

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

**FORM 8-K**

CURRENT REPORT

Pursuant to Section 13 or 15(d)  
of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): April 5, 2022

**FRESH VINE WINE, INC.**  
(Exact name of registrant as specified in its charter)

**Nevada**  
(State or Other Jurisdiction  
of Incorporation)

**001-41147**  
(Commission File Number)

**87-3905007**  
(I.R.S. Employer  
Identification No.)

**505 Highway 169 North, Suite 255**  
**Plymouth, MN 55441**  
(Address of Principal Executive Offices) (Zip Code)

**(855) 766-9463**  
(Registrant's telephone number, including area code)

**Not Applicable**  
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common stock, par value \$0.001 per share	VINE	NYSE American

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company ☒

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

**Item 5.02 Departure of Directors or Principal Officers; Election of Directors; Appointment of Principal Officers; Compensatory Arrangements of Certain Officers.**

On March 24, 2022, Fresh Vine Wine, Inc. (the “Company”) entered into an employment agreement with Ellen Scripta pursuant to which she commenced employment with the Company on March 30, 2022 and succeeded Elliot Savoie as the Company’s Chief Financial Officer, upon the Company filing with the Securities and Exchange Commission of its Annual Report on Form 10-K for the year ended December 31, 2021, which was filed on March 31, 2021. Mr. Savoie continues to be employed by the Company as Head of Corporate Development and Ventures. The Company relied on the instruction to Item 5.02(c) of Form 8-K to delay the filing of this Current Report to the date of the public announcement of Ms. Scripta’s appointment as Chief Financial Officer.

Under her employment agreement, which is for an indefinite term, Ms. Scripta is entitled to receive annual base salary of \$255,000 and is eligible to receive an annual cash bonus commencing in 2022, the target amount of which will be equal to 65% of her base salary. The Company has agreed that the actual cash bonus for 2022 will be at least \$50,000. Ms. Scripta is also eligible to receive additional discretionary bonuses based upon her performance on behalf of the Company and/or the Company’s performance in such amounts, in such manner and at such times as may be determined by the board of directors or a committee thereof.

While employed by the Company, and commencing in 2023, the Company will make annual grants to Ms. Scripta of (i) restricted stock unit awards having a value equal to 35% of her base salary (as determined in good faith by the Company’s board of directors or a committee thereof), which will vest one-third annually commencing on the first anniversary of the date of grant, and (ii) stock options, exercisable at fair market value on the grant date, having a value equal to 70% of her base salary (as determined in good faith by the Company’s board of directors or a committee thereof), which will vest one-third annually commencing on the first anniversary of the date of grant and the per share exercise price for such Stock Option will be equal to the closing price as of the date of grant. Ms. Scripta may also receive annual and periodic equity-based compensation awards, with the amount of such awards granted and the terms and conditions thereof to be determined from time to time by and in the sole discretion of the Company’s board of directors or a committee thereof. Ms. Scripta is also eligible to participate in the standard benefits which the Company generally provides to its full-time employees under its applicable plans and policies.

Upon commencement of her employment on March 30, 2022, Ms. Scripta was granted (i) a 100,000 share restricted stock award, which is subject to transfer and forfeiture restrictions, one-third of which lapsed on the date of grant, and one-third of which will lapse on each of the one-year and two-year anniversary of the date of grant, and (ii) a 200,000 share stock option award, one-third of which vested on the date of grant, and one-third of which will lapse on each of the one-year and two-year anniversary of the date of grant. The stock option has an exercise price equal to \$3.30 (the fair market value of the Company’s common stock on the date of grant).

Under her employment agreement, if Ms. Scripta’s employment is terminated by the Company for any reason other than Cause (as defined in the employment agreement), or Ms. Scripta resigns as an employee of the Company for Good Reason (as defined in the employment agreement), so long as she has signed and has not revoked a release agreement, she will be entitled to receive severance in the form of continued base salary and bonus payments over a period of six months. In addition, if Ms. Scripta’s employment is terminated by the Company (or its successor) for a reason other than for Cause or as a result of her death or disability, or she voluntarily terminates her employment for Good Reason, in either case within twelve months following the occurrence of a Change in Control (as defined in the employment agreement) or within 90 days prior to a Change in Control, the vesting of all outstanding unvested equity-based incentive awards will accelerate. The employment agreement includes a provision allowing the Company to reduce the payment to which Ms. Scripta would be entitled upon a Change-in-Control transaction to the extent needed for her to avoid paying an excise tax under Internal Revenue Code Section 280G, unless she would be better off, on an after-tax basis, receiving the full amount of such payments and paying the excise taxes due.

Ms. Scripta's employment agreement contains customary confidentiality and intellectual property covenants and a non-competition restriction that provides, among other things, that Ms. Scripta will not engage in a competitive business or solicit our employees or consultants for a period of one year after termination of employment. For such purpose, "competitive" business means a business primarily engaged in the development, production, marketing and/or sale of wine varietals and brands that are primarily marketed to consumers as embodying a connection to health, wellness and/or an active lifestyle in the United States and in any other country or U.S. territory in which the Company does business during the term of Ms. Scripta's employment with the Company.

From February 2021 through October 2021, Ms. Scripta served as Chief Financial Officer of Intricon Corporation, a joint development manufacturer of advanced micro-medical technology, which is currently under agreement to be acquired by an affiliate of Altaris Capital Partners. Previously, Ms. Scripta served in various financial positions at Bio-Techne, a Minneapolis, Minnesota based manufacturer and retailer of life sciences and diagnostic products, since 2015, most recently as Vice President, Finance. Prior to that, Ms. Scripta was employed by CHS Inc., a diversified global agribusiness cooperative, since 2011, as Director of Financial Planning and Analysis and most recently as Director of Enterprise Strategy. Ms. Scripta has also held strategy and financial positions with Best Buy Co., Inc. and Target Corporation and was a strategy consultant with Price Waterhouse Coopers LLC. Ms. Scripta holds a Master of Business Administration from the Kelley School of Business, Indiana University, and a Bachelor of Science degree in Aeronautical and Astronautical Engineering from Purdue University.

In connection with her appointment as an officer of the Company, the Company expects to enter into the Company's standard form indemnification agreement for directors and officers with Ms. Scripta. The indemnification agreement clarifies and supplements indemnification provisions already contained in the Company's articles of incorporation and bylaws and generally provides that the Company shall indemnify its directors and officers to the fullest extent permitted by applicable law, subject to certain exceptions, against expenses, judgments, fines and other amounts actually and reasonably incurred in connection with their service as a director or officer and also provide for rights to advancement of expenses and contribution.

The foregoing summary of the employment agreement is qualified in all respects by the employment agreement itself, a copy of which is attached hereto as Exhibit 10.1 and incorporated by reference herein. The foregoing summary of the indemnification agreement is qualified in all respects to the form of such agreement, a copy of which is incorporated by reference as Exhibit 10.12 to the Company's Annual Report on Form 10-K for the year ended December 31, 2021, and incorporated by reference herein.

#### **Item 9.01 Financial Statements and Exhibits.**

##### **(d) Exhibits.**

<b>Exhibit No.</b>	<b>Description</b>
10.1	<a href="#">Employment Agreement dated as of March 24, 2022 by and between Fresh Vine Wine, Inc. and Ellen Scripta</a>
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

**SIGNATURE**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

**FRESH VINE WINE, INC.**

Date: April 5, 2022

By: /s/ Ellen Scripta  
Ellen Scripta  
Chief Financial Officer

**EMPLOYMENT AGREEMENT**

THE EMPLOYMENT AGREEMENT (the “Agreement”) is made and entered into effective as of March 24, 2022 (the “Effective Date”) by and between Fresh Vine Wine, Inc., a Nevada corporation (the “Company”), and Ellen Scripta (“Employee”) (the Company and Employee are referred to herein individually as a “Party” and collectively as the “Parties”).

WHEREAS, the Company desires to employ or retain Employee in accordance with the terms and conditions of this Agreement; and wishes to obtain reasonable protection against unfair solicitation of the Company’s customers and employees by Employee during and following termination of employment and to protect itself against unfair competition and the use of its confidential business and technical information.

WHEREAS, Employee wishes to provide services to the Company in exchange for compensation and is willing to grant the Company the benefits of the various covenants contained herein.

NOW, THEREFORE, in consideration of the foregoing facts, the mutual covenants set forth herein and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Employment. The Company hereby agrees to employ Employee, and Employee hereby accepts such employment, subject to all of the terms and conditions of this Agreement. If Employee’s employment with the Company commences prior to the filing with the Securities and Exchange Commission of the Company’s Annual Report on Form 10-K for the fiscal year ended December 31, 2021, Employee will be appointed to serve in the position of Chief Financial Officer immediately following such filing, and Employee will accept such appointment. During the term of Employee’s employment pursuant to this Agreement, Employee shall serve the Company faithfully and to the best of her ability and shall devote her full business and professional time, energy, knowledge, skill and diligence to the performance of her duties. Employee shall perform such services and duties in connection with the business and affairs of the Company as are customarily incident to Employee’s position and as may reasonably be assigned or delegated to Employee by the Chief Executive Officer of the Company (“CEO”) and the Company’s Board of Directors (the “Board”). Employee shall perform such duties under the direction of, and shall report to, the Chief Executive Officer of the Company (“CEO”), and the Board, and shall comply with the Company’s reasonable policies and procedures. The duties to be performed by Employee hereunder shall be performed primarily at the offices of the Company in the Minneapolis, Minnesota metropolitan area, subject to reasonable travel requirements on behalf of the Company, or such other place as the Company may reasonably designate. Notwithstanding Employee’s obligation to devote her full business and professional time, energy, knowledge, skill and diligence to the performance of her duties with the Company, with the prior written approval of the CEO or the Board, Employee may serve as an independent board member of one or more public or private entities; provided that such service does not violate the restrictive covenants set forth in Section 7 of this Agreement, such entities are not competitive with the Company, and that such service does not interfere with Employee’s duties with the Company.

2. Term of Employment. The Company and Employee agree that this Agreement, and Employee’s employment with the Company hereunder, is for an indefinite term and will continue until terminated pursuant to Section 5 (the “Employment Period”). Nothing in this Agreement modifies or is intended to modify the at-will employment relationship between Employee and the Company. Only a written agreement signed by Employee and a manager or officer on behalf of the Company may modify the at-will employment relationship between the Company and Employee.

### 3. Salary and Benefits.

(a) Salary. During the Employment Period, the Company will pay Employee an annualized base salary (the “Salary”) of Two Hundred Fifty-Five Thousand Dollars (\$255,000) (gross), less applicable income taxes and other legally required withholding and any legally permitted deductions that Employee voluntarily authorizes in writing. The Salary shall be payable in installments in accordance with the Company’s regular payroll practices, commencing, if ever, on the Effective Date. The Company will review Employee’s Salary no less than annually and may, in its sole discretion, adjust the Salary upon such review; provided, however, that the Company may not reduce Employee’s Salary during the Employment Period to less than Two Hundred Fifty- Five Thousand Dollars (\$255,000) without Employee’s consent.

(b) Performance Bonus. During the Employment Period, Employee will be eligible to receive annual performance-based incentive compensation in the form of a cash bonus (a “Bonus”) which would be in addition to Salary, based on Employee’s performance as determined by the Board (or a compensation committee thereof) for each calendar year during the Employment Period, commencing in 2022. The target amount of the Bonus shall be equal to sixty-five percent (65%) (One Hundred Sixty Five Thousand (\$165,000) in year 1), of Employee’s Salary, with the amount of the actual Bonus payable for each year determined by the Board (or a compensation committee thereof) in its discretion based on Employee’s satisfaction of performance objectives to be determined by the Board (or a compensation committee thereof) and communicated to Employee; provided, however, that actual Bonus payable for 2022 shall in no event be less than Fifty Thousand Dollars (\$50,000). Achievement of performance objectives for each year shall be determined by the Board (or compensation committee there) within 60 days after the end of the calendar year; and the Bonus, if earned, will be paid in a lump sum promptly following such determination, but no later than 75 days after the end of the calendar year, provided that the Employee remains employed by the Company on such date. At the sole discretion of the Board, Employee may receive additional bonuses (each, a “Discretionary Bonus”) based upon her performance on behalf of the Company and/or the Company’s performance. Discretionary Bonus, if any, shall be payable either as a lump-sum payment or in installments, in such amounts, in such manner and at such times as may be determined by the Board in its sole discretion.

(c) Equity Grant Signing Bonus. On the Effective Date, the Company will grant to Employee:

(i) One Hundred Thousand (100,000) shares of restricted stock (“Restricted Stock”), which shall be subject to transfer and forfeiture restrictions, one-third of which will lapse on the date of grant, and one-third of which will lapse on each of the one-year and two-year anniversary of the date of grant; and

(ii) a stock option (the “Option”) to purchase Two Hundred Thousand (200,000) shares of the Company’s common stock at a per share exercise price equal to the fair market value of the Company’s common stock on the date of grant, one-third of which will vest on the date of grant, and one-third of which will lapse on each of the one-year and two-year anniversary of the date of grant.

The Restricted Stock and the Stock Option will be governed by the Company’s 2021 Equity Incentive Plan (the “Equity Incentive Plan”) and a restricted stock agreement and a stock option agreement that will incorporate the Restricted Stock and Option-related provisions contained in this subsection, which agreement shall be entered into by Employee as a condition to the grant.

(d) Equity-Based Compensation and Awards.

(i) During the Employment Period, and commencing in 2023, the Company will make annual grants to Employee of restricted stock unit awards ("RSUs") having a value equal to thirty-five percent (35%) of the Salary, as determined in good faith by the Board (or a compensation committee thereof). The RSUs will vest one-third annually commencing on the first anniversary of the date of grant. The RSUs will be governed by the Equity Incentive Plan and a restricted stock unit agreement that will incorporate the RSU-related provisions contained in this subsection, which agreement shall be entered into by Employee as a condition to the grant. The date of grant of each RSU award will be a date determined by the Board (or a compensation committee thereof) that is in or around the first quarter of the calendar year.

(ii) During the Employment Period, and commencing in 2023, the Company will make annual grants to Employee of stock options (each a "Stock Option") to purchase shares of common stock of the Company. The number of shares of common stock underlying each Stock Option will be determined such that such Stock Option has a value equal to seventy percent (70%) of the Salary, as determined in good faith by the Board (or a compensation committee thereof). Each Stock Option shall vest one-third annually commencing on the first anniversary of the date of grant and the per share exercise price for such Stock Option will be equal to the closing price as of the date of grant. Each Stock Option will be governed by the Equity Incentive Plan and a stock option agreement that will incorporate the Stock Option related provisions contained in this subsection, which agreement shall be entered into by Employee as a condition to the grant. The date of grant of each RSU award will be a date determined by the Board (or a compensation committee thereof) that is in or around the first quarter of the calendar year.

(iii) Employee may receive annual and periodic equity-based compensation awards, with the amount of such awards granted and the terms and conditions thereof to be determined from time to time by and in the sole discretion of the Board or a committee thereof.

(e) Employee Benefits. Employee shall be entitled to the usual and customary benefits and perquisites which the Company generally provides to its full-time employees under its applicable plans and policies. Employee shall accrue standard paid vacation during the Employment Period in accordance with the Company's policies in effect from time to time. Notwithstanding the foregoing, Employee shall, during the Term, be entitled to no less than twenty (20) days of paid vacation per calendar year (or pro-rata portion thereof), in addition to holidays observed by the Company; provided that Employee shall only be entitled to carry vacation forward to the next year of employment if and to the extent permitted by the Company's policies in effect from time to time.

(f) Expenses. The Company shall reimburse Employee for the reasonable and necessary expenses incurred in connection with the performance of her duties in accordance with the written policies and procedures of the Company governing such expenses, upon presentation of appropriate vouchers for said expenses.

(g) Withholding. The Company shall withhold all applicable federal, state and local taxes and social security and such other amounts as may be required by law from all amounts payable to Employee under this Agreement.

4. Representations and Warranties by Employee. Employee hereby represents and warrants to the Company that neither the execution or delivery of this Agreement nor the performance by Employee of Employee's duties and other obligations hereunder violate or will violate any statute, law, determination or award, or conflict with or constitute a default or breach of any covenant or obligation under (whether immediately, upon the giving of notice or lapse of time or both) any prior employment agreement, contract, or other instrument to which Employee is a party or by which Employee is bound.

## 5. Termination of Employment.

(a) Employee and the Company agree that Employee's employment is at-will and that either Employee or the Company may terminate Employee's employment, at any time, with or without any cause, with no prior notice. In the event of any termination of Employee's employment, the Company shall pay Employee (i) any unpaid Salary accrued prior to the termination on the Company's next regular payday, and (ii) any unpaid Bonus amounts earned for the year prior to the year in which termination of employment occurs. The Company shall also reimburse Employee in accordance with and subject to the requirements of the Company's expense reimbursement practices for any reasonable and necessary business expenses incurred by Employee on behalf of the Company on or before the date on which her employment terminates, and reported and properly documented on expense reports.

(b) Notwithstanding the at-will employment relationship, if (i) Employee's employment under this Agreement is terminated by the Company for a reason other than (A) for "Cause" (as defined below), or (B) as a result of Employee's death or "disability" (as defined below), or (ii) Employee voluntarily terminates her employment with the Company for "Good Reason" (as defined below), then, subject to Employee continuing to fulfill her obligations hereunder that survive such termination, or under any other confidentiality, non-solicitation and/or non-competition agreement with the Company to which Employee is or may become a party, Employee shall be entitled to receive (i) continued Salary payments specified in Section 3(a) for no less than six (6) months following termination of employment (the "Severance Period"), (ii) a prorated portion of Employee's target annual incentive bonus for the fiscal year in which the Employment Period is terminated (based upon the number of days during such fiscal year that Employee was employed under this Agreement), which shall be paid pro-rata over the Severance Period, and (iii) reimbursement of reasonable fees incurred by Employee for a reputable third-party outplacement organization selected by Employer that is reasonably acceptable to Employee, during the Severance Period or until Employee secures subsequent employment, if sooner (the "Severance Benefits"). If Employee is eligible for and elects to continue group health coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA"), Employee may do so at Employee's expense. In order to resign for Good Reason, (i) Employee shall give the Company a written notice providing reasonable notice and detail of the alleged Good Reason within sixty (60) days following the initial existence of the condition that constitutes the alleged Good Reason, (ii) the Company shall have thirty (30) days following such notice to cure such Good Reason, and (iii) such resignation actually occurs within two (2) years following the initial existence of the condition that constitutes Good Reason.

(c) Unless the agreement governing the grant of an equity award specifically provides otherwise, if (i) Employee's employment under this Agreement is terminated by the Company (or its successor) for a reason other than (A) for Cause, or (B) as a result of Employee's death or "disability", or (ii) Employee voluntarily terminates her employment with the Company for Good Reason, in either case (y) within twelve (12) months following the occurrence of a Change in Control (as defined below) or (z) within ninety (90) days prior to a Change in Control, then in addition to the severance benefits provided under Section 5(b) above, upon the occurrence of the Change in Control (x) the restrictions on any and all shares of restricted stock awards shall lapse immediately, (y) any and all outstanding unvested stock options, restricted stock units, stock appreciation rights and other equity based awards granted to Employee under any Company equity incentive plan that are subject to vesting requirements shall immediately become exercisable in full, and (z) any and all performance units and other performance-based equity incentives shall be deemed earned at 100% of the target level thereof. For avoidance of doubt, if Employee's employment under this Agreement is terminated by the Company (or its successor) for a reason other than for Cause, or Employee voluntarily terminates her employment with the Company for Good Reason, in either case within ninety (90) days prior to a Change in Control, the portion of Employee's then-outstanding and unvested equity awards that is eligible to vest and become exercisable pursuant to this Section 5(c) will remain outstanding until ninety (90) days following the date of termination or the occurrence of a Change in Control, whichever is sooner, so that any additional benefits due pursuant to this Section 5(c) may be provided if a Change in Control occurs ninety (90) days following the date of termination; provided that in no event will any of Employee's stock options remain outstanding beyond the date on which the original term thereof expires (without regard to the termination of Employee's employment). For purposes of this Agreement, "Change in Control" means (i) the acquisition, directly or indirectly, following the date hereof by any person (as such term is defined in Section 13(d) and 14(d)(2) of the Securities Exchange Act of 1934, as amended), in one transaction or a series of related transactions, of securities of the Company representing in excess of fifty percent (50%) or more of the combined voting power of the Company's then outstanding securities if such person (or his, her or its affiliate(s)) does not own in excess of 50% of such voting power on the date of this Agreement, or (ii) the future disposition by the Company (whether direct or indirect, by sale of assets or stock, merger, consolidation or otherwise) of all or substantially all of its assets in one transaction or series of related transactions (in each case other than (i) a merger effected exclusively for the purpose of changing the domicile of the Company, (ii) financing activities in the ordinary course in which the Company sells its equity securities, or (iii) a transfer to a person or entity that, immediately after the transfer, is or is controlled by a person or entity that controlled the Company before the transfer, within the meaning of Section 1.409A-3(i)(5)(vii)(B) of the Treasury regulations promulgated under Section 409A (as hereinafter defined).



(d) Notwithstanding the foregoing, Employee will only be entitled to the Severance Benefits if (i) Employee has executed and delivered to the Company, within thirty (30) days after the effective date of termination, a written general release, in a reasonable and customary form (the “Release”), pursuant to which Employee releases the Company, to the maximum extent permitted by law, from any and all claims she may have against the Company that relate to or arise out of Employee’s employment or termination of employment, except for claims arising under the Release, and (ii) does not rescind or revoke such Release within any applicable rescission or revocation period. Employee shall forfeit all rights to the Severance Benefits unless such Release is timely signed and delivered within the thirty (30) period set forth above, or if Employee rescinds or revokes the Release (or any portion thereof) within any applicable rescission or revocation period.

(e) The Severance Benefits shall begin to be paid to Employee on the first payroll date after the expiration of the rescission period applicable to the Release (the expiration of such period being referred to as the “Severance Effectiveness Date”); provided, however, that if the period between the effective date of Employee’s termination and the latest possible Severance Effectiveness Date (which assumes that Employee executes and delivers the Release to the Company on the 30th day after the effective date of such termination) spans parts of two calendar years, the Severance Benefits shall not commence in the earlier of those years. Any Severance Benefits that would otherwise have been payable in respect of periods prior to the first payroll date after the Severance Effectiveness Date will be delayed until the Company’s first regular payroll date after the Severance Effectiveness Date and included with the installment payable on such payroll date.

(f) For purposes of this Agreement, the following events will constitute “Cause”:

(i) Employee’s conviction or plea relative to a crime that constitutes a felony (whether or not such conviction is pending appeal);

(ii) Employee’s fraudulent conduct or misappropriation by Employee against the Company (including without limitation theft or embezzlement of Company property) or other dishonest act of a reasonably serious nature with respect to the Company or its affairs;

(iii) Employee’s habitual intoxication, drug use or chemical substance abuse by any intoxicating or chemical substance, which intoxication, use or abuse adversely affects her ability to perform her duties of employment;

(iv) Any act or omission by Employee which is injurious in any material respect to the financial condition or business reputation of the Company and which resulted from Employee's inexcusable misconduct or inexcusable neglect, provided that Employee has been given ten (10) days' prior written notice identifying such alleged act or omission and the resulting injury, and, if such injury is capable of being cured, Employee fails to cure such failure within ten (10) days after receipt of such written notice;

(v) Employee's breach of any confidentiality, non-solicitation and/or non-competition agreement with the Company to which Employee is a party;

(vi) Employee's violation of a written Company policy that adversely affects the Company in any material respect, provided that Employee has been given ten (10) days' prior written notice identifying such violation and the resulting adverse effect, and, if such adverse effect is capable of being cured, Employee fails to cure such adverse effect within ten (10) days after receipt of such written notice; or

(vii) Employee's continued, repeated or willful failure to perform her reasonable employment duties or comply with reasonable written directives from Company management, provided that Employee has been given ten (10) days' prior written notice specifying the event(s) giving rise to such failure, and, if such failure is capable of being cured, Employee fails to cure such failure within ten (10) days after receipt of such written notice.

(g) For purposes of this Agreement, "Good Reason" means:

(i) a breach of this Agreement by the Company which breach, where curable, has not been cured within thirty (30) days after written notice to the Company setting forth the particulars of such alleged breach;

(ii) a reduction in Employee's Salary below the applicable amount set forth in Section 3(a) in violation of such Section; or

(iii) assignment to Employee of duties inconsistent with Employee's position, or a diminution in Employee's authority, responsibility, status, title, or offices; provided, however, that no act shall constitute Good Reason unless Employee has provided notice of such Good Reason to the Company pursuant to Section 5(b)(ii) below within sixty (60) days following the initial existence of the condition that constitutes Good Reason.

(h) For purposes of this Agreement, "disability" means a determination by the Board that Employee is unable to perform the essential functions of her employment under this Agreement due to illness, injury, or other condition of a physical or psychological nature, with or without a reasonable accommodation for a period aggregating to 90 days in any 12-month period. Such determination shall be made in good faith by the Board, the decision of which shall be conclusive and binding. For clarity, the essential function of Employee's employment specifically include, but are not limited to, Employee's consistent performance of her obligations under Section 1 of this Agreement.

(i) Section 280G. If any payment or benefit that Employee may receive following a change of control of the Company, Employee's termination of employment, or otherwise, whether or not payable or provided under this Agreement ("Payment") would (i) constitute a "parachute payment" within the meaning of Section 280G of the Internal Revenue Code of 1986, as amended, and the regulations and guidance thereunder (the "Code"), and (ii) but for this sentence, be subject to the excise tax imposed by Section 4999 of the Code (the "Excise Tax"), then such Payment shall be reduced to the Reduced Amount. The "Reduced Amount" shall be either (A) the largest portion of the Payment that would result in no portion of the Payment being subject to the Excise Tax or (B) the largest portion, up to and including the total amount, of the Payment, whichever of the amounts determined under (A) and (B), after taking into account all applicable federal, state and local employment taxes, income taxes, and the Excise Tax (all computed at the highest applicable marginal rate), results in Employee's receipt, on an after-tax basis, of the greater amount of the Payment notwithstanding that all or some portion of the Payment may be subject to the Excise Tax. If a reduction in payments or benefits constituting "parachute payments" is necessary so that the Payment equals the Reduced Amount, reduction shall occur in the following order: reduction of cash payments; cancellation of accelerated vesting of outstanding equity awards; and reduction of employee benefits. In the event that acceleration of vesting of outstanding equity awards is to be reduced, such acceleration of vesting shall be undertaken in the reverse order of the date of grant of Employee's outstanding equity awards. All calculations and determinations made pursuant to this Section 5(i) will be made by an independent accounting or consulting firm or independent tax counsel appointed by the Company (the "Tax Counsel") whose determinations shall be conclusive and binding on the Company and Employee for all purposes. For purposes of making the calculations and determinations required by the Section 5(i), the Tax Counsel may rely on reasonable, good faith assumptions and approximations concerning the application of Section 280G of the Code and Section 4999 of the Code.

#### 6. Confidential Information.

(a) During the course of Employee's employment with the Company, Employee has learned and will continue to learn of Confidential Information (as defined below), and has developed and will continue to develop Confidential Information on behalf of the Company and its Affiliates. Employee agrees that she will not use or disclose to any third party (except as required by applicable law or for the proper performance of Employee's regular duties and responsibilities for the Company) any Confidential Information obtained by Employee incident to her employment or any other association with the Company or any of its affiliates. Employee agrees that this restriction will continue to apply after Employee's employment terminates, regardless of the reason for such termination. For the avoidance of doubt, (i) nothing contained in this Agreement limits, restricts or in any other way affects Employee's communicating with any governmental agency or entity, or communicating with any official or staff person of a governmental agency or entity, concerning matters relevant to such governmental agency or entity and (ii) Employee will not be held criminally or civilly liable under any federal or state trade secret law for disclosing a trade secret (y) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney, solely for the purpose of reporting or investigating a suspected violation of law, or (z) in a complaint or other document filed under seal in a lawsuit or other proceeding; provided, however, that notwithstanding this immunity from liability, Employee may be held liable if she unlawfully accesses trade secrets by unauthorized means.

(b) All documents, records and files, in any media of whatever kind and description, relating to the business, present or otherwise, of the Company or its affiliates, and any copies, in whole or in part, thereof (the "Documents"), whether or not prepared by Employee, shall be the sole and exclusive property of the Company. Employee agrees to safeguard all Documents and to surrender to the Company, at the time Employee's employment terminates or at such earlier time or times as the Board or its designee may specify, all Documents then in Employee's possession or control. Employee also agrees to disclose to the Company, at the time Employee's employment terminates or at such earlier time or times as the Board or its designee may specify, all passwords necessary or desirable to obtain access to, or that would assist in obtaining access to, any information which Employee has password-protected on any computer equipment, network or system of the Company or its affiliates.

(c) For purposes of this Agreement, “Confidential Information” means any and all information of the Company and its affiliates that is not generally available to the public. Confidential Information also includes any information received by the Company or its affiliates from any third party with any understanding, express or implied, that it will not be disclosed. Confidential Information does not include information: (i) that enters the public domain, other than through the Employee’s breach of her obligations under this Agreement or any other agreement between Employee and the Company or its affiliates; (ii) of which Employee was in possession on a non-confidential basis prior to disclosure during employment; (iii) that is rightfully received on a non-confidential basis from a third party that is not prohibited from disclosing such information by a legal, contractual or fiduciary obligation to the Company; (iv) that has been approved for release by authorization of the Company; or (v) that Employee can demonstrate is independently developed by the Employee without reference to Confidential Information.

#### 7. Restricted Activities.

(a) While employed by the Company and for a period of one (1) year from and after the date on which Employee’s employment with the Company is terminated for any reason (the “Restricted Period”), unless Employee receives the Company’s prior written approval, Employee will not, directly or indirectly, whether for her own benefit or that of any other individual, partnership, firm, corporation, or other business organization, engage in any of the following actions (the “Restricted Activities”):

(i) induce, solicit, or attempt to induce or solicit any customer, supplier or other business relation of the Company to (i) cease doing business with the Company, or (ii) do business with any competitor of the Company;

(ii) interfere with the relationship of the Company with any person who is employed by or otherwise engaged to perform services for the Company (including, but not limited to, any consultant or independent sales representatives or organizations), whether for Employee’s own account or for the account of any other individual(s) or entity; or

(iii) engage, own, have an interest, or participate in the financing, operation, management or control of any individual, partnership, firm, corporation, or other business organization whose primary business is the development, production, marketing and/or sale (whether through wholesale, direct-to-consumer or other channels) of wine varietals and brands that are primarily marketed to consumers as embodying a connection to health, wellness and/or an active lifestyle, including without limitation varietals that are marketed as low-calorie, low-carb, and/or low-sugar and that may meet the requirements of gluten-free, vegan and other diets, other than as a passive stockholder with less than three percent (3%) of the outstanding common stock of a publicly traded company.

The foregoing covenant shall cover Employee’s activities in the United States and in any other country or U.S. territory in which the Company does business during the Employment Term.

If Employee violates any of the restrictive covenants in this Section 7, the Restricted Period shall be extended for an additional period equal to the duration of the period of such violation.

(b) Employee agrees not to make negative comments or otherwise disparage the Company or its affiliates or its or their officers, directors, employees, shareholders, agents or products. The foregoing shall not be violated by truthful statements in response to legal process, required governmental testimony or filings, or administrative or arbitral proceedings (including depositions in connection with such proceedings).

#### 8. Intellectual Property.

(a) Employee shall promptly and fully disclose all Intellectual Property to the Company. Employee hereby assigns and agrees to assign to the Company (or as otherwise directed by the Company) her full right, title and interest in and to all Intellectual Property. Employee agrees to execute any and all applications for domestic and foreign patents, copyrights or other proprietary rights and to do such other acts (including without limitation the execution and delivery of instruments of further assurance or confirmation) requested by the Company to assign the Intellectual Property to the Company (or as otherwise directed by the Company) and to permit the Company to enforce any patents, copyrights or other proprietary rights to the Intellectual Property. Employee will not charge the Company or any of its affiliates for time spent in complying with these obligations. All copyrightable works that Employee creates during her employment shall be considered “work made for hire” and shall, upon creation, be owned exclusively by the Company.

(b) For purposes of this Agreement, “Intellectual Property” means inventions, discoveries, developments, methods, processes, compositions, works, concepts and ideas (whether or not patentable or copyrightable or constituting trade secrets) conceived, made, created, developed or reduced to practice by Employee (whether alone or with others, whether or not during normal business hours or on or off the premises of the Company or any of its affiliates) during the Employee’s employment that relate either to the business of the Company or its affiliates or to any prospective activity of the Company or its affiliates or that result from any work performed by Employee for the Company or its affiliates or that make use of Confidential Information or any of the equipment or facilities of the Company or its affiliates.

(c) Notwithstanding the foregoing, and pursuant to Minn. Stat. Section 181.78, the Company hereby notifies Employee that Intellectual Property does not include an invention for which no equipment, supplies, facility or trade secret information of the Company was used and which was developed entirely on Employee’s own time, and (a) which does not relate (i) directly to the business of the Company or (ii) to the Company’s actual or demonstrably anticipated research or development, or (b) which does not result from any work performed by Employee for the Company.

9. Recoupment. Employee agrees to reimburse the Company for all or a portion, as determined below, of any bonus or incentive or equity-based compensation paid, awarded or vested to Employee by the Company (an “Award”), if the Board determines that (a) the payment, award or vesting was predicated upon the achievement of certain financial results that were subsequently the subject of a material financial restatement, and (b) Employee engaged in fraud or misconduct that caused, in whole or in part, the need for the material financial restatement, and (c) a lower payment, award or vesting would have occurred based upon the restated financial results. In such event, Employee agrees to reimburse (in the manner determined by the Board, including cancellation of options or other stock awards) any Award previously paid, awarded or vested in the amount by which such Award exceeds the lower Award that would have occurred based upon the restated financial result; provided that no reimbursement shall be required if the payment, award or vesting otherwise subject to reimbursement hereunder occurred more than three (3) years prior to the date the applicable reinstatement is disclosed. In addition, any Award or other compensation, payable to Employee pursuant to this Agreement or any other agreement, plan or arrangement of the Company shall be subject to repayment or recoupment (clawback) by the Company to the extent applicable under Section 304 of the Sarbanes-Oxley Act of 2002 (and not otherwise exempted) and in accordance with such policies and procedures as the Board or a committee thereof may adopt from time to time, including to implement applicable law (including Section 954 of the Dodd-Frank Act of 2010), stock market or exchange rules and regulations or accounting or tax rules and regulations.

10. Miscellaneous.

(a) Amendment. This Agreement may be amended only in a writing signed by both Parties.

(b) Entire Agreement. With the exception of any confidentiality, non-solicitation, non-competition and/or proprietary rights agreement with the Company to which Employee is or may become a party, this Agreement sets forth the parties' final and entire agreement with respect to their respective subject matters and supersedes any and all prior understandings and agreements.

(c) Binding Agreement. This Agreement shall be binding upon Employee and the Company and their respective successors, assigns, heirs, executors and beneficiaries; provided, however, that Employee acknowledges that her services are unique and personal and, accordingly, understands and agrees that she shall not be entitled to assign her rights or delegate her duties under this Agreement.

(d) Rules of Construction. The headings of Sections in this Agreement are provided for convenience only and will not affect its construction or interpretation. All references to "Section" or "Sections" refer to the corresponding 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. Unless otherwise expressly provided, the word "including" does not limit the preceding words or terms.

(e) Notices. Any notice provided for in this Agreement must be in writing and must be either personally delivered or sent by reputable overnight courier service (charges prepaid), or sent by registered or certified U.S. Mail (postage prepaid), or delivered by email, to the recipient at the address below indicated:

If to the Company, to:

Fresh Grapes, LLC  
505 Hwy 169, Ste. 255  
Plymouth, MN 55441  
Email: janelle@freshvinewine.com  
Attention: Janelle Anderson

If to Employee, to:

Employee's address as shown in the records of the Company;

or such other address or to the attention of such other person as the recipient Party will have specified by prior written notice to the sending Party. Any notice under this Agreement will be deemed to have been given upon the earlier of (a) actual receipt, or (b)(i) one business day after the business day of deposit with a nationally recognized overnight courier service for next day delivery, freight prepaid, or (ii) three business days after deposit with the United States Post Office for delivery by registered or certified mail, postage prepaid.

(f) Waiver of Breach. Any waiver by either Party of compliance with any provision of this Agreement by the other Party shall not operate or be construed as a waiver of any other provision of this Agreement, or of any subsequent breach by such Party of a provision of this Agreement.

(g) Section 409A. The intent of the Parties is that payments and benefits under this Agreement comply with or be exempt from Section 409A of the Code (“Section 409A”) and, accordingly, to the maximum extent permitted, this Agreement shall be interpreted to be in compliance therewith or exempt therefrom. For purposes of Section 409A, the phrase “termination of employment” (or other words to that effect), as used in this Agreement, shall be interpreted to mean “separation from service” as defined under Section 409A. To the maximum extent permitted under Section 409A, the cash severance and other benefits payable under this Agreement are intended to meet the requirements of the short-term deferral exemption under Section 409A and the “separation pay exception” under Treas. Reg. § 1.409A-1(b)(9)(iii). For purposes of the application of Treas. Reg. § 1.409A-1(b)(4) (or any successor provision), each payment in a series of payments to Employee will be deemed a separate payment. To the extent any cash payment or continuing benefit payable upon Employee’s termination of employment is nonqualified deferred compensation subject to Section 409A, then, only to the extent required by Section 409A, such payment or continuing benefit shall not commence until the date which is six (6) months after the date of separation from service, and any previously scheduled payments shall be made in a lump sum (without interest) on that date. Notwithstanding the foregoing, the Company makes no representations that the payments and benefits provided under this Agreement comply with Section 409A and in no event shall the Company be liable for all or any portion of any taxes, penalties, interest or other expenses that may be incurred by Employee on account of non-compliance with Section 409A.

(h) Further Assurances. Each Party shall, without further consideration, execute such additional documents as may be reasonably required in order to carry out the purpose and intent of this Agreement.

(i) Severability. If any one or more of the provisions (or portions thereof) of this Agreement shall for any reason be held by a final determination of a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions (or portions of the provisions) of this Agreement, and the invalid, illegal or unenforceable provisions shall be deemed replaced by a provision that is valid, legal and enforceable and that comes closest to expressing the intention of the parties hereto.

(j) Choice of Law and Venue. The Company and Employee entered into this Agreement in the State of Minnesota. This Agreement shall be construed, enforced, and interpreted in accordance with and governed by the laws of the State of Minnesota, exclusive of its conflict of law provisions. With respect to any controversy or claim arising out of this Agreement, the Company and Employee consent to the exclusive venue and jurisdiction in the District Court of Hennepin County, State of Minnesota and to service of process under Minnesota law in any action arising from the construction, interpretation, or enforcement of this Agreement.

(k) Survival of Provisions. Notwithstanding any other provision of this Agreement, the Parties’ respective rights and obligations under Sections 6, 7, 8 and 9 hereof, and any confidentiality, non-solicitation, non-competition and/or proprietary rights agreements with the Company to which Employee is or may become a party, will survive any termination or expiration of this Agreement or the termination of Employee’s employment for any reason whatsoever.

(l) Remedies. Employee acknowledges that a violation of Section 6, 7 and/or 8 of this Agreement may cause irreparable harm to the Company, and that a remedy at law for any such violation would be inadequate. Thus, in addition to any other relief afforded by law, including damages sustained by a breach of this Agreement, and without any necessity of proof of actual damage, the Company will have the right to enforce Sections 6, 7 and 8 of this Agreement by specific enforcement, which will include, among other things, temporary and permanent injunctions to stop or prevent the breach, threatened breach, or anticipated breach of this Agreement, it being the understanding of the parties that both damages and injunctions will be proper modes of relief and are not to be considered as alternative remedies. All current and future subsidiaries and other affiliates of the Company are intended third party beneficiaries of the Company’s rights under this Agreement. The Company will also be entitled to recover from Employee its attorney’s fees and costs in any action for breach, anticipated breach, or threatened breach of this Agreement in which the Company substantially prevails.

(m) Employment Not Guaranteed. Neither this Agreement nor any action taken hereunder shall be deemed to give Employee the right to be retained as an employee of the Company except as otherwise expressly provided in this Agreement.

(n) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute but one and the same agreement.

*Signature page follows.*

IN WITNESS WHEREOF, the parties have executed the Employment Agreement effective as of the Effective Date written above.

THE COMPANY:

FRESH VINE WINE, INC.

By: /s/ Janelle Anderson

Name: Janelle Anderson

Title: Chief Executive Officer

EMPLOYEE:

/s/ Ellen Scripta

Ellen Scripta