

06-21-2006



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6-19-06
RECORDATION FORM COVER SHEET
TRADEMARKS ONLY

U.S. DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
OFFICE OF PUBLIC RECORDS

JUN 19 PM 3:19

To the Director of the U. S. Patent and Trademark Office: Please record the attached documents or the new address(es) below.

1. Name of conveying party(ies):
Rex Hill Vineyards, Inc.

Individual(s) Association
 General Partnership Limited Partnership
 Corporation- State: Oregon
 Other _____

Citizenship (see guidelines) _____

Additional names of conveying parties attached? Yes No

2. Name and address of receiving party(ies)

Additional names, addresses, or citizenship attached? Yes No

Name: Union Wine Company
Internal _____
Address: _____
Street Address: PO Box 1147
City: Newberg
State: OR
Country: USA Zip: 97132

Association Citizenship _____
 General Partnership Citizenship _____
 Limited Partnership Citizenship _____
 Corporation Citizenship Oregon, USA
 Other _____ Citizenship _____

If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No
(Designations must be a separate document from assignment)

3. Nature of conveyance / Execution Date(s) :

Execution Date(s) June 1st, 2006

Assignment Merger
 Security Agreement Change of Name
 Other _____

4. Application number(s) or registration number(s) and identification or description of the Trademark.

A. Trademark Application No.(s) _____
B. Trademark Registration No.(s) 2176970

Additional sheet(s) attached? Yes No

C. Identification or Description of Trademark(s) (and Filing Date if Application or Registration Number is unknown):

5. Name & address of party to whom correspondence concerning document should be mailed:

Name: George H. Hillberry
Internal Address: _____
Street Address: PO Box 1147
City: Newberg
State: OR Zip: 97132
Phone Number: (503) 550-2502
Fax Number: (503) 217-5718
Email Address: George@KingsRidgeWines.com

6. Total number of applications and registrations involved: 1

7. Total fee (37 CFR 2.6(b)(6) & 3.41) \$ 40.00

Authorized to be charged by credit card
 Authorized to be charged to deposit account
 Enclosed

8. Payment Information:

a. Credit Card Last 4 Numbers _____
Expiration Date _____

b. Deposit Account Number _____
Authorized User Name _____

00000029 2176970
40.00 DP

9. Signature: _____
Signature _____ Date 6/19/06
Paul Hart, Vice-President
Name of Person Signing

Total number of pages including cover sheet, attachments, and document: 1

Documents to be recorded (including cover sheet) should be faxed to (571) 273-0140, or mailed to: Mail Stop Assignment Recordation Services, Director of the USPTO, P.O. Box 1450, Alexandria, VA 22313-1450

06/20/2006 NJMARI 01 FC-6321

**AGREEMENT FOR SALE AND PURCHASE
OF BUSINESS ASSETS**

This AGREEMENT FOR SALE AND PURCHASE OF BUSINESS ASSETS (this "Agreement"), dated as of July 23 2005 (the "Effective Date"), is between REX HILL, INC., an Oregon corporation (the "Seller"), and UNION WINE COMPANY, an Oregon corporation (the "Buyer").

RECITALS

A. The Seller operates a winery and vineyard at its principal place of business at 30835 N. Hwy 99W, Newberg, Oregon 97132. The Seller owns equipment, supplies, and miscellaneous assets used in connection with the operation of its business.

B. The Buyer, a newly formed entity, desires to acquire all the assets used or useful, or intended to be used, in the operation of the portion of the Seller's business known as Kings Ridge, and the Seller desires to sell such assets to the Buyer, subject to the contingencies, terms and conditions stated herein.

AGREEMENT

The parties agree as follows:

1. Assets Purchased; Liabilities Assumed.

1.1 **Assets Purchased.** The Seller agrees to sell to the Buyer and the Buyer agrees to purchase from the Seller, on the terms and conditions set forth in this Agreement, the following assets (the "Assets"):

(a) The "Kings Ridge" name including, but not limited to, any and all copyrights, patents, trademarks or name registrations and all promotional materials, artworks (including electronic files such as Adobe Illustrator) reviews and awards regarding the same;

(b) All recipes, methods, processes or similar relating to the Kings Ridge brand or the production of Kings Ridge Pinot Noir;

(c) All Inventory (defined in Section 3.2) of the Kings Ridge Pinot Noir;

(d) Contact information for all (i) current and past Kings Ridge distributors; and (ii) direct Kings Ridge sales customers and mailing list of such customers;

(e) The Seller's goodwill associated with the Kings Ridge brand or Kings Ridge Pinot Noir; and

(f) Such other assets as may be (1) described above but are acquired by the

Seller prior to the Transfer Date, except inventory, or (2) listed on a *Schedule 1.1* herein.

(g) Assets shall not include presses, destemmers, fermentation tanks, barrels or other equipment which may be used or have been used by Seller for the production of Kings Ridge wine.

1.2 **Liabilities Assumed.** The Buyer will not assume and will not be liable for any liabilities of the Seller, known or unknown, contingent or absolute, accrued or other, and the Assets will be free of all liabilities, obligations, liens, and encumbrances.

2. **Excluded Assets.** Excluded from this sale and purchase are the following: all of the assets of the Seller that are not specifically included in the definition of "Assets," as set forth in Section 1.1 above.

3. **Effective Date; Purchase Price.**

3.1 **Effective Date.** The Effective Date is the date first written above which shall be the date that both the Buyer and the Seller have executed this Agreement (i.e., the later date) as set forth on the dates below their signatures on the signature page below.

3.2 **Purchase Price.** The purchase price for the Assets (the "Purchase Price") will be One Hundred Five Dollars (\$105.00) times each case of Kings Ridge Pinot Noir existing as of 5p.m. on the Effective Date (the "Inventory"). A sum of One Hundred Thousand Dollars (\$100,000), will be paid at signing. If the calculated value of the inventory is less than the (\$100,000) on the Effective Date, then the full purchase price will be paid in full at signing. The parties shall take an inventory to determine the Inventory and calculate the Purchase Price in accordance with this Section which inventory shall determine the remaining unsold bottled cases of Kings Ridge Pinot Noir in the Seller's possession/or in a bonded warehouse held for the Seller.

Inventory 1287 cases
20 of 7/1/05 (PN) (GTH)

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4. **Allocation of Purchase Price.** The Purchase Price will be allocated among the Assets in accordance with the following schedule, and the Buyer and the Seller will be bound by that allocation in reporting the transactions contemplated by this Agreement to any governmental authority (including without limitation the Internal Revenue Service):

<u>Asset</u>	<u>Allocation Amount</u>
Inventory	80%
Tangible promotional materials	5%
Name, intangibles, and the Seller's goodwill	15%

5. **Payment of Purchase Price.** On the Effective Date, the Buyer will pay, by cashier's

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check, certified check, or wire transfer to the account specified by the Seller, the sum of One Hundred Thousand Dollars (\$100,000); provided, however, that the sum of Thirty-Seven Thousand One Hundred-Seven Dollars and Sixty-two cents (\$37,107.62) shall be paid at the same time, by cashier's check, certified check, or wire transfer, by the Seller to La Colina Vineyard & the sum of Eight Thousand Two Hundred Sixty and Eighty-Seven cents (\$8,260.87) shall be paid at the same time, by cashier's check, certified check, or wire transfer by Seller to Chehalem Mountain Vineyard, for an outstanding obligation. In addition, the Buyer shall pay the Seller such amounts as are described in Sections 8.2 and 11.3(a) and the Seller will reimburse the Buyer 100% of Purchase Price for any portion of the Inventory which is spoiled subsequent to the Closing Date resulting from new screw cap closures.

6. **Contingencies.** The Buyer may declare Seller in breach of this Agreement in the following circumstances:

6.1 **Conduct of Business.** Until the Transfer Date, the Seller shall continue to conduct the Kings Ridge business in a regular and normal manner and shall use the Seller's best efforts to keep available the services of the Seller's present employees and to preserve the good will of the Seller's suppliers, customers and others having business relations with the Seller.

6.2 **Distribution Channel.** The Buyer has thirty (30) days from the Effective Date to meet with the following distributors to verify their continued support of the Kings Ridge brand at currently levels for the foreseeable future: (i) NW Wines (California); (ii) Columbia (Oregon); (iii) United Beverage (Arizona); (iv) Glazers (Texas); and (v) Cutting Edge (Ohio). The Buyer may terminate this Agreement in the 30-day period if in its sole discretion the distribution channel is not capable of maintaining and growing sales volumes from 2004.

6.3 **No Encumbrances.** All inventories including the Inventory, when transferred, will be free of any liens or other encumbrances. In addition, the Seller will transfer clear and unencumbered title to all Assets including trademarks to the Buyer at the Transfer Date unless the Asset was sold in the normal course of operations such as the Inventory subject to Section 8.

6.4 **Production.** The Seller will enter into the Operating Agreement described in Section 7.1 of this Agreement regarding the production of wine for the Buyer.

7. **Other Agreements.** The parties will execute the following additional agreements (the "Related Agreements"):

7.1 **Operating Agreement.** a) Within forty-five (45) days of the Effective Date, an Operating Agreement between the Buyer and the Seller providing: (i) the Seller will guarantee production facilities for crush through 2006; (ii) for scope and cost as set forth in attached (as) *Exhibit A*; and (iii) other customary terms and conditions. Per case prices in *Exhibit A* apply for the 2005, 2006, and 2007 vintage year and may be changed for subsequent vintages. They shall not, however, be more than per case prices charged by Seller to other entities for which it performs similar services. In addition, the following additional terms shall be included in the Operating Agreement: (1) The Seller will provide the following activities for the Buyer until the

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Buyer obtains its Basic Permit and OLCC license: (i) warehousing; (ii) taxes and reporting; and (iii) order processing and shipments; (2) The Buyer will reimburse the Seller for these activities at \$2.50/case; (3) Payment will be made in full fifteen (15) days after the end of each month; (4) These activities apply only to wine purchased and bottled by the Buyer under the Seller's Basic Permit not the Inventory being purchased from the Seller; and (5) In the event the Buyer is unable to obtain the necessary Permit and License within one year of the Closing Date, the Seller may set a new per case charge for any subsequent period. Finally, the Seller will maintain any current state licenses covering the Kings Ridge brand or Kings Ridge Pinot Noir included in the Inventory until the Transfer Date and shall renew such licenses as required until the Transfer Date. As of the Transfer Date, the Seller shall be reimbursed for the prorata cost of any such licenses for the period of time for which the cost of the license has been paid by the Seller subsequent to the Transfer Date. Such reimbursement shall be offset by any refund the Seller receives from cancellation of such a license. To the extent allowed by each state, the Seller shall arrange for the transfer of such licenses to the Buyer as of the Transfer Date.

The Buyer is limited to processing a maximum of 100 tons (for all varieties) at the Rex Hill facility in any single harvest. Exceptions maybe negotiated on a case by case basis, however must be approved in writing by Seller.

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Commencing in 2006, either party may, by written notice given prior to December 31, terminate the use of production facilities for the subsequent vintage(s). Seller will give Buyer first right of refusal on existing / additional custom crush capacity through 2010.
2007

7.2 **Bill of Sale.** On the Transfer Date, a Bill of Sale, substantially in the form attached as *Exhibit B*.

8. **Agreements Regarding Inventory.** The parties hereby make the following Agreements regarding the Inventory:

8.1 From the Effective Date until the Transfer Date, the Seller shall retain title to the Inventory and corresponding accounts receivable and sell and market the Inventory in its normal course of business. The Seller is responsible for all payables relating to the Kings Ridge brand incurred up until all of the Inventory is sold or the Transfer Date, whichever comes first.

8.2 All moneys received by the Seller from sales of the Inventory subsequent to the Effective Date and prior to the Transfer Date shall be retained by the Seller as payments of Purchase Price until the payments made under this Section 8.2 and the One Hundred Thousand Dollar (\$100,000) payment made pursuant to Section 5 equals the Purchase Price.

8.3 If the Seller has been paid the entire Purchase Price pursuant to Sections 5 and 8.2, all moneys received by the Seller from sales of the Inventory subsequent to the Effective Date and prior to the Transfer Date shall be paid to the Buyer within seven (7) days of receipt by the Seller.

8.4 Any accounts receivable for the Inventory on the Seller's books as of the Transfer

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Date shall remain the property of the Seller; provided, however, all moneys received by the Seller from sales of the Inventory subsequent to the Transfer Date shall be paid to the Buyer within seven (7) days of receipt by the Seller unless the corresponding account receivable has previously been transferred to the Buyer.

9. Covenants of the Seller.

9.1 The Seller's Operation of Business Before the Transfer Date. The Seller agrees that between the date of this Agreement and the Transfer Date, the Seller will:

(a) Continue to operate the business that is the subject of this Agreement in the usual and ordinary course and in substantial conformity with all applicable laws, ordinances, regulations, rules, or orders, and will use its best efforts to keep available the services of the Seller's present employees and to preserve the good will of the Seller's suppliers, customers and others having business relations with the Seller;

(b) Not assign, sell, lease, or otherwise transfer or dispose of any of the Assets, whether now owned or hereafter acquired except inventory sold in the ordinary course of business and pursuant to Section 8 or pursuant to the Operating Agreement described in Section 7.1;

(c) Maintain all the Assets in their present condition, reasonable wear and tear and ordinary usage excepted; and

(d) Notify the Buyer promptly in the event of any material change in the Assets or the Seller's business before the Transfer Date.

9.2 Access to Premises and Information. At reasonable times before the Transfer Date, the Seller will provide the Buyer and its representatives with reasonable access during business hours to the Assets and furnish such additional information and records concerning the Kings Ridge business and the Operating Agreement as the Buyer from time to time may reasonably request.

9.3 Warranties and Representations. The Seller warrants and represents to the Buyer that the Seller has no notice or knowledge of:

(a) Any encumbrances on the Kings Ridge wine and Kings Ridge brand except as collateral for loans with Silicon Valley Bank and Zions Bank.

(b) Any litigation, government proceeding or investigation in progress or being threatened or in prospect against or relating to this business except to the extent of prior Kings Ridge inventory which is involved with potential litigation regarding Supreme Cork. Such litigation will not be a part of this transaction and any recovery obtained by the Seller as a result of this litigation shall remain the property of the Seller.

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(c) Any right granted to underlying lien-holders to accelerate their obligation by reason of the transfer of ownership, or any permission to transfer being required and not obtained.

(d) Any unpaid wine taxes, or grape taxes with regard to the Inventory covered by this Agreement, ~~except for Federal wine taxes which shall be paid by Seller as wine is transferred from Bond to Tax Paid status.~~

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~~Deleted: the wine is transferred from Bond to Tax Paid status~~

(e) Any failure of the schedules provided to the Buyer to present the true and correct condition of the Kings Ridge brand and inventory as of the date on the statements and schedules and that since the date of the last schedules provided by the Seller to the Buyer there has been no change in the financial condition or operations of the Kings Ridge brand, except changes in the ordinary course of business, which changes have not in the aggregate been materially adverse.

All representations and warranties of the Seller set forth in this Agreement and in any written statements delivered to the Buyer by the Seller under this Agreement will also be true and correct as of the Closing Date as if made on that date. The representations, warranties and all provisions of this Agreement shall survive the Closing of this Agreement.

9.4 **Conditions and Best Efforts.** The Seller will use its best efforts to effectuate the transactions contemplated by this Agreement and the Related Agreements and to fulfill all the conditions of the Seller's obligations under this Agreement and the Related Agreements, and will do all acts and things as may be required to carry out the Seller's obligations and to consummate this Agreement and the Related Agreements.

10. Covenants of the Buyer.

10.1 **Conditions and Best Efforts.** The Buyer will use its best efforts to effectuate the transactions contemplated by this Agreement and the Related Agreements and to fulfill all the conditions of the Buyer's obligations under this Agreement and the Related Agreements, and will do all acts and things as may be required to carry out the Buyer's obligations and to consummate this Agreement and the Related Agreements.

10.2 **Confidential Information.** If for any reason the sale of Assets contemplated by this Agreement is not consummated, the Buyer will promptly return to the Seller and will not disclose to third parties any confidential information received from the Seller in the course of investigating, negotiating, and performing the transactions contemplated by this Agreement.

11. Closing and Transfer Date.

11.1 **Time and Place.** This Agreement will be closed effective on the Effective Date provided that the Buyer has waived its contingencies pursuant to Section 6 above (the "Closing"). Three (3) days after the Buyer's waiver under Section 6 above (the "Transfer Date"), the Buyer and the Seller shall take the actions set forth in this Section 11.

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11.2 Obligations of the Seller on the Transfer Date. On the Transfer Date, the Seller will deliver to the Buyer the following:

(a) Bill of sale in form and substance reasonably necessary to transfer and convey all of the Assets to the Buyer;

(b) The Inventory and all other tangible Assets;

(c) Such other certificates and documents as may be called for by the provisions of this Agreement; and

(d) Such transfers or deliveries as may be mandated by the Operating Agreement in order to formally transfer title to any of the assets of the Buyer, whether or not Assets defined in this Agreement, to the Buyer.

11.3 The Buyer's Obligations on the Transfer Date. On the Transfer Date, the Buyer will deliver to the Seller the following:

(a) A cashier's check, certified check, or wire transfer for any unpaid portion of the Purchase Price; and

(b) Such other certificates and documents as may be called for by the provisions of this Agreement.

12. Default.

12.1 Remedies. If either party fails to perform any of the terms, covenants, conditions, or obligations of this Agreement, time of payment and performance being of the essence, then the other party, subject to the requirements of the notice provided in Section 12.2, may have the right to exercise any remedy available under Oregon law along with the following specific remedies:

(a) In the event of a breach by Buyer, Seller may terminate the Agreement and retain all money paid hereunder, at the option of the Seller, as liquidated damages.

(b) In the event of a breach by Seller pursuant to Section 6.2, Buyer may terminate this Agreement and recover all amounts paid to Seller, which amount shall be refunded to Buyer within five (5) days of the notice described in Section 6.2.

(c) In the event of a breach by Seller by reason of the inability of Seller to transfer complete, clear and unencumbered title to the Kings Ridge name in accordance with Section 1.1(a), the Purchase Price shall be reduced by twenty percent (20%), the non-inventory portion of the Purchase Price allocated in Section 4, which amount shall be refunded to Buyer within five (5) days of the Transfer Date or the breach, whichever occurs first.

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No breach of this Agreement by Seller shall relieve it of its obligations under this Agreement, including Section 8, or the Operating Agreement.

12.2 Notice of Default. Any party will not be deemed in default for failure to perform the terms, covenants, and conditions of this Agreement until notice of the default has been given to that party and the party has failed to remedy the default within fifteen (15) days after the notice.

13. Miscellaneous Provisions.

13.1 Binding Effect. This Agreement will be binding on and inure to the benefit of the parties and their respective heirs, personal representatives, successors, and permitted assigns.

13.2 Assignment. Neither this Agreement nor any of the rights, interests, or obligations under this Agreement may be assigned by any party without the prior written consent of the other parties.

13.3 Notices. All notices and other communications under this Agreement must be in writing and will be deemed to have been given if delivered personally, sent by facsimile (with confirmation), mailed by certified mail, or delivered by an overnight delivery service (with confirmation) to the parties at the following addresses or facsimile numbers (or at such other address or facsimile number as a party may designate by like notice to the other parties):

To the Seller:

Rex Hill, Inc.
30835 N. Hwy 99W
Newberg, OR 97132
Attention: Paul C. Hart
Telephone No.: (503) 538-0666
Facsimile No.: (503) 538-1409

To the Buyer:

Union Wine Company
21260 SW Ladyfern Drive
Sherwood, OR 97140
Attention: Ryan Harms
Telephone No.: Cell (503) 322-4791
Ryan@KingsRidgeWines.com

Any notice or other communication will be deemed to be given (a) on the date of personal delivery, (b) at the expiration of the fifth (5th) day after the date of deposit in the United

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States mail, or (c) on the date of confirmed delivery by e-mail, facsimile or overnight delivery service.

13.4 Amendments. This Agreement may be amended only by an instrument in writing executed by all the parties, which writing must refer to this Agreement.

13.5 Construction. The captions used in this Agreement are provided for convenience only and will not affect the meaning or interpretation of any provision of this Agreement. All references in this Agreement to "Section" or "Sections" without additional identification refer to the Section or Sections of this Agreement. All words used in this Agreement will be construed to be of such gender or number as the circumstances require. Whenever the words *include* or *including* are used in this Agreement, they will be deemed to be followed by the words *without limitation*.

13.6 Further Assurances. Each party agrees (a) to execute and deliver such other documents and (b) to do and perform such other acts and things, as any other party may reasonably request, to carry out the intent and accomplish the purposes of this Agreement.

13.7 Time of Essence. Time is of the essence with respect to all dates and time periods set forth or referred to in this Agreement.

13.8 Expenses. Except as otherwise expressly provided in this Agreement, each party to this Agreement will bear the party's own expenses in connection with the preparation, execution, and performance of this Agreement and the transactions contemplated by this Agreement.

13.9 Waiver. Any provision or condition of this Agreement may be waived at any time, in writing, by the party entitled to the benefit of such provision or condition. Waiver of any breach of any provision will not be a waiver of any succeeding breach of the provision or a waiver of the provision itself or any other provision.

13.10 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the state of Oregon, without regard to conflict-of-laws principles.

13.11 Attorney Fees. If any arbitration, suit, or action is instituted to interpret or enforce the provisions of this Agreement, to rescind this Agreement, or otherwise with respect to the subject matter of this Agreement, the party prevailing on an issue will be entitled to recover with respect to such issue, in addition to costs, reasonable attorney fees incurred in the preparation, prosecution, or defense of such arbitration, suit, or action as determined by the arbitrator or trial court, and if any appeal is taken from such decision, reasonable attorney fees as determined on appeal.

13.12 Injunctive and Other Equitable Relief. The parties agree that the remedy at law for any breach or threatened breach by a party may, by its nature, be inadequate, and that the other parties will be entitled, in addition to damages, to a restraining order, temporary and

permanent injunctive relief, specific performance, and other appropriate equitable relief, without showing or proving that any monetary damage has been sustained.

13.13 **Venue.** Any action or proceeding seeking to enforce any provision of, or based on any right arising out of, this Agreement will be brought against any of the parties in Washington County Circuit Court of the State of Oregon or, subject to applicable jurisdictional requirements, in the United States District Court for the District of Oregon, and each of the parties consents to the jurisdiction of such courts (and of the appropriate appellate courts) in any such action or proceeding and waives any objection to such venue.

13.14 **Exhibits.** The exhibits referenced in this Agreement are part of this Agreement as if fully set forth in this Agreement.

13.15 **Severability.** If any provision of this Agreement is invalid or unenforceable in any respect for any reason, the validity and enforceability of such provision in any other respect and of the remaining provisions of this Agreement will not be in any way impaired.

13.16 **Entire Agreement.** This Agreement (including the documents and instruments referred to in this Agreement) constitutes the entire agreement and understanding of the parties with respect to the subject matter of this Agreement and supersedes all prior understandings and agreements, whether written or oral, among the parties with respect to such subject matter.

The parties enter into this Agreement as of the date first written above.

Seller:

Buyer:

Rex Hill, Inc.

Union Wine Company

By: [Signature]
Name: Rex Hill
Title: V.P.
Date: 7-1-05

By: [Signature]
Name: Ryan Thomas
Title: President
Date: 7-1-05

[Signature]
George Hillberry
Secretary
7-1-05