

## TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1  
Stylesheet Version v1.2

ETAS ID: TM303224

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT		
<b>NATURE OF CONVEYANCE:</b>	SECURITY INTEREST		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
BONNY DOON WINERY, INC.		04/23/2014	CORPORATION: CALIFORNIA
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	COMERICA BANK		
<b>Street Address:</b>	55 River Street		
<b>City:</b>	Santa Cruz		
<b>State/Country:</b>	CALIFORNIA		
<b>Postal Code:</b>	95060		
<b>Entity Type:</b>	Texas banking association: TEXAS		
<b>PROPERTY NUMBERS Total: 13</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Registration Number:</b>	3446556	RANDALL GRAHM	
<b>Registration Number:</b>	2825176	VIN GRIS DE CIGARE	
<b>Registration Number:</b>	2815076	CA' DEL SOLO	
<b>Registration Number:</b>	3557443		
<b>Registration Number:</b>	3398116	LE POUSSEUR	
<b>Registration Number:</b>	3557386	BONNY DOON	
<b>Registration Number:</b>	3557081	OLD TELEGRAM	
<b>Registration Number:</b>	3453625	LE CIGARE BLANC	
<b>Registration Number:</b>	3453624	VERJUS DE CIGARE	
<b>Registration Number:</b>	3453118	LE VOL DES ANGES	
<b>Registration Number:</b>	3401253	CREW ROUGE	
<b>Registration Number:</b>	2121708	CIGARE VOLANT	
<b>Registration Number:</b>	2079104	BONNY DOON VINEYARD	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	8585506420		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent via US Mail.</i>			
<b>Phone:</b>	858-550-6403		
<b>Email:</b>	erin.obrien@cooley.com		
<b>Correspondent Name:</b>	Erin O'Brien		
<b>TRADEMARK</b>			

CH \$340.00 3446556

**Address Line 1:** c/o Cooley LLP  
**Address Line 2:** 4401 Eastgate Mall  
**Address Line 4:** San Diego, CALIFORNIA 92121

**ATTORNEY DOCKET NUMBER:** 036703-1642 BONNY DOON

**NAME OF SUBMITTER:** ERIN O'BRIEN

**SIGNATURE:** /Erin O'Brien/

**DATE SIGNED:** 05/01/2014

**Total Attachments: 8**

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## INTELLECTUAL PROPERTY SECURITY AGREEMENT

This **INTELLECTUAL PROPERTY SECURITY AGREEMENT** (this "**IP Agreement**") is made as of the 23<sup>rd</sup> day of April, 2014 by and between Bonny Doon Winery, Inc., a California Corporation ("**Borrower**"), and Comerica Bank ("**Bank**").

### RECITAL

Bank will make credit extensions to Borrower as described in that certain Master Revolving Note LIBOR-based Rate/Prime Referenced Rate Maturity Date-Obligatory Advances Note (as amended, restated, or otherwise modified, the "**Note**"), but only if Borrower grants Bank a security interest in its Trademarks. Defined terms used but not defined herein shall have the same meanings as in the Note.

**NOW, THEREFORE**, for good and valuable consideration, receipt of which is hereby acknowledged and intending to be legally bound, as collateral security for the prompt and complete payment when due of Borrower's obligations under the Note, Borrower hereby represents, warrants, covenants and agrees as follows:

1. **Grant of Security Interest.** As collateral security for the prompt and complete payment and performance of all of Borrower's present or future Indebtedness, obligations and liabilities to Bank, Borrower hereby grants a security interest in all of Borrower's right, title and interest in, to and under its intellectual property (all of which shall collectively be called the "**Intellectual Property Collateral**"), including, without limitation, the following:

1.1. Any trademark and servicemark rights, whether registered or not, applications to register and registrations of the same and like protections, and the entire goodwill of the business of Borrower connected with and symbolized by such trademarks, including without limitation those set forth on **Exhibit A** attached hereto (collectively, the "**Trademarks**");

1.2. Any and all claims for damages by way of past, present and future infringements of any of the rights included above, with the right, but not the obligation, to sue for and collect such damages for said use or infringement of the intellectual property rights identified above;

1.3. All licenses or other rights to use any of the Trademarks and all license fees and royalties arising from such use to the extent permitted by such license or rights;

1.4. All amendments, extensions, renewals and extensions of any of the Trademarks; and

1.5. All proceeds and products of the foregoing, including without limitation all payments under insurance or any indemnity or warranty payable in respect of any of the foregoing.

2. **Authorization and Request.** Borrower authorizes and requests that the Commissioner of Patents and Trademarks record this IP Agreement.

3. **Covenants and Warranties.** Borrower represents, warrants, covenants and agrees as follows:

3.1. Borrower is now the sole owner of the Intellectual Property Collateral, except for non-exclusive licenses granted by Borrower in the ordinary course of business;

3.2. Performance of this IP Agreement does not conflict with or result in a breach of any other agreement covering the Intellectual Property Collateral to which Borrower is bound, except to the extent that such other intellectual property agreements prohibit the assignment of the rights thereunder to a third party without the licensor's or other party's consent;

3.3. During the term of this IP Agreement, Borrower will not transfer or otherwise encumber any interest in the Intellectual Property Collateral;

3.4. No part of the Intellectual Property Collateral has been judged invalid or unenforceable, in whole or in part, and, to Borrower's knowledge, no claim has been made that any part of the Intellectual Property Collateral violates the rights of any third party;

3.5. Borrower shall promptly advise Bank of any material adverse change in the composition of the Intellectual Property Collateral, including but not limited to any subsequent ownership right of the Borrower in or to any Trademark specified in this IP Agreement;

3.6. Borrower shall (i) protect, defend and maintain the validity and enforceability of the Trademarks, (ii) use its best efforts to detect infringements of the Trademarks and promptly advise Bank in writing of material infringements detected and (iii) not allow any Trademarks to be abandoned, forfeited or dedicated to the public without the written consent of Bank, which shall not be unreasonably withheld, unless Borrower determines that reasonable business practices suggest that abandonment is appropriate;

3.7. Borrower shall provide written notice to Bank of any application filed by Borrower in the United States Patent and Trademark Office to register a trademark or service mark within 30 days of any such filing;

3.8. This IP Agreement creates, and in the case of after acquired Intellectual Property Collateral, this IP Agreement will create at the time Borrower first has rights in such after acquired Intellectual Property Collateral, in favor of Bank a valid and perfected first priority security interest in the Intellectual Property Collateral in the United States securing the payment and performance of the obligations evidenced by the Note upon making the filings referred to in clause (i) below;

3.9. To its knowledge (except for, and upon, the filing with the United States Patent and Trademark office with respect to the Trademarks necessary to perfect the security interests created hereunder, and except as has been already made or obtained) no authorization, approval or other action by, and no notice to or filing with, any U.S. governmental authority of U.S. regulatory body is required either (i) for the grant by Borrower of the security interest granted hereby or for the execution, delivery or performance of this IP Agreement by Borrower in the U.S. or (ii) for the perfection in the United States or the exercise by Bank of its rights and remedies thereunder;

3.10. All information heretofore, herein or hereafter supplied to Bank by or on behalf of Borrower with respect to the Intellectual Property Collateral is accurate and complete in all material respects;

3.11. Borrower shall not enter into any agreement that would materially impair or conflict with Borrower's obligations hereunder without Bank's prior written consent, which consent

shall not be unreasonably withheld. Borrower shall not permit the inclusion in any material contract to which it becomes a party of any provisions that could or might in any way prevent the creation of a security interest in Borrower's rights and interest in any property included within the definition of the Intellectual Property Collateral acquired under such contracts, except that certain contracts may contain anti-assignment provisions that could in effect prohibit the creation of a security interest in such contracts; and

**3.12.** Upon any executive officer of Borrower obtaining actual knowledge thereof, Borrower will promptly notify Bank in writing of any event that materially adversely affects the value of any Intellectual Property Collateral, the ability of Borrower to dispose of any Intellectual Property Collateral or the rights and remedies of Bank in relation thereto, including the levy of any legal process against any of the Intellectual Property Collateral.

**4.** Bank's Rights. Bank shall have the right, but not the obligation, to take, at Borrower's sole expense, any actions that Borrower is required to take under this IP Agreement but which Borrower fails to take. Borrower shall reimburse and indemnify Bank for all costs and reasonable expenses incurred in the exercise of its rights under this Section 4.

**5.** Inspection Rights. Borrower hereby grants to Bank and its employees, representatives and agents the right to visit, during reasonable hours upon prior reasonable notice to Borrower, and any of Borrower's plants and facilities that manufacture, install or store products (or that have done so during the prior six-month period) that are sold utilizing any of the Intellectual Property Collateral, and to inspect the products and quality control records relating thereto upon reasonable written notice to Borrower and as often as may be reasonably requested, but not more than one (1) in every six (6) months so long as no Event of Default has occurred and is continuing; provided, however, nothing herein shall entitle Bank access to Borrower's trade secrets and other proprietary information.

**6.** Further Assurances; Attorney in Fact.

**6.1.** On a continuing basis, Borrower will, subject to any prior licenses, encumbrances and restrictions and prospective licenses, make, execute, acknowledge and deliver, and file and record in the proper filing and recording places in the United States, all such instruments, including appropriate financing and continuation statements and collateral agreements and filings with the United States Patent and Trademark Office and take all such action as may reasonably be deemed necessary or advisable, or as requested by Bank, to perfect Bank's security interest in all Trademarks and otherwise to carry out the intent and purposes of this IP Agreement, or for assuring and confirming to Bank the grant or perfection of a security interest in all Intellectual Property Collateral.

**6.2.** Borrower hereby irrevocably appoints Bank as Borrower's attorney-in-fact, with full authority in the place and stead of Borrower and in the name of Borrower, Bank or otherwise, from time to time in Bank's discretion, upon Borrower's failure or inability to do so, to take any action and to execute any instrument which Bank may deem necessary or advisable to accomplish the purposes of this IP Agreement, including:

(a) To modify, in its sole discretion, this IP Agreement without first obtaining Borrower's approval of or signature to such modification by amending Exhibit A hereof, as appropriate, to include reference to any right, title or interest in any Trademarks acquired by Borrower after the execution hereof or to delete any reference to any right, title or interest in any Trademarks in which Borrower no longer has or claims any right, title or interest; and

(b) To file, in its sole discretion, one or more financing or continuation statements and amendments thereto, relative to any of the Intellectual Property Collateral without the signature of Borrower where permitted by law.

7. Events of Default. The occurrence of any of the following shall constitute an Event of Default under this IP Agreement:

7.1. An Event of Default occurs under the Note; or

7.2. Borrower breaches any warranty or agreement made by Borrower in this IP Agreement.

8. Remedies. Upon the occurrence and continuance of an Event of Default, Bank shall have the right to exercise all the remedies of a secured party under the California Uniform Commercial Code, including without limitation the right to require Borrower to assemble the Intellectual Property Collateral and any tangible property in which Bank has a security interest and to make it available to Bank at a place designated by Bank. Bank shall have a nonexclusive, royalty free license to use the Trademarks to the extent reasonably necessary to permit Bank to exercise its rights and remedies upon the occurrence of an Event of Default. Borrower will pay any expenses (including reasonable attorney's fees) incurred by Bank in connection with the exercise of any of Bank's rights hereunder, including without limitation any expense incurred in disposing of the Intellectual Property Collateral. All of Bank's rights and remedies with respect to the Intellectual Property Collateral shall be cumulative.

9. **INDEMNITY. BORROWER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS BANK AND ITS OFFICERS, EMPLOYEES, AND AGENTS AGAINST: (A) ALL OBLIGATIONS, DEMANDS, CLAIMS, AND LIABILITIES CLAIMED OR ASSERTED BY ANY OTHER PARTY IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED BY THIS IP AGREEMENT, AND (B) ALL LOSSES OR EXPENSES IN ANY WAY SUFFERED, INCURRED, OR PAID BY BANK AS A RESULT OF OR IN ANY WAY ARISING OUT OF, FOLLOWING OR CONSEQUENTIAL TO TRANSACTIONS BETWEEN BANK AND BORROWER, WHETHER UNDER THIS IP AGREEMENT OR OTHERWISE (INCLUDING WITHOUT LIMITATION, REASONABLE ATTORNEYS FEES AND REASONABLE EXPENSES), EXCEPT FOR LOSSES ARISING FROM OR OUT OF BANK'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.**

10. Reassignment. At such time as Borrower shall completely satisfy all of the obligations secured hereunder, Bank shall execute and deliver to Borrower all deed, assignments, and other instruments as may be necessary or proper to reinvest in Borrower full title to the property assigned hereunder, subject to any disposition thereof which may have been made by Bank pursuant hereto.

11. Course of Dealing. No course of dealing, any failure to exercise, or any delay in exercising any right, power or privilege hereunder shall operate as a waiver thereof.

12. Attorneys' Fees. If any action relating to this IP Agreement is brought by either party hereto against the other party, the prevailing party shall be entitled to recover reasonable attorneys' fees, costs and disbursements.

13. Amendments. This IP Agreement may be amended only by a written instrument signed by both parties hereto.

14. Counterparts. This IP Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute the same instrument.

15. Law and Jurisdiction. This IP Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard for choice of law provisions. Borrower and Bank consent to the nonexclusive jurisdiction of any state or federal court located in California.


IN WITNESS WHEREOF, the parties hereto have executed this IP Agreement on the day and year first above written.

**BORROWER:**

**Address of Borrower:**

328 Ingalls Street  
Santa Cruz, CA 95060

BONNY DOON WINERY, INC.,  
a California Corporation

By: 

Name: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_


Title: \_\_\_\_\_

**Address of Bank:**

55 River Street  
Santa Cruz, CA 95060

**BANK:**

COMERICA BANK

By: 

Name: Eric W. Summers

Title: Vice President



EXHIBIT "A"  
TRADEMARKS

EXHIBIT "A"

TRADEMARKS

Description	Serial/Registration Number	Application/Registration Date
RANDALL GRAHM	3,446,556	06/10/08
VIN GRIS DE CIGARE	2,825,176	03/23/04
CA- DEL SOLO	2,815,076	02/17/04
(DESIGN)	3,557,443	01/06/09
LE POUSSEUR	3,398,116	03/18/08
BONNY DOON	3,557,386	01/06/09
OLD TELEGRAM	3,557,081	01/06/09
LE CIGARE BLANC	3,453,625	06/24/08
VERJUS DE CIGARE	3,453,624	06/24/08
LE VOL DES ANGES	3,453,118	06/24/08
CREW ROUGE	3,401,253	03/25/08
CIGARE VOLANT	2,121,708	12/16/97
BONNY DOON VINEYARD	2,079,104	07/15/97