



No. VLC-S-S-234019
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

BUSINESS DEVELOPMENT BANK OF CANADA

PLAINTIFF

AND:

**BEYOND THE GRAPE ON PREMISE WINEMAKING LTD.
FRASER MILLS FERMENTATION COMPANY LTD.
IAN DONALD MACKERRICHER
MICHAEL EDWARD DRUCE
DANIEL JOSEPH PARENT
STEPHEN PAUL SHELDON
WARREN TODD BOYER**

DEFENDANTS

**IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE RECEIVERSHIP OF
BEYOND THE GRAPE ON PREMISE WINEMAKING LTD.
(DBA FRASER MILLS FERMENTATION COMPANY)**

FIRST REPORT OF THE RECEIVER

October 20, 2023

**BDO Canada Limited, Receiver of
Beyond the Grape on Premise
Winemaking Ltd. (dba Fraser Mills
Fermentation Company)**

Unit 1100 – 1055 W Georgia Street
Vancouver, BC V6E 3P3

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I. INTRODUCTION AND BACKGROUND

1. Beyond the Grape on Premise Winemaking Ltd. (dba Fraser Mills Fermentation Company) ("**BTG**" or the "**Company**") was incorporated under the laws of British Columbia on January 11, 1999. The principal of the Company is Mr. Ian MacKerricher.
2. The Company operated a brewery and sold packaged beer directly to consumers. The Company owned various brewing equipment and operated from its leased premises located at 3044 St. Johns St., Port Moody, British Columbia (the "**Premises**").
3. On September 18, 2023, on the application of Business Development Bank of Canada. ("**BDC**"), the Supreme Court of British Columbia (the "**Court**") pronounced an Order (the "**Receivership Order**") appointing BDO Canada Limited, as receiver (in such capacity, the "**Receiver**" or "**BDO**") of the assets, undertakings and property (the "**Assets**") of BTG.
4. A copy of the Receivership Order is attached as **Appendix A**.
5. Another secured lender, Royal Bank of Canada ("**RBC**") concurrently petitioned the Company into bankruptcy. A bankruptcy order was also pronounced on September 18, 2023.

II. PURPOSE OF THIS REPORT

6. This first report of the Receiver (this "**First Report**" or "**Report**") has been prepared to provide this Honourable Court with information with respect to the following:
 - a) The background of the Company and the Assets;
 - b) The activities of the Receiver since the date of the Receivership Order;
 - c) The sales process undertaken by the Receiver to solicit offers and proposals for the Assets;

- d) To request the Court's approval of the Asset Purchase Agreement between the Receiver and Chris Walton and Ian MacKerricher. (the "Purchasers");
- e) To request the Court bar any reclamation of property claims to certain assets of the Company; and,
- f) To request the Court to compel a third-party to turn over the password to a piece of brewing equipment owned by the Company.

III. SCOPE AND TERMS OF REFERENCE

- 7. In preparing this Report and in making the recommendations contained herein, the Receiver has relied upon information obtained from discussions with the principal, the secured creditors, and where appropriate, the Company's books and records.
- 8. The Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of such information and, accordingly, the Receiver expresses no opinion or other assurance in respect of such information as reflected in this Report.
- 9. All references to dollars are in Canadian currency unless otherwise noted.

IV. THE BUSINESS, ASSETS, AND LIABILITIES

The Business

- 10. The Company operated a brewery and sold packaged beer at its facility in Port Moody, British Columbia.
- 11. The Company had provided all employees with working notice of their termination prior to the receivership. The Receiver obtained certain books and records of the Company. Management has not provided the Receiver with books and records for the period prior to January 2023.

12. The Receiver was in contact with the Company's insurance provider from the onset of the Receivership. The insurance coverage was reviewed by the Receiver and was continued under the Receiver.

The Assets

13. Prior to BDO's appointment as Receiver, a secured lender commissioned an appraisal for the purposes of valuing the Assets, which the Receiver has a copy of.
14. The Receiver worked with the principal of the Company to identify third-party leased assets and provide the Receiver with documentation on the same.
15. Based on discussions with management, the Receiver understands that prior to the receivership, a piece of brewing equipment (Deutsche Beverage 10 BBL Brewhouse) ("**Brewhouse**") was purchased from Deutsche Beverage Technology. BTG later stopped making payments on the brewing equipment, at which point Deutsche Beverage Company remotely disabled the Brewhouse. To re-activate the equipment, a third-party remitted payment to Deutsche Beverage Company to enable the equipment to be operated.
16. The third-party has claimed that the software required to operate the Brewhouse belongs to them as they paid for it. Notwithstanding the aforementioned, the Receiver does not believe this alleged payment resulted in a transfer of ownership to the third-party.
17. The Receiver sent the third-party a Reclamation of Property Claim form on September 22, 2023. On October 5, 2023, the Trustee sent a Notice to Prove their Reclamation of Property claim. As of the date of this report, the Receiver has not received any documentation to suggest that any other party besides the Company owns the Brewhouse. Even if a transfer occurred, the Brewhouse would have remained subject to the banks' security.

18. As the Receiver has not received any evidence to suggest that the software for the Brewhouse is owned by anyone else, the Receiver requests the Court grant an Order barring any further claim to the Brewhouse and related assets, whether physical or intangible.
19. The Receiver believes that there is a password required to operate the software that controls the Brewhouse. Management has refused to provide the Receiver with this password. The Receiver requests the Court grant an Order compelling all parties with any knowledge of the password required to operate the Brewhouse to provide the password to the Receiver forthwith.

Estimated Recovery

20. The Receiver believes that there will be a significant shortfall to the secured lenders as shown in the table below:

As at September 18, 2023		\$ (000's)
<i>Assets</i>		
Cash		3
Equipment and licenses		201
<i>Less:</i>		
Occupation costs and professional fees		(108)
		<u>96</u>
<i>Secured and priority creditors</i>		
Canada Revenue Agency - Estimated Source Deductions		30
Employee claims (wages)		3
Business Development Bank of Canada		752
Royal Bank of Canada		408
		<u>1,193</u>
<i>Unsecured creditors</i>		3,388
Total Estimated Liabilities		<u>4,581</u>
Total Estimated Shortfall		<u>4,485</u>

21. BDC is owed approximately \$752,000 by BTG. RBC is owed approximately \$408,000. Both hold general security agreements in respect of all present and after-acquired property of BTG. RBC and BDC signed a priority

agreement (the “**Priority Agreement**”) dated August 28, 2019, which gives BDC priority over select pieces of equipment, and RBC has first priority over the remaining Assets.

22. The secured creditors, BDC and RBC will suffer a shortfall on their loans. After paying out priority claims and professional fees, there is no anticipated recovery for unsecured creditors.

V. THE ACTIVITIES OF THE RECEIVER

23. Since the date of the Receivership Order, the Receiver's activities have included:
- a) Performing its statutory duties as required pursuant to subsection 245(1) and 246(1) of the *Bankruptcy and Insolvency Act (Canada)* in relation to creditor and Official Receiver notification;
 - b) Freezing the Company's bank account;
 - c) Attending the Company's Premises in Port Moody, British Columbia and securing the Assets;
 - d) Arranging for a custodian to monitor the Premises and Assets;
 - e) Contacting the Company's landlord and making arrangements to continue to occupy the Premises during the Receivership.
 - f) Working with the former principal to obtain additional information with respect to Assets of the Company;
 - g) Reviewing the Company's existing insurance coverage and determining the appropriateness thereof;
 - h) Soliciting auction proposals with respect to the Company's Assets;
 - i) Canvassing other local breweries to determine if there was any interest in purchasing the Assets;

- j) Reviewing auction proposals and offers for the Assets;
- k) Providing updates to BDC; and,
- l) Preparing this First Report to Court.

VI. SALES PROCESS OF THE RECEIVER

- 24. The Receiver conducted a tender bid process to solicit auction proposals and offers for the Assets.
- 25. An equipment list was sent on September 8, 2023, to five (5) different auctioneers, and a further ten (10) operators in the local brewery industry on September 13, 2023, and three (3) additional parties contacted the Receiver directly (collectively, "**Interested Parties**"). The sales process was commenced in advance of the receivership date in cooperation with the Company.
- 26. The Receiver conducted a short sales process in order to minimize ongoing occupation costs during the receivership due to the relatively low anticipated recovery from the sale of the Assets.
- 27. The Receiver requested for auctioneers to provide their proposals with either a cash offer, an offer with a net minimum guarantee, or an offer for auction on a commission basis.
- 28. Of the Interested Parties, six (6) attended the Premises for an inspection of the Assets.
- 29. The Receiver received five (5) proposals and offers for the Assets of which three (3) were proposals from auctioneers and two (2) were cash offers for the Assets.
- 30. The Receiver worked with the two highest bidders to clarify the Assets being purchased, and the process for assignment of the liquor licenses (the "**Liquor**

Licenses”) and to allow each party an opportunity to negotiate with the landlord to sign a new lease for the Premises.

31. The sales process conducted was short due to the relatively low estimated recovery and the relatively high occupation costs involved with conducting a lengthier sales process.

VII. EVALUATION OF AUCTION PROPOSALS AND OFFERS

Sale Offers

32. The Receiver prepared a summary of the proposals for review with BDC and its legal counsel.
33. The three auctioneer proposals were all lower than the two cash offers and therefore the Receiver proceeded to entertain and negotiate with the two parties with cash offers.
34. The highest cash offer from an auctioneer was for \$120,000 which included removal costs.
35. Prior to receivership, Canam-Appraiz Inc. conducted an appraisal on February 6, 2023. The appraisal stated a liquidation value of \$201,250 before selling and removal costs. The appraisal estimated removal costs of \$25,000 to \$30,000 and selling costs to be approximately 25% to 35% of the gross sales proceeds. Accordingly, the appraisal estimated the net sales proceeds from an auction would be approximately \$101,000 to \$126,000.
36. The highest cash offer was from Chris Walton and Ian MacKerricher (“**CW and IM Offer**”), which had a cash offer of \$201,013 for all of the Assets.
37. The CW and IM Offer is accompanied by a 25% deposit of \$50,253, which is currently held in trust by the Receiver.

38. A second offer for the Assets was submitted, however it contained terms that the Receiver could not agree to and it was for a lower amount than the CW and IM Offer.
39. The Receiver believes that the CW and IM Offer is the best offer as it provides certainty in terms of a recovery to the creditors, includes fair and reasonable consideration, and is condition free.
40. The secured creditors, BDC and RBC support the CW and IM Offer.
41. The Receiver has accepted the CW and IM Offer, subject to Court approval. A copy of the signed asset purchase agreement (“**APA**”) with the purchase price allocated is attached as **Appendix B**.
42. The Receiver requests the Court’s approval of the APA.

VIII. CONCLUSION AND RECOMMENDATIONS

Conclusion

43. There are estimated payroll source deduction arrears of approximately \$30,000 in payroll source deductions rank ahead of all secured creditors. A payroll trust audit by CRA is expected to commence shortly, which will confirm the amount of the deemed trust claim.
44. The Receiver anticipates that there will be a shortfall to the secured creditors, BDC and RBC, in which case there will not be a recovery to any other creditors who rank behind BDC and RBC.
45. There were five (5) offers and proposals received for the Assets of the Company.
46. The Receiver has accepted the highest offer from Chris Walton and Ian MacKerricher. This will result in the highest recovery to the secured creditors.

47. In assessing the proposed sale, the Receiver has considered:
- a) Whether the purchase price is fair and reasonable based on the market response and the offers received;
 - b) The overall execution and closing risk associated with the offers;
 - c) The overall fairness of the sale process; and,
 - d) The support of secured creditors for the APA.
48. There have been claims by a third party as to ownership of the software required to operate the Brewhouse, but no evidence has been provided to the Receiver to prove the alleged ownership.
49. The Receiver believes that there is a password required to operate the software that controls the Brewhouse. Management has refused to provide the Receiver with this password.

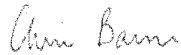
Recommendations

50. The Receiver recommends that the Court approve the following:
- a) The APA with Chris Walton and Ian MacKerricher;
 - b) The transfer of the Liquor Licenses to the Purchasers;
 - c) An Order barring any further claim to the brewhouse and that all parts, whether physical or intangible are the property of the Company; and,
 - d) An Order compelling all parties with any knowledge of a password required to operate the brewhouse or for any other use relating to the operation of the brewhouse to provide the Receiver with the password forthwith.

All of which is respectfully submitted this 20th day of October, 2023.

BDO CANADA LIMITED,

In its capacity as Receiver of
Beyond the Grape on Premise Winemaking Ltd.
(dba Fraser Mills Fermentation Company)
and not in its personal or corporate capacity.
Per:



Chris Bowra, CPA, CA, CIRP, LIT
Vice President



Troy Chesley, CPA
Senior Analyst

APPENDIX A

RECEIVERHSIP ORDER DATED SEPTEMBER 18, 2023

SUPREME COURT
OF BRITISH COLUMBIA
VANCOUVER REGISTRY

SEP 18 2023

ENTERED



COURT FILE NO. VLC-S-S-234019
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BUSINESS DEVELOPMENT BANK OF CANADA

PLAINTIFF

**BEYOND THE GRAPE ON PREMISE WINEMAKING LTD.
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WARREN TODD BOYER**

DEFENDANTS

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE)
JUSTICE M. Taylor)
)
)

ON THE APPLICATION of BUSINESS DEVELOPMENT BANK OF CANADA for an Order pursuant to Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and Section 39 of the *Law and Equity Act*, R.S.B.C. 1996 c. 253, as amended (the "LEA") appointing BDO Canada Limited as Receiver (in such capacity, the "Receiver") without security, of all of the assets, undertakings and property of Beyond the Grape On Premises Winemaking Ltd. (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, coming on for hearing this day at Vancouver, British Columbia.

AND ON READING the Affidavit #1 of Ronnell Francisco sworn September 14, 2023, and the consent of BDO Canada Limited to act as the Receiver; AND ON HEARING Sherryl Dubo, Counsel for the Plaintiff; Cody Reedman, Counsel for the Defendant Ian Donald MacKerricher; and Graham Mack, Counsel for Royal Bank of Canada, no one else appearing, although duly served.

THIS COURT ORDERS AND DECLARES that:

APPOINTMENT

1. Pursuant to Section 243(1) of the BIA and Section 39 of the LEA, BDO Canada Limited is appointed Receiver, without security, of all of the assets, undertakings and property of the Debtor, including all proceeds (the "Property").

RECEIVER'S POWERS

2. The Receiver is empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:
- (a) to take possession of and exercise control over the Property and any and all receipts and disbursements arising out of or from the Property;
 - (b) to receive, preserve and protect the Property, or any part or parts thereof, including, but not limited to, changing locks and security codes, relocation of Property, engaging independent security personnel, taking physical inventories and placing insurance coverage;
 - (c) to manage, operate and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
 - (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including, without limitation, those conferred by this Order;
 - (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
 - (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting these amounts, including, without limitation, enforcement of any security held by the Debtor;
 - (g) to settle, extend or compromise any indebtedness owing to the Debtor;
 - (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
 - (i) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtor;
 - (j) to initiate, manage and direct all legal proceedings now pending or hereafter pending (including appeals or applications for judicial review) in respect of the Debtor, the Property or the Receiver, including initiating, prosecuting, continuing, defending, settling or compromising the proceedings;
 - (k) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver considers appropriate;

- (l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business:
 - (i) without the approval of this Court in respect of a single transaction for consideration up to \$50,000, provided that the aggregate consideration for all such transactions does not exceed \$250,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the individual or aggregate purchase price exceeds the limits set out in subparagraph (i) above,

and in each such case notice under Section 59(10) of the *Personal Property Security Act*, R.S.B.C. 1996, c. 359 shall not be required;

- (m) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers, free and clear of any liens or encumbrances;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver considers appropriate on all matters relating to the Property and the receivership, and to share information, subject to confidentiality terms as the Receiver considers appropriate;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if considered necessary or appropriate by the Receiver, in the name of the Debtor;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limitation, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

- 3. Each of (i) the Debtor; (ii) all of the Debtor's current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf; and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (collectively, "Persons" and each a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued

access to the Property to the Receiver, and shall deliver all such Property (excluding Property subject to liens the validity of which is dependent on maintaining possession) to the Receiver upon the Receiver's request.

4. All Persons, other than governmental authorities, shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (collectively, the "Records") in that Person's possession or control. Upon request, governmental authorities shall advise the Receiver of the existence of any Records in that Person's possession or control.
5. Upon request, all Persons shall provide to the Receiver or permit the Receiver to make, retain and take away copies of the Records and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities, provided however that nothing in paragraphs 4, 5 or 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to solicitor client privilege or statutory provisions prohibiting such disclosure.
6. If any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by an independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may require including, without limitation, providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER

7. No proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

8. No Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are stayed and suspended pending further Order of this Court; provided, however, that nothing in this Order shall prevent any Person from commencing a Proceeding regarding a claim that might otherwise become barred by statute or an existing agreement if such Proceeding is not commenced before the expiration of the stay provided by this

paragraph and provided that no further step shall be taken in respect of the Proceeding except for service of the initiating documentation on the Debtor and the Receiver.

NO EXERCISE OF RIGHTS OR REMEDIES

9. All rights and remedies (including, without limitation, set-off rights) against the Debtor, the Receiver, or affecting the Property, are stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that nothing in this Order shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) affect the rights of any regulatory body as set forth in section 69.6(2) of the BIA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien. This stay and suspension shall not apply in respect of any "eligible financial contract" as defined in the BIA.

NO INTERFERENCE WITH THE RECEIVER

10. No Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court. Nothing in this Order shall prohibit any party to an eligible financial contract from closing out and terminating such contract in accordance with its terms.

CONTINUATION OF SERVICES

11. All Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

12. All funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever including, without limitation, the sale of all or any of the Property and the collection of any accounts receivable, in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "Post-Receivership Accounts") and the monies standing to the credit of such Post-Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further order of this Court.

EMPLOYEES

13. Subject to the employees' right to terminate their employment, all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities of the Debtor, including any successor employer liabilities as referred to in Section 14.06(1.2) of the BIA, other than amounts the Receiver may specifically agree in writing to pay or in respect of obligations imposed specifically on receivers by applicable legislation, including sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*, S.C. 2005, c.47. The Receiver shall be liable for any employee-related liabilities, including wages, severance pay, termination pay, vacation pay, and pension or benefit amounts relating to any employees that the Receiver may hire in accordance with the terms and conditions of such employment by the Receiver.

PERSONAL INFORMATION

14. Pursuant to Section 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5 or Section 18(1)(o) of the *Personal Information Protection Act*, S.B.C. 2003, c. 63, the Receiver may disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

15. Nothing in this Order shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release, or deposit of a substance contrary to any federal, provincial or other law relating to the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination (collectively "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation.
16. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless the Receiver is actually in possession.

17. Notwithstanding anything in federal or provincial law, the Receiver is not personally liable in that position for any environmental condition that arises or environmental damage that occurred:
 - (a) before the Receiver's appointment; or,
 - (b) after the Receiver's appointment, unless it is established that the condition arose or the damage occurred as a result of the Receiver's gross negligence or wilful misconduct.
18. Notwithstanding anything in federal or provincial law, but subject to paragraph 17 of this Order, where an order is made which has the effect of requiring the Receiver to remedy any environmental condition or environmental damage affecting the Property, if the Receiver complies with the BIA section 14.06(4), the Receiver is not personally liable for the failure to comply with the order and is not personally liable for any costs that are or would be incurred by any Person in carrying out the terms of the order.

LIMITATION ON THE RECEIVER'S LIABILITY

19. The Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except:
 - (a) any gross negligence or wilful misconduct on its part; or
 - (b) amounts in respect of obligations imposed specifically on receivers by applicable legislation.

Nothing in this Order shall derogate from the protections afforded the Receiver by Section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

20. The Receiver and its legal counsel, if any, are granted a charge (the "Receiver's Charge") on the Property as security for the payment of their fees and disbursements, in each case at their standard rates, in respect of these proceedings, whether incurred before or after the making of this Order. The Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to Sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.
21. The Receiver and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are referred to a judge of the Supreme Court of British Columbia and may be heard on a summary basis.
22. Prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

23. The Receiver is authorized and empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$75,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as the Receiver deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in Sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.
24. Neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.
25. The Receiver is authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.
26. The monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

ALLOCATION

27. Any interested party may apply to this Court on notice to any other party likely to be affected for an order allocating the Receiver's Charge and Receiver's Borrowings Charge amongst the Property.

SERVICE AND NOTICE OF MATERIALS

28. The Receiver shall establish and maintain a website in respect of these proceedings at: <https://www.bdo.ca/services/financial-advisory-services/business-restructuring-turnaround-services/current-engagements> (the "Website") and shall post there as soon as practicable:
 - (a) all materials prescribed by statute or regulation to be made publicly available, including pursuant to Rule 10-2 of the *Supreme Court Civil Rules*; and,
 - (b) all applications, reports, affidavits, orders and other materials filed in these proceedings by or on behalf of the Receiver, except such materials as are

confidential and the subject of a sealing order or pending application for a sealing order.

29. Any Person who is served with a copy of this Order and that wishes to be served with any future application or other materials in these proceedings must provide to counsel for each of the Receiver and the Applicant a demand for notice in the form attached as Schedule B (the "Demand for Notice"). The Receiver and the Applicant need only provide further notice in respect of these proceedings to Persons that have delivered a properly completed Demand for Notice. The failure of any Person to provide a properly completed Demand for Notice releases the Receiver and the Applicant from any requirement to provide further notice in respect of these proceedings until such Person delivers a properly completed Demand for Notice.
30. The Receiver shall maintain a service list identifying all parties that have delivered a properly completed Demand for Notice (the "Service List"). The Receiver shall post and maintain an up-to-date form of the Service List on the Website.
31. Any interested party, including the Receiver, may serve any court materials in these proceedings by facsimile or by emailing a PDF or other electronic copy of such materials to the numbers or addresses, as applicable, set out on the Service List. Any interested party, including the Receiver, may serve any court materials in these proceedings by mail to any party on the Service List that has not provided a facsimile number or email address, and materials delivered by mail shall be deemed received five (5) days after mailing.
32. Notwithstanding paragraph 31 of this Order, service of the Notice of Application and any affidavits filed in support shall be made on the Federal and British Columbia Crowns in accordance with the *Crown Liability and Proceedings Act*, R.S.C. 1985, c.C-50 and its regulations for the Federal Crown and the *Crown Proceedings Act*, R.S.B.C. 1996 c.89 in respect of the British Columbia Crown.
33. The Receiver and its counsel are authorised to serve or distribute this Order, any other orders and any other materials as may be reasonably required in these proceedings, including any notices or other correspondence, by forwarding copies by facsimile or by email to the Debtor's creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of any legal or juridical obligation and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*.

GENERAL

34. Any interested party may apply to this Court to vary or amend this Order on not less than seven (7) clear business days' notice to the Service List and to any other party who may be affected by the variation or amendment, or upon such other notice, if any, as this Court may order.
35. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

36. Nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.
37. This Court requests the aid, recognition and assistance of any court, tribunal, regulatory or administrative body having jurisdiction, wherever located, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All such courts, tribunals and regulatory and administrative bodies are respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.
38. The Receiver is authorized and empowered to apply to any court, tribunal or regulatory or administrative body, wherever located, for recognition of this Order and for assistance in carrying out the terms of this Order and the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
39. The Plaintiff shall have its costs of this motion, up to and including entry and service of this Order, as provided for by the terms of the Plaintiff's security or, if not so provided by the Plaintiff's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

40. Endorsement of this Order by counsel appearing on this application other than the Plaintiff is dispensed with.

THE FOLLOWING PARTIES APPROVE OF THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

APPROVED BY:



Signature of Sherryl Dubo
Lawyer for Plaintiff


BY THE COURT

DISTRICT REGISTRAR



SCHEDULE "A"
RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT

\$ _____

1. THIS IS TO CERTIFY that BDO CANADA LIMITED, the Receiver (the "Receiver") of all of the assets, undertakings and properties of BEYOND THE GRAPE ON PREMISES WINEMAKING LTD. acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "Property") appointed by Order of the Supreme Court of British Columbia and/or the Supreme Court of British Columbia (In Bankruptcy and Insolvency) (the "Court") dated the ___ day of September, 2023 (the "Order") made in SCBC Action VLC-S-S- 234019 has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.
2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly] not in advance on the ___ day of each month after the date hereof at a notional rate per annum equal to the rate of ___ per cent above the prime commercial lending rate of _____ from time to time.
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of the Property in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at _____.
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
6. The charge securing this certificate shall operate to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum under this Certificate in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 2023.

BDO CANADA LIMITED, solely in its
capacity as Receiver of the Property, and not in
its personal capacity

Per:
Name:
Title:

Schedule "B"

Demand for Notice

TO: Business Development Bank of Canada
c/o McMillan Dubo Law Group
Attention: Sherryl Dubo
Email: sherryl@mcmillandubo.com

AND TO: BDO Canada Limited
Attention: Chris Bowea
Email: cbowra@bdo.ca

Re: In the matter of the Receivership of
BEYOND THE GRAPE ON PREMISES WINE MAKING LTD.

I hereby request that notice of all further proceedings in the above Receivership be sent to me in the following manner:

1. By email, at the following address (or addresses):

OR

2. By facsimile, at the following facsimile number (or numbers):

OR

3. By mail, at the following address:

Name of Creditor: _____

Name of Counsel (if any): _____

Creditor's Contact Address: _____

Creditor's Contact Phone Number: _____

No. VLC-S-S-234019
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

BUSINESS DEVELOPMENT
BANK OF CANADA

PLAINTIFF

AND:

BEYOND THE GRAPE ON
PREMISE WINEMAKING LTD.
FRASER MILLS
FERMENTATION COMPANY
LTD.
IAN DONALD MACKERRICHER
MICHAEL EDWARD DRUCE
DANIEL JOSEPH PARENT
STEPHEN PAUL SHELDON
WARREN TODD BOYER

DEFENDANTS

DEFAULT JUDGMENT

FILE NO. 1201-147

SAD/lt

McMILLAN DUBO LLP
#401-121 5th Avenue
Kamloops, BC V2C 0M1
Phone: (778) 765-1701

APPENDIX B

ASSET PURCHASE AGREEMENT – CHRIS WALTON AND IAN MACKERRICHER

ASSET PURCHASE AGREEMENT

Between

Chris Walton & Ian MacKerricher, as Buyer

and

**BDO Canada Limited, in its capacity as Court Appointed Receiver of
Beyond the Grape On Premises Winemaking Ltd.
and not in its personal or corporate capacity, as Seller**

Dated October 12, 2023

ASSET PURCHASE AGREEMENT

This Agreement is entered into as of October 12, 2023, by and between Chris Walton and Ian MacKerricher (together the “**Buyer**”) and BDO Canada Limited, in its capacity as Court-appointed receiver of Beyond the Grape On Premises Winemaking Ltd. and not in its personal or corporate capacity (the “**Seller**”).

WHEREAS the Seller desires to sell or otherwise transfer to the Buyer and the Buyer desires to purchase from the Seller, the right, title and interest of Beyond the Grape On Premises Winemaking Ltd. in the Transferred Assets.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties intending to be legally bound agree as follows:

Article 1 DEFINITIONS

1.1 Certain Defined Terms

As used in this Agreement, the following terms shall have the following meanings and grammatical variations of such terms shall have corresponding meanings:

“**Agreement**” means this asset purchase agreement, between the Seller and the Buyer, including all schedules and all amendments or restatements, as permitted.

“**Approval Order**” means an approval and vesting order from the Court in a form acceptable to the Buyer and the Seller, and on usual terms for a vesting order in a receivership proceeding in British Columbia (“Approval Order”).

“**Business Day**” means any day other than a Saturday, Sunday or statutory holiday in Vancouver, British Columbia on which Canadian chartered banks are open for commercial banking business during normal banking hours.

“**Buyer**” has the meaning specified in the recitals to this Agreement provided that in the event the Buyer assigns its interest in accordance with the provisions of this Agreement to a nominee, the term “Buyer” will also include such nominee.

“**Closing**” means the closing of the transaction contemplated by this Agreement.

“**Closing Date**” has the meaning specified in Section 2.4.

“**Closing Documents**” means the documents referred to in Section 8.3 and 9.3 hereof.

“**Court**” means the Supreme Court of British Columbia.

“**Documents**” shall have the meaning specified in Section 13.4.

“**Excise Act**” means the *Excise Tax Act* (Canada).

“Governmental Authority” means any Canadian federal, provincial, municipal or local or any foreign government, governmental, regulatory or administrative authority, agency or commission or any court, tribunal, or judicial or arbitral body or any other public agency.

“Law” means any Canadian federal, provincial, state, municipal, local or foreign statute, act, law, ordinance, regulation, rule, code, order, decree, judgment, policy, other requirement or rule of law, including the common law and its principles.

“Licences and Permits” means the licences and permits relating to the operation of the Transferred Assets as described in Section 2.1

“Losses”, in respect of any matter, means all losses, claims, demands, proceedings, damages, liabilities, deficiencies, costs and expenses (including, without limitation, all legal and other professional fees and disbursements, interest, penalties and amounts paid in settlement) arising directly or indirectly as a consequence of such matter.

“Person” means any individual, partnership, firm, corporation, association, trust, unincorporated organization or other entity.

“Premises” means: 3044 St. Johns Street, Port Moody, British Columbia.

“Purchase Price” has the meaning specified in Section 2.2.

“Taxes” means any and all transfer taxes, goods and services taxes, harmonized sales taxes, value added taxes or license, registration and documentation fees and similar charges, but does not include income or disposition tax levied on the Seller arising by reason of the sale of the Transferred Assets.

“Transferred Assets” has the meaning specified in Section 2.1.

1.2 Certain Rules of Interpretation

In this Agreement:

- (a) Consent - Whenever a provision of this Agreement requires an approval or consent and such approval or consent is not delivered within the applicable time limit, then, unless otherwise specified, the party whose consent or approval is required shall be conclusively deemed to have withheld its approval or consent.
- (b) Currency - Unless otherwise specified, all references to money amounts are to lawful currency of Canada.
- (c) Number and Gender – Unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing gender include all genders.
- (d) Statutory References – A reference to a statute includes all regulations made pursuant to such statute and, unless otherwise specified, the provisions of any statute or regulation which amends, supplements or supersedes any such statute or any such regulation.
- (e) Time - Time is of the essence in the performance of the parties' respective obligations.

- (f) Time Periods - Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next Business Day following if the last day of the period is not a Business Day.
- (g) References – all references to Articles, Sections, Subsections, Exhibits or Schedules shall, unless stated to the contrary, mean Articles, Sections, Subsections, Exhibits or Schedules of this Agreement.

Article 2 PURCHASE AND SALE OF ASSETS

2.1 The Transferred Assets

Subject to the terms and conditions of this Agreement, on the Closing Date the Seller shall sell, transfer, assign and convey to the Buyer all of the right, title and interest of the Seller, if any, in and to the assets as set out in Schedule "1" (collectively, the "**Transferred Assets**").

At the Closing Date, the Transferred Assets shall be transferred to and vested in the Buyer pursuant to the Approval Order on an "as is, where is" basis but otherwise free and clear of any liens, charges or encumbrances of any nature whatsoever. The parties acknowledge and agree that the Seller shall make the Transferred Assets available to the Buyer effective on the Closing Date and by permitting the Buyer to take possession of the Transferred Assets the Seller shall not be required to consolidate the Transferred Assets in any one location.

The Licences and Permits referenced in Schedule "1" to be purchased as part of the Transferred Assets under this Agreement consist of Manufacturer Licence #308687 and Manufacturer Licence #308688, both issued by the BC Liquor and Cannabis Regulation Branch ("**LCRB**") to Beyond The Grape On Premise Winemaking Ltd. in connection with the operation of the licenced brewery and lounge known as Fraser Mills Fermentation Company from the Premises (the "**Business**"). The Buyer acknowledges and agrees that the Buyer bears the ultimate responsibility of obtaining the approval by the LCRB for the transfer of the Licences and Permits to the Buyer (the "**LCRB Consent**") and that the Seller does not consent to the continued operation of the Business under the authority of the existing Licences and Permits until the approval and delivery by the LCRB under new licences.

The Seller agrees that the Seller will deliver to the Buyer, at the Closing Date, a consent to transfer the Licences and Permits executed by the Seller in order that the Buyer may make application to LCRB for the LCRB Consent, provided that (i) neither the Seller nor Beyond The Grape On Premise Winemaking Ltd. shall have any responsibility for any liabilities or obligations arising from, under or in connection with obtaining the LCRB Consent; and (ii) the Buyer shall bear all risk of loss and damage to the Business arising from, under, or in connection with the Buyer's failure, if any, to obtain such LCRB Consent, including but not limited to loss of opportunity or business interruption.

Although no lease of the Premises shall be assigned or otherwise transferred or assumed by the Buyer hereunder, the Seller shall not undertake any actions that would be reasonably expected to frustrate the Buyer's ability to sign a new lease of the Premises with the landlord of the Premises.

2.2 Purchase Price

Exclusive of all Taxes, the aggregate purchase price (the "**Purchase Price**") payable by the Buyer to the Seller in consideration of the transfer of the Transferred Assets shall be **\$201,013.00**, subject only to the usual adjustments for deposits as and where applicable. The Purchase Price will be satisfied by the Buyer as follows:

- (a) as to the amount of **\$50,253.25** representing 25% of the Purchase Price as a deposit (the "**Initial Deposit**") shall be paid by wire transfer, money order, certified cheque or bank draft within at the time of delivery of this executed Agreement and shall be dealt with in accordance with Section 2.3; and
- (b) as to the balance, by payment on the Closing Date by wire transfer, money order, certified cheque or bank draft.

All Taxes payable in connection with the purchase and sale of the Transferred Assets shall be the responsibility of the Buyer and shall be paid as and when required by law in order to permit the consummation of the purchase and sale of the Transferred Assets as contemplated herein.

2.3 Initial Deposit

- (a) The Initial Deposit shall be provided by the Buyer to the Seller at the time of delivery of this executed Agreement and held by the Seller, in trust, in a non-interest bearing account and shall be:
 - (i) in the event the Closing occurs on or before the Closing Date, applied toward the Purchase Price in accordance with Section 2.2 and shall be released to the Seller or the Seller's counsel in immediately available funds;
 - (ii) forfeited on account of liquidated damages, and not a penalty, and be released from Trust and paid to the Seller in the event that the Closing does not occur on or before the Closing Date by reason of the Buyer's breach of its obligations hereunder and the Buyer shall remain liable for any losses suffered by the Seller as a result of such breach in excess of the Initial Deposit. The provision for payment of liquidated damages has been included because, in the event of termination of this Agreement as set out in this section 2.3(a)(ii) the actual damages to be included by the Seller can reasonably be expected to approximate the amount of liquidated damages caused for herein and because the actual amount of such damages would be difficult if not impossible to measure accurately; or
 - (iii) otherwise returned to the Buyer, if the terms of the Agreement are not accepted by the Seller within five (5) Business Days of it being reviewed by the Seller.

2.4 Closing

Upon the terms and subject to the conditions of this Agreement, the sale, transfer, conveyance and assignment of the Transferred Assets as contemplated by this Agreement shall take place on or before the tenth (10th) Business Day following the issuance of the Approval Order or such other day acceptable to both parties, at 10:00 a.m. Vancouver Time or at such other place or at such other time or on such other date as the Seller and the Buyer may mutually agree upon in writing (the "**Closing Date**"). The Closing Documents and Purchase Price shall be held in escrow

until such time as the Seller informs the Buyer in writing that a Seller's Certificate, as provided for in the Approval Order, has been filed with the Court.

**Article 3
REPRESENTATIONS AND WARRANTIES OF THE SELLER**

The Seller hereby represents and warrants to the Buyer as follows:

3.1 Authorization

The Seller has, or will have after obtaining the Approval Order and provided there is at the Closing Date no injunction or order prohibiting the Closing, all necessary authority to execute and deliver this Agreement and all other documents and instruments contemplated herein or therein to which it is or will be party and to perform its obligations hereunder and thereunder.

3.2 Seller Resident of Canada

The Seller is not a non-resident of Canada under the *Income Tax Act* (Canada).

**Article 4
REPRESENTATIONS AND WARRANTIES OF BUYER**

The Buyer represents and warrants to the Seller as follows:

4.1 Authorization

The Buyer has the power and authority to execute and deliver this Agreement and the other documents and instruments contemplated herein or therein to which it is or will be a party and to perform its obligations hereunder and thereunder. The execution, delivery and performance of this Agreement and the documents contemplated hereby and the consummation of the transactions contemplated hereby and thereby have been duly authorized and approved by the Buyer.

4.2 Execution and Delivery

This Agreement, and each of the other agreements, documents and instruments to be executed and delivered by the Buyer on or before the Closing, have been or will be duly executed and delivered by, and constitute the valid and binding obligations of the Buyer.

4.3 Validity, etc.

Neither the execution and delivery of this Agreement by the Buyer and the other documents and instruments contemplated hereby, the consummation of the transactions contemplated hereby or thereby, nor the performance of this Agreement and such other agreements in compliance with the terms and conditions hereof and thereof will (i) require any consent, approval, authorization or permit of, or filing with or notification to, any Governmental Authority, (ii) result in a breach of or default (or give rise to any right of termination, cancellation or acceleration) under any Law, governmental permit, license or order or any of the terms, conditions or provisions of any mortgage, indenture, note, license, agreement or other instrument to which the Buyer is a party, or (iii) violate any order, writ, injunction, decree, statute, rule or regulation applicable to the Buyer.

4.4 Resident

As at the Closing Date, the Buyer is not a non-resident of Canada for purposes of the *Income Tax Act* (Canada). The Buyer will be registered under the *Excise Act* and provide its GST number to the Seller at the Closing Date.

4.5 “As Is, Where Is”

Save and except as expressly provided herein, the Buyer acknowledges that the Transferred Assets are purchased on an “as is, where is” basis and without warranty and that it has inspected the Transferred Assets and will accept the same on the Closing Date in their state, condition and location existing as of the date of this Agreement, it being expressly understood that the Transferred Assets shall on the Closing Date be comprised of the assets as set out in Schedule “1” attached hereto.

Unless specifically stated in this Agreement, no representation, warranty or condition, whether statutory (including under the *Sale of Goods Act* (British Columbia)), express or implied, oral or written, legal, equitable, conventional, collateral or otherwise is being given by the Seller in this Agreement or in any instrument furnished in connection with this Agreement as to title, outstanding liens, description, fitness for purpose, merchantability, condition, quality, value, suitability, durability, compliance or non-compliance with environmental rules, regulations or legislative provisions, or marketability thereof or in respect of any other matter or thing whatsoever including, without limitation, the right, title and interest of the Seller, if any, therein and wherever all or part of the Transferred Assets are situate and all of the same are expressly excluded. The Buyer shall be deemed to have relied entirely on its own inspection and investigation in proceeding with the transactions contemplated hereunder. Further, the Buyer confirms that it has relied entirely on its own inspection, due diligence and investigation in preparing and finalizing the Schedules attached hereto and acknowledges that the Seller has made no representations in respect thereof.

4.6 Environmental Condition

Without limiting Section 4.5 hereof in any way, the Buyer acknowledges that the Seller makes no representations or warranties, whatsoever, as to the existence or non-existence of urea formaldehyde insulation, asbestos, PCB's, radium, radon or radon progeny, or any other substances, liquids or materials, whether hazardous or toxic or not, which are or which may constitute on their own or together in combination with any other substance, contaminants or pollutants of any environment, including the natural environment. The Seller specifically makes no representation regarding the compliance of the Transferred Assets with any environmental regulation, whether federal, provincial or municipal or with respect to any rule, regulation, covenant or agreement whether statutory or non-statutory.

4.7 Environmental Indemnity

The Buyer shall indemnify the Seller and hold the Seller harmless from and against all losses, costs, damages, expenses and costs (including legal fees calculated as between a solicitor and his own client with a right to full indemnity) which the Seller may sustain, incur, be or become liable for by reason of or arising from anything done by the Buyer in relation to the Transferred Assets in contravention of environmental legislation or other Law including, without limitation, any clean-up, de-commissioning, restoration or remediation of the Transferred Assets.

Article 5 COVENANTS OF THE SELLER

The Seller covenants and agrees with the Buyer as follows:

5.1 Access

During the period between the granting of the Approval Order and the Closing Date, the Seller shall furnish the Buyer and its representatives reasonable access to the Transferred Assets in the presence of a representative of the Seller, or such person as the Seller may designate, at all times during normal business hours, as well as such information within the possession or control of the Seller regarding the Transferred Assets, to the extent permitted by law, as the Buyer and its representatives may reasonably request and the Seller will use commercially reasonable efforts to cause its officers, employees, consultants and agents to cooperate fully with the Buyer and its representatives in connection with their review and examination of the Transferred Assets. By way of clarity, none of the Transferred Assets may be removed from the Premises until the Closing Date.

5.2 Approval Order

The Seller shall apply to the Court on notice to the Buyer for the Approval Order. The Seller will diligently pursue such application and will promptly notify the Buyer of the disposition.

5.3 Insurance

Until the time of the Closing, the Seller shall maintain in full force all policies and contracts of insurance which are now in effect (or renewals thereof) and under which it or any of the Transferred Assets are insured. At the request and expense of the Buyer, the Seller shall use commercially reasonable efforts to, subject to availability: (i) place such additional insurance on the Transferred Assets; and/or (ii) place such additional public liability and other insurance on the Transferred Assets as the Buyer may request.

Article 6 COVENANTS OF THE BUYER

6.1 Goods and Services Tax

- (a) If the transaction contemplated hereunder shall be subject to Goods and Services Tax ("**GST**") levied pursuant to the *Excise Act* and/or Provincial Sales Tax ("**PST**") levied pursuant to the *Provincial Sales Tax Act* (British Columbia), then GST and/or PST shall be in addition to and not included in the Purchase Price and shall be collected and remitted in accordance with the *Excise Act*. The Seller is registered for GST purposes and its registration number is 872331756 RT0002.
- (b) The Buyer shall indemnify and save harmless the Seller from all claims, liabilities, penalties, interest, costs and legal and other expenses incurred, directly or indirectly, in connection with the assessment of GST and/or PST payable in respect of the transaction contemplated hereunder.
- (c) At the Closing, the Buyer shall provide the Seller with evidence satisfactory to the Seller, acting reasonably, of its federal goods and services tax registration number, its provincial sales tax registration number and shall indemnify the Seller

for any liability for GST and/or PST, interest and costs arising in connection with this transaction.

6.2 Filings

The Buyer shall make all necessary filings and registrations in connection with this Agreement and the sale of the Transferred Assets and shall be solely responsible for the costs associated therewith.

6.3 Removal of Transferred Assets

The Buyer shall cause the Transferred Assets to be removed from the Premises no later than four (4) Business Days after the Closing Date. The Buyer shall ensure that the Premises are left in a broom swept condition for vacant possession and a state that would be acceptable for safe possession by a subsequent tenant in substantially the same state of repair as prior to the Closing Date, and acknowledges that they shall be liable for any costs required to repair or remediate the Premises.

Article 7 CONDITIONS TO THE OBLIGATIONS OF BOTH PARTIES

The following condition is for the benefit of both the Seller and the Buyer and neither will be obligated to complete the relevant transaction unless the condition has been satisfied:

7.1 Court Approval

The Approval Order shall have been duly granted, and shall not have been stayed, reversed or dismissed as at the Closing Date. For greater certainty, expiration of the appeal period for the Approval Order shall not be a pre-condition of the Buyer's or Seller's obligation to complete the within transaction.

Article 8 CONDITIONS TO THE BUYER'S OBLIGATIONS

The obligation of the Buyer to pay the Purchase Price on the Closing Date as outlined in Section 2.2, to perform its obligations under this Agreement and to consummate the other transactions contemplated hereby are subject to the satisfaction, on or before the Closing Date, of the following conditions each of which may be waived by the Buyer in its sole discretion:

8.1 Representations and Warranties

The representations and warranties of the Seller contained in Article 3 shall be true, correct and complete in all material respects at the time of the Closing Date with the same force and effect as if such representations and warranties were made at and as of such time.

8.2 Performance

The Seller shall have performed its obligations under this Agreement in all material respects.

8.3 Closing Documents

The Seller shall have delivered to the Buyer at or before the Closing the following documents:

- (a) a certified copy of the issued and entered Approval Order;

- (b) the executed Seller's Certificates;
- (c) the executed consent to transfer the Licences and Permits in accordance with Section 2.1; and
- (d) such usual and customary documents for transactions of the nature set out in this Agreement as may be required by the Seller or the Buyer, each acting reasonably, necessary to complete the purchase and sale of the Transferred Assets contemplated by this Agreement.

Article 9 CONDITIONS TO THE SELLER'S OBLIGATIONS

The obligation of the Seller to perform its obligations under this Agreement and to consummate the other transactions contemplated hereby is subject to the satisfaction, on or before the Closing Date, of the following conditions, each of which may be waived by the Seller in its sole discretion:

9.1 Representations and Warranties

The representations and warranties of the Buyer contained in Article 4 shall be true, correct and complete in all material respects at the time of the Closing with the same force and effect as if such representations and warranties were made at and as of such time.

9.2 Performance

The Buyer shall have performed its obligations under this Agreement in all material respects.

9.3 Closing Documents

The Buyer shall have delivered to the Seller the balance of the Purchase Price and the following documents:

- (a) such usual and customary documents for transactions of the nature set out in this Agreement as may be required by the Seller or the Buyer, each acting reasonably, necessary to complete the purchase and sale of the Transferred Assets contemplated by this Agreement.

Article 10 ADDITIONAL AGREEMENTS

10.1 Confidentiality - Buyer

If the Closing fails to occur for whatever reason, thereafter, the Buyer agrees not to divulge, communicate or disclose, except as may be required by Law or for the performance of this Agreement, or use to the detriment of the Seller or for the benefit of any other Person or Persons, or misuse in any way, any confidential information of the Seller related to the Transferred Assets. In the event that the Buyer is required to divulge, communicate or disclose any such confidential information pursuant to any Law, the Buyer shall promptly provide written notice to the Seller of such requirement so that the Seller may seek a protective order or other appropriate remedy (in which case the Buyer will cooperate fully). If no such protective order or other remedy is obtained, the Buyer will disclose only that portion of such confidential information which it is advised by counsel it is legally required to disclose.

Article 11 INDEMNIFICATION

11.1 Survival of Representations and Warranties

All representations and warranties in Article 3 and Article 4, as given at the date hereof and restated at the Closing as provided for in Section 8.1 or Section 9.1, or in any instrument or document furnished in connection with this Agreement or the transactions contemplated hereby, shall survive the closing of the transaction contemplated herein and, notwithstanding any investigation at any time made by or on behalf of any party continue in full force and effect for a period of six (6) months from the Closing, provided that a claim for any breach of the representations and warranties contained in this Agreement, or in any instrument or document furnished in connection with this Agreement or the transactions contemplated hereby, that involves fraud or fraudulent misrepresentation may be made at any time following the Closing, subject only to applicable limitation periods imposed by Law. All covenants and agreements contained herein shall survive until fully performed in accordance with their terms.

11.2 Buyer's Indemnification of the Seller

In addition to the indemnity contained in Section 4.7, the Buyer shall indemnify, defend and hold harmless the Seller and its officers, directors, employees, agents and shareholders, and their respective successors and assigns from and against all Taxes payable in connection with the purchase and sale of the Transferred Assets.

Article 12 TERMINATION

12.1 Termination

This Agreement may be terminated and the transactions contemplated hereby may be abandoned at any time prior to the Closing Date, as the case may be:

- (a) by mutual written consent of the Buyer and the Seller;
- (b) by the Buyer or the Seller if any court of competent jurisdiction or other Governmental Authority shall have issued an order, decree or ruling, or taken any other action specifically restraining, enjoining or otherwise prohibiting the transactions contemplated hereby, which order, decree, ruling or other action is not stayed or dismissed prior to the Closing Date;
- (c) subject to 13.1, by the Buyer or the Seller if, on or before the Closing Date, a material part of the Transferred Assets has been removed from the control of the Seller by any means or process, or the Transferred Assets, or any part thereof, are redeemed; or
- (d) by the Buyer or the Seller if the conditions contained in Article 7, 8 and 9 are not satisfied or waived prior to the applicable date for satisfaction of such conditions.

12.2 Effect of Termination

Notwithstanding the termination and abandonment of this Agreement pursuant to Section 12.1, the provisions of Section 10.1 of this Agreement shall survive and the provisions of Section 2.3 shall apply with respect to the Initial Deposit.

**Article 13
MISCELLANEOUS**

13.1 Risk of Loss

Up to the time of the Closing, the Transferred Assets shall be and remain at the risk of the Seller. If, prior to the time of the Closing, all or any material part of the Transferred Assets are destroyed or damaged by fire or any other casualty or shall be expropriated, the Seller shall have the first option to elect to terminate this agreement exercisable within twenty (20) Business Days from the date of such destruction, damage, casualty or expropriation by providing written notice (the "Destruction Notice") thereof to the Buyer and, upon such notice being given, this Agreement shall terminate and be of no further force or effect (save and except the provisions of Section 10.1) and the Seller shall return the Initial Deposit to the Buyer. Thereafter, the Buyer shall have the option, exercisable by notice in writing given within five (5) Business Days of the later of the Buyer receiving notice in writing from the Seller of such destruction, damage, casualty, or expropriation of the Destruction Notice:

- (a) to complete the purchase without reduction of the Purchase Price, in which event the Initial Deposit shall be applied to the Purchase Price, in accordance with Section 2.2, and all proceeds of insurance or compensation for expropriation shall be payable to the Buyer and all right and claim of the Seller to any such amounts not paid by the time of the Closing shall be assigned by the Seller to the Buyer; or
- (b) of terminating this Agreement and not completing the purchase, in which case all obligations of the Buyer and the Seller hereunder, other than those pursuant to Section 10.1, shall terminate and the Initial Deposit shall be returned to the Buyer.

13.2 Notices

All notices, requests, consents and other communications hereunder shall be in writing, shall be addressed to the receiving party's address set forth below or to such other address as such party may designate by notice hereunder, and shall be either (i) delivered by hand, (ii) made by e-mail transmission, or (iii) sent by recognized overnight courier.

If to the Buyer:

Chris Walton & Ian MacKerricher
421 Carlsen Place
Port Moody, B.C. V3H 4A1
Attention: Ian MacKerricher
E-mail: imackerricher@gmail.com

With copy to

28615 123 Avenue
Maple Ridge BC V2W 1M1
Attention: Chris Walton
E-mail: [chris@westernpacificcontracting.c
a](mailto:chris@westernpacificcontracting.ca)

If to the Seller:

BDO Canada Limited
Royal Centre, 1055 W Georgia St Unit 1100,
Vancouver, BC V6E 3P3
Attention: Chris Bowra
E-mail: cbowra@bdo.ca

With copy to

McMillan Dubo Law Group
401, 121 – 5th Avenue
Kamloops, B.C. V2C 0M1
Attention: Sherryl Dubo
E-mail: sherryl@mcmillandubo.com

All notices, requests, consents and other communications hereunder shall be deemed to have been given (i) if by hand, at the time of the delivery thereof to the receiving party at the address of such party in accordance with this Section 13.2, (ii) if made by e-mail transmission, at the date sent, if before 5:00 pm Vancouver Time, and otherwise the next business day, or (iii) if sent by overnight courier with guaranteed next day delivery, on the next Business Day following the day such notice is delivered to the courier service.

13.3 Further Assurances

At any time up to the discharge of BDO Canada Limited as receiver, and from time to time after the date hereof each of the parties hereto, at the reasonable request and expense of the other party hereto, will execute and deliver such other instruments of sale, transfer, conveyance, assignment, confirmation and other instruments as may be reasonably requested in order to more effectively transfer, convey and assign to the Buyer and to confirm the Buyer's title to the Transferred Assets and to effectuate the transactions contemplated herein.

13.4 Entire Agreement

This Agreement together with the Schedules hereto and the other documents executed in connection herewith or referred to herein (together, the "**Documents**") embodies the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings relating to the subject matter hereof. No statement, representation, warranty, covenant or agreement of any kind not expressly set forth in the Documents shall affect, or be used to interpret, change or restrict, the express terms and provisions of the Documents.

13.5 Modifications and Amendments

The terms and provisions of this Agreement may be modified or amended only by written agreement executed by all parties hereto and, where same may be required, by order of the Court in the Proceedings.

13.6 Waivers and Consents

No failure or delay by a party hereto in exercising any right, power or remedy under this Agreement, and no course of dealing between the parties hereto, shall operate as a waiver of any such right, power or remedy of the party. No single or partial exercise of any right, power or remedy under this Agreement by a party hereto, nor any abandonment or discontinuance of steps

to enforce any such right, power or remedy, shall preclude such party from any other or further exercise thereof or the exercise of any other right, power or remedy hereunder. The election of any remedy by a party hereto shall not constitute a waiver of the right of such party to pursue other available remedies. No notice to or demand on a party not expressly required under this Agreement shall entitle the party receiving such notice or demand to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of the party giving such notice or demand to any other or further action in any circumstances without such notice or demand. The terms and provisions of this Agreement may be waived, or consent for the departure therefrom granted, only by written document executed by the party entitled to the benefits of such terms or provisions. No such waiver or consent shall be deemed to be or shall constitute a waiver or consent with respect to any other terms or provisions of this Agreement, whether or not similar. Each such waiver or consent shall be effective only in the specific instance and for the purpose for which it was given, and shall not constitute a continuing waiver or consent.

13.7 Assignment

Except as set out herein, neither this Agreement, nor any right hereunder, may be assigned by any of the parties hereto without the prior written consent of the other party. Except as set out herein, the assignment of this Agreement, or any portion thereof, shall not, in any way, release the Buyer from its obligations hereunder. The Buyer shall, within ten (10) Business Days of the execution of this Agreement by the Seller, provide a written direction to the Seller or its solicitors as to the persons, company or companies which shall take title to the Transferred Assets to the extent that the Buyer is not taking title to same, or any portion thereof, herein.

13.8 Parties in Interest

This Agreement shall be binding upon and enure solely to the benefit of each party hereto and their permitted assigns, and nothing in this Agreement, express or implied, is intended to confer upon any other Person any rights or remedies of any nature whatsoever under or by reason of this Agreement. Nothing in this Agreement shall be construed to create any rights or obligations except among the parties hereto, and no Person or entity shall be regarded as a third-party beneficiary of this Agreement.

13.9 Governing Law

This Agreement and the rights and obligations of the parties hereunder shall be construed in accordance with and governed by the Laws of the Province of British Columbia and the federal laws of Canada applicable therein, without giving effect to the conflict of Law principles thereof.

13.10 Jurisdiction and Service of Process

Any legal action or proceeding with respect to this Agreement may only be brought in the Court. By execution and delivery of this Agreement, each of the parties hereto accepts for itself and in respect of its property, generally and unconditionally, the exclusive jurisdiction of the Court. Nothing in this Section shall affect the rights of the parties to commence any such action in any other forum or to serve process in any such action in any other manner permitted by Law.

13.11 Interpretation

The parties hereto acknowledge and agree that: (i) the rule of construction to the effect that any ambiguities are resolved against the drafting party shall not be employed in the interpretation of this Agreement; and (ii) the terms and provisions of this Agreement shall be construed fairly as

to all parties hereto and not in favour of or against any party, regardless of which party was generally responsible for the preparation of this Agreement.

13.12 Headings and Captions

The headings and captions of the various subdivisions of this Agreement are for convenience of reference only and shall in no way modify, or affect, or be considered in construing or interpreting the meaning or construction of any of the terms or provisions hereof.

13.13 Enforcement

The Buyer acknowledges and agrees that the rights acquired by the Seller hereunder are unique and that irreparable damage would occur in the event that any of the provisions of this Agreement to be performed by the Buyer were not performed in accordance with its specific terms or were otherwise breached. Accordingly, in addition to any other remedy to which the Seller hereto is entitled at Law or in equity, the Seller hereto shall be entitled to an injunction or injunctions to prevent breaches of this Agreement by the Buyer and to enforce specifically the terms and provisions hereof in the Court.

13.14 Expenses

Each of the parties hereto shall pay its own fees and expenses (including the fees of any lawyers, financial advisors, accountants, appraisers or others engaged by such party) in connection with this Agreement and the transactions contemplated hereby whether or not the transactions contemplated hereby are consummated.

13.15 No Broker or Finder

Each of the parties hereto represents and warrants to the other parties that no broker, finder or other financial consultant has acted on its behalf in connection with this Agreement or the transactions contemplated hereby in such a way as to create any liability on the other. Each of the parties hereto agrees to indemnify and save the other harmless from any claim or demand for commission or other compensation by any broker, finder, financial consultant or similar agent claiming to have been employed by or on behalf of such party and to bear the cost of legal expenses incurred in defending against any such claim.

13.16 Publicity

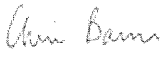
The Buyer shall not, at any time, issue any press release or otherwise make any public statement with respect to the execution of, or the transactions contemplated by, this Agreement without the prior written consent of the Seller, such consent not to be unreasonably withheld.

13.17 Counterparts

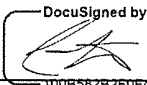
This Agreement may be executed in one or more counterparts, and by different parties hereto on separate counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Execution and delivery of this Agreement may be made and evidenced by facsimile, or electronic transmission.

IN WITNESS WHEREOF, the Buyer and the Seller have executed this Agreement as of the day and year first written above.

**BDO Canada Limited in its capacity as
Court Appointed Receiver of Beyond
the Grape On Premises Winemaking
Ltd. and not in its personal or corporate
capacity**

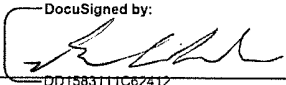
Per: 
Name: Chris Bowra
Title: Vice President

Chris Walton

Per: 
Name: Chris Walton
Title:

I/We have the authority to bind the corporation

Ian MacKerricher

Per: 
Name: Ian MacKerricher
Title:

I/We have the authority to bind the corporation

SCHEDULE "1"

{00239948.}

Equipment List

Value Assigned:

\$201,013.00

Group A	\$ 16,000.00
Group B	\$ 182,013.00
Group C	\$ 3,000.00

Equipment Group A (owned)

ITEM DESCRIPTION	QTY	Comment	
Qty. of piping, valves, and pumps	lot		\$100
Keg sized yeast brink	1		\$50
Micro sheet beer filter	1		\$5
Genie 400lb mobile hoist	1		\$25
Markem 9450 time/date stamp	1		\$1,500
Tower of power, pumps, and portable brew table	1		\$100
Portable liquids crates	7		\$1
Qty. of bulk food containers	lot		\$1
Digital platform scale	1		\$2
Assorted Christmas décor items	lot		\$1
14'x20' Walk-in cooler with retail display shelving	1		\$9,000
16'x24' Walk-in cooler with large sliding door	1		\$5,000
Set of staff lockers	1		\$1
Assorted office furniture and equipment	lot		\$1
Large 2-door parts cabinet with parts bins	1		\$200
42" televisions	12		\$13

Equipment Group B (owned)

ITEM DESCRIPTION	QTY	Comment	
10 BBL 2 vessel electric brewhouse with wiring and electrical components	1		\$28,500
20 BBL hot liquid tank with 2x18kw immersion elements	1	Included above	
20 BBL jacketed cold liquid tank	1	Included above	
Triangular 3 vessel raised platform	1	Included above	
Sink and sample station	1	Included above	
Inline refractometer	1	Included above	
BR dual plate and frame heat exchange	1	Included above	
Qty. of speed and temperature controls	lot	Included above	
Malt/Grain mill with flex auger	1	Included above	
Tilting hop infuser	1		\$500
Pump buggies	2		\$2,000
10 BBL jacketed s/s tanks	5		\$15,000
10 BBL BBT jacketed fermentation s/s tanks	11		\$33,000
Unitank pressure transmitter	1	Included above	
5 BBL storage/serving s/s tanks	13		\$13,000
BBT pressure transmitter	1	Included above	
MicroCan Wild Goose 3 head can filler with intake and out take conveyors	1		\$75,000
Half Pint can depalletizer with filler feed	1		\$13
Pack Leader PL501 wrap around can/bottle labelling machine with conveyor	1		\$4,000
Assorted lab/test equipment	lot		\$1,000
Pro MA 7hp 50,000 btu glycol chiller	1		\$10,000

Group C (intangibles)		
ITEM DESCRIPTION	QTY	Comment
All social media		\$100
All electronic devices		\$500
All trademarks, names		\$500
All manufacturing licenses (3308687 and #308688)		\$1,500
All emails, electronic data		\$100
All software and licenses		\$100
All furnishings both indoor and outdoor		\$200

Together with all other assets of Beyond the Grape On Premises Winemaking Ltd. remaining at the Premises on the Closing Date not otherwise listed herein.