

AFTER RECORDING, RETURN TO:

Clifford B. Alterman  
1330 The Bank of California Tower  
707 S.W. Washington Street  
Portland, Oregon 97205

MT-13480  
COMMERCIAL TRUST DEED

84 APR 2 30  
This Commercial Trust Deed is granted by MEDFORD COCA-COLA BOTTLING COMPANY ("Grantor"), an Oregon corporation, to TICOR TITLE INSURANCE COMPANY OF CALIFORNIA ("Trustee"), a California corporation doing business in Oregon, as trustee for the benefit of BANK OF AMERICA, NATIONAL TRUST AND SAVINGS ASSOCIATION ("Beneficiary").

84 APR 2 30  
1. Conveyance; Assignment of Rents. Grantor irrevocably grants, bargains, sells, and conveys to Trustee, in trust and with power of sale, all of Grantor's interest in the following described real property in Klamath County, Oregon:

Lots 4, 5, 6, 7, 8, 9, 10 and 11 in Block 59 of SECOND ADDITION TO HOT SPRINGS ADDITION to the City of Klamath Falls, Oregon, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon, together with the Southwesterly ten feet of the vacated alley adjoining said Lots 4, 5, 6, and 11 on the Northeasterly side thereof.

including all buildings, fixtures and improvements now or later on that property, all appurtenances and easements used in connection with that property, all minerals and mineral rights, and all water and water rights (collectively, the "Property").

As additional security, Grantor assigns to Trustee the income, issues, profits, rents, and revenues of and from the Property, including rents and monies now or later deposited with Grantor by any tenant of the Property to secure payment of rent or performance of any other obligation. Upon default in performance of any provision of this Commercial Trust Deed, Grantor agrees to deliver those rents and deposits to Beneficiary. Grantor shall not charge or collect from any tenant any prepaid rent or deposit which is more than one (1) month's rent, without Beneficiary's prior written consent.

2. Secured Indebtedness. Grantor grants this Commercial Trust Deed for the purpose of securing prompt payment and performance, as and when due, of the following:

A. payment of Grantor's obligations under the Credit Agreement between it and Beneficiary dated the same date as this Commercial Trust Deed (called herein the "Note" whether or not a promissory note has been issued) in the initial principal amount of \$4,995,000, together with interest, costs and all other amounts owing now or in the future under the Note, and all renewals, modifications and extensions thereof.

B. payment and performance of any and all past, present and future obligations and liabilities whatsoever of Grantor to Beneficiary, whether primary, secondary, direct, indirect, fixed, or contingent, due or to become due, and whether for present or future advances;

C. payment of all sums to be paid by Grantor under the terms of this Commercial Trust Deed;



D. repayment to Beneficiary of all payments, including taxes, made by Beneficiary to persons holding rights or asserting claims superior to Beneficiary in the Property, and all payments made by Beneficiary under subparagraph 18I; and

E. performance of each agreement of Grantor in this Commercial Trust Deed or contained in other agreements between Grantor and Beneficiary.

All of the foregoing are defined as the "Indebtedness". All Indebtedness shall bear interest at the same rate as in the Note. Upon Beneficiary's or Trustee's request, Grantor shall acknowledge or confirm in writing the balance due of the Indebtedness.

The terms of the obligation secured hereby provide that the interest rate, payment terms and balance due on the loan and obligation secured hereby may be indexed, adjusted, renewed or renegotiated.

3. Payment of the Note and Expenses of this Commercial Trust Deed. Grantor shall make all payments of interest and principal as provided in the Note, and in any note or notes given in renewal or replacement of the Note, promptly as those payments become due and payable and shall pay the unpaid balance of the Note upon maturity. Grantor shall also pay all costs, fees, and expenses of this Commercial Trust Deed.

4. Warranties. Grantor warrants as follows:

A. Title. Grantor holds good and merchantable title to the Property. Grantor shall defend Beneficiary's and Trustee's rights under this Commercial Trust Deed against the claims and demands of all persons.

B. Use of Loan Proceeds. The proceeds of the loan represented by the Note and other agreements between the parties secured by this Commercial Trust Deed are not to be used for Grantor's personal, family, or household purposes. The proceeds are to be used for business or commercial purposes other than agricultural purposes.

C. Use of Property. The Property is not currently, and is not to be, used for residential, agricultural, timber, or grazing purposes. The current use of the Property is in compliance with all laws, ordinances, and regulations of all governmental authorities.

5. Taxes and Assessments. Grantor shall pay or cause to be paid taxes and assessments on the Property as follows:

A. Payment. All taxes and all assessments imposed against the Property and all claims and demands arising from Grantor's use or occupancy of the Property shall be paid when due. Grantor's timely payment of real property taxes on a tri-annual installment basis, if provided for by law, shall be deemed for purposes of this subparagraph 5A as payment when due. Grantor shall use the Bancroft Bonding Act with respect to the Property only with Beneficiary's prior written consent.

B. Evidence of Payment of Taxes or Assessments. Upon payment of real property taxes and assessments, Grantor

shall furnish Beneficiary evidence of payment of those taxes and assessments.

C. Tax Statements. Grantor hereby authorizes the assessor or tax collector of the county in which the Property is located to furnish Beneficiary and Trustee at any time a written statement of all taxes and assessments assessed or owing at any time against the Property. The Property shall be separately assessed from any other property. Any assessment of the Property jointly with any property not subject to this Commercial Trust Deed shall be a breach of Grantor's obligations under this Commercial Trust Deed and an event of default.

6. Liens and Encumbrances. Grantor shall maintain the Property free of any liens or other interests in the Property having priority over, equal to, or inferior to the interest of Beneficiary under this Commercial Trust Deed, excepting only liens for taxes assessed but not due, and those later consented to in writing by Beneficiary. Grantor shall pay when due all encumbrances, charges, and liens affecting or purporting to affect title to the Property.

7. Grantor's Right to Contest. Grantor may withhold payment of any taxes or assessments, or may elect to contest any lien, if Grantor is in good faith conducting appropriate proceedings to contest its obligations to pay, and for so long as Trustee's interest in the Property is not jeopardized. If the Property is subjected to a lien which is not discharged within thirty (30) days from the date the notice of claim of lien is filed, Grantor shall deposit or cause to be deposited with Beneficiary cash, a sufficient corporate surety bond, or other security reasonably satisfactory to Beneficiary in an amount adequate to provide for discharge of the lien plus any interest, costs, attorneys' fees, or other charges that could accrue as a result of foreclosure or sale. In any contest Grantor shall at its expense defend itself, Trustee, and Beneficiary and shall satisfy any final adverse judgment before enforcement against the Property.

8. Insurance. Grantor shall provide or cause provision of insurance on the Property as follows:

A. Property Insurance. The procurement and keeping of policies of fire and casualty insurance with standard extended coverage endorsements on not less than a 90% replacement cost basis covering all buildings and improvements, including additions to and replacements with loss payable to Beneficiary. If obtainable, the amount of insurance shall in no event be less than the amount of principal due under the Note and other obligations secured hereby. Grantor assigns to Beneficiary all loss payments and return of premiums.

B. Insurance Companies, Policies, and Certificates. Both the insurance company or companies providing the policy or policies required by subparagraph 8A and the form of the policy must be acceptable to Beneficiary. Grantor shall deliver to Beneficiary a certificate of coverage from the insurance company with a stipulation that coverage will not be cancelled or diminished without a minimum of thirty (30) days' advance written notice to Beneficiary at the addresses in paragraph 34. Grantor shall deliver to Beneficiary at least thirty (30) days before the expiration of any insurance policy required by subparagraph 8A a certificate showing the

placement of a renewal or substitute policy of insurance.

C. Notice of Loss. If there is a loss, Grantor shall immediately notify Beneficiary, which may make proof of loss if it is not made promptly by Grantor.

D. Application of Insurance Proceeds. Insurance proceeds shall be paid directly to Beneficiary which may deal directly with any insurance company. All proceeds from any insurance on the Property shall be held by Beneficiary as collateral to secure performance of the obligations secured by this Commercial Trust Deed. Grantor may elect either to restore or not to restore the damaged improvements. If Grantor, not then being in default shall repair or replace the damaged improvements in a manner satisfactory to Beneficiary, Beneficiary shall, upon satisfactory proof of performance of work, pay or reimburse Grantor from the insurance proceeds for the reasonable cost of repair or restoration completed. If Grantor notifies Beneficiary in writing that pursuant to its rights under this subparagraph 8D it elects not to repair or replace the damaged improvements, Beneficiary shall apply the proceeds not to be so used toward payment of all or part of the Indebtedness in any order that Beneficiary may determine. Any insurance proceeds not paid out within one (1) year after their receipt for repair, replacement, or restoration of the Property may forthwith be applied by Beneficiary, at Beneficiary's option, toward payment of all or part of the Indebtedness in any order that Beneficiary may determine. Beneficiary presently contemplates applying insurance and other advance payments to the last payments due under Grantor's obligation to Beneficiary.

9. Use and Maintenance. Grantor shall use and maintain the Property as follows:

A. Permitted Uses. As a soft drink bottling plant and distribution facility.

B. Construction. Not begin construction, site preparation, design, planning, surveying, platting, or zoning procedures without Beneficiary's prior written consent.

C. Duty to Maintain. Maintain the Property in good condition and repair and promptly perform all repairs and maintenance necessary to preserve its value.

D. Waste; Nuisance. Not conduct or permit any nuisance on the Property or commit or suffer any strip or waste of it.

E. Removal of Improvements. Not demolish or remove any improvements now or later constructed on the Property without Beneficiary's prior written consent, but Grantor may make alterations which it deems necessary for the purpose of its permitted use of Property.

F. Beneficiary's Right to Enter and Inspect. Permit Beneficiary and its agents to enter upon the Property at all reasonable times to inspect the Property.

G. Compliance with Governmental Regulations. Promptly comply with all laws, ordinances, and regulations of all governmental authorities applicable to the use or occupancy of the Property. Grantor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including

appropriate appeals, so long as Beneficiary's and Trustee's interests in the Property are not jeopardized.

10. Not to Convey. Grantor shall not convey, transfer, or contract to sell, assign, or convey all or any of Grantor's interest in the Property, whether or not the transferee assumes and agrees to pay the Indebtedness in whole or in part, without Beneficiary's prior written consent. Beneficiary's acceptance of payments on account of this Commercial Trust Deed from a transferee to whom Beneficiary has not consented shall not constitute a waiver of Beneficiary's right to declare a default for breach of this paragraph 10. Grantor may not lease the Property or any part of it for a term of more than sixty (60) days' duration, including options, without Beneficiary's prior written consent. Beneficiary's consent under this paragraph may be withheld for any reason deemed satisfactory to Beneficiary.

11. Condemnation and Eminent Domain. Condemnation, eminent domain, and similar proceedings affecting the Property shall have the following effects:

A. Notice of Taking or Condemnation Proceedings. If the Property, or any part of it or interest in it is taken or damaged because of any public improvement or condemnation proceeding, or if Grantor receives any notice or other information regarding a condemnation proceeding or similar type of proceeding, Grantor shall immediately notify Beneficiary in writing.

B. Condemnation Proceeds. Beneficiary is entitled to all compensation, awards, and other payments or relief related to condemnation, and shall be entitled at its sole option to commence, appear in, and prosecute in its own name any such action or proceeding. Beneficiary shall also be entitled to make any compromise or settlement in connection with the taking or damage. All such compensation, awards, damages, and proceeds awarded to Grantor ("Condemnation Proceeds") are hereby assigned to Beneficiary. Grantor agrees to execute such assignments of the Condemnation Proceeds as Beneficiary may require.

(1) Beneficiary in the event of a taking which substantially impairs Borrower's capacity to continue its prior use of the Property, shall have the right in its sole and absolute discretion, to apply the Condemnation Proceeds, after deducting all costs and expenses (regardless of their particular nature and whether incurred with or without suit) including attorneys' fees incurred by Beneficiary in connection with the Condemnation Proceeds, to all or part of the Indebtedness in any order Beneficiary may determine, and whether or not the security of Beneficiary is impaired;

(2) In the event of a partial taking which leaves sufficient property for Grantor to continue to conduct its business substantially as now conducted, and Grantor not then being in default in any agreement with Beneficiary, Grantor shall be entitled to use as much of the Condemnation Proceeds after deducting costs and expenses as may be necessary, after deducting all of Beneficiary's costs and expenses relating to the condemnation, to restore the property.

12. Water, Mineral, and Other Rights. If anyone shall establish and exercise any right to develop, bore for, or mine any water, gas, oil or mineral, including sand or gravel, on or under the surface of the Property, all sums that

may later become due and payable to Grantor as bonus or royalty shall be considered rent under this Commercial Trust Deed. Those sums, together with damages and other compensation payable to Grantor by reason of the exercise of those rights, are made subject to this Commercial Trust Deed, including the security interest created in favor of Beneficiary, and shall be applied in accordance with the provisions of this Commercial Trust Deed.

13. Beneficiary's and Trustee's General Powers. Without affecting the liability of any person, including Grantor and any guarantor, for payment of the Indebtedness, or the lien of this Commercial Trust Deed on the remainder of the Property for the full amount of Indebtedness unpaid, Beneficiary and Trustee are respectively empowered as follows, all without impairing Grantor's obligation to Beneficiary:

A. Beneficiary's Powers. Beneficiary may from time to time and without notice

- (1) release any person liable in whole or part for payment of any of the Indebtedness;
- (2) extend the time or otherwise alter the terms of payment of any of the Indebtedness;
- (3) accept additional security for the Indebtedness of any kind, including trust deeds, or mortgages, or security interests in fixtures or personal property;
- (4) alter, substitute, or release any of the Property or other security it may hold; and
- (5) do or forbear from doing any other act in regard to the Property or the Indebtedness.

B. Trustee's Powers. Trustee may at any time and from time to time upon Beneficiary's written request, and upon payment of its fees, and presentation of this Commercial Trust Deed and the Note for endorsement (in case of full reconveyance, for cancellation), without affecting the liability of any person for the payment of the Indebtedness

- (1) consent to the making of any map or plat of the Property;
- (2) join in granting any easement or creating any restriction on the Property;
- (3) join in any subordination or other agreement affecting this Commercial Trust Deed or its lien or charge; and
- (4) reconvey, without warranty, all or any part of the Property.

14. Beneficiary's Additional Powers. If on the Note or any other obligations included as part of the Indebtedness secured by this Commercial Trust Deed, Grantor is not a maker or obligor, Grantor specifically authorizes Beneficiary, without notice or demand and without affecting any liability hereunder, from time to time to

A. renew, compromise, or otherwise change the terms of the Note or any part of it or any other obligation secured hereby, including increase or decrease of the rate of interest on the Indebtedness.



B. take and hold security for the payment of the Note and obligations secured by this Commercial Trust Deed and exchange, enforce, waive, and release any such security;

C. apply that security and direct the order or manner of its sale as Beneficiary in its discretion may determine; and

D. release or substitute any endorser or guarantor.

Grantor waives any right to require Beneficiary to proceed against or exhaust any security held or pursue any other other remedy in Beneficiary's power whatsoever. Grantor waives any defense arising by reason of any disability or other defense of any other person, or by reason of the cessation from any cause whatsoever of the liability of any other person. Until all Indebtedness has been paid in full, Grantor shall have no right of subrogation, and waives any benefit of, and any right to participate in any security now or later held by Beneficiary. Grantor waives all presentments, demands for performance, notices of non-performance, protests, notices of protests, notices of dishonor, and notices of existence, creation, or incurring of new or additional obligations.

15. Security Agreement, Financing Statement. This Commercial Trust Deed shall constitute a security agreement with respect to any fixtures and personal property (including replacements and substitutions) owned by Grantor or in which Grantor has any interest and now or later located on the Property, and with respect to all general intangibles arising from the use, operation, or interests of Grantor in the Property, including proceeds of all the foregoing. This Commercial Trust Deed shall also constitute a security agreement with respect to all rents, profits, and royalties derived from or attributable to the Property. Grantor shall join with Beneficiary at any time at Beneficiary's request in executing one or more financing statements and security agreements as requested, including renewals and extensions as may be required to preserve the priority of Beneficiary's security interest under the Uniform Commercial Code, and to file the statements at Grantor's expense in all public offices where filing may be required or prudent under the Uniform Commercial Code to perfect the security interest of Beneficiary and, if applicable, Trustee. This Commercial Trust Deed shall also constitute a financing statement and shall be filed for recording in the real estate records of the county where the Property is located.

16. Reconveyance. Upon payment in full of all the Indebtedness and performance of all obligations of Grantor under this Commercial Trust Deed, Trustee shall reconvey, without warranty, the interest vested in it by this Commercial Trust Deed and shall make suitable statements of termination or assignment of any financing statements on file which evidence Beneficiary's and Trustee's security interest in personal property. In any reconveyance under this Commercial Trust Deed, Grantor may be described as "the person or persons legally entitled thereto". The recitals in the reconveyance of any matters of fact shall be conclusive proof of their truthfulness.

17. Events of Default. Any of the following shall constitute an event of default under this Commercial Trust Deed:

A. Non-payment. Grantor's failure within the time required by this Commercial Trust Deed to make any payment of principal or interest on the Note or any

other obligation arising from this Commercial Trust Deed or any other agreements with Beneficiary, or to pay taxes, insurance, or any payment necessary to prevent filing of or to discharge any lien (subject to Grantor's right to furnish security and defend against any attempted lien foreclosure) against the Property not permitted by this Commercial Trust Deed, or to perform any other covenant or agreement of this Commercial Trust Deed.

B. Breach of Obligation to Others. Default by Grantor of any obligation under any contract, mortgage, lease, or trust deed of any part of the Property, or any security agreement or lease affecting any fixtures or personal property used or to be used on the Property, whether that contract, mortgage, lease, trust deed, or security agreement is senior or junior to this Commercial Trust Deed, which default is not cured within the time permitted by that contract, mortgage, lease, trust deed, or security agreement.

C. Dissolution. Dissolution, termination of existence, insolvency, business failure, appointment of a receiver for any part of the property, assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

D. Other Breach; Cross-Default. Breach by Grantor of any other covenant to be performed by it under this Commercial Trust Deed, or any other act or occurrence declared a default by any of the terms of this Commercial Trust Deed or any other trust deed in any jurisdiction given to secure Grantor's obligations to Beneficiary, or by any other agreement between Beneficiary and Grantor.

E. Sale or Transfer of Possession. Sale or transfer of possession of the Property or any part of it in any manner by Grantor, whether by deed, contract of sale, lease, or similar agreement, without Beneficiary's prior written consent. Grantor's execution and delivery of any joint venture agreement, partnership agreement, declaration of trust, option agreement, or other instrument under which any other person may become entitled, directly or indirectly, to the possession or enjoyment of all or any part of the Property, or the income or other benefits derived or to be derived from it, shall in each case be deemed to be a sale or transfer of Grantor's interest in the Property for the purposes of this subparagraph 17E. Grantor acknowledges that the loan secured by this Commercial Trust Deed is personal to Grantor and that in making it Beneficiary has relied on Grantor's credit and Grantor's interest in the Property.

F. Misinformation. Falsity in any material respect of the warranties in paragraph 4 or of any representation, warranty, or information furnished to Beneficiary in connection with the Note or this Commercial Trust Deed, or other agreements between Grantor and Beneficiary.

G. Certain Taxes. This subparagraph 17G shall apply to the following state taxes:

- (1) A specific tax on or measured by mortgages, trust deeds, secured transactions, or the Indebtedness.



(2) A specific tax on Grantor of property subject to a trust deed which the taxpayer is authorized or required to deduct from payments on the trust deed.

(3) A tax on property chargeable against the beneficiary or trustee under a trust deed or holder of the note secured by it.

(4) A specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Grantor.

If any state tax to which this subparagraph 17G applies is enacted after the date of this Commercial Trust Deed, enactment of the tax shall constitute an event of default unless the following conditions are met:

(5) Grantor may lawfully pay the tax or charge imposed by the state tax without causing any resulting economic disadvantage or increase of tax to Beneficiary or Trustee, and

(6) Grantor pays or agrees to pay the tax or charge within thirty (30) days after notice from Beneficiary or Trustee that the tax law has been enacted.

In the event of a default under this subparagraph 17G, and notwithstanding any other provision of the Note or this Commercial Trust Deed, no prepayment penalty shall be payable.

18. Remedies on Default. If any event of default occurs, Beneficiary may then and at any later time in its sole discretion exercise any one or more of the following rights and remedies, in addition to all other remedies which may be available now or later at law, in equity, or otherwise:

A. Acceleration. Beneficiary may declare all sums secured by this Commercial Trust Deed, including all interest, late charges and prepayment penalties, to be immediately due and payable.

B. Books and Records. Beneficiary (whether or not there is a default) may examine all Grantor's books, records, and contracts pertaining to the Property and of any guarantors and make such memoranda and copies of them as Beneficiary may desire.

C. Foreclosure. With respect to all or any part of the Property that constitutes realty, Beneficiary shall have (a) the right to foreclose or direct Trustee to foreclose this Commercial Trust Deed by advertisement and sale in the manner permitted by the law of Oregon, particularly as now provided in ORS 86.740 to 86.795, and as Oregon statutes may later provide for non-judicial foreclosure of trust deeds; or (b) the right of judicial foreclosure in the manner provided by law for the foreclosure of mortgages on real property. In the former event (subparagraph 18C(a)), Beneficiary or Trustee shall execute and cause to be recorded its written notice of default and its election to sell all or any of the Property to satisfy the Indebtedness. Trustee shall then fix the time and place of sale, give notice as then required by law, and proceed to foreclose this Commercial Trust Deed in the manner provided by law for foreclosure of trust deeds. When Trustee sells pursuant to the powers provided in this subparagraph 18C, Trustee shall apply the proceeds of sale, unless

the applicable statute requires otherwise, to payment of (i) the expenses of sale, including the compensation of Trustee and a reasonable charge by Trustee's attorney; (ii) the obligations secured by this Commercial Trust Deed; (iii) all persons having recorded liens subsequent to the interest of Trustee in this Commercial Trust Deed as their interests may appear and in the order of their priority; and (iv) the surplus, if any, to Grantor or to its successors in interest entitled to that surplus. If Beneficiary elects to foreclose by advertisement and sale, then after default at any time before five (5) days (or such other minimum time provided by statute from time to time) before the date set by Trustee for the trustee's sale, Grantor or other persons so privileged by ORS 86.753, or by other statute, may in accordance with applicable statutes pay to Beneficiary or its successors in interest, respectively, the entire amount then due under the terms of this Commercial Trust Deed and the Indebtedness, together with the maximum amount permitted by law for costs, expenses, and trustee's and attorneys' fees, other than the portion of the principal as would not then be due had no default occurred, and tender performance of all other obligations then in default under this Commercial Trust Deed and thereby cure the default, in which event all foreclosure proceedings shall be dismissed by Trustee. Otherwise, the sale shall be held on the date and at the time and place designated in the notice of sale or any extensions permitted by statute. Trustee may sell the Property either in one parcel or several parcels as directed by Beneficiary at auction to the highest bidder for cash, payable at the time of sale. Trustee shall deliver to the buyer its deed in form as required by law conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters of fact shall be conclusive proof of their truthfulness. Any person, other than Trustee but including Grantor and Beneficiary, may buy at the sale. Beneficiary shall give Grantor reasonable notice of the time and place of any public sale of any personal property or of the time after which any private sale or other intended disposition of the property is to be made. The statutory minimum notice required is agreed to by Grantor and Beneficiary as reasonable.

D. Receiver. Beneficiary may have a receiver of the Property appointed, to serve without bond, if permitted by law. Beneficiary shall be entitled to the appointment of a receiver as a matter of right whether or not the apparent value of the Property exceeds the amount of the Indebtedness. Employment by Trustee or Beneficiary shall not disqualify a person from serving as receiver. Grantor waives all defenses and consents to the appointment of a receiver at Beneficiary's option.

E. Possession. Beneficiary may, either through a receiver or as a Beneficiary-in-possession, take possession of all or any part of the Property, and Grantor shall peaceably surrender it.

F. Rents and Revenues. Beneficiary may revoke Grantor's right to collect the rents and revenues from the Property, including those past due and unpaid, and may, either itself or through a receiver, collect them. To facilitate collection, Beneficiary may notify Grantor's tenants to pay rents directly to it. Beneficiary shall not be deemed to be in possession of the Property solely by reason of exercise of the rights under this subparagraph 18F. If rents are collected by Beneficiary under this subparagraph 18F, Grantor hereby irrevocably

designates Beneficiary as its attorney-in-fact to endorse instruments received in payment of rent, in respect of any part of the Property, in Grantor's name and to negotiate those instruments and collect their proceeds. Beneficiary may lease all or any part of the Property. Beneficiary may apply the net proceeds of all amounts collected over and above its costs against the Indebtedness.

G. Fixtures and Personal Property. With respect to any fixtures or personal property subject to a security interest in favor of Beneficiary, Beneficiary may exercise any and all of the rights and remedies of a secured party under the Uniform Commercial Code.

H. Abandon Security. Beneficiary may abandon any security afforded by this Commercial Trust Deed or any other security instrument by notifying Grantor of Beneficiary's election to do so.

I. Substituted Payment and Performance. Beneficiary shall have the right (but not the obligation) to make any payment or perform any act which Grantor was required to make or perform under this Commercial Trust Deed without notice to or demand upon Grantor and without releasing Grantor from any obligation, and to buy, contest, or compromise any encumbrance, charge, or lien which in Beneficiary's judgment appears to affect the Property. In exercising this right, Beneficiary may incur any liabilities and expend whatever amounts in its absolute discretion it may deem necessary. All sums so incurred or expended by Beneficiary shall be part of the Indebtedness and shall be immediately due and payable by Grantor; provided, however, that at Beneficiary's option those sums may be added to the principal balance of the Indebtedness.

Election to pursue one remedy shall not exclude resort to any other remedy, and, unless the context otherwise requires, all remedies under this Commercial Trust Deed are cumulative and not exclusive. Beneficiary's election to pay or perform under subparagraph 18I shall neither prejudice its right to declare a default nor constitute a waiver of the breached term or of any the remedies provided in this Commercial Trust Deed. No delay or omission in exercising any right or remedy shall impair that or any other right to remedy or shall be construed to be a waiver of the default.

19. Receiver or Beneficiary-in-Possession. Upon taking possession of all or any part of the Property, a receiver or Beneficiary or Beneficiary's representative may:

A. Management. Use, operate, manage, control, and conduct business on the Property and make expenditures for any purposes and for maintenance and improvements as in its judgment are necessary.

B. Rents and Revenues. Collect all rents, revenues, incomes, issues, and profits from the Property and apply those sums to the expenses of use, operation, management, maintenance, and improvements.

C. Construction. At its option, complete any construction in progress on the Property, and in that connection pay bills, borrow funds, employ contractors, and make any changes in plans and specifications as it deems appropriate.

All of the receiver's or Beneficiary's costs, including overhead and attorneys' fees, shall be added to the

Indebtedness. If the revenues produced by the Property are insufficient to pay expenses, including, without limitation, any disbursements made by a receiver or Beneficiary under this paragraph 19, a receiver may borrow from Beneficiary, or Beneficiary may lend any sums upon any terms it deems necessary for the purposes stated in this paragraph 19, and repayment of those sums shall be secured by this Commercial Trust Deed. Sums borrowed from Beneficiary pursuant to this paragraph 19 shall bear interest at the same rate as in the Note.

20. Application of Proceeds. All proceeds realized from the exercise of rights and remedies under paragraphs 18 and 19 shall be applied as follows:

A. Costs and Expenses. To pay the costs of exercising all rights and remedies, including the costs of any sale, the costs and expenses of any receiver or Beneficiary, and the costs and expenses provided for in paragraph 23.

B. Indebtedness. To pay the Indebtedness and all other amounts owed by Grantor, payment of which are secured by this Commercial Trust Deed.

C. Surplus. The surplus, if any, shall be paid to the clerk of the court in the case of a foreclosure by judicial proceeding, otherwise to the person or persons legally entitled to it.

21. Indemnity. Grantor shall hold Beneficiary and Trustee harmless from any and all loss and expense, including but not limited to attorneys' fees and court costs, in any suit, action, or proceeding or any appeal brought against Trustee or Beneficiary by a third party resulting from or attributable to Beneficiary's ownership of the Note or Trustee's interest under this Commercial Trust Deed. Grantor shall appear in and defend, without cost to Beneficiary or Trustee, any action or proceeding purporting to affect the Property, Grantor's title, or the rights, powers, and interests in the Property of Beneficiary or Trustee. Grantor shall commence and maintain any action or proceeding necessary to protect the Property and those rights, powers, and interests. If Beneficiary or Trustee elects to appear in, defend, or commence and maintain any such action or proceeding (including any proceedings under any law relating to insolvency or bankruptcy), Grantor shall pay all Beneficiary's and Trustee's costs and expenses, including attorneys' fees.

22. No Waiver. No waiver by Beneficiary of its rights under this Commercial Trust Deed or the Indebtedness shall be effective unless in writing and signed by an officer of Beneficiary. A waiver by Beneficiary of a breach of one or more provisions of this Commercial Trust Deed, or as to one transaction or occurrence, including the provisions of this paragraph 22, shall not constitute a waiver of or prejudice Beneficiary's right otherwise to demand strict compliance with that provision or provisions, including the provisions of this paragraph 22, or any other provision of this Commercial Trust Deed or other agreements with Grantor. By accepting payment of any sum secured by this Commercial Trust Deed after its due date, or after the filing of notice of default and of election to sell, Beneficiary shall not waive its right to require prompt payment when due of all other sums so secured, or to declare default for failure to pay, or to exercise any other remedy which Beneficiary might have or be in the process of exercising. If Beneficiary holds any additional security for any obligation secured by this Commercial Trust Deed, it may enforce the sale of that security

at its option, either before, contemporaneously with, or after the exercise of any rights under this Commercial Trust Deed, and on any event of default. Beneficiary's election to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Commercial Trust Deed after its failure to perform shall not affect Beneficiary's right to declare a default and exercise its remedies under this Commercial Trust Deed.

23. Attorneys' Fees. If action is instituted to enforce any of the terms of this Commercial Trust Deed, the prevailing party shall be entitled to recover any amount the court may adjudge reasonable as attorneys' fees at trial and on any appeal. All reasonable expenses incurred by Beneficiary that are necessary at any time in Beneficiary's opinion for the protection of its interests or the enforcement of its rights, including without limitation the costs of searching records, obtaining title reports, surveyors' reports, attorneys' opinions, or title insurance, whether or not any court action is involved, shall become a part of the Indebtedness, payable on demand, with interest at the same rate as in the Note.

24. Fees for Statements. For any statement regarding the obligations secured by this Commercial Trust Deed, Trustee and Beneficiary may charge the maximum amount permitted by law at any time of the request for the statement.

25. Construction. In construing this Commercial Trust Deed, the term "Trust Deed" means "security agreement" when it is being construed with respect to any personal property. The singular shall include the plural, and the plural shall include the singular, as may be appropriate.

26. Successor Trustee. Beneficiary may from time to time appoint a successor or successors to the Trustee or to any successor trustee appointed under this Commercial Trust Deed. Upon that appointment, and without conveyance to the successor trustee, the successor shall be vested with all title, powers, and duties conferred upon the Trustee and all successor trustees appointed under this Commercial Trust Deed. Each such appointment and substitution shall be made by written instrument executed by Beneficiary, containing reference to this Commercial Trust Deed and its place of record, which when recorded in the office of the County Clerk or Recorder of the county in which the Property is located shall be conclusive proof of proper appointment of the successor trustee.

27. Acceptance of Trust. Trustee accepts this trust when this Commercial Trust Deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party of pending sale under any other deed of trust or of any action or proceeding in which Grantor, Beneficiary, or Trustee shall be a party unless the action or proceeding is brought by Trustee.

28. Applicable Law. This Commercial Trust Deed shall be governed by the laws of the state of Oregon applicable to contracts to be wholly performed in Oregon, but without regard to the law of conflict of laws.

29. Time of Essence. Time is of the essence of this Commercial Trust Deed.

30. Headings. The headings to the sections and paragraphs of this Commercial Trust Deed are included only for the convenience of the parties and do not define, diminish, or enlarge the rights of the parties or affect the



construction or interpretation of any portion of this Commercial Trust Deed.

31. Severability. If any provision of this Commercial Trust Deed shall be held invalid, illegal, or unenforceable, that invalidity, illegality, or unenforceability shall not affect any of its other provisions of this Commercial Trust Deed, and this Commercial Trust Deed shall be construed as if it had never contained the invalid, illegal, or unenforceable provision.

32. Beneficiary's Consent. Whenever Beneficiary's consent is required under this Commercial Trust Deed, that consent will not be unreasonably withheld or delayed, except where this Commercial Trust Deed provides otherwise.

33. Interest Rate. If any provision of this Commercial Trust Deed or any note or obligation it secures shall call for a rate of interest in excess of the maximum interest permitted by law, that provision shall be considered to call for a rate of interest which is the maximum rate permitted by law and no more than that rate.

34. Notices. Notices required under this Commercial Trust Deed or by law shall be personally delivered or delivered by courier or certified mail, return receipt requested, to Beneficiary at:

Bank of America, N.T. & S.A.  
Redding Corporate Banking Group #1490  
1661 East Street  
Redding, California 96099

with a copy to:

Clifford B. Alterman  
Kell, Alterman & Runstein  
1330 The Bank of California Tower  
707 S.W. Washington Street  
Portland, Oregon 97205

and to Grantor at:

Medford Coca Cola Bottling Co.  
P. O. Box 517  
Corvallis, Oregon 97330

with a copy to:

James R. Moore  
Schwabe, Williamson, Wyatt, Moore & Roberts  
1200 Standard Plaza  
1100 S.W. Sixth Avenue  
Portland, Oregon 97204

35. Authority. The person or persons executing this Commercial Trust Deed on behalf of Grantor represent that one or both have been duly authorized to bind Grantor and that the Articles of Incorporation and Bylaws of Grantor do not require affixing its seal to this Trust Deed.

36. Benefit and Binding Effect. Subject to the limitations stated in this Commercial Trust Deed on transfer of



Grantor's interest, this Commercial Trust Deed binds and benefits the parties, their successors, and assigns.

5562

DATED: March 30, 1984.

GRANTOR:

MEDFORD COCA-COLA BOTTLING COMPANY

By

Harold F. Ramsey  
President

By

James R. Moore  
Secretary

CORPORATE ACKNOWLEDGMENT

State of California

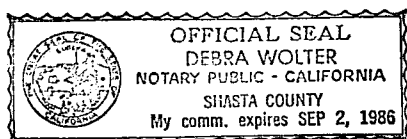
County of SHASTA

S.S.

On this 30th day of March, in the year 84, before me Debra Wolter,  
a Notary Public in and for the said Shasta County, personally appeared Harold F. Ramsey and  
James R. Moore

☐ personally known to me ☒ proved to me on the basis of satisfactory evidence  
to be the person(s) who executed the within instrument as President & Assistant Secretary or  
on behalf of the Corporation herein named and acknowledged to me that the Corporation executed it.

(SEAL)



P-169x 8-82 (REV.)

WITNESS my hand and official seal,

Debra Wolter  
Notary Public in and for the said Shasta County and State.  
My commission expires Sept. 2, 19 86

STATE OF OREGON: COUNTY OF KLAMATH:ss

I hereby certify that the within instrument was received and filed for  
record on the 5th day of April A.D., 19 84 at 2:30 o'clock P. M.,  
and duly recorded in Vol M84, of Mortgages on page 5548.

EVELYN BIEHN, COUNTY CLERK

by: [Signature], Deputy

Fee: \$ 60.00