

**EXECUTION COPY**

**ASSET PURCHASE AGREEMENT**

This **ASSET PURCHASE AGREEMENT** (the “**Agreement**”), dated as of August [ 8 ], 2019, is by and among BSV Acquisition LLC, a Delaware limited liability company (the “**Purchaser**”), Broken Shed USA LLC, a Delaware limited liability company (“**Seller**”), and Broken Shed Distilleries, Inc., a Delaware corporation (“**Parent**”).

**RECITALS**

A. Seller is engaged in the business of marketing vodka (and, together with its Affiliates, manufacturing the same) (the “**Business**”). Seller has procured all necessary consents and approvals from its board of managers, as applicable, Parent and shareholders of Parent (the “**Shareholders**”) to consummate the transactions contemplated by this Agreement.

B. Seller desires to sell to Purchaser, and Purchaser desires to purchase from Seller, substantially all of Seller’s assets, properties, rights and interests, on the terms and subject to the conditions contained in this Agreement.

**AGREEMENTS**

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Agreement to Purchase and Sell.** On the terms and subject to the conditions contained in this Agreement, at the Closing (as defined below), Purchaser shall purchase from Seller, and Seller shall sell, convey, assign, transfer and deliver to Purchaser, all of the Seller’s right, title and interest in and to all assets, properties, rights and interests, of any kind and description (whether real, personal or mixed, tangible or intangible, or fixed, contingent or otherwise), owned, licensed or leased by the Seller relating to, used in or necessary for the Business, wherever located and by whomever possessed, other than the Excluded Assets, free and clear of all Liens. All of such assets, properties, rights and interests (other than the Excluded Assets) are collectively referred to in this Agreement as the “**Purchased Assets.**” Without limitation of the foregoing, the Purchased Assets shall include, without limitation, the assets, properties, rights and interests of Seller set forth on **Attachment 1** attached hereto, except to the extent that such assets, properties, rights or interests are also expressly enumerated on **Attachment 2** attached hereto as being Excluded Assets. Parent hereby agrees to sell to Buyer any Purchased Asset to the extent it holds any right, title or interest thereto, including without limitation those assets specifically described as being sold by Parent on **Attachment 1** attached hereto. Solely for clarification purposes and without implication that the contrary would otherwise be true, nothing in this Section 1 shall obligate Purchaser to assume any Liability related to the Seller, Parent, the Business, the Purchased Assets or otherwise, unless Purchaser expressly assumes such Liability pursuant to the terms and conditions of Section 3(b). Certain capitalized terms which are used in this Agreement shall have the meanings set forth in **Exhibit A** attached hereto.

2. **Excluded Assets.** Notwithstanding anything to the contrary in this Agreement, nothing herein shall be deemed to sell, convey, assign, transfer or deliver any of the Excluded Assets to Purchaser, and Seller shall retain all right, title and interest to, in and under, and all Liabilities relating to or arising out of, the Excluded Assets. For all purposes of and under this Agreement, “**Excluded Assets**” shall consist of the assets, properties, rights and interests of the Seller expressly set forth on **Attachment 2** attached hereto (whether or not such assets, properties, rights or assets are otherwise described on **Attachment 1** attached hereto).

3. Liabilities.

(a) As of the Closing (as defined below), on the terms and subject to the conditions hereof, and as additional consideration for the Purchased Assets, Purchaser shall assume and shall be responsible for only those Liabilities of Seller expressly set forth on **Attachment 3** attached hereto the “**Assumed Liabilities**”).

(b) Notwithstanding anything to the contrary in this Agreement, all Liabilities of Seller not specifically assumed by Purchaser pursuant to Section 3(a) (including, without limitation, the Liabilities enumerated on **Attachment 4** attached hereto) are collectively referred to herein as the “**Excluded Liabilities**.” Purchaser shall not assume, be deemed to have assumed, or otherwise be responsible or liable for, and shall not otherwise bear the economic burden of, any of the Excluded Liabilities (regardless of whether the Excluded Liabilities are related to the Business or the Purchased Assets). Seller shall be solely responsible for, and shall discharge and perform in full when due, all of the Excluded Liabilities. For purposes of this Section 3(b), “Seller” shall be deemed to include all Affiliates of Seller, Parent and BS NZ and any predecessors to Seller, Parent and BS NZ and any Person with respect to which Seller, Parent and BS NZ is a successor-in-interest (including by operation of law, merger, liquidation, consolidation, assignment, assumption or otherwise) but shall not in any case include Purchaser.

(c) The assumption by Purchaser of the Assumed Liabilities shall not expand the rights or remedies of any third party against Purchaser or Seller as compared to the rights and remedies which such third party would have had against Seller had Purchaser not assumed the Assumed Liabilities. Without limiting the generality of the immediately preceding sentence, the assumption by Purchaser of the Assumed Liabilities shall not create any third party beneficiary rights.

4. Purchase Price; Allocation.

(a) The aggregate purchase price for the Purchased Assets (the “**Purchase Price**”) shall be equal to (i) forgiveness of the \$85,000 secured promissory note issued by Seller as of July 12, 2019, and acknowledged by Seller and BS NZ (the “**First Note**”), plus (ii) the Assumed Liabilities expressly assumed by Purchaser hereunder plus (iii) a release by Purchaser and its Affiliates of Parent and its Affiliates (the “**Purchaser Release**”). In addition, the \$100,000 secured promissory note issued by Seller on July 29, 2019 and acknowledged by Parent and BS NZ (the “**Second Note**”) shall remain outstanding and secured by the assets of each of Seller and Parent; provided that as part of the Purchase Price the principal and interest and accrued expenses on the same shall be forgiven on the 12-month anniversary of the Closing less the amount of any indemnifiable obligations of Seller or Parent hereunder as of such date.

(b) The parties agree that the Purchase Price and any other items deemed to be consideration for Tax purposes shall be allocated among the Purchased Assets in accordance with Section 1060 of the Internal Revenue Code of 1986, as amended (the “**Code**”) and the Treasury Regulations, as determined by the Purchaser (the “**Purchase Price Allocation**”). The parties shall file on a timely basis with the IRS substantially identical initial and supplemental IRS Forms 8594 consistent with the allocation as determined under this Section, and none of them shall take a position on any Tax return, before any Tax authority or in any judicial proceeding that is, in any manner, inconsistent with such Purchase Price Allocation and the treatment specified herein without the consent of the others or unless specifically required pursuant to a determination by an applicable Tax authority. The parties shall promptly advise one another of the existence of any Tax audit, controversy or litigation related to any allocation hereunder.

(c) There shall be deducted and withheld from the consideration otherwise payable pursuant to this Agreement to the Seller such amounts (if any) as are required to be deducted and withheld under the Code, or any Law, with respect to the making of such payment. To the extent that amounts are

so withheld, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the Seller.

5. Time and Place of Closing. The transactions contemplated by this Agreement shall be consummated (the “**Closing**”) at the offices of Akerman LLP, 71 South Wacker Drive, 47<sup>th</sup> floor, Chicago, Illinois 60606, and remotely at such other offices and locations as may be suitable by delivery by facsimile, e-mail or overnight courier, at 11:59 p.m., Chicago time, on or before August \_\_\_\_, 2019, so long as the conditions set forth in Sections 11 and 12 below are satisfied or waived on such date (or such earlier or later time or Business Day as is mutually agreed to by the parties hereto). The date on which the Closing occurs is referred to in this Agreement as the “**Closing Date.**”

6. Manner of Payment of Purchase Price. On the Closing Date (i) Purchaser shall assume the Assumed Liabilities pursuant to an Assignment and Assumption Agreement and deliver the Purchaser Release and (ii) Parent and Seller and their Affiliates shall have delivered to Purchaser a release in form and substance substantially the same as that delivered by Purchaser pursuant to the Purchaser Release, *mutatis mutandis*, in favor of Purchaser its Affiliates (which releasees shall include, for the avoidance of doubt, Yes Whey LLC, Pine Crest Capital LLC and Michael Hughes), Andrew Hillman, Mark O’Brien, Steve Turner, Hills & Beyond Limited, and David Friedline (the “**Parent and Seller Release**”).

7. Purchaser’s Representations and Warranties. Purchaser represents and warrants to Seller that:

(a) Limited Liability Company. Purchaser is a Delaware limited liability company organized, existing and in good standing under the laws of the State of Delaware.

(b) Power and Authority. Purchaser has the requisite limited liability company power and authority to execute and deliver this Agreement and all documents and instruments to be executed by Purchaser pursuant to this Agreement (such documents and instruments are collectively referred to herein as the “**Purchaser Ancillary Documents**”), to perform its obligations under this Agreement and the Purchaser Ancillary Documents and to consummate the transactions contemplated by this Agreement and the Purchaser Ancillary Documents. This Agreement has been duly and validly executed and delivered by Purchaser, the Purchaser Ancillary Documents will be duly executed and delivered by Purchaser at the Closing, and, assuming the due authorization, execution and delivery by the other parties hereto and thereto, will constitute, upon such execution and delivery in each case thereof, legal, valid and binding obligations of Purchaser, enforceable in accordance with their respective terms and conditions, except to the extent that the enforceability thereof may be limited by the General Enforceability Exceptions.

(c) No Conflicts. Neither the execution and delivery of this Agreement by Purchaser nor any of Purchaser Ancillary Documents by Purchaser, nor the consummation by Purchaser of the transactions contemplated hereby, will conflict with or result in a breach of any of the terms, conditions or provisions of Purchaser’s certificate of formation or limited liability company agreement, or, to Purchaser’s knowledge, of any statute or administrative regulation, or of any order, writ, injunction, judgment or decree of any court or Governmental Authority or of any arbitration award.

(d) Consents. No consent, authorization, order or approval of, or filing or registration with, any Governmental Authority or other Person is required for the execution and delivery by Purchaser of this Agreement or the Purchaser Ancillary Documents or the consummation by Purchaser of the transactions contemplated by this Agreement and the Purchaser Ancillary Documents.

(e) Brokers. Purchaser is not a party to any agreement with any finder or broker, or in any way obligated to any finder or broker for any commissions, fees or expenses, in connection with the origin, negotiation, execution or performance of this Agreement.

8. Representations and Warranties Relating to Seller and Parent. Each of Seller and Parent, jointly and severally, represents and warrants to Purchaser that:

(a) Limited Liability Company and Corporation. Seller is a limited liability company, and Parent is a corporation, in each case duly organized, existing and in good standing, under the laws of the State of Delaware. Seller has all necessary corporate power and authority to conduct its business as its business is now being conducted. The Business is conducted by Seller and not by any other Person. Seller has qualified as a foreign corporation, and is in good standing, under the laws of all jurisdictions where the nature of the Business or the nature or location of its assets, properties, rights or interests requires such qualification and where the failure to so qualify would have a material adverse effect. Seller does not, directly or indirectly, (i) own or have any obligation to acquire any Equity Interest of any Person or (ii) have any interest in any other business other than the Business.

(b) Power and Authority; Enforceability. Seller has full limited liability company power and authority, and Parent has full corporate power and authority, to execute and deliver (i) this Agreement and (ii) all documents and instruments to be executed by Seller and Parent pursuant to this Agreement (such documents and instruments described in this clause (ii) are collectively referred to herein as the “**Seller Ancillary Documents**”), to perform its obligations under this Agreement and the Seller Ancillary Documents and to consummate the transactions contemplated by this Agreement and the Seller Ancillary Documents. This Agreement has been duly and validly executed and delivered by Seller and Parent, the Seller Ancillary Documents will be duly executed and delivered by Seller and Parent at the Closing, and, assuming the due authorization, execution and delivery by the other parties hereto and thereto, will constitute, upon such execution and delivery in each case thereof, legal, valid and binding obligations of Seller and Parent, enforceable against Seller and Parent in accordance with their respective terms and conditions, except to the extent that the enforceability thereof may be limited by the General Enforceability Exceptions. Neither the execution and delivery by Seller or Parent of this Agreement, any of the Seller Ancillary Documents, nor the consummation by Seller or Parent of the transactions contemplated hereby or thereby, will (i) conflict with or result in a breach of any of the terms, conditions or provisions of Seller’s or Parent’s, as applicable, certificate of formation, operating agreement, articles of incorporation, shareholder agreement, or bylaws, of any applicable Law or of any order, writ, injunction, judgment or decree of any Governmental Authority or of any arbitration award or (ii) result in the loss of any material benefit to which the Business is entitled under, or give any Governmental Authority the right to revoke, suspend, cancel, terminate or modify, any Permit, Environmental Permit or other authorization held by Seller or otherwise related to the Business.

(c) Consents. Except as set forth in 8(c) of the Disclosure Schedule, no consent, authorization, order or approval of, or filing or registration with, any Governmental Authority or other Person is required for the execution and delivery by Seller or Parent of this Agreement, any Seller Ancillary Documents, the consummation by Seller of the transactions contemplated hereby and thereby or the transfer of any of the Purchased Assets to Purchaser as contemplated hereunder. All requisite consents of the Shareholders have been obtained, and by execution hereof each of Samuel Brown, John W. Barton and Jonathan Bailey, individually and on behalf of their Affiliates, hereby consent to all of the provisions of this Agreement, including without limitation the authorization of the transactions contemplated hereby and acknowledges that all non-competition and non-solicitation agreements contained in the Second Amended and Restated Stockholders Agreement of Parent that might otherwise be applicable to (i) Purchaser or any of its Affiliates, including without limitation Yes Whey LLC, John W. Fitzgerald and the John W. Fitzgerald Grandchild Trust or (ii) Mark O’Brien, Steve Turner or Hills & Beyond Limited have been terminated and are of no further force or effect.

(d) Capitalization; Constituent Documents. The parties set forth in 8(d) of the Disclosure Schedule are the only record and beneficial holders of any Liens on the Purchased Assets. True and complete copies of the certificate of formation, operating agreement, articles of incorporation and all

amendments thereto, bylaws, and shareholder agreement as amended, to the extent it is currently in force and effect, of Seller and Parent, as applicable, have been delivered by Seller and Parent to Purchaser. Parent owns all of the issued and outstanding Equity Interests in Seller.

(e) Receivables; Inventory. All of the Receivables have arisen from bona fide transactions in the ordinary course of business and are fully collectible, net of the allowance for doubtful accounts, in the ordinary course of business in accordance with their terms and assuming that the methods of collection practices and procedures used in collection of the Receivable are consistent with those historically used by Seller. None of the Receivables are subject to any counterclaim, set off or the like. Seller has not issued any credits or credit memos in respect of any of the Receivables. All reserves, allowances and discounts with respect to the Receivables are consistent with reserves, allowances and discounts previously maintained by Seller in the ordinary course of business. No Inventory is used or sold, or has ever been used or sold, in the operation of the Business.

(f) Sufficiency and Condition of Assets. The Purchased Assets constitute all assets, properties, rights and interests of any kind or description relating to, used in or necessary for the operation of the Business or necessary to continue to operate the Business as currently conducted (consistent with past practice) and as currently proposed to be conducted. All tangible Purchased Assets used by the Seller in the Business are in good operating condition and repair (normal maintenance, wear and tear excepted) and are suitable for the purposes for which they are being used and are of a condition, nature and quantity sufficient for the conduct of the Business as it is presently conducted and it is presently proposed to be conducted. All tangible Purchased Assets owned, leased or licensed by the Seller are in the possession of, and under the control of, the Seller, and are suitable for the purposes for which they are being used and are located at Seller's principal place of business in Southport, Connecticut as denoted in the notices section of this Agreement. Seller does not own, and has never owned, any real estate. Parent holds no assets used in the Business other than its ownership of Equity Interests in Seller and BS NZ.

(g) Title to Assets. Seller has good and marketable title to the Purchased Assets, free and clear of any and all Liens. Except as set forth in Section 8(h) of the Disclosure Schedule, no unreleased mortgage, trust deed, chattel mortgage, security agreement, financing statement or other instrument encumbering, or creating any Lien on, any of the Purchased Assets has been recorded, filed, executed or delivered.

(h) Material Adverse Changes. None of Seller or Parent has suffered or been threatened with, and none of Seller nor Parent has any knowledge of, any event, Liability, change, state of facts, circumstance or development (and none of the foregoing are reasonably expected to occur or exist with respect to Seller) that could cause or result in any material adverse change in the business, properties, liabilities, prospects, operations (including results thereof) or condition (financial or otherwise) of Seller.

(i) Contracts. Section 8(i) of the Disclosure Schedule accurately and completely lists and describes all Material Contracts to which Seller is a party or by which Seller, any of the Purchased Assets or the Business are bound. All Material Contracts are in full force and effect and are binding upon Seller and, to the Knowledge of Seller, the other parties thereto. No default by Seller has occurred thereunder, and, to the Knowledge of Seller, no default by the other contracting parties has occurred thereunder. No event, occurrence or condition exists which, with the lapse of time, the giving of notice, or both, could become a default by Seller (or, to the Knowledge of Seller, a default by the other contracting parties) thereunder. Complete and accurate copies of all Material Contracts (including any amendments or supplements thereto) have previously been delivered to Purchaser.

(j) Conflicts. Seller is not a party to, or bound by, any unexpired, undischarged or unsatisfied Contract under the terms of which performance by Seller according to the terms of this Agreement and/or the consummation of the transactions contemplated hereby will result in a breach, lapse,

cancellation, right to revoke, suspend, cancel, terminate or modify, default or acceleration of any material right or obligation, result in the loss of any material benefit to which the Business is entitled, or result in a Lien on any of the Purchased Assets, or whereby timely performance by Seller according to the terms of this Agreement may be prohibited, prevented or delayed.

(k) Permits and Environmental Permits. Section 8(k) of the Disclosure Schedule contains a true and correct list of, and Seller possesses, all Permits and Environmental Permits which are required in order to conduct the Business as presently conducted or presently proposed to be conducted. Seller has delivered complete and accurate copies of each such Permit and Environmental Permit to Purchaser.

(l) Employee Benefits. Neither Seller nor any trade or business, whether or not incorporated, that is, along with the Seller, a member of a controlled group of corporations, a controlled group of trades or businesses, or an affiliated service group, as described in Section 414(b), (c), or (m) of the Code or that is required to be aggregated with the Seller under Section 414(o) of the Code (“**ERISA Affiliate**”), maintains, administers or contributes to, or has any Liability with respect to any: employee pension benefit plan (as defined in Section 3(2) of the Employment Retirement Income Security Act of 1974, as amended (“**ERISA**”)) (“**Plan**”), including any multiemployer plan as defined in Section 3(37) of ERISA (“**Multiemployer Plan**”); employee welfare benefit (as defined in Section 3(1) of ERISA) (“**Welfare Plan**”); or bonus, deferred compensation, stock purchase, stock option, severance plan, salary continuation, vacation, sick leave, fringe benefit, incentive, insurance, welfare or similar arrangement which is not an employee benefit plan (as defined in Section 3(3) of ERISA) (“**Employee Benefit Plan**”); in each case, other than those plans described in Section 8(l)(i) of the Disclosure Schedule. All Plans, Welfare Plans and Employee Benefit Plans and any related trust agreements or annuity contracts maintained by Seller comply in all material respects with, and are and have been operated in all material respects in accordance with, each applicable provision of ERISA, the Code (including the requirements of Section 401(a) of the Code to the extent any Plan is intended to conform to that section) and all other applicable Laws. Each former employee of Seller or any ERISA Affiliate or other individual who either has elected or is entitled to health continuation coverage pursuant to Section 4980B of the Code or part 6 of Subtitle B of Title I of ERISA (“**COBRA**”) or any other Law or is entitled as of the Closing to elect health continuation coverage in accordance with COBRA or other Law is listed on Section 8(l) of the Disclosure Schedule.

(m) Employees. With respect to employees of Seller: (i) there is no pending or threatened unfair labor practice charges or employee grievance charges; (ii) there is no request for union representation, labor strike, dispute, slowdown or stoppage actually pending or threatened against or directly affecting Seller; (iii) no grievance or arbitration proceeding arising out of or under collective bargaining agreements is pending and no claims therefor exist; (iv) the employment of Seller’s employees is terminable at will without cost to Seller except for payments required under the Plans and Employee Benefit Plans, Welfare Plans, and payment of accrued salaries or wages and vacation pay.

(n) Litigation. Except as set forth on Schedule 8(n), no claim, action, suit, litigation, arbitration, hearing, inquiry, audit, proceeding or investigation, whether civil, criminal, judicial or investigative, formal or informal, public or private, commenced, brought, conducted or heard by or before any Governmental Authority, judicial authority or arbitral panel (each a “**Legal Proceeding**”) is pending or threatened against Seller, any of Seller’s officers, directors, members or shareholders or with respect to or affecting Seller’s operations, assets, properties, rights or interests or the Business or the consummation of the transactions contemplated hereby, nor is there any basis for any of the foregoing. There are no facts which, if known by a potential claimant or Governmental Authority, would give rise to a Legal Proceeding which, if asserted or conducted with results unfavorable to Seller, could have a material adverse effect on the business, properties, liabilities, prospects, operations (including results thereof), or condition (financial or otherwise) of Seller.

(o) Laws. Seller is not a party to, or bound by, any decree, order or arbitration award (or Contract entered into in any administrative, judicial or arbitration proceeding with any Governmental Authority) with respect to or affecting any of Seller's operations, assets, properties, rights or interests or the Business. Seller is not, and has not been, in any material respect, in violation of, or delinquent in respect to, any decree, order or arbitration award or Law or any Permit or Environmental Permit from any Governmental Authority to which any of Seller's properties, assets, rights, interests, personnel or Business activities is subject or bound. During the last six (6) years, Seller has not received from any Governmental Authority any written notification with respect to possible non-compliance of any decree, order, writ, judgment or arbitration award or Law.

(p) Environmental. Seller and its assets, properties, rights and interests and the Business are in compliance, in all respects, with all applicable Environmental Laws and possess and are in compliance, in all respects, with all Environmental Permits which are required for the operation of the Business. Seller has not received any communication alleging that Seller or the Business is not, or in the last six (6) years was not, in compliance with any applicable Environmental Laws or Environmental Permits. There is no Environmental Claim pending or threatened against Seller or the Business. Seller has not used, generated, treated, stored, transported, disposed of, or handled any Hazardous Substance in violation of Environmental Laws or which could give rise to any Liability for Seller, the Business or Purchaser.

(q) Intellectual Property. Section 8(q) of the Disclosure Schedule identifies all of the Intellectual Property that is used in the Business (as presently conducted and as presently proposed to be conducted) or in which Seller has any ownership interest or rights (collectively, "**Seller Intellectual Property**"). Seller owns and possesses all right, title and interest to, or has the right to use pursuant to a valid and enforceable license, all Seller Intellectual Property. No third party has asserted ownership rights, and Seller has not granted a license or sublicense, in any of the Seller Intellectual Property. Seller's use of the Seller Intellectual Property and the conduct of the Business does not infringe any right of any third party. No third party is infringing any of Seller's rights in any of the Seller Intellectual Property. No employee or former employee of Seller has any rights in and to any of the Seller Intellectual Property, and all such Persons have assigned all of their rights thereto to Seller. There has been no claim, action or other Legal Proceeding made, brought or threatened against Seller asserting the invalidity, misuse or unenforceability of any of the Seller Intellectual Property, and there is no basis for any such claim, action or other Legal Proceeding. Seller has not received any notices of, and Seller has no knowledge of any facts which indicate a reasonable likelihood of, any infringement or misappropriation by, or conflict with, any Person with respect to any of the Seller Intellectual Property (including any demand or request that the Seller license any rights from a third party). Seller has taken reasonable security measures to protect the secrecy, confidentiality and value of all of the Seller Intellectual Property.

(r) Warranties and Guaranties. Seller has not made any oral or written warranties or guaranties with respect to the quality or absence of defects of products or services of the Business which are in force as of the date hereof, except for those warranties and guaranties which are described in Section 8(r) of the Disclosure Schedule. There are no claims pending or anticipated or threatened against Seller with respect to the quality of or absence of defects in such products or services.

(s) Gifts and Benefits. No employee, representative or agent of Seller acting on Seller's behalf has directly or indirectly, given or agreed to give, to any customer, supplier, employee of a Governmental Authority or any actual or purported employee, agent or representative of any of the foregoing who is or may be in a position to help or hinder the Business (or assist Seller in connection with any actual or proposed transaction relating to the Business) (i) any illegal gift or benefit or (ii) any gift or similar benefit which if not continued or repeated in the future, would have an adverse effect on the relationship of Seller with such Person.

(t) Brokers. Seller is not a party to any agreement with any finder or broker, or in any way obligated to any finder or broker for any commissions, fees or expenses, in connection with the origin, negotiation, execution or performance of this Agreement.

(u) Complete Disclosure. To the best of Seller's knowledge, no representation or warranty of the Seller contained in this Agreement or in any Seller Ancillary Document, and no written statement made by or on behalf of the Seller to Purchaser or any of its Affiliates pursuant to this Agreement, any of the Seller Ancillary Documents, contains an untrue statement of a material fact or omits to state a material fact necessary to make the statements contained herein or therein not misleading. The copies of all documents furnished by Seller to Purchaser pursuant to the terms of this Agreement are complete and accurate. The information contained in the Disclosure Schedule is complete and accurate.

9. Closing Deliveries. At the Closing, the parties hereto shall execute and deliver such bills of sale, assignments, assumptions, documents of title, payoff letters, Lien releases, consents and other documents as are reasonably required in order to effectuate the consummation of the transactions contemplated hereby, including, without limitation those items described on **Attachment 5** attached hereto. All such documents to be delivered by Seller to Purchaser shall be in form and substance reasonably satisfactory to Purchaser. All such documents to be delivered by Purchaser to Seller shall be in form and substance reasonably satisfactory to Seller.

10. Conduct Prior to and following the Closing. Between the date hereof and the Closing Date or such later date set forth below:

(a) Access. Seller and Parent each shall give to Purchaser's officers, employees, agents, attorneys, consultants, representative, accountants and lenders reasonable access during normal business hours to all of the properties, books, Contracts, documents, records and personnel of Seller and shall furnish to Purchaser and such Persons as Purchaser shall designate to Seller such information as Purchaser or such Persons may at any time and from time to time reasonably request.

(b) Consents. Seller and Parent each shall use its best efforts and make every good faith attempt to obtain all consents required to consummate the transactions contemplated hereby under or with respect to any Contract, Permit, Environmental Permit, purchase order or sales order, where the consummation of the transactions contemplated hereby would be prohibited or constitute an event of default, default or grounds for acceleration or termination, in the absence of such consent. The consents of Samuel Brown and Jonathan Bailey are expressly included by their signatures to this Agreement. In furtherance and not in limitation of the foregoing, Parent hereby consents to Purchaser or its Affiliate making an election under Section 338(g) of the Code with respect to the exercise of the NZ Purchase Option (as defined below) and the resulting transfer of the Equity Interests in BS NZ, and to the assignment of the NZ Purchase Option by the New Zealand stockholders to Purchaser or any Affiliate thereof, including without limitation its parent.

(c) Conduct of Business. Seller and Parent each shall carry on, and shall cause its subsidiaries to carry on, the Business in the usual and ordinary course, consistent with past practices, and shall use its best efforts to preserve the Business and the goodwill of its customers, suppliers and others having business relations with Seller and to retain the business organization of Seller intact (including, without limitation, keeping available the services of its present employees, representatives and agents) and to maintain all of its assets, properties, rights and interests in good operating condition and repair, ordinary wear and tear excepted.

(d) Prohibitions. Without the prior written consent of Purchaser, and without limiting the generality of any other provision of this Agreement, Seller and Parent shall not: (i) sell or in any way transfer or otherwise dispose of any of its assets, properties, rights or interests, except for cash applied in



payment of Liabilities in the usual and ordinary course of business consistent with past practice; (ii) suffer any casualty, damage, destruction or loss, or any material interruption in use, of any assets, properties, rights or interests (whether or not covered by insurance), on account of fire, flood, riot, strike, theft, Act of God or other hazard or casualty; (iii) make or suffer any material change in the conduct or nature of any aspect of its business; (iv) waive any right or cancel or compromise any debt or claim, other than in the ordinary course of business; (v) make (or committed to make) capital expenditures in an amount which exceeds \$5,000 for any item or \$25,000 in the aggregate; (vi) increase the compensation payable to any employee except in the ordinary course of business consistent with past practices; (vii) hire or terminate any employee who has an annual salary in excess of \$25,000; (viii) incur any Indebtedness; (ix) make any payments or distributions to its employees, officers, directors or holders of Equity Interests of Seller or Parent, except such amounts as constitute currently effective compensation for services rendered or reimbursement for reasonable ordinary and necessary out-of-pocket business expenses; (x) make any change in accounting methods or principles; (xi) purchase any asset (whether or not in the ordinary course of business) for a cost in excess of \$5,000; (xii) delay the collection of any accounts or other receivables or the payment of any accounts or other payables; or (xiii) without limitation by the enumeration of any of the foregoing, except for the execution of this Agreement, enter into any transaction other than in the usual and ordinary course of business.

(e) No Intentional Acts. No party shall intentionally perform any act which, if performed, or omit to perform any act which, if omitted to be performed, would prevent or excuse the performance of this Agreement by any party hereto or which would result in any representation or warranty herein contained of said party being untrue in any respect as if originally made on and as of the Closing Date.

(f) Notice of Breach. Seller and Parent each shall promptly and accurately advise Purchaser in writing of the occurrence of any event or the existence of any fact which makes untrue in any respect, will make untrue in any respect as of the Closing, or otherwise would constitute an inaccuracy in or breach of any representation or warranty of the Seller set forth in this Agreement, in any of the Seller Ancillary Documents. It is expressly understood and agreed that the giving of such notice shall not be deemed to prevent or cure any inaccuracy in or breach of any representation or warranty, and such notice shall not affect any right or remedy of Purchaser existing or arising by reason of the inaccuracy in or breach of any representation or warranty (it being understood and agreed that Purchaser shall not waive any claims, and shall reserve all rights, with respect to such rights and remedies, whether or not Purchaser shall proceed to Closing).

(g) Payment of Indebtedness by Affiliates. Seller and Parent each shall (i) cause all Indebtedness owed to the Seller by any Affiliate of the Seller to be paid in full prior to the Closing and (ii) be fully and irrevocably released, prior to the Closing, from all guaranties of Indebtedness or other guaranties of liabilities relating to any Affiliate of the Seller.

(h) Exclusivity. From the date hereof through the six-month anniversary of the Closing Date, none of Parent nor Seller nor any of their current or former Affiliates or their respective current or former stockholders, members, directors, managers, employees, representatives or agents shall, directly or indirectly, solicit, entertain or accept offers from any third party for the purchaser of Parent, Seller, BS NZ, the Purchased Assets or the Business (including without limitation as the same are held by Purchaser or its subsidiaries) other than to Buyer and its Affiliates, whether through the sale of Equity Interests or assets or any other consolidation, merger or reorganization.

11. Conditions to Obligations of Seller. The obligations of Seller under this Agreement to consummate the transactions contemplated hereby are subject to the satisfaction, as of the Closing, of all of the following conditions, any one or more of which may be waived in writing at the option of Seller:

(a) Each and every representation and warranty made by Purchaser shall have been true and correct when made and shall be true and correct as if originally made on and as of the Closing Date.

(b) All obligations of Purchaser to be performed hereunder through, and including on, the Closing Date (including all obligations which Purchaser would be required to perform at the Closing if the transactions contemplated hereby were consummated) shall have been fully performed (or, as to obligations which Purchaser is to perform as of the Closing, the Purchaser shall be ready, willing and able to perform such obligations against performance by the Seller hereunder).

(c) No Law shall exist or be enacted or promulgated by any Governmental Authority which would prohibit the consummation by Seller of the transactions contemplated hereby.

(d) Seller shall not be prohibited, by any order, ruling, consent, decree, judgment or injunction of any court, judicial authority or Governmental Authority from consummating the transactions contemplated hereby.

12. Conditions to Purchaser's Obligations. The obligations of Purchaser under this Agreement to consummate the transactions contemplated hereby are subject to the satisfaction, as of the Closing, of all of the following conditions, any one or more of which may be waived in writing at the option of Purchaser:

(a) Each and every representation and warranty made by Seller and Parent shall have been true and correct when made and shall be true and correct as if originally made on and as of the Closing Date.

(b) All obligations of Seller and Parent to be performed hereunder through, and including on, the Closing Date (including all obligations under Section 10 and those which Seller or Parent would be required to perform at the Closing if the transactions contemplated hereby were consummated) shall have been fully performed (or, as to obligations which the Seller or Parent is to perform as of the Closing, Seller or Parent shall be ready, willing and able to perform such obligations against performance by the Purchaser hereunder).

(c) All of the consents referred to in Section 10(b) shall have been obtained or, to the extent the Permits and Environmental Permits held by Seller would terminate upon sale of substantially all of the assets, Purchaser shall have either obtained licenses and permits on substantially the same terms as such Permits and Environmental Permits, or shall have obtained binding commitments from the applicable Governmental Authorities to issue such licenses and permits to Seller following the Closing.

(d) Purchaser shall have completed and be satisfied with due diligence of Seller and the Business in Purchaser's sole and absolute discretion.

(e) The option of the New Zealand stockholders to purchase all outstanding Equity Interests of Parent's subsidiary, Broken Shed Limited, a New Zealand limited company ("BS NZ") for consideration of \$1 (the "**NZ Purchase Option**") shall have been assigned to Purchaser or its Affiliate.

(f) The intercompany services agreement between Parent and each of Seller and BS NZ shall have been terminated.

(g) Parent and the Shareholders shall have (i) waived compliance by Purchaser and its Affiliates of any non-competition and non-solicit restrictions under the stockholders' agreement of Parent, to the extent such stockholders' agreement remains in force and effect, and (ii) delivered to Purchaser the Parent and Seller Release.

(h) No Law shall exist or be enacted or promulgated by any Governmental Authority which would prohibit the consummation by Purchaser of the transactions contemplated hereby.

(i) Purchaser shall not be prohibited, by any order, ruling, consent, decree, judgment or injunction of any court, judicial authority or Governmental Authority from consummating the transactions contemplated hereby.

(j) No Legal Proceedings shall be in progress or pending by any Person that seeks to enjoin, prohibit or otherwise adversely affect any of the transactions contemplated by this Agreement.

(k) No (i) change, effect, event, occurrence, state of facts or development shall have occurred since the date of this Agreement, (ii) damage, destruction or other change shall have occurred to any of the Purchased Assets and (iii) Legal Proceeding shall have been instituted, in each case, that (individually or in the aggregate) could reasonably be expected to have any material adverse effect on the business, properties, liabilities, prospects, operations (including results thereof) or condition (financial or otherwise) of Seller.

(l) The Seller and Parent shall deliver a non-foreign affidavit described in Section 1445(b)(2) of the Code in form and substance reasonably satisfactory to Purchaser, and made under penalties of perjury, in which each such Seller and Parent affirms that such Seller and Parent is not a foreign person within the meaning of Section 1445 of the Code or Treasury Regulation Section 1.1445-2(b)(2).

13. Casualty. If, prior to the Closing, any damage to or loss of any of Seller's assets, properties, rights or interests or any premises occupied by Seller occurs due to fire, flood, riot, strike, theft, Act of God or other hazard or casualty, and if Purchaser does not elect, or is not permitted under the terms of this Agreement to elect to terminate this Agreement, the Purchase Price shall be reduced by an amount equal to the sum of the reasonably estimated total cost necessary to repair or replace the damage or loss plus the reasonably estimated amount of lost profits which Seller will incur by reason of such damage or loss, net of reasonably estimated insurance recoveries.

14. Right to Terminate. Notwithstanding anything to the contrary contained herein, this Agreement may be terminated at any time prior to the Closing by prompt notice given in accordance with Section 21(b): (a) by the mutual written consent of Purchaser and Seller prior to Closing; (b) by Purchaser if any damage to or loss of any of Seller's assets, properties, rights or interests or any premises occupied by Seller occurs due to fire, flood, riot, strike, theft, Act of God or other hazard or casualty and the damage or loss resulting therefrom is greater than \$25,000 (net of reasonably estimated insurance recoveries); or (c) by either Purchaser or Seller if the Closing shall not have occurred at or before 11:59 p.m., on August 30, 2019 (the "**Termination Date**"); provided, however, the right to terminate this Agreement under clause (c) of this Section 14 shall not be available to Seller or Parent if Seller or Parent failed to fulfill any of its material obligations under this Agreement and such failure has been the cause of, or resulted in, the failure of the Closing to occur on or prior to the Termination Date.

15. Post-Closing Agreements. From and after the Closing:

(a) Receivables. In the event Seller or Parent (or any of their Affiliates) shall receive any instrument of payment of any of the Receivables, Seller and Parent shall forthwith deliver such instrument to Purchaser, endorsed where necessary, without recourse, in favor of Purchaser.

(b) Transfer Taxes. All Transfer Taxes shall be paid by the Seller. Seller and Purchaser shall cooperate in preparing and timely filing all Tax Returns and other documentation relating to Transfer Taxes as may be required by applicable Tax Law.

(c) Inspection. Seller and Parent shall each retain and make their respective books and records (including, without limitation, work papers in the possession of their respective accountants) with respect to the Business available for inspection by Purchaser, or by its representatives, for reasonable business purposes at all reasonable times during normal business hours, for a five (5) year period following the Closing Date, with respect to all transactions occurring prior to and those relating to the Closing, the historical financial condition, assets, liabilities, results of operations and cash flows of Seller. As used in this Section 15(c), the right of inspection includes the right to make extracts or copies.

(d) Use of Name. Seller and Parent each hereby acknowledges and agrees that upon the consummation of the transactions contemplated hereby and the exercise by Purchaser or its Affiliate of the NZ Purchase Option, Purchaser and its Affiliates shall have the sole right to the use of the name “Broken Shed”, “Broken Shed Vodka”, “Broken Shed New Zealand Vodka”, or any service marks, trademarks, trade names, identifying symbols, logos, emblems, signs or insignia related thereto or containing or comprising the foregoing, including any name or mark confusingly similar thereto (collectively, the “**Business Marks**”). Seller and Parent shall not, and Seller and Parent shall cause each of its Affiliates to not, use such name or any variation or simulation thereof or any of the Business Marks. Seller and Parent shall, and shall cause each of their Affiliates to, immediately following the Closing, cease to hold themselves out as Affiliates of the Business. Without limiting the foregoing, immediately following the Closing, Seller and Parent each shall change its limited liability and corporate name, as applicable, to any name that does not contain (or that is not confusingly similar to) “Broken Shed”. In furtherance of the foregoing and without limiting the foregoing, as promptly as practicable but in no event later than ninety (90) days following the Closing Date, Seller and Parent each shall remove, strike over, or otherwise obliterate all Business Marks from all materials (including, without limitation, any vehicles, business cards, schedules, stationery, packaging materials, displays, signs, promotional materials, manuals, forms, computer software and other materials).

(e) Employees. Except as otherwise set forth herein, Purchaser shall not be obligated to offer employment to, or employ, all or any particular employee of Seller or Parent, but Purchaser shall have the right to employ employees of Seller or Parent on or after the Closing Date, on terms and conditions established by Purchaser in its sole discretion. It is expressly understood and agreed that Purchaser may terminate any such employee for any reason or no reason if Purchaser so employs any such employee of Seller or Parent. Seller and Parent shall be solely responsible for any salary, wages, severance and other obligations due to any employee of Seller or Parent as a result of any termination of such employee’s employment by Seller or Parent on, prior to or after the Closing Date. Seller and Parent each acknowledges that certain employees of Seller and Parent intend to be employed by and/or become owners of Purchaser following the Closing. Parent and Seller each hereby waive any contractual or other agreements related to their existing employees that would cause such employees to be restricted from providing services to Purchaser or otherwise conducting the Business or operating the Purchased Assets.

(f) Further Assurances. The parties hereto shall execute such further documents, and perform such further acts, as may be necessary to sell, assign, transfer, convey and deliver the Purchased Assets to Purchaser, on the terms herein contained, and to otherwise comply with the terms of this Agreement and to consummate the transactions contemplated hereby. In furtherance of the foregoing, each of the Seller and Purchaser hereby irrevocably appoint Purchaser as each of their attorney-in-fact for the purpose of executing any and all such assignments, instruments and documents necessary or desirable to effectuate the transfer of any Purchased Asset to Purchaser, with the foregoing power of attorney being coupled with an interest.

16. Non-Solicit of Employees, Customers and Vendors. Seller and Parent hereby agree that from and after the Closing Date through the third anniversary of the Closing Date (the “Restricted Period”), they and their Affiliates and each of their respective representatives and agents shall not, directly or indirectly, anywhere in the world, solicit any employees, customers or vendors of Purchaser, the Business

or the Purchased Assets, divert business away from Purchaser, or otherwise interfere with Purchaser's operation of the Business or the Purchased Assets or Purchaser's relationship with its customers and vendors following the Closing Date.

17. Disclosure of Information. As a material inducement for Purchaser to enter into this Agreement, Seller and Parent each agrees that for the longest period permitted by applicable Law following the Closing Date, such party shall, and shall cause such party's Affiliates to, hold in strictest confidence, and not, without the prior written approval of Purchaser (which approval may be granted or withheld in Purchaser's sole discretion), use for their own benefit or the benefit of any Person (other than Purchaser) or disclose to any Person other than Purchaser (other than as required by applicable Law or legal process) any information of any kind relating to the Business or Purchaser.

18. Injunctive Relief. Seller and Parent (and each of their Affiliates) each specifically recognizes that any breach of Sections 10, 16 and 17 of this Agreement will cause irreparable injury to Purchaser and that actual damages may be difficult to ascertain, and in any event, will be inadequate. Accordingly, Seller and Parent (and each of their Affiliates) each agrees that in the event of any such breach, Purchaser shall be entitled to injunctive relief (without the necessity of posting a bond or other collateral security) in addition to such other legal and equitable remedies that may be available. Notwithstanding anything to the contrary in this Agreement, if at any time, in any judicial or arbitration proceeding, any of the restrictions stated in Sections 10, 16 and 17 are found by a final order of a court of competent jurisdiction to be unreasonable or otherwise unenforceable under circumstances then existing, the parties hereto each agree that the period, scope or geographical area (as the case may be) shall be reduced to the extent necessary to enable such court to enforce the restrictions to the extent such provisions are allowable under applicable Law, giving effect to the agreement and intent of the parties hereto that the restrictions contained herein shall be effective to the fullest extent permissible. In the event of a breach or violation by Seller of any of the provisions of Sections 10, 16 and 17, the Restricted Period for such party shall be tolled and extended for so long as such party was in violation of such provision. Seller, Parent and each of their Affiliates agrees that the restrictions contained in this Agreement are reasonable in all respects and necessary to protect Purchaser's interest in, and the value of, the Business.

19. Indemnification Obligations of Seller and Parent. Seller and Parent, jointly and severally, shall defend, indemnify, save and keep harmless Purchaser and its Affiliates and each of their respective officers, directors, managers, members, shareholders, lenders, agents, representatives, successors and permitted assigns against and from all Damages sustained or incurred by any of them resulting from or arising out of or by virtue of: (a) any inaccuracy in or breach of any representation or warranty made by Seller or Parent in this Agreement, any Seller Ancillary Document; (b) any breach by Seller or Parent of, or failure by Seller or Parent to comply with, any of their covenants or obligations under this Agreement, any Seller Ancillary Document (including, without limitation, the failure to discharge when due any Liability of Seller or Parent (including, without limitation, any of the Excluded Liabilities)); (c) any claims by third parties to the extent (i) arising out of or relating to any Liability of Seller or Parent (including, without limitation, arising out of or relating to any of the Excluded Assets, any of the Excluded Liabilities, or any tax liability of Parent or Seller for which relief is sought from Purchaser or its Affiliates) or (ii) caused by acts or omissions of Seller or Parent on or prior to the Closing Date (including, without limitation, claims which arise or arose out of or relate to Seller's operation of the Business prior to the Closing); or (d) subject to Section 21(m) and without limiting any of the foregoing, any Seller Contract or Seller Permit which requires the consent of the other party thereto for an assignment or transfer thereof to Purchaser or otherwise in connection with the transactions contemplated by this Agreement but which consent is not obtained.

20. Subsequent Sale of Purchaser and its Assets. In the event the Closing occurs and within six (6) months following the Closing Purchaser agrees pursuant to a binding written agreement to a subsequent sale of the Purchased Assets and BS NZ to a third party other than Purchaser and its Affiliates for consideration in excess of \$10,000,000 and such transaction closes within three (3) months of the

execution of such binding written agreement, then Purchaser agrees that the proceeds of any such transaction will be paid as follows: (i) first, to the amount of transaction expenses incurred in such transaction, (ii) second, to the members of Purchaser until they have recouped all of their investment in Purchaser, and (iii) thereafter, (A) 50% of any remaining proceeds shall be paid to Purchaser and its members and (B) 50% of any remaining proceeds shall be paid to Parent, which amounts shall be distributed by Parent to the stockholders of Parent in accordance with the liquidation preferences in the certificate of incorporation of Parent. For the avoidance of doubt, any such sale transaction that takes place after the foregoing six-month anniversary or for less than the foregoing amounts shall not entitle Seller or Parent to any proceeds of the same. Purchaser agrees to accept any good faith offer in excess of \$10,000,000 for the Purchased Assets which is made within the six-month period described in this Section 20, subject to the fiduciary duties of the managers of Purchaser to maximize the value of the Purchased Assets.

21. Miscellaneous.

(a) Publicity; Fees and Expenses; Bulk Sales. Except as otherwise required by applicable Law, press releases concerning the transactions contemplated by this Agreement shall be made only with the prior written agreement of Seller and Purchaser, and no such press releases or other publicity shall state the amount of the Purchase Price. Except as otherwise expressly provided in this Agreement, each party hereto shall bear all fees and expenses incurred by such party in connection with, relating to or arising out of the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby (including, without limitation, fees and expenses of attorneys, accountants, brokers and other professionals). Seller shall comply with any "bulk sales" Laws applicable under relevant sales and use Tax Laws to the sale of the Purchased Assets by the Seller to Purchaser. Purchaser shall reasonably cooperate with Seller in the preparation and filing of any forms or schedules necessary to comply with such Laws.

(b) Notices. Any notices, consents, waivers or other communications required or permitted to be given under the terms of this Agreement must be in writing and will be deemed to have been delivered: (i) when delivered, if delivered personally; (ii) when sent, if sent by facsimile (provided confirmation of transmission is mechanically or electronically generated and kept on file by the sending party); (iii) when sent, if sent by e-mail (provided that such sent e-mail is kept on file (whether electronically or otherwise) by the sending party and the sending party does not receive an automatically generated message from the recipient's e-mail server that such e-mail could not be delivered to such recipient) and (iv) when delivered, if sent by overnight courier service, in each case, properly addressed to the party to receive the same. The addresses, facsimile numbers and/or e-mail addresses for such notices, consents, waivers or other communications are as follows:

If to Seller or Parent:

Broken Shed Distilleries, Inc.  
Broken Shed USA LLC  
368 Center Street  
Southport, CT 06890  
E-mail address: dfuchs@capossela  
Facsimile: (203) 259-4032  
Attention: David Fuchs

With a copy (for informational purposes only) to:

John Barton  
119 Rowayton Ave.  
Rowayton, CT 06853

E-mail address: jbarton@brokenshed.com  
Facsimile: ( ) -

If to Purchaser:

BSV Acquisition LLC  
c/o Pine Crest Capital LLC  
630 Davis Street  
Suite 201  
Evanston, Illinois 60201  
E-mail address: michael.hughes@pinecrestcapital.net  
Facsimile: (847) 478-3218  
Attention: Michael Hughes

with a copy (for informational purposes only) to:

Akerman LLP  
71 S. Wacker Drive, 47<sup>th</sup> floor  
Chicago, Illinois 60606  
Facsimile: (312) 424-1900  
E-mail: mason.drake@akerman.com  
Attention: Mason H. Drake, Esq.

or to such other address, facsimile number or e-mail address and/or to the attention of such other Person as the recipient party has specified by written notice given to each other party five (5) days prior to the effectiveness of such change, provided that all notices, consents, waivers or other communications required or permitted to be sent to Purchaser shall only be sent by e-mail in accordance with the foregoing. Written confirmation of receipt (A) given by the recipient of such notice, consent, waiver or other communication, (B) mechanically or electronically generated by the sender's facsimile machine containing the time, date and recipient facsimile number or (C) provided by an overnight courier service shall be rebuttable evidence of personal service, receipt by facsimile or receipt from an overnight courier service in accordance with clause (i), (ii) or (iv) above, respectively. A copy of the e-mail transmission containing the time, date and recipient e-mail address shall be rebuttable evidence of receipt by e-mail in accordance with clause (iii) above.

(c) Entire Agreement. This Agreement, the attachments hereto, exhibits attached hereto, the Disclosure Schedule and the Ancillary Documents (all of which are hereby deemed incorporated in this Agreement by reference and made a part hereof) contain the entire understanding of the parties hereto solely with respect to the subject matter hereof and thereof and supersede all oral or written prior discussions, understandings and agreements between or among the parties solely with respect to the subject matter hereof and thereof. For clarification purposes, the Recitals are part of this Agreement.

(d) Survival; Waiver. All representations, warranties, covenants and agreement shall survive the Closing (and none shall merge into any instrument of conveyance) regardless of any investigation or lack of investigation by any of the parties hereto. The failure in any one or more instances of a party to insist upon performance of any of the terms, covenants or conditions of this Agreement, to exercise any right or privilege in this Agreement conferred, or the waiver by said party of any breach of any of the terms, covenants or conditions of this Agreement, shall not be construed as a subsequent waiver of any such terms, covenants, conditions, right or privileges, but the same shall continue and remain in full

force and effect as if no such forbearance or waiver had occurred. No waiver shall be effective unless it is in writing and signed by an authorized representative of the waiving party.

(e) Governing Law. All matters relating to the interpretation, construction, validity and enforcement of this Agreement and the Ancillary Documents shall be governed by, and construed in accordance with, the internal Laws of the State of Delaware applicable to contracts made in that State, without regard to any conflict of law principles of the State of Delaware.

(f) Consent to Jurisdiction. EACH OF THE PARTIES HERETO SUBMITS TO THE EXCLUSIVE JURISDICTION OF ANY STATE OR FEDERAL COURT SITTING IN CHICAGO, ILLINOIS, IN ANY ACTION OR PROCEEDING ARISING OUT OF, OR RELATING TO, THIS AGREEMENT OR ANY OF THE ANCILLARY DOCUMENTS, AGREES THAT ALL CLAIMS IN RESPECT OF THE ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN ANY SUCH COURT AND AGREES NOT TO BRING ANY ACTION OR PROCEEDING ARISING OUT OF, OR RELATING TO, THIS AGREEMENT OR ANY ANCILLARY DOCUMENT IN ANY OTHER COURT. EACH OF THE PARTIES HERETO WAIVES ANY DEFENSE OF INCONVENIENT FORUM TO THE MAINTENANCE OF ANY ACTION OR PROCEEDING SO BROUGHT AND WAIVES ANY BOND, SURETY OR OTHER SECURITY THAT MIGHT BE REQUIRED OF ANY OTHER PARTY WITH RESPECT THERETO. EACH PARTY HERETO AGREES THAT SERVICE OF SUMMONS AND COMPLAINT OR ANY OTHER PROCESS THAT MIGHT BE SERVED IN ANY ACTION OR PROCEEDING MAY BE MADE ON SUCH PARTY BY SENDING OR DELIVERING A COPY OF THE PROCESS TO THE PARTY TO BE SERVED AT THE ADDRESS OF THE PARTY AND IN THE MANNER PROVIDED FOR THE GIVING OF NOTICES IN SECTION 21(b). NOTHING IN THIS SECTION, HOWEVER, SHALL AFFECT THE RIGHT OF ANY PARTY TO SERVE LEGAL PROCESS IN ANY OTHER MANNER PERMITTED BY LAW. EACH PARTY HERETO AGREES THAT A FINAL JUDGMENT IN ANY ACTION OR PROCEEDING SO BROUGHT SHALL BE CONCLUSIVE AND MAY BE ENFORCED BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW.

(g) Waiver of Jury Trial. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW THAT CANNOT BE WAIVED, EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, AND COVENANTS THAT IT WILL NOT ASSERT (WHETHER AS PLAINTIFF, DEFENDANT OR OTHERWISE), ANY RIGHT TO TRIAL BY JURY IN ANY FORUM IN RESPECT OF ANY ISSUE, CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING IN WHOLE OR IN PART UNDER, RELATED TO, BASED ON OR IN CONNECTION WITH THIS AGREEMENT, ANY OF THE ANCILLARY DOCUMENTS OR THE SUBJECT MATTER HEREOF OR THEREOF, WHETHER NOW EXISTING OR HEREAFTER ARISING AND WHETHER SOUNDING IN TORT OR CONTRACT OR OTHERWISE. ANY PARTY HERETO MAY FILE AN EXECUTED COUNTERPART OR A COPY OF THIS SECTION 21(g) WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF EACH SUCH PARTY TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.

(h) Binding Effect; Assignment and Amendments. This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and permitted assigns, but will not be assignable or delegable by Seller or Parent without the prior written consent of the Purchaser. This Agreement shall not be modified or amended except pursuant to an instrument in writing executed and delivered on behalf of each of the parties hereto.

(i) Headings; Construction. The headings of this Agreement are for convenience of reference and shall not form part of, or affect the interpretation of, this Agreement. Unless the context clearly indicates otherwise, each pronoun herein shall be deemed to include the masculine, feminine, neuter, singular and plural forms thereof. The terms "including," "includes," "include" and words of like import shall be construed broadly as if followed by the words "without limitation." The terms "herein,"



“hereunder,” “hereof” and words of like import refer to this entire Agreement instead of just the provision in which they are found. The parties hereto jointly participated in the negotiation and drafting of this Agreement. The language used in this Agreement will be deemed to be the language chosen by the parties to express their mutual intent, and no rules of strict construction will be applied against any party. No specific representation or warranty shall limit the generality or applicability of a more general representation or warranty. The remedies provided in this Agreement and the Ancillary Documents shall be cumulative and in addition to all other remedies available under this Agreement and the Ancillary Documents, at law or in equity (including a decree of specific performance and/or other injunctive relief). All indemnification payments made under this Agreement shall be treated by all parties hereto as an adjustment to the Purchase Price. Unless expressly indicated otherwise, all section references herein are to sections of this Agreement.

(j) Severability; Counterparts. If any provision of this Agreement is prohibited by Law or otherwise determined to be invalid or unenforceable by a court of competent jurisdiction, the provision that would otherwise be prohibited, invalid or unenforceable shall be deemed amended to apply to the broadest extent that it would be valid and enforceable, and the invalidity or unenforceability of such provision shall not affect the validity of the remaining provisions of this Agreement. The parties will endeavor in good faith negotiations to replace the prohibited, invalid or unenforceable provision(s) with a valid provision(s), the effect of which comes as close as possible to that of the prohibited, invalid or unenforceable provision(s). This Agreement may be executed in two or more counterparts, all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party. In the event that any signature is delivered by facsimile transmission or by an e-mail which contains a portable document format (.pdf) file of an executed signature page, such signature page shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such signature page were an original thereof.

(k) No Third Party Beneficiaries. Nothing herein expressed or implied is intended or shall be construed to confer upon or give to any Person any rights or remedies under or by reason of this Agreement, other than the parties to this Agreement, the Persons expressly set forth in Section 19 and each of their respective successors and permitted assigns. This Agreement and all provisions and conditions hereof are intended to be, and shall be, for the sole and exclusive benefit of only the parties to this Agreement, the Persons expressly set forth in Section 19 and each of their respective successors and permitted assigns and not for the benefit of any other Person, and no provision hereof may be enforced by any other Person

(l) Disclosure Schedule. All representations and warranties of Seller in Section 8 are made subject to the exceptions which are noted in the schedules delivered by Seller to Purchaser concurrently herewith pursuant to this Agreement and identified by the parties as the “**Disclosure Schedule.**” Each section of the Disclosure Schedule which so modifies any representations or warranties shall be numbered to correspond to the paragraph of Section 8 to which such modification relates. Information furnished in any particular Disclosure Schedule shall not be deemed to be included in any other Disclosure Schedule in which the information is required to be included or disclosed unless specifically designated with a cross-reference. All references to this Agreement in the Disclosure Schedule shall be deemed to refer to this entire Agreement, and all references in the Disclosure Schedule to sections shall be deemed to refer to sections of this Agreement.

(m) Certain Assignments.

(i) Notwithstanding any other provision of this Agreement to the contrary, this Agreement shall not constitute an agreement to transfer or assign, or a transfer or assignment of, any claim, Contract, Permit, Environmental Permit, sales order or purchase order, or any benefit or liability

arising thereunder or resulting therefrom, if an attempt at transfer or assignment thereof without the consent required or necessary for such assignment, would constitute a breach thereof or in any way adversely affect the rights of Purchaser thereunder. From and after the Closing, if (i) any required consent to the transfer or assignment to Purchaser of any claim, Contract, Permit, Environmental Permit, sales order or purchase order is not obtained, (ii) an attempted transfer or assignment would be ineffective or would adversely affect the rights of Purchaser thereunder so that Purchaser would not receive substantially all of such rights, (iii) a Contract is assigned to Purchaser pursuant to the provisions hereof and the other contracting party thereafter raises objections to the assignment and refuses to allow Purchaser to perform such Contract on the terms therein provided or threatens to terminate such Contract or sue for damages or (iv) a surety company issuing a bond to Seller objects to the completion of a Contract included among the Purchased Assets by Purchaser, then Purchaser and Seller shall cooperate in any arrangement Purchaser may reasonably request to provide for Purchaser the benefits under such claim, Contract, Permit, Environmental Permit, sales order or purchase order. Cooperation may include, without limitation, and at Purchaser's request shall include, an arrangement (a so-called "**Seconding Arrangement**"), to be entered into between Purchaser and Seller pursuant to which Seller shall nominally perform a Contract at the expense of Purchaser, Purchaser shall retain the economic benefits or detriments of such Contract and Seller shall perform such Contract with employees lent to Seller by Purchaser and with inventory, equipment and supplies of Purchaser necessary to complete such Contract transferred from Purchaser to Seller as required. Cooperation shall also include, with respect to matters covered by this Section 21(m), Seller's collection of any monies owed to Seller under an asset subject hereto, all for the benefit of Purchaser. The employees set forth on **Attachment 7** shall be subject to a Seconding Arrangement from Parent and Seller, as applicable, until such time as Purchaser is capable of processing its own payroll for such employees.

(ii) It is expressly acknowledged and agreed that the Contracts listed on **Attachment 7** attached hereto are subject to this Section 21(m). In this connection, Seller shall, without further consideration therefor, pay and remit to Purchaser promptly all monies, rights and other considerations received in respect of such assets and such performance, in addition to any other monies, rights and other considerations received by them after Closing with respect to the Purchased Assets. If and when any such consent shall be obtained or unassigned assets shall otherwise become assignable or able to be novated, Seller shall promptly assign and novate all rights and obligations thereunder to Purchaser without the payment of further consideration. Nothing contained in this Section 21(m) shall limit the Liability, if any, of Seller pursuant to this Agreement for failing to have disclosed the need for, or failing to have obtained, any consent required to be disclosed pursuant to Sections 8(c), 8(i) or 8(j). In connection herewith, Purchaser shall make available to Seller, upon reasonable notice and for a reasonable period of time, Purchaser's employees to assist Seller with its obligations under this Section 21(m).

(n) The Parties shall cooperate fully, as and to the extent reasonably requested by the other Party, in connection with the preparation and filing of Tax Returns. Such cooperation shall include signing any Tax Returns, amended Tax Returns, claims or other documents necessary to settle any Tax controversy, the retention and (upon the other Party's request) the provision of records and information which are reasonably relevant to any such audit, litigation or other proceeding and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. Notwithstanding any other provision hereof, each Party will bear its own expenses in complying with the foregoing provision. The parties further agree, upon request from the other party, to use their commercially reasonable efforts to obtain any certificate or other document from any Governmental Entity or any other Person as may be necessary to mitigate, reduce or eliminate any Tax that could be imposed (including, but not limited to, with respect to the transactions contemplated hereby).

*[signature pages follow]*

**IN WITNESS WHEREOF**, the parties have executed this Agreement on the date first above written.

**PURCHASER:**

**BSV Acquisition LLC**

By: Yes Whey LLC  
Its: Sole Member

By: Pine Crest Capital LLC  
Its: Manager

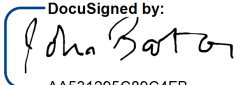
  
\_\_\_\_\_  
Michael Hughes, Manager

**IN WITNESS WHEREOF**, the parties have executed this Agreement on the date first above written.

**SELLER:**

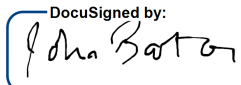
**Broken Shed USA LLC**

By: Broken Shed Distilleries, Inc.  
Its: Sole Member


By  AA531295C89C4FB...  
John W. Barton, Authorized Person

**PARENT:**

**Broken Shed Distilleries, Inc.**

By  AA531295C89C4FB...  
John W. Barton, Authorized Person

For purposes of Sections 10(h), 16 and 17 and approving the transactions contemplated by this Agreement and waiver of any non-competition and non-solicitation agreements set forth in the Second Amended and Restated Stockholders Agreement of Parent, which has heretofore been terminated:

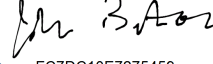
DocuSigned by:  
  
06D48104FB554F9...

---

Samuel Brown

---

Jonathan Bailey

DocuSigned by:  
  
FC7DC10E7275459...

---

John W. Barton

**EXHIBIT A**

**DEFINITIONS**

“**Affiliate**” of a specified Person means any other Person which Controls, is Controlled by, or is under common Control with the specified Person.

“**Ancillary Documents**” means, collectively, the Seller Ancillary Documents, and the Purchaser Ancillary Documents, each as may be amended from time to time.

“**Business Day**” means any day other than a Saturday, Sunday or other day on which commercial banks in Chicago, Illinois are authorized or required by Law to remain closed.

“**Contract**” means any written or oral agreement, note, guarantee, mortgage, indenture, lease, deed of trust, license, plan, instrument or other contract or legally binding arrangement or commitment.

“**Control**” means possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities or Equity Interests, by Contract or otherwise.

“**Damages**” means, with respect to a Person, all Liabilities, obligations, deficiencies, demands, claims, suits, actions or causes of action, regulatory, legislative or judicial proceedings or investigations, assessments, levies, losses, Taxes, fines, penalties, damages (including, without limitation, punitive, special, consequential damages, lost profits, diminution in value (based on a multiple of earnings or otherwise)), costs and expenses (including, without limitation, fees, costs and expenses of attorneys, accountants, investigators and experts sustained or incurred in connection with the defense or investigation of any claim or in enforcement of this Agreement) sustained or incurred by such Person.

“**Environmental Claim**” means any and all administrative, regulatory or judicial actions, suits, demands, directives, claims, liens, investigations, proceedings or notices of noncompliance or violation (written or oral) by any Person alleging potential Liability (including potential Liability for enforcement, investigation costs, cleanup costs, governmental response costs, removal costs, remedial costs, natural resources damages, property damages, personal injuries or penalties) arising out of, based on or resulting from: (a) the presence or Release into the environment of any Hazardous Substance; or (b) circumstances forming the basis of any violation or alleged violation of any Environmental Law; or (c) any and all claims by any Person seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief resulting from the presence or Release of any Hazardous Substances.

“**Environmental Laws**” means all federal, state or local Laws, judgments and orders in effect on the date hereof and the Closing Date that (a) relate to the protection of human health or the environment (including, without limitation, ambient air, surface water, ground water, drinking water, wildlife, plants, land surface or subsurface strata), including, without limitation, Laws that relate to Releases or threatened Releases of Hazardous Substances, or (b) otherwise relate to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Substances.

“**Environmental Permits**” means all environmental, health and safety permits, licenses, registrations, and approvals and authorizations from any Governmental Authority.

“**Equity Interests**” means (a) any partnership interests, (b) any membership interests or units, (c) any shares of capital stock, (d) any other interest or participation that confers on a Person the right of

ownership or to receive a share of the profits and losses of, or distribution of assets of, the issuing Person, (e) any subscriptions, calls, warrants, options, or commitments of any kind or character relating to, or entitling any Person to purchase or otherwise acquire membership interests or units, capital stock, or any other equity securities, (f) any securities convertible into or exercisable or exchangeable for partnership interests, membership interests or units, capital stock, or any other equity securities or (g) any other interest classified as an equity security or interest of a Person.

“**GAAP**” means United States generally accepted accounting principles, as in effect from time to time, consistently applied.

“**General Enforceability Exceptions**” means those exceptions to enforceability due to applicable bankruptcy, insolvency, reorganization, moratorium or other similar Laws affecting the enforcement of creditors’ rights generally and general principles of equity (regardless of whether such enforceability is considered in a proceeding at law or in equity).

“**Governmental Authority**” means the United States or any state, provincial, county, municipal, city, local or foreign government, or any instrumentality, division, subdivision, department, agency or authority of any thereof having competent jurisdiction over Seller, Purchaser or the transactions contemplated by this Agreement (as applicable).

“**Hazardous Substances**” means: (a) any petroleum or petroleum products, radioactive materials, asbestos in any form, mold, mildew, transformers or other equipment that contain dielectric fluid containing regulated levels of polychlorinated biphenyls (PCBs) and radon gas; and (b) any chemicals, materials or substances which are now or ever have been defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous wastes,” “restricted hazardous wastes,” “toxic substances,” “toxic pollutants,” or other words of similar import, under any Environmental Law.

“**Indebtedness**” means, with respect to any Person, all Liabilities in respect of: (a) borrowed money or indebtedness issued in substitution for or exchange of indebtedness for borrowed money; (b) indebtedness evidenced by bonds, notes, debentures or similar instruments; (c) capitalized lease obligations; (d) the deferred purchase price of assets, services or securities (other than ordinary trade accounts payable); (e) conditional sale or other title retention agreements; (f) the factoring or discounting of accounts receivable; (g) swap or hedging agreements or arrangements; (h) reimbursement obligations, whether contingent or matured, with respect to letters of credit, bankers’ acceptances, bank overdrafts, surety bonds, other financial guarantees and interest rate protection agreements (without duplication of other indebtedness supported or guaranteed thereby); (i) vendor advances, (j) letters of credit (whether drawn or undrawn), (k) interest, premium, penalties and other amounts owing in respect of the items described in the foregoing clauses (a) through (j) after giving effect to the Closing; (l) all Indebtedness of the types referred to in clauses (a) and (b) guaranteed in any manner by such Person, whether or not any of the foregoing would appear on a consolidated balance sheet prepared in accordance with GAAP; (m) any unfunded pension liabilities; and (n) any so-called “change of control” payments.

“**Intellectual Property**” means all of the following in any jurisdiction throughout the world: (a) all inventions (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereto, and all patents, patent applications, and patent disclosures, together with all reissues, continuations, continuations-in-part, revisions, extensions, and reexaminations thereof, (b) all trademarks, service marks, trade dress, logos, designs, shapes, configurations, slogans, trade names, corporate or limited liability company names, Internet domain names, and rights in telephone numbers, together with all translations, adaptations, derivations, and combinations thereof and including, without limitation, all goodwill associated therewith, and all applications, registrations, and renewals in connection therewith,

(c) all copyrightable works, all copyrights, and all applications, registrations, and renewals in connection therewith, (d) all mask works and all applications, registrations, and renewals in connection therewith, (e) all trade secrets and confidential business information (including, without limitation, ideas, research and development, know-how, formulas, compositions, manufacturing and production processes and techniques, technical data, designs, drawings, specifications, customer and supplier lists, pricing and cost information, and business and marketing plans and proposals), (f) all computer software (including, without limitation, Source Code, executable code, data, databases, and related documentation), (g) all advertising and promotional materials, (h) all other proprietary rights, and (i) all copies and tangible embodiments of any of the foregoing (in whatever form or medium).

“**Inventory**” means, with respect to a Person, all finished goods, all work-in-process, intermediaries, raw materials, spare parts and all other materials and supplies used or held for use by such Person in the production of finished goods.

“**Knowledge of Seller**” means any matter, fact, or thing known by Seller’s or Parent’s executive officers or employees or which should have been known by any of them after due inquiry.

“**Law**” means each provision of any currently implemented federal, state, local or foreign law, statute, rule of common law, ordinance, order, code, rule or regulation, promulgated or issued by any Governmental Authority.

“**Liability**” means any liability or obligation of whatever kind or nature (whether known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, due or to become due), including, without limitation, any liability for Taxes.

“**Lien**” means any mortgage, indenture, pledge, escrow, hypothecation, hypothec, right of others, claim, security interest, encumbrance, judgment, lease, sublease, license, occupancy agreement, equitable interest, adverse claim or interest, transfer restriction, right of way, easement, covenant, restriction on use, servitude, encroachment, burden, title defect, title retention agreement, voting trust agreement, proxy, interest, equity, option, lien, preemptive right, right of first offer or refusal, charge, receipt of income or exercise of any other attribute of ownership or other restriction or limitation of any kind or nature whatsoever, whether arising by agreement, operation of Law or otherwise.

“**Material Contract**” means any written or oral: employment and employment-related Contract; consulting Contracts; Contracts with sales representatives and distributors; Contracts for the payment of severance benefits, retention bonuses, sale bonuses or payments upon sale or change of control; collective bargaining agreements; Contracts related to employee benefits and employee benefit plans; purchase Contracts and orders in excess of \$5,000 each; sales and service Contracts and orders in excess of \$5,000 each; requirements Contracts; any Contract or order for the sale of goods or the performance of services which, if performed by Seller in accordance with its terms, could only be performed by Seller with a gross profit margin of 30% or less, or which could not be performed within the time limits or other terms therein provided, or which, when actually performed, would result in any Liability (contractual or otherwise) to pay damages or penalties; any Contract which restricts the ability of Seller to increase prices to a customer of the Business; Contracts for capital expenditures; Contracts regarding confidentiality, non-competition or non-solicitation or otherwise restricting the conduct of the Business; Contracts between Seller and any Affiliate or Shareholder (or related party); guaranty, performance bond, indemnification agreement and the like; Contacts relating to Indebtedness; security agreements; letters of credit; Contracts with any transportation company; lease or sublease of personal or real property; joint venture, partnership or other similar Contracts; and all other Contracts (oral or written) to which Seller is a party or by which Seller or any of its assets, properties, rights or interests is bound and which have a notice for termination period of



more than six (6) months or obligate any party thereto to make an annual payment of more than \$25,000 or total payments of more than \$5,000 during the term of such Contract.

“**Object Code**” means computer software code, substantially or entirely in binary form, which is intended to be directly executable by a computer after suitable processing and linking, but without the intervening steps of compilation or assembly.

“**Permits**” means licenses, permits, registrations and approvals of Governmental Authorities.

“**Person**” means any individual, sole proprietorship, partnership, joint venture, trust, unincorporated association, corporation, limited liability company, entity or Governmental Authority (including, without limitation, each successor and permitted assigns thereof) (or in the case of a Governmental Authority, Persons succeeding to the relevant function of such Governmental Authority).

“**Release**” means any release, spill, emission, emptying, leaking, injection, deposit, disposal, discharge, dispersal, leaching, pumping, pouring, or migration into the atmosphere, soil, surface water, groundwater or property.

“**Seller Contract**” means each Contract as to which Seller or Parent or their Affiliates is a party, by which any Seller or Parent or their Affiliates is bound, or as to which Seller, Parent or their Affiliates is the issuer, beneficiary or recipient.

“**Seller Permits**” means each Permit and Environmental Permit applicable to Parent and Seller.

“**Source Code**” means human-readable computer software and code, in a form other than Object Code form or machine-readable form, including related programmer comments and annotations, help text, data and data structures, object-oriented and other code, which may be printed out or displayed in human-readable form.

“**Tax**” or “**Taxes**” means (a) any federal, state, local, or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, unclaimed property, escheat, windfall profits, environmental (including taxes under Section 59A of the Code), customs duties, capital stock, franchise, profits, withholding, social security (or similar), unemployment, disability, real property, personal property, sales, use, transfer, registration, value-added, alternative or add-on minimum, estimated, or other tax of any kind whatsoever, including any interest, penalty, or addition thereto, whether disputed or not, (b) any amounts described in clause (a) above for which any Person may be jointly or severally liable under applicable Law by virtue of its status as a member of a consolidated, affiliated, Controlled or unitary group of taxpayers or under Treasury Regulation 1.1502-6, or (c) any amount described in clauses (a) or (b) above that is payable pursuant to any tax-sharing Contract, agreement, arrangement or the like or any other Contract, agreement, arrangement or the like relating to the sharing, indemnity or payment of any such amount, or any liability as a transferee or successor.

“**Tax Returns**” means any return, declaration, report, claim for refund, or information return or statement (including any related or supporting schedules, statements or information) required to be filed with any Taxing Authority.

“**Taxing Authority**” means any Governmental Authority, domestic or foreign, having jurisdiction over the assessment, determination, collection or other imposition of any Taxes.

“**Transfer Taxes**” means any and all transfer, documentary, sales, use, gross receipts, stamp, registration, value added, recording, escrow and other similar Taxes and fees (including, without limitation,

any penalties and interest) imposed or assessed as a result of the transactions contemplated by this Agreement (including, without limitation, recording and escrow fees and any real property or leasehold interest transfer or gains Tax and any similar Tax).

“**Treasury Regulation**” means the regulations of the U.S. Department of the Treasury promulgated under the Code, as such regulations may be amended from time to time. Any reference herein to a particular Treasury Regulation means, where appropriate, the corresponding successor provision.

**Attachment 1**  
**Purchased Assets**

The Purchased Assets include, without limitation, the following:

- a) all of Seller's (and Parent's) cash on hand and bank accounts related thereto, cash equivalents, and marketable securities;
- b) all Inventory of Seller, including without limitation work in progress, finished and unfinished goods, bottles and vodka and ingredients therefor;
- c) (i) all trade and accounts receivable and other rights to payment from customers of Seller and the full benefit of all security for such accounts or rights to payment (including, without limitation, all trade accounts receivable representing amounts receivable in respect of good shipped, products sold or services rendered to customers of Seller), (ii) all other accounts or notes receivable of Seller and the full benefit of all security for such accounts or notes (but excluding receivables and other amounts due from Affiliates of Seller), (iii) all of accounts or notes receivable of Parent from its subsidiaries (including without limitation from Seller or BS NZ), and (iv) any claim, remedy or other right related to any of the foregoing (collectively, the "**Receivables**").
- d) all machinery, equipment (including, without limitation, all office equipment), automobiles, trucks, tractors, trailers and other vehicles, fixtures, trade fixtures, computers and related software, tools, furniture, office supplies, materials, production supplies, molds, spare parts, other miscellaneous supplies and other tangible property (other than Inventory) of Seller of any kind wherever located, together with any express or implied warranty by the manufacturers, sellers or lessors of any item or component part thereof and all maintenance records and other documents relating thereto (collectively, the "**Equipment**");
- e) all leasehold interests in and to personal property leased to Seller;
- f) all Intellectual Property and other intangible property rights of Seller, including, without limitation, patents, trademarks, copyrights, trade names, service marks, domain names, websites, telephone numbers, trade dress and slogans (and all registrations of any of the foregoing, and all applications for registration thereof), and all goodwill associated with all such Intellectual Property and other intangible property rights and all claims for past, present and future infringement thereof;
- g) subject to Section 21(m) of the Agreement, all sales orders, sales Contracts, service orders, service Contracts and all other similar Contracts entered into by Seller with any customer of the Business;
- h) subject to Section 21(m) of the Agreement, all purchase orders, purchase Contracts and all other similar Contracts entered into by Seller with any supplier, vendor or third party supplying goods or services to the Business;
- i) subject to Section 21(m) of the Agreement, all other Contracts (other than those described in (g) and (h) above) (including, without limitation, confidentiality agreements, leases for personal property (including capitalized leases) under which Seller is a lessee or lessor, leases for real property under which Seller is a lessee or lessor, distribution agreements, sales representative agreements and service agreements), and employment agreements (including without limitation Parent's rights with respect to any employment agreement of any employee of Seller or Parent, in each case to the extent specifically identified on **Attachment 6** attached hereto, but not including the Excluded Contracts (such Contracts so identified on **Attachment 6** attached hereto, together

with the Contracts described in (g) and (h) above, are collectively referred to herein as the “**Assigned Contracts**”);

- j) all lists, records and other information pertaining to suppliers and customers (including, without limitation, customer lists, customer mailing lists and customer sales files), all lists, records and other information pertaining to accounts, personnel and referral sources, all drawings, plats, specifications, reports, studies, plans, books, records, ledgers, files, documents, correspondence and business and accounting records of every kind (including, without limitation, all financial, business and marketing plans), all advertising, marketing and promotional materials, and all other printed or written materials, in each case owned, maintained or in the custody or control of Seller, and in each case whether or not evidenced in writing, electronic data, computer software or otherwise.
- k) all deposits, prepayments, prepaid expenses, rebates, refunds and credits of the Seller of any kind and all rights with respect thereto;
- l) all telephone numbers;
- m) all claims and rights (including, without limitation, benefits arising therefrom), credits, causes of action, choses in action, rights of recovery, rights of recoupment and rights of set-off of the Seller of any kind;
- n) subject to Section 21(m) of the Agreement, all Permits and Environmental Permits and rights thereunder;
- o) all goodwill as a going concern and all other intangible property of the Business; and
- p) all ownership interests of the Parent in any of the foregoing, and all other assets, properties, rights and interests of the Seller or the Parent, or in which the Seller or the Parent has an interest, which are not referred to in (a) through (o) above but which are not otherwise Excluded Assets.

**Attachment 2**  
**Excluded Assets**

- a) Seller's organizational documents, minute books, membership interest records and limited liability company seal;
- b) Seller's rights under or pursuant to this Agreement, the Seller Ancillary Documents and the schedules and exhibits hereto and thereto;
- c) claims (including insurance benefits to the extent such benefits relate to an Excluded Asset or Excluded Liability), deposits, prepayments, refunds, credits, causes of action, choses in action, rights of recovery, rights of recoupment and rights of set-off of the Seller, in each case, to the extent related to the Excluded Assets and the Excluded Liabilities;
- d) Seller's and its Affiliates' respective Plans, Multiemployer Plans, Welfare Plans and Employee Benefit Plans;
- e) insurance policies of Seller and rights arising from any refunds due with respect to insurance premium payments to the extent they relate to such identified insurance policies;
- f) refunds due from federal, state and/or local Taxing Authorities with respect to Taxes on or measured by income heretofore paid by Seller; and
- g) the personnel records and other records that Seller is required by applicable Law to retain in its possession.

**Attachment 3**  
**Assumed Liabilities**

AMOUNT	PAYEE
\$ 2,760.56	The Alison Group
\$ 1,630.27	Aras,LLC
\$ 1,500.00	Foley Publishing LLC
\$ 8,995.00	Beverage Media Group
\$ 5,000.00	Free Agent Media
\$ 10,000.00	Chilled Magazine
\$ 8,380.00	Maloney Outdoor Advertising
\$ 1,305.50	National Restaurant Association
\$ 575.00	PIC PUBLICATIONS
\$ 5,068.16	Porter Wallace Corp
\$ 29,536.17	PROSHIPPING GROUP CORP
\$ 10,000.00	SAN DIEGO AVIATORS
\$ 800.44	TERO DESIGN HOLDINGS
\$ 11,273.70	Vine Ventures,LLC
\$ 5,259.06	WEAR THE BEST, INC
\$ 19,184.52	WTT, LLC
\$ 750.00	NABCA
\$ 4,050.00	Great Lakes Wine & Spirits
\$ 9,680.28	Anthem Blue Cross & Blue Shield
\$ 2,789.28	Boutique Brand LTD
\$ 2,000.00	San Diego Spirits Festival
\$ 409.83	Southern Glazer Wine & Spirits
\$ 3,800.00	Highway Radio
\$ 4,093.84	Travelers
\$ 5,181.00	DZ Spirits Marketing LLC (Ziegler)
\$ 3,380.00	Armeni Enterprises

**Liabilities of Parent**

\$ 50,000.00	DiRusso + Brooks
\$ 8,185.00	Whitman Breed (Drew Nelson)
\$ 23,078.09	Chipman, Brown

## Attachment 4

### Excluded Liabilities

Notwithstanding Section 3(a) (and without implication that Purchaser is assuming any Liability not expressly excluded by Section 3(b) and, where applicable, without implication that any of the following would constitute Assumed Liabilities but for the provisions of Section 3(b)), the following Liabilities of Seller are Excluded Liabilities and shall not be assumed or discharged by Purchaser:

- a) any Liabilities of the Business to any Affiliates of the Seller or any of the Shareholders;
- b) any Liabilities of which the Seller or Parent have not expressly made Purchaser aware in writing and which Purchaser has not expressly agreed to assume in writing;
- c) any Liabilities for legal, accounting, audit and investment banking fees, brokerage commissions, and any other expenses incurred by Seller in connection with the negotiation and preparation of this Agreement and the sale of the Purchased Assets to Purchaser;
- d) any payroll liabilities (if any) payable to the current or former chief executive officer or executive chairman of Parent and/or Seller;
- e) any Liabilities of the Seller, the Parent, or any Affiliate thereof for Taxes for any period, any Liabilities for Taxes related or attributable to the Business or the Purchased Assets with regard to any Tax period or portion thereof ending on or before the Closing Date, and any Taxes arising in connection with the transactions contemplated under this Agreement including any Transfer Taxes; and for purposes of this Agreement, the portion of Taxes with respect to a Tax period beginning on or before the Closing Date and ending after the Closing Date that are attributable to the portion of the period ending on or before the Closing Date shall be determined as follows: (i) in the case of Taxes based upon or related to income, sales, use, receipts, levels of activity, transfers or assignments of property, payments or accruals to other persons (including, without limitation payroll and withholding Taxes), on the basis of a deemed closing at the end of the Closing Date of the books and records; and (ii) in the case of any Taxes not apportioned under clause (i) above, such as, without limitation, real property Taxes, personal property Taxes and similar ad valorem Taxes or obligations, and similar Taxes imposed on a periodic basis, the portion of such Taxes attributable to the pre-Closing portion of the period shall be equal to the product of such Taxes multiplied by a fraction the numerator of which is the number of days in the period from the beginning of the period through and including the Closing Date and the denominator of which is the total number of days in the entire period.
- f) any Indebtedness of the Seller, including without limitation the bridge loan payable to Alexandra Currie, and all Liabilities related to any prepayment penalties imposed for the prepayment of Indebtedness of the Seller;
- g) any Liabilities of the Seller to any of its Affiliates;
- h) any Liabilities of the Seller under collective bargaining agreements;
- i) any Liabilities for: (i) the payment of severance benefits, retention bonuses and/or so-called "sale bonuses," payable by Seller to its employees due to termination of employment (regardless of whether such termination occurs prior to the Closing Date or in connection with or following the sale of the Purchased Assets) or by reason of the sale of the Purchased Assets; (ii) supplemental

unemployment and/or health care continuation benefits; or (iii) salaries, wages, bonuses, vacation pay and other compensation which are owed to any employees of the Seller who do not become employees of Purchaser following the Closing, and related withholding and employment Taxes with respect thereto;

- j) any Liabilities under any federal or state civil rights or similar Law, or the so-called “WARN Act,” resulting from the termination of employment of employees;
- k) any Liabilities arising out of or in connection with the Seller’s or its Affiliates’ respective Plans, Multiemployer Plans, Welfare Plans and Employee Benefit Plans;
- l) any Liabilities of the Seller under those Contracts, Permits, Environmental Permits and commitments which constitute Excluded Assets or which are not assigned to Purchaser pursuant to the provisions of this Agreement;
- m) any Liabilities for retrospective or similar insurance premium adjustments;
- n) any Liabilities arising out of or in connection with any violation of or non-compliance with any Law;
- o) any Liabilities of the Seller in connection with or arising out of the transfer or assignment of any Purchased Asset (including, without limitation, under any Contract);
- p) any Liabilities with respect to or relating to Environmental Laws or environmental matters arising out of facts or circumstances occurring prior to the Closing;
- q) any Liabilities related to or arising in connection with the performance of services prior to the Closing (including, without limitation, with respect to any defective services);
- r) any claims against or Liabilities of the Seller arising out of facts or circumstances occurring prior to the Closing for injury to or death of Persons or damage to or destruction of property (including, without limitation, any workers’ compensation claim) regardless of when said claim or liability is asserted (including, without limitation, any claim or Liability for consequential, punitive or exemplary damages in connection with the foregoing);
- s) any Liabilities for medical, dental, and disability (both long-term and short-term) benefits, whether insured or self-insured, accruing or based upon exposure to conditions, or aggravation of disabilities or conditions in existence, on or prior to the Closing Date or for claims incurred or disabilities commencing on or prior to the Closing Date, and any Liability for the foregoing, regardless of when accrued and regardless of when any condition existed, which arises by virtue of an employment relationship at any time with the Seller;
- t) any Liabilities for or with respect to price adjustment of any Contract with the U.S. Government relating to periods prior to the Closing for any reason whatsoever (including, without limitation, defective pricing);
- u) any Liabilities for or with respect to renegotiation of any Contract which is subject to renegotiation;
- v) any Liabilities (whether asserted before or after Closing) for or arising in connection with any breach or violation of a representation, warranty, or covenant, or for any claim for indemnification or other amount, contained in any Seller Contract or Seller Permit to the extent that such breach,



violation or claim arose out of or by virtue of the Seller's performance or non-performance thereunder prior to the Closing or as a result of the transactions contemplated by this Agreement (it being understood that, as between Seller and Purchaser, this clause (t) shall apply notwithstanding any provisions which may be contained in any form of third party consent to the assignment of any such Seller Contract or Seller Permit, or any novation agreement, which, by its terms, imposes such liabilities upon Purchaser and which assignment or novation agreement is accepted by Purchaser notwithstanding the presence of such a provision, and that Seller's failure to discharge any such Liability shall entitle Purchaser to indemnification in accordance with the provisions of Section 19);

- w) any Liabilities of the Seller to the extent that their existence or magnitude constitutes or results in a breach of a representation, warranty or covenant made by the Seller to Purchaser herein or in connection with this Agreement or makes the information contained in the Disclosure Schedule incorrect or incomplete;
- x) any Liabilities of the Seller for the accounts payable of the Seller;
- y) any Liability of the Seller based upon the actions or omissions of Seller after the Closing;
- z) any Liability arising out of any Legal Proceeding involving the Business pending on the Closing Date or commenced after the Closing Date and arising out of or relating to any occurrence or event happening on or prior to the Closing Date;
- aa) any Liabilities arising out of or related to the Excluded Assets or the Seller's conduct of the Business at any time (including, without limitation, the Seller's conduct of the Business on or prior to the Closing Date);
- bb) the obligations of the Seller under this Agreement, and the Seller Ancillary Documents; and
- cc) without limitation by the specific enumeration of the foregoing, all other Liabilities of the Seller or relating to the Business, of whatever kind and nature, primary or secondary, direct or indirect, absolute or contingent, known or unknown, whether or not accrued, that are not expressly assumed by Purchaser pursuant to the provisions of Section 3(a).

**Attachment 5**

**Additional Closing Deliverables**

Certificate attaching board and member and stockholder approvals of Seller and Parent

Assignment and Assumption Agreement and Bill of Sale from Seller and Parent

**Attachment 6**

**Assigned Contracts**

Employment agreement with Stephen Bellini

Employment agreement with Jean Marie Kenna Heins (including without limitation Parent's right, title and interest therein)

Employment agreement with Paul Criscuolo

