

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM588251

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	ASSIGNMENT OF THE ENTIRE INTEREST AND THE GOODWILL		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Borden Dairy Company of South Carolina, LLC		07/20/2020	Limited Liability Company: SOUTH CAROLINA
RECEIVING PARTY DATA			
Name:	New Dairy Trademark Holding, LLC		
Street Address:	250 Fillmore Street, Suite 525		
City:	Denver		
State/Country:	COLORADO		
Postal Code:	80206		
Entity Type:	Limited Liability Company: DELAWARE		
PROPERTY NUMBERS Total: 2			
Property Type	Number	Word Mark	
Registration Number:	0921212	BETTER THAN IT HAS TO BE	
Registration Number:	0903961	C	
CORRESPONDENCE DATA			
Fax Number:	2142000853		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
Phone:	2109787487		
Email:	venisa.dark@haynesboone.com		
Correspondent Name:	Venisa Dark, Haynes and Boone LLP		
Address Line 1:	2323 Victory Avenue, Suite 700		
Address Line 4:	Dallas, TEXAS 75219		
ATTORNEY DOCKET NUMBER:	56542.08_Legrand		
NAME OF SUBMITTER:	Venisa Dark		
SIGNATURE:	/Venisa Dark/		
DATE SIGNED:	07/23/2020		
Total Attachments: 6			
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TRADEMARK ASSIGNMENT AGREEMENT

This TRADEMARK ASSIGNMENT AGREEMENT is made effective as of July 20, 2020 (this “**Assignment**”) by and among Borden Dairy Company of South Carolina, LLC (“**Assignor**”), and New Dairy Trademark Holding, LLC, a Delaware limited liability company (“**Assignee**”).

WHEREAS, Assignor is the owner of the trademarks and trademark registrations set forth on **Exhibit A** attached hereto (collectively, the “**Assigned Trademarks**”);

WHEREAS, New Dairy Opco, LLC, a Delaware limited liability company (“**Opco**”), Borden Dairy Company, a Delaware corporation (“**Borden**”), Assignor, and the other Subsidiaries of Borden that are listed on the signature pages thereto, have entered into that certain Asset Purchase Agreement, dated as of July 1, 2020 (the “**Purchase Agreement**”), pursuant to which, among other things, Assignor has agreed to sell, transfer, assign, convey and deliver to Opco, and Opco has agreed to purchase, acquire, and accept from Assignor, the Assets, all upon the terms and subject to the conditions set forth in the Purchase Agreement, which Assets include the Assigned Trademarks;

WHEREAS, Opco has assigned its right to acquire the Assigned Trademarks pursuant to the Purchase Agreement to Assignee; and

WHEREAS, this Assignment is being executed and delivered pursuant to Sections 4.02(b) and 4.03(a) of the Purchase Agreement;

NOW, THEREFORE, in consideration of the mutual covenants, conditions and agreements set forth herein and in the Purchase Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Assignment.** Assignor hereby sells, transfers, assigns, conveys and delivers to Assignee, and Assignee hereby accepts, any and all of Assignor’s right, title and interest, throughout the world, in, to and under, the Assigned Trademarks, together with all goodwill associated with, and symbolized by, the Assigned Trademarks, free and clear of all Encumbrances (other than items (a) through (k) of the definition of Permitted Encumbrances). Assignor also hereby confirms the assignment of that portion of Assignor’s ongoing and existing business to which the Assigned Trademarks pertain within the meaning of Section 10(a) of the Lanham Act, 15 U.S.C. § 1060(a). As part of such assignment, Assignor sells, transfers, assigns, conveys and delivers to Assignee, for Assignee’s own use and enjoyment and for the use and enjoyment of Assignee’s successors, assigns, and other legal representatives, as fully as the same would have been held and enjoyed by Assignor if this Assignment had not been made, the following:

(a) all applications, registrations, issuances, extensions and renewals of the Assigned Trademarks;

(b) the right to prosecute, maintain and defend the Assigned Trademarks before any public or private agency, office or registrar, including by filing extensions and all other applications relating to the Assigned Trademarks;

(c) the right, if any, to claim priority based on the filing dates of any of the Assigned Trademarks under any international treaties and conventions;

(d) the right to sue and recover damages or other compensation for past, present or future infringement, claim of unfair competition, likelihood of confusion or dilution or any other claim or cause of action related to the Assigned Trademarks, the right to sue and obtain equitable relief, including injunctive relief, in respect of any such claim or cause of action and the right to fully and entirely stand in the place of Assignor in all matters related thereto; and

(e) all rights to collect royalties and other payments under or on account of any of the Assigned Trademarks or any other rights identified in this Assignment.

2. Recordation. Assignor hereby authorizes the Commissioner of Patents and Trademarks in the United States Patent and Trademark Office, and the corresponding entities or agencies in any applicable foreign countries or multinational authorities, to record Assignee as the assignee of all of Assignor's right, title and interest in, to and under the Assigned Trademarks and to deliver to Assignee, and to Assignee's attorneys, agents, successors or assigns, all official documents and communications.

3. Further Assurances. Assignor agrees to execute and deliver any and all affidavits, testimonies, declarations, oaths, powers of attorney and other documentation reasonably requested by Assignee to effect the terms of this Assignment, in each case at the Assignee's sole cost and expense.

4. Terms of Purchase Agreement. This Assignment is subject in all respects to the terms and conditions of the Purchase Agreement. This Assignment is given to further evidence (and give immediate effect to) the transfers and assignments of the interests in the Assets contemplated by the Purchase Agreement upon the terms and conditions specified therein. Nothing contained in this Assignment shall in any way supersede, modify, replace, amend, change, rescind, waive, exceed, expand, reduce, enlarge or in any way affect the provisions, including warranties, covenants, agreements, conditions, representations or, in general, any of the rights and remedies, and any of the obligations, of Assignee or Assignor set forth in the Purchase Agreement. In the event of any conflict or inconsistency between the terms of the Purchase Agreement and the terms hereof, the terms of the Purchase Agreement will govern.

5. Waiver. Neither the failure nor any delay by any party in exercising any right, power or privilege under this Assignment or the documents referred to in this Assignment will operate as a waiver of such right, power or privilege, and no single or partial exercise of any such right, power or privilege will preclude any other or further exercise of such right, power or privilege or the exercise of any other right, power or privilege. To the maximum extent permitted by Applicable Laws, (a) no waiver that may be given by a party will be applicable except in the specific instance for which it is given, and (b) no notice or demand on one party will be deemed to be a waiver of any right of the party hereto that gives such notice or demand to take further action without notice or demand.

6. Notices. All notices and other communications to be given under the terms of this Assignment or which any of the parties hereto desire to give hereunder shall be in writing and shall be made in accordance with Section 13.02 (Notices) of the Purchase Agreement.

7. Governing Law; Jurisdiction. The parties hereto hereby agree that the provisions of Section 13.09 (Governing Law; Consent to Jurisdiction and Venue; Jury Trial Waiver) of the Purchase Agreement are hereby made part of this Assignment as if they were contained herein, mutatis mutandis.

8. Headings. The headings in this Assignment are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

9. Defined Terms. All capitalized terms used but not otherwise defined herein shall have the respective meanings set forth in the Purchase Agreement.

10. Counterparts. This Assignment may be executed in one (1) or more counterparts, each of which will be deemed to be an original of this Assignment and all of which, when taken together, will constitute one and the same instrument. Notwithstanding anything to the contrary in Section 13.02 (Notices) of the Purchase Agreement, delivery of an executed counterpart of a signature page to this Assignment by email attachment will be effective as delivery of a manually executed counterpart of this Assignment or such amendment, as applicable.

11. Miscellaneous. The terms and provisions of this Assignment are intended solely for the benefit of the parties hereto and their respective successors and assigns, and nothing in this Assignment is intended or shall be construed to give any other Person any legal or equitable right, remedy or claim under, or in respect of, this Assignment or any provision contained herein. This Assignment will inure to the benefit of and bind the respective successors and assigns of the parties hereto. This Assignment may be terminated, amended or modified, and any of the terms, covenants or conditions hereof may be waived, only by a writing signed by each of the parties hereto or, in the case of a waiver, by the party or parties waiving compliance. Each item and provision of this Assignment is intended to be severable, and if any term or provision of this Assignment is determined by a court of competent jurisdiction to be unenforceable for any reason whatsoever that term or provision shall be ineffectual and void and the validity of the remainder of this Assignment shall not be adversely affected thereby. Each of the parties hereto has been represented by its own counsel and acknowledges that it has participated in the drafting of this Assignment, and any applicable rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in connection with the construction or interpretation of this Assignment.

(Signature page follows)

IN WITNESS WHEREOF, the parties have executed this Assignment as of the date first written above.

ASSIGNOR:

BORDEN DAIRY COMPANY OF SOUTH CAROLINA, LLC

By:  _____

Name: Jason Monaco

Title: Chief Financial Officer

Signature Page to Trademark Assignment Agreement

TRADEMARK
REEL: 007006 FRAME: 0930

ASSIGNEE:

NEW DAIRY TRADEMARK HOLDING, LLC


By: Colin A. Murphy
Name: Colin Murphy
Title: Secretary

OPCO:

NEW DAIRY OPCO, LLC

By: Colin A. Murphy
Name: Colin Murphy
Title: Secretary

**EXHIBIT A
Trademarks**

Trademark	Record Owner (and, if different, legal owner or beneficial owner)	Jurisdiction	Serial No.	Filing Date	Reg. No.	Reg. Date
BETTER THAN IT HAS TO BE	Borden Dairy Company of South Carolina, LLC	USA	72343664	11/17/1969	921212	9/28/1971
C Stylized 	Borden Dairy Company of South Carolina, LLC	USA	72343663	11/17/1969	903961	12/8/1970