

**TRADEMARK ASSIGNMENT**

Electronic Version v1.1  
 Stylesheet Version v1.1

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT
<b>NATURE OF CONVEYANCE:</b>	Security Agreement

**CONVEYING PARTY DATA**

Name	Formerly	Execution Date	Entity Type
Blueberry Sales, LLP	Blueberry Sales, LP	06/29/2004	Limited Liability Partnership: DELAWARE

**RECEIVING PARTY DATA**

<b>Name:</b>	Maple Commercial Finance Corp.
<b>Street Address:</b>	10 Exchange Place
<b>Internal Address:</b>	Suite 2600
<b>City:</b>	Jersey City
<b>State/Country:</b>	NEW JERSEY
<b>Postal Code:</b>	07302
<b>Entity Type:</b>	CORPORATION: DELAWARE

**PROPERTY NUMBERS Total: 1**

Property Type	Number	Word Mark
Registration Number:	2732158	ULTIMINTS

**CORRESPONDENCE DATA**

Fax Number: (205)244-5714  
*Correspondence will be sent via US Mail when the fax attempt is unsuccessful.*  
 Phone: 205-458-5284  
 Email: ivincent@burr.com  
 Correspondent Name: India E. Vincent, Esq.  
 Address Line 1: 420 North 20th Street  
 Address Line 2: Suite 3100  
 Address Line 4: Birmingham, ALABAMA 35203

<b>ATTORNEY DOCKET NUMBER:</b>	16308-3
<b>NAME OF SUBMITTER:</b>	India E. Vincent, Esq.

Total Attachments: 12  
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## SECURITY AGREEMENT

**THIS SECURITY AGREEMENT** (this "Agreement"), dated as of June 29, 2004, is executed and entered into by and among **BLUEBERRY SALES, LLP**, a Delaware limited liability partnership having its principal place of business in El Paso, Texas, United States ("Borrower"); and **MAPLE COMMERCIAL FINANCE CORP.**, a Delaware corporation (the "Lender"). Unless otherwise defined herein or if the context clearly requires to the contrary, any capitalized term used herein but not defined shall have the meaning ascribed to such term in that certain Loan Agreement (as amended from time to time, the "Loan Agreement") and the Loan Documents of even date herewith, extending a Revolving Loan to Borrower in the maximum principal amount of \$13,000,000.00, evidenced by a Revolving Credit Note ("Note"), a Restricted Revolving Credit Loan in the maximum principal amount of \$2,500,000.00, evidenced by a Restricted Revolving Credit Note, a Senior Term Loan in the amount of \$13,000,000.00, evidenced by a Promissory Note, and a Subordinate Term Loan in the amount of \$5,000,000.00, evidenced by a Promissory Note, all given by Borrower in favor of Lender (collectively the "Loans" and the documents evidencing those Loans the "Notes").

1. **DEFINITIONS.** As used herein, the following terms shall have the meanings set forth below (such meanings to be equally applicable to the singular and plural forms thereof):

"Collateral" means:

- (a) The Loan Documents;
- (b) All of the Borrower's assets, including, without limitation, Borrower's real property, personal property, equipment, machinery, accounts, bank and depository accounts, general intangibles, payments intangibles, contract rights, instruments, documents, chattel paper, goods, choses in action, causes of action, claims, inventory, fixtures, investments, investment property, securities, stocks, bonds and all products or proceeds thereof, which secure the Loans, Notes, and the debts due thereto and thereunder;
- (c) All records pertaining to any of the Collateral;
- (d) All interest, dividends, proceeds, products, rents, royalties, issues and profits of any of the property described above and all notes, leases, titles, certificates of deposit, checks and other instruments from time to time delivered to or otherwise possessed by Lender for or on behalf of Borrower in substitution for or in addition to any of said property; and
- (e) Whether any of the Collateral is now existing, hereafter arising or in which Borrower hereafter has any interest.

"Loan Documents" means the Loan Agreement, the Notes, the Collateral documents, this Security Agreement and any other agreement, instrument, certificate, title, affidavit, or document now or hereafter evidencing or securing the Loans the Notes and the debts due thereunder.

"Obligations" means the obligations (including obligations of performance) and liabilities of the Borrower or any Guarantor to Lender of every kind and description whatsoever, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter incurred, contracted or arising, or acquired by Lender from any source, joint or several, liquidated or unliquidated, regardless of how they arise or by what agreement or instrument they may be evidenced or whether they are evidenced by any agreement or instrument, and whether incurred as maker, endorser, surety, guarantor, general partner, drawer, tort-feasor, indemnitor, account party with respect to a letter of credit or otherwise, and arising

out of, incurred pursuant to and/or in connection with any Loan Document or other agreement between Borrower or any Guarantor and Lender, whether now existing or entered in the future, and any and all extensions, renewals, modifications or amendments of any of the same, including, but not limited to the following obligations:

(a) To pay the principal of and interest on the Notes in accordance with the respective terms thereof, in the Loan Documents and/or hereof, including any and all extensions, modifications, and renewals thereof and substitutions therefor;

(b) To pay, repay or reimburse Lender for all amounts owing hereunder and/or under any of the other Loan Documents, including all damages, dues, penalties, fines, costs, amounts paid in settlement, taxes, losses, expenses, and fees, including court costs and attorneys' fees incurred by Lender in connection with the Loans; and

(c) To reimburse Lender, on demand, for all of Lender's expenses and costs, including the fees and expenses of its counsel, in connection with the preparation, administration, amendment, modification, or enforcement of this Agreement and the documents required hereunder, including, without limitation, any proceeding brought or threatened to enforce payment of any of the Obligations referred to in the foregoing paragraphs (a) and (b).

"Uniform Commercial Code" means the Uniform Commercial Code as presently adopted and in effect in the State of New York, United States (except in cases and with respect to Collateral when the perfection, the effect of perfection or nonperfection, and the priority of a lien or security interest in the Collateral is governed by another jurisdiction, in which case such capitalized words and phrases shall have the meanings attributed to those terms under such other jurisdiction).

2. **GRANT OF LIEN AND SECURITY INTEREST.** For good and valuable consideration, as security for the prompt satisfaction of all Obligations, Borrower hereby assigns, transfers, grants, conveys and sets over to Lender all of Borrower's right, title and interest in and to, and grants Lender a lien and continuing security interest on, upon and in the Collateral; including a purchase money security interest on, upon and in any Collateral purchased with funds advanced to Borrower by Lender; including any future advances and Collateral purchased in the future with such future advances.

3. **RESIDENCY/LEGAL STATUS.** Borrower is a duly organized and existing entity in good standing in its state and country of organization and has full power and authority to consummate the transactions contemplated by this Agreement and the other Loan Documents.

4. **REPRESENTATIONS, WARRANTIES, AND COVENANTS.** Borrower represents, warrants and covenants to Lender that:

(a) Borrower is and, subject to the terms of this Agreement, the Loan Agreement, and the Loan Documents, shall remain the sole owner, save and except the Permitted Encumbrances, of the Collateral;

(b) The Collateral is and shall at all times remain free of all tax and other liens, security interests, encumbrances and claims of any kind except for those belonging to Lender and those belonging to Bank of the West El Paso and secured by a superior security interest which applies to that real property owned by Arbor America and/or Arbor Mexico in Ciudad Juarez, Chihuahua, Mexico;

(c) Borrower shall defend the Collateral against all claims and demands of all persons at any time claiming any interest therein at the Borrower's expense;

(d) Borrower has the right and is duly authorized to enter into and perform its obligations under this Agreement. Borrower's execution and performance of these Obligations does not and shall not conflict with the provisions of any statute, regulation, ordinance, rule of law, contract or other agreement which may now or hereafter be binding on Borrower;

(e) No action or proceeding is pending against the Borrower or any of its Guarantors, other than those that have been disclosed by Borrower to Lender in conjunction with the due diligence provided prior to the entry of the Loan Agreement, which might result in any material or adverse change in its business operations or financial condition or materially affect the Collateral;

(f) Borrower has not violated or shall Borrower violate any applicable federal, state, county or municipal statute, regulation or ordinance (including but not limited to those governing hazardous materials) which may materially and adversely affect its business operations or financial conditions or the Collateral; and

(g) This Agreement and the obligations described in this Agreement are executed and incurred for business and not consumer purposes.

5. **SALE OF COLLATERAL.** Borrower shall not assign, convey, lease, sell or transfer any of the Collateral to any third party without the prior written consent of Lender, except for sales of inventory to buyers in the ordinary course of business and the retirement of assets in the ordinary course of business.

6. **FINANCING STATEMENTS AND OTHER DOCUMENTS.** Borrower shall at any time and from time to time take all actions and execute all documents required by Lender to attach, perfect and maintain Lender's security interest in the Collateral and establish and maintain Lender's right to receive the payment of the proceeds of the Collateral including, but not limited to, executing any financing statements, fixture filings, continuation statements, notices of security interest and other documents required by the Uniform Commercial Code and other applicable law. Borrower shall pay the costs of filing such documents in all offices wherever filing or recording is reasonably deemed by Lender to be necessary or desirable. Lender shall be entitled to perfect its security interest in the Collateral by filing carbon, photographic or other reproductions of the aforementioned documents with any authority required by the Uniform Commercial Code or other applicable law. Borrower authorizes Lender to execute and file any financing statements, as well as extensions, renewals and amendments of financing statements in such form as Lender may require to perfect and maintain perfection of any security interest granted in this Agreement.

7. **INQUIRIES AND NOTIFICATION TO THIRD PARTIES.** Borrower hereby authorizes Lender to contact any third party and make any inquiry pertaining to Borrower's financial condition or the Collateral. In addition, Lender is authorized to provide oral or written notice of its security interest in the Collateral to any third party and, following a default hereunder, to instruct such third parties to make payment directly to Lender.

8. **DEFAULT.** The term "Event of Default", wherever used in this Agreement, shall mean an "Event of Default" as defined in the Loan Agreement and Loan Documents.

9. **RIGHTS OF LENDER ON DEFAULT.** Upon the occurrence of an Event of Default and the running of any applicable cure period, Lender shall be entitled to exercise one or more of the following remedies without notice or demand (except as required by applicable law):

(a) To declare the Obligations immediately due and payable in full;

- (b) To take possession of any Collateral in any manner permitted by applicable law;
- (c) To set-off and recoup any or all of the Borrower's or Guarantors' respective Obligations against any amounts due to Lender by Borrower or any, either or all Guarantors; and
- (d) To exercise all other rights available to Lender under any other written agreement or applicable law, including, without limitation, the Uniform Commercial Code.

Lender's rights are cumulative and may be exercised together, separately, and in any order. If notice to Borrower of intended disposition of Collateral is required by law, Lender will provide reasonable notification of the time and place of any sale or intended disposition as required under the Uniform Commercial Code. In the event that Lender institutes an action to recover any Collateral or seeks recovery of any Collateral by way of a prejudgment remedy in an action against Borrower, Borrower waives the posting of any bond which might otherwise be required. Upon any default, Borrower shall segregate all proceeds of Collateral that it receives and hold such proceeds in trust for Lender.

10. **APPLICATION OF PAYMENT.** Whether or not an Event of Default has occurred, all payments made by or on behalf of Borrower or any of Borrower's Guarantors and all credits due to the Borrower from the disposition of the Collateral or otherwise may be applied against the amounts paid by Lender (including reasonable attorneys' fees and expenses) in connection with the exercise of its rights or remedies described in this Agreement and any interest thereon, and then to the payment of the remaining Obligations in accordance with the Loan Agreement.

11. **REIMBURSEMENT OF AMOUNTS EXPENDED BY LENDER.** Borrower shall reimburse Lender for all amounts (including attorneys' fees and expenses) expended by Lender in the performance of any action required to be taken by Borrower or the exercise of any right or remedy belonging to Lender under this Agreement, together with interest thereon at the lower of the highest rate described in any Loan Document or the highest rate allowed by law from the date of payment until the date of reimbursement. These sums shall be included in the definition of Obligations, shall be secured by the Collateral and shall be payable upon demand.

12. **ASSIGNMENT.** Borrower shall not be entitled to assign any of its rights, remedies or obligations described in this Agreement without the prior written consent of Lender. Consent may be withheld by Lender in its sole discretion. Lender shall be entitled to assign its rights and remedies described in this Agreement without notice to or the prior consent of Borrower in any manner.

13. **MODIFICATION AND WAIVER.** The modification or waiver of any of Borrower's Obligations or Lender's rights under this Agreement must be contained in a writing signed by Lender. Lender may perform any of Borrower's Obligations or delay or fail to exercise any of its rights without causing a waiver of those Obligations or rights. A waiver on one occasion shall not constitute a waiver on any other occasion. Borrower's Obligations under this Agreement shall not be affected if Lender amends, compromises, exchanges, fails to exercise, impairs or releases any of the obligations belonging to Borrower or any third party or any of its rights against the Borrower or any Guarantor, third party or the Collateral.

14. **SUCCESSORS AND ASSIGNS.** This Agreement shall be binding upon and inure to the benefit of Borrower and Lender and their respective successors, assigns, trustees, receivers, administrators, personal representatives, legatees, and devisees.

15. **NOTICES.** All notices and other communications from either party to the other hereunder shall be given and deemed received when given in accordance with the terms of the Loan Agreement.

16. **SEVERABILITY.** If any provision of this Agreement violates any applicable law or is unenforceable, the rest of the Agreement shall remain valid.

17. **APPLICABLE LAW.** This Agreement is entered into and performable in Jersey City, New Jersey, and the substantive laws, without giving effect to principles of conflict of laws, of the United States and the State of New York shall govern the construction of this Agreement and the documents executed and delivered pursuant hereto, and the rights and remedies of the parties hereto and thereto, except to the extent that the location of any collateral in a state or jurisdiction other than New York requires that the perfection of Lender's lien hereunder, and the enforcement of certain of Lender's remedies with respect to the collateral, be governed by the laws of such other state or jurisdiction. This Agreement shall be enforceable in the state and federal courts presiding in New York City, New York, and any other court of competent jurisdiction

18. **COLLECTION COSTS.** If Lender hires an attorney to assist in collecting any amount due or enforcing any right or remedy under this Agreement, Borrower agrees to pay Lender's attorneys' fees and collection costs.

19. **MISCELLANEOUS.** This Agreement is executed for commercial purposes. Borrower shall supply information regarding Borrower's business operations and financial condition or the Collateral in the form and manner as reasonably requested by Lender from time to time. All information furnished by Borrower to Lender shall be true, accurate and complete in all respects. Borrower and Lender agree that time is of the essence. Borrower waives presentment, demand for payment, notice of dishonor and protest except as required by law. All references to Borrower in this Agreement shall include all parties signing below except Lender. This Agreement shall be binding upon the heirs, successors and assigns of Borrower and Lender. If there is more than one Borrower, the obligations hereunder shall be joint and several. This Agreement shall remain in full force and effect until Lender provides Borrower with written notice of termination. This Agreement and any related documents represent the complete and integrated understanding between Borrower and Lender pertaining to the terms and conditions of those documents.

Borrowers acknowledge that each Borrower has read, understands, and agrees to the terms and conditions of this Agreement.

**IN WITNESS WHEREOF,** this Agreement has been executed and delivered as of the day and year first above written.

**BORROWER:**

**BLUEBERRY SALES, LLP**

By: **BLUEBERRY ENTERPRISES, L.L.C.**  
ITS: Managing Partner

By:   
Name: **Brad Ducorsky, President**

**LENDER:**

**MAPLE COMMERCIAL FINANCE  
CORP.**

By: \_\_\_\_\_  
Name: **Jim Culver**  
Title: **Managing Director**

15. **NOTICES.** All notices and other communications from either party to the other hereunder shall be given and deemed received when given in accordance with the terms of the Loan Agreement.

16. **SEVERABILITY.** If any provision of this Agreement violates any applicable law or is unenforceable, the rest of the Agreement shall remain valid.

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18. **COLLECTION COSTS.** If Lender hires an attorney to assist in collecting any amount due or enforcing any right or remedy under this Agreement, Borrower agrees to pay Lender's attorneys' fees and collection costs.

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Borrowers acknowledge that each Borrower has read, understands, and agrees to the terms and conditions of this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed and delivered as of the day and year first above written.

**BORROWER:**

**BLUEBERRY SALES, LLP**

By: **BLUEBERRY ENTERPRISES, L.L.C.**  
ITS Managing Partner

By: \_\_\_\_\_  
Name: **Brad Ducorsky, President**

**LENDER:**

**MAPLE COMMERCIAL FINANCE CORP.**

By:   
Name: **Jim Culver**  
Title: **Managing Director**



STATE OF TEXAS )

COUNTY OF EL PASO )

I, LORENA FANG, a Notary Public in and for said County in said State, hereby certify that Brad Ducorsky, whose name as President of Blueberry Enterprises, L.L.C., the Managing Partner of **BLUEBERRY SALES, LLP**, a Delaware limited liability partnership, is signed to the foregoing Security Agreement, and who is known to me or who provided proper evidence of his identity, acknowledged before me on this day that, being informed of the contents of such Security Agreement, he, as such officer and with full authority, executed the same voluntarily for and as the act of **BLUEBERRY SALES, LLP**.

Given under my hand and seal, this 29th day of June, 2004.



[Signature]  
NOTARY PUBLIC  
My Commission Expires: 9/8/04

STATE OF NEW JERSEY )

COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, a Notary Public in and for said County in said State, hereby certify that \_\_\_\_\_, whose name as \_\_\_\_\_ of **MAPLE COMMERCIAL FINANCE CORP.** is signed to the foregoing Security Agreement, and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said **MAPLE COMMERCIAL FINANCE CORP.**

Given under my hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

[SEAL]

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires: \_\_\_\_\_

STATE OF TEXAS )

COUNTY OF EL PASO )

I, \_\_\_\_\_, a Notary Public in and for said County in said State, hereby certify that Brad Ducorsky, whose name as President of Blueberry Enterprises, L.L.C., the Managing Partner of BLUEBERRY SALES, LLP, a Delaware limited liability partnership, is signed to the foregoing Security Agreement, and who is known to me or who provided proper evidence of his identity, acknowledged before me on this day that, being informed of the contents of such Security Agreement, he, as such officer and with full authority, executed the same voluntarily for and as the act of BLUEBERRY SALES, LLP.

Given under my hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

[SEAL]

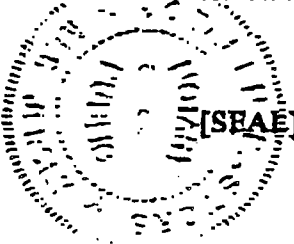
NOTARY PUBLIC  
My Commission Expires: \_\_\_\_\_

STATE OF NEW JERSEY )

COUNTY OF Hudson )

I, Joellen Pastors, a Notary Public in and for said County in said State, hereby certify that VANCE A CUMER, whose name as MANAGING DIRECTOR of MAPLE COMMERCIAL FINANCE CORP. is signed to the foregoing Security Agreement, and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said MAPLE COMMERCIAL FINANCE CORP.

Given under my hand and seal, this 30th day of June, 2004.



[SEAL]

Joellen Pastors  
NOTARY PUBLIC  
My Commission Expires: 8/21/2007  
**JOELLEN PASTORS**  
**NOTARY PUBLIC OF NEW JERSEY**  
**Commission Expires 8/21/2007**

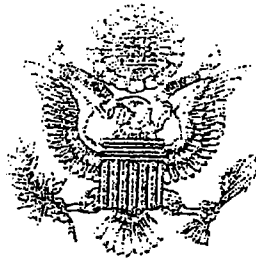
***Schedule of Intellectual Property***

United States Patent and Trademark Office  
Reg. No. 2,732,158  
Registered: July 1, 2003  
Expiration: June 30, 2013 *with continued use at the end of sixth year  
following registration*

Trademark "Ultimints"  
For: Breath mints, in class 30 (U. S. Cl. 46)

Blueberry Sales, Inc.  
DBA, Blueberry Hill Foods

# The United States of America



## CERTIFICATE OF REGISTRATION PRINCIPAL REGISTER

*The Mark shown in this certificate has been registered in the United States Patent and Trademark Office to the named registrant.*

*The records of the United States Patent and Trademark Office show that an application for registration of the Mark shown in this Certificate was filed in the Office; that the application was examined and determined to be in compliance with the requirements of the law and with the regulations prescribed by the Director of the United States Patent and Trademark Office; and that the Applicant is entitled to registration of the Mark under the Trademark Act of 1946, as Amended.*

*A copy of the Mark and pertinent data from the application are part of this certificate.*

*This registration shall remain in force for TEN (10) years, unless terminated earlier as provided by law, and subject to compliance with the provisions of Section 8 of the Trademark Act of 1946, as Amended.*



A handwritten signature in cursive script, appearing to read "James H. Profane".

Director of the United States Patent and Trademark Office

**Requirements for Maintaining a  
Federal Trademark Registration**

**SECTION 8: AFFIDAVIT OF CONTINUED USE**

The registration shall remain in force for 10 years, except that the registration shall be canceled for failure to file an Affidavit of Continued Use under Section 8 of the Trademark Act, 15 U.S.C. §1058, upon the expiration of the following time periods:

- i) At the end of 6 years following the date of registration.
- ii) At the end of each successive 10-year period following the date of registration.

*Failure to file a proper Section 8 Affidavit at the appropriate time will result in the cancellation of the registration.*

**SECTION 9: APPLICATION FOR RENEWAL**

The registration shall remain in force for 10 years, subject to the provisions of Section 8, except that the registration shall expire for failure to file an Application for Renewal under Section 9 of the Trademark Act, 15 U.S.C. §1059, at the end of each successive 10-year period following the date of registration.

*Failure to file a proper Application for Renewal at the appropriate time will result in the expiration of the registration.*

**No further notice or reminder of these requirements will be sent to the Registrant by the Patent and Trademark Office. It is recommended that the Registrant contact the Patent and Trademark Office approximately one year before the expiration of the time periods shown above to determine the requirements and fees for the filings required to maintain the registration.**