

2009-004601

Klamath County, Oregon



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Fee: \$121.00

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Bryan Cave LLP
One Metropolitan Square
211 North Broadway, Suite 3600
St. Louis, Missouri 63102
Attn: Patrick F. Heider

1st 1320883

Space above this line for Recorder's Use

**LINE OF CREDIT TRUST DEED
(Klamath Falls)**

THIS INSTRUMENT IS TO BE INDEXED AS BOTH A DEED OF TRUST
AND AS A FIXTURE FILING

ADDITIONAL STATUTORY NOTICES:

- (a) The tax account number(s) for the property subject to the lien or in which the interest is created is(are): P890198; R765176; and R765167.
- (b) Type of transaction: Creation of deed of trust lien and security interests encumbering the property described herein.
- (c) The address of the entity holding a lien or other interest created by this instrument is:

Bank of America, N.A., as Administrative Agent
800 Market Street, 12th Floor
Mail Code: MO1-800-12-01
St. Louis, MO 63101

This Line of Credit Trust Deed is made as of February 27, 2009, by Western Beverage, LLC, a Delaware limited liability company, as grantor ("Grantor"), to First American Title Insurance Company, as trustee ("Trustee"), whose address is 1 First American Way, Santa Ana, CA 92707, for the benefit of Bank of America, N.A., a national banking association, as beneficiary and Administrative Agent (in such capacity, "Beneficiary") for the ratable benefit of itself and each of the other Secured Parties.

The maximum principal amount to be advanced under the line of credit secured by this line of credit instrument is \$35,000,000.00; however, such maximum principal amount

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may be exceeded by principal advances made to complete construction on the Property or for the reasonable protection of the Property pursuant to ORS 86.155.

The maturity date of the credit agreement secured by this line of credit instrument, exclusive of any option to renew or extend such maturity date, is June 30, 2014.

1. GRANT IN TRUST.

1.1 The Property. For the purpose of securing payment and performance of the Secured Obligations defined in Section 2 below, Grantor hereby irrevocably and unconditionally grants, conveys, transfers and assigns to Trustee, in trust for the benefit of Beneficiary, with power of sale and right of entry and possession, all estate, right, title and interest which Grantor now has or may later acquire in the following property (all or any part of such property, or any interest in all or any part of it, together with the Personalty (as hereinafter defined) being hereinafter collectively referred to as the "Property"):

(a) The real property located in the County of _____, State of Oregon, as described in Exhibit A hereto (the "Land") with tax account numbers of P890198, R765176 and R765167;

(b) All buildings, structures, improvements, fixtures and appurtenances now or hereafter placed on the Land, and all apparatus and equipment now or hereafter attached in any manner to the Land or any building on the Land, including all pumping plants, engines, pipes, ditches and flumes, and also all gas, electric, cooking, heating, cooling, air conditioning, lighting, refrigeration and plumbing fixtures and equipment (collectively, the "Improvements");

(c) All easements and rights of way appurtenant to the Land; all crops growing or to be grown on the Land (including all such crops following severance from the Land); all standing timber upon the Land (including all such timber following severance from the Land); all development rights or credits and air rights; all water and water rights (whether riparian, appropriative, or otherwise, and whether or not appurtenant to the Land) and shares of stock and certificates pertaining to such water or water rights, ownership of which affect the Land; all minerals, oil, gas, and other hydrocarbon substances and rights thereto in, on, under, or upon the Land;

(d) All existing and future leases, subleases, subtenancies, licenses, occupancy agreements and concessions relating to the use and enjoyment of all or any part of the Land or the Improvements, and any and all guaranties and other agreements relating to or made in connection with any of the foregoing;

(e) All proceeds, including all claims to and demands for them, of the voluntary or involuntary conversion of any of the Land, Improvements, or the other property described above into cash or liquidated claims, including proceeds of all present and future fire, hazard, casualty or property insurance policies, whether or not such policies are required by Beneficiary, and all condemnation awards or payments now or later to be made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any condemnation or eminent domain proceeding, and all causes of action and their proceeds for any breach of warranty, misrepresentation, damage or injury to, or defect in, the Land, Improvements, or the other property described above or any part of them; and

(f) All proceeds of, additions and accretions to, substitutions and replacements for, and changes in any of the property described above.

1.2 Fixture Filing. This Trust Deed constitutes a financing statement filed as a fixture filing under the Uniform Commercial Code, as amended or recodified from time to time, covering any Property which now is or later may become a fixture attached to the Land or any building located thereon.

2. THE SECURED OBLIGATIONS.

2.1 Defined Terms. All capitalized terms not otherwise defined herein have the following meanings given them in the Credit Agreement (as defined below). In addition, the following terms have the following meanings:

"Borrowers" means Major Eagle, Inc., an Oregon corporation (successor by merger to Major Eagle Acquisition Company, an Oregon corporation), and Grantor.

"Credit Agreement" means the Credit Agreement, dated as of December 31, 2008, among the Borrowers, the Beneficiary and the Lenders, as the same may be amended, modified or supplemented from time to time, including, without limitation, amendments, modifications, supplements and restatements thereof giving effect to increases, renewals, extensions, refundings, deferrals, restructurings, replacements or refinancings of, or additions to, the arrangements provided in such Credit Agreement.

"Excluded Assets" as defined in the Security Agreement.

"Event of Default" is defined in Section 6.2 of this Trust Deed.

"Lenders" means the "Lenders" as defined in the Credit Agreement.

"Loan Parties" means the "Loan Parties" as defined in the Credit Agreement.

"Security Agreement" means the Security Agreement dated as of December 31, 2008, among the Borrowers and the Beneficiary, as the same may be amended, modified or supplemented from time to time.

"Secured Parties" means the "Secured Parties" as defined in the Credit Agreement.

"Uniform Commercial Code" means the Uniform Commercial Code adopted in the State of Oregon, as amended or recodified from time to time.

2.2 Purpose of Securing. Grantor makes the grant, conveyance, transfer and assignment set forth in Section 1, makes the irrevocable and absolute assignment set forth in Section 3, and grants the security interest set forth in Section 4, all for the purpose of securing the following obligations (the "Secured Obligations"):

(a) Payment of all obligations of the Borrowers and the other Loan Parties to Beneficiary arising under the following instrument(s) or agreement(s) (collectively, the "Loan Documents"):

- (i) the Credit Agreement;
- (ii) each Note issued pursuant to the Credit Agreement;
- (iii) the Security Agreement;
- (iv) all Related Credit Arrangements; and

(v) any and all other Guarantee Agreements, security agreements, mortgages, deeds of trust, assignments, pledge agreements, or other security instruments which are executed and delivered from time to time to evidence, govern or secure obligations of the Grantor or any other Loan Party to the Beneficiary and the Secured Parties.

(b) Payment and performance of all obligations of Grantor under this Trust Deed;

(c) Payment and performance of all future advances and other obligations that Grantor (or any successor in interest to Grantor) or any Loan Party may agree to pay and/or perform (whether as principal, surety or guarantor) to or for the benefit of Beneficiary or the Secured Parties, when a writing signed by Grantor (or any successor in interest to Grantor) evidences said parties' agreement that such advance or obligation be secured by this Trust Deed.

This Trust Deed also secures payment of all Obligations of the Loan Parties under the Loan Documents which arise after any Loan Document is extended, renewed, modified or amended, and all obligations of the Loan Parties under any successor agreement or instrument which restates and supersedes any Loan Document in its entirety.

This Trust Deed does not secure any obligation which expressly states that it is unsecured, whether contained in the Credit Agreement or in any other Loan Document.

2.3 Terms of Secured Obligations. All persons who may have or acquire an interest in all or any part of the Property will be considered to have notice of, and will be bound by, the terms of the Loan Documents described in Paragraph 2.2(a) and each other agreement or instrument made or entered into in connection with each of the Secured Obligations. These terms include any provisions in the Loan Documents which permit borrowing, repayment and reborrowing, or which provide that the interest rate on one or more of the Secured Obligations may vary from time to time.

3. ASSIGNMENT OF RENTS.

3.1 Assignment. Grantor hereby irrevocably, absolutely, presently and unconditionally assigns to Beneficiary all rents, royalties, issues, profits, revenue, income and proceeds of the Property, whether now due, past due or to become due, including all prepaid rents and security deposits (collectively, the "Rents"), and confers upon Beneficiary the right to collect such Rents with or without taking possession of the Property. In the event that anyone

establishes and exercises any right to develop, bore for or mine for any water, gas, oil or mineral on or under the surface of the Property, any sums that may become due and payable to Grantor as bonus or royalty payments, and any damages or other compensation payable to Grantor in connection with the exercise of any such rights, shall also be considered Rents assigned under this Paragraph. This is an absolute assignment, not an assignment for security only.

3.2 Grant of License. Notwithstanding the provisions of Paragraph 3.1, Beneficiary hereby confers upon Grantor a license ("License") to collect and retain the Rents as they become due and payable, so long as no Event of Default, as defined in Paragraph 6.2, shall exist and be continuing. If an Event of Default has occurred and is continuing, Beneficiary shall have the right, which it may choose to exercise in its sole discretion, to terminate this License upon notice to Grantor, and without regard to the adequacy of the security for the Secured Obligations.

4. GRANT OF SECURITY INTEREST.

4.1 Grant of Security Interest. In the event of any inconsistency between the terms and provisions of this Trust Deed and those contained in any other security agreement executed by Borrowers in favor of Beneficiary, (a) the terms and provisions of this Trust Deed shall control and prevail inasmuch as such terms and provisions relate to real property and fixtures and (b) the terms and provisions of any other security agreement shall control and prevail inasmuch as such terms and provisions relate to any personal property other than fixtures. Grantor grants to Beneficiary a security interest in, and pledges and assigns to Beneficiary, all of Grantor's right, title and interest now or hereafter acquired in and to all of the following described personal property (collectively, the "Personalty"):

(a) All tangible personal property of every kind and description, whether stored on the Land or elsewhere, including, without limitation, all goods, materials, supplies, tools, books, records, chattels, furniture, fixtures, equipment, and machinery, and which in all cases is (i) used or useful or acquired in connection with any construction undertaken on the Land or the maintenance of the Land and the Improvements, or (ii) affixed or installed, or to be affixed or installed, in any manner on the Land or the Improvements;

(b) All crops growing or to be grown on the Land (including all such crops following severance from the Land); all standing timber upon the Land (including all such timber following severance from the Land); all water and water rights (whether riparian, appropriative, or otherwise, and whether or not appurtenant to the Land) and shares of stock pertaining to such water or water rights, ownership of which affect the Land; and all architectural and engineering plans, specifications and drawings, and as-built drawings which arise from or relate to the Land or the Improvements;

(c) All general intangibles and rights relating to the Property, including, without limitation, all permits, licenses, land use entitlements and claims to or demands for the voluntary or involuntary conversion of any of the Land, Improvements, or other Property into cash or liquidated claims, proceeds of all present and future fire, hazard or casualty insurance policies, whether or not such policies are required by Beneficiary, and all condemnation awards or payments now or later to be made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any condemnation or eminent domain proceeding, and all causes of action and their

proceeds for any breach of warranty, misrepresentation, damage or injury to, or defect in, the Land, Improvements, or other Property or any part of them; and

(d) All substitutions, replacements, additions, accessions and proceeds for or to any of the foregoing, and all books, records and files relating to any of the foregoing, including, without limitation, computer readable memory and data and any computer software or hardware reasonably necessary to access and process such memory and data.

Notwithstanding anything in this Trust Deed to the contrary, in no event shall the Personality include, and Grantor shall not be deemed to have granted a Security Interest in, the Excluded Assets.

5. RIGHTS AND DUTIES OF THE PARTIES.

5.1 Representations and Warranties. Grantor represents and warrants that Grantor lawfully possesses and holds fee simple title to all of the Land and the Improvements.

5.2 Taxes, Assessments, Liens and Encumbrances. Grantor shall pay prior to delinquency all taxes, levies, charges and assessments, including assessments on appurtenant water stock, imposed by any public or quasi-public authority or utility company which are (or if not paid, may become) a lien (other than a Permitted Lien) on all or part of the Property or any interest in it, or which may cause any material decrease in the value of the Property or any part of it, unless the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves in accordance with GAAP are being maintained by Grantor. Grantor shall immediately discharge any lien on the Property which is not a Permitted Lien, and shall also pay when due each obligation secured by or reducible to a lien, charge or encumbrance (other than a Permitted Lien) which now or hereafter encumbers all or part of the Property, whether the lien, charge or encumbrance is or would be senior or subordinate to this Trust Deed, unless the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves in accordance with GAAP are being maintained by Grantor.

5.3 Damages and Insurance and Condemnation Proceeds.

(a) Grantor hereby absolutely and irrevocably assigns to Beneficiary, and authorizes the payor to pay to Beneficiary, the following claims, causes of action, awards, payments and rights to payment (collectively, the "Claims"):

(i) all awards of damages and all other compensation payable directly or indirectly because of a condemnation, proposed condemnation or taking for public or private use which affects all or part of the Property or any interest in it;

(ii) all other awards, claims and causes of action, arising out of any breach of warranty or misrepresentation affecting all or any part of the Property, or for damage or injury to, or defect in, or decrease in value of all or part of the Property or any interest in it;

(iii) all proceeds of any insurance policies payable because of loss sustained to all or part of the Property, whether or not such insurance policies are required by Beneficiary; and

(iv) all interest which may accrue on any of the foregoing.

(b) Grantor shall immediately notify Beneficiary in writing if:

(i) any damage occurs or any injury or loss is sustained to all or part of the Property, or any action or proceeding relating to any such damage, injury or loss is commenced (provided, however, that no such notice shall be required if the amount of such damage, injury, or loss does not exceed \$250,000); or

(ii) any offer is made, or any action or proceeding is commenced, which relates to any actual or proposed condemnation or taking of all or part of the Property.

Beneficiary may, if any Event of Default has occurred and is continuing, or if the amount at stake is in excess of \$250,000, (i) participate in any action or proceeding relating to condemnation or taking of all or part of the Property, and (ii) join Grantor in adjusting any loss covered by insurance.

(c) All proceeds of the Claims assigned to Beneficiary under this Paragraph shall be paid to Beneficiary if and to the extent required by the Credit Agreement, and shall be applied as provided in the Credit Agreement. If any proceeds are released to Grantor, neither Beneficiary nor Trustee shall be obligated to see to, approve or supervise the proper application of such proceeds. If the proceeds are held by Beneficiary to be used to reimburse Grantor for the costs of restoration and repair of the Property, the Property shall be restored to the equivalent of its original condition, or such other condition as Beneficiary may approve in writing. Beneficiary may, at Beneficiary's option, condition disbursement of the proceeds on Beneficiary's approval (which will not be unreasonably withheld or delayed) of such plans and specifications prepared by an architect satisfactory to Beneficiary, contractor's cost estimates, architect's certificates, waivers of liens, sworn statements of mechanics and materialmen, and such other evidence of costs, percentage of completion of construction, application of payments, and satisfaction of liens as Beneficiary may reasonably require.

5.4 Insurance. Grantor shall maintain and keep in force insurance covering the Property to the extent required by the Credit Agreement. In addition, each policy of hazard insurance shall include a Form 438BFU or comparable loss payable endorsement in favor of Beneficiary.

WARNING: UNLESS GRANTOR PROVIDES BENEFICIARY WITH EVIDENCE OF THE INSURANCE COVERAGE AS REQUIRED BY OUR CONTRACT OR LOAN AGREEMENT, BENEFICIARY MAY PURCHASE INSURANCE AT GRANTOR'S EXPENSE TO PROTECT BENEFICIARY'S INTEREST. THIS INSURANCE MAY, BUT NEED NOT, ALSO PROTECT GRANTOR'S INTEREST. IF THE COLLATERAL BECOMES DAMAGED, THE COVERAGE BENEFICIARY PURCHASES MAY NOT PAY ANY CLAIM GRANTOR MAKES OR ANY CLAIM MADE AGAINST GRANTOR. GRANTOR MAY LATER CANCEL THIS COVERAGE BY PROVIDING EVIDENCE THAT GRANTOR HAS OBTAINED PROPERTY COVERAGE ELSEWHERE.

GRANTOR IS RESPONSIBLE FOR THE COST OF ANY INSURANCE PURCHASED BY BENEFICIARY. THE COST OF THIS INSURANCE MAY BE ADDED TO YOUR CONTRACT OR LOAN BALANCE. IF THE COST IS ADDED TO YOUR CONTRACT OR LOAN BALANCE, THE INTEREST RATE ON THE UNDERLYING CONTRACT OR LOAN WILL APPLY TO THIS ADDED AMOUNT. THE EFFECTIVE DATE OF COVERAGE MAY BE THE DATE GRANTOR'S PRIOR COVERAGE LAPSED OR THE DATE GRANTOR FAILED TO PROVIDE PROOF OF COVERAGE.

THE COVERAGE BENEFICIARY PURCHASES MAY BE CONSIDERABLY MORE EXPENSIVE THAN INSURANCE GRANTOR CAN OBTAIN ON ITS/HIS/HER/THEIR OWN AND MAY NOT SATISFY ANY NEED FOR PROPERTY DAMAGE COVERAGE OR ANY MANDATORY LIABILITY INSURANCE REQUIREMENTS IMPOSED BY APPLICABLE LAW.

5.5 Maintenance and Preservation of Property.

(a) Grantor shall maintain the Property in accordance with the provisions of the Credit Agreement, including, without limitation, Section 6.06 thereof.

(b) Grantor shall not commit or allow any act upon or use of the Property which would violate any applicable law or order of any governmental authority, whether now existing or later to be enacted and whether foreseen or unforeseen, or any public or private covenant, condition, restriction or equitable servitude affecting the Property, except in such instances in which (i) such law or order, covenant, condition, restriction or servitude is being contested in good faith by appropriate proceedings diligently conducted, or (ii) such violation could not reasonably be expected to have a Material Adverse Effect. Grantor shall not bring or keep any article on the Property or cause or allow any condition to exist on it, if that could reasonably be expected to invalidate or would be prohibited by any insurance coverage required to be maintained by Grantor on the Property or any part of it under this Trust Deed.

5.6 Releases, Extensions, Modifications and Additional Security. Without affecting the personal liability of any person, including Grantor or any of the other Loan Parties, for the payment of the Secured Obligations or the lien of this Trust Deed on the remainder of the Property for the unpaid amount of the Secured Obligations, Beneficiary and Trustee are respectively empowered as follows:

(a) Beneficiary may from time to time and without notice:

(i) release any person liable for payment of any Secured Obligation;

(ii) extend the time for payment, or otherwise alter the terms of payment, of any Secured Obligation;

(iii) accept additional real or personal property of any kind as security for any Secured Obligation, whether evidenced by deeds of trust, mortgages, security agreements or any other instruments of security; or

(iv) alter, substitute or release any property securing the Secured Obligations.

(b) Trustee may perform any of the following acts when requested to do so by Beneficiary in writing:

(i) consent to the making of any plat or map of the Property or any part of it;

(ii) join in granting any easement or creating any restriction affecting the Property;

(iii) join in any subordination or other agreement affecting this Trust Deed or the lien of it; or

(iv) reconvey the Property or any part of it without any warranty.

5.7 Reconveyance. When all of the Secured Obligations (other than unasserted contingent indemnification Obligations) have been paid in full and no further commitment to extend credit continues, Trustee shall reconvey the Property, or so much of it as is then held under this Trust Deed, without warranty to the person or persons legally entitled to it. In the reconveyance, the grantee may be described as "the person or persons legally entitled thereto," and the recitals of any matters or facts shall be conclusive proof of their truthfulness. Neither Beneficiary nor Trustee shall have any duty to determine the rights of persons claiming to be rightful grantees of any reconveyance.

5.8 Compensation and Reimbursement of Costs and Expenses.

(a) Grantor agrees to pay reasonable fees as may be charged by Beneficiary and Trustee, for any services that Beneficiary or Trustee may render in connection with this Trust Deed, including Beneficiary's providing a statement of the Secured Obligations or Trustee's rendering of services in connection with a reconveyance. Grantor shall also pay or reimburse all of Beneficiary's and Trustee's costs and expenses which may be incurred in rendering any such services.

(b) Grantor agrees to pay or reimburse Beneficiary for all costs, expenses and other advances which may be incurred or made by Beneficiary or Trustee to protect or preserve the Property or to enforce any terms of this Trust Deed following the occurrence of an Event of Default and while such Event of Default is continuing, including the exercise of any rights or remedies afforded to Beneficiary or Trustee or both of them under Paragraph 6.3, whether any lawsuit is filed or not, or in defending any action or proceeding arising under or relating to this Trust Deed, including reasonable attorneys' fees and other legal costs, costs of any sale of the Property and any cost of evidence of title.

(c) Grantor shall pay all obligations arising under this Paragraph immediately upon demand by Trustee or Beneficiary. Each such obligation shall be added to, and considered to be part of, the principal of the Secured Obligations, and shall bear interest from the date the obligation arises at the rate provided in any instrument or agreement evidencing the Secured Obligations. If more than one rate of interest is applicable to the Secured Obligations, the highest rate shall be used for purposes hereof.

5.9 Exculpation and Indemnification.

(a) Beneficiary shall not be directly or indirectly liable to Grantor or any other person as a consequence of any of the following:

(i) Beneficiary's exercise of or failure to exercise any rights, remedies or powers granted to it in this Trust Deed;

(ii) Beneficiary's failure or refusal to perform or discharge any obligation or liability of Grantor under any agreement related to the Property or under this Trust Deed;

(iii) Beneficiary's failure to produce Rents from the Property or to perform any of the obligations of the lessor under any lease covering the Property;

(iv) any waste committed by lessees of the Property or any other parties, or any dangerous or defective condition of the Property; or

(v) any loss sustained by Grantor or any third party resulting from any act or omission of Beneficiary in operating or managing the Property upon exercise of the rights or remedies afforded Beneficiary under Paragraph 6.3, unless the loss is caused by the gross negligence or willful misconduct of Beneficiary.

Grantor hereby expressly waives and releases all liability of the types described above, and agrees that no such liability shall be asserted against or imposed upon Beneficiary.

(b) Grantor agrees to indemnify the Indemnified Parties (as hereinafter defined) against and hold them harmless from and defend (with counsel acceptable to Beneficiary) them against all losses, damages, liabilities, claims, causes of action, judgments, court costs, attorneys' fees and other legal expenses, cost of evidence of title, cost of evidence of value, and other costs and expenses which either may suffer or incur in performing any act required or permitted by this Trust Deed or by law or because of any failure of Grantor to perform any of its obligations (except those arising from the gross negligence or willful misconduct of the Indemnified Parties). This agreement by Grantor to indemnify, hold harmless and defend the Indemnified Parties shall survive the release and cancellation of any or all of the Secured Obligations and the full or partial release and/or reconveyance of this Trust Deed. "Indemnified Parties" means Beneficiary and any Person who is or will have been involved in the origination of the Secured Obligations, any Person who is or will have been involved in the servicing of the Secured Obligations, any Person in whose name the encumbrance created by this Trust Deed is or will have been recorded, Persons who may hold or acquire or will have held a full or partial interest in the Secured Obligations (including, but not limited to, custodians, trustees and other fiduciaries who hold or have held a full or partial interest in the Secured Obligations for the benefit of third parties) as well as the respective directors, officers, shareholders, partners, employees, agents, servants, representatives, contractors, subcontractors, affiliates, subsidiaries, participants, successors and assigns of any and all of the foregoing (including, but not limited to, any other Person who holds or acquires or will have held a participation or other full or partial interest in the Secured Obligations, whether during the term of the Secured Obligations or as part of or following

a foreclosure of the Secured Obligations and any successors by merger, consolidation or acquisition of all or a substantial portion of any Secured Party's assets and business). As used in this paragraph, "Person" means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership or other entity.

5.10 Defense and Notice of Claims and Actions. At Grantor's sole expense, Grantor shall protect, preserve and defend the Property and title to and right of possession of the Property, and the security of this Trust Deed and the rights and powers of Beneficiary and Trustee created under it, against all adverse claims (except Permitted Liens). Grantor shall give Beneficiary and Trustee prompt notice in writing if any claim (other than a Permitted Lien) is asserted which does or could affect any of these matters, or if any action or proceeding is commenced which alleges or relates to any such claim.

5.11 Substitution of Trustee. From time to time, Beneficiary may substitute a successor to any Trustee named in or acting under this Trust Deed in any manner now or later to be provided at law, or by a written instrument executed and acknowledged by Beneficiary and recorded in the office of the recorder of the county where the Property is situated. Any such instrument shall be conclusive proof of the proper substitution of the successor Trustee, who shall automatically upon recordation of the instrument succeed to all estate, title, rights, powers and duties of the predecessor Trustee, without conveyance from it.

5.12 Representation and Warranty Regarding Hazardous Substances. Grantor represents and warrants that to the best of its knowledge, except for the matters disclosed in the environmental reports listed on Exhibit B hereto, no hazardous substance has been disposed of or released or otherwise exists in, on, under or onto the Property, except in cases in which such disposal, release, or existence could not reasonably be expected to have a Material Adverse Effect. Grantor further represents and warrants that Grantor has complied, and will comply and cause all occupants of the Property to comply, with all current and future laws, regulations and ordinances or other requirements of any governmental authority relating to or imposing liability or standards of conduct concerning protection of health or the environment or hazardous substances ("Environmental Laws"), except in cases in which the failure to do so could not reasonably be expected to have a Material Adverse Effect. Grantor shall promptly, at Grantor's sole cost and expense, take all reasonable actions with respect to any hazardous substances or other environmental condition at, on, or under the Property necessary to (i) comply with all applicable Environmental Laws (except where the failure to do so could not reasonably be expected to have a Material Adverse Effect); (ii) allow continued use, occupation or operation of the Property; or (iii) prevent any material decrease in the fair market value of the Property. Grantor acknowledges that hazardous substances may under some circumstances permanently and materially impair the value and use of the Property. "Hazardous substance" means any substance, material or waste that is or becomes designated or regulated as "toxic," "hazardous," "pollutant," or "contaminant" or a similar designation or regulation under any current or future federal, state or local law (whether under common law, statute, regulation or otherwise) or judicial or administrative interpretation of such, including without limitation petroleum or natural gas

5.13 Site Visits, Observations and Testing. The Beneficiary and its agents and representatives shall have the right to enter and visit the Property for the purpose of observing the Property, taking and removing environmental samples and conducting tests, in each case, subject to the terms and conditions of Section 7(c) of the Security Agreement.

6. ACCELERATING TRANSFERS, DEFAULT AND REMEDIES.

6.1 Accelerating Transfers.

(a) "Accelerating Transfer" means (i) any sale, contract to sell, conveyance, encumbrance, Lien, or other transfer that is not expressly permitted by the Credit Agreement, whether voluntary, involuntary, by operation of law or otherwise, of all or any material part of the Property or any interest in it, including any transfer or exercise of any right to drill for or to extract any water (other than for Grantor's own use), oil, gas or other hydrocarbon substances or any mineral of any kind on or under the surface of the Property, or (ii) a "Change of Control" as defined in the Credit Agreement.

(b) Grantor agrees that Grantor shall not make any Accelerating Transfer, unless the transfer is preceded by Beneficiary's express written consent to the particular transaction and transferee. Beneficiary may withhold such consent in its sole discretion. If any Accelerating Transfer occurs, Beneficiary in its sole discretion may declare all of the Secured Obligations to be immediately due and payable, and Beneficiary and Trustee may invoke any rights and remedies provided by Paragraph 6.3 of this Trust Deed.

6.2 Events of Default. The occurrence of any one or more of the following events, at the option of Beneficiary, shall constitute an event of default ("Event of Default") under this Trust Deed:

(a) An "Event of Default" under and as defined in the Credit Agreement;

(b) Grantor fails to make any payment or perform any obligation which arises under this Trust Deed;

(c) Grantor makes or permits the occurrence of an Accelerating Transfer in violation of Paragraph 6.1; or

(d) Any representation or warranty made in connection with this Trust Deed or the Secured Obligations proves to have been false or misleading in any material respect when made.

6.3 Remedies. At any time after the occurrence of an Event of Default and while such Event of Default is continuing, Beneficiary and Trustee shall be entitled to invoke any and all of the rights and remedies described below, as well as any other rights and remedies authorized by law. All of such rights and remedies shall be cumulative, and the exercise of any one or more of them shall not constitute an election of remedies.

(a) Beneficiary may declare any or all of the Secured Obligations to be due and payable immediately, and may terminate any Related Swap Contract secured by this Trust Deed in accordance with its terms.

(b) Beneficiary may apply to any court of competent jurisdiction for, and obtain appointment of, a receiver for the Property.

(c) Beneficiary, in person, by agent or by court-appointed receiver, may enter, take possession of, manage and operate all or any part of the Property, and in its

own name or in the name of Grantor sue for or otherwise collect any and all Rents, including those that are past due, and may also do any and all other things in connection with those actions that Beneficiary may in its sole discretion consider necessary and appropriate to protect the security of this Trust Deed. Such other things may include: entering into, enforcing, modifying, or canceling leases on such terms and conditions as Beneficiary may consider proper; obtaining and evicting tenants; fixing or modifying Rents; completing any unfinished construction; contracting for and making repairs and alterations; performing such acts of cultivation or irrigation as necessary to conserve the value of the Property; and preparing for harvest, harvesting and selling any crops that may be growing on the property. Grantor hereby irrevocably constitutes and appoints Beneficiary as its attorney-in-fact to perform such acts and execute such documents as Beneficiary in its sole discretion may consider to be appropriate in connection with taking these measures, including endorsement of Grantor's name on any instruments. Such power is coupled with an interest and is irrevocable and may be exercised without regard to the interests of Grantor. Grantor agrees to deliver to Beneficiary all books and records pertaining to the Property, including computer-readable memory and any computer hardware or software necessary to access or process such memory, as may reasonably be requested by Beneficiary in order to enable Beneficiary to exercise its rights under this Paragraph.

(d) Either Beneficiary or Trustee may cure any breach or default of Grantor, and if it chooses to do so in connection with any such cure, Beneficiary or Trustee may also enter the Property and/or do any and all other things which it may in its sole discretion consider necessary and appropriate to protect the security of this Trust Deed. Such other things may include: appearing in and/or defending any action or proceeding which purports to affect the security of, or the rights or powers of Beneficiary or Trustee under, this Trust Deed; paying, purchasing, contesting or compromising any encumbrance, charge, lien or claim of lien which in Beneficiary's or Trustee's sole judgment is or may be senior in priority to this Trust Deed, such judgment of Beneficiary or Trustee to be conclusive as among the parties to this Trust Deed; obtaining insurance and/or paying any premiums or charges for insurance required to be carried under this Trust Deed; otherwise caring for and protecting any and all of the Property; and/or employing counsel, accountants, contractors and other appropriate persons to assist Beneficiary or Trustee. Beneficiary and Trustee may take any of the actions permitted hereunder either with or without giving notice to any person.

(e) Beneficiary may bring an action in any court of competent jurisdiction to foreclose this instrument or to obtain specific enforcement of any of the covenants or agreements of this Trust Deed.

(f) Beneficiary may cause the Property which consists solely of real property to be sold by Trustee as permitted by applicable law. Before any such trustee's sale, Beneficiary or Trustee shall give such notice of default and/or sale as may then be required by law. When all time periods then legally mandated have expired, and after such notice of sale as may then be legally required has been given, Trustee shall sell the Property, either as a whole or in separate parcels, and in such order as Trustee may determine, at a public auction to be held at the time and place specified in the notice of sale. Neither Trustee nor Beneficiary shall have any obligation to make demand on Grantor before any trustee's sale. From time to time in accordance with then applicable law, Trustee may, and in any event at Beneficiary's request shall, postpone any trustee's sale by public announcement at the time and place noticed for that sale. At any trustee's

sale, Trustee shall sell to the highest bidder at public auction for cash in lawful money of the United States, or such other form of payment satisfactory to Trustee. Any person, including Grantor, Trustee or Beneficiary, may purchase at the trustee's sale to the extent permitted by then applicable law. Beneficiary shall have the benefit of any law permitting credit bids. Trustee shall execute and deliver to the purchaser(s) a deed or deeds conveying the property being sold without any covenant or warranty whatsoever, express or implied. The recitals in any such deed of any matters or facts, including any facts bearing upon the regularity or validity of any trustee's sale, shall be conclusive proof of their truthfulness. Any such deed shall be conclusive against all persons as to the facts recited in it.

(g) Beneficiary may proceed under the Uniform Commercial Code as to all or any part of the Personalty, and in conjunction therewith may exercise all of the rights, remedies and powers of a secured creditor under the Uniform Commercial Code. When all time periods then legally mandated have expired, and after such notice of sale as may then be legally required has been given, Trustee may sell the Personalty at a public sale to be held at the time and place specified in the notice of sale. It shall be deemed commercially reasonable for the Trustee to dispose of the Personalty without giving any warranties as to the Personalty and specifically disclaiming all disposition warranties. Alternatively, Beneficiary may choose to dispose of some or all of the Property, in any combination consisting of both personal property and real property, in one sale to be held in accordance with the law and procedures applicable to real property, as permitted by Article 9 of the Uniform Commercial Code. Grantor agrees that such a sale of personal property together with real property constitutes a commercially reasonable sale of the personal property.

(h) Upon Beneficiary's request following an Event of Default and while such Event of Default is continuing, Grantor shall, at its expense, assemble the Personalty and make it available to Beneficiary at a convenient place reasonably designated by Beneficiary.

6.4 Application of Sale Proceeds and Rents.

(a) Beneficiary and Trustee shall apply the proceeds of any sale of the Property in the manner set forth in Section 8.03 of the Credit Agreement. The remainder, if any, shall be remitted to the person or persons entitled thereto.

(b) Beneficiary shall apply any and all Rents collected by it, and any and all sums other than proceeds of any sale of the Property which Beneficiary may receive or collect under Paragraph 6.3, in the manner set forth in Section 8.03 of the Credit Agreement. The remainder, if any, shall be remitted to the person or persons entitled thereto. Beneficiary shall have no liability for any funds which it does not actually receive.

7. MISCELLANEOUS PROVISIONS.

7.1 No Waiver or Cure.

(a) Each waiver by Beneficiary or Trustee must be in writing, and no waiver shall be construed as a continuing waiver. No waiver shall be implied from any delay or failure by Beneficiary or Trustee to take action on account of any default of Grantor.

Consent by Beneficiary or Trustee to any act or omission by Grantor shall not be construed as a consent to any other or subsequent act or omission or to waive the requirement for Beneficiary's or Trustee's consent to be obtained in any future or other instance.

(b) If any of the events described below occurs, that event alone shall not cure or waive any breach, Event of Default or notice of default under this Trust Deed or invalidate any act performed pursuant to any such default or notice; or nullify the effect of any notice of default or sale (unless all Secured Obligations then due have been paid and performed); or impair the security of this Trust Deed; or prejudice Beneficiary, Trustee or any receiver in the exercise of any right or remedy afforded any of them under this Trust Deed; or be construed as an affirmation by Beneficiary of any tenancy, lease or option, or a subordination of the lien of this Trust Deed:

(i) Beneficiary, its agent or a receiver takes possession of all or any part of the Property;

(ii) Beneficiary collects and applies Rents, either with or without taking possession of all or any part of the Property;

(iii) Beneficiary receives and applies to any Secured Obligation proceeds of any Property, including any proceeds of insurance policies, condemnation awards, or other claims, property or rights assigned to Beneficiary under this Trust Deed;

(iv) Beneficiary makes a site visit, observes the Property and/or conducts tests thereon;

(v) Beneficiary receives any sums under this Trust Deed or any proceeds of any collateral held for any of the Secured Obligations, and applies them to one or more Secured Obligations;

(vi) Beneficiary, Trustee or any receiver performs any act which it is empowered or authorized to perform under this Trust Deed or invokes any right or remedy provided under this Trust Deed; or

(vii) Any notice of default and election to sell under this Trust Deed is cancelled.

7.2 Powers of Beneficiary and Trustee.

(a) Trustee shall have no obligation to perform any act which it is empowered to perform under this Trust Deed unless it is requested to do so in writing and is reasonably indemnified against loss, cost, liability and expense.

(b) Beneficiary may take any of the actions permitted under Paragraphs 6.3(b) and/or 6.3(c) regardless of the adequacy of the security for the Secured Obligations, or whether any or all of the Secured Obligations have been declared to be immediately due and payable, or whether notice of default and election to sell has been given under this Trust Deed.

(c) From time to time, Beneficiary or Trustee may apply to any court of competent jurisdiction for aid and direction in executing the trust and enforcing the rights and remedies created under this Trust Deed. Beneficiary or Trustee may from time to time obtain orders or decrees directing, confirming or approving acts in executing this trust and enforcing these rights and remedies.

7.3 Merger. No merger shall occur as a result of Beneficiary's acquiring any other estate in or any other lien on the Property unless Beneficiary consents to a merger in writing.

7.4 Applicable Law. This Trust Deed shall be governed by the laws of the State of Oregon.

7.5 Successors in Interest. The terms, covenants and conditions of this Trust Deed shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties. However, this Paragraph does not waive the provisions of Paragraph 6.1.

7.6 Interpretation. Whenever the context requires, all words used in the singular will be construed to have been used in the plural, and vice versa, and each gender will include any other gender. The captions of the sections of this Trust Deed are for convenience only and do not define or limit any terms or provisions. The word "include(s)" means "include(s), without limitation," and the word "including" means "including, but not limited to." The word "obligations" is used in its broadest and most comprehensive sense, and includes all primary, secondary, direct, indirect, fixed and contingent obligations. It further includes all principal, interest, prepayment charges, late charges, loan fees and any other fees and charges accruing or assessed at any time, as well as all obligations to perform acts or satisfy conditions. No listing of specific instances, items or matters in any way limits the scope or generality of any language of this Trust Deed. The Exhibits to this Trust Deed are hereby incorporated in this Trust Deed.

7.7 Intentionally omitted.

7.8 Waiver of Marshaling. Grantor waives all rights, legal and equitable, it may now or hereafter have to require marshaling of assets or to direct the order in which any of the Property will be sold in the event of any sale under this Trust Deed. Each successor and assign of Grantor, including any holder of a lien subordinate to this Trust Deed, by acceptance of its interest or lien agrees that it shall be bound by the above waiver, as if it had given the waiver itself.

7.9 Severability. If any provision of this Trust Deed should be held unenforceable or void, that provision shall be deemed severable from the remaining provisions and in no way affect the validity of this Trust Deed.

7.10 Notices. Grantor hereby requests that a copy of notice of default and notice of sale be mailed to it at the address set forth below. That address is also the mailing address of Grantor as debtor under the Uniform Commercial Code. Beneficiary's address given below is the address for Beneficiary as secured party under the Uniform Commercial Code.

Addresses for Notices to Grantor:

c/o Major Brands, Inc.
6701 Southwest Avenue
St. Louis, Missouri 63143
Attention: Mr. Todd H. Epstein
Facsimile No.: (314) 633-3786

Address for Notices to Beneficiary:

Bank of America, N.A.
MO1-800-12-01
800 Market Street, 12th floor
St. Louis, Missouri 63101
Attn: Commercial Banking
Facsimile No.: (314) 466-6499

7.11 Statute of Frauds. Under Oregon law, most agreements, promises and commitments made by us concerning loans and other credit extensions which are not for personal, family or household purposes or secured solely by the borrower's residence must be in writing, express consideration and be signed by us to be enforceable.

7.12 Commercial Property. Grantor covenants and warrants that the Land and the Improvements are used by Grantor exclusively for business and commercial purposes.

WARNING (ORS 93.040(1)): BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301, AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007

This Deed of Trust is a commercial trust deed and is not a residential trust deed, as the phrase "residential trust deed" is defined in ORS 86.705, and the provisions of ORS 86.705 through 86.795 applicable to the foreclosure of commercial trust deeds shall apply to this Trust Deed at the option of Beneficiary.

[Signature Page Follows]

IN WITNESS WHEREOF, Grantor has executed this Line of Credit Trust Deed as of the date first above written.

GRANTOR:

WESTERN BEVERAGE, LLC,
a Delaware limited liability company

By

Typed Name Thomas J. Schawang

Title Secretary

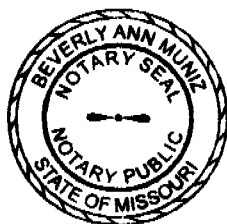
ACKNOWLEDGEMENT

State of ^{Missouri} ~~Oregon~~)
City) ss
County of St. Louis)

This instrument was acknowledged before me on February 26, 2009, by Tom Schawang as Secretary of Western Beverage LLC.

Seal

Beverly Ann Muniz
Signature
Notary Public for the State of ^{Missouri} ~~Oregon~~
My commission expires: 2-8-11



BEVERLY ANN MUNIZ
Notary Public - State of Missouri
ST. LOUIS CITY
My Commission Expires Feb. 8, 2011
Commission #07998437

EXHIBIT A TO TRUST DEED

Exhibit A to LINE OF CREDIT TRUST DEED executed as of February 27, 2009, by Western Beverage, LLC, as "Grantor" to FIRST AMERICAN TITLE INSURANCE COMPANY as "Trustee" for the benefit of Bank of America, N.A., a national banking association, as "Beneficiary."

Description of Property

LOTS 12 AND 13, BLOCK 1, TRACT NO. 1174, COLLEGE INDUSTRIAL PARK, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF KLAMATH COUNTY, OREGON.

Street Address of Property

4272 Venture Court, Klamath Falls, Oregon 97601

EXHIBIT B TO TRUST DEED

Exhibit B to LINE OF CREDIT TRUST DEED executed as of February 27, 2009, by Western Beverage, LLC, as "Grantor" to FIRST AMERICAN TITLE INSURANCE COMPANY as "Trustee" for the benefit of Bank of America, N.A., a national banking association, as "Beneficiary."

Environmental Reports

- 1) Phase I report performed by VBA Compliance Assurance on behalf of Anheuser-Busch in February, 2008 for the real property located at 4272 Venture Ct., Klamath Falls, OR 97601-1122