

Deloitte.



No. VLC-S-S-216272
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

BANK OF MONTREAL

Petitioner

AND:

FIREWEED BREWING CORP., RAW ENERGY LTD., RONALD KISIC,
ROBERT MAITLAND, HER MAJESTY THE QUEEN IN RIGHT OF CANADA,
HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, and
49TH PARALLEL GROUP INC. dba WESTERN CRAFT ALLIANCE

Respondents

**FIRST REPORT OF THE PROPOSED
COURT-APPOINTED RECEIVER AND MANAGER OF
FIREWEED BREWING CORP.**

DATED AUGUST 18, 2021

PREPARED BY DELOITTE RESTRUCTURING INC.

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

Counsel

Owen Bird Law Corporation
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Receiver

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TABLE OF CONTENTS

INTRODUCTION	1
Purpose of the First Report	1
Terms of reference	2
BACKGROUND	2
POWERS OF THE PROPOSED RECEIVER-MANAGER	3
THE FIREWEED IP AND PROPOSED SALE TO BIG ROCK	3
Review of the Fireweed IP	3
Proposed sale to Big Rock	4
Terms of the Asset Purchase Agreement	5
Summary observations related to the proposed sale transaction	6
UNREALIZED ASSETS AND RECEIVER'S INVESTIGATIONS	7
CREDITORS AND SECURED CHARGES	7
Charges and statutory interests	7
Unsecured claims	8
CONCLUSIONS AND RECOMMENDATIONS	8

APPENDICES

Appendix "A" – Trustee's Preliminary Report dated April 29, 2021

Appendix "B" – Asset Purchase Agreement for the Fireweed IP dated September 3, 2021

INTRODUCTION

- 1) On April 14, 2021 (the "**Date of Bankruptcy**"), Fireweed Brewing Corp. ("**Fireweed**" or the "**Company**") made an assignment into bankruptcy for the general benefit of creditors pursuant to the provisions of the *Bankruptcy and Insolvency Act* ("**BIA**"). Deloitte Restructuring Inc. ("**Deloitte**") was appointed as Licensed Insolvency Trustee of the estate ("**Trustee**") and was affirmed as the Trustee at the first meeting of creditors held on April 30, 2021.
- 2) The Company's first ranking and registered secured creditor is Bank of Montreal ("**BMO**"). As of the Date of Bankruptcy, BMO was owed \$1,695,963 including accrued interest by Fireweed and its related guarantors pursuant to various credit facilities. BMO's debt is secured by, among other things a Security Agreement and a General Security Agreement, each dated November 12, 2014 (together, the "**Security Agreement**"). Pursuant to the Security Agreement, Fireweed granted to BMO a first ranking security interest ("**BMO's Security Interest**") charging all of the present and after-acquired real and personal property of Fireweed.
- 3) The Trustee retained independent legal counsel, Owen Bird Law Corporation ("**Owen Bird**"), to perform an independent review of BMO's Security Interest. Owen Bird has advised that BMO's Security Interest is valid and enforceable as against the estate and ranks in priority to the unsecured creditors of the estate (the "**Security Opinion**").
- 4) On April 28, 2021, the Trustee entered into an Agency Agreement with BMO pursuant to which BMO appointed Deloitte to act as its agent to attend to the realization of BMO's secured collateral (in such capacity, the "**Receiver**").
- 5) On May 6, 2021, the Receiver issued a statutory Notice and Statement of the Receiver for Fireweed pursuant to subsections 245(1) and 246(1) of the BIA.
- 6) On July 2, 2021 BMO filed a petition (the "**Receivership Proceedings**") with the Supreme Court of British Columbia (the "**Court**") seeking an order (the "**Proposed Receivership Order**") appointing Deloitte as the Court-appointed receiver and manager without security, of all the assets, undertakings and property of Fireweed (in such capacity the "**Proposed Receiver-Manager**"). The receivership application is scheduled to be heard on September 3, 2021.
- 7) Information and statutory documents pertaining to the Trustee's administration of the bankruptcy estate, and the Receivership Proceedings, have been posted on Deloitte's website at <http://www.insolvencies.deloitte.ca/en-ca/Pages/Fireweed-Brewing-Corp.aspx> (the "**Deloitte Website**"). This first report to Court of the Proposed Receiver-Manager ("**First Report**") will also be posted to Deloitte's website after it has been filed with the Court.
- 8) Unless otherwise provided, all other capitalized terms not defined in this First Report are as defined in the Proposed Receivership Order. A copy of the Proposed Receivership Order is available on the Deloitte Website.

Purpose of the First Report

- 9) The purpose of this First Report is as follows:
 - a) To provide the Court with background information pertaining to the Company's affairs and the causes of its financial difficulties;

- b) To report on the Receiver's review of certain intellectual property rights of Fireweed (the "**Fireweed IP**", as further described herein) and its efforts to monetize them for the benefit of the receivership estate; and
- c) To support the Proposed Receiver-Manager's application (to be filed) for an order (the "**Vesting Order**") approving the sale of the Fireweed IP and vesting title free and clear, as set out herein.

Terms of reference

- 10) In preparing this First Report, the Proposed Receiver-Manager has relied upon unaudited financial and other information prepared by the Company's former bookkeeper and accountants, the Company's books and records, and discussions with Mr. Todd Melnyk, the Company's President and CEO.
- 11) The Proposed Receiver-Manager has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the *Chartered Professional Accountants Canada Handbook* and, accordingly, the Proposed Receiver-Manager expresses no opinion or other form of assurance in respect of this information.
- 12) All dollar amounts in this First Report are in Canadian dollars, unless otherwise indicated.

BACKGROUND

- 13) Fireweed previously operated a craft brewery located at 1083 Richter Street, Kelowna, British Columbia ("**BC**"). Fireweed's brands include Tree Brewing, Kelowna Pilsner, Dukes Cider, Thirsty Beaver Amber Ale, and Shaftebury, among others. The Company was incorporated in Alberta ("**AB**") in July 2003, and was continued into BC in February 2015.
- 14) Fireweed is wholly owned by Jayca Holding Inc. ("**Jayca**"), a holding company. Jayca's share capital is owned 99% by Mr. Melnyk and 1% by Mrs. Carolyn Melnyk. Mr. Melnyk is the sole director of Fireweed.
- 15) Jayca has a second wholly owned subsidiary, Tree Beer Institute Ltd. ("**TBI**") which owns certain intellectual property related to the Tree Beer Institute. Jayca and TBI are not subject to the Fireweed bankruptcy proceedings or the Receivership Proceedings.
- 16) The Company sold its various craft beers and ciders in BC and AB. Mr. Melnyk joined the Company in 2008, becoming the President and CEO with primary responsibility for running the operations of the Company. In 2015, Mr. Melnyk bought out the founding partners, becoming the majority beneficial owner of Fireweed.
- 17) Through 2008 to 2016, the Company increased its product offering and revenues as the craft beer industry experienced significant growth. In August 2016, the Government of AB changed the way it taxed beer, moving from graduated fees for small brewers to a higher flat price of \$1.25 per litre. While it was possible for some of this additional tax mark-up to be passed on to consumers through higher prices, the extra mark-up put pressure on the Company's profit margins and impacted sales volumes. Fireweed attempted to cut costs and grow the business in BC to offset this issue. However, the

Company was also facing cash flow pressures as a result of high debt service costs and funding of working capital.

- 18) In 2018, owing to continued financial challenges, Mr. Melnyk began exploring options for licensing contracts for the Company's beer and cider brands.
- 19) On October 17, 2018, Fireweed entered into a license agreement (the "**License Agreement**") with Big Rock Brewery Limited Partnership, by its general partner, Big Rock Brewery Operations Corp. ("**Big Rock**"), granting Big Rock an exclusive license to the use of Fireweed's trademarks and other associated intellectual property. Fireweed also entered into various ancillary agreements with Big Rock, including Contract Manufacturing Agreements for AB and BC (the "**Manufacturing Agreements**") and a purchase and sale agreement in respect of various brewing equipment and inventory. Pursuant to the License Agreement and Manufacturing Agreements (collectively, the "**IP Agreements**"), Big Rock is required to pay Fireweed monthly license and manufacturing fees (together, "**License Fees**") based on the volume of beer and cider produced and sold by Big Rock through the term of the agreements, ending December 31, 2024 (the "**Term**").
- 20) License Fees payable under the IP Agreements were not sufficient to service Fireweed and Jayca's debts owing to BMO. As a result, the Company could not continue to pay its obligations as they fell due, and Mr. Melnyk assigned the Company into bankruptcy on April 14, 2021.
- 21) Fireweed operated its Kelowna brewery between March 2003 and June 2018 and had a maximum of 10 employees prior to the implementation of the License Agreement with Big Rock. Fireweed had no employees during the 12 months prior to the Date of Bankruptcy.
- 22) Further details regarding the financial history of Fireweed, along with the Trustee's preliminary evaluation of the assets and liabilities of the Company are set-out in the Trustee's Preliminary Report to creditors dated April 29, 2021 ("**Preliminary Report**") which is attached as Appendix "**A**" to this First Report.

POWERS OF THE PROPOSED RECEIVER-MANAGER

- 23) The Proposed Receiver-Manager's powers are detailed in paragraph 2 of the Proposed Receivership Order and include, among others, the power to take and maintain possession and control of the property of Fireweed; the power to manage, operate and carry on the business of Fireweed; and, the power to market and sell the Property (subject to Court approval if any one transaction exceeds \$50,000 or if the aggregate of transactions exceeds \$100,000).

THE FIREWEED IP AND PROPOSED SALE TO BIG ROCK

Review of the Fireweed IP

- 24) Upon its appointment, the Receiver and its legal counsel undertook a review of the IP Agreements and certain related ancillary side agreements between Fireweed and Big Rock.

- 25) Based on documents provided by Big Rock and discussions with Mr. Melnyk, it is apparent that certain sales revenues were paid by BC Liquor Distribution Board to Fireweed directly, when the amounts were in fact to be paid to Big Rock, pursuant to the terms of the IP Agreements.
- 26) In total, approximately \$595,509 was paid in error to Fireweed during the period August 23, 2018 to May 30, 2019, and approximately \$520,017 remains outstanding and owing to Big Rock, plus accrued interest (the "**Big Rock Payable**"). Big Rock has set-off the Big Rock Payable against License Fees owing by Big Rock to Fireweed pursuant to the terms of the IP Agreements.
- 27) The Trustee requested an accounting from Mr. Melnyk for the proceeds received by Fireweed from BC Liquor Distribution Board. Mr. Melnyk has advised that the proceeds were used to fund debt payments to BMO and the Business Development Bank of Canada (an unsecured lender), in addition to making vendor payments.
- 28) To the best of the Receiver's knowledge, and based on conversations with Mr. Melnyk, Big Rock has continued to perform its obligations under the IP Agreements. Accordingly, pursuant to section 72.1 of the BIA, Big Rock is at liberty to enforce its exclusive use of the Fireweed IP during the Term of the IP Agreements. Following the review of the IP Agreements, the Receiver determined that the best course of action to realize value for the Fireweed IP was to either to allow the IP Agreements to run their course to the end of the Term and continue to collect License Fees during this period, or to pursue a sale of the Fireweed IP to Big Rock.

Proposed sale to Big Rock

- 29) Prior to the bankruptcy proceedings, Big Rock, BMO and the Company had entered into extended discussions and negotiations regarding the potential acquisition of the Fireweed IP by Big Rock, including a termination of the existing IP Agreements and the requirement to pay ongoing License Fees.
- 30) Subject to the provisions of the IP Agreements, Big Rock has the option to purchase the Fireweed IP prior to the end of the Term for a purchase price of \$1,999,999 ("**Licence Fee Cap**") less the value of License Fees paid by Big Rock to the date of the acquisition. The IP Agreements also contain provisions such that at the end of the Term, Big Rock is obligated to make a final payment to Fireweed such that a minimum of \$1,999,999 in License Fees will have been paid to Fireweed during the Term.
- 31) As a result of the Big Rock Payable, the continuing accrual of interest on this balance, and Fireweed's failure to repay \$200,000 by September 27, 2019, by letter agreement dated September 11, 2019, Fireweed agreed that the Big Rock Payable plus accrued interest would be deemed as a payment by Big Rock in the amount of \$1,096,306 in Licence Fees (the "**Deemed Payment**").
- 32) Prior to the bankruptcy proceedings, Big Rock made an offer to purchase the Fireweed IP for \$530,000 ("**Offer Price**"), payable in monthly installments until the end of the Term. The Offer Price was based on the provisions of the IP Agreements, and also factored in the Deemed Payment, among other considerations. Both Fireweed and BMO were supportive of the Offer Price, and agreements were in the process of being drafted to affect the sale. However, Big Rock received certain garnishment orders from Canada Revenue Agency ("**CRA**") in respect of balances owed by Fireweed. Due to concerns with potential creditor claims that may have attached to the Fireweed IP, the sale process stalled.

- 33) Fireweed was unable to obtain the required discharges from the Company's various secured creditors. Fireweed's failure to close a sale of the Fireweed IP to Big Rock ultimately precipitated the Company's bankruptcy proceedings.
- 34) The Receiver and its counsel undertook various financial and legal analyses to assess the validity and quantum of the Offer Price, especially in light of the complex provisions related to the Minimum License Fee and Deemed Payment.
- 35) Based on the Receiver's assessment it was concluded that:
 - a) Due to lack of timely payment by Fireweed of the Big Rock Payable (as previously agreed by letter agreement between the parties), the Deemed Payment had the effect of including a substantial penalty and/or interest accrual to the end of the Term of the IP Agreements. The terms of this payment were ultimately agreed to by Fireweed prior to the bankruptcy proceedings, and any legal challenge to the Deemed Payment would likely be time consuming and costly, and ultimately may not be successful.
 - b) The Offer Price was potentially less than the amount prescribed by the terms of the IP Agreements by approximately \$120,000 when factoring in the Deemed Payment and certain other balances owing between the parties. However, The IP Agreements also included certain terms that would have materially reduced the purchase price if Big Rock claimed that Fireweed had defaulted under the terms of the IP Agreements (for example, due to non-payment of the Big Rock Payable). In addition, Big Rock had spent many hours and incurred significant legal fees as a result of Fireweed failing to make payment of the Big Rock Payable, and had also incurred significant management time in negotiating the acquisition of the Fireweed IP prior to the bankruptcy proceedings with the Company and BMO.
 - c) The Receiver is under no obligation to sell the Fireweed IP and could have continued to collect License Fees for the remainder of the Term. However, there were certain operational and financial obligations under the IP Agreements that would likely have been difficult and/or costly for the Receiver to undertake and manage, and the value of the future License Fees would ultimately depend on future beer and cider sales volumes which was subject to some uncertainty.
- 36) In light of the above, the Receiver attempted to negotiate an increase in the Offer Price with Big Rock. Big Rock offered to make a lump sum payment of \$500,000 (versus \$530,000 in monthly installments) but was not prepared to increase its offer any further, in part due to the significant time and expense it had already incurred in dealing with Fireweed and Mr. Melnyk and negotiating the terms of the Fireweed IP purchase, in addition to Fireweed's failure to make payment of the Big Rock Payable on the terms agreed.
- 37) Accordingly, the Receiver determined it appropriate to move ahead with negotiating definitive sale agreements with Big Rock for the sale of the Fireweed IP at the proposed lump sum purchase price of \$500,000.

Terms of the Asset Purchase Agreement

- 38) Subject to the granting of the Proposed Receivership Order and the Vesting Order, the Receiver has entered into an asset purchase agreement (the "**APA**") with Big Rock pursuant to which Big Rock has agreed to purchase, and the Receiver has agreed to sell all of the Company's right, title and interest in and to the Fireweed IP, free and clear of all encumbrances for cash consideration of \$500,000 plus applicable taxes (the

"**Purchase Price**"). The execution page of the APA for the Receiver is held in trust by Owen Bird, and is to be released upon the granting of the Vesting Order.

- 39) A copy of the APA is attached as Appendix "B" to this First Report. Other key terms of the APA include, without limitation:
- a) Deposit of 10% of the Purchase Price (the "**Deposit**"), or \$50,000, to be paid in trust to the Proposed Receiver-Manager within two business days of execution of the APA;
 - b) Big Rock is purchasing the Fireweed IP "as is, where is" and the Proposed Receiver-Manager has not made any representations or warranties to Big Rock with respect to the Fireweed IP;
 - c) Big Rock has agreed to contribute up to \$10,000 towards the Proposed Receiver-Manager's legal costs;
 - d) Closing of the transaction is subject only to the exchange of customary closing certificates, an assignment of the Fireweed IP and the Vesting Order being granted by the Court; and
 - e) Closing is scheduled to occur on the fifth (5th) business day following the date of the Vesting Order (the "**Completion Date**").
- 40) The Deposit is currently held in trust by Big Rock's legal counsel, and will be released to the Proposed Receiver-Manager following granting of the Proposed Receivership Order. In addition, Big Rock has provided confirmation to the Proposed Receiver-Manager that Big Rock has sufficient funds available to complete the transaction, and has obtained the requisite approval of its Board of Directors.
- 41) On May 13, 2021, the Receiver issued a notice of disposition and intention to sell to all known secured creditors of the Company and to Mr. Melnyk (director) pursuant to sections 59 of the *Personal Property Security Act*, BC and section 60 of the *Personal Property Security Act*, AB. The notice stated that unless the collateral is redeemed, it will be disposed of by private sale on or after June 3, 2021. No response has been received in respect of the notice.

Summary observations related to the proposed sale transaction

- 42) Given the specialist nature of the Fireweed IP, Big Rock's right of exclusive use to December 31, 2024, and the long standing knowledge of the various brands and recipes obtained by Big Rock, it appears unlikely that the Receiver would be successful in marketing the Fireweed IP to any other third party. Accordingly, the Receiver did not think it prudent to incur the time and expense of pursuing a broader marketing process, nor risk potentially losing the proposed Big Rock transaction.
- 43) While the Receiver could have continued to collect License Fees for the balance of the Term, there would be costs involved in monitoring the agreement and payment of Licence Fees, and the Receiver may not have been able to fulfil all of Fireweed's obligations under the IP Agreements. Furthermore, there is no guarantee that this process would have led to a better outcome for the Receivership estate, especially when factoring in the time-cost of money and the uncertainty in respect of the quantum of Licence Fee payments (based on sale volumes of beer and cider).
- 44) The principal secured creditor, BMO, is in agreement with the transaction, and is expected to suffer a significant shortfall on its indebtedness.

- 45) In summary, the Proposed Receiver-Manager is of the opinion that the terms of the transaction are reasonable and appropriate under the circumstances and will maximize the value of Fireweeds IP. Accordingly, the Proposed Receiver-Manager is recommending the acceptance of the APA.

UNREALIZED ASSETS AND RECEIVER'S INVESTIGATIONS

- 46) As detailed in the Preliminary Report, the Receiver is in the process of realizing upon equipment owned by the Company, and investigating certain pre-appointment transactions. The Receiver expects to be able to deal with these matters under its Agency Agreement with BMO.
- 47) The Proposed Receiver-Manager intends to seek the approval of this Honourable Court for a distribution order and its discharge shortly after completing the proposed sale transaction with Big Rock.

CREDITORS AND SECURED CHARGES

Charges and statutory interests

- 48) The BMO Security Interest is subject to certain prior ranking Court-ordered charges and statutory interests, which include:
- a) the Receiver's Charge (as that term is defined in the Proposed Receivership Order);
 - b) the Receiver's Borrowing Charge (as that term is defined in the Proposed Receivership Order); and
 - c) certain deemed trust and priority claims.
- 49) Pursuant to paragraph 20 of the Proposed Receivership Order, the Proposed Receiver-Manager and Owen Bird are the beneficiaries of the Receiver's Charge, which is a first-ranking charge over the property of Fireweed to secure payment of their fees and disbursements incurred in the Receivership Proceedings.
- 50) Pursuant to paragraph 23 of the Receivership Order, the Proposed Receiver-Manager is authorized to borrow up to \$200,000 without further approval of the Court for the purpose of carrying out its duties and powers. As at the date of this First Report, the Proposed Receiver-Manager has not required any borrowing facility.

CRA Claims

- 51) On May 3, 2021, **CRA** submitted a proof of claim setting out the following claims:
- a) Property claim in the amount of \$33,039.70 in respect deemed trust payroll deductions from 2018;
 - b) Unsecured claim in the amount of \$173,206.59 in respect of a combination of goods and services tax ("**GST**") for \$110,357.70, non deemed trust payroll deductions of \$12,687.03, and corporation tax of \$50,161.86.
- 52) The Receiver is also aware of a potential claim in the amount of \$265,620.67 in respect of Excise Duty, although no proof of claim has yet been received by the Trustee.

Vendor Take-Back Financing

- 53) The Receiver understands that approximately \$3.4 million is owing to Raw Energy Ltd., Robert Maitland, and Ronald Kistic (the "**VTB Creditors**") in respect of deferred consideration owing pursuant to a vendor take-back note for the sale of the equity of the Company to Mr. Melnyk in 2015.
- 54) On November 5, 2014, the VTB Creditors registered a security interest in the BC PPR and AB PPR in respect of all of the present and after acquired personal property (other than consumer goods) of Fireweed.

49th Parallel Group Inc.

- 55) Mr Melnyk has advised that 49th Parallel Group Inc. dba Western Craft Alliance is owed approximately \$5,000, however, this creditor registered a writ of enforcement against the Company in the AB PPR in the amount of \$35,209 on November 14, 2019.

Dams Lease Ltd. and Canadian Western Bank

- 56) Dams Lease Ltd. and Canadian Western Bank have registered a purchase money security interest in a 2019 Ford Ranger truck. Mr. Melnyk advised the Trustee that he has recently transferred the lease liability and truck to himself personally. The Trustee has requested that Mr. Melnyk provide documentation confirming this transfer and details of the lease and amount remaining to be paid so it can be determined if there is any equity in the vehicle to the benefit of the estate. Mr. Melnyk has not provided any documentation to date.

Unsecured claims

- 57) Other than the unsecured portions of any secured indebtedness owing to the secured creditors noted above, the Statement of Affairs indicates additional unsecured creditors with claims totaling approximately \$82,449.
- 58) The amounts owing to unsecured creditors will be determined based on proofs of claim filed and admitted by the Trustee. There will not be sufficient funds available to make a distribution to unsecured creditors.

CONCLUSIONS AND RECOMMENDATIONS

- 59) Based on the foregoing, the Proposed Receiver-Manager respectfully requests that the Court grant the Vesting Order for the sale of the Fireweed IP.

All of which is respectfully submitted at Vancouver, BC this 18th day of August, 2021.

DELOITTE RESTRUCTURING INC.

In its capacity as proposed Court-appointed Receiver and Manager of
Fireweed Brewing Corp., and not in its personal capacity



Per: Jeff Keeble, CPA, CMA, CIRP, LIT
Senior Vice-President



Paul Chambers, FCA(UK), CIRP, LIT
Senior Vice-President

Appendix "A"

Trustee's Preliminary Report dated April 29, 2021



District of	British Columbia
Division	No. 03 - Vancouver
Estate No.	11-2729070
Court No.	B-210210

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE BANKRUPTCY OF

FIREWEED BREWING CORP.

TRUSTEE'S PRELIMINARY REPORT

April 29, 2021

TABLE OF CONTENTS

INTRODUCTION	2
Terms of Reference	2
BACKGROUND TO THE COMPANY'S FINANCIAL DIFFICULTIES	3
ASSETS	4
Machinery, Plant and Equipment	4
Fireweed IP	4
Advances to shareholders.....	4
Due from related party.....	5
CONSERVATORY AND PROTECTIVE MEASURES	5
CREDITORS.....	5
Deemed Trust Claims and Secured Creditors.....	5
Unsecured Creditors	6
Provable Claims	7
LEGAL PROCEEDINGS, REVIEWABLE TRANSACTIONS AND PREFERENCE PAYMENTS.....	7
AGENCY AGREEMENT WITH BMO	7
THIRD PARTY DEPOSITS AND GUARANTEES.....	8
ANTICIPATED REALIZATION AND PROJECTED DISTRIBUTION	8
OTHER MATTERS	8

INTRODUCTION

- 1) Fireweed Brewing Corp. ("**Fireweed**" or the "**Company**") previously operated a craft brewery located at 1083 Richter Street, Kelowna, British Columbia ("**BC**"). Fireweed's brands include Tree Brewing, Kelowna Pilsner, Dukes Cider, Thirsty Beaver Amber Ale, and Shaftebury, among others. The Company was incorporated in Alberta ("**AB**") in July 2003, and was continued into British Columbia in February 2015.
- 2) Fireweed is wholly owned by Jayca Holding Inc. ("**Jayca**"), a holding company. Jayca's share capital is owned 99% by Mr. Todd Melnyk ("**Mr. Melnyk**") and 1% by Mrs. Carolyn Melnyk. Mr. Melnyk is the sole director of Fireweed.
- 3) Jayca has a second wholly owned subsidiary, Tree Beer Institute Ltd. ("**TBI**") which owns certain intellectual property related to the Tree Beer Institute.
- 4) On April 14, 2021 (the "**Date of Bankruptcy**"), Fireweed made an assignment into bankruptcy for the general benefit of creditors pursuant to the provisions of the *Bankruptcy and Insolvency Act* ("**BIA**") and Deloitte Restructuring Inc. was appointed as Licensed Insolvency Trustee of the estate ("**Trustee**"), subject to affirmation by the creditors at the first meeting of creditors. Jayca and TBI are not subject to these bankruptcy proceedings.
- 5) The purpose of the Trustee's Preliminary Report ("**Report**") is to:
 - a) Provide background information concerning the Company's affairs and the causes of its financial difficulties;
 - b) Provide the Trustee's preliminary evaluation of the assets and liabilities of the Company; and
 - c) Outline the key activities of the Trustee since its appointment.

Terms of Reference

- 6) In preparing this Report, the Trustee has relied upon unaudited financial and other information prepared by the Company's former director, the books and records of the Company, and discussions with the former director.
- 7) The Trustee has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the Chartered Professional Accountants Canada Handbook and, accordingly, the Trustee expresses no opinion or other form of assurance in respect of this information.
- 8) The Trustee assumes no responsibility or liability for any loss or damage occasioned by any party as a result of the circulation, publication, reproduction, or use of this Report. Any use which any party makes of this report, or any reliance or decision to be made based on this Report, is the sole responsibility of such party.
- 9) All dollar amounts in this Report are expressed in Canadian dollars, unless otherwise indicated.

BACKGROUND TO THE COMPANY'S FINANCIAL DIFFICULTIES

- 10) The Company sold its various craft beers and ciders in BC and AB. Mr. Melnyk joined the Company in 2008, becoming the President and CEO with primary responsibility for running the operations of the Company. In 2015, Mr. Melnyk bought out the founding partners, becoming the majority beneficial owner of Fireweed.
- 11) Through 2008 to 2016, the Company increased its product offering and revenues as the craft beer industry experienced significant growth. In August 2016, the Government of AB changed the way it marked up beer, moving from graduated fees for small brewers to a higher flat price of \$1.25 per litre. While it was possible for some of this additional mark-up to be passed onto consumers through higher prices, the extra mark-up put pressure on the Company's profit margins and impacted sales volumes. Fireweed attempted to cut costs, and grow the business in BC to offset this issue. However, the Company continued to experience cash flow pressures as a result of high debt service costs and funding of working capital.
- 12) In 2018, owing to continued financial challenges, Mr. Melnyk began exploring options for licensing contracts for the Company's beer and cider brands.
- 13) On October 17, 2018, Fireweed entered into a license agreement (the "**License Agreement**") with Big Rock Brewery Inc. ("**Big Rock**") granting Big Rock an exclusive license to the use of Fireweed's trademarks and other associated intellectual property (the "**Fireweed IP**"). Fireweed also entered into various ancillary agreements with Big Rock, including a Contract Manufacturing Agreements for AB and BC (the "**Manufacturing Agreements**") and a purchase and sale agreement in respect of various brewing equipment and inventory. Pursuant to the License Agreement and Manufacturing Agreements, Big Rock is required to pay Fireweed monthly license and manufacturing fees (together, "**License Fees**") based on the volume of beer and cider produced and sold by Big Rock through the term of the agreements (to December 31, 2024).
- 14) License Fees payable under the agreements with Big Rock were not sufficient to service Fireweed and Jayca's debts owing to Bank of Montreal. As a result, the Company could not continue to pay its obligations as they fell due, and Mr. Melnyk assigned the Company into bankruptcy on April 14, 2021.
- 15) Fireweed operated its Kelowna brewery between March 2003 and June 2018 and had a maximum of 10 employees prior to the implementation of the License Agreement with Big Rock. Fireweed had no employees during the 12 months prior to the Date of Bankruptcy.
- 16) A summary of the audited and unaudited financial results of the Company is shown below.

(\$)	Unaudited 3 months ended 31-Mar-18	Audited Year ended 31-Dec-17	Audited Year ended 31-Dec-16
Sales	1,641,318	5,428,213	5,968,351
Cost of sales	830,158	2,626,531	3,211,026
Gross profit	811,160	2,801,682	2,757,325
Expenses	500,577	2,486,692	2,910,671
Income taxes (Recovered)	NA	(22,267)	(25,827)
Net income / (loss)	310,583	337,257	(127,519)
Retained earnings	NA	683,531	346,274

- 17) We understand from Mr. Melnyk that no financial statements have been produced for the Company since March 31, 2018 and that any License Fees payable under the Big Rock agreements have not been paid to Fireweed due to various offsetting counter claims by Big Rock (refer to paragraphs 42 to 44 of this Report).

ASSETS

- 18) The Trustee assisted Mr. Melnyk with producing a statement of affairs of the Company as of the Date of Bankruptcy (the "**Statement of Affairs**"). The significant assets of the Company are outlined below.

Machinery, Plant and Equipment

- 19) The Company owns certain brewing equipment, including a bottling line and storage tanks with an estimated realizable value of approximately \$15,000. Mr. Melnyk has advised the Trustee that the equipment is in storage in a warehouse in Kelowna.

Fireweed IP

- 20) Subject to the provisions of the License Agreement, Big Rock has the option to purchase the Fireweed IP prior to the end of the term of the agreement. Big Rock has made an initial offer to purchase the Fireweed IP for \$500,000 plus taxes. This offer is based on the various agreements and certain adjustments between the parties since they entered into the License Agreement and Manufacturing Agreements. The Statement of Affairs shows a net realizable value of \$530,000 as this was the original offer price submitted by Big Rock, payable in monthly installments over the remaining term of the License Agreement. The Trustee is in the process of reviewing the Big Rock agreements and is in discussions with Big Rock regarding its offer.

Advances to shareholders

- 21) As of December 31, 2017, the Company's financial statements showed a balance owing by Jayca to Fireweed of \$3,076,140. Mr. Melnyk has informed the Trustee that Jayca has no realizable assets, and that this receivable is uncollectable.
- 22) The Trustee has reviewed the financial statements of Jayca dated December 31, 2017. The statements include an amount owing from shareholders of \$1,009,006 and long term investments of \$6,114,673. Mr. Melnyk has advised that he is not in a position personally to repay the shareholder loan owing to Jayca, and that the long term investments relate to investments in the share capital of Fireweed and TBI for the purchase of various equipment, inventory and to fund the businesses.

Due from related party

- 23) As of December 31, 2017, the Company's financial statements showed a balance owing by TBI to Fireweed of \$975,220. Mr. Melnyk has informed the Trustee that TBI has no realizable assets, and that this receivable is uncollectable.
- 24) The Trustee has reviewed the financial statements of TBI dated December 31, 2017. The statements include an amount owing from related parties of \$618,669, and a liability owing to Fireweed of \$975,220. There are no other material assets on the balance sheet.

CONSERVATORY AND PROTECTIVE MEASURES

- 25) The Company's books and records are in storage in a rented area of a warehouse in Kelowna. The Trustee has attended at the warehouse and will make arrangements to either collect the necessary records or have access to them through Mr. Melnyk.
- 26) The warehouse also contains various expired inventory and raw materials, along with some TBI glass wear, which is likely to have negligible value. The Trustee has requested Mr. Melnyk to provide details of where the Company's brewing equipment is located.

CREDITORS

Deemed Trust Claims and Secured Creditors

Bank of Montreal

- 27) The Company's first ranking secured creditor is Bank of Montreal ("**BMO**"). BMO is owed \$736,318 including accrued interest as of the Date of Bankruptcy. BMO's debt is secured by way of a General Security Agreement dated November 12, 2014 (the "**Security**") granting security in all of the present and after-acquired real and personal property of Fireweed.
- 28) Fireweed provided a joint and several guarantee of the indebtedness of Jayca to BMO dated November 12, 2014. Jayca is indebted to BMO in the amount of \$959,645 as of the Date of Bankruptcy. Accordingly, BMO has a total secured claim as against Fireweed of \$1,695,963. Note that BMO has confirmed that the amount shown on the Statement of Affairs (\$2,432,164) was incorrect, and the actual amount owing is \$1,695,963.
- 29) The Trustee has retained independent legal counsel, Owen Bird Law Corporation, to perform an independent review of BMO's Security. The Trustee's legal counsel has advised that BMO's Security is valid and enforceable as against the estate and ranks in priority to the unsecured creditors of the estate.

CRA Claims

- 30) On January 19, 2021, Canada Revenue Agency ("**CRA**") wrote to the Company to confirm the current balances owing to CRA. The balances owing include:
 - a) Employee payroll source deductions of \$46,517;
 - b) Goods and services tax ("**GST**") of \$109,006;

- c) Corporation tax of \$49,547; and
 - d) Excise duty of \$265,621.
- 31) As of the date of this Report, the Trustee has not yet received a proof of claim from CRA. Any claim in respect of the employee portion of payroll source deductions is expected to rank as a deemed trust claim against the estate, which would give CRA priority over all assets of the estate, ahead of any other security interests or creditor claims.
- 32) The GST arrears have been certified and the debt registered with the Personal Property Registry of BC on January 2, 2020.

Provincial Government

- 33) On February 7, 2017, the BC Provincial Government registered a tax lien on the Company's present and after-acquired personal property in respect of outstanding Provincial Sales Tax ("**PST**"). As shown in the Statement of Affairs, the Company's records indicate PST outstanding in the amount of \$8,534 as of the Date of Bankruptcy.

Vendor Take-Back Financing

- 34) The Trustee understands that approximately \$3.4 million is owing to Raw Energy Ltd., Robert Maitland, and Ronald Kistic (the "**VTB Creditors**") in respect of deferred consideration owing pursuant to a vendor take-back note for the sale of the equity of the Company to Mr. Melnyk in 2015.
- 35) On November 5, 2014, the VTB Creditors registered a security interest in the Personal Property Registry BC in respect of all of the present and after acquired personal property (other than consumer goods) of Fireweed.

Western Craft Alliance and 49th Parallel Group Inc.

- 36) Mr Melnyk has advised that Western Craft Alliance and 49th Parallel Group Inc. are owed approximately \$5,000, however, these creditors registered a writ of enforcement against the Company in the Personal Property Registry AB in the amount of \$35,209 on November 14, 2019.

Dams Lease Ltd. and Canadian Western Bank

- 37) Dams Lease Ltd. and Canadian Western Bank have registered a purchase money security interest in a 2019 Ford Ranger truck. Mr. Melnyk has advised the Trustee that he has recently transferred the lease liability and truck to himself personally. The Trustee has requested that Mr. Melnyk provide documentation confirming this transfer and details of the lease and amount remaining to be paid so it can be determined if there is any equity in the vehicle to the benefit of the estate. Mr. Melnyk has not provided any documentation to date.

Unsecured Creditors

- 38) Other than the unsecured portions of any secured indebtedness owing to the secured creditors notes above, the Statement of Affairs indicates additional unsecured creditors with claims totaling approximately \$82,449.

- 39) The amounts owing to unsecured creditors will be determined based on proofs of claim filed and admitted by the Trustee.

Provable Claims

- 40) At the time of finalizing this Report, proofs of claim have been filed by one unsecured creditor totaling approximately \$697,053. This claim relates to the unsecured portion of BMO's debt, and assumes that BMO holds assets of the Company with an estimated value of \$1,000,000 as security.
- 41) Mr. Melnyk has advised that the Company's former employees were paid all amounts owing in respect of wages and vacation pay and believes that there are no amounts of termination/severance pay owing.

LEGAL PROCEEDINGS, REVIEWABLE TRANSACTIONS AND PREFERENCE PAYMENTS

- 42) Based on documents provided by Big Rock, the Trustee notes that certain sales revenues were paid by BC Liquor Distribution Board to Fireweed directly, when the amounts were in fact supposed to be paid to Big Rock, pursuant to the terms of the License Agreement.
- 43) In total, approximately \$595,509 was paid in error to Fireweed during the period August 23, 2018 to May 30, 2019, and approximately \$520,017 remains outstanding and owing to Big Rock, plus accrued interest. Big Rock has set-off these amounts plus accrued interest against License Fees owing by Big Rock to Fireweed pursuant to the License Agreement and Manufacturing Agreements.
- 44) The Trustee has requested an accounting from Mr. Melnyk for the proceeds received by Fireweed from BC Liquor Distribution Board. Mr. Melnyk has advised that the proceeds were used to fund debt payments to BMO and Business Development Bank of Canada, in addition to making vendor payments.
- 45) The Trustee understands that Mr. Melnyk sold a 2006 Mini Cooper around one year ago for approximately \$1,000. Mr Melnyk has advised that the funds were used to pay accounting fees.
- 46) At the time of this Report, the Trustee is not aware of any legal proceedings against the Company other than enforcement action taken by certain of the secured creditors already noted in this Report.

AGENCY AGREEMENT WITH BMO

- 47) The Trustee has entered into an Agency Agreement with BMO pursuant to which BMO has appointed Deloitte Restructuring Inc. to act as its agent to attend to the realization of BMO's secured collateral.
- 48) Pursuant to section 13.4(1.1) of the BIA, the Trustee advises that:
- a) The Trustee is acting for the secured creditor, BMO;
 - b) The Trustee will be remunerated based on the amount of professional time required and its discounted hourly billing rates, which vary depending upon the

experience level of the professionals involved, plus applicable taxes. Out-of-pocket expenses (travel, meals and accommodation) will be billed at cost, as incurred; and

- c) The Trustee's independent legal counsel has advised that the Security held by BMO is valid and enforceable as against the estate.

THIRD PARTY DEPOSITS AND GUARANTEES

- 49) Pursuant to the Agency Agreement, BMO has provided a limited guarantee of the fees of the Trustee.
- 50) The Trustee has not obtained any third party deposits to support its fees.

ANTICIPATED REALIZATION AND PROJECTED DISTRIBUTION

- 51) In summary, the Statement of Affairs shows assets with a total net realizable value of approximately \$545,000 before costs of realization.
- 52) The Trustee is not aware of any unencumbered assets of the Company available to the unsecured creditors.
- 53) Due to the quantum of priority claims and debts owing to secured creditors, there does not appear to be sufficient value in the Company's assets to provide for any recovery to the unsecured creditors.

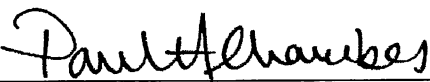
OTHER MATTERS

- 54) Further information and materials regarding these proceedings may be obtained from the Trustee's website at:
<http://www.insolvencies.deloitte.ca/en-ca/Pages/Fireweed-Brewing-Corp.aspx>.
- 55) This Report will also be posted to the Trustee's website after it has been filed with the Court.

Dated at Vancouver, this 29th day of April, 2021.

DELOITTE RESTRUCTURING INC.

In its capacity as Trustee in Bankruptcy of
Fireweed Brewing Corp. and not in its personal capacity

Per: 
Paul Chambers, FCA(UK), CIRP, LIT
Senior Vice President

Appendix "B"

**Purchase and sale agreement for the Fireweed IP
dated September 3, 2021**

**ASSET PURCHASE AGREEMENT BETWEEN DELOITTE RESTRUCTURING INC. IN ITS
CAPACITY AS THE RECEIVER OF FIREWEED BREWING CORP. AND BIG ROCK
BREWERY LIMITED PARTNERSHIP, BY ITS GENERAL PARTNER, BIG ROCK BREWERY
OPERATIONS CORP.**

THIS AGREEMENT is made as of the 3rd day of September, 2021,

BETWEEN:

Deloitte Restructuring Inc., in its capacity as the court appointed receiver of Fireweed Brewing Corp., and not in its personal or corporate capacity, having an office at 939 Granville Street, Vancouver, B.C.

(the "**Vendor**")

AND:

Big Rock Brewery Limited Partnership, a limited partnership formed pursuant to the laws of Alberta

(the "**Purchaser**")

WHEREAS:

- A. On or about November 12, 2014, Fireweed Brewing Corp. ("**Fireweed**") entered into a loan transaction with Bank of Montreal whereby, among other things, Fireweed entered into a general security agreement whereby it granted a security interest (the "**Security Interest**") to Bank of Montreal over all of Fireweed's present and after acquired personal property.
- B. Fireweed is the owner of certain intellectual property (the "**Purchased IP**") as more fully defined below), which is subject to the Security Interest.
- C. Pursuant to a certain license agreement dated as of October 17, 2018, the Purchased IP was licensed to the Purchaser, pursuant to which the Purchaser was entitled to the full use and enjoyment of the Purchased IP until December 31, 2024.
- D. Fireweed made an assignment in bankruptcy with the Office of the Superintendent of Bankruptcy on April 12, 2021 and Deloitte Restructuring Inc. was, subject to confirmation by Fireweed's creditors, appointed Fireweed's trustee in bankruptcy.
- E. Pursuant to the application of Bank of Montreal, as the holder of the Security Interest, and the resulting order of the Court on _____, 2021, Deloitte Restructuring Inc. was appointed as the receiver and manager of Fireweed in respect of the property of Fireweed that is subject to the Security Interest (the "**Receiver**").

- F. The Purchaser has offered to purchase the Purchased IP on the terms and conditions contained herein, and its willingness to pay the Purchase Price is contingent upon the Vendor applying for and obtaining a vesting order in favour of the Purchaser.
- G. The Vendor has agreed to sell and the Purchaser has agreed to purchase all of Fireweed's right, title and interest in and to the Purchased IP on the terms and subject to the conditions of this Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises and the covenants, agreements, representations, warranties and payments contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree with the others as follows:

ARTICLE 1 **INTERPRETATION**

1.1 Definitions

In this Agreement, the following defined terms shall have the meanings ascribed below:

"**AB Contract Manufacturing Agreement**" means the Contract Manufacturing Agreement (AB Operations) dated October 17, 2018 between the Purchaser and Fireweed.

"**Agreement**" means this Purchase Agreement and the Schedules attached hereto.

"**Applicable Law**" means, in relation to any Person, transaction or event, all applicable provisions of laws, statutes, rules, regulations, official directives and orders of all federal, provincial, municipal and local governmental bodies (whether administrative, legislative, executive or otherwise) and judgments, orders and decrees of all courts, arbitrators, commissions or bodies exercising similar functions in actions or proceedings in which the Person in question is a Party, by which it is bound or having application to the transaction or event in question.

"**Assignment of Trademarks**" means the assignment agreement to be executed at Closing, which agreement shall be substantially in the form attached hereto as Schedule "C".

"**BC Contract Manufacturing Agreement**" means the Contract Manufacturing Agreement (BC Operations) dated October 17, 2018 between the Purchaser and Fireweed.

"**Business Day**" means any day other than a Saturday, Sunday or a day on which banks are not open for business in Vancouver, British Columbia or Calgary, Alberta.

"**Claim**" means any right, complaint, proceeding, action, suit or claim of any Person, including, as the context requires, any administrative, arbitral, regulatory or judicial proceedings, actions or suits, demands, demand letters, liens, notices of non-compliance or violation or investigations.

"**Closing**" or "**Close**" means the completion of the Transaction.

"**Closing Date**" means the fifth (5th) Business Day following the granting of the Vesting Order.

"**Court**" means the Supreme Court of British Columbia.

"**Deposit**" has the meaning ascribed thereto in Section 2.2(a)(i) herein.

"Encumbrances" means all mortgages, pledges, charges, liens, debentures, trust deeds, Claims, assignments by way of security or otherwise, security interests, conditional sales contracts or other title retention agreements, security created under the *Bank Act* (Canada), rights of first refusal, or similar interests or instruments charging or creating a security interest in the Purchased IP or any part thereof or interest therein, and any agreements, leases, licenses, options, restrictions, executions, or other encumbrances (including notices or other registrations in respect of any of the foregoing) affecting title to the Purchased IP or any part thereof or interest therein.

"Governmental Entity" means: (a) any international, multinational, national, federal, provincial, state, municipal, local or other governmental or public department, central bank, court, commission, board, bureau, agency or instrumentality, domestic or foreign; (b) any subdivision or authority of any of the above; (c) any quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of the above; and (d) any stock exchange.

"GST" means the goods and services tax and harmonized sales tax levied under Part IX of the *Excise Tax Act* (Canada).

"Intellectual Property Rights" means any right or protection existing from time to time in a specific jurisdiction, whether registered or not, under any patent law or other invention or discovery law, copyright law, performance or moral rights law, trade-secret law, confidential information law (including breach of confidence), trade-mark law, passing off, or other similar laws, and includes legislation by competent governmental authorities and judicial decisions under common law or equity, and for greater certainty includes the right to file any applications, and the right to claim for the same the priority rights derived from any applications filed under any treaty, convention, or any domestic laws of a country in which a prior application is filed.

"License Agreement" means the License Agreement dated October 17, 2018 between the Purchaser and Fireweed.

"October 2018 Letter Agreement" means the Letter Agreement dated October 17, 2018 between Fireweed and the Purchaser.

"Outside Date" means September 15, 2021 or such other date as agreed to by the Parties in writing.

"Packaging" means the packaging for any beverages, including malt-based products and cider products that have been created, developed, manufactured, marketed and/or sold by or on behalf of Fireweed, which, prior to the Closing Date, was licensed to Purchaser under the License Agreement.

"Parties" means the Purchaser and the Vendor, collectively, and **"Party"** means either one of them as the context requires.

"Person" means an individual, corporation, body corporate, company, partnership, limited partnership, limited liability corporation or company, joint venture, association, trust or any trustee, executor, administrator or other legal representative.

"PST" means all provincial sales taxes payable under the relevant sales tax legislation of British Columbia.

"Purchase Price" has the meaning ascribed thereto in Section 2.2.

"Purchased IP" means all Intellectual Property Rights owned, created, conceived, developed or otherwise acquired by Fireweed at any time prior to the Closing Date, licensed to Fireweed, or used in the operation, conduct or maintenance of Fireweed's business, as it is currently and has historically been operated, conducted or maintained, together with: (a) all goodwill associated therewith; (b) all applications, registrations and renewals in connection therewith; (c) all rights of registration, maintenance, renewal and protection thereof; and (d) all rights of recovery and of legal action for past infringements and of opposition and/or cancellation proceedings associated with the Purchased IP. For the avoidance of doubt, the Purchased IP shall include, the Trademarks, Recipes, Packaging, and the rights to the domains shaftebury.com and treebeer.com.

"Purchaser" has the meaning ascribed thereto in the Recitals.

"Receiver" has the meaning ascribed thereto in the Recitals.

"Recipes" means the recipes for any beverages, including malt-based products and cider products that have been created, developed, manufactured, marketed and/or sold by or on behalf of Fireweed, which, prior to the Closing Date, was licensed to Purchaser under the License Agreement.

"Recitals" means the introduction and recitals to this Agreement.

"Schedule" means a schedule attached to this Agreement, as amended from time to time.

"September 2019 Letter Agreement" means the Letter Agreement dated September 11, 2019 between Fireweed and the Purchaser.

"Survival Period" means, with respect to:

- (a) any breach of a representation or warranty involving fraud or fraudulent misrepresentation, indefinitely following the Closing; and
- (b) with respect to all other representations and warranties of a Party set forth in Article 4, one year following the Closing Date.

"Trademarks" means the trademarks listed in Schedule "A", together with any other trademark registrations or common law trademark rights owned by or on behalf of Fireweed, as applicable.

"Transaction" means the purchase of the Purchased IP by the Purchaser as contemplated by this Agreement.

"Vendor" has the meaning ascribed thereto in the Recitals.

"Vesting Order" means an order of the Court approving the Transaction in accordance with the provisions of this Agreement, and vesting all of the Vendor's interest in and to the Purchased IP in the Purchaser free and clear of all Claims, Encumbrances and interests, such order to be substantially in the form attached hereto as Schedule "B" together with such modifications and amendments to such form as may be approved by both the Vendor and the Purchaser, acting reasonably.

1.2 Interpretation

In this Agreement, unless the context otherwise requires:

- (a) where this Agreement requires or contemplates that the Parties or any of them expend efforts (including by negotiating with each other in the creation of further documents and agreements) in furtherance of the objects and intent of this Agreement, the Parties shall engage in such efforts in a diligent, timely and bona fide manner with the intent to further such objects in a manner that is consistent with the terms, and the spirit and intent of this Agreement;
- (b) words importing the singular number include the plural and vice versa and words importing gender include all genders;
- (c) reference to any Person includes any successor or assign of such Person that is permitted under this Agreement, and reference to any Governmental Entity includes any successor to or replacement of such Governmental Entity;
- (d) if a term is defined in this Agreement, a derivative of that term shall have the corresponding meaning;
- (e) all dollar amounts referred to in this Agreement are stated in Canadian Dollars;
- (f) reference to a Person in a particular capacity excludes such Person in any other capacity;
- (g) unless otherwise provided herein, reference to any agreement, document or instrument means such agreement, document or instrument as amended, restated or modified and in effect from time to time pursuant to the terms thereof;
- (h) reference to any Applicable Law means such Applicable Law as amended, modified, codified, replaced or re-enacted, in whole or in part, and in effect from time to time, including rules and Applicable Laws promulgated thereunder, and reference to any section or other provision of any Applicable Law means that provision of such Applicable Law from time to time in effect and constituting the substantive amendment, modification, codification, replacement or re-enactment of such section or other provision;
- (i) "Agreement", "this Agreement", "herein", "hereby", "hereunder", "hereof", "hereto" and words of similar import are references to the whole of this Agreement in which they are used and not, unless a particular Section or other part thereof is referred to, to any particular Section or other part;
- (j) references to an Article or Section by number or letter, or both, refer to this Agreement;
- (k) "including" means including without limiting the generality of any description preceding or succeeding such term;
- (l) in the computation of periods of time from a specified date to a later specified date, unless otherwise expressly stated, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding"; and
- (m) where any action is to be taken on or as of a day that is not a Business Day, that action is to be taken on or as of the next following Business Day.

1.3 Headings

The division of this Agreement into Articles and Sections and the insertion of headings used throughout this Agreement are solely for convenience of reference and are not to be used as an aid in the interpretation of this Agreement. The words "Article" or "Section" followed by a number or a letter means or refers to the specified Article or Section of this Agreement.

1.4 Interpretation Not Affected by Party Drafting

The Parties acknowledge that their respective legal counsel have participated in settling or have reviewed the terms of this Agreement, and the Parties hereby agree that any rule of construction to the effect that any ambiguity is to be resolved against the drafting party will not be applicable in the interpretation of this Agreement.

1.5 Recitals

The Parties hereto agree that the Recitals are correct and are incorporated into this Agreement.

1.6 Schedules

The following Schedule is incorporated into and forms a part of this Agreement:

Schedule "A" – Trademarks

Schedule "B" – Form of Vesting Order

Schedule "C" – Form of Assignment of Trademarks

ARTICLE 2 **PURCHASE AND SALE**

2.1 Purchase and Sale

Upon the terms and subject to the conditions of this Agreement, the Vendor hereby agrees to sell, assign, transfer, convey and set over to the Purchaser, and the Purchaser hereby agrees to purchase, accept and receive from the Vendor, the entire right, title and interest, of Fireweed and/or the Vendor, as applicable, in and to the Purchased IP.

2.2 Purchase Price and Allocation

- (a) The aggregate purchase price to be paid by the Purchaser for the Purchased IP is \$500,000.00 (the "**Purchase Price**"), plus any applicable GST and PST pursuant to Section 2.4. The Purchase Price will be paid by the Purchaser to the Vendor as follows:
 - (i) the Purchaser shall pay to the Vendor, within two (2) Business Days of the execution of this Agreement, a deposit of fifty thousand dollars (\$50,000.00) (the "**Deposit**") to be held in trust by the Vendor and held and administered in accordance with Section 2.3 and the terms and conditions of this Agreement;
 - (ii) at Closing, the Purchaser shall pay to the Vendor the balance of the Purchase Price.

- (b) The Purchase Price shall be allocated as follows:
 - (i) for the Purchased IP (excluding goodwill), \$499,999.00;
 - (ii) for the goodwill associated with the Purchased IP, \$1.00.

2.3 Deposit

The Deposit shall not be held in an interest bearing account and shall be held by Vendor subject to the following conditions:

- (a) if the Transaction closes, the Deposit shall form a part of the Purchase Price then due and owing to the Vendor by the Purchaser;
- (b) if the condition set out in Section 3.2 is satisfied, but the Purchaser does not close the Transaction in breach of this Agreement, the Deposit will be absolutely forfeited to the Vendor as liquidated damages without prejudice to any other right or remedy of the Vendor; or
- (c) if the condition set out in Section 3.2 is not satisfied prior to the Outside Date, or, if satisfied, the Transaction does not close for any reason other than as set out in Section 2.3(b), the Vendor shall return the Deposit to the Purchaser, without interest, without prejudice to any other right or remedy of the Purchaser.

2.4 GST and Other Sales Taxes

- (a) The Purchase Price does not include GST and applicable PST and the Vendor and Purchaser agree that no amount will be paid by the Purchaser to the Vendor at Closing on account of GST and no amount will be collected by the Vendor from the Purchaser on account of GST.
- (b) The Vendor and the Purchaser represent and warrant to the other that it is a GST registrant and will continue to be a registrant as of the time of Closing for the purposes of Part IX of the *Excise Tax Act*.
- (c) If it is determined that any GST or PST is payable in respect of the Transaction, the Purchaser acknowledges and agrees that it is responsible for and shall pay all applicable GST and PST pertaining to the Transaction and any applicable GST and PST payable in respect of the Transaction shall be remitted directly to the applicable Governmental Entity by the Purchaser.

2.5 Adjustments

The Parties agree that the Purchaser shall be responsible for 50% of the Vendor's reasonable legal fees and expenses incurred in respect of the Transaction, including in respect of any Court applications (the "**Legal Fees**") up to a maximum total of \$20,000.00 such that the Purchaser's maximum liability for the Legal Fees shall be \$10,000.00. Two Business Days prior to Closing, the Vendor shall provide the Purchaser with a copy of an invoice setting forth the Legal Fees and the

Purchaser shall pay its share at Closing in addition to the balance of the Purchase Price payable pursuant to Section 3.4(b)(i).

2.6 Form of Payment

All payments to be made pursuant to this Agreement shall be made by way of electronic funds transfer, bank draft, certified cheque or wire transfer.

ARTICLE 3 CLOSING AND CONDITION

3.1 Closing

Subject to and in accordance with the terms of this Agreement, including the satisfaction of the condition in Section 3.2 and delivery by the Parties of the items set forth in Section 3.4, Closing will take place on the Closing Date by means of an electronic closing in which the documentation required to effect the Transaction will be delivered by electronic mail exchange of signature pages in PDF or functionally equivalent electronic format, which delivery will be effective without any further physical exchange of the originals or copies of the originals. Beneficial ownership, risk and possession of the Purchased IP shall pass from the Vendor to the Purchaser upon Closing.

3.2 Condition to Closing

The obligation of the Purchaser to complete the Transaction is conditional upon the Vendor obtaining the Vesting Order granted by the Court on or before the Outside Date.

3.3 Grounds for Termination

- (a) This Agreement may be terminated at any time prior to Closing:
 - (i) by a Party, upon written notice to the other Party, any time after the Outside Date if (A) the Vesting Order has not been obtained; or (B) Closing has not occurred within thirty (30) days of the Outside Date and such failure to close was not caused by or as a result of the terminating Party's breach of this Agreement; or
 - (ii) by written agreement of the Vendor and the Purchaser.
- (b) Notwithstanding any termination of this Agreement as permitted under Section 3.3(a) or as otherwise provided in this Agreement, the Deposit shall be governed by Section 2.3 which section shall remain in full force and effect following any such permitted termination.

3.4 Closing Deliveries

- (a) The Vendor shall deliver (or cause to be delivered) to the Purchaser on the Closing Date:
 - (i) a Court certified copy of the Vesting Order, provided that, if the Vendor has applied for a Court certified copy of the Vesting Order, but has not received from the Court a copy thereof, the Vendor shall deliver a regular

copy of the Vesting Order at Closing and shall deliver the Court certified copy of the Vesting Order to the Purchaser forthwith upon receipt;

- (ii) the Receiver's Certificate substantially in the form set out in the Vesting Order, duly executed by the Vendor;
 - (iii) a certificate of the Vendor certifying that all representations and warranties of the Vendor contained in Section 4.1 are true and correct in all material respects as of the Closing Date with the same force and effect as if made at and as of such time;
 - (iv) the Assignment of Trademarks, duly executed by the Vendor;
 - (v) a receipt for the Purchase Price; and
 - (vi) any other deeds, conveyances, assurances, transfers, assignments, instruments, documents, resolutions and certificates as are referred to in this Agreement or as the Purchaser may reasonably require to give effect to this Agreement.
- (b) The Purchaser shall deliver (or cause to be delivered) to the Vendor on the Closing Date:
- (i) the balance of the Purchase Price in the manner set out in Section 2.5;
 - (ii) a certificate of the Purchaser certifying that all representations and warranties of the Purchaser contained in Section 4.2 are true and correct in all material respects as of the Closing Date with the same force and effect as if made at and as of such time;
 - (iii) the Assignment of Trademarks, duly executed by the Purchaser; and
 - (iv) any other deeds, conveyances, assurances, transfers, assignments, instruments, documents, resolutions and certificates as are referred to in this Agreement or as the Vendor may reasonably require to give effect to this Agreement.

3.5 Termination of Prior Agreements

Provided Closing occurs, the Vendor and the Purchaser agree that the:

- (a) License Agreement;
- (b) AB Contract Manufacturing Agreement;
- (c) BC Contract Manufacturing Agreement;
- (d) October 2018 Letter Agreement; and
- (e) September 2019 Letter Agreement

shall terminate effective as of the Closing Date without any further obligation to either the Purchaser or Vendor.

ARTICLE 4
REPRESENTATIONS AND WARRANTIES

4.1 Representations and Warranties of the Vendor

The Purchaser acknowledges that it is acquiring the Purchased IP on an "as is, where is" basis, and unconditionally acknowledges and agrees that the Vendor has not made any term, condition, representation, warranty or covenant express or implied with regard to the Purchased IP, other than in this Section 4.1. The Purchaser further acknowledges that it has entered into this Agreement on the basis that the Vendor does not guarantee title to the Purchased IP and that the Purchaser has conducted or will have conducted such inspections of the status of and title to the Purchased IP as it deems appropriate and has satisfied itself with regard to these matters.

The Vendor makes no representations and warranties to the Purchaser other than the following, and acknowledges that the Purchaser is relying on such representations and warranties in entering into this Agreement and in connection with the completion of the Transaction:

- (a) the Vendor is duly organized, valid and subsisting, and registered to carry on business in British Columbia and pursuant to its appointment as the Receiver has been appointed as receiver and manager of the Purchased IP and such appointment is valid and subsisting and has not been varied or amended;
- (b) this Agreement has been duly executed and delivered by the Vendor and constitutes a legal, valid and binding obligation of the Vendor enforceable against it in accordance with the terms of this Agreement;
- (c) subject to the Vesting Order being granted, the Vendor has the power, authority and capacity to enter into this Agreement and to complete the transactions contemplated therein, subject to the terms of this Agreement;
- (d) the Purchaser will not be liable for any brokerage commission, finder's fee or other similar payment in connection with the Transaction because of any action taken by, or agreement or understanding reached by the Vendor;
- (e) the Vendor has the authority to sell Fireweed's entire right, title and interest in and to the Purchased IP; and
- (f) since its appointment as the trustee in bankruptcy of Fireweed and its appointment as Receiver of Fireweed, the Vendor has not previously sold, transferred or assigned any of Fireweed's right, title and interest in and to the Purchased IP.

4.2 Representations and Warranties by the Purchaser

The Purchaser hereby represents and warrants to the Vendor, and acknowledges that the Vendor is relying on such representations and warranties in entering into this Agreement and in connection with the completion of the Transaction:

- (a) the Purchaser is duly organized, valid and subsisting, and registered to carry on business in Alberta and British Columbia;

- (b) the Purchaser has the requisite corporate capacity, power and authority to execute this Agreement and the other agreements, documents and instruments required to be delivered hereby and to perform the obligations to which it becomes subject thereby;
- (c) this Agreement has been duly executed and delivered by the Purchaser and constitutes a legal, valid and binding obligation of the Purchaser enforceable against it in accordance with the terms hereof;
- (d) the consummation of the Transaction will not violate, or be in conflict with, any of the constating documents, by-laws or governing documents of the Purchaser, any resolution of the directors or shareholders of the Purchaser, any judgment, decree, order, law, statute, rule or regulation applicable to the Purchaser or any contract to which the Purchaser is a party;
- (e) there are no existing, pending or (to the Purchaser's knowledge) threatened Claims against the Purchaser which might reasonably be expected to adversely affect its ability to complete the Transaction; and
- (f) the Purchaser is not a non-resident of Canada for the purposes of the *Income Tax Act* (Canada).

4.3 Survival of Representations and Warranties

The representations and warranties in this Article 4 shall be true and correct as of the date hereof and as the Closing Date (which the Vendor and the Purchaser shall certify in a certificate provided pursuant to Sections 3.4(a)(iii) and 3.4(b)(ii) respectively), and shall continue in full force and effect and shall survive Closing for the Survival Period for the benefit of the applicable Party.

ARTICLE 5 **FURTHER ASSURANCES**

5.1 Further Assurances

- (a) The Vendor shall provide all reasonable assistance as requested by the Purchaser to facilitate any regulatory or other requirements to transfer the Purchased IP to the Purchaser, including assisting with any transfer requirements established by the BCLDB and the AGLC.
- (b) Without limiting section 5.1(a), upon Closing there shall be an actual or deemed transfer by the Vendor to the Purchaser of Fireweed's legal and beneficial title to, and property in, the Purchased IP as of the Closing Date. Each of the Parties agrees to execute and deliver all such other and additional instruments and documents and to do such other acts and things as may be reasonably necessary and appropriate from time to time to carry out the terms and intent of this Agreement.
- (c) Nothing in this Section 5.1 shall create any obligation on the part of the Vendor to take any action after the date that is 30 days after the Closing Date unless not less than three (3) Business Days prior to that date, the Purchaser delivers written notice to the Vendor of the reasonable specific actions it requires the Vendor to take and provided that the costs associated therewith (including but not limited to the expenses and hourly charges of the

Vendor and its counsel in connection with the ongoing appointment of the Vendor as Receiver, and all applicable taxes) shall be the obligation of the Purchaser and the Purchaser agrees to pay such costs within ten (10) Business Days following delivery by the Vendor to the Purchaser of an invoice itemizing such costs.

ARTICLE 6
PRESS RELEASE

6.1 Press Release

The Purchaser shall be entitled to issue a news release disclosing the material terms hereof to the extent required by Applicable Law, or in order to comply with any disclosure requirements under securities or stock exchange rules.

ARTICLE 7
NOTICES

7.1 Notices

Any notice, direction, certificate, consent, determination or other communication required or permitted to be given or made under this Agreement shall be in writing and shall be sufficiently given if delivered by hand, by electronic communication, by prepaid courier service or by certified or registered mail, postage prepaid and return receipt requested, to the other Party at their addresses set forth below:

(a) if to the Purchaser:

BIG ROCK BREWERY LIMITED PARTNERSHIP
5555 – 76 Avenue SE
Calgary, Alberta T2C 4L8
Email: warsenault@bigrockbeer.com

(b) if to the Vendor

DELOITTE RESTRUCTURING INC.
939 Granville St.
Vancouver, BC V6Z 1L3
Email: pachambers@deloitte.ca

or to such other address as such Party may hereafter designate by notice in writing from time to time. Any communication so given or made shall be deemed to have been given or made and to have been received on the day of delivery if delivered, or on the day of e-mailing or sending by other means of recorded electronic communication, provided that such day in either event is a Business Day and the communication is so delivered, e-mailed or sent during normal business hours on such day. Otherwise, such communication shall be deemed to have been given and made and to have been received on the next following Business Day. Any such communication sent by overnight courier shall be deemed to have been given and made and to have been received on the next Business Day. Any such communication given or made in any other manner shall be deemed

to have been given or made and to have been received only upon actual receipt. Any party may from time to time change its address under this Section by notice to the other party given in the manner provided by this Article 7.

ARTICLE 8
MISCELLANEOUS

8.1 Entire Agreement

This Agreement, when executed, constitutes the entire agreement between the Parties regarding the matters expressly provided herein, and supersedes in its entirety all prior agreements and discussions between the Parties regarding the Transaction, whether written or oral, including the Letter of Intent accepted by Fireweed on June 22, 2020, which will have no effect, and the Parties expressly waive the right to base its stand on any such agreements, letter of intent or previous discussions, including the interpretation of this Agreement.

8.2 Amendment or Waiver

Except as otherwise expressly permitted or specified herein, this Agreement will not be amended except by written agreement that is signed by the authorized signing representatives of each of the Parties. No waiver of any obligation or any breach of any provision of this Agreement will be effective or binding unless made in writing and signed by the Party purporting to give the same and, unless otherwise provided, will be limited to the specific obligation or breach waived.

8.3 Severability

If any provision of this Agreement is determined by an arbitrator or any court of competent jurisdiction to be illegal or unenforceable, that provision will be severed from this Agreement and the remaining provisions will continue in full force and effect so long as the economic or legal substance of the Transaction is not affected in any manner materially adverse to the Parties.

8.4 Benefit of the Agreement

This Agreement shall be binding upon and enure to the benefit of the Parties, and their successors and permitted assigns.

8.5 Governing Law

This Agreement shall, in all respects, be subject to and interpreted, construed and enforced in accordance with the laws of the Province of British Columbia and the federal laws of Canada applicable therein, without regard to its conflicts of laws principles. Each Party attorns to and accepts the jurisdiction of the courts of the Province of British Columbia or the federal courts of Canada, as applicable.

[Signature Page Follows.]

8.6 Counterparts

This Agreement may be signed in counterparts and each such counterpart will constitute an original document and such counterparts, taken together, will constitute one and the same instrument. A counterpart may be delivered by facsimile, email or any other form of electronic transmission.

AS EVIDENCE OF THEIR AGREEMENT the parties have executed this Agreement as of the day and year first above written.

DELOITTE RESTRUCTURING INC., in its capacity as the court-appointed receiver of FIREWEED BREWING CORP., and not in its personal or corporate capacity




Per: _____
Authorized Signatory

BIG ROCK BREWERY LIMITED PARTNERSHIP, by its general partner, BIG ROCK BREWERY OPERATIONS CORP.



Per: _____
Authorized Signatory

**SCHEDULE "A"
TRADEMARKS**





Trademark	Application Number	Registration Number
Granfondo	1528142	TMA855869
<p>Mellow Moon & Design</p> 	1637180	TMA898688
<p>Wild Ruby & Design</p> 	1637178	TMA888097
<p>Tree Brewing & Design (Full Version)</p> 	1412608	TMA754879
<p>Kelowna Pilsner & Design</p> 	1338982	TMA742386

Trademark	Application Number	Registration Number
Thirsty Beaver	1290755	TMA691877
Vertical Winter Label Design 	1503823	TMA822821
Hophead 45 Label Design 	1462055	TMA785160
Character 8 Pack	1290750	TMA703636
Two Jack Ale & Design 	0769426	TMA486807
Captivator	1503820	TMA818760
Raspberry Porter Label Design	1412614	TMA780989






Trademark	Application Number	Registration Number
 An oval logo with a banner at the top that says "LIMITED EDITION". Inside the oval, it says "RASP BERRY" in large letters and "PORTER" below it. The words "BREWERY" and "DESIGN" are written in smaller letters along the top and bottom inner edges of the oval.		
Beer With Character For People With Character	1345758	TMA718321
Cutthroat	1290754	TMA688677
Banff Brewery & Design 	0769425	TMA485069
Spy	1347299	TMA736344
Shaftsbury Honey Pale Ale & Design 	1145338	TMA602419
Shaftsbury Hemp Ale & Design 	1145336	TMA603733

Trademark	Application Number	Registration Number
Shaftebury & Brewer Design 	0842855	TMA510984
Tree Brewing & Design 	1387089	TMA754500
Rainforest	1145328	TMA602839 - Expunged - Failure to Renew on October 3, 2019
Beach Blonde	1503819	TMA809084
Beer With Character	1412613	TMA754878
Shaftebury Four Twenty	1215314	TMA690286
Shaftebury Solstice Ale	1047652	TMA553373
Molto Bella & Design	1637179	TMA898689

Trademark	Application Number	Registration Number
 <p>TREE BREWING CO. MOLTO BELLA ESPRESSO IPA LIMITED EDITION UNPASTEURIZED - NO PRESERVATIVES <i>Brewed in Kelowna, BC</i></p>		
<p>Serendipity Label Design</p>  <p>TREE BREWING COMPANY Serendipity WHISKEY BARREL AGED BEER no. 1 UNPASTEURIZED - NO PRESERVATIVES <i>Brewed in Kelowna, BC</i></p>	1503821	TMA827699
<p>Shaftebury Rainforest Amber Ale & Design</p>  <p>SHAFTEBURY BREWING COMPANY RAINFORST AMBER ALE</p>	1145339	TMA603731
Shaftebury	0728615	TMA429712
Tree Brewing	1349138	TMA738359
Two Jack Ale	0744552	TMA472062
Knox Mountain & Design	1718623	TMA934736

Trademark	Application Number	Registration Number
		
<p data-bbox="228 558 492 590">Monkey Pod & Design</p> 	<p data-bbox="776 558 873 583">1718618</p>	<p data-bbox="1138 558 1284 583">TMA934762</p>
<p data-bbox="228 831 334 856">Hophead</p>	<p data-bbox="776 831 873 856">1290751</p>	<p data-bbox="1138 831 1284 856">TMA685689</p>
<p data-bbox="228 926 488 951">Jumpin Jack & Design</p> 	<p data-bbox="776 926 873 951">1637186</p>	<p data-bbox="1138 926 1284 951">TMA897933</p>
<p data-bbox="228 1262 602 1287">Dukes Cider Co & Label Design</p> 	<p data-bbox="776 1262 873 1287">1510071</p>	<p data-bbox="1138 1262 1284 1287">TMA820920</p>
<p data-bbox="228 1608 326 1633">Solstice</p>	<p data-bbox="776 1608 873 1633">1145327</p>	<p data-bbox="1036 1608 1393 1696">TMA602838 - Expunged – Failure to Renew on October 3, 2019</p>
<p data-bbox="228 1745 602 1801">Shaftbury Summer Solstice Ale & Design</p>	<p data-bbox="776 1745 873 1770">1145326</p>	<p data-bbox="1138 1745 1284 1770">TMA625753</p>

Trademark	Application Number	Registration Number
 <p>The logo for Shaftebury Solstice Ale features a circular emblem with a figure holding a staff, surrounded by the text 'SHAFTEBURY BREWING COMPANY' and 'SOLSTICE ALE'.</p>		
<p>Shaftebury 420</p>	<p>1208054</p>	<p>TMA705800</p>
<p>Beach Blonde Label Design</p>  <p>The logo for Beach Blonde Lager is an oval emblem with a central figure and the text 'BEACH BLONDE LAGER'.</p>	<p>1504151</p>	<p>TMA828543</p>
<p>HopHead & Design</p>  <p>The logo for HopHead VPA features the word 'HOPHEAD' in a stylized, blocky font with 'VPA' below it.</p>	<p>1718621</p>	<p>TMA934740</p>
<p>Shaftebury Summer Solstice Ale</p>	<p>1047640</p>	<p>TMA559066</p>
<p>Shaftebury Foggy Ale</p>	<p>1044889</p>	<p>TMA553371</p>
<p>Spiced Reserve Label Design</p>  <p>The logo for Spiced Reserve Ale is an oval emblem with the text 'SPICED RESERVE ALE' and 'SHAFTEBURY BREWING COMPANY'.</p>	<p>1503822</p>	<p>TMA818577</p>
<p>Tree Brewing & Design (Stacked Version)</p>	<p>1412612</p>	<p>TMA754880</p>

Trademark	Application Number	Registration Number
		
Cougar	1290749	TMA685690
Shaftebury Cream Ale & Design 	1145337	TMA602240
Shaftebury Winter Solstice Ale & Design 	1145325	TMA604674
Two Jack Ale & Design 	0769426	TMA486807
Banff Brewery & Design 	0769425	TMA485069
Two Jack Ale	0744552	TMA472062

Trademark	Application Number	Registration Number
	n/a	n/a
	n/a	n/a
Season Pass 12 cans	n/a	n/a
Season Pass 8 pack	n/a	n/a
Hammock Time	n/a	n/a
Honey Pilsner	n/a	n/a
Day Trippin Copper Ale	n/a	n/a
Pedal Head Pale Ale	n/a	n/a
SUP Session Ale	n/a	n/a
Road Rash Kolsch	n/a	n/a
Rail Trail Common Ale	n/a	n/a
Mulligan Lager	n/a	n/a
Puck Drop Pilsner	n/a	n/a

Trademark	Application Number	Registration Number
Yard Sale Pale Ale	n/a	n/a
BlueBird Lager	n/a	n/a
Trestle ESB	n/a	n/a
Groove Ale	n/a	n/a
MadCap Belgian White Ale	n/a	n/a

SCHEDULE "B"
FORM OF VESTING ORDER

See attached.

SCHEDULE "C"
FORM OF ASSIGNMENT OF TRADEMARKS

ASSIGNMENT OF TRADEMARKS

This Assignment of Trademarks (the "**Assignment**") is effective as of _____, 2021 (the "**Effective Date**"), and is made by Fireweed Brewing Corp. ("**Fireweed**"), by Deloitte Restructuring Inc. in its capacity as Fireweed's court-appointed receiver and as Fireweed's trustee in bankruptcy pursuant to the *Bankruptcy and Insolvency Act* (Canada), and not in its personal or corporate capacity (the "**Assignor**") in favour of Big Rock Brewery Limited Partnership, a limited partnership formed pursuant to the laws of Alberta, with an office located at 5555 – 76 Avenue SE, Calgary, Alberta (the "**Assignee**", and together with the Assignor, the "**Parties**").

WHEREAS, under the terms of an asset purchase agreement between the Assignor and the Assignee dated as of the Effective Date (the "**Asset Purchase Agreement**"), and pursuant to an order of the British Columbia Supreme Court dated _____, 2021, the Assignor has conveyed, transferred, and assigned to the Assignee, among other assets, Fireweed's entire right, title and interest in and to the trademark registrations listed on the attached Schedule "A" and Fireweed's common law rights relating to the same and all of Fireweed's goodwill of the business associated with those trademarks (the "**Trademarks**"), and has agreed to execute and deliver this Assignment of Trademarks, for filing with the governmental authorities including, but not limited to, the Office of the Registrar of Trademarks, Canadian Intellectual Property Office.

The Parties agree as follows:

1. **Receivership.** Deloitte Restructuring Inc. was appointed by an order of the British Columbia Supreme Court as court appointed receiver of Fireweed on _____, 2021 (the "Receivership").
2. **Assignment.** In consideration of the execution of the Asset Purchase Agreement and other good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, the Assignor hereby irrevocably sells, conveys, grants, assigns and transfers to the Assignee Fireweed's entire right, title and interest in and to the Trademarks throughout the world, as fully and entirely as the same would have been held and enjoyed by the Assignor if this assignment had not been made, together with the goodwill of the business associated with the Trademarks.
3. **Registering and Further Actions.** Assignor hereby authorizes the Office of the Registrar of Trademarks and any other governmental officials to record and register this Assignment upon request by Assignee. Assignor shall take such steps and actions following the date hereof, and provide such cooperation and assistance to Assignee and its successors, assigns, and legal representatives, including the execution and delivery of any affidavits, declarations, oaths, exhibits, assignments, powers of attorney, files, registrations or other documents, as may be necessary to effect, evidence, or perfect the assignment of the Trademarks to Assignee, or any assignee or successor thereto.
4. **Successors and Assigns.** This Assignment shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

5. **Governing Law.** This Assignment and any claim, controversy, dispute or cause of action (whether in contract, tort or otherwise) based upon, arising out of or relating to this Assignment and the transactions contemplated hereby shall be governed by, and construed in accordance with, the federal laws of Canada and the laws of the Province of British Columbia, without giving effect to any choice or conflict of laws provision or rule.
6. **Assistance.** The parties acknowledge and agree that the property which is the subject matter of the transactions contemplated by this Assignment is subject to the Receivership. Regardless, Deloitte Restructuring Inc., in its capacity as trustee, agrees to assist with the assignment of the subject matter of this Assignment if it is reasonably necessary to effect the transactions contemplated by this Assignment.
7. **Counterparts.** This Assignment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed one and the same agreement. A signed copy of this Assignment delivered by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Assignment.

IN WITNESS WHEREOF, Assignor has caused this Assignment to be executed and delivered as of the Effective Date.

Acknowledged and accepted:

DELOITTE RESTRUCTURING INC., in its capacity as the court-appointed receiver of FIREWEED BREWING CORP., and not in its personal or corporate capacity

Per:

Name:

Title:

DELOITTE RESTRUCTURING INC., in its capacity as trustee in bankruptcy of FIREWEED BREWING CORP.

Per:

Name:

Title:

**BIG ROCK BREWERY LIMITED
PARTNERSHIP, by its general partner, BIG
ROCK BREWERY OPERATIONS CORP.**

Per:

Name:
Title:

SCHEDULE "A" – TRADEMARKS

This Schedule "A" is attached to, and forms part of, the Assignment of Trademarks made by Fireweed Brewing Corp. in favour of Big Rock Brewery Limited Partnership:

Jurisdiction	Mark	Appl./Reg. #	Appl./Reg. Date
[•]	[•]	[•]	[•]
[•]	[•]	[•]	[•]
[•]	[•]	[•]	[•]