

C. Ranking.

The Series D Preferred Stock shall rank, with regards to dividends, assets and/or any other rights, junior to the Series B Preferred Stock.

D. Dividends.

The shares of Series D Preferred Stock shall not be entitled to receive any dividends.

E. Voting.

(a) **Voting Rights.** Except as set forth herein, the shares of Series D Preferred Stock shall have no voting rights.

(b) **Amendment of Rights of Series D Preferred Stock.** The Company shall not, without the affirmative vote of the holders of 100% of all outstanding shares of the Series D Preferred Stock, amend, alter or repeal any provision of this Certificate of Designations, *provided, however*, that the Company may, by any means authorized by law and without any vote of the holders of the shares of the Series D Preferred Stock, make technical, corrective, administrative or similar changes in this Certificate of Designations, that do not, individually or in the aggregate, adversely affect the rights or preferences of the holders of shares of the Series D Preferred Stock.

F. Liquidation.

Upon any liquidation, dissolution or winding-up of the Corporation, whether voluntary or involuntary, the holders of Series D Preferred Stock shall be entitled to participate on an as-converted-to-Common Stock basis with holders of the Common Stock in any distribution of assets of the Corporation to the holders of the Common Stock.

G. Conversion Rights.

Subject to any limitations on the right of the holders of the Series D Preferred Stock to convert their shares of Series D Preferred Stock into shares Common Stock, the holders of Series D Preferred Stock shall have the following conversion rights:

(a) **Conversion.** Subject to and upon compliance with the provisions of this Section G, the holder of any shares of Series D Preferred Stock shall have the right at such holder's option, six (6) months after issuance, at any time thereafter, to convert any of such shares of Series D Preferred Stock into fully paid and non-assessable shares of Common Stock at the rate of six thousand shares of Common Stock for each share of Series D Preferred Stock.

(b) **Mechanics of Conversion.** The holder of any shares of Series D Preferred Stock may exercise the conversion right specified in Subsection G(a) above by submitting a notice of conversion to the Corporation's transfer agent with a copy to sean@nightfood.com. Conversion shall be deemed to have been affected on the date when delivery of notice of an election to convert has been made and is referred to herein as the "Conversion Date." Subject to the provisions of this Section G, as promptly as practicable thereafter while using Best Efforts to effectuate a delivery of shares via DTC during the Standard Settlement Period, the Corporation shall cause to be issued and delivered the number of full shares of Common Stock to which such holder is entitled. Subject to the provisions of Section G, the person in whose name the Common Stock are to be issued shall be deemed to have become a holder of record of such Common Stock on the applicable Conversion Date. As used herein, "Standard Settlement Period" means the standard settlement period, expressed in a number of trading days, on the Corporation's primary Trading Market with respect to the Common Stock as in effect on the date of delivery of the Notice of Conversion. For further clarification, Standard Settlement Period is trading plus two (2) days.

(c) **Limitation on Conversions.** In no event shall the Holder be allowed to affect a conversion if such conversion, along with all other shares of Corporation's Common Stock beneficially owned by the Holder and its affiliates would exceed 4.99% of the outstanding shares of the Common Stock of the Corporation as determined under the beneficial ownership rules set forth in the Securities and Exchange Act of 1934, as amended.

(d) **Adjustments for Reverse Stock Split.** If the Corporation at any time combines (by combination, reverse stock split, or otherwise) its outstanding shares of Common Stock into a smaller number of shares, the number of shares of Common Stock issuable upon conversion of the Series D Preferred Stock pursuant to Section G(a) shall be proportionately decreased.

H. Miscellaneous.

(a) **No Fractional Shares.** If the number of shares of Common Stock issuable upon the conversion of Series D Preferred Stock results in any fractional shares, the Corporation shall not be required to issue fractions of shares, upon conversion of the Series D Preferred Stock or otherwise, or to distribute certificates that evidence fractional shares. With respect to any fraction of a share called for upon any conversion hereof, the Corporation shall pay to the holder an amount in cash equal to such fraction multiplied by the current market value of such fractional share, determined as follows: (i) if the Common Stock is listed on a national securities exchange or admitted to unlisted trading privileges on such exchange or listed for trading on the National Market System (the "NMS"), the current market value shall be the average of the last reported sale prices of the Common Stock on such exchange for the ten (10) trading days prior to the date of conversion of Series D Preferred Stock; *provided* that if no such sale is made on a day within such period or no closing sale price is quoted, that day's market value shall be the average of the closing bid and asked prices for such day on such exchange or system; or (ii) if the Common Stock is listed in the over the counter market (other than on NMS) or admitted to unlisted trading privileges, the current market value shall be the mean the average of the last reported bid and asked prices reported by the OTC Markets Group Inc. for the ten (10) trading days prior to the date of the conversion of the Series D Preferred Stock; or if the Common Stock is not so listed or admitted to unlisted trading privileges and bid and asked prices are not so reported, the current market value shall be an amount determined in a reasonable manner by the Board of Directors of the Corporation.

(b) **Status of Converted Stock.** In the event any shares of Series D Preferred Stock shall be converted as contemplated hereby, the shares so converted shall be cancelled, shall return to the status of authorized but unissued shares of Preferred Stock of no designated class or series, and shall not be issuable by the Corporation as Series B Preferred Stock.

IN WITNESS WHEREOF, the undersigned have executed this Certificate on February 7, 2024.

NIGHTFOOD HOLDINGS, INC.

/s/ Lei Sonny Wang

Lei Sonny Wang

Chief Executive Officer

Fourth Man, LLC
21520 Yorba Linda Blvd., Suite G PMB 335
Yorba Linda, CA 92887

February 1, 2024

Nightfood Holdings, Inc.
520 White Plains Road, Suite 500
Tarrytown, NY 10591

To whom it may concern:

Reference is made to that certain promissory note in the principal amount of \$65,000.00 issued by Nightfood Holdings, Inc., a Nevada corporation (the "**Company**") to Fourth Man, LLC, a Nevada limited liability company (the "**Holder**") on June 29, 2023 (the "**Note**"). Capitalized terms used but not defined herein shall have the meaning ascribed to them in the Note. Further, on August 28, 2023, the Company issued that certain promissory note in the principal amount of \$60,000.00 to the Holder (the "**Subsequent Note**").

This letter shall serve as notice that the Holder and the Company agreed to amend the Note effective as of January 23, 2024 (the "**Effective Date**"), to remove the right to the adjustment to the Conversion Price during the period beginning on the Effective Date and continuing through the new Maturity Date of July 23, 2024 (the "**Effective Period**"), under Section 1.6(e) of the Note solely with respect to the Holder's ability to adjust the Conversion Price of the Note to the price per share specified in Section 3.21 of the Subsequent Note (the "**Affected Adjustment**"). In addition, this letter shall serve as notice that the Holder and the Company agreed to amend the Subsequent Note effective as of the Effective Date, to remove the right to the adjustment to the Conversion Price during the Effective Period solely with respect to the Affected Adjustment.

For the avoidance of doubt, the aforementioned sentence shall not limit any of Holder's other rights under Section 1.6(e) of the Note or Subsequent Note, including but not limited to during the Effective Period. For the avoidance of doubt, the Holder shall have the right to the Affected Adjustment after the Effective Period.

In exchange for the Holder's execution of this letter, the Holder and the Company agree (i) to increase the total outstanding principal and accrued interest of the Note (the "Note Total Balance") by 10% of the Note Total Balance on the Effective Date, (ii) to increase the total outstanding principal and accrued interest of the Subsequent Note (the "Subsequent Note Total Balance") by 10% of the Subsequent Note Total Balance on the Effective Date, and (iii) that the Company shall issue 1,667 shares of the Company's Series D convertible preferred stock to the Holder as soon as practicable after the Certificate of Designation of the Series D Convertible Preferred Stock is filed with the Secretary of State of the State of Nevada, and in no event later than March 1, 2024, or this amendment is null and void.

This letter shall be deemed part of, but shall take precedence over and supersede any provisions to the contrary contained in the Note and Subsequent Note, as applicable. Except as specifically modified hereby, all of the provisions of the Note and Subsequent Note, which are not in conflict with the terms of this letter, shall remain in full force and effect. By signing below, the parties hereby consent and agree to the aforementioned limited waiver.

Very truly yours,

FOURTH MAN, LLC

By: Edward Z. Deese

Name: EDWARD DEESE
Title: MANAGER

AGREED AND ACKNOWLEDGED:

NIGHTFOOD HOLDINGS, INC.

By: Sean Folkson

Name: SEAN FOLKSON
Title: CHIEF EXECUTIVE OFFICER