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Doc#: 1429019113 Fee: \$54.00
RHSP Fee:\$9.00 RPRF Fee: \$1.00
Karen A.Yarbrough
Cook County Recorder of Deeds
Date: 10/17/2014 01:00 PM Pg: 1 of 9

This Instrument is Prepared by:

George C. Dunlap, Jr., Esq.
Gardere Wynne Sewell, LLP
3000 Thanksgiving Tower
1601 Elm Street
Dallas, Texas 75201

Recording requested by,
and after recording, return to:

EVERBANK
Attn: Risk Department
6464 185th Avenue NE, Suite 200
Redmond, Washington 98052

Loan No.: 6326682-001

ASSIGNMENT OF RENTS AND LEASES

THIS ASSIGNMENT, made as of October ^{15th}, 2014, by **BLOMMER CHOCOLATE COMPANY**, a Delaware corporation, with a mailing address of 600 West Kinzie Street, Chicago, Illinois 60610 ("Assignor"), in favor of **EVERBANK**, with a mailing address of 6464 185th Avenue NE, Suite 200, Redmond, Washington 98052 Attention: Risk Department (together with its successors and assigns, "Lender"),

WITNESSETH:

Assignor, for good and valuable consideration, the receipt of which is hereby acknowledged, does hereby absolutely and unconditionally grant, bargain, sell, transfer, assign, convey, set over and deliver unto Lender all right, title and interest of Assignor in, to and under all written and oral leases and rental agreements with respect to the real property located in Chicago, Cook County, Illinois, commonly known as 600 West Kinzie Street and 600 West Grand Avenue, and more particularly described in Exhibit A attached hereto and made a part hereof (the "Property"), whether now in existence or hereafter entered into, and all guaranties, amendments, extensions, renewals and subleases of said leases and any of them, all of which are hereinafter called the "Leases," all rents, income and profits which may now or hereafter be or become due or owing under the Leases, and any of them, or on account of the use of the Property, any award hereafter made in any bankruptcy, insolvency or reorganization proceeding in any state or federal court involving any of the tenants of the Leases, and any and all payments made by such tenants in lieu of rent, and including any rights of Assignor under letters of credit given by tenants under the Leases and any fees due by Tenants upon termination of the Leases.

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This Assignment is made for the purpose of securing:

- A. The payment of the indebtedness (including any extensions or renewals thereof) evidenced by a certain Promissory Note ("Note") of Assignor of even date herewith in the principal sum of NINE MILLION NINE HUNDRED THOUSAND AND NO/100 DOLLARS (\$9,900,000.00) and secured by a mortgage executed by Borrower (collectively, the "Security Instrument") of even date herewith encumbering the Property; and
- B. The payment of all other sums with interest thereon becoming due and payable to Lender under the provisions of the Security Instrument and any other instrument constituting security for the Note; and
- C. The performance and discharge of each and every term, covenant and condition contained in the Note, Security Instrument and any other instrument constituting security for the Note.

Assignor represents, warrants, covenants and agrees with Lender as follows:

1. The sole ownership of the entire lessor's interest in the Leases is or shall be vested in Assignor, and Assignor has not, and shall not, perform any acts or execute any other instruments which might prevent Lender from fully exercising its rights under any of the terms, covenants and conditions of this Assignment.
2. The Leases are and shall be valid and enforceable in accordance with their terms and have not been altered, modified, amended, terminated, canceled, renewed or surrendered nor have any of the terms and conditions thereof been waived in any manner whatsoever except as approved in writing by Lender, which approval shall not be unreasonably withheld or delayed, subject to Lender's then-current underwriting criteria for similar properties and transactions.
3. Without limiting the foregoing, Assignor shall not reduce the amount of rent payable under any Lease or shorten the term of any Lease without notice to Lender and Lender's consent.
4. There are no defaults now existing under any of the Leases, and to the best of Assignor's knowledge, there exists no state of facts which, with the giving of notice or lapse of time or both, would constitute a default under any of the Leases.
5. Assignor shall give prompt notice to Lender of any notice received by Assignor claiming that a default has occurred under any of the Leases on the part of Assignor, together with a complete copy of any such notice.
6. Each of the Leases shall remain in full force and effect irrespective of any merger of the interest of lessor and any tenant under any of the Leases.
7. Assignor will not permit any Lease to become subordinate to any lien other than the Security Instrument.
8. All existing Leases are described on Exhibit B attached hereto and incorporated herein. Assignor has delivered to Assignee true and correct copies of all existing Leases and all amendments and modifications thereto.

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9. Assignor shall not permit the assignment of the tenant's interest under any Lease without Lender's prior written consent, which consent shall not be unreasonably withheld or delayed, subject to Lender's then-current underwriting criteria for similar properties and transactions.

The parties further agree as follows:

This Assignment is an absolute, present assignment from Assignor to Lender, effective immediately, and is not merely an assignment for security purposes. Notwithstanding the foregoing, until a notice is sent to the Assignor in writing that an Event of Default (as defined in the Note and/or Security Instrument) has occurred under the terms and conditions of the Note or any other instrument constituting additional security for the Note (which notice is hereafter called a "Notice"), Assignor is granted a license to receive, collect and enjoy the rents, income and profits accruing from the Property.

If an Event of Default (as defined in the Note and Security Instrument) shall occur, Lender may, at its option, after service of a Notice, receive and collect all such rents, income and profits as they become due, from the Property. Lender shall thereafter continue to receive and collect all such rents, income and profits, until Lender shall otherwise agree in writing. All sums received by Assignor after service of such Notice shall be deemed received in trust and shall be immediately turned over to Lender.

If Lender shall receive rents from Assignor's tenants, Lender shall apply the rents received to accrued interest and principal under the Note. If no Event of Default remains uncured, amounts received in excess of the aggregate monthly payment due under the Note shall be remitted to Assignor in a timely manner. Nothing contained herein shall be construed to constitute Lender as a mortgagee-in-possession in absence of its physically taking possession of the Property.

Assignor hereby irrevocably appoints Lender as its true and lawful attorney-in-fact with power of substitution and with full power for Lender in its own name and capacity or in the name and capacity of Assignor, from and after service of Notice, to demand, collect, receive and give complete acquittances for any and all rents, income and profits accruing from the Property, either in its own name or in the name of Assignor or otherwise, which Lender may deem necessary or desirable in order to collect and enforce the payment of the rents, income and profits and to demand, correct, receive, endorse, and deposit all checks, drafts, money orders or notes given in payment of such rents. Such appointment is coupled with an interest and is irrevocable. Lender shall not be liable for or prejudiced by any loss of any note, checks, drafts, etc., unless such loss is due to the gross negligence or willful misconduct of Lender.

Assignor also hereby irrevocably appoints Lender from and after service of Notice as its true and lawful attorney-in-fact to appear in any state or federal bankruptcy, insolvency, or reorganization proceeding in any state or federal court involving any of the tenants of the Leases. Tenants of the Property are hereby expressly authorized and directed, from and after service of a Notice to pay any and all amounts due Assignor pursuant to the Leases to Lender or such nominee as Lender may designate in writing delivered to and received by such tenants who are expressly relieved of any and all duty, liability or obligation to Assignor in respect of all payments so made.

If an Event of Default shall occur, Lender is hereby vested with full power from and after service of a Notice, but, subject to applicable law, to use all measures, legal and equitable, deemed by it necessary or proper to enforce this Assignment and to collect the rents, income and profits assigned hereunder, including the right of Lender or its designee, to enter upon the Property, or any part thereof, and take possession of all or any part of the Property together with all personal property, fixtures, documents, books, records, papers and accounts of Assignor relating thereto, and may exclude the Assignor, its agents and servants, wholly therefrom. Assignor hereby grants full power and authority to Lender to exercise all rights, privileges and powers herein granted at any and all times after service of a Notice, with full power to use and apply all of the rents and other income herein assigned to the payment of the costs of managing and operating the Property and of any indebtedness or liability of Assignor to Lender, including but not limited to the payment of taxes, special assessments, insurance premiums,

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damage claims, the costs of maintaining, repairing, rebuilding and restoring the improvements on the Property or of making the same rentable, reasonable attorneys' fees incurred in connection with the enforcement of this Assignment, and of principal and interest payments due from Assignor to Lender on the Note and the Security Instrument, all in such order as Lender may determine. Lender shall be under no obligation to exercise or prosecute any of the rights or claims assigned to it hereunder or to perform or carry out any of the obligations of the lessor under any of the Leases and does not assume any of the liabilities in connection with or arising or growing out of the covenants and agreements of Assignor in the Leases. It is further understood that this Assignment shall not operate to place responsibility for the control, care, management or repair of the Property, or parts thereof, upon Lender, nor shall it operate to make Lender liable for the performance of any of the terms and conditions of any of the Leases, or for any waste of the Property by any tenant under any of the Leases or any other person, or for any dangerous or defective condition of the Property or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any tenant, licensee, employee or stranger, unless the same shall have been found by a court of competent jurisdiction to have been due to the gross negligence or willful misconduct of Lender.

Waiver of or acquiescence by Lender in any default by the Assignor, or failure of Lender to insist upon strict performance by the Assignor of any covenants, conditions or agreements in this Assignment, shall not constitute a waiver of any subsequent or other default or failure, whether similar or dissimilar.

The rights and remedies of Lender under this Assignment are cumulative and are not in lieu of, but are in addition to any other rights or remedies which Lender shall have under the Note or any other instrument constituting security for the Note, or at law or in equity.

If any term of this Assignment, or the application thereof to any person or circumstances, shall, to any extent, be invalid or unenforceable, the remainder of this Assignment, or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of this Assignment shall be valid and enforceable to the fullest extent permitted by law.

Any and all notices, elections, demands, or requests permitted or required to be made under this Assignment, including without limitation a Notice, shall be in writing, signed by the party giving such notice, election, demand or request, and shall be delivered personally, or sent by registered, certified, or Express United States mail, postage prepaid, or by Federal Express or similar overnight delivery service requiring a receipt, to the other party at the address set forth above, or to such other party and at such other address within the United States of America as any party may designate as provided herein. The date of receipt of such notice, election, demand or request shall be the earliest of (i) the date of actual receipt, (ii) three (3) business days after the date of mailing by registered or certified mail, (iii) one (1) business day after the date of mailing by Express Mail, or the delivery (or redelivery) to Federal Express or another similar service requiring a receipt, or (iv) the date of personal delivery (or refusal upon presentation for delivery).

Assignor hereby authorizes Lender to give written notice of this Assignment, which may include a copy hereof, at any time to any tenant under any of the Leases.

The terms "Assignor" and "Lender" shall be construed to include the legal representatives, successors and assigns thereof. The gender and number used in this Assignment are used as a reference term only and shall apply with the same effect whether the parties are of the masculine or feminine gender, corporate or other form, and the singular shall likewise include the plural.

This Assignment may not be amended, modified or changed nor shall any waiver of any provisions hereof be effective, except only by an instrument in writing and signed by the party against whom enforcement of any waiver, amendment, change, modification or discharge is sought. To the extent that anything in this Assignment shall conflict with anything contained in the "Assignment of Rents"

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provision contained in Section 24 of the Security Instrument, the provisions of this Assignment shall control.

Notwithstanding anything contained herein to the contrary, in no event shall this Assignment be deemed to reduce the indebtedness evidenced by the Note by an amount in excess of the actual amount of cash received by Lender under the Leases, whether before, during or after the occurrence of an Event of Default, and Assignor acknowledges that in no event shall the indebtedness secured hereby be reduced by the value from time to time of the rents, income and profits of or from the Property. In addition, Lender reserves the right, at any time, whether before or after the occurrence of an Event of Default, to recharacterize this Assignment as merely constituting security for the indebtedness of Assignor to Lender, which recharacterization shall be made by written notice delivered to Assignor. Lender's receipt of any rents, issues, and profits pursuant to this Assignment after the institution of foreclosure proceedings, either by court action or by the private power of sale contained in any mortgage now or hereafter securing the Note, shall not cure an Event of Default, as defined in the Note, or affect such proceedings or sale.

WAIVER OF JURY TRIAL. ASSIGNOR AND LENDER HEREBY KNOWINGLY, VOLUNTARILY AND INTELLIGENTLY WAIVE ANY AND ALL RIGHTS THAT EACH PARTY TO THIS ASSIGNMENT MAY NOW OR HEREAFTER HAVE UNDER THE LAWS OF THE UNITED STATES OF AMERICA OR THE STATE IN WHICH THE PROPERTY IS LOCATED, TO A TRIAL BY JURY OF ANY AND ALL ISSUES ARISING DIRECTLY OR INDIRECTLY IN ANY ACTION OR PROCEEDING RELATING TO THIS ASSIGNMENT, THE LOAN DOCUMENTS OR ANY TRANSACTIONS CONTEMPLATED THEREBY OR RELATED THERETO. IT IS INTENDED THAT THIS WAIVER SHALL APPLY TO ANY AND ALL DEFENSES, RIGHTS, CLAIMS AND/OR COUNTERCLAIMS IN ANY SUCH ACTION OR PROCEEDING. ASSIGNOR UNDERSTANDS THAT THIS WAIVER IS A WAIVER OF A CONSTITUTIONAL SAFEGUARD, AND EACH PARTY INDIVIDUALLY BELIEVES THAT THERE ARE SUFFICIENT ALTERNATE PROCEDURAL AND SUBSTANTIVE SAFEGUARDS, INCLUDING, A TRIAL BY AN IMPARTIAL JUDGE THAT ADEQUATELY OFFSET THE WAIVER CONTAINED HEREIN.

This Assignment shall be governed by federal law applicable to Lender and to the extent not preempted by federal law, the laws of the State of Illinois. In all other respects, this Assignment will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Illinois without regard to its conflicts-of-laws provisions. Notwithstanding the foregoing, if there ever is a question about whether any provision of this Assignment is valid or enforceable, the provision that is questioned will be governed by whichever state or federal law would find the provision to be valid or enforceable.

Any legal action or proceeding with respect to this Assignment shall be brought exclusively in the federal or state courts located in the State of Illinois, and Assignor accepts for itself and in respect of the Property, generally and unconditionally, the jurisdiction of the aforesaid courts; provided, however, that nothing contained herein shall limit or restrict the right of Lender to commence legal proceedings or otherwise proceed against Assignor in any other jurisdiction. Lender and Assignor hereby irrevocably waive any objection, including any objection to the laying of venue or based on the grounds of forum non conveniens, that any of them may now or hereafter have to the bringing of any such action or proceeding in such jurisdictions. In the event that any provision or clause of this Assignment conflicts with applicable law, such conflict shall not affect other provisions of this Assignment which can be given effect without the conflicting provision, and to this end the provisions of this Assignment are declared to be severable.

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IN WITNESS WHEREOF, the said Assignor has caused this Assignment to be signed and sealed as of the date first above written.

ASSIGNOR:

BLOMMER CHOCOLATE COMPANY,
a Delaware corporation

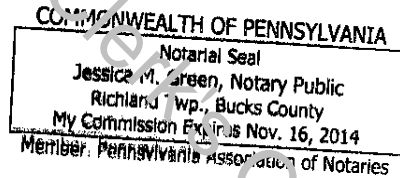
By: Neal E. Murphy
Name: Neal E. Murphy
Title: VP & CFO

THE STATE OF Pennsylvania §
COUNTY OF Bucks §

This instrument was acknowledged before me on the 13th day of October, 2014, by Neal E. Murphy as VP & CFO of **BLOMMER CHOCOLATE COMPANY**, a Delaware corporation, on behalf of said corporation

Jessica M. Green
Notary Public in and for the State of Pennsylvania
Printed Name of Notary Public: Jessica M. Green

My Commission Expires:
11/16/14



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Loan No.: 6326682-001

EXHIBIT A

600 West Kinzie Street, Chicago, Illinois 60610

Insert PIN# _____

PARCEL 1:

SUB-LOTS 1, 2, 3, 4, 5, 6 AND 7 IN SMITH'S SUBDIVISION OF LOTS 7 AND 8 IN BLOCK 59 IN RUSSELL MATHER AND ROBERT'S ADDITION TO CHICAGO, AND THE NORTH 8 FEET OF LOT 7 IN BLOCK 59 IN RUSSELL MATHER AND ROBERT'S ADDITION TO CHICAGO, IN SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS, TOGETHER WITH THE VACATED ALLEYS LYING ADJACENT TO AND ABUTTING SAID LOTS.

PARCEL 2:

LOTS 5, 6, 13, 14, 15, 16, THE SOUTHERLY 32 FEET OF LOT 12, THE SOUTHERLY 22 FEET OF THE EASTERLY 55 FEET AND THE WESTERLY 95 FEET OF LOT 4, ALL IN BLOCK 59 OF RUSSELL, MATHER AND ROBERT'S ADDITION TO CHICAGO, IN SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS, TOGETHER WITH THE VACATED ALLEYS LYING ADJACENT TO AND ABUTTING SAID LOTS.

PARCEL 3:

LOTS 5, 6, 7, AND 8, IN BLOCK 60 IN RUSSELL, MATHER & ROBERT'S ADDITION TO CHICAGO, IN SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, EXCEPTING THEREFORE CONVEYED TO CHICAGO AND NORTHWESTERN RAILWAY COMPANY AND DESCRIBED AS FOLLOWS: COMMENCING ON THE SOUTH LINE OF SAID LOT 8 AT A POINT 20 FEET EAST OF THE SOUTHWEST CORNER OF SAID LOT 8, THENCE NORTH 9.25 FEET ON A LINE PARALLEL WITH THE WEST LINE OF LOT 8; THENCE SOUTHEASTERLY TO A POINT ON A SOUTH LINE OF SAID LOT 8, A DISTANCE OF 45.89 FEET EAST OF THE SOUTHWEST CORNER OF SAID LOT 8; THENCE WEST ALONG SAID SOUTH LINE OF SAID LOT 8 TO THE PLACE OF BEGINNING, IN COOK COUNTY, ILLINOIS.

448-452 N. Jefferson St. Chicago IL 60654

PIN 17-09-107-007-0000 PIN 17-09-107-008-0000

604-614 W. Hubbard St. Chicago IL 60654

PIN 17-09-107-009-0000 PIN 17-09-107-010-0000

600 W. Kenzie St., Chicago, IL 60654

PIN 17-09-111-008-0000 PIN 17-09-111-009-0000

PIN 17-09-111-015-0000 PIN 17-09-111-016-0000

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West Grand Avenue, Chicago, IL

Parcel 1:

That part of the South 1/2 of the Northwest 1/4 of Section 9, Township 39 North, Range 14, East of the Third Principal Meridian, bounded and described as follows:

Commencing at a point on the East line of North Jefferson Street, a distance of 25 feet Southwesterly, measured at right angles from the center line of the main track of the Chicago and Northwestern Transportation Company extending across said Jefferson Street at a point thereon near the intersection thereof with Grand Avenue, as said main tract is now located; Thence Southeasterly parallel with said main track center line a distance of 171.88 feet, more or less, to a point on the Northeasterly extension of the Easterly face of a bridge pier or support; Thence Southerly along said Easterly face extended, a distance of 121.56 feet, more or less to a point a distance of 35 feet Northerly from the Northeast corner of said bridge support, for the point of beginning of the Parcel of land herein described; Thence Northwesterly along a straight line hereinafter designated line "A" a distance of 114.54 feet, more or less, to a point on the Northerly extension of the Easterly face of a bridge pier or support near the East line of said Jefferson Street, and distant 35 feet Northerly from the Northeast corner of said (last described) bridge support; Thence continuing Northwesterly along said last described course, extended, a distance of 3.81 feet, more or less, to a point on the East line of said North Jefferson street; Thence Southerly along said East line of North Jefferson street a distance of 35 feet, more or less, to a point on a line drawn parallel with said above described line "A" through the Northeast corner of the First described bridge pier or support; Thence Southeasterly along said last described parallel line a distance of 118.35 feet, more or less, to the Northeast corner of said first above described pier or support; Thence Northerly along the Northerly extension of the East line of said last described pier or support a distance of 35 feet to the point of beginning (excepting therefrom that part occupied by the center pier or support lying midway between the above described Piers) in Cook County, Illinois.

Parcel 2:

That part of the South 1/2 of the Northwest 1/4 of Section 9, Township 39 North, Range 14, East of the Third principal meridian, bounded and described as follows:

Beginning at a point on the east line of North Jefferson Street, distant 25 feet Southwesterly, measured at Right angles, from the center line of the main track of the Chicago and Northwestern Transportation Company, extending across said Jefferson Street at a point thereon near the intersection thereof with Grand Avenue, as said main track is now located; thence Southeasterly parallel with said main track center line a distance of 171.88 feet, more or less, to a point on the Northeasterly extension of the Easterly face of a bridge pier or support; Thence Southerly along said Easterly face, extended, a distance of 121.56 feet, more or less, to a point distant 35 feet Northerly from the Northeast corner of said bridge support; Thence

Northwesterly, along a straight line a distance of 114.54 feet, more or less, to a point on the Northerly extension of the Easterly face of bridge pier or support at or near the East line of said Jefferson Street, and distant 35 feet Northerly from the Northeast corner of said (last described) bridge support; Thence continuing Northwesterly along said last described course, extended, a distance of 3.81 feet, more or less, to a point on the East line of said North Jefferson street, thence Northerly along said East line a distance of 210.56 feet, more or less to the point of beginning, in Cook County, Illinois.

600 W. Grand Ave, Chicago IL 60654

PIN 17-09-112-015-0000 PIN 17-09-112-020-0000

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Loan No.: 6326682-001

EXHIBIT B

List of Leases

NONE

Property of Cook County Clerk's Office

A large, thick, black scribble consisting of several vertical, wavy lines that completely obscures the text of the exhibit. The scribble is positioned in the center of the page, overlapping the diagonal watermark.