



COURT OF THE CAYMAN ISLANDS  
FINANCIAL SERVICES DIVISION

CAUSE NO: FSD      OF 2022 (MRHJ)

IN THE MATTER OF THE COMPANIES ACT (2022 REVISION)

AND IN THE MATTER OF FRESH EXPRESS DELIVERY HOLDINGS GROUP CO., LIMITED

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WINDING UP PETITION

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TO THE GRAND COURT OF THE CAYMAN ISLANDS

The humble Petition of Hu Yan, of No. 39 Group Seven, Dinglu Village, Linjiang Town, Haimen City, Jiangsu Province, People's Republic of China (*Petitioner*) shows that:

A.      INTRODUCTION

- 1      The Petitioner is a creditor of Fresh Express Delivery Holdings Group Co., Limited (*Company*). The Petitioner is a natural person and a citizen and resident of the People's Republic of China (*PRC*).
- 2      The Company is a Cayman Islands exempted company incorporated and existing under the laws of the Cayman Islands with registration number 134710. The Company's registered office is situated at Conyers Trust Company (Cayman) Limited, PO Box 2681, Cricket Square, Hutchins Drive, George Town, Grand Cayman KY1-1111, Cayman Islands (*Registered Office*).
- 3      The Company is listed on the Main Board of the Hong Kong Stock Exchange (stock code: 1175) and the trading of its shares on the market has been suspended since 2 July 2021. The Company and its group are involved in the distribution of cold chain foods. To the best of the Petitioner's knowledge and belief, the Company carries on business in the PRC and Hong Kong.

B.      THE DEBTS

(i) Debt arising under the Hong Kong Loan Agreements

- 4 On 20 December 2020, the Company and the Petitioner entered into a loan agreement under which the Petitioner agreed to advance to the Company a loan with an aggregate principal of HK\$46,000,000. The loan agreement is governed by Hong Kong law and is hereinafter referred to as the **Hong Kong Loan Agreement**, and the loan advanced by the Petitioner the **Hong Kong Loan**.
- 5 The Hong Kong Loan bears an interest of 24% per annum calculated based on the actual number of days elapsed from the date of drawdown and pro-rated on the basis of a 360-day year (Clause 5 of the Hong Kong Loan Agreement).
- 6 Clause 6.1 of the Hong Kong Loan Agreement stipulates that the Company shall repay the principal and interest of the Hong Kong loan at the expiry of the Term, which is defined as the expiry of 12 calendar months from the Drawdown Date (25 December 2020), i.e. by 25 December 2021. The repayment date is subject to variation upon the occurrence of any of the events specified under Clause 13.1 as an event of default and/or breach of the agreement on the part of the Company as the borrower.
- 7 In accordance the Company's drawdown notice dated 20 December 2020, the Petitioner through her affiliated companies advanced the principal amount of the Hong Kong Loan to the Company by five tranches on 30 December 2020 (HK\$13,500,000 and HK\$9,500,000), 31 December 2020 (HK\$12,000,000 and HK\$5,000,000) and 4 January 2021 (HK\$6,000,000). By a confirmation letter dated 4 January 2021, the Petitioner confirmed that she had advanced an aggregate principal of HK\$46,000,000 to the Company and that interest would accrue from the respective date of advancement of each tranche of the Hong Kong Loan. The Company confirmed in writing its receipt of the monies and acknowledged its liability to the Petitioner for the debt arising from the Hong Kong Loan.
- 8 On 4 January 2021, the Company and the Petitioner entered into a supplemental agreement in respect of the Hong Kong Loan Agreement (**Supplemental Loan Agreement**), pursuant to which Clause 13.1 of the Hong Kong Loan Agreement was amended to include an additional Event of Default under a new Clause 13.1(f) whereby the Company as the borrower undergoes a change in the controlling shareholder or any other major change in

the shareholding structure. The Hong Kong Loan Agreement and the Supplemental Loan Agreement are collectively referred to hereinafter as the **Hong Kong Loan Agreements**.

9 As shown on the disclosure of interests notices filed by the Company's substantial shareholders on the Hong Kong Stock Exchange, on 1 June 2021, Osman Mohammed Arab and Lai Wing Lun appointed as Joint and Several Receivers and Managers pursuant to a deed of share charge over the 1,646,287,188 ordinary shares held by Marvel Light Holdings Limited in the Company (being 20.66% of the Company's issued share capital), exercised the share charge and transferred such shares to Paramount Worldwide Investment Limited to hold the shares on behalf of the Receivers. This constitutes a major change in the Company's shareholding structure and an Event of Default as defined in Clause 13.1(f) of the Hong Kong Loan Agreements.

10 On 3 June 2021, the Petitioner notified the Company in writing that an Event of Default as defined in Clause 13.1(f) of the Hong Kong Loan Agreements occurred on 1 June 2021, and that the Petitioner as the lender demanded repayment of a total of HK\$50,660,666.67, consisting of the principal of the Hong Kong Loan being HK\$46,000,000 together with accrued interest of HK\$4,660,666.67. Demand letters were issued again on 21 June 2021 and 12 July 2021.

11 The Company failed to repay the Hong Kong Loan and its accrued interest on or after 3 June 2021, or at all.

12 Interest continues to accrue on the Hong Kong Loan at 24% per annum based on a 360-day year, i.e. at a daily rate of HK\$30,666.67 (approximately US\$3,931.62).

**(ii) Debts arising under the PRC agreements**

(a) Fully Peace

13 The Fully Peace Share Transfer Agreement, the Fully Peace Supplemental Agreement, the Fully Peace Guarantee as defined below are referred to collectively as the **Fully Peace Agreements**.

(1) Fully Peace Agreements

14 On 10 December 2020, a share transfer and cooperation agreement was entered into amongst the following parties:

- (a) Fully Peace Limited (**Fully Peace**), a Hong Kong incorporated limited liability company and a wholly owned subsidiary of the Company;
- (b) The Petitioner;
- (c) Qingdao Yunxianpi Food Co., Ltd. (**Qingdao Yunxianpi**), a limited liability company incorporated under the laws of the PRC and a wholly owned subsidiary of Fully Peace, and an indirect wholly owned subsidiary of the Company; and
- (d) The Company.

The share transfer and cooperation agreement is hereinafter referred to as the **Fully Peace Share Transfer Agreement**. The Fully Peace Share Transfer Agreement is governed by the laws of the PRC.

15 Pursuant to the Fully Peace Share Transfer Agreement, the Petitioner agreed to provide financial support to Fully Peace and the Company for their business operations, in return for a transfer of Fully Peace’s entire shareholding in Qingdao Yun Xian Pi to the Petitioner at a nominal consideration of RMB 100,000.

16 Clause 3 of the Fully Peace Share Transfer Agreement stipulates that prior to the closing of the proposed share transfer (defined as the **Base Date**), Qingdao Yunxianpi had sought external financing from banks which had been used entirely for the benefit of the Company. Pursuant to Clause 3.2, Fully Peace and the Company unconditionally and irrevocably undertake to the Petitioner that:

- (a) Upon the closing of the share transfer, Fully Peace (as the former shareholder of Qingdao Yunxianpi prior to the Base Date) and the Company (as a guarantor) shall discharge all debts incurred by Qingdao Yunxianpi prior to the Base Date (the **Yunxianpi Prior Debts**);

- (b) If any creditor lodges a claim against Qingdao Yunxianpi to pay such debts, Fully Peace, the Company or any of the Company's subsidiaries shall pay such debts for the account of Qingdao Yunxianpi;
- (c) If Fully Peace and the Company fail to honour their undertakings resulting in Qingdao Yunxianpi having to discharge the Yunxianpi Prior Debts using its own funds and/or funding from the Petitioner, then the Petitioner and Qingdao Yunxianpi shall be jointly entitled to immediately recover such amount from Fully Peace, and the Company shall be jointly responsible for reimbursing the Petitioner and Qingdao Yunxianpi such amount so paid.
- 17 Clause 9.2 of the Fully Peace Share Transfer Agreement stipulates that if Fully Peace and the Company default in discharging the Yunxianpi Prior Debts in compliance with Clause 3, they shall be liable to pay to the Petitioner liquidated damages at a daily rate of 0.05% from the date Qingdao Yun Xian Pi discharged the debts using its own funds until the date of repayment by Fully Peace and the Company.
- 18 Further, on 10 December 2020, the Company executed a maximum amount guarantee (**Fully Peace Guarantee**) pursuant to which it unconditionally and irrevocably guarantees all of Fully Peace's payment obligations to the Petitioner and/or Qingdao Yunxianpi under the Fully Peace Share Transfer Agreement and all related financing agreements, including the Keran Loan Agreement (as defined below), and that the Company itself is jointly and severally liable for such payment during the term of the guarantee.
- 19 The term of the Fully Peace Guarantee is from 10 December 2020 to 9 December 2023 and the maximum amount guaranteed by the Company for Fully Peace is RMB 400,000,000.
- 20 Clause 5(2) of the Fully Peace Guarantee specifies that the Petitioner has the right to seek payment from the Company as the guarantor without having first requested Fully Peace to discharge the liabilities.
- 21 Clause 7 of the Fully Peace Guarantee specifies that Fully Peace's liabilities under, *inter alia*, the Fully Peace Share Transfer Agreement and the Keran Loan Agreement, as guaranteed

by the Company include any principal amount of any loans and debts and liquidated damages payable to the Petitioner and/or Qingdao Yunxianpi.

- 22 On 15 April 2021, Fully Peace, the Petitioner, Qingdao Yunxianpi and the Company entered into a supplemental agreement (**Fully Peace Supplemental Agreement**) under which the parties acknowledged that the Base Date for the share transfer shall be 13 December 2020, and that the total amount of Yunxianpi Prior Debts that Qingdao Yunxianpi had discharged using its own funds between 28 December 2020 and 13 April 2021 was RMB 95,702,121.23. The Petitioner agreed to extend the date of repayment by Fully Peace and the Company of any outstanding amount to 1 May 2021.
- 23 The Petitioner via Qingdao Yunxianpi using her own funds further discharged RMB 4,617,679.45 of the Yunxianpi Prior Debts between 14 April 2021 and 9 December 2021, and a further RMB 4,960,000 and RMB 1,089,015.35 on 17 December 2021 and 21 December 2021 respectively, as explained further in paragraph 45(b) below.

(2) Keran Loan Agreement

- 24 Pursuant to Clause 4 of the Fully Peace Share Transfer Agreement, the Petitioner agrees to provide financing to the Company up to RMB 400,000,000, including by way of loans from the Petitioner or through companies controlled by her. On 25 December 2020, the Company, Keran (Shanghai) Industrial Co., Ltd. (**Keran**) (an indirect wholly owned subsidiary of the Company), the Petitioner and Qingdao Yunxianpi (the shares of which have already been transferred to the Petitioner with effect from 13 December 2020) entered into a loan agreement (**Keran Loan Agreement**), under which the Petitioner and Qingdao Yunxianpi were to advance a total of RMB 100,000,000 to the Company and Keran (the **Keran Loan**). The Keran Loan carries an interest of 24% per annum from the date of advancement to the date of repayment.
- 25 The Keran Loan was for a term of one year and its principal and accrued interest were repayable on 25 December 2021, subject to the Petitioner's demand for acceleration of repayment pursuant to Clause 5 upon the occurrence of any one of the specified events

- thereunder, including a change in the Company's controlling shareholder and any other material change in its shareholding structure (Clause 5(b)).
- 26 On 25 December 2020, the Petitioner via Qingdao Yunxianpi (which shares have already been transferred to the Petitioner at the time) advanced a total of RMB 97,372,116.49 to Keran's bank account pursuant to the Keran Loan Agreement.
- 27 On 1 June 2021, a major change in the Company's shareholding structure as outlined in paragraph 9 above occurred, and this constitutes an event specified in Clause 5(b) of the Keran Loan Agreement and the Petitioner was entitled to demand immediate repayment of the Keran Loan.
- 28 On 3 June 2021, the Petitioner by written notice to the Company declared that an event specified in Clause 5(b) of the Keran Loan Agreement occurred, and demanded immediate repayment of a total of RMB 103,863,235.22, consisting of the principal of RMB 97,372,116.49 and accrued interest of RMB 6,491,118.73.
- (b) Wuxi Fresh Express
- 29 The Wuxi Fresh Express Share Transfer Agreement, the Wuxi Fresh Express Supplemental Agreement and the Wuxi Fresh Express Guarantee as defined below are referred to collectively as the **Wuxi Fresh Express Agreements**.
- 30 On 10 December 2020, a share transfer and cooperation agreement was entered into amongst the following parties:
- (a) Wuxi Fresh Express Delivery Industrial Co Ltd. (**Wuxi Fresh Express**), a PRC incorporated limited liability company and a wholly owned subsidiary of the Company;
- (b) The Petitioner;
- (c) Qingdao Kaley Food Co., Ltd. (**Qingdao Kaley**), a limited liability company incorporated under the laws of the PRC and a wholly owned subsidiary of Wuxi Fresh Express, and an indirect wholly owned subsidiary of the Company; and

(d) The Company.

The share transfer and cooperation agreement is hereinafter referred to as the **Wuxi Fresh Express Share Transfer Agreement**. The Wuxi Fresh Express Share Transfer Agreement is governed by the laws of the PRC.

31 Pursuant to the Wuxi Fresh Express Share Transfer Agreement, the Petitioner agreed to provide financial support to Wuxi Fresh Express and the Company for their business operations, in return for a transfer of Wuxi Fresh Express' entire shareholding in Qingdao Kaleyí to the Petitioner at a nominal consideration of RMB 100,000.

32 Clause 3.1 of the Wuxi Fresh Express Share Transfer Agreement stipulates that prior to the closing of the proposed share transfer (defined as the **Base Date**), Qingdao Kaleyí had sought external financing, including a RMB 40,000,000 loan, for the benefit of the Company's operations. The Company and Keran (being one of the Company's subsidiaries) have provided guarantee with joint and several liability to secure the discharge of the debts by Qingdao Kaleyí. Pursuant to Clause 3.2, Wuxi Fresh Express and the Company unconditionally and irrevocably undertake to the Petitioner that:

(a) Upon closing of the share transfer, Wuxi Fresh Express (as the former shareholder of Qingdao Yunxianpi prior to the Base Date) and the Company (as a guarantor) shall discharge all debts incurred by Qingdao Kaleyí prior to the Base Date (the **Kaleyí Prior Debts**);

(b) If any creditor lodges a claim against Qingdao Kaleyí to pay such debts, Wuxi Fresh Express, the Company or any of the Company's subsidiaries shall pay such debts for the account of Qingdao Kaleyí;

33 If Wuxi Fresh Express and the Company fail to honour their undertakings resulting in Qingdao Kaleyí having to discharge the Kaleyí Prior Debts using its own funds and/or funding from the Petitioner, then the Petitioner and Qingdao Kaleyí shall be jointly entitled to immediately recover such amount from Wuxi Fresh Express, and the Company shall be jointly responsible for reimbursing the Petitioner and Qingdao Kaleyí such amount so paid.

- 34 Clause 9.2 of the Wuxi Fresh Express Share Transfer Agreement stipulates that if Fully Peace and the Company default in discharging the Kaleyí Prior Debts in compliance with Clause 3, they shall be liable to pay to the Petitioner liquidated damages at a daily rate of 0.05% from the date Qingdao Kaleyí discharged the debts using its own funds until the date of repayment by Wuxi Fresh Express and the Company.
- 35 Further, on 10 December 2020, the Company executed a maximum amount guarantee (***Wuxi Fresh Express Guarantee***) pursuant to which it unconditionally and irrevocably guarantees all of Wuxi Fresh Express' payment obligations to the Petitioner and/or Qingdao Kaleyí under the Wuxi Fresh Express Share Transfer Agreement and all related financing agreements, and that the Company itself is jointly and severally liable for such payment during the term of the guarantee.
- 36 The term of the Wuxi Fresh Express Guarantee is between 10 December 2020 and 9 December 2023 and the maximum amount guaranteed by the Company for Wuxi Fresh Express is RMB 100,000,000.
- 37 Clause 5(2) of the Wuxi Fresh Express Guarantee specifies that the Petitioner has the right to seek payment from the Company as the guarantor without having to first enforce any guarantee that may have been taken from any other guarantors.
- 38 Clause 7 of the Wuxi Fresh Express Guarantee specifies that Wuxi Fresh Express' liabilities under, *inter alia*, the Wuxi Fresh Express Share Transfer Agreement, as guaranteed by the Company, include any principal amount of any loans and debts, and liquidated damages payable to the Petitioner and/or Qingdao Kaleyí.
- 39 As stipulated in Clause 3.1 of the Wuxi Fresh Express Share Transfer Agreement, Qingdao Kaleyí had taken out a RMB 40,000,000 loan which had been used for the benefit of the Company prior to the Base Date. On 2 April 2021, the Petitioner via Qingdao Kaleyí using her own funds had discharged such prior debts. On 29 April 2021, the Petitioner using her own funds further discharged a total of RMB 1,354,444.45 of the Kaleyí Prior Debts for the Company.

40 On 15 April 2021, Wuxi Fresh Express, the Petitioner, Qingdao Kaleyi and the Company entered into a supplemental agreement (*Wuxi Fresh Express Supplemental Agreement*) under which the parties acknowledged that the Base Date for the share transfer shall be 13 December 2020, and that the total amount of Kaleyi Prior Debts that Qingdao Kaleyi had discharged using its own funds between 2 April 2021 and 29 April 2021 was RMB 41,354,444.45. The Petitioner agreed to extend the date of repayment by Wuxi Fresh Express and the Company of any outstanding amount to 1 May 2021.

**(iii) Memorandum on Arrangement for Settlement of Indebtedness and subsequent partial repayment**

41 On 5 August 2021, the Petitioner issued a statutory demand against the Company demanding repayment of the then indebtedness due and owing by the Company to the Petitioner in the sums of (a) HK\$ 50,660,666.67; (b) RMB 202,215,311.89; and (c) RMB 41,995,438.34, consisting respectively of:

- (a) The principal of HK\$46,000,000 under the Hong Kong Loan Agreements and interest of HK\$4,660,666.67 accrued up to 1 June 2021;
- (b) The principal sum of RMB 97,372,116.49 and interest of RMB 6,491,118.73 accrued from 25 December 2020 up to 1 June 2021 under the Keran Loan Agreement; and the principal sum of RMB 96,850,887.90 of the Yunxianpi Prior Debts discharged by the Petitioner for the Company up to 29 April 2021 and payable by the Company pursuant to the Fully Peace Agreements, together with liquidated damages at a daily rate of 0.05% accrued from 1 May 2021 up to 1 June 2021 (RMB 1,501,188.76);
- (c) The principal of RMB 41,354,444.56 of the Kaleyi Prior Debts discharged by the Petitioner for the Company and payable by the Company pursuant to the Wuxi Fresh Express Agreements, and liquidated damages at a daily rate of 0.05% accrued from 1 May 2021 up to 1 June 2021 (RMB 640,993.89).

42 On 11 August 2021, the Company and the Petitioner signed a memorandum on the arrangement for the discharge of the Company's indebtedness to the Petitioner (*Memorandum on Arrangement for Settlement of Indebtedness*), under which the

Petitioner and the Company agreed that the Company shall discharge its indebtedness in the following order:

- (1) Interest and/or liquidated damages accrued under the Fully Peace Agreements and the Wuxi Fresh Express Agreements;
- (2) The principal due under the Fully Peace Agreements and the Wuxi Fresh Express Agreements;
- (3) Interest accrued under the Hong Kong Loan Agreements; and
- (4) The principal due under the Hong Kong Loan Agreements.

43 Clause 1 of the memorandum stipulates the rates of interest and/or liquidated damages that would be applicable to the indebtedness as follows:

- (a) Interest under the Hong Kong Loan Agreements shall be maintained at 24% per annum (Clause 1.1);
- (b) Interest under the Keran Loan Agreement shall be changed from 24% per annum to 15.4% per annum, accruing from 25 December 2020 being the date the Keran Loan was advanced to the Company (Clause 1.2);
- (c) Liquidated damages payable on the Yunxianpi Prior Debts and Kaleyí Prior Debts pursuant to the Fully Peace Agreements and Wuxi Fresh Express Agreements at a daily rate of 0.05% shall accrue from 1 May 2021, being the agreed extended date for repayment (Clause 1.3);
- (d) Where in accordance with the Company's request, the Petitioner continues to discharge any further balance of the Yunxianpi Prior Debts and Kaleyí Prior Debts for the Company after the Base Date, liquidated damages shall be payable by the Company at a daily rate of 0.05% from the date of the Petitioner's payment to the date of the Company's repayment (Clause 1.5).

- 44 Between 9 and 16 December 2021, the Company made partial repayments of a total amount of RMB 100,000,000.
- 45 It is stated in a confirmation letter dated 21 December 2021 issued by the Petitioner to the Company that:
- (a) The RMB 100,000,000 partial repayment made by the Company between 9 and 16 December 2021 would be used to discharge its indebtedness as follows:
- (1) Full repayment of the liquidated damages on the Yunxianpi Prior Debts payable by the Company under the Fully Peace Agreements and interest under the Keran Loan Agreement accrued up to 9 December 2021 (total RMB 25,600,577.71);
  - (2) Full repayment of the liquidated damages on the Kaleyí Prior Debts payable by the Company under the Wuxi Fresh Express Share Transfer Agreement and Wuxi Fresh Express Guarantee, accrued up to 9 December 2021 (total RMB 4,590,343.33);
  - (3) Full repayment of the principal of the Kaleyí Prior Debts payable by the Company under the Wuxi Fresh Express Agreements (RMB 41,354,444.45); and
  - (4) Partial repayment of the principal under the Keran Loan Agreement, in the amount of RMB 28,454,634.51.
- (b) In accordance with the Company's request, the Petitioner further discharged RMB 4,960,000 and RMB 1,089,015.35 of the Yunxianpi Prior Debts on behalf of Qingdao Yunxianpi on 17 and 21 December 2021 respectively, and the Company's liability to the Petitioner in relation to RMB debts (under the Fully Peace Agreements) would increase accordingly.
- (c) The outstanding indebtedness of the Company as at 21 December 2021 was RMB 222,639,457.04, consisting of:

- (i) The principal of HK\$46,000,000 under the Hong Kong Loan Agreements and interest accrued from December 2020 up to 21 December 2021 at HK\$10,886,000, totaling HK\$56,886,000 (equivalent to RMB 46,458,796.20);
  - (ii) The outstanding principal of RMB 175,294,641.01 in relation to the Fully Peace financing (being RMB 68,917,481.98 under the Keran Loan Agreement and RMB 106,377,159.03 of the Yunxianpi Prior Debts under the Fully Peace Agreements) and interest/ liquidated damages accrued between 10 December 2021 and 21 December 2021 at RMB 886,019.83.
- (d) The Company confirmed in writing the total amount of the outstanding indebtedness due and owing to the Petitioner as at 21 December 2021.

**(iv) Outstanding indebtedness**

46 As at the date of this Petition, the Company has not made any payment of all or any part of the outstanding indebtedness as set out in the confirmation letter dated 21 December 2021, as outlined in paragraph 45(c) above.

**C. STATUTORY DEMAND FOR THE OUTSTANDING DEBTS**

47 On 11 February 2022, the Petitioner served another statutory demand (the **Statutory Demand**) on the Company at its Registered Office demanding payment of HK\$58,051,333.33 and RMB 179,322,118.82 (the **Outstanding Debts**), consisting of:

- (a) The outstanding principal of HK\$46,000,000 under the Hong Kong Loan Agreements and interest at 24% per annum (pro-rated on the basis of a 360-day year) from December 2021 up to 28 January 2022 at HK\$12,051,333.33;
- (b) The outstanding principal of RMB 68,917,481.98 under the Keran Loan Agreement, and interest at a rate of 15.4% per annum (pro-rated based on a 360-day year) accrued from 10 December 2021 up to 28 January 2022, at RMB 1,444,587;

- (c) The outstanding principal of RMB 100,328,143.68 of the Yunxianpi Prior Debts that the Petitioner paid on behalf of the Company before 9 December 2021, and liquidated damages at a daily rate of 0.05% from 10 December 2021 up to 28 January 2022 at RMB 2,458,039.52; and
- (d) The outstanding principal of RMB 4,960,000 and RMB 1,089,015.35 of the Yunxianpi Prior Debts that the Petitioner paid on behalf of the Company on 17 December 2021 and 21 December 2021 respectively, and liquidated damages at a daily rate of 0.05% from 17 December 2021 up to 28 January 2022 (RMB 104,160) and from 21 December 2021 to 28 January 2022 (RMB 20,691.29).
- 48 Interest continues to accrue and/or liquidated damages remain payable on the Outstanding Debts at the respective rates stated in paragraph 43 above.
- 49 As at the date of this Petition, the Company has not responded to the Statutory Demand, has not applied to set it aside or otherwise disputed that the Outstanding Debts or any portion of it is due and owing and has failed to pay any part of the Outstanding Debts demanded therein.

**D. THE OUTSTANDING DEBTS DUE AND OWING UPON WHICH THIS PETITION IS BASED**

- 50 As set out at paragraphs 43 and 48 above, interest and/or liquidated damages continue to accrue on the Outstanding Debts after the issue of the Statutory Demand.
- 51 As at 6 May 2022, the Company is indebted to the Petitioner as follows:

(1) Debts arising under the Hong Kong Loan Agreements

Date of advancement	Principal amount advanced (HK\$)	Interest rate	Daily interest (pro-rated based on a 360-day year) (HKD)	No. of days (up to 2022.05.06)	Interest accrued (HK\$)
2020.12.30	23,000,000	24% pa	15,333.33	492	7,543,998.36
2020.12.31	5,000,000	24% pa	3,333.33	491	1,636,665.03
2020.12.31	12,000,000	24% pa	8,000	491	3,928,000

2021.01.04	6,000,000	24% pa	4,000	487	1,948,000
<b>Total</b>	<b>Total HK\$46,000,000</b>				<b>Total HK\$15,056,66 3.39</b>

## (2) Debts arising under the Keran Loan Agreement

Outstanding Principal (RMB)	Interest rate	Daily interest (pro-rated based on a 360-day year) (RMB)	Accrual period	No. of days	Interest accrued (RMB)
14,475,927.81	15.4% pa	6,192.48	2021.12.10 – 2022.05.06	147	910,294.56
54,441,554.17	15.4% pa	23,288.89	2021.12.10 – 2022.05.06	147	3,423,466.83
<b>Total RMB68,917,481.98</b>					<b>Total RMB4,333,761.38</b>

## (3) Debts arising under the Fully Peace Agreements – Yunxianpi Prior Debts

	Principal amount paid by the Petitioner for the Company (RMB)	Liquidated damages (daily)	Accrual period	No. of days	Amount of liquidated damages (RMB)
1.	92,625.00	0.05%	2021.12.10 – 2022.05.06	147	6,807.94
2.	866,666.67	0.05%	2021.12.10 – 2022.05.06	147	63,700.00
3.	1,190,301.08	0.05%	2021.12.10 – 2022.05.06	147	87487.13
4.	2,504,947.92	0.05%	2021.12.10 – 2022.05.06	147	184,113.67
5.	480,000.00	0.05%	2021.12.10 – 2022.05.06	147	35,280.00
6.	895,555.56	0.05%	2021.12.10 – 2022.05.06	147	65,823.33
7.	95,712.50	0.05%	2021.12.10 – 2022.05.06	147	7,034.87
8.	8,550,000.00	0.05%	2021.12.10 – 2022.05.06	147	628,425.00
9.	46,050,000.00	0.05%	2021.12.10 – 2022.05.06	147	3,384,675.00

10.	46,312.50	0.05%	2021.12.10 – 2022.05.06	147	3,403.97
11.	33,950,000.00	0.05%	2021.12.10 – 2022.05.06	147	2,495,325.00
12.	980,000.00	0.05%	2021.12.10 – 2022.05.06	147	72,030.00
13.	1,148,766.67	0.05%	2021.12.10 – 2022.05.06	147	84,434.35
14.	438,000.00	0.05%	2021.12.10 – 2022.05.06	147	32,193.00
15.	1,100,912.78	0.05%	2021.12.10 – 2022.05.06	147	80,917.09
16.	500,000.00	0.05%	2021.12.10 – 2022.05.06	147	36,750.00
17.	200,000.00	0.05%	2021.12.10 – 2022.05.06	147	14,700.00
18.	200,000.00	0.05%	2021.12.10 – 2022.05.06	147	14,700.00
19.	50,000.00	0.05%	2021.12.10 – 2022.05.06	147	3,675.00
20.	4,960,000.00	0.05%	2021.12.17 – 2022.05.06	140	347,200.00
21.	1,089,015.35	0.05%	2021.12.21 – 2022.05.06	136	74,053.04
	<b>Total</b> <b>RMB105,388,816.03</b>				<b>Total</b> <b>RMB7,722,728.39</b>

- 52 As at the date of this Petition, the total Outstanding Debts (with interest and liquidated damages calculated up to 6 May 2022) amount to **HK\$61,056,663.39** and **RMB186,362,787.78** (the aggregate being equivalent to approximately **US\$37,130,102.48**).

**E. GROUND S FOR WINDING UP**

- 53 The Petitioner is entitled to and now requests that the Court appoint liquidators pursuant to section 92(d) of the Companies Act (2022 Revision) (**Companies Act**) on the basis that it is unable to pay its debts, the grounds of which are set out as follows.

**Ground 1: Section 93(a) of the Companies Act**

**Failure to pay the Statutory Demand**

- 54 The Petitioner served the Statutory Demand on the Company on 11 February 2022 by hand at its registered office. The Statutory Demand was due to be paid by 4 March 2022.

55 The Company has neglected to pay the Statutory Demand or to secure or compound for the same to the satisfaction of the Petitioners within three weeks succeeding the service of the Statutory Demand (i.e. by 4 March 2022). In any event, the Statutory Demand remains wholly unsatisfied as at the date of this Petition.

56 Pursuant to section 93(a) of the Companies Act, the Company is deemed unable to pay its debts.

57 The Petitioner is entitled to a winding up order in accordance with section 92(d) of the Companies Act.

**Ground 2: Section 93(c) of the Companies Act**

**The Company is unable to pay the Outstanding Debts**

58 The Company has failed without reasonable cause to pay the Outstanding Debts, which were due for payment on the respective dates stipulated in the Hong Kong Loan Agreements, Fully Peace Agreements and the Keran Loan Agreement.

59 Interest and/or liquidated damages continue to accrue on the Outstanding Debts daily until full payment by the Company. As at 6 May 2022, the Company is indebted to the Petitioner in the total amount of **US\$37,130,102.48**.

60 Further, the following demonstrate that the Company and its group are in financial difficulties and will not be able to meet its debts:

- (a) The last financial report published by the Company, being the interim report for the financial year 2020 published on 30 December 2020, shows that the Company's group incurred a loss of approximately RMB25,785,000 for the period ended 30 September 2020. As at 30 September 2020, the Company's group had net current liabilities of RMB46,860,000 (approximately US\$7,029,000). The Company acknowledges that there is a material uncertainty which may cast significant doubt

on its group's ability to continue as a going concern, and the group may be unable to realise its assets and discharge its liabilities in the normal course of business<sup>1</sup>.

- (b) Trading in the shares of the Company on the Hong Kong Stock Exchange was suspended on 2 July 2021 due to the Company's delay to publish its annual results for the financial year ended 31 March 2021, falling short of the requirements under Rule 13.50 of the Listing Rules of the Main Board of the Hong Kong Stock Exchange (*Listing Rules*). As at the date of this petition, trading in the Company's shares remains suspended as the Company still fails to publish its 2021 annual results despite the requirements of the Listing Rules to publish the relevant results after a prolonged delay<sup>2</sup>.

61 The Company is unable to pay its debts as they fall due and is therefore deemed insolvent pursuant to section 93(c) of the Companies Act.

**D. NOMINATION OF JOINT OFFICIAL LIQUIDATORS**

62 The Petitioner nominates Elizabeth Mackay of Kalo (Cayman) Limited, PO Box 776, 38 Market Street, Suite 4208, Canella Court, Camana Bay, Grand Cayman, KY 1-9006, Cayman Islands, and Yuen Tsz Chun of Frank Forensic and Corporate Recovery Limited, Unit 703, Capital Centre, 151 Gloucester Road, Hong Kong as official liquidators of the Company.

**YOUR PETITIONER THEREFORE HUMBLY PRAYS THAT:**

- (1) The Company be wound up in accordance with section 92(d) of the Companies Act.
- (2) Elizabeth Mackay of Kalo (Cayman) Limited, PO Box 776, 38 Market Street, Suite 4208, Canella Court, Camana Bay, Grand Cayman, KY 1-9006, , Cayman Islands, and Yuen Tsz Chun of Frank Forensic and Corporate Recovery Limited, Unit 703, Capital Centre, 151 Gloucester Road, Hong Kong be appointed as official liquidators of the Company (*Liquidators*).

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<sup>1</sup> 2020 Interim Report of Fresh Express Delivery Holdings Group Co., Ltd., page 18.

<sup>2</sup> Fresh Express Delivery Holdings Group Co., Ltd. announcements on Hong Kong Stock Exchange dated 30 June 2021 and 14 March 2022.

- (3) The Liquidators shall not be required to give security for their appointment.
- (4) The Liquidators shall have the power to act jointly and severally in their capacity as joint liquidators of the Company.
- (5) The Liquidators shall be authorised to exercise the following powers conferred on them by section 110(2) of Part I of Schedule 3 to the Companies Act without the further sanction or intervention of the Court:
  - a. The Liquidators shall be at liberty to appoint counsel, attorneys and/or other professional advisors, whether in the Cayman Islands or elsewhere as they may consider necessary to advise and assist them in the performance of their duties and on such terms as they may think fit and to remunerate them out of the assets of the Company.
  - b. The Liquidators shall have the power to pursue applications and/or proceedings in any other jurisdiction for recognition of the liquidation and/or their appointment and/or to obtain information they require to perform their duties.
  - c. The Liquidators shall have the power to engage staff (whether or not as employees of the Company) to assist them in the performance of their functions.
- (6) No disposition of the Company's property by or with the authority of the Liquidators in carrying out their duties and functions and exercise of their powers shall be voided by virtue of section 99 of the Companies Act.
- (7) The Liquidators shall have the authority and are directed to take possession of, collect and get in any property of the Company and for that purpose to take any proceedings in any jurisdiction that they consider necessary.
- (8) The Liquidators have authority and are directed to take all necessary steps to take control of the Company's subsidiaries, if any, including by exercising voting or other rights attached to the shares in the Company's subsidiaries and/or by causing themselves to be registered as holders of the Company's shares in the subsidiaries in place of the Company.

- (9) The Liquidators' remuneration and expenses be paid out of the assets of the Company in accordance with the Companies Winding Up Rules, 2018 and Part III of the Insolvency Practitioners' Regulations 2018.
- (10) The costs of the Petitioner shall be paid out of the assets of the Company as an expense of the liquidation, such costs to be taxed if not agreed with the Liquidators.
- (11) The Liquidators shall be at liberty to apply generally.
- (12) Such other relief shall be granted as the Court deems appropriate.

Dated **1 June 2022**



**Harney Westwood & Riegels**  
**Attorneys for the Petitioner**

**NOTE:** This Petition is intended to be served on the Company.

This Petition is presented by Harney Westwood & Riegels, attorneys for the Petitioner, whose address for service is 3<sup>rd</sup> Floor, Harbour Place, 103 South Church Street, Grand Cayman, PO Box 10240, KY1-1002, Cayman Islands. (Ref: NXH/AZJ/ALC/057373.0001)

**NOTICE OF HEARING**

TAKE NOTICE THAT the hearing of this petition will take place at the Law Courts, George Town, Grand Cayman, on the *29* day of *July* 2022 at *9:30 am/pm*.

Any correspondence or communication with the Court relating to the hearing of this petition should be addressed to the Registrar of the Financial Services Division of the Grand Court at PO Box 495, Grand Cayman, KY1-1106, telephone 345 949 4296.