

TRADEMARK LICENSE AGREEMENT

This Trademark License Agreement (the “Agreement”) is made on this 11 day of June, 2021, by and between the Ferndale Downtown Development Authority (“Ferndale DDA”), having its principal place of business at 300 E. Nine Mile Road, Ferndale, Michigan 48220, and Ferndale Project, a Limited Liability Company, having its principal place of business at 567 Livernois Street, Ferndale, Michigan 48220 (“Brewing Co.”).

Background

A. Ferndale DDA developed and owns the trademark rights for THE FERNDALE PATIO PAY AND TAKE IT OUTSIDE & design trademark (the “Mark”), which is shown in Exhibit A to this Agreement. Ferndale DDA has been using the Mark in connection with its social district since at least as early as 2021.

B. Brewing Co. is a beer brewing company which manufactures and sells its beer at its location and in retail stores. Brewing Co. would like to use the Mark on and in connection with the sale of a special, limited-edition beer.

C. Ferndale DDA has agreed to grant to Brewing Co. a non-exclusive, royalty-free license to use the Mark as set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the terms and conditions set forth in this Agreement, the parties agree as follows:

1. Grant of License.

Ferndale DDA grants to Brewing Co. a non-exclusive, royalty-free license to use the Mark in connection with the manufacture and sale of a special, limited-edition beer during the term of this Agreement and subject to the terms, conditions and limitations set forth in this Agreement. Brewing Co. agrees not to use the Mark in connection with any other goods and services not specified in this Section.

2. Term.

2.1 The Agreement shall commence on the date hereof and continue through September 30, 2021.

2.2 Upon the termination of the Agreement and the license as provided herein under Section 2 or 7, all rights and privileges arising from this Agreement including, but not limited to the non-exclusive license provided in Section 1, shall terminate and Brewing Co. must cease any and all use of the Mark in any manner. Specifically, no additional beer products may be manufactured using the Mark after the termination of the Agreement, however, any already existing, unsold beer products bearing the Mark on the date of termination of the Agreement,

including beer products already sold and distributed to retail locations, may be sold until such supplied have been depleted.

2.3 Upon the termination of the Agreement, Brewing Co. may contact Ferndale DDA at the address set forth in Section 10.9 below and request an extension of the term specified in Section 2.1 of this Agreement. Ferndale DDA, in its sole discretion, may grant or deny such an extension.

3. Ownership.

Ferndale DDA retains the sole and exclusive ownership of the Mark and all goodwill and rights related thereto. Brewing Co. understands and agrees that nothing in this Agreement shall be interpreted as conferring any proprietary rights upon Brewing Co. with respect to the Mark other than the rights expressly granted in this Agreement.

4. Quality Standards.

4.1 Brewing Co. agrees that all goods manufactured, produced and sold under the Mark will conform to the quality requirements of Ferndale DDA. Specifically, Brewing Co. agrees to work with Ferndale DDA to develop language to include on the beer label indicating that bottled or canned beer purchased from a retail location cannot be consumed outdoors within the Ferndale Social District. Brewing Co. also agrees to only use the Mark in the exact form as displayed in Exhibit A with no variations in font, color, etc.

4.2 Ferndale DDA will have the right to inspect and monitor Brewing Co.'s use of the Mark including, without limitation, inspect and approve any written material using the Mark or undertake any other action reasonably necessary, in the opinion of Ferndale DDA, to protect the Mark. Upon request, Brewing Co. shall provide Ferndale DDA with samples of advertising material, brochures, or other similar materials to allow Ferndale DDA to carry out the quality control provision set forth in this Section.

5. Protection of the Trademarks.

Brewing Co. agrees that they will not challenge, oppose or seek to cancel the title of any rights of Ferndale DDA in and to the Mark or make any claim or take any action adverse to Ferndale DDA's rights therein. Furthermore, Brewing Co. will not register, nor attempt to register, any trade name or trademark which incorporates or is confusingly similar to the Mark.

6. Infringement By Third Parties.

Brewing Co. agrees to promptly notify Ferndale DDA of any unauthorized use of the Mark by third parties as such use becomes known to Brewing Co. Ferndale DDA shall determine whether or not to take any action to prevent the infringement, imitation, simulation or other illegal use or misuse of the Mark. Brewing Co. will provide cooperation and assistance in any enforcement action against third parties.

7. Termination.

7.1 Except for the expiration of its term as provided in Section 2.1, or as otherwise provided by law, this Agreement may be terminated by either party, immediately upon written notice by the terminating party.

7.2 Upon termination of this Agreement for any reason, including expiration, Brewing Co. shall immediately cease all use of the Mark in accord with Section 2.2, and shall not thereafter adopt any other mark or designation confusingly similar to the Mark.

8. Representations and Warranties of Ferndale DDA.

Ferndale DDA represents and warrants that it is the owner of the Mark and that it has the right to enter into this Agreement and grant the license set forth in Section 1.

9. Sublicensing.

Brewing Co. shall not sublicense all or part of the rights granted to Brewing Co. pursuant to Section 1 without obtaining the prior written consent of Ferndale DDA on each occasion thereof.

10. Other Provisions.

10.1 Entire Agreement and Amendment. This Agreement sets forth the entire and final agreement between the parties with respect to the matters described herein and is a complete and exclusive statement of the terms thereof and supersedes all previous agreements. This Agreement may not be altered or modified except by a writing signed by all parties hereto.

10.2 Benefit. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

10.3 Assignment. Brewing Co. may not assign or transfer its interests, rights, or obligations under this Agreement without the prior written consent of Ferndale DDA.

10.4 Waiver. The failure of any party at any time to require performance by any other party of any provision of this Agreement shall not be deemed a continuing waiver of that provision or a waiver of any other provision of this Agreement and shall in no way affect the full right to require such performance from the other party at any time thereafter.

10.5 Severability. This Agreement and the transactions contemplated herein constitute one transaction and they shall not be divisible in any manner. A material breach of any portion of this Agreement shall be deemed a breach of the whole Agreement.

10.6 Compliance with Law. Brewing Co. warrants and represents that its performance of this Agreement shall comply with any and all applicable federal, state, and local laws and regulations of the United States and any other jurisdiction in which goods are manufactured and sold.

10.7 Choice of Law and Choice of Forum. This Agreement shall be governed by and construed according to the laws of the State of Michigan, without regard to the conflict of laws

principles therein. Any and all actions concerning any dispute arising hereunder shall be filed and maintained only in a state or federal court sitting in the State of Michigan, and the parties hereto specifically consent and submit to the jurisdiction of such state or federal court.

10.8 Invalidity. The invalidity of any provision of this Agreement shall not affect the validity of the remainder of any such provision or the remaining provisions of this Agreement.

10.9 Notices. All notices, demands and requests required or permitted to be given under the provisions of this Agreement shall be in writing and shall be deemed given: (i) when personally delivered to the party to be given such notice or other communication; (ii) on the business day that such notice or other communication is sent by facsimile or similar electronic device, fully prepaid, which facsimile or similar electronic communication, shall promptly be confirmed by written notice; (iii) on the third business day following the date of deposit in the United States mail if such notice or other communication is sent by certified or registered mail with return receipt requested and postage thereon fully prepaid; or (iv) on the business day following the day such notice or other communication is sent by reputable overnight courier, to the following address or facsimile number:

If to Ferndale DDA:

Ms. Lena Stevens, Executive Director
Ferndale Downtown Development Authority
300 E. Nine Mile Rd.
Ferndale, MI 48220

If to Brewing Co.:

Ferndale Project LLC

567 Livernois Street

Ferndale, MI 48220

or to such other address, email address or facsimile number as the parties may designate by proper notice.

10.10 Relationship Between Parties. Nothing contained in this Agreement shall be deemed: (i) to constitute either party, or any employee, agent or representative of either party, an employee, agent or representative of the other party; (ii) to create any partnership, joint venture, association or franchise between the parties; or (iii) to confer with any express or implied right, power, or authority to enter into any agreement or commitment, expressed or implied, or to incur any obligation or liability on behalf of the other party.

10.11 Titles. Titles to the sections and subsections of this Agreement are solely for the convenience of reference and shall not control the meaning or interpretation of any of the provisions of this Agreement.

10.12 Counterparts: This Agreement may be executed in any number of counterparts, each of which shall constitute an original of this Agreement, and all of which together shall constitute one and the same Agreement; provided, however that this Agreement will not be effective until each and every party has executed and delivered to each other party at least one counterpart of this Agreement signed by that party.

10.13 Signatures: A signed counterpart of this Agreement which a party delivers by facsimile or electronic mail shall be deemed to have the same effect as if the party had personally delivered a signature original of that counterpart.

IN WITNESS WHEREOF, Ferndale DDA and Brewing Co. have caused this Agreement to be executed by their respective duly authorized officers effective as of the day and year first above written.

Ferndale Downtown Development Authority

Ferndale Project LLC

By: Lena Stevens

By: _____

Lena Stevens

Its: Executive Director

Its: _____

EXHIBIT A

**THE
FERNDALE
PATIO**

PAY AND TAKE IT OUTSIDE