

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT
("Agreement")

BETWEEN:

NIAGARA FALLS CRAFT DISTILLERS LTD.

(hereinafter, the "**Company**")

- and -

(hereinafter, the "**Recipient**")

WHEREAS:

- A. On May 21, 2024, the Company filed a Notice of Intention to make a Proposal under the *Bankruptcy and Insolvency Act* (Canada) with the Office of the Superintendent of Bankruptcy (the "**NOI Proceeding**"). MNP Ltd. consented to act as the proposal trustee of the Company ("**Proposal Trustee**").
- B. The Company intends to bring a motion before the Ontario Superior Court of Justice (Commercial List) (the "**Court**") seeking an Order (the "**Sale Process Order**") approving a sale and investment solicitation process (the "**Sale Process**") pursuant to which, among other things, the Proposal Trustee and Company will be authorized to solicit interest for a sale of, or investment in, the Company's assets, undertakings and property (the "**Assets**").
- C. The undersigned has expressed an interest in reviewing the Confidential Information (as defined below) for the purpose of determining its potential interest in submitting an offer to purchase the Assets of the Company (the "**Permitted Purpose**"). The undersigned understands and agrees that the Proposal Trustee and Company is willing to provide it with the Confidential Information, but only on the condition that the undersigned provides the covenants, warranties and undertakings set out in this Agreement with respect to the Confidential Information.

FOR GOOD AND VALUABLE consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

- 1. "**Confidential Information**" means any and all information regarding the Company, whether delivered orally, in writing or by other medium; provided, however, that Confidential Information shall not include information which (a) is or becomes generally available to the public other than as a result of a disclosure by the undersigned or any Permitted Person (as defined below) in breach of this Agreement; (b) was in the possession of or becomes available to the undersigned or any Permitted Person on a non-confidential basis from a source that, to the knowledge of the undersigned, is not bound by a

confidentiality obligation in respect to the Confidential Information and is from a source other than the Company; or (c) is or was developed independently by the undersigned or any Permitted Person without reliance on the Confidential Information.

2. The undersigned acknowledges and agrees that the Confidential Information contains sensitive confidential business information about the Company. The undersigned acknowledges that unauthorized use or disclosure of the Confidential Information will cause substantial and irreparable damage to the Company and its stakeholders.
3. The undersigned acknowledges and agrees that the Company and the Proposal Trustee will provide the Confidential Information to it solely for the Permitted Purpose. The undersigned covenants and warrants that it and any “**Permitted Persons**” (which term shall collectively include any and all of the undersigned’s officers, professional counsel, directors, agents, employees, capital providers, consultants or other representatives or persons who the undersigned reasonably requires have access to all or some of the Confidential Information strictly to the extent necessary for the Permitted Purpose, and to whom Confidential Information is so provided by the undersigned) shall not use the Confidential Information for any purpose other than the Permitted Purpose and shall not disclose to any third party the fact that any Confidential Information has been provided to the undersigned or Permitted Persons. For greater certainty, the undersigned and the Permitted Persons shall not use the Confidential Information in carrying on their business or that of any affiliate, as defined in the *Securities Act* (Ontario), and will not disclose the Confidential Information to any other person, firm, corporation or organization without the Proposal Trustee’s prior written consent.
4. The Confidential Information shall be kept strictly confidential by the Recipient and its Permitted Persons and will not be used by the Recipient or its Permitted Persons for any other purpose other than for the Permitted Purpose.
5. For greater certainty, but without limiting its covenant and warranty to keep the Confidential Information confidential, the undersigned shall take all reasonable steps to prevent the disclosure of the Confidential Information, by ensuring that:
 - a) only Permitted Persons shall have access thereto, and they shall be instructed and required to treat the Confidential Information as confidential;
 - b) proper and secure storage is provided for all written Confidential Information or any Confidential Information which is stored on any computer or data retrieval system;
 - c) the undersigned shall not make, permit or cause to be made copies of the Confidential Information, other than for the Permitted Purpose and subject to the terms herein; and

- d) the undersigned shall not disclose to any person other than the Permitted Persons, for any reason whatsoever, the Confidential Information or any matter or discussion in respect of the Confidential Information, unless:
 - (i) disclosure is required under federal or provincial law;
 - (ii) any regulatory body having jurisdiction requires disclosure; or
 - (iii) disclosure is required to be made by the undersigned pursuant to due legal process.
- 6. In the event that the undersigned or any Permitted Person becomes legally compelled to disclose any of the Confidential Information, the undersigned shall, to the extent legally permitted, provide the Proposal Trustee and the Company with prompt written notice so that they may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement. In the event that either such protective order or other remedy is not obtained or the Proposal Trustee or the Company waive compliance (in writing) with the provisions of this Agreement, the undersigned shall provide only that portion of the Confidential Information which is legally required and shall exercise commercially reasonable efforts to obtain reliable assurance that the Confidential Information will be treated as confidential.
- 7. In addition to its other obligations under this Agreement, the Recipient and its Permitted Persons will comply with all applicable privacy laws regarding its collection, use, protection and disclosure of personal information contained in the Confidential Information.
- 8. Upon request from the Proposal Trustee or the Company, the undersigned will promptly destroy or return to the Company all Confidential Information, any copies thereof, and all notes, correspondence, documents or other records relating to the Confidential Information in the undersigned's possession. The destruction, by the undersigned, of any Confidential Information shall not affect any of its obligations hereunder.
- 9. Neither the Proposal Trustee nor the Company shall be deemed to have made any representation or warranty, whether express or implied, as to the accuracy or completeness of the Confidential Information. The undersigned agrees that neither the Proposal Trustee nor the Company will have any liability, direct or indirect, to the undersigned or any Permitted Persons relating to or resulting from the Confidential Information or the use by the undersigned of, or reliance on, the Confidential Information, errors in the Confidential Information, or omissions from the Confidential Information.
- 10. It is understood that this Agreement does not require the Proposal Trustee or the Company to enter into any further definitive agreement or to disclose any particular information to the undersigned.
- 11. It is understood that this Agreement does not grant any intellectual property rights in the Confidential Information to the undersigned and does not grant the undersigned with any

rights in or to the Confidential Information, except as specifically provided herein or the Sale Process Order.

- 12. The undersigned agrees to immediately provide the Proposal Trustee and the Company with written notice of any actual or possible breach of the terms of this Agreement or unauthorized disclosure or use of the Confidential Information.
- 13. Any notice required or permitted to be given under this Agreement shall be given in writing and shall be sent by email to the following addresses:

a) in the case of the Proposal Trustee, as follows:

MNP Ltd. in its capacity as Court-appointed Proposal Trustee of Niagara Falls Craft Distillers Ltd.

Attention: Sheldon Title
Telephone: (416) 573-5320
Email: Sheldon.title@mnp.ca

b) in the case of the Company, as follows:

Reconstruct LLP in its capacity as Counsel of Niagara Falls Craft Distillers Ltd.

Attention: Caitlin Fell
Telephone: (416) 613-8282
Email: cfell@reconllp.com

c) in the case of the undersigned, as follows:

(Name – Company or First and Last)

(Street/RR/PO Box No., Suite/Unit No.)

(City/Town) (Province)

(Postal Code)

Attention:

Telephone:

Email:

Any notice by email shall be deemed to have been received on the date the email was sent. Either the Proposal Trustee or the undersigned may change its address for service of notice or the person to whom such notice shall be directed from time to time by notice given in accordance with the foregoing.

14. The undersigned agrees that it shall not and may not assign this Agreement or any of its rights hereunder, either in whole or in part.
15. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario (and, if applicable, the federal laws of Canada) without regard to conflict of laws principles. Each of the Proposal Trustee, the Company, and the undersigned hereby irrevocably attorn to the jurisdiction of the Court in the Company's NOI Proceeding with respect to this Agreement.
16. The undersigned acknowledges that any breach of this Agreement would cause serious and irreparable damage and harm to the Company and its stakeholders, and that remedies at law would be inadequate to protect against breach of this Agreement. Therefore, the undersigned agrees in advance to the granting of injunctive relief in favour of the Proposal Trustee and/or the Company for any breach or reasonably anticipated breach of the provisions of this Agreement and to the specific enforcement of the terms of this Agreement, without proof of actual damages, in addition to any other remedy to which the Proposal Trustee and/or the Company would be entitled.
17. Any unauthorized disclosure or use of Confidential Information by Permitted Persons will be deemed to have been by the undersigned, and the undersigned will be responsible and liable for any breach of this Agreement by Permitted Persons as though it was its own.
18. This Agreement will remain in effect until the date that is one (1) year from the date that either party, by notice in writing, terminates negotiations with respect to the Sale Process (the "**Termination Date**").
19. Non-Solicitation: The undersigned agrees that it, any affiliates (as defined in the *Business Corporations Act* (Ontario)), and its Permitted Persons (together, the "**Covered Entities**") shall not, prior to the Termination Date, solicit, employ or retain or engage on a consulting or advisory basis or otherwise, any director, officer, employee or contractor of the Company, without the prior written consent of the Company; provided, that the Covered Entities shall not be precluded from hiring any person (a) who responds on his or her own volition, without any overt or tacit encouragement by the Covered Entities, to a general solicitation or advertisement not targeted specifically at employees of the Company; (b) who contacts the Covered Entities on his/her own initiative without any direct or indirect solicitation or encouragement from the Covered Entities, other than any general solicitation or advertisement; (c) whose employment with the Company is terminated by the Company; or (d) with whom the Covered Entities have not had any contact or of whom the Covered Entities have not become aware of based on the Confidential Information.

20. Non-Interference: The undersigned agrees that neither it, nor any of its affiliates will, directly or indirectly, use the Confidential Information to solicit, induce, encourage or otherwise cause any of the Company's customers, suppliers, manufacturers, distribution partners, clients, advertisers, marketing representatives, investors, lenders, advisors, consultants, or any party with whom the Company or its affiliates have a commercial or business relationship (contractual or otherwise), to alter, change, modify, cancel, discontinue, limit or refrain from entering into any commercial or business relationship (contractual or otherwise) with the Company or its affiliates, without the Company's express prior written consent; nor will the undersigned or any of its affiliates use the Confidential Information to solicit or attempt to initiate a new business relationship, or modify the terms of an existing business relationship, with any such customer, supplier, manufacturer, distribution partner, client, advertiser, marketing representative, investor, lender, advisor or consultant.
21. This Agreement shall not confer any rights or remedies upon any other third party other than the Company and the Proposal Trustee.
22. This Agreement shall enure to the benefit of the Company and any purchaser, or purchasers, of the whole or any part of the Assets, and their respective representatives and assigns, and shall be binding upon the undersigned and its heirs, executors, administrators, legal personal representatives, successors and permitted assigns.
23. The undersigned acknowledges and agrees that it has had the opportunity to obtain independent legal advice as to the terms and conditions of this Agreement and has either received same or expressly waived its right to do so.
24. Failure to enforce any provision of this Agreement will not constitute a waiver of any term hereof.
25. If any provision of this Agreement is deemed void by law, the remaining provisions will continue in full force and effect.
26. This Agreement may be executed in counterparts, each of which will be deemed an original and each of which together will constitute one and the same instrument.
27. With the exception of the terms of the Sale Process Order related to confidentiality, this Agreement constitutes the entire agreement between the undersigned and the Proposal Trustee with respect to the subject matter hereof and supersedes all prior agreements and or discussions relating to the subject matter hereof. This Agreement may only be amended by further written agreement between the parties.
28. This Agreement may be signed by original, facsimile or email PDF in one or more counterparts and upon execution in counterparts by each party to this Agreement; such counterparts together will constitute an original of this Agreement, and execution and delivery by facsimile or email PDF will be legally binding upon the parties.

[Signature page follows.]

Dated at _____ this _____ day of _____ 2024.

(Signature of Person – Individual) OR _____
Name: Name: Per:

(Signature of Witness – Individual) (Signature of an Authorized
Name: Name: Officer)
Title

I have the authority to bind the
corporation