ORIGINAL

FORM B10 (Official Form 10) (Rev 4/01)

**United States Bankruptcy Court** District of Delaware

**PROOF OF CLAIM**

Name of Debtor: Fleming Companies, Inc

Case Number: 03-10945

NOTE This form should not be used to make a claim for an administrative expense arising after the commencement of the case A request for payment of an administrative expense may be filed pursuant to 11 U S C § 503

Name of Creditor (The person or other entity to whom the debtor owes money or property)
Maxren Corporation

☐ Check box if you are aware that anyone else has filed a proof of claim relating to your claim Attach copy of statement giving particulars

☐ Check box if you have never received any notices from the bankruptcy court in this case

☐ Check box if the address differs from the address on the envelope sent to you by the court

Name and address where notices should be sent
PO Box 396
Attn Lee Boatright
Potter Valley, CA 95469-0396

Telephone number 707 743 2448

This space is for Court Use Only

Account or other number by which creditor identifies debtor

Check here ☐ replaces ☐ amends if this claim a previously filed claim dated _____

**1 Basis for Claim**
- ☐ Goods sold
- ☐ Services performed
- ☐ Money loaned
- ☐ Personal injury/wrongful death
- ☐ Taxes
- ☑ Other Real Property Lease

☐ Retiree benefits as defined in 11 U S C § 1114(a)
☐ Wages, salaries, and compensation (Fill out below)
Your SS# _____ - _____ - _____
Unpaid compensation for services performed
from _____ (date) to _____ (date)

**2 Date debt was incurred** 4/14/64

**3 If court judgment, date obtained**

**4 Total Amount of Claim at Time Case Filed** $ Unliquidated
If all or part of your claim is secured or entitled to priority also complete Item 5 or 6 below
☐ Check this box if claim includes interest or other charges in addition to the principal amount of the claim Attach itemized statement of all interest or additional charges

**5 Secured Claim**
☐ Check this box if your claim is secured by collateral (including a right of setoff)

Brief Description of Collateral
☐ Real Estate ☐ Motor Vehicle
☐ Other _____

Value of Collateral $_____

Amount of arrearage and other charges at time case filed included in secured claim if any $ _____

**6 Unsecured Priority Claim**
☐ Check this box if you have an unsecured priority claim
Amount entitled to priority $ _____
Specify the priority of the claim
- ☐ Wages salaries or commissions (up to $4 650) earned within 90 days before filing of the bankruptcy petition or cessation of the debtor s business whichever is earlier 11 U S C § 507(a)(3)
- ☐ Contributions to an employee benefit plan 11 U S C § 507(a)(4)
- ☐ Up to $2 100 of deposits toward purchase lease or rental of property or services for personal family or household use 11 U S C § 507(a)(6)
- ☐ Alimony maintenance or support owed to a spouse former spouse or child 11 U S C § 507(a)(7)
- ☐ Taxes or penalties owed to governmental units 11 U S C § 507(a)(8)
- ☐ Other Specify applicable paragraph of 11 U S C § 507(a ____)

*Amounts are subject to adjustment on 4/1/04 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment*

**7 CREDITS** The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim

**8 Supporting Documents** *Attach copies of supporting documents* such as promissory notes purchase orders invoices itemized statements of running accounts contracts court judgments mortgages security agreements and evidence of perfection of lien DO NOT SEND ORIGINAL DOCUMENTS If the documents are not available explain If the documents are voluminous attach a summary

**9 Date-Stamped Copy** To receive an acknowledgment of the filing of your claim enclose a stamped self-addressed envelope and copy of this proof of claim

This Space is for Court Use Only

FILED

SEP 12 2003

BMC

Date 9/9/03

Sign and print the name and title if any of the creditor or other person authorized to file this claim (attach copy of power of attorney if any)

Robert H Buckles Robert H Buckles President

*Penalty for presenting fraudulent claim* Fine of up to $500 000 or imprisonment for up to 5 years or both 18 U S C §§

Fleming Companies Claim

10638

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT DELAWARE

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IN RE

FLEMING COMPANIES, INC

CHAPTER 11 CASE
NO 03-10945

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**SUPPLEMENT TO**
**PROOF OF CLAIM**
**OF MAXREN CORPORATION**

MAXREN Corporation ("Maxren"), by an authorized corporate officer, submits the attached Proof of Claim and states as follows

1 Maxren's Proof of Claim relates to a commercial real estate lease at a shopping mall located at 4747 Pioneer Boulevard, Lincoln, Nebraska Maxren is the lessor and the Debtor is the lessee

2 Attached as exhibits to this Proof of Claim are various documents in support of Maxren's Claim

3 At this time, the amount of Maxren's claim is unliquidated

4 Maxren explicitly reserves any and all rights it may have including, without limitation, its rights to liquidate, modify, amend, supplement and/or withdraw this Claim at any time

Dated September 9, 2003

Maxren Corporation
By
Robert H. Buckles
An Authorized Officer
ROBERT H. BUCKLES, PRESIDENT

# Primary Lease

**This Lease,** made the 14th day of April 19 64 , between

RENICK H. BUCKLES

hereinafter referred to as lessor, and SAFEWAY STORES, INCORPORATED, a Maryland corporation, hereinafter referred to as lessee,

WITNESSETH That in consideration of the mutual agreements herein contained the parties hereto do hereby covenant to and with each other as follows

roperty escription ARTICLE FIRST Lessor does hereby lease to lessee the following described real property and the buildings and improvements thereon in the City of Lincoln ,

County of Lancaster , State of Nebraska ,

designated as , to-wit

Lot One (1), Block One (1), Pound Heights, an Addition to the City of Lincoln, Lancaster County, Nebraska, as recorded in Book 7, Page 125, Original Plat Records of Lancaster County, Nebraska

TO HAVE AND TO HOLD the above described premises, together with the tenements, hereditaments appurtenances and easements thereunto belonging, at the rental and upon the terms and conditions herein stated for an original term of twenty (20) years commencing with the first day of May , 19 64 , and extending to and including the last day of April , 19 84, for the purposes of this Lease, other than payment of rents and computations pursuant to Exhibit A (both to be based upon May 1, 1964, as the commencement date), the original term of this Lease shall begin April 28, 1964.

FORM NO RE 302 (REV 8-63)

ARTICLE SECOND Lessee does hereby agree to pay to lessor, as the rent of the leased premises the sum of TWO THOUSAND THREE HUNDRED EIGHTY/-ONE AND 34/100 dollars ($ 2,381.34 ) on the first day of each calendar month during said original term Said payments shall be made by checks or drafts payable to lessor , and mailed to lessor at 600 California Street, San Francisco, California or by checks or drafts made payable to any other payee or mailed to any other address which lessor, or any successor in interest of lessor, may in writing designate The rent for any fractional calendar month shall be prorated and paid on the first day of such fractional month

Taxes utility charges etc

ARTICLE THIRD Lessee agrees that it will pay all charges for electricity, water, gas, telephone and other utility services used on the leased premises Lessee further agrees to pay all taxes and assessments upon the leased premises which are payable during the original lease term or any renewal thereof Taxes assessed during the term, but payable in whole or in installments after the termination of this lease and assessments which are covered by bond, shall be adjusted and prorated and lessor shall pay the prorated share thereof for the period subsequent to the term and lessee shall pay the prorated share thereof for the term of this lease

Installation and removal of fixtures painting signs etc

ARTICLE FOURTH Lessee may place or install on and/or in the leased premises such fixtures and equipment as it shall deem desirable for the conduct of business therein, and may paint the building improvements such colors as it elects Lessee shall have the exclusive right to paint and erect or authorize signs in and over the leased premises and on the outside of the building improvements thereon Personal property, fixtures and equipment used in the conduct of lessee's business (as distinguished from fixtures and equipment used in connection with the operation and maintenance of the building improvements) placed by lessee or any subtenant or any predecessor in interest on or in said premises (even though placed prior to the commencement of said term) shall not become a part of the realty, even if nailed or screwed or otherwise fastened to the premises, but shall retain their status as personalty and may be removed by lessee at any time Lessee may obliterate any signs or color effects installed by it Any damage caused the leased premises by the removal of such property shall be repaired by lessee at its expense

Lessee assumption of liability

ARTICLE FIFTH Lessee agrees that it will indemnify and save lessor harmless from any and all liability, damage, expense, cause of action, suits, claims, or judgments arising from injury to person or property on the leased premises, or upon the adjoining streets and sidewalks, except such as may arise out of the willful or negligent act of lessor, or lessor's agents or employees

Repairs alterations and improvements state of repair on termination future development and lessee's options with respect thereto

ARTICLE SIXTH Lessee agrees that lessor shall be under no obligation to rebuild, replace maintain or make any repairs to the leased premises, or to the improvements thereon during the lease term or any renewal thereof Lessor agrees that lessee may make, or permit to be made, such alterations and improvements to the leased premises as lessee may deem desirable for the use thereof and may at lessee's option and without cost to lessor, at any time and from time to time during the original lease term or during any option period hereinafter provided for, do any one or more of the following

I Alter or remodel any building or improvements on the leased premises, provided the market value of any building or improvements so altered or remodeled is not adversely affected thereby, and/or

II Construct an addition, or additions thereto and /or

III Raze any building or improvement situated on the leased premises and erect in the place thereof, a new building or improvement which shall be of a value not less than the market value of the building or improvement so razed at the time of its demolition

At the expiration or termination of this lease, or any extension or renewal thereof, lessee shall leave the leased premises in good condition, allowance being made for ordinary wear and tear and damage by fire, or by earthquake, or by the elements excepted, and lessee shall not be required to restore the leased premises to the condition in which the leased premises are in as of the commencement of the term hereof, it being agreed that lessor shall accept the leased premises with such alterations, remodeling, additions, or new construction, as may have been made pursuant to the authorization contained in this article Lessee agrees that it will not permit any mechanic s materialmen's, or other liens to stand against the leased premises for work or materials furnished lessee in connection with any such alterations, remodeling, additions or new construction, it being provided, however that lessee shall have the right to contest the validity of any such lien or claim, but upon a final determination of the validity thereof, lessee shall immediately pay any judgment or decree rendered against lessee, with all proper costs and charges, and shall cause any such lien to be released of record without cost to lessor

Should lessee, during the original term hereof, alter, remodel, add to, or construct new improvements pursuant to the provisions of subparagraphs I II or III hereof, and provided the cost thereof

is Twenty five Thousand and No/100 Dollars ($25,000.00) or more, lessee may on completion of said improvements offer to sell the same to lessor for an amount not greater than the cost thereof Should lessor accept lessee's offer, which acceptance shall be made in writing within sixty (60) days of the date of such offer, lessor shall, within forty-five (45) days after lessor's written acceptance thereof, pay the purchase price to lessee and enter into a lease modification agreement covering the property hereby leased and such new improvements The lease modification agreement shall (1) provide for the payment, during the balance of the original term, of additional rental at lessee's rental rate then in effect for sales of similar new properties, adjusted to reflect the difference in length of term, (2) increase the option rentals provided for in article Seventeenth hereof by an amount equal to one twelfth (1/12th) of the purchase price of such new improvements multiplied by the rental rate then being paid by lessee as rental during option terms, and (3) increase the purchase price provided for in article Fourteenth hereof by an amount equal to the unamortized portion of said purchase price of such new improvements at the time of lease termination Should lessee's offer to sell such new improvements not be accepted by lessor within said sixty (60) day period lessee shall have the option of permitting this lease to continue in effect without any modification or change whatsoever or, in the alternative, lessee may, at any time within six (6) months after the date of lessee's offer to sell said new improvements, require lessor to sell the leased premises, including the new improvements erected thereon, to lessee in the manner, and upon the terms as set forth in article Fourteenth hereof, except, however, for the provision in said article which permits lessor to terminate this lease and refuse to sell the leased premises and the provision whereby lessee agrees to cease grocery supermarket operations on the leased premises within three (3) months after acquiring title, both of which provisions shall be wholly inoperative

Assigning and sub letting

ARTICLE SEVENTH Lessee shall have the right to assign or transfer this lease or to under lease or sublet the whole or any part of said leased premises Should lessee assign this lease it shall nevertheless remain liable to lessor for full payment of the rent and lessee s other obligations under this lease

Holding over

ARTICLE EIGHTH If lessee holds over or remains in possession of the leased premises after expiration of this lease or after any sooner termination thereof, without any new lease of said premises being entered into between the parties hereto, or any option hereinafter contained being exercised by written notice, such holding over or continued possession shall, if rent is paid by lessee, and accepted by lessor for or during any period of time lessee holds over or remains in possession, create a tenancy from month to month only at the last monthly rental and upon the terms (other than length of term, or option for renewal, purchase or cancellation) herein specified, which may at any time be terminated by either party by thirty (30) days' written notice given to the other party

Quiet possession

ARTICLE NINTH Lessor covenants that lessor is seized of the leased premises and has full right to make this lease, and that so long as lessor is the owner of the leased premises, lessee shall have quiet and peaceful possession thereof as against any adverse claim of lessor or any party claiming under lessor

Lessee s default lessor s default

ARTICLE TENTH In case lessee shall default in the performance of any covenant or agreement herein contained and such default shall continue for thirty (30) days after receipt by lessee of written notice thereof given by lessor, or the agent or attorney of lessor, then lessor, at the option of lessor may declare said term ended, and may re-enter upon the leased premises either with or without process of law, and remove all persons therefrom Lessee expressly agrees that the exercise by lessor of the right of re entry shall not be a bar to or prejudice in any way any other legal remedies available to lessor In case lessor shall default in the performance of any covenant or agreement herein contained and such default shall continue for thirty (30) days after receipt by lessor of written notice thereof given by lessee, its agent or attorney, then no rent shall be paid or become payable under this lease for such time as such default shall continue after the expiration of said thirty (30) days period and lessee, at its option, may (1) declare the term ended and vacate the leased premises and be relieved from all further obligations under this lease, or (2) pay any sum necessary to perform any obligation of lessor hereunder, and deduct the cost thereof, with interest, from the rents thereafter to become due hereunder The performance of each and every agreement herein contained on the part of lessor shall be a condition precedent to the right of lessor to collect rent hereunder or to enforce this lease as against lessee

Damage by fire etc

ARTICLE ELEVENTH Lessee agrees that it will, during the original term hereof, or any renewal thereof, at its expense, keep in effect upon the leased premises, fire insurance with extended coverage endorsement, written by a responsible insurance company or insurance companies authorized to do an insurance business in the state in which the leased premises are located, in an amount equal to not less than eighty per centum (80%) of the insurable value of the building improvements thereon said policy or policies of insurance to provide that payment for any losses covered under or by said policy or policies of insurance shall be made to lessor and/or lessee and/or any mortgagee and/or assignee designated by lessor from time to time, as their respective interests may appear Lessor agrees that in the event of loss of or damage to said building improvements by fire or other casualty during the original term or any renewal thereof, lessee may, at its option rebuild or repair said building improvements in which event all insurance proceeds shall be paid by said insurance company or companies to and retained by lessee Should the fire or other casualty occur during the original term and lessee elect not to rebuild or repair said building improvements, lessee shall, within ninety (90) days after such loss or damage, give written notice to lessor of lessee's intention to terminate this lease as provided for in article Fourteenth hereof and as a part of said notice shall offer to purchase the leased premises upon the terms set out in said article In the event said offer to pur-

chase is accepted by lessor and said property purchased by lessee all insurance proceeds shall be paid by said insurance company or companies to and retained by lessee However should said offer to purchase not be accepted by lessor and this lease be terminated as in said article provided lessee shall be deemed to and does hereby agree to relinquish all rights to the proceeds of any insurance in effect upon said building improvements and such proceeds shall be paid directly to lessor by said insurance company or companies Notwithstanding the foregoing, in the event any mortgagee requires that the proceeds be made payable to it then and in such event the proceeds shall be so paid to such mortgagee upon condition that said mortgagee shall agree to pay the said proceeds to lessee upon the restoration of the leased premises as in this article provided or upon the purchase of the leased premises by lessee as provided for in article Fourteenth hereof

Should the fire or other casualty occur during a renewal option term and lessee elect not to rebuild or repair said building improvements, lessee shall, within ninety (90) days after such loss or damage give to lessor a thirty (30) days' notice, in writing, cancelling and terminating the renewal term then in effect On expiration of said thirty (30) days' notice the renewal term shall cease and determine and all insurance proceeds shall be paid directly to lessor by said insurance company or companies

Condemnation

ARTICLE TWELFTH In the event that any person or corporation municipal public, private or otherwise, shall at any time during the original term hereof condemn and acquire title to the leased premises or any portion thereof, or to any easement therein, in or by condemnation proceedings pursuant to any law, general, special or otherwise, lessee may elect within thirty (30) days after such condemnation or acquisition of title by such person or corporation, to give written notice to lessor of its intention to terminate this lease as provided for in article Fourteenth hereof, and as a part of said notice shall offer to purchase the leased premises from lessor upon the terms set out in article Fourteenth hereof In the event such offer to purchase is accepted by lessor within the time and in the manner in article Fourteenth provided, and said leased premises are purchased by lessee lessee shall be entitled to and shall receive any and all award or payment made in said condemnation proceedings and lessor shall assign and lessor does hereby assign and transfer to lessee such award or payment as may be made Should said offer to purchase not be accepted by lessor and this lease be terminated as provided for in said article, any and all award or payment made in such condemnation proceedings in respect only of the leased premises shall be paid to lessor, provided, however that lessee shall be entitled to receive and retain any award or payment made in respect of the loss of, or damage to, lessee's leasehold interest Should lessee however remain in possession and not elect to give such notice of termination of this lease, this lease shall be deemed to continue as to the remaining portion of the leased premises In such event lessee shall be entitled to and shall receive any and all award or payment made in said condemnation proceedings, in respect to the damage to lessee's leasehold interest and also in respect to the damage to the leased premises, and lessor shall assign, and lessor does hereby assign and transfer to lessee such award or payment made in respect of damage to the leased premises With the proceeds of the award or payment so assigned to lessee, lessee shall make all repairs or alterations (if any) to the leased premises made necessary by such condemnation, should the cost of such repairs or alterations be less than the award or payment so assigned to lessee lessee shall pay to lessor the remaining balance of such award or payment, such remaining balance being hereinafter referred to as net surplus award Following the making of the condemnation award or payment and on completion of the repairs or alterations, if any, made by lessee as herein provided, the monthly rental for the calendar month following the date on which the net surplus award is paid to lessor and the rental payments for each month thereafter during the original term hereof, shall be reduced in an amount equal to one twelfth (1/12th) of seven & 60/100 per centum (7.60%) of the net surplus award if any, paid by lessee to lessor as in this article provided Should the entire leased premises be condemned at any time during the original term hereof and this lease terminated by operation of law rather than through the exercise of lessee's option to terminate as hereinabove provided then, and in such event, lessee shall be entitled to the entire condemnation award and lessee shall pay to lessor an amount equivalent to the applicable purchase price determined in the manner provided in article Fourteenth, as of the date of the termination of this lease

Should the condemnation occur during a renewal option term, lessee shall within thirty (30) days after such condemnation, either (a) terminate the renewal term then in effect, or (b) remain in possession and repair the leased premises If lessee elects to terminate the renewal term, lessee shall give to lessor thirty (30) days' notice, in writing, cancelling and terminating such renewal term On expiration of said thirty (30) days' notice the renewal term shall cease and determine In such event, lessee shall be entitled to receive and retain any award or payment made in respect of the loss of, or damage to lessee's leasehold interest and lessor shall be entitled to receive and retain any award or payment made in respect of the leased premises Should lessee, however elect to remain in possession, the renewal term shall continue as to the remaining portion of the leased premises In such event, lessee shall be entitled to and shall receive any and all award or payment made in said condemnation proceedings in respect to the damage to lessee's leasehold interest and also in respect to the damage to the leased premises, and lessor shall assign, and lessor does hereby assign and transfer to lessee such award or payment made in respect of damage to the leased premises With the proceeds of the award or payment so assigned to lessee, lessee shall make all repairs or alterations (if any) to the leased premises made necessary by such condemnation should the cost of such repairs or alterations be less than the award or payment so assigned to lessee lessee shall pay to lessor the remaining balance of such award or payment

Notices

ARTICLE THIRTEENTH Any notice provided for herein shall be given by registered United States mail postage prepaid, addressed, if to lessor, to the person to whom the rent is then payable at

the address to which the rent is then mailed and if to lessee, to it at P O Box 660, Oakland 4 California The person and the place to which notices are to be mailed may be changed from time to time by either party by written notice given to the other party

Lessee's right of termination

ARTICLE FOURTEENTH Lessor agrees that lessee may, subject to the following conditions, at the option of lessee terminate this lease at any time during the original term hereof provided lessee intends to cease grocery supermarket operations on the leased premises In the event lessee desires to exercise this option and to terminate this lease it shall give written notice to lessor of its intention to terminate this lease and as a part of such notice shall offer to purchase the leased premises from lessor for the applicable price computed in accordance with the schedule attached hereto and marked Exhibit A less the amount of any net surplus award or awards received by lessor under the terms of article Twelfth hereof

In the event lessor elects to accept said offer to purchase, lessor shall within sixty (60) days after the date of lessee's notice to lessor, deliver to lessee written notice of such acceptance, and shall open or cause an escrow to be opened with a bank, trust company or title company, hereinafter referred to as escrow holder, and shall deposit in said escrow a properly executed grant or warranty deed, and such other instruments and authorizations as may be necessary to convey to, and vest in lessee such title to the leased premises as that lessee will upon the escrow completion be able to obtain from a title insurance company satisfactory to lessee, an owner's policy of title insurance in the amount of the purchase price paid by lessee, insuring lessee, or if title insurance is not available a title opinion written by an attorney designated by lessee substantiating that it is the unencumbered fee title owner of the leased premises free and clear of any mortgages or deeds of trust (which shall be released or reconveyed of record by lessor in the escrow settlement) and free and clear of any other liens charges, encumbrances or exceptions, except such as may have been in existence at the time of lessor's acquisition of title to the leased premises or as may have been created or suffered by lessee Lessor shall immediately notify lessee of the opening of the escrow and lessee shall within ten (10) days after receipt of said notice and approval by lessee of lessor s title deliver to said escrow holder the purchase price, with instructions to deliver the same to lessor when upon recording the deed it will be in a position to issue or to obtain for lessee, the owner's policy of title insurance or attorney's opinion as hereinabove provided In the event the title of lessor is found to be imperfect or to be clouded so that title cannot be conveyed to lessee as hereinabove provided, lessor agrees to take proper proceedings to remove or correct any such defect so that title will vest in lessee as herein provided for, such proceeding to be completed by not more than seventy five (75) days after the date of lessee's notice of termination and offer to purchase If lessee purchases the leased premises as herein provided, lessee shall pay rent to the date of its purchase of said property and lessee shall also pay for the account of lessor, the amount of the prepayment penalty, if any, that lessor may become obligated to pay in connection with the prepayment of any mortgages or deeds of trust to which the property may be subject it being provided that such prepayment penalty shall not exceed the lesser of two per centum (2%) of the purchase price to be paid by lessee to lessor as hereinabove provided or two per centum (2%) of the unpaid balance of any such mortgage or deed of trust, and lessee shall also pay all charges covering the escrow fee the recording fees, the premium for an owner's policy of title insurance the abstract continuation charge, and the cost of the documentary internal revenue stamps and any applicable state tax stamps and other like charges Lessee further agrees that if lessee purchases the leased premises as herein provided lessee shall cease grocery supermarket operations on the leased premises within three (3) months after the date lessee acquires title to the leased premises

Should written notice of the acceptance of lessee's offer to purchase signed by lessor, not be received by lessee within sixty (60) days after the date of lessee's notice to lessor, or should lessor, after having accepted lessee's offer to purchase be unable to convey title to the leased premises to lessee as hereinbefore set out within the seventy-five (75) day time period herein limited then in either such event this lease shall terminate and end at the expiration of ninety (90) days after the date of lessee s notice of termination to lessor In the event of such termination as provided for here in all parties hereto shall be discharged from further liability by reason of this lease and this lease shall be of no further force or effect Lessee shall pay rent to the date of termination, and shall vacate and remove its property from the leased premises by such date of termination and as of such date proper adjustment shall be made in respect of taxes and unexpired insurance premiums

Bankruptcy

ARTICLE FIFTEENTH Should lessee file any petition or institute any proceedings under the Bankruptcy Act, either as such Act now exists or under any amendment thereof which may hereafter be enacted or under any other Act or Acts, either as a bankrupt or as an insolvent wherein or whereby lessee seeks to be adjudicated a bankrupt or to be discharged from any or all of its debts, or to effect a plan of reorganization, or for any other similar relief, or if any such petition or proceedings of the same or similar kind or character be filed or taken against lessee, or if any receiver for all or a substantial part of the business of lessee shall be appointed by any court, and such petition or proceeding shall not be set aside or dismissed or the appointment of said receiver revoked within thirty (30) days then in any of such events, lessor may, at lessor's option, cancel and terminate this lease on the giving to lessee of a thirty (30) days' notice in writing

Lessor's right of entry

ARTICLE SIXTEENTH Lessor reserves the right to enter upon the leased premises during business hours at any time to inspect the same or to make such repairs as lessor may deem advisable (even though the same may not be required by this lease) or for the purpose of exhibiting the same to persons wishing to purchase the same Lessor also reserves the right, at any time within thirty (30) days next preceding the expiration of the term hereby granted or any renewal thereof, provided said term has not been extended by lessee's exercise of the option privileges contained in article Seventeenth hereof to place notices on the front of the leased premises offering said leased premises "to let" or "for sale", and such notice or notices shall not be removed by lessee or lessee's agents or employees Such notices however shall not be placed upon the doors or windows of the building improvements

Lessee's option privileges

ARTICLE SEVENTEENTH Lessor hereby grants to lessee, the right, at lessee's option, to extend the term of this lease for six (6) separate and additional periods of five (5) years each after the expiration of the term hereof at an annual rental payable in equal monthly installments, equivalent to three per centum ( 3 %) of THREE HUNDRED SEVENTY SIX THOUSAND AND NO/100 - - - - - - - - - - -dollars ($ 376,000 00) less any net surplus award paid to lessor under Article Twelfth hereof, and upon the terms (other than length of term and monthly rental) herein specified These options shall be exercised by written notice given to lessor or delivered or mailed to lessor, at the address at which the rent is then payable, at least sixty (60) days before the expiration of the original term hereof, or, in the event lessee has previously exercised one or more options herein given, such notice shall be given at least sixty (60) days before the expiration of the option term then in effect The parties hereto agree that a new lease need not be executed upon the exercise of any of these options, but that this lease will remain in full force and effect, changed only as to the matters specified in this article, and except that lessee may on the giving to lessor of a six (6) months written notice, cancel any option term then in effect

Undeveloped parcel

ARTICLE EIGHTEENTH Lessor agrees that lessee may improve and develop all or any part of Parcel II (hereinafter in this article referred to as Undeveloped Parcel) of the real property herein described as an additional customers' parking lot at any time that lessee determines that such development is necessary or desirable in connection with lessee's operations on the leased premises In the event lessee so improves and develops said Undeveloped Parcel, it shall, upon completion of said improvements, offer to sell the same to lessor for an amount not greater than the cost thereof to lessee Should lessor accept lessee's offer, which acceptance shall be made in writing within sixty (60) days after the date of such offer, lessor shall, within forty-five (45) days after lessor's written acceptance thereof, pay the purchase price to lessee and enter into a lease modification agreement with lessee which shall (1) provide for an increase in the monthly rental under article Second hereof in an amount sufficient to fully amortize the purchase price of such improvements during the unexpired balance of the original lease term with interest at the rate of per centum ( %) per annum, (2) increase the monthly instalments of option rental under article Seventeenth hereof in an amount equal to one twelfth (1/12th) of per centum ( %) of said purchase price, and (3) increase the purchase price provided for in article Fourteenth hereof by an amount equal to the unamortized portion of the purchase price of such improvements at the time of lease termination

Should lessor fail to accept lessee's offer to sell or to complete purchase of said improvements in the manner and within the time hereinabove provided, lessee shall have the right at any time thereafter during the original term of this lease to purchase said Undeveloped Parcel

Lessor also agrees that if lessee at any time determines that it will not be necessary or desirable to improve and develop said Undeveloped Parcel as an additional customers' parking lot, then lessee shall have the right to purchase said Undeveloped Parcel, and further agrees that if lessee at any time determines that it will be necessary and desirable to improve and develop only a portion of said Undeveloped Parcel as an additional customers' parking lot, then lessee shall have the right to purchase that portion of said Undeveloped Parcel that it determines not to improve and develop as an additional customers' parking lot

Lessee agrees that if lessee has not improved and developed said Undeveloped Parcel, or any portion thereof, as an additional customers' parking lot by the expiration of the first ten (10) years of the lease term, then lessee will, upon the written request of lessor, purchase said Undeveloped Parcel, and further agrees that if lessee has improved and developed only a portion of said Undeveloped Parcel as an additional customers' parking lot by the expiration of the first ten (10) years of said lease term, then lessee will, upon the written request of lessor, purchase that portion of said Undeveloped Parcel that has not been improved and developed as an additional customers' parking lot

In the event of a purchase by lessee of said Undeveloped Parcel, or any portion thereof, under the provisions of this article the purchase shall be handled through an escrow and title shall be conveyed as provided in article Fourteenth hereof the purchase price to be paid by lessee to lessor shall be an amount computed by multiplying the square foot area of the property so purchased by the sum of dollars ($ ), and the parties hereto shall enter a lease modification agreement which shall (1) exclude the property so purchased from the provisions of this lease (2) decrease the monthly rental under article Second hereof by an amount equal to one twelfth (1/12th) of per centum ( %) of the purchase price paid by lessee to lessor (3) decrease the monthly instalments of option rental under article Seventeenth hereof by an amount equal to one twelfth (1/12th) of per centum ( %) of said purchase price paid by lessee to lessor, and (4) decrease the Original Sale Price' specified in the schedule attached hereto and marked Exhibit "A" by the amount of said purchase price paid by lessee to lessor. Lessor in the deed by which lessor conveys said property to lessee

may reserve easements and rights of way for all existing utilities that cross the parcel conveyed by lessor for the purpose of serving the balance of the leased premises retained by lessor and shall convey to lessee all reasonable easements and rights of way for utility lines and other purposes across the portion of the leased premises retained by lessor that may be reasonably necessary to the development of the property conveyed to lessee.

Compliance with laws

ARTICLE NINETEENTH Lessee agrees throughout the original term of this lease or any renewal thereof to comply with all laws ordinances, orders, rules, regulations and requirements of all governmental authorities having jurisdiction of the leased premises Lessee may contest the validity of any such laws ordinances, orders rules, regulations and requirements but shall indemnify and hold lessor harmless against the consequences of any violation thereof by lessee

Lessor's remedies

ARTICLE TWENTIETH No remedy herein conferred upon or reserved to lessor or to lessee is intended to be exclusive of any other remedy herein or by law provided, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute

Marginal notes

ARTICLE TWENTY-FIRST The marginal notes herein contained are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope or intent of this lease nor in any way affect the terms and provisions hereof

ARTICLE TWENTY-SECOND Each and all of the covenants, terms, agreements and obligations of this lease shall extend to and bind and inure to the benefit of the heirs, the personal representatives, the successors and/or assigns of the lessor and to the successors and/or assigns of the lessee.

IN WITNESS WHEREOF, the lessor has signed this lease and the lessee has caused its corporate name to be hereunto subscribed and its corporate seal to be hereunto affixed by its officers thereunto duly authorized

Renick H. Buckles
RENICK H. BUCKLES

Maxine Buckles
MAXINE BUCKLES

(Lessor)

MAXINE BUCKLES, the wife of lessor, joins in the execution of this lease for the purposes of subordinating to it all of her marital or other rights of any kind and nature in the premises leased and demised hereby

SAFEWAY STORES, INCORPORATED
(a Maryland corporation)

By _____
Its Assistant Vice President

By _____
Its Assistant Secretary

(Lessee)

(Corporate Seal)

STATE OF California )
COUNTY OF San Francisco ) ss.

On this 21 day of April, A.D., 1964, before me, a Notary Public, duly commissioned and qualified in and for said County, personally appeared RENICK H. BUCKLES and MAXINE BUCKLES, to me personally known to be the identical persons described in, and whose names are affixed to the foregoing instrument, and they acknowledged the instrument to be their voluntary act and deed.

WITNESS my hand and official seal at San Francisco, in said County, the date aforesaid.

BOBBIE M COOLEY
NOTARY PUBLIC CALIFORNIA
CITY AND COUNTY OF
SAN FRANCISCO

(Notarial Seal)

Bobbie M Cooley
NOTARY PUBLIC

My commission expires August 13, 196

STATE OF CALIFORNIA )
COUNTY OF ALAMEDA ) ss.

On this 14th day of April, A.D., 1964, before me, a Notary Public, duly commissioned and qualified in and for said County, personally came the above named R. J. LINDQUIST, JR., Assistant Vice President, and PAUL W. MOUSER, Assistant Secretary of SAFEWAY STORES, INCORPORATED, a Maryland corporation, who are personally known to me to be the identical persons whose names are affixed to the above instrument as Assistant Vice President and Assistant Secretary of said corporation, and they acknowledged the instrument to be their voluntary act and deed, and the voluntary act and deed of said corporation.

WITNESS my hand and official seal at Oakland, in said County, the date aforesaid.

(Notarial Seal)

M J. JOAQUIN
NOTARY PUBLIC in and for the State of California, with principal office in the County of Alameda.

My commission expires 1/28/66

Nebraska Acknowledgment.

# Sublease

SUBLEASE AGREEMENT

SUBLESSOR

FOOD-4-LESS, INC.

SUBLESSEE

AUTOMATED SYSTEMS, INC.

4747 Pioneer Boulevard
Lincoln, Nebraska 68506

**SUBLEASE AGREEMENT**

This Agreement, hereinafter called "Sublease" is made this 12 day of May, 1995, by and between FOOD-4-LESS, INC., a Nebraska corporation, hereinafter referred to as "Sublessor", and AUTOMATED SYSTEMS, INC , a Nebraska corporation, hereinafter referred to as "Sublessee".

**WITNESSETH:**

WHEREAS, Sublessor is Lessee of a building of approximately 22,000 square feet (the "Premises") together with common, parking and services areas (hereinafter called "common areas") located at 4747 Pioneer Boulevard, Lincoln, Nebraska, under that certain Lease Agreement dated April 14, 1964, executed by Renick H Buckles, as landlord, and Safeway Stores, Incorporated, as tenant (the "Original Lease") A true and complete copy of the Original Lease is attached hereto as Exhibit A The Premises and the real property on which the Premises is located is now owned by Maxren Corporation (the "Original Lessor") and said Original Lessor is the current landlord under the Original Lease. Sublessor has acquired by assignment, and is the current owner of, the tenant's interest under the Original Lease. Through the exercise of renewal options the term of the Original lease has been extended through April 30, 1999. Sublessor desires to sublease the Premises to Sublessee and Sublessee desires to sublease the Premises from Sublessor, all as set forth herein.

NOW THEREFORE, in consideration of the rents to be paid, and the covenants to be performed, as hereinafter set forth, the parties agree as follows:

1 Original Lease Incorporated. The terms of the Original Lease are herein incorporated by reference with like force and effect as if the same had been fully set out.

2. Terms and Acceptance. Sublessor hereby leases to Sublessee, and Sublessee leases from Sublessor, only for retail sales of computer hardware and software (as well as uses incidental thereto, such as offices, warehouse, shop and service department), the Premises, for an initial term commencing on May 21, 1995 (hereinafter called "Commencement Date") and terminating at 11.59 p m on April 29, 1999

In consideration of such subletting, Sublessee agrees to perform all of Sublessor's obligations under the terms of the Original Lease from and after the Commencement Date (other than the payment of rent to Original Lessor) without default of any kind or nature whatsoever and Sublessee agrees to fulfill all of the affirmative covenants set forth in the Original Lease from and after the Commencement Date without further notice of any kind or nature from Original Lessor or Sublessor. Without limitation of the foregoing, Sublessor and Sublessee agree that they will neither take any ac-

tion nor fail to take any action which may constitute a default under the Original Lease

Notwithstanding any other provision hereof, this Sublease shall automatically terminate on the expiration or termination of the Original Lease. Sublessor agrees that it will not enter into an agreement to terminate the Original Lease during the term of this Sublease but the foregoing shall not limit Sublessor's discretion to exercise options to terminate the Original Lease (as, for example, in the case of a casualty or condemnation proceedings) under the circumstances set forth therein. Sublessee agrees to accept the Premises in the condition existing on the Commencement Date "as is" condition with no representations or warranties except as expressly set forth herein.

3. Rent. As rent for the Premises, Sublessee agrees to pay to Sublessor, at its office at 13750 Millard Ave Omaha, NE 68137, the following amounts:

A A minimum rental of $24,000 for the first seven (7) months of the term hereof, a minimum rental of $6,500 for each month thereafter, and a minimum rental during any renewal term as set forth below.

B Taxes and assessments, as set forth in the Original Lease and paragraph 4 hereof

C. Liability and property insurance premiums, as set forth in the Original Lease and paragraph 5 hereof.

D Repairs and maintenance of the Premises, as set forth in paragraph 9 hereof

E. As additional rental: (a) any other amounts payable by Sublessor under the Original Lease (excluding regular payments of minimum rent thereunder, which Sublessor shall pay to Original Lessor provided Sublessee is not in default hereunder), (b) any additional rent as provided in the Original Lease which is required as the result of the failure or default of Sublessee to comply with the terms, covenants and conditions hereunder or under the Original Lease; and (b) any obligation or expense incurred by Sublessor for the benefit of Sublessee, including, but not limited to, the payment by Sublessor of the cost for furniture, fixtures and equipment for the Premises and any related and/or consequential costs or charges.

Minimum Rent - Time of Payment. The minimum rental payment for the first seven months of the term hereof shall be due and payable on execution hereof. If such seven month period ends on a day other than the last day of a calendar month, minimum rent for the remainder of such calendar month shall be due and payable at the expiration of such seven month period. The minimum rental for subsequent calendar months shall be due and payable in advance on the first day of each such calendar month.

Other Rent - Time of Payment Other amounts payable hereunder shall be paid as specified herein or, in the absence of any specification herein, as set forth in the Original Lease. Taxes and other amounts payable by Sublessee which are imposed for periods partially within the term hereof and partially outside such term shall be prorated so that Sublessee is responsible only for amounts allocable to periods within the term hereof. The parties will cause the utilities to be switched to Sublessee's name during the term hereof

Renewals Provided it is not in default in the performance of any of its obligations hereunder at the time any such option is exercised, Sublessee shall have the options to renew the term hereof for two successive five (5) year terms, the first such renewal term to commence on expiration of the initial term set forth above. Either such option shall be exercised by notice to Sublessor not later than one hundred twenty (120) days prior to the expiration of the then current term On the proper exercise of such option, Sublessor shall exercise its corresponding renewal option under the Original Lease. Sublessee's occupancy during any renewal term shall be subject to all the terms, conditions and provisions hereof except that the minimum monthly rental during the first renewal term shall be $7,000 and the minimum monthly rental during the second renewal term shall be $7,200

4 Taxes Sublessee agrees to reimburse the Original Lessor and Sublessor, on demand, for all taxes and assessments levied and assessed against the Premises, which Sublessor, as lessee, is obligated or becomes obligated to pay, as and when due, under the terms of the Original Lease. Sublessee shall also pay all taxes levied and assessed against property belonging to it and located upon the Premises

5 Insurance and Indemnification. Sublessee agrees to indemnify, protect and save Sublessor and Original Lessor harmless from any and all claims of others for injuries to persons or property arising out of the occupancy, or operation of the Premises by Sublessee and any other occupant of the Premises, except such claims as arise out of the willful or negligent acts of Sublessor or Original Lessor

Sublessee agrees to maintain, at its own expense a policy of public liability and property damage insurance maintained with

a reputable company authorized to do business in the State of Nebraska, in which policy Sublessor and Original Lessor shall be named as additional insureds, and to furnish Sublessor current certificates evidencing the existence of such insurance, including an endorsement which provides for no cancellation of such insurance without thirty (30) days' prior written notice to Sublessor and Original Lessor Such policy shall provide coverage in an amount not less than One Million Dollars ($1,000,000.00) single limit combined bodily injury and property damage each occurrence, to cover all situations where any other person or persons claim bodily injury, death, or property damage in or upon the Premises.

Sublessee agrees to maintain, at its own expense, a policy of property insurance maintained with a reputable company authorized to do business in Nebraska, covering such fire and other risks as are reasonably required to be covered by Sublessor. Such insurance shall name Sublessor as insured and loss payee, and Sublessee shall furnish Sublessor current certificates evidencing the existence of such insurance, including an endorsement which provides for no cancellation of such insurance without thirty (30) days' prior written notice to Sublessor Such policy shall be in the amount of 80% of the replacement cost of the improvements included in the Premises

6. Waiver of Liability Sublessee hereby releases the Sublessor and Original Lessor, and their respective employees, agents, and every person claiming by, through, or under either of them, (whether by subrogation or otherwise) for any loss or damage to any property (real or personal) owned by or belonging to Original Lessor, Sublessor or Sublessee, their respective employees, agents and every person claiming by, through or under them (whether by subrogation or otherwise), caused by fire or any other insured peril covered by any insurance policies for the benefit of any party, even if such loss or damage shall have been caused by the fault or negligence of another party, their employees or agents All policies of insurance obtained by Sublessee to insure the buildings, parking and common areas, service and delivery areas, improvements, contents and all other such property (real or personal) shall contain a proper provision, by endorsement or otherwise, whereby the insurance carriers issuing the same shall (i) acknowledge that the insured has so waived and released its right of recovery against Sublessor, Original Lessor and their respective employees and agents, pursuant to this paragraph and (ii) waive the right of subrogation which such carrier might otherwise have had, all without impairment or invalidation of such insurance

7. Equipment Removal. If Sublessee is not indebted, directly or indirectly to Sublessor, and has performed all of the covenants and agreements herein, Sublessee shall have the right at the termination of this Lease to remove all furniture, fixtures, and equipment installed on the Premises and owned by Sublessee,

provided however, that the Sublessee shall restore any damage to the building as the result of such removal

8 Entry Right. Sublessor and Original Lessor shall have the right to enter the Premises at any reasonable time for the purpose of inspecting the same or showing the same for any proper purpose or doing anything that Sublessee may be required to do, and shall fail to do, and in the event of an emergency, Sublessor and Original Lessor shall have the right to enter immediately and without notice In the event it is reasonably necessary for Sublessor or Original Lessor to make any repairs to the Premises for which Sublessee is obligated hereunder, Sublessee shall reimburse Sublessor or Original Lessor on demand for the cost thereof, which cost is agreed in advance to be proper and reasonable. Sublessee shall not be entitled to any abatement or reduction of rent if Sublessor or Original Lessor exercises any rights reserved in this paragraph or in the Original Lease. Sublessor and Original Lessor shall not be liable in any manner for any inconvenience, disturbance, loss of business, nuisance, or other damage arising out of the entry of Sublessor or Original Lessor on the Premises as provided for in this Sublease or in the Original Lease.

9. Maintenance and Repair Sublessee shall perform such maintenance, repair and replacement to maintain the Premises and all other improvements on the real estate described in the Original Lease (including, without limitation, the roof, foundation, exterior walls and mechanical systems) so as to keep the same in good condition and repair. Without limitation of the foregoing, Sublessee agrees to perform all covenants and obligations of Sublessor under the Original Lease regarding maintenance and repair to the Premises, in strict accordance with the terms of the Original Lease.

10. Condition of Building. Sublessee covenants that it will pay the rent stipulated at the time and place specified; that it will use the Premises solely for the purpose above specified On expiration of this Sublease, Sublessee will deliver the Premises to Sublessor in good order and repair as specified above, subject to (1) acts of God and unavoidable casualties, (2) damages and loss for which Sublessor and Original Lessor have waived recovery under the Original Lease, and (3) reasonable wear and tear.

Sublessee agrees to make timely payments for all repairs, additions or alterations, made by it and will not permit any lien, affidavit, charge, or order for payment to attach to the Premises on account thereof. If any lien, affidavit, charge, or order for payment attaches to the Premises as a result of any actual or alleged act or omission of Sublessee, Sublessee shall immediately remove such lien, affidavit, charge or order for payment.

11. Compliance and Signs Sublessee agrees to maintain the Premises in a neat, clean and healthful condition, and in every

respect as required by the laws of the United States and of the State of Nebraska, and ordinances of the City of Lincoln, or any other governmental authority now or hereafter in force, it will not do, or permit to be done, on the Premises, any act in violation of the conditions of any policy of insurance on the Premises, it will not place on, or affix to, or display from, any part of the outside or inside of the Premises, any sign or advertisement prohibited by the terms of the Original Lease.

12. Alterations; Assignment or Subletting. Sublessee will not suffer or permit any waste on the Premises, or make any alterations thereof or additions thereto, without the written consent of Sublessor Sublessor shall not unreasonably withhold its consent to nonstructural alterations. Except as provided below Sublessee shall not sell, assign, hypothecate or otherwise transfer any interest in this Sublease or sublease all or any part of the Premises for any reason, or permit occupancy thereof by anyone through or under it. Provided it is not in default in the performance of any of its obligations hereunder Sublessee may sublease not more than 5,500 square feet of the Premises to Jazzercise for a term not extending beyond the term hereof. Any such sublease shall specify that such sublease will terminate on any exercise of Sublessee's termination option set forth in paragraph 27 hereof.

13. Vacate Premises. Sublessee will peacefully and quietly vacate and surrender the Premises to Sublessor at the expiration of the term hereof, or at any earlier termination thereof and will not hold over beyond such expiration or earlier termination In the event Sublessee breaches this covenant, Sublessee shall indemnify and hold harmless Sublessor from any and all damages, costs or expenses (including reasonable attorney's fees) that Sublessor incurs, whether under the Original Lease or otherwise, as a result of such breach by Sublessee

14. Damage or Destruction. Sublessee agrees it shall not keep anything within the Premises or use the Premises for any purpose which will cause an increase in the insurance premium cost or invalidate any insurance policy(s) carried on the Premises or other parts of the shopping center In the event Sublessee stores, maintains or uses anything on the Premises which causes an increase in any such insurance premium cost, Sublessee shall immediately either (a) remedy the condition causing said penalty or premium increase, bearing any and all original and continuing costs attributable thereto, which shall be treated as additional rent due the Sublessor, or (b) should Sublessee allow such storing, maintaining, or use to continue, Sublessee shall be held solely accountable to the Sublessor for the original and ongoing and continuing costs and expenses attributable thereto which shall be treated as additional rent due the Sublessor

Sublessor shall not be liable for any loss or damage, loss of the profits, or interruption of business occasioned by the

termination of the Original Lease between Sublessor and Original Lessor, or from any other causes beyond its control, provided, however, that in the event the Premises are wholly or partially damaged or destroyed by fire, windstorm, or other casualty and the Original Lease stays in effect, then this Sublease shall continue in full force and effect and Sublessee's rent shall abate in the same proportion that Sublessor's rent abates, if any, during the period the Premises are being reconstructed. If the Original Lease is terminated at the option of Sublessor because of (1) the extent of the damage or destruction of the Premises, or (2) following condemnation under the right of eminent domain by public authority, or (3) any default of Original Lessor, then this Sublease shall also automatically terminate and the obligation of the parties hereunder shall cease as of the date the Original Lease is terminated. If the Original Lease is terminated following condemnation there shall be an equitable disposition between Sublessor and Sublessee of that part of the total award received by Sublessor if the proper judicial authority does not make such a disposition

15 Reimbursement. Any and all taxes, insurance premiums, repair, maintenance and utility costs, or other charges beyond the payment of rent, either for which Sublessee is obligated under the terms of this Sublease, or for which Sublessor may become obligated under the terms of the Original Lease, and which Sublessee hereby agrees to pay, may, at the option of Sublessor, be paid by Sublessor and, in such event, Sublessee hereby agrees to reimburse Sublessor for the full amount of such payment upon demand

16. Contents and Business Interruption Insurance. Sublessee agrees to purchase fire and extended coverage insurance in an amount satisfactory to Sublessor covering all of its merchandise, furniture, fixtures, and equipment located in and upon the Premises, and to furnish Sublessor with proof thereof either in the form of the policy or a certificate from the insurer Such policy of insurance shall contain the provision of endorsement required by paragraphs 5 and 6 hereof Sublessee also agrees to purchase business interruption insurance in the amount and form agreed upon with Sublessor

17 Default.

17 1 Sublessee Default. In the event of Sublessee's default, Sublessee's rights and obligations shall be governed by this paragraph and not by the Original Lease. Each of the following shall constitute an event of default ("Event of Default") by the Sublessee under this Sublease:

(a) Failure to pay rent or any other sum payable hereunder when it becomes due and the continuation of such failure for a period of seven (7) days after notice from Sublessor of such failure;

(b) Failure to keep or perform any other covenant or obligation made incumbent upon Sublessee under any part of this Sublease or under any part of the Original Lease and the continuation of such failure for a period of thirty (30) days after notice from Sublessor of such failure or, if such failure cannot reasonably be cured in such 30 day period, the failure to commence action reasonably designed to cure the same within such 30 day period or to diligently pursue such efforts to completion,

(c) The leasehold interest or any property of Sublessee on the Premises shall be taken or levied upon by attachment, execution or other process,

(d) Sublessee becomes insolvent or generally fails to pay, or admits in writing its inability to pay, debts as they become due, or Sublessee applies for, consents to, or acquiesces in the appointment of a trustee, receiver or other custodian for Sublessee or any property of Sublessee, or makes a general assignment for the benefit of creditors, or, in the absence of such application, consent or acquiescence, a trustee, receiver or other custodian is appointed for Sublessee or for a substantial part of the property of Sublessee and is not discharged within thirty (30) days, or any bankruptcy, reorganization, debt arrangement, or other case or proceeding under any bankruptcy or insolvency law or any dissolution or liquidation proceeding is commenced in respect of Sublessee, and if such case or proceeding is not commenced by Sublessee, it is consented to or acquiesced in by Sublessee or remains for thirty (30) days undismissed, or if Sublessee takes any corporate action to authorize or in furtherance of any of the foregoing or if any such event occurs with respect to any Guarantor of Sublessee's obligations;

(e) Sublessee creates or permits to exist any mortgage, pledge, title retention lien, or other lien, encumbrance or security interest with respect to Premises,

(f) Sublessee abandons the Premises,

17.2 Effect of default. If an Event of Default shall occur, Sublessor may, at its option, terminate, cancel or annul this Sublease immediately and enter and take possession of the Premises without any previous notice of intention to reenter, and may remove all persons and property from the Premises in order to recover full and exclusive possession of the Premises. In such event Sublessor may also exercise any other remedy available under law If this Sublease shall be terminated pursuant to this paragraph, or if Sublessor repossesses the Premises as a result of the occurrence of an Event of Default, Sublessee shall remain liable to Sublessor for all loss sustained by Sublessor by reason of such termination, cancellation and repossession In the event Sublessor takes possession of the Premises following Sublessee's default

hereunder Sublessor shall have no obligation to mitigate its damages by reletting the Premises

18 Waiver. One or more waivers of any covenant or condition by Sublessor shall not be construed as a waiver of a further breach of the same or any other covenant or condition, and any consent or approval shall not be deemed to waive or render unnecessary Sublessor's consent or approval to any subsequent similar action.

19. Partial Invalidity It is the intent and understanding of both parties that the covenants of this agreement are separable and, therefore, if any one or more covenants, agreements, or stipulations to be kept, performed, or observed by either or both of the parties, be declared or adjudged void, invalid, or unenforceable by any court of competent jurisdiction, then it is mutually agreed that the remaining portions of this Sublease agreement shall remain in full force and effect and the invalid provisions merely be severed.

20 Relationship of the Parties. Nothing contained herein shall be deemed or construed by any person as creating a relationship of principal and agent, or of partnership, or of joint venture between Sublessor and Sublessee. It is understood and agreed that neither the method of computation of rent, nor any other provision hereof, nor any act of the parties hereunder, shall create a relationship between Sublessor and Sublessee other than that of landlord and tenant

21. Successors All covenants and agreements herein contained shall be binding upon, and inure to, the benefit of Sublessee and Sublessor, their heirs, executors, administrators, successors and assigns.

22. Sublessor Prior Consent. Whenever Sublessor, as Lessee under the Original Lease, is granted under the terms of the Original Lease the right or option (i) to renew the Original Lease for a period of time beyond the original term thereof, or (ii) to terminate, cancel or annul the Original Lease, Sublessee shall not have the right to exercise such right or option granted to Sublessor Further, Sublessee shall not have the right to give consent where consent must be given by the Lessee under the terms of the Original Lease, unless Sublessor shall first give its written permission to Sublessee

23 Utilities Sublessee shall pay all charges for electricity, gas, heating, air conditioning, telephone, hot and cold water, and other utility services used on the Premises, during the original or any renewal term hereof

24 Notices and Delivery of Items Sent by Mail. Any notice required or desired to be given to either party shall be in

writing and be sent by registered mail or certified mail, postage prepaid Any such notice to Sublessor shall be addressed to Fleming Companies, Inc , P.O. Box 26647, Oklahoma City, Oklahoma 73126. Any notice to Sublessee shall be addressed to the Premises, with a copy to Robert R. Otte, Esq., 201 North 8th Street, Suite 300, Lincoln, Nebraska 68508

With respect to all notices and all other items, including rental, which may be or are required to be sent by mail, registered or otherwise, the placing of any such item in the United States mail, being properly addressed, postage prepaid by the sender, shall constitute delivery to the other party unless another provision of this Lease specifically states to the contrary as to what constitutes delivery of said item.

25 Choice of Laws. This agreement shall be construed under and in accordance with the laws of the State of Nebraska

26. Responsibility for Hazardous Material and Underground Storage Tanks

26.1 Definitions. As used in this paragraph, the following terms shall have the following meanings

26 1 1 "Hazardous Material" means any substance, material or waste which is reasonably considered by Sublessor to be posing an actual or potential threat to the health or safety of persons entering the Property or which is or at any time hereafter becomes regulated as "hazardous", "toxic" or under any other similar designation by any local, state or federal governmental authority Such term includes, without limitation, (i) asbestos, (ii) any material, substance or waste defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act (42 U.S C § 6901, et seq.), (iii) any material, substance or waste defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S C. § 9601, et seq.), (iv) any petroleum product or (v) any material, substance or waste defined as a "regulated substance" pursuant to Subchapter IX of the Solid Waste Disposal Act (42 U.S.C. § 6991, et seq.).

26 1.2 "Improvements" means the buildings and other improvements located on the Real Estate including, but not limited to, the Premises.

26.1.3 "Property" means the Real Estate and the Improvements.

26.1.4 "Real Estate" means the tract of land owned by Original Lessor and described in the Original Leases including, without limitation, all groundwater and other substances therein.

26 1 5 "Indemnified Person" means the Original Lessor, Sublessor, and any director, officer, employee, agent or invitee of the Original Lessor or the Sublessor

26 2 Notices Sublessor and Sublessee agree to promptly notify the other in the event such party becomes aware of the presence of any Hazardous Material or any underground storage tank on the Property

26 3 Obligation of Parties The parties agree the Sublessor assumes no responsibility or obligation to Sublessee with respect to any Hazardous Material or any underground storage tank on the Property The parties further agree that Sublessee shall have no liability hereunder with respect to any hazardous material or underground storage tank on the Property as of the Commencement Date

26 4 Termination of Original Lease If Sublessor has the right to terminate the Original Lease by reason of the presence of any Hazardous Material or any under ground storage tank on the Property, and it does so terminate the Original Lease, this Sublease shall terminate as of the date of termination of the Original Lease

26 5 Indemnification Sublessee agrees that it will not bring onto the Property any Hazardous Material other than inventory, cleaning supplies and other materials in normal quantities ordinarily used in the operation of its business, and that it will not permit any employee, agent, officer, director or invitee of Sublessee or any person occupying the Property, or any portion thereof, by, through or under Sublessee to bring any Hazardous Material onto the Property. Sublessee hereby indemnifies each Indemnified Person from and against any and all loss, cost, damage and expense arising from the introduction of any Hazardous Material onto the Property by Sublessee, any employee, agent, officer, director or invitee of Sublessee or any other person occupying the Property, or any portion thereof, by, through or under Sublessee

26 6 Remedies of Sublessor If Sublessor becomes aware of the presence or suspected presence of any Hazardous Material brought onto the Property in violation of paragraph 26 5, Sublessor may so notify the Sublessee and request that Sublessee institute remedial action Sublessee will, within ten (10) days of receipt of such notice, at its sole cost and expense, commence such action as is specified by Sublessor to remove all such Hazardous Material from the Property and will diligently pursue such action to completion Such work will be performed in accordance with all applicable laws, ordinances and regulations governing such work If Sublessee fails to undertake the work required by this paragraph, Sublessor may, at its option, to be exercised by notice to Sublessee (i) undertake such work, in which event Sublessee shall reimburse Sublessor for all costs and expenses, including the fees

of attorneys, engineers and other consultants incurred by Sublessor in such work, or (ii) terminate this Sublease without prejudice to any claim for damages resulting from Sublessee's breach hereof However, Sublessor shall not be under any obligation to exercise either of the remedies specified in the preceding sentence, and the remedies provided in this paragraph shall not be considered exclusive or preclude any claim for damages or any other remedy which may be available under this Sublease or under law

27 Termination Provided it is not in default in the performance of any of its obligations hereunder and provided the notice described below is accompanied by payment of a termination fee of $12,000 in immediately available funds, Sublessee may, by providing not less than six (6) months prior notice to Sublessor (which notice shall specify the effective date of the termination contemplated by this paragraph) terminate the Sublease as of a date not earlier then two (2) years after the date hereof. If Sublessee properly exercises such option, this Sublease will terminate, and neither party will have further obligations hereunder, as of the effective date specified in such notice However, if Sublessee thereafter defaults in the performance of any of its obligations hereunder, Sublessor may revoke such termination by notice to Sublessee, in which case (i) this Sublease shall remain in full force and effect, and (ii) any funds paid to Sublessor under this paragraph will be applied by Sublessor to existing or future obligations of Sublessee hereunder

28. Compliance with Laws Sublessee agrees to take such action, from time to time, as is necessary to assure the Premises are in compliance with all applicable federal, state, and local laws, ordinances and regulations including, without limitation, all building codes and the Americans with Disabilities Act (collectively the "Legal Requirements") Further, the Sublessee shall, at its sole cost and expense, make all alterations in and improvements to the Premises and any fixtures, equipment, and other improvements placed on or incorporated in the Premises by the Sublessee which may be required by reason of changes in or additions to Legal Requirements

29. Security Deposit The Sublessee shall deposit with the Sublessor simultaneously with the execution of this Sublease an amount equal to $6,500. Such deposit will be held by the Sublessor throughout the term, without liability for interest, as security for the performance by the Sublessee of all the Sublessee's obligations under this Sublease, it being expressly understood that the deposit will not be considered an advance payment of rent or a measure of the Sublessor's damages for any default by Sublessee. The Sublessor may commingle the deposit with the Sublessor's other funds and may, from time to time, without prejudice to any other remedy, use all or a portion of the deposit to satisfy any obligation of the Sublessee hereunder. Following any such application, the Sublessee will pay to the Sublessor, on demand, the amount so

applied and restore the deposit to its original amount If the Sublessee is not in default at the termination of this Sublease, the balance of the deposit remaining after any such application will be returned by the Sublessor to the Sublessee. If the Sublessor transfers the Sublessor's interest in the Leased Premises during the term of this Sublease, the Sublessor may assign the deposit to the transferee and thereafter the transferor will have no further liability with respect to such deposit.

IN WITNESS WHEREOF, the parties hereto have duly executed this Sublease as of the day and year first above written.

Sublessor — FOOD-4-LESS, INC , a Nebraska corporation

By Robert W. Smith
Vice President

Sublessee· — AUTOMATED SYSTEMS, INC., a Nebraska corporation

By R C Perry
President

STATE OF Oklahoma )
) ss.
COUNTY OF Oklahoma )

This instrument was acknowledged before me on May 12, 1995, 1995, by Robert W. Smith, as Vice President of Food-4-Less, Inc , a Nebraska corporation.

Lynda Van Nostrand
Notary Public
[SEAL] My commission expires· 12-19-98

STATE OF Nebr )
) ss.
COUNTY OF Lancaster )

This instrument was acknowledged before me on May 10, 1995, by R C. Perry, as Pres. President of Automated Systems, Inc , a Nebr corporation.

Robert R Otte
Notary Public
[SEAL] My commission expires.

GENERAL NOTARY-State of Nebraska
ROBERT R. OTTE
My Comm. Exp. Nov. 24 1996



/rigg/food_sbls

SARNA & ASSOCIATES, PC
ATTORNEYS AT LAW
99 MAIN STREET
NYACK NEW YORK 10960

845 348 9822
888 633 1030
845 818 4141 FAX

JAMES A SARNA
ADMITTED IN NY AND NJ
jasarna@sarnalaw com

September 11, 2003

**BY FEDEX**

Bankruptcy Management
Services, Corporation
1330 East Franklin Avenue
El Segundo, CA 90245

Re Fleming Companies, Inc
Proof of Claim of Maxren Corporation

Dear Sir or Madam

Enclosed please find the following

1 An original of the Proof of Claim of Maxren Corporation ("Maxren"), along with a Supplement and various supporting documents attached as exhibits (the "Original"),
2 A copy of the proof of claim and the Supplement, without exhibits (the "File Copy"), and
3 A pre-addressed FedEx envelope for return of the time-stamped File Copy

Please accept the Original as Maxren's Proof of Claim and time-stamp and return the File Copy to us in the enclosed FedEx envelope

If you have any questions, please contact the undersigned Thank you in advance for your cooperation and assistance

Very truly yours,

James A Sarna

Enclosures

cc With a copy of the Original
Ron Pohl, Esq (by Regular Mail)
Mr Robert Buckles (by Regular Mail)
Mr Lee Boatright (by Regular Mail)
Clerk of the Court,
U S Bankruptcy Court, District of Delaware