



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

Fridge No More Inc.,)
a Delaware corporation,)
)
Assignor,)
)
To:) Civil Action No. _____
)
FNM (ABC), LLC,)
a Delaware limited liability company,)
)
Assignee.)
)

**VERIFIED PETITION FOR ASSIGNMENT
FOR THE BENEFIT OF CREDITORS**

FNM (ABC), LLC, a Delaware limited liability company (“Assignee”),
petitions for an assignment for the benefit of creditors and states:

1. 10 *Del. C.* § 7381 confers jurisdiction on this Court in this case.
2. Assignor, Fridge No More Inc. (“Assignor”), is a Delaware corporation headquartered in Brooklyn, New York.
3. Pursuant to its operating agreement, Assignee, has offices at c/o Rock Creek Advisors, LLC, 1738 Belmar Boulevard, Belmar, New Jersey 07719. Assignee is a newly formed, wholly-owned subsidiary of Rock Creek Advisors, LLC (“Rock Creek”), a firm that, inter alia, specializes in corporate restructurings, interim management and managed liquidations. Rock Creek and its subsidiaries frequently act as assignees for the benefit of creditors, including in this Court.

4. Assignor is indebted to creditors and is unable to pay its debts and is desirous of providing for payment of its debts so far as possible through the process afforded under 10 *Del. C. § 7381 et. seq.*; and

5. Assignor is a privately held U.S. company that specialized in rapid grocery delivery.

6. On April 12, 2022, Assignor assigned all of its right, title, and interest in its assets to Assignee pursuant to that certain General Assignment for the Benefit of Creditors (the “General Assignment”) executed by the Assignor and the Assignee, a copy of which is attached hereto as Exhibit “A.”

7. With the filing of this Petition, Assignee will endeavor to maximize value and administer the estate in a manner that is aligned with the interests of Assignor’s creditors and shareholders, including the marketing and selling of the assignment estate’s assets for the purposes of making appropriate distributions to the Assignor’s creditors without any preference or priority, except such priority as is established and permitted by applicable law.

8. Prior to the Assignor’s execution of the General Assignment, the Assignor’s board of directors extensively explored, with the aid of seasoned counsel and bankers, options to maximize value for its constituents. For various reasons, none of these options were viable, and thus, Assignor determined that the General Assignment and the effectuation of an assignment for the benefit of

creditors was the most appropriate mechanism for acting in the best interests of its creditors and shareholders.

WHEREFORE, FNM (ABC), LLC, requests that the Court assert jurisdiction pursuant to 10 *Del. C.* § 7381.

Respectfully submitted,

/s/ *Dennis A. Meloro*

Dennis A. Meloro (No. 4435)

Greenberg Traurig, LLP

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*Attorneys for FNM (ABC), LLC, solely as
Assignee for the benefit of creditors of
Fridge No More Inc.*

Dated: April 15, 2022

Word Count: 383



EXHIBIT A

GENERAL ASSIGNMENT FOR THE BENEFIT OF CREDITORS

THIS GENERAL ASSIGNMENT FOR THE BENEFIT OF CREDITORS (this “**General Assignment**”) is made this 12th day of April, 2022, by and between **FRIDGE NO MORE INC.**, a Delaware corporation located at c/o 76 N. 4th Street, Space F, Brooklyn, New York 11249 attn: Pavel Danilov, Federal Tax Identification Number: 85-0505943, hereinafter referred to as “**Assignor**” or “**Fridge No More**,” and **FNM (ABC), LLC**, a Delaware limited liability company, located at 1738 Belmar Boulevard, Belmar, New Jersey 07719, hereinafter referred to as “**Assignee**.”

RECITALS

A. Assignor is indebted to various persons, corporations, and other entities and is unable to pay its debts in full. As a result, Assignor has decided to discontinue its business and desires to transfer all of its property and assets to an assignee for the benefit of creditors so that the property transferred may be expeditiously liquidated and the proceeds thereof fairly distributed to its creditors without any preference or priority, except such priority as established and permitted by law (including, without limitation, the law of contracts); and

B. Assignor has determined that Assignee is an entity possessing the capabilities to administer the Fridge No More Assignment Estate (defined below), including, without limitation, the liquidation of the estate’s assets.

NOW, THEREFORE, in consideration of Assignor’s existing indebtedness to its creditors, the covenants and agreements to be performed by Assignee and other consideration, receipt of which is hereby acknowledged, it is hereby **AGREED**:

1. **Creation of Assignment Estate.** Upon the execution of this General Assignment, a certain assignment estate shall be created, the name of which is the “**Fridge No More Assignment Estate**,” to enable the Assignee to administer such estate, which includes the orderly liquidation of the property and assets of Assignor and the distribution of the proceeds therefrom to creditors of Assignor, in accordance with applicable law. Assignor hereby nominates and appoints Assignee to administer the Fridge No More Assignment Estate. The Assignee and its agents shall have the powers and duties hereinafter set forth and shall receive reasonable compensation for their services and reimbursement of its expenses, including, without limitation, reimbursement of its attorneys’ fees and costs in accordance with that certain Compensation and Expense Reimbursement Agreement of even date herewith between the Assignor and Assignee (the “**Compensation Agreement**”).

2. **Transfer of Assets.** Assignor hereby assigns, grants, conveys, transfers, and sets over to Assignee all of Assignor’s currently existing right, title, and interest in all real or personal property and all other assets, of any kind or nature whatsoever and where so ever situated, which assets include, without limitation, all membership interests in and all right, title and interest to the entities listed on Schedule I attached hereto together with all voting rights and other rights arising under any operating agreement, contractual or otherwise, with respect thereto, all personal property and any interest therein, including all that certain stock of merchandise, office furniture and fixtures, machinery, equipment, inventory (raw goods, work in process and finished goods), book

accounts, books and records, bills, accounts receivable, cash on hand, cash in bank, deposits, intellectual property including all patents, patent applications, copyrights, trademarks and trade names, and all goodwill associated therewith, insurance policies, tax refunds, rebates, general intangibles (including any and all causes of action, whether filed or not as of the date of this assignment), insurance refunds and claims, and choses in action that are legally assignable, together with the proceeds of any non-assignable choses in action that may hereafter be recovered or received by the Assignor, and all real property interests. Further, this General Assignment specifically includes all claims for refunds or abatement of all excess taxes heretofore or hereafter assessed against or collected from the Assignor by the United States or any of its departments or agencies, any state or local taxing authority, and the Assignor agrees to sign and execute a power of attorney or such other document(s), as required, to enable Assignee to file and prosecute, compromise, and/or settle all such claims before the respective taxing authority. Assignor agrees to endorse any refund checks relating to the prior operations of said Assignor's business and to deliver such checks immediately to Assignee, except in the case of any of the foregoing, solely to the extent the same is prohibited from transfer or assignment by the terms of any applicable contract or by operation of law. All of the assets assigned by this General Assignment shall be referred to herein as the "**Assigned Assets.**" Notwithstanding the above, (a) the Assignee shall provide Assignor and its representatives with reasonable access to the books and records and other financial information of the Assignor as reasonably requested by the Assignor; (b) the Assignee shall ensure that any agreement to sell the Assignor's assets contains a provision requiring any purchaser to provide the Assignor with such reasonable access; and (c) the definition of Assigned Assets shall not include any policy proceeds that would be directly payable to or payable on behalf of any insured individual under the Assignor's insurance policies, and nothing in this General Assignment shall be construed to prevent or hinder any such individual from seeking access to any such policy proceeds. The assignment of the Assigned Assets by Assignor to Assignee hereunder shall be subject to all properly perfected liens encumbering any of the Assigned Assets existing as of the date of this General Assignment.

3. **Leases and Leasehold Interests.** The Assigned Assets shall not include any leases and leasehold interests of Assignor unless specifically designated otherwise hereto, and to the extent assignable, including in any asset of the Assignor; provided, that should the Assignee determine that any such lease or leasehold interest is of no value to the Fridge No More Assignment Estate, including, without limitation, all Fridge No More real estate leases, then said interest may be thereby relinquished without further liability or obligation to the Assignee. This Section 3 is not intended to abrogate any assignment provision of the Assignor's existing lease agreements.

4. **Delivery of Documents, Endorsements, and Forwarding of Mail.** Assignor authorizes the forwarding of its mail by the U.S. Postal Service, as directed by Assignee. Assignor agrees to (i) deliver to Assignee all existing books and records, in any form and however stored including electronically, (ii) execute and deliver all additional and reasonably necessary documents upon Assignor's reasonable discretion, promptly upon request by Assignee, and (iii) endorse all indicia of ownership, where required by Assignee in order to complete the transfer of all Assigned Assets to Assignee as intended by this General Assignment.

5. **Powers and Duties of Assignee.** Assignee shall have all powers under law necessary to marshal and liquidate the Fridge No More Assignment Estate, including, without limitation:

a. To collect any and all accounts receivable and obligations owing to Assignor and not otherwise sold by Assignee;

b. To sell or otherwise dispose of all of the Assigned Assets, including, without limitation, all of Assignor's machinery, equipment, inventory, service or trademarks, trade names, patents, franchises, causes of action in such manner as Assignee deems best. Assignee shall have the power to execute bills of sale and any other such documents necessary to convey right, title, and interest in Assignor's property to any bona fide buyer;

c. To sell or otherwise dispose of all Assigned Assets, Assignee shall have the power to employ an auctioneer to appraise said assets and to conduct any public or private sale of the assets and to advertise said sale in such manner as Assignee deems best;

d. To employ attorneys (including Greenberg Traurig LLP), accountants, and any other additional personnel to whatever extent may be necessary to administer the Assigned Assets and claims of the Fridge No More Assignment Estate and to assist in the preparation and filing of any and all state, county, or federal tax returns, as required, including, without limitation, filing final state and federal tax returns for the Assignor. Assignor shall have the right to review, amend, revise, approve, and sign all state and federal tax returns;

e. To require all of Assignor's creditors to whom any balance is owing to submit verified statements to Assignee of said claim(s);

f. To settle any and all claims against or in favor of Assignor, with the full power to compromise, or, in the Assignee's sole discretion, to sue or be sued, and to prosecute or defend any claim or claims of any nature whatsoever existing with regard to the Assignor;

g. To open bank accounts in the name of the Assignee or its nominees or agents and to deposit the Assigned Assets or the proceeds thereof in such bank accounts and to draw checks thereon and with the further power and authority to do such acts and execute such papers and documents in connection with this General Assignment, as Assignee may deem necessary or advisable;

h. To conduct the business of the Assignor should the Assignee deem such operation proper subject to any necessary court approvals;

i. To incur indebtedness sufficient to fund the ongoing operation of the Assignee's business and the administration of the Fridge No More Assignment Estate, all in accordance with the ABC Budget (as hereinafter defined) ("**Assignee Financing**"), which also includes the funding of certain Assignor expenses as delineated in the ABC Budget;

j. To apply the net proceeds arising from the operation of and liquidation of Assignor's business and the Assigned Assets and as allowed by law, in the following manner as to amounts only and not time of distribution:

(1) FIRST, payment of a reasonable fee to the Assignee and payment of reasonable compensation and reimbursement of expenses for the services of attorneys for the Assignee (including Greenberg Traurig LLP), accountants to the Assignee, accountants involved in preparation of tax returns for the Assignor, and any other professionals and/or employees retained by Assignee for assistance in administration of the Fridge No More Assignment Estate, and such fees of the Assignee and its counsel to be in accordance with the Compensation Agreement, all such fees and expenses to be within the limits set forth in the ABC Budget attached to such agreement (the "**ABC Budget**");

(2) SECOND, to reimburse Assignee as to all costs advanced by the Assignee for the preservation of the Assigned Assets, including the maintenance and insurance of said assets, to the extent set forth in the ABC Budget;

(3) THIRD, payment of all sums required to be paid in order to discharge any lien or encumbrance on, or any security interest in, any of said property and any secured indebtedness which under applicable law is entitled to priority of payment (including, without limitation, all Assignee Financing and any other indebtedness secured by liens on the Assigned Assets sold by Assignee), in the order required under applicable law;

(4) FOURTH, payment of all other costs and expenses incidental to the administration of the Fridge No More Assignment Estate, including, without limitation, all sales or similar tax resulting from disposition or sale of the Assigned Assets that is not paid by purchaser of such assets, to the extent not paid pursuant to Section 5(j)(1) hereof (all within the limits of the ABC Budget), as well as the cost of defense and satisfaction of indemnification claims pursuant to the terms hereof and the cost of any required appraisal or bond;

(5) FIFTH, all federal taxes of any nature whatsoever owing as of the date of this General Assignment or such other claim of any federal governmental agency, as defined under 31 U.S.C. § 3713, including, without limitation, federal withholding taxes, federal unemployment taxes, and any other federal income, excise, property, and employment taxes;

(6) SIXTH, all state, county, and municipality taxes of any nature whatsoever owing as of the date of this General Assignment, including, without limitation, employment, property, and income taxes;

(7) SEVENTH, all other debts owing as of the date of this General Assignment that are entitled to priority treatment and payment under applicable law;

(8) EIGHTH, with the exception of those classes set forth above, to other unsecured creditors of Assignor, within each class of such creditors established by Assignee, pro-rata in accordance with the terms of each creditor's indebtedness, until all such debts are paid in full. No payment shall be made to any creditor whose claim is disputed until such time as such dispute is resolved. Each creditor's otherwise pro-rata share of such distribution shall be fully reserved for by the Assignee until such time as the dispute is resolved. The Assignee may make interim distributions whenever the Assignee has accumulated sufficient funds to enable it to make a reasonable distribution;

(9) NINTH, any monies (distributions) unclaimed by creditors ninety (90) days after the final distribution to unsecured creditors, if any, or the termination of the administration of the Fridge No More Assignment Estate created by this General Assignment shall be re-distributed to all known unsecured creditors who cashed their respective distribution checks from the Fridge No More Assignment Estate, so long as any such distribution exceeds one percent of each such creditor's allowed claim; and

(10) TENTH, the surplus, if any, of the Fridge No More Assignment Estate funds, when all debts of the Assignor shall have been paid in full, shall be paid and transferred to the shareholders of the Assignor in accordance with the Assignor's Certificate of Incorporation then in effect.

k. To do and perform any and all other acts necessary and proper for the liquidation or other disposition of the assets, including, without limitation, abandonment and the distribution of the proceeds derived therefrom to Assignor's creditors, provided, however, that the Assignee shall not abandon any of such assets to the Assignor.

6. **Rights of Creditors.** Nothing herein modifies any rights and remedies of the creditors of Assignor against any surety or sureties for the Assignor and nothing herein shall prevent the creditors or any of them from suing any third parties or persons who may be liable to any of the creditors for all or any part of their claims against the Assignor, or from enforcing or otherwise obtaining the full benefit of any mortgage, charge, pledge, lien, or other security which they now hold on any property of the Assignor.

7. **Administration of Fridge No More Assignment Estate.** The Assignee shall administer the Fridge No More Assignment Estate in a manner consistent with Delaware law and other applicable state law. Additionally, the Assignee will file all necessary pleadings required in an assignment for the benefit of creditor proceeding under 10 Del. C. §§ 7381-7387. The Assignee also shall have the right to ask any court of competent jurisdiction for a declaratory judgment or such other relief as the Assignee may deem necessary, if, in its opinion, said action is desirable in connection with any dispute or claim arising hereunder.

8. **Limitation of Liability of Assignee; Indemnification.**

a. Assignor acknowledges that Assignee is acting solely in its limited capacity as Assignee of the Fridge No More Assignment Estate, and not in Assignee's personal capacity. The parties hereto acknowledge and agree that neither the Assignee nor any of its members, managers, employees, officers, agents, or representatives will assume any personal liability or responsibility for any of the Assignee's acts described herein. Assignee's obligations shall be limited to the performance of the terms and conditions of this General Assignment in good faith and in the exercise of its best business judgment. No implied covenants or obligations shall be read into this General Assignment against the Assignee.

b. The Assignee shall be indemnified by the Fridge No More Assignment Estate for any claims brought against the Assignee for any of its acts or omissions as Assignee except where it is determined in a final judgment by a court of competent jurisdiction that the Assignee's conduct was willful or grossly negligent.

9. **Reliance.** The Assignee may conclusively rely and shall be protected in acting upon the truth, accuracy, and completeness of any statement, certificate, opinion, resolution, instrument, report, notice, request, consent, order, or other paper or document furnished to the Assignee by the Assignor or its directors, managers, employees, officers, agents, or representatives. The Assignee may conclusively rely and shall be protected in acting upon the truth, accuracy, and completeness of any statement, certificate, opinion, resolution, instrument, report, notice, request, consent, order, or other paper or document believed by it to be genuine and to have been properly signed or presented.

10. **Representations and Warranties of Assignor.**

a. As of the date hereof, Assignor has all requisite power and authority to execute, deliver, and perform its obligations under this General Assignment, including, without limitation, to transfer the property transferred to the Assignee hereby;

b. The execution, delivery, and performance by the Assignor of this General Assignment has been duly authorized by all necessary corporate and other action and does not and will not require any registration with, consent or approval of, or notice to or action by, any person (including any governmental authority) in order to be effective and enforceable; and

c. This General Assignment constitutes the legal, valid, and binding obligation of the Assignor, enforceable against it in accordance with their respective terms.

11. **Power of Attorney.** The Assignor, by this General Assignment, hereby grants the Assignee a general power of attorney, which power of attorney specifically includes the right of the Assignee to prosecute any action in the name of the Assignor as attorney-in-fact. Further, on the date this General Assignment is accepted by the Assignee, the Assignee shall succeed to all of the rights and privileges of the Assignor, including, without limitation, any attorney-client privilege, in respect to any potential or actual claims, cases, controversies, or causes of action, and

shall be deemed to be a representative of the Assignor with respect to all such potential or actual claims, cases, controversies, or causes of action.

12. **Acceptance by Assignee.** By execution of this General Assignment, the Assignee does hereby accept the estate herein created and agrees to faithfully perform its duties according to the best of the Assignee's skill, knowledge, and ability in accordance with applicable law. It is understood that the Assignee shall receive reasonable compensation for its services in connection with the administration of the Fridge No More Assignment Estate. Reasonable compensation does not replace or subsume the reimbursement of all the Assignee's expenses incurred as a result of the administration of the Fridge No More Assignment Estate from the proceeds generated therefrom.

13. **Resignation by Assignee.** The Assignee may resign and be discharged from its duties hereunder at any time; provided that such resignation shall not become effective until (i) an appropriate successor assignee has been appointed by the Assignee, and such successor has accepted its appointment in writing delivered to the Assignee, or (ii) the Assignee petitions the Court of Chancery of the State of Delaware (the "**Court**") to appoint a successor assignee, and the Court so appoints such a successor. Thereupon, such successor assignee shall, without any further act, become vested with all of the estates, properties, rights, powers, trusts, and duties of its predecessor in connection with this General Assignment with like effect as if originally named therein, but the Assignee shall nevertheless, when requested in writing by the successor assignee, execute and deliver an instrument or instruments conveying and transferring to such successor assignee all of the estates, properties, rights, powers, and trusts of the Assignee in connection with this General Assignment and shall duly assign, transfer, and deliver to such successor assignee all property and money held by the Assignee hereunder.

14. **Governing Law.** This General Assignment shall be governed by and construed in accordance with the laws of the State of Delaware applicable to a contract executed and performed in such State, without giving effect to the conflicts of laws principles thereof.

15. **Counterparts.** This General Assignment may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

[Remainder of Page Intentionally Left Blank- Signature Page to Follow]

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written.

ASSIGNOR

FRIDGE NO MORE INC.

By: Pavel Danilov
Name: Pavel Danilov
Title: Chief Executive Officer

ASSIGNEE

FNM (ABC), LLC

By: _____
Name: James Gansman
Title: President

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written.

ASSIGNOR

FRIDGE NO MORE INC.

By: _____

Name: Pavel Danilov

Title: Chief Executive Officer

ASSIGNEE

FNM (ABC), LLC

By: james gansman_____

Name: James Gansman

Title: President

Schedule I
Pledge Entities

Entity	Address	EIN
FNM 103 Norfolk LLC	103 Norfolk St, New York, NY 10002	87-1287984
FNM 11-08 44th Drive LLC	45-02 11th St, Long Island City, NY 11101	87-1388172
FNM 1638 Third Avenue LLC	1638 3rd Ave, New York, NY 10128	87-1368975
FNM 254 Livingston LLC	254 Livingston St, Brooklyn, NY 10002	87-1352169
FNM 38th Avenue LLC	38-12 38th Avenue, Long Island City, NY 11101	87-1775108
FNM 38th Street LLC	109 E 38th St, New York, NY 10016	87-1431970
FNM 409 Eastern Parkway LLC	409 Eastern Parkway, Brooklyn, NY 11216	87-1707240
FNM 46 Cortlandt LLC	46 Cortlandt Alley, New York, NY 10013	87-1404324
FNM 500 Dekalb LLC	500 Dekalb Avenue, Brooklyn, NY 11205	87-1798115
FNM 60 Freeman Street LLC	60 Freeman Street, Brooklyn, NY 11222	87-1134113
FNM 635 4th Avenue LLC	635 4th Avenue, Brooklyn, NY 11232	87-1752568
FNM 82 Suydam LLC	82 Suydam Street, Brooklyn, NY 11221	87-1726566
FNM East 23rd Street LLC	310 East 23rd Street, New York, NY 10010	87-1459162
FNM West 14th Street LLC	107 West 14th Steet, New York, NY 10011	87-1685776
FNM West 72nd Street LLC	50 West 72nd Steet, New York, NY 10023	87-1819447
FNM Roosevelt Avenue LLC	52-22 Roosevelt Avenue, Flushing, NY 11377	87-1838301
FNM 50 Metro Way LLC	50-52 Metro Way, Secaucus, NJ 07094	87-1868055
FNM West 25th Street LLC	249 9th Avenue, New York, NY 10001	87-1931909
FNM Jay St LLC	65 Jay St, Brooklyn, NY 11201	87-1889125
FNM 1198 Third Ave LLC	1198 Third Avenue, New York, NY 10021	87-1910126
FNM East 125th LLC	69 E 125th St, New York, NY 10035	87-2267068
FNM Grand Street LLC	885 Grand Street, Brooklyn, NY 11211	87-2283080
FNM 21st Street LLC	23-81 21st Street, Queens NY 11105	87-2308673
FNM Nostrand Ave LLC	3344 Nostrand Ave, Brooklyn NY 11229	87-2331393
FNM Devonshire Street LLC	185 Devonshire Street, Boston MA 02110	87-2489930
FNM South End LLC	2 South End Ave New York, NY 10280	87-2353497
FNM Frederick Douglass Boulevard LLC	2101 Frederick Douglass Blvd, New York, NY 10026	87-2599430
FNM Woodhaven Boulevard LLC	62-98 Woodhaven Blvd, Middle Village, NY 11379	87-2621063
FNM Coney Island Ave LLC	1941 Coney Island Ave, Brooklyn, NY 11223	87-2667988
FNM Bay Ridge Ave LLC	224 Bay Ridge Ave, Brooklyn NY 11230	87-2685337
FNM Huntington LLC	273 Huntington Avenue, Boston MA 02115	87-2861919
FNM Commonwealth Ave LLC	880 Commonwealth Avenue, Boston MA 02446	87-2884332
FNM Cambridge Street LLC	1030 Cambridge Street, Boston MA 02141	87-2908500
FNM Harvard Square LLC	1730 Massachusetts Avenue, Boston MA 02138	87-2923389
FNM Chestnut Street LLC	722 Chestnut Street, Philadelphia PA 19106	87-2948110
FNM Sunset Park LLC	4922 4th Ave Brooklyn NY 11220	87-3204662

FNM Frankford Ave LLC	1405 Frankford Ave Philadelphia, PA 19125	87-3372363
FNM South St LLC	1701 South St Philadelphia PA 19146	87-3389360
FNM Rogers Ave LLC	1084 Rogers Avenue, Brooklyn NY 11226	87-3451125
FNM Prospect Park West LLC	284 Prospect Park West Brooklyn, NY 11215	87-3702288
FNM Onderdonk Ave LLC	922 Onderdonk Avenue, Ridgewood, NY 11385	87-3720644