



**ADDENDUM TO PROOF OF CLAIM**

Fox Run Center, LLC (“Landlord”) is the Landlord under those certain leases with the Debtor, true and correct copies of which are attached as Exhibit A hereto (the “Leases”) The Leases have neither been assumed nor rejected under 11 U S C § 365 The Landlord has previously filed objections to the § 365 “cure” amount proposed by the Debtor A copy (without exhibits) of said objections are attached hereto as Exhibit B The Landlord incorporates said objections herein by reference The Landlord hereby reserves the right to amend or supplement this claim with respect to additional amounts accrued or accruing under the Leases The Landlord further reserves the right to file an administrative expense claim with respect to unpaid amounts accrued or accruing and payable under § 365(d)(3) of the Bankruptcy Code and/or § 503(b) of the Bankruptcy Code

MEMORANDUM OF LEASE

KNOW ALL MEN BY THESE PRESENCE, that on the 28th day of July, 1977, FOX RUN ASSOCIATES, a Wisconsin limited partnership ("Fox Run") and GODFREY COMPANY, a Wisconsin corporation ("Godfrey") entered into a lease dated July 28, 1977 pursuant to which Fox Run leased to Godfrey certain real estate located in Waukesha County, Wisconsin for the purpose of conducting thereon a retail food supermarket for the retailing of foods and allied lines of a type and variety generally operated by Sentry Food Markets.

The above described Lease was modified and amended by First Amendment to Lease dated June 22, 1988 pursuant to which Amendment, additional space was leased by Fox Run to Godfrey. The leased premises are a part of the real estate described on Exhibit A attached hereto and incorporated herein by reference but such Lease only applies to that part of the premises described on Exhibit A specifically referred to and described in the Lease and First Amendment to Lease.

The term of the original Lease commenced as of the 1st of September, 1978 and the termination of the initial lease term is the 31st day of August, 2003. The commencement of the term of the First Amendment to Lease is June 22, 1988 and the term and any extension thereof is concurrent with the term and any extension of the original Lease. If Godfrey is not in default under any provisions of the Lease, Godfrey shall have the option to renew the Lease for three additional terms of five years each with the last of the terms ending on the 31st day of August, 2018.

This Memorandum of Lease shall be recorded in the office of the Register of Deeds of Waukesha County, Wisconsin for the sole purpose of providing notice of the existence and the general terms of the Lease, but this Memorandum shall not in any way modify or amend the terms contained in the Lease and all terms and conditions contained in the Lease as amended by the First Amendment to Lease shall govern and control.

IN WITNESS WHEREOF, the parties hereto have caused these presence to be executed as of the \_\_\_\_ day of \_\_\_\_\_, 1989

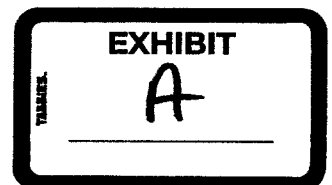
FOX RUN ASSOCIATES

By: \_\_\_\_\_  
General Partner

MEMO TO FILE 4/19/89

This was signed by Link on 2/13/89

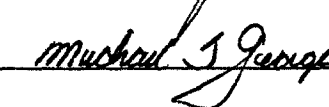
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GODFREY COMPANY

By: 

Allen C. Gehrke  
Senior Vice President

Attest: 

Michael J. Gough, V-P FINANCE

EXHIBIT A

All that part of the Southwest Quarter (SW 1/4) of Section 9, and the Southeast Quarter (SE 1/4) of Section 8, Town 6 North, Range 19 East, City of Waukesha, Waukesha County, Wisconsin, bounded and described as follows: Commencing at the southeast corner of said Southeast Quarter (SE 1/4) of Section 8; thence Due North 153.02 feet to the place of beginning of the land to be described; thence North 56° 11' 57" East 29.89 feet; thence North 22° 19' 00" East 198.74 feet; thence North 23° 54' 00" East 260.33 feet; thence South 85° 41' 32" West 206.36 feet; thence Due North 183.94 feet; thence South 88° 49' 42" West 815.00 feet; thence South 1° 10' 18" East 433.16 feet; thence North 88° 49' 42" East 306.08 feet; thence South 1° 10' 18" East 223.70 feet; thence North 88° 49' 42" East 418.32 feet; thence North 56° 11' 57" East 92.84 feet to the place of beginning.

TOGETHER WITH, an access easement described as follows:

All that part of the Southeast Quarter (SE 1/4) of Section 8, Town 6 North, Range 19 East, City of Waukesha, Waukesha County, Wisconsin, bounded and described as follows: Commencing at the southeast corner of said Southeast Quarter (SE 1/4); thence South 88° 49' 42" West along the south line of said Southeast Quarter (SE 1/4) 895.49 feet; thence North 1° 10' 18" West 103.00 feet to the place of beginning of said easement; thence North 1° 10' 18" West 223.70 feet; thence North 88° 49' 42" East 93.92 feet; thence North 1° 10' 18" West 433.16 feet; thence South 88° 49' 42" West 20.00 feet; thence South 1° 10' 18" East 225.00 feet; thence South 28° 20' 15" West 226.20 feet; thence South 1° 10' 18" East 235.00 feet; thence North 88° 49' 42" East 37.50 feet to the place of beginning.

EXHIBIT B  
TO  
FIRST AMENDMENT TO LEASE  
BETWEEN  
FOX RUN ASSOCIATES, A WISCONSIN LIMITED PARTNERSHIP  
AND  
GODFREY COMPANY

A. Plans Titled: "ADDITION AND REMODELING TO SENTRY MARKET"

Drawn by: Architects/Planners  
Sheets numbered: 1 through 10, P-1, FP-1, HV-1, HV-2,  
and E1 through E5  
All dated: 7/13/88

Project Manual titled: "SENTRY MARKET FOX RUN SHOPPING CENTER"

Prepared by: Architects/Planners  
Architects Project Number: 8795  
Dated: July 11, 1988

The work to be performed by Tenant pursuant to the Plans and the Project Manual described in this paragraph A shall be deemed to be the Additional Improvements.

B. Plan Titled: "PARKING LOT STUDY - FIRST FINANCIAL FOX RUN SHOPPING CENTER"

Drawn by: Jahnke & Jahnke Associates, Inc.  
Sheets numbered: 1 of 1  
Dated: 6/3/88, revised 7/15/88

Tenant agrees to do and to pay for the work set forth in the Plan described in this paragraph B, but in no event shall such work, or any improvements resulting from such work, be deemed to be part of the demised premises of Tenant or part of the Additional Premises.

Accepted and agreed to as of the 5TH day of ~~December~~ <sup>January,</sup> ~~1988~~ 1989.

GODFREY COMPANY, Tenant

By: James H. Seibles  
President

Attest: Mushou S. Jungs  
Acting Secretary

FOX RUN ASSOCIATES, A WISCONSIN LIMITED PARTNERSHIP, Landlord

By: Allen L. Link  
Allen L. Link, as attorney-in-fact for Lyle L. Link, General Partner

SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE AGREEMENT  
(GROUND LEASE)

THIS AGREEMENT, made this \_\_\_\_ day of \_\_\_\_, 1988, between GODFREY COMPANY, a Wisconsin corporation (the "Lessee") and JACK McCOMBS, METROPOLITAN LEASING, INC. and RICHTER REALTY & INVESTMENT, INC. ("Fee Owner"),

W I T N E S S E T H :

Lessee has entered into a lease dated July 28, 1977 as amended by First Amendment to Lease dated the \_\_\_\_ day of \_\_\_\_, 1988 (collectively the "Lease") with FOX RUN ASSOCIATES, a Wisconsin limited partnership (the "Lessor") of certain premises in the city of Waukesha, Waukesha County Wisconsin or particularly described in such Lease. Lessor entered into a certain ground lease ("Ground Lease") with Fee Owner on the 28th day of July, 1977 which Ground Lease leased to Lessor certain real estate in Waukesha County, Wisconsin including the Premises. A Memorandum of Ground Lease dated the 28th day of July, 1977 was recorded in the office of the Register of Deeds of Waukesha County, Wisconsin on the 4th day of August, 1977 on Reel 252, Image 777 as Document Number 1009177.

For and in consideration of the sum of One Dollar and other good and valuable consideration the receipt of which is hereby mutually acknowledged Lessee and Fee Owner agree as follows:

1. Lessee hereby subordinates and subjects the Lease and all of its rights thereunder to the Ground Lease and all rights of Fee Owner in the Ground Lease.

2. In the event of an uncontested default by Lessor under the Ground Lease or in the event of termination of the Ground Lease and upon reasonable written notice thereof from Fee Owner to Lessee, Lessee will attorn to and accept the Fee Owner as lessor under the Lease for the balance then remaining on the term of the Lease and any extensions thereof elected by Lessee, subject to all of the terms and provisions thereof; provided however, that the Fee Owner shall comply with all of the obligations and duties of the Lessor as required by the Lease.

3. Lessee will give prompt written notice to Fee Owner of any default of the Lessor in its obligations under the Lease, if such default is of a nature as to give Lessee a right to terminate the Lease, to reduce rent or to credit or offset any amounts against future rents. All notices to the Fee Owner shall be addressed as follows or at such other address as may be designated from time to time in writing by the addressee:

A. John Richter  
Richter-Schroeder Company, Inc.  
2600 North Mayfair Road  
Wauwatosa, WI 53226

4. Fee Owner will not disturb the possession of the Lessee under the Lease and the leasehold rights of Lessee shall remain in full force and effect upon any default by Lessor under the Ground Lease or upon any termination of the Ground Lease and Fee Owner will accept payments of Rent from Lessee under the Lease thereafter, provided in each case that Lessee is not then in default under the Lease and that Fee Owner timely receives all Rent due in accordance with the terms of the Lease.

5. Lessee represents and warrants that the Lease is now in force and that the rentals therein provided have not been paid for a period extending beyond the month of the date of execution hereof.

6. The Fee Owner represents and warrants that the Ground Lease has not been further modified, changed, altered or amended except as specifically noted above, and the Ground Lease is in full force and effect as of the date hereof. In addition, the Fee Owner has no notice or knowledge of any default by the tenant under the Ground Lease or of any facts which will, with the passage of time, result in a default by the tenant under the Ground Lease.

7. By executing this document below the Lessor agrees that upon an uncontested default of Lessor under the Ground Lease or upon termination of the Ground Lease the Lessor consents to the Lessee attorning to the Fee Owner with regard to the Lease, provided that Lessor has been given five (5) days prior written notice of Lessee's intention to so attorn.

8. The terms of this agreement shall be binding upon and inure to the benefit of and be enforceable upon the respective successors and assigns of the parties hereto and of the Lessor.

IN WITNESS WHEREOF, the parties have caused this agreement to be duly executed as of the date first above written.

LESSEE

GODFREY COMPANY

By \_\_\_\_\_ President

Attest \_\_\_\_\_ Secretary



STATE OF \_\_\_\_\_ )  
 ) SS.  
\_\_\_\_\_ County )

Personally came before me this \_\_\_\_ day of \_\_\_\_\_,  
1988, the above-named \_\_\_\_\_, to me known to be  
the person who executed the foregoing instrument and  
acknowledged the same.

\_\_\_\_\_  
Notary Public, \_\_\_\_\_ County,  
State of \_\_\_\_\_.  
My Commission: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) SS.  
\_\_\_\_\_ County )

Personally came before me this \_\_\_\_ day of \_\_\_\_\_,  
19\_\_\_\_, \_\_\_\_\_, President  
and \_\_\_\_\_, Secretary, of the above named  
corporation, to me known to be the persons and officers who  
executed the foregoing instrument, and acknowledge that they  
executed the same as such officers by its authority, for the  
purposes therein contained.

\_\_\_\_\_  
Notary Public, \_\_\_\_\_ County,  
State of \_\_\_\_\_.  
My Commission \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) SS.  
\_\_\_\_\_ County )

Personally came before me this \_\_\_\_ day of \_\_\_\_\_,  
19\_\_\_\_, \_\_\_\_\_, President  
and \_\_\_\_\_, Secretary, of the above named  
corporation, to me known to be the persons and officers who  
executed the foregoing instrument, and acknowledge that they  
executed the same as such officers by its authority, for the  
purposes therein contained.

\_\_\_\_\_  
Notary Public, \_\_\_\_\_ County,  
State of \_\_\_\_\_.  
My Commission \_\_\_\_\_

STATE OF ND )  
Med County ) SS

Personally came before me this 19 day of  
January, 1981, Thomas L. Richter, President  
and A. John Richter, Secretary, of the above named  
corporation, to me known to be the persons and officers who  
executed the foregoing instrument, and acknowledge that they  
executed the same as such officers by its authority, for the  
purposes therein contained.

Patricia L. Gello  
Notary Public, Dakota County,  
State of Wisconsin.  
My Commission May 22, 1981

FEE OWNER

Jack McCombs  
Jack McCombs, an Individual

~~METROPOLITAN LEASING~~

~~XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX~~  
~~PRESIDENT~~

~~ATTORNEY XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX~~  
~~SECRETARY~~

RICHTER REALTY & INVESTMENT, INC.

By Thomas L. Richter  
President

Attest A. John Richter  
Secretary

STATE OF Florida )  
 ) SS  
Palm Beach COUNTY)

Personally came before me this 30th day of January  
                    , 1989, Louis E. Siegel, President  
and                     , Secretary, of the above named  
corporation, to me known to be the persons and officers who  
executed the foregoing instrument, and acknowledge that they  
executed the same as such officers by its authority, for the  
purposes herein contained.

Denise C Holt

Notary Public,                      County,  
State of Florida At Large.  
My Commission                     

Notary Public State of Florida  
My Commission Expires June 20 1989  
Bonded Thru Troy Fain Insurance, Inc.

METROPOLITAN LEASING, INC.

BY Louis E Siegel  
President

STATE OF WISCONSIN )  
 ) SS  
MILWAUKEE COUNTY)

Personally came before me this Second day of FEBRUARY, 1989, \_\_\_\_\_, President and JOSEPH E KENNEDY, Secretary, of the above named corporation, to me known to be the persons and officers who executed the foregoing instrument, and acknowledge that they executed the same as such officers by its authority, for the purposes herein contained.

Antonio Gura  
Notary Public, Milwaukee County,  
State of Wisconsin.  
My Commission expires 2/23/92

METROPOLITAN LEASING, INC.

By Joseph E Kennedy  
Secretary

LESSOR

FOX RUN ASSOCIATES

By: \_\_\_\_\_  
General Partner

STATE OF WISCONSIN     )  
                              ) SS  
COUNTY OF \_\_\_\_\_ )

Personally came before me this \_\_\_\_ day of \_\_\_\_\_,  
1988, the above named \_\_\_\_\_, a general  
partner of Fox Run Associates, to me known to be the person who  
executed the foregoing instrument on behalf of Fox Run  
Associates and acknowledge the same.

\_\_\_\_\_  
Notary Public, State of Wisconsin  
My Commission: \_\_\_\_\_

This document was drafted by:  
Lawrence J. Jost  
Quarles & Brady  
411 East Wisconsin Avenue  
Milwaukee, WI 53202

## FIRST AMENDMENT TO LEASE

This First Amendment to Lease ("Amendment") is entered into and executed as of this 22nd day of JUNE, 1988 by and between FOX RUN ASSOCIATES, a Wisconsin Limited Partnership, with its principal place of business in the City of Waukesha, Waukesha County, Wisconsin ("Landlord") and GODFREY COMPANY, a Wisconsin Corporation, with its principal place of business in the City of Waukesha, Waukesha County, Wisconsin ("Tenant");

WHEREAS, Landlord and Tenant entered into a certain lease of space in a shopping center in the City of Waukesha known as Fox Run Shopping Center ("Shopping Center") dated July 28, 1977 ("Lease"); and

WHEREAS, Landlord and Tenant now desire to amend such Lease to provide for the construction and leasing of certain additional space in the Shopping Center to permit the expansion of Tenant's usable space as a retail food supermarket;

NOW, THEREFORE, in consideration of the covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the Lease is amended and modified as follows:

1. The Premises are hereby expanded and increased to include approximately 15,000 square feet to the west of the existing Premises as more particularly described in Exhibit A attached hereto, which Exhibit A shows a site plan and building elevations of the additional Premises. The land area shown in Exhibit A is hereinafter sometimes referred to as the "Additional Land." The additional improvements to be constructed by Tenant and described in Paragraph 2 below are sometimes referred to hereinafter as the Additional Improvements. The Additional Land and Additional Improvements are hereinafter sometimes referred to as the Additional Premises. Except to the extent otherwise provided herein the Additional Premises shall for all purposes be part of the Premises under the Lease.

2. Construction of Additional Improvements. Tenant agrees at its sole cost and expense to construct on the Additional Land, the Additional Improvements, which improvements are more particularly described in the plans and specifications referenced in Exhibit B to be appended hereto upon completion of the plans and specifications. Tenant agrees to construct the Additional Improvements in accordance with the plans and specifications. Tenant shall be entitled to make modifications or changes in the Additional Improvements without the prior consent of Landlord up to a cumulative total of \$75,000 but any changes from such plans and specifications over and above such amount must be approved in writing by the Landlord which approval will not be unreasonably withheld. Any relocation of the Additional Improvements on the

Additional Land must in any event be approved in writing by the Landlord.

Tenant agrees to commence construction of the Additional Improvements on or before the 28th day of June, 1988 and to complete construction of the Additional Improvements substantially in accordance with the plans and specifications on or before the 15th day of December, 1988. If the Tenant is delayed at any time in the progress of the construction by labor disputes, fire, unusual delay in transportation, adverse weather conditions, unavoidable casualties, or any other causes beyond its control then the time for performance hereunder shall be extended by the length of such delay.

All of the cost of the site work, plans and specifications and construction of the Additional Improvements shall be the obligation of the Tenant. In addition, the Tenant agrees to landscape the exterior of the Additional Improvements in accordance with Exhibit B and Tenant shall also at its sole cost and expense repair any and all damage done to any driveways and parking areas and to make changes and additions to the existing parking lot in order to replace parking stalls which will be lost to the Additional Improvements as described in Exhibit B. Tenant shall grade, pave, stripe and light such parking stalls in accordance with the plans and specifications attached hereto as Exhibit B. All such work shall be completed within the time allowed for construction of the Additional Improvements.

All of the Additional Improvements contained on the Additional Land shall be, during the term of this Lease and any extensions hereof, the property of the Tenant. Upon termination of this Lease through the expiration of the term or otherwise, title and ownership of the Additional Improvements shall revert to Landlord. The construction of the Additional Improvements and the reversion of title to the Additional Improvements is not intended to be in lieu of rent for the Additional Premises. Rent is provided for in the Rent paragraph below.

3. General Contractor. The parties agree that the General Contractor for construction of the Additional Improvements shall be Link Associates, Inc. of Waukesha, Wisconsin ("General Contractor"). The Tenant agrees to enter into a construction contract with the General Contractor whereby it will act as general contractor for construction of the Additional Improvements on an "open book" basis in which the Tenant has the right to review and approve the subcontract bidders and the letting of subcontracts. Such approval rights shall also include items of work normally done by employees and agents of the General Contractor. All other terms and conditions of such construction contract shall be as negotiated between the Tenant and the General Contractor.

4. Effective Date. The Effective Date of this Amendment is the date hereof and shall be the effective date for all purposes

of this Amendment except for the rent provisions as set forth below.

5. Rent. The Minimum Rent now being paid by the Tenant for the original Premises under the Lease is \$75,240.00 annually. The Minimum Rent is increased by this Amendment by the amount of \$55,690.76 to a new total Minimum Rent of \$130,930.76. Such new Minimum Rent shall become effective as of the date of opening for business of the Additional Improvements by the Tenant. Such date shall be referred to hereinafter as the "Opening Date" and shall be that date on which the Tenant first opens the Additional Improvements for business to the general public. Commencing with the Opening Date, the Tenant shall begin paying annual Minimum Rent of \$130,930.76 and as of the Opening Date the percentage rent under Paragraph 4C of the Lease shall be abated for a period of ten (10) years commencing with the Opening Date. Notwithstanding the percentage rent abatement, Tenant shall continue to provide to Landlord the records and reports required under Paragraph 4E of the Lease. Upon the termination of such abatement period, the percentage rent provisions of the Lease shall be applicable to the original Premises and to the Additional Premises.

The percentage rent has been calculated in the past based on a calendar year and on calendar year sales. For the calculation of the percentage rent for the partial calendar year until the Opening Date, percentage rent shall be determined up to the Opening Date on a daily basis. The percentage rent for the partial calendar year at the expiration of the ten-year abatement period for percentage rent shall commence at such expiration and be calculated on a daily basis.

6. Common Areas. Tenant shall pay its Proportionate Share of common area expenses with regard to the Additional Premises. Tenant's Proportionate Share, as defined in Paragraph 7 of the Lease, shall be adjusted by adding the square-foot area of the Additional Improvements to recalculate a new Proportionate Share for all purposes under the Lease. Tenant's obligation to pay such increased share of common area expenses shall commence with the Opening Date. Upon completion of the Additional Improvements, the square footage shall be measured and a new Proportionate Share calculated.

The asphalt areas around the loading docks and snow removal at the loading dock area shall be considered a common area expense but the docks themselves and doors at the dock areas shall be constructed and maintained by the Tenant at Tenant's expense.

7. Taxes. All real estate taxes and other assessments assessed against the Additional Premises shall be treated as real estate taxes and assessments levied and assessed against the land and improvements comprising the Shopping Center as provided in Paragraph 8 of the Lease. Tenant's Proportionate Share of such



taxes shall be recalculated using the number of square feet contained in the Additional Improvements. Tenant's obligation to pay such increase in taxes shall commence with the Opening Date, notwithstanding that the real estate taxes for the year in which the Opening Date has occurred might not have been adjusted to include an assessment for the Additional Improvements.

8. Insurance. Tenant shall at its expense insure all improvements, now existing or constructed in the future, on the Premises and on the Additional Premises, including the existing improvements and the Additional Improvements, with policies of fire and extended coverage insurance in an amount not less than the full insurable value thereof with such policies to name the Landlord, as the insured with regard to the existing improvements and as a loss payee with regard to the Additional Improvements. In consideration for Tenant providing and paying for such insurance on the existing improvements on the existing Premises the Minimum Rent set forth in Paragraph 5 hereof has been reduced by one thousand (\$1,000) dollars annually from what it would have been if Landlord paid for such insurance. Copies of such insurance policies shall be deposited with the Landlord and shall contain provisions that such policies may not be cancelled or terminated without at least 30 days prior written notice to the Landlord.

9. Loss or Damages to Additional Premises. For purposes of loss or damage to the Additional Premises, the Additional Premises shall be considered to be part of the Premises for purposes of Paragraph 10 of the Lease. All provisions of such Paragraph shall be deemed to include the Additional Premises as part of the Premises, and all insurance proceeds derived from loss or damage to the Additional Premises shall become part of the insurance funds under Paragraph 10 and shall be controlled by the provisions of Paragraph 10, except that with regard to the Additional Premises, the obligation to repair shall be that of the Tenant.

10. Repairs, Maintenance and Structural Alterations. Tenant shall maintain, replace and keep in good repair and condition at all times all components of the Additional Improvements including interior, exterior and all systems and components comprising the Additional Improvements. The condition of the Additional Improvements shall be maintained and repaired comparable to the original Premises.

Tenant shall make no alterations or additions in or to the Additional Premises without first obtaining Landlord's consent in writing which shall not be unreasonably withheld. All additions or alterations shall be considered part of the Additional Improvements for purposes of this Amendment.

Upon termination of the Lease, the Additional Premises shall be turned over to the Landlord in good condition. Tenant shall have the right to remove from the Additional Premises the same

types of fixtures and equipment which it is entitled to remove under Paragraph 14 of the Lease.

11. Construction Liens. Tenant shall not suffer or permit any liens under any construction lien law or similar law to be filed or recorded against the Additional Premises or against the interest of either Landlord or Tenant therein. If any such lien at any time is filed or recorded, Tenant shall immediately obtain a release of record of such lien or furnish a bond or other surety satisfactory to Landlord indemnifying Landlord against loss by reason of such lien. The foregoing shall not be construed to prevent Tenant from contesting in good faith the amount or validity of any such lien.

12. Additional Expansion. By agreeing to the provisions of this Amendment, the Landlord does not hereby consent to any additional expansion of the Premises by the Tenant; provided however, that the terms and conditions contained in Paragraph 7 on Page 11 of the Lease with regard to expansion shall continue in effect.

13. Term. The term and any extensions with regard to the Additional Premises shall be concurrent with the term and any extensions of the original Lease.

14. Subordination. Paragraph 15 of the Lease with regard to subordination applies to this Amendment and Tenant agrees to execute whatever instruments may be reasonably required to effect the subordination of this Amendment to any mortgages or ground leases now or hereafter covering the Premises and Additional Premises and any extensions or renewals thereof. Tenant acknowledges that the estate of the Landlord in the Additional Land is that of a ground lessee and all of the terms and conditions of the Lease and of this Amendment are subject to the terms and conditions of the ground lease by and between Landlord and its ground lessor. Anything to the contrary herein notwithstanding, every such mortgagee shall recognize the validity of this Lease in the event of a foreclosure of Landlord's interest and every such ground lessor shall recognize the leasehold estate of Tenant in the event of a termination of such ground lease as long as Tenant shall not be in default under any of the terms of this Lease.

15. Eminent Domain. The Additional Premises shall be deemed to be part of the Premises with regard to eminent domain except that any award made with regard to the Additional Improvements shall be for the benefit of the Tenant and any work required to repair or alter the remaining Additional Improvements to constitute a complete architectural unit shall be the obligation of the Tenant. The Tenant and the Landlord agree to coordinate their efforts with regard to any such repair or alteration to the extent that it affects both the original Premises and the Additional Improvements.

16. Application of the Lease. All other terms and provisions of the Lease not specifically modified and amended hereby are intended to apply to the Additional Premises. In all respects except as specifically modified and amended hereby, the Lease remains unmodified and unamended.

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

GODFREY COMPANY, Tenant

By: James M. Deukers  
President

ATTEST

By: Michael S. George  
ACTING Secretary

FOX RUN ASSOCIATES, Landlord

By: [Signature]  
General Partner

This document drafted by Lawrence J. Jost,  
Quarles & Brady  
411 East Wisconsin Avenue  
Milwaukee, WI 53202

REL/187/35137001

AGREEMENT

IT IS HEREBY AGREED by and between the undersigned parties to that certain Lease Agreement dated the 28th day of July, 1977, for premises known as Building B in the Fox Run Shopping Center that in accordance with Paragraph 3 of said Lease Agreement the commencement date of said Lease was the 1 day of Sept, 1978, and that the termination date of the initial term is the 31 day of Aug, 19<sup>2003</sup>,

FOX RUN ASSOCIATES, Landlord

By Lyle L. Link  
Lyle L. Link, General Partner

GODFREY COMPANY, Tenant

By Robert L. Link  
Secretary

*Sentry Store*

EXHIBIT INDEX

Exhibit "A"	Plans and Specifications for the <u>Shopping Center Building</u>
Exhibit "B"	Plans and Specifications for the <u>Sentry Food Store</u> (A Free Standing Building)
Exhibit "C"	Combined Plans and Specifications for the  1 Shopping Center Building 2 Sentry Food Store 3. Land & Common Area Improvements
Exhibit "D"	A Plot Plan for the Fox Run Shopping Center showing the approximate location of the Shopping Center Building, Sentry Food Store, the Common Area Improvements, and the Land Boundaries
Building A-1	Hardware Store in Shopping Center Building
Building A-2	Liquor Store in Shopping Center Building
Building A-3 to A-10	Other Stores in Shopping Center Building
Building B-1	Sentry Food Store (Free Standing)

LEASE

THIS LEASE, entered into and executed this 31<sup>st</sup> day of March, 1977, by and between Fox Run Associates, a limited partnership with its principal place of business at the City of Waukesha, Waukesha County, Wisconsin, hereinafter called the "Landlord", and the GODFREY COMPANY, a Wisconsin corporation, hereinafter called the "Tenant "

W I T N E S S E T H

WHEREAS, Landlord is now constructing a Shopping Center in the City of Waukesha, Waukesha County, Wisconsin, to be known as Fox Run Center (the "Shopping Center") to be developed approximately in the manner shown on Exhibit "C" attached hereto, and

WHEREAS, Tenant is desirous of leasing Building B (the "Premises") in a building to be constructed as shown on the tentative layout in Exhibit "B" consisting of approximately 26,658 square feet of first floor space and 1,200 square feet of mezzanine space,

NOW THEREFORE, in consideration of the covenants and agreements herein-after contained, Landlord does hereby lease, demise and let unto Tenant, and Tenant does hereby take from Landlord, the Premises described above on the following terms and conditions,

1 CONSTRUCTION OF IMPROVEMENTS Landlord agrees at its sole cost and expense to construct on the site of the Shopping Center (Exhibit "C") a new building (Building B) in which the Premises are to be located. The Premises shall be constructed substantially in accordance with the plans and specifications entitled "Landlord's Work" set forth in Exhibit "B" attached hereto.

Landlord and Tenant will mutually approve in writing all plans and specifications for the Premises. It is understood and agreed by Tenant and Landlord that any minor changes from any plans or from said plans and specifications which may be necessary during construction of the building of the Premises shall not affect, change or invalidate this Lease.

Except as hereinafter provided, Landlord covenants that actual possession of the Premises shall be delivered to Tenant ready for Tenant's Work (see below) on or before October 1, 1977. The Premises shall be deemed ready for Tenant's Work when Landlord shall have substantially completed construction of the Premises in accordance with its obligations set forth in Exhibit "B" as

Landlord's Work Tenant shall have right of supervision of Landlord's Work on the construction of the Premises

Landlord shall, from time to time during the course of construction, provide written information to Tenant concerning the progress of construction of the building and shall, when construction progress so permits, notify Tenant in writing in advance of the exact or approximate date by which the Premises will be ready for Tenant's Work, and will notify Tenant in writing when the Premises are in fact ready for Tenant's Work

If any disputes shall arise as to the Premises being ready for Tenant's Work it shall be resolved in accordance with paragraph 2 hereof It is agreed that by occupying the Premises as a tenant during the Preliminary term, Tenant formally accepts the same and acknowledges that the Premises are in the condition called for hereunder Failure of Landlord to deliver possession of the Premises within the time and in the condition provided for in this Lease will not give rise to any claim for damages by the Tenant against the Landlord or against the Landlord's contractor

Tenant agrees prior to the commencement of the primary term of this Lease, at Tenant's sole cost and expense, to provide all work of whatsoever nature in accordance with its obligations as set forth in Exhibit "B" as "Tenant's Work " Tenant shall, prior to commencement of any work, submit all plans and specifications to Landlord for its written approval, which shall not be unreasonably withheld No changes shall be made in Tenant's Work in Exhibit "B" except upon written consent of both Landlord and Tenant, which shall not be unreasonably withheld

2 SETTLEMENT OF DISPUTES It is understood and agreed that any disagreement or dispute which may arise between Landlord and Tenant with reference to the work to be performed pursuant to Exhibit "B" shall be resolved by arbitration and the disputed items shall be submitted to Landlord's architect and to an architect designated by Tenant, as arbitrators, and if they fail to agree, they are to select a third architect as arbitrator, the decision of the majority to be final and binding on both Landlord and Tenant and shall be enforceable by a court of competent jurisdiction

3 TERMS The term of this lease shall consist of a Preliminary Term and a Primary Term

- A The Preliminary Term shall be the period of time necessary to construct and develop the improvements on Exhibit "C". The Preliminary term shall commence when the Landlord provides the following to the Tenant
- 1 A written commitment from a responsible lender for construction and permanent mortgage financing for Exhibit "C", and reasonable evidence satisfactory to Tenant that all conditions thereto have been satisfied
  - 2 A title report showing good and merchantable title in the Landlord or a valid land lease for the lands described in Exhibit "C" for a term at least as long as the term of this lease and all Tenant's options, and title report or other evidence reasonably satisfactory to Tenant that the lands are free and clear of all incumbrances except for construction and permanent financing for this project
  3. Reasonable proof of Landlord's legal existence and authority to enter into this transaction
  - 4 Reasonable evidence that the Landlord has obtained necessary zoning for the project as described in Exhibit "C"
  - 5 Reasonable proof satisfactory to Tenant that soil conditions are satisfactory for the construction of the project as described in Exhibit "C"
- B The Preliminary Term shall commence prior to May 1, 1977, or Tenant may by written notice delivered to Landlord declare this lease null and void.
- C The Preliminary Term shall terminate when
- 1 That 75% of the first floor rentable space in the Shopping Center Mall, Exhibit "A", has been committed under written and executed lease for retail stores The Landlord or, if Tenant requests, Richter Schroeder Company shall certify the above in a manner satisfactory to the Tenant in writing



2 Landlord shall deliver to the Tenant a completion certificate executed by the registered architect or engineer who supervised the construction, stating that all work has been completed in accordance with the plans and specifications for Exhibit "C" as approved by Landlord and Tenant in writing. Excepted are the interior retail areas of the Shopping Center Mall, Exhibit "A" which are not under a written and executed lease.

3 The Sentry Food Store, Jim Handy Hardware Store, and the Fox Run Liquor Store shall have a common grand opening. This common grand opening may be held either on or before December 1, 1977, or on or after January 10, 1978. There shall be no common grand opening between December 2, 1977 and January 10, 1978 for the Sentry Food Store, Jim Handy Hardware Store, and the Fox Run Liquor Store.

B. The primary term of this lease shall be 25 years commencing on the first day of the month following expiration of the preliminary term, provided, however, if Tenant shall begin doing business in the middle of any month, additional rental shall be paid on a per diem basis for the balance of the month, which said portion of the month shall be added to the term.

The term "lease year" as used herein shall mean a period of 12 consecutive calendar months from the first day of January through the following December 31. Any portion of the lease term, occurring at the beginning or end of the lease term, which is less than a lease year, shall be called a "partial lease year."

4 RENT Tenant agrees to pay rent to Landlord, without notice or demand and without setoff or deduction, except as provided for in paragraph 7, at Landlord's office at Waukesha, Wisconsin, or at such other place as Landlord may from time to time designate in writing, as follows

A During the preliminary term, which shall also be the period for the development of the Shopping Center (Exhibit "C"), no rent shall be due or payable

B During the primary term the fixed annual minimum rent ("Minimum rent") shall be determined at the rate of \$2 85 for 26,400 first floor rentable square feet of the Premises

If the Sentry Food Store has 26,400 first floor rentable square feet, and the rate per first floor rentable square foot is \$2 85, then the minimum rent is Seventy Five Thousand Two Hundred Forty and no/100 Dollars (\$75,240 00).

Landlord and Tenant agree that if the first floor rentable square footage exceeds 26,400 square feet, and the mezzanine rental square footage exceeds 800 square feet, then the Tenant shall make a one time payment to the Landlord for the extra above area based upon actual net construction costs as determined by the architect after the building is completed. No rent shall be payable during the primary term or any extensions thereof for the first floor rentable square footage that exceeds 26,400 square feet, or for the rentable square feet of the mezzanine that exceeds 800 square feet.

The actual first floor rentable square footage and mezzanine rentable square footage shall be established by the architect after the building is completed,

The fixed annual minimum rent shall be payable in advance in equal successive monthly installments on the first day of each and every calendar month during the primary term of this lease

C. Percentage Rent In addition to the minimum rent, Tenant agrees to pay Landlord during each lease year or partial lease year the term hereof as annual percentage rent ("percentage rent") a sum equivalent to the amount, if any, by which 1-1/2% of the gross sales, as hereinafter defined, exceeds the sum of,

- (1) The fixed minimum rent payable during the lease year or partial lease year and,
- (2) The assessment for real estate taxes required by paragraph 8 hereof payable during the lease year or partial lease year and,
- (3) Tenant's portion of the common area charges pursuant to paragraph 7 hereof payable during the lease year or partial lease year

Percentage rent shall be paid annually on or before the 45th day after the last day of each lease year or partial lease year during the term of this lease

D The term "Gross Sales" as used in this lease shall mean the gross sales made in, upon, or from the leased premises by the Tenant, or any assignee or subtenant of the Tenant, after first deducting the following

- (1) Credits or refunds made to customers for merchandise returned or exchanged,
- (2) Transfers of merchandise from the leased premises to other stores or warehouses of the Tenant or its affiliated companies,

- (3) The amount of any sales taxes or other taxes, except income taxes, imposed under any law, ordinances, orders or regulations, whether now or hereafter in force, upon or based upon the gross receipts of the Tenant or upon or based upon the sale or sales price of merchandise and which must be paid by the Tenant, whether or not collected by the Tenant from its customers,
- (4) Returns of merchandise to shippers or manufacturers,
- (5) The net amount of discounts actually allowed to any customer pursuant to any customary and reasonable policy adopted by the Tenant from time to time, including in such discounts, but not by way of limitation, the net amount of any discounts allowed by way of limitation, the net amount of any discounts allowed by way of or resulting from the issuance to customers of trading stamps or other evidences of purchase for immediate or future exchange for merchandise or other things of value, and
- (6) Merchandise or other things of value issued in redemption of such trading stamps or other evidences of value or issued as a premium or otherwise in connection with any sales promotion program of the Tenant

K Records and Reports Tenant shall submit to Landlord on or before the 45th day following the end of each lease year or partial lease year at the place then fixed for the payment of rent, a complete statement certified on behalf of Tenant by a duly authorized officer, showing the total of all gross sales made upon the Premises during the preceding lease year or partial lease year

Tenant shall keep for a period of one year following the end of each lease year, or following the termination of this Lease, a complete and accurate record of all sales of merchandise and service and all revenue derived from business conducted in the Premises during the lease year. All such records shall be open to the inspection and audit of Landlord and its agents at all reasonable times during ordinary business hours

If any audit made by Landlord reveals an error in Tenant's original statement prejudicial to Landlord's receipt of rent in an amount equal to or greater than 1% of the amount of rent reportedly due by Tenant's statement for the period of the audit, the expenses of the audit shall be paid by Tenant, otherwise by Landlord.

5 USE OF PREMISES The Tenant shall use and occupy the Premises during the primary term of this Lease solely for the purpose of conducting thereon a retail food supermarket for the retailing of foods and allied lines of the type and variety generally operated by Sentry Food Markets. So long as the premises are operated as a retail food supermarket, the Landlord further agrees that it will not lease, during the terms of this lease or any extensions thereof, any unit or space in the Shopping Center (Exhibit "C") to be developed, to any person, persons, partnership or corporation whose business is the sale of retail food for consumption off the premises, retail bakery, and retail floral units. Nothing contained herein shall limit or prohibit Landlord from leasing any space or unit in the Shopping Center for the purpose of a restaurant, whether of a sit-down or carry-out type, so long as the food is prepared on the premises. It is understood that other tenants of the Landlord in the Shopping Center may carry similar items for retail sales as tenant in a minor or ancillary manner.

The Tenant shall operate in compliance with all applicable laws, ordinances, and regulations of federal, state, and local governments.

No part of the Premises shall be occupied or used by any persons for any purpose or in any manner so as to increase the insurance risk or prevent the obtaining of insurance or so that in accordance with any requirement of law or any public authority Landlord shall be obliged to make any addition or alteration to or in the Premises. No auction, fire or bankruptcy sale shall be conducted upon the Premises without the prior written consent of Landlord.

Landlord agrees that during the primary term of this lease and any extension thereof, not less than 75% of the rentable first floor area of the Shopping Center Mall, (Exhibit "A") shall be available or rented for retail business. As used herein the term "retail business" shall mean a store in business for profit and the sale of goods or articles or services directly to the consumer, "Retail Business" shall not mean a restaurant, discotheque, library, public institution or office, professional or brokerage office, art gallery or similar shops, offices or institutions. In no event shall any space be rented for residential purposes.

6 REPAIRS, MAINTFNANCE AND STRUCTURAL ALTERATJONS Landlord shall

maintain and repair the exterior of the Premises, excluding plate glass repairs and replacement and repairs which become necessary or desirable except by reason of gross negligence of Tenant, its agents, employees or customers. In addition, Landlord shall maintain, repair and replace any of the parts of the heating and air conditioning units serving the Premises during the first lease year.

Tenant shall maintain, replace and keep in good repair the interior portions, entrances and plate glass of the Premises at its own expense and shall upon the expiration of the term of this Lease, deliver up the Premises in good condition and repair, reasonable wear and tear and damage by fire or other casualty excepted. Tenant shall maintain, repair and replace any of the parts of the heating and air conditioning units serving the Premises after the first lease year.

Tenant shall make no alterations or additions in or to the Premises without first obtaining Landlord's consent in writing which shall not be unreasonably withheld. All such alterations or additions shall be performed at Tenant's expense in a first class, workmanlike manner, and Tenant covenants and agrees not to create or suffer others to create any lien or obligation against the Premises or Landlord by reason of the alterations or additions so authorized and, further, to hold Landlord harmless of and from any and all claims and demands of third persons in any manner relating to or arising out of such work. All alterations or additions so made by Tenant shall become part of the realty as a consequence of which Tenant, upon the expiration of this Lease, shall have neither the right nor the obligation to remove the same.

7 COMMON AREAS The parking area of the Shopping Center as well as the landscaped and vacant areas, passageways for trucks, alleyways, roads, walks, corridors, public washrooms, comfort rooms, lounges, drinking fountains, toilets, stairs, ramps, shelters, porches, bus stations and loading docks and other areas and improvements which may be provided by Landlord for the general use in common of tenants, their agents, employees and customers shall comprise the common areas ("common areas") of the Shopping Center and shall be available to all tenants, their customers and invitees. Landlord agrees to maintain all common areas in good condition and repair. Tenant agrees to pay upon demand but not more often than once each calendar month, and not less than once each calendar quarter, as additional rent a proportionate share of the cost of operating, lighting, cleaning, removing snow, policing, insuring against casualties, injuries and damages which may occur in such common areas,

properly maintaining and repairing (including a reasonable allowance for the depreciation of repair and maintenance equipment) the parking area and other common areas of the Shopping Center. Landlord, upon written request, shall furnish Tenant with documentation as to such common area charges and the computation of Tenant's share. The cost of maintaining and operating the common areas shall not include real estate taxes, special taxes, special assessments or depreciation of capital improvements, nor the cost of any capital improvements made thereto. The portion of the cost to be paid by Tenant shall be based on the ratio of the number of square feet of rentable first floor area in the Premises to the number of square feet of rentable first floor area in all buildings comprising the Shopping Center (Exhibit "C") hereafter referred to as Tenant's ("Proportionate share")

In the event Landlord fails to remove snow from the parking area and other common areas of the Shopping Center as provided in this paragraph 7, Tenant may, after reasonable notice to Landlord and Landlord's failure to provide such service, remove the snow or have the snow removed and at Tenant's option either bill Landlord for the reasonable cost thereof, or may offset against the common area charges.

Landlord expressly reserves the right to promulgate from time to time reasonable rules and regulations relating to the use of common areas. Said rules and regulations shall be binding upon Tenant upon the delivery of a copy thereof to Tenant. Said rules and regulations may be amended by Landlord from time to time. For the enforcement of said rules and regulations, Landlord shall have available to it all remedies in this lease providing for a breach thereof, and all legal remedies whether or not provided for in this lease, by law or inequity.

Landlord reserves the right to construct other buildings and improvements and to enlarge the Shopping Center, and to make alterations thereon or additions thereto, and to build adjacent thereto subject, however, to all of the following

~~(a) Any additional construction shall reduce the parking spaces as shown on the attached Shopping Center Site Plan, Exhibit "C".~~

(b) No building or other structure shall be erected between the Sentry Store and Sunset Drive, and between the Sentry Store and Highway 59, except as shown on Exhibit "C".

(b) Landlord shall first obtain Tenant's approval in writing, which approval shall not unreasonably be withheld. In the event Landlord shall enter into any agreements for the use of any of the areas designated in Exhibit "C" by persons other than Tenants, such agreements shall not reduce the parking ratios thereon and shall be subject to the approval of the Tenant, which shall not be unreasonably withheld.

The Landlord grants, at Tenant's option, the right to Tenant to expand the Sentry Food Store building under the same terms and conditions, during the primary term or any extensions thereof. Such expansions, specifications, and plans are subject to the approval of the Landlord. Such approval will not be unreasonably withheld. Such expansion will increase the Tenant's prorata share of common area expenses, and Tenant will be responsible for all increases in taxes resulting from such expansion, and all costs of said expansion. Tenant will also be responsible for any increase in Landlord's building insurance due to said expansion, and the repair and maintenance of the exterior of the expansion.

In the event Landlord reasonably deems it necessary in order to prevent the use of special rights, Landlord may from time to time close all or a portion of the common areas, direct private boundary marks or take such further action as shall be reasonably appropriate for that purpose, provided, however, he shall first obtain the written approval of Tenant, which shall not be unreasonably withheld.

Tenant shall not at any time park or permit the parking of its employees' automobiles, trucks or other delivery vehicles or the trucks or vehicles of others in the designated delivery passages or adjacent to loading docks so as to unreasonably interfere in any way with the use thereof, nor shall such parking be permitted in the common parking areas. Tenant and its employees and agents shall park their automobiles only in the common parking area as designated by Landlord.

8 TAXES Tenant shall pay as additional rent its proportionate share (as defined in paragraph 7) of the real estate taxes levied and assessed against the land and improvements comprising the Shopping Center as shown on Exhibit "C". Tenant shall also pay as additional rent its proportionate share of all assessments and other governmental charges, general and special, ordinary and extraordinary, of any kind and nature whatsoever, including but not limited



to assessments for public improvements or benefits, imposed against the land and improvements comprising the Shopping Center, which shall become due and payable after the commencement of the term of this Lease. Should the State of Wisconsin, or any political subdivision thereof or any governmental authority having jurisdiction thereover, impose a tax and/or assessment (other than an income or franchise tax) upon or against the rentals payable by tenants in the Shopping Center to Landlord, either by way of substitution against such land and buildings, or in addition thereto, such tax and/or assessment shall be deemed to constitute a tax and/or assessment against such land and buildings for the purpose of this paragraph. Such additional rent shall be paid by Tenant on or before January 31 of each year following the calendar year in which such charges were assessed upon presentation by Landlord to Tenant of certified statements showing the charges and the share to be paid by Tenant.

9 ASSIGNMENT AND SUBLEASING This Lease shall not be assigned in any way by Tenant, nor shall the Premises be subleased in whole or in part without the written consent of Landlord first had and obtained, which consent shall not be unreasonably withheld. Landlord's consent shall not be required if Tenant assigns or subleases to its subsidiary or franchise dealer. In the event of assignment or subleasing to any party whatsoever, Tenant shall remain primarily liable hereunder, notwithstanding that such assignee shall assume to carry out and perform all of the terms of this Lease.

10 LOSS OR DAMAGE TO PREMISES If the Premises are partially damaged by fire or other casualty, Landlord shall repair such damage as speedily as practicable provided that Landlord shall not be obligated to expend for such repair an amount in excess of the net insurance proceeds recovered or recoverable as a result of such damage. If such damage renders the Premises or a part thereof untenable, the rent during the period between the date when the damage occurred and the date when the Premises shall again be made tenantable shall proportionately abate based upon the relation which the number of square feet in the Premises rendered untenable bears to the number of square feet in the Premises immediately prior to the date of such damage. If, however, the

damage shall exceed 50% of the insurable value of the Premises, and the period required to restore the Premises shall exceed six months, Landlord or Tenant shall have the option of terminating this Lease upon giving the other written notice thereof within 30 days after the occurrence of such damage. However, if within 30 days after the occurrence of such damage in excess of 50% of the insurable value of the Premises, Tenant shall request that Landlord restore or replace the Premises to approximately the same condition prevailing immediately prior to the casualty, Landlord and Tenant agree that the entire net insurance proceeds recovered or recoverable as a result of such damage shall be applied to such replacement costs and, in the event that this fund is insufficient for the purpose of making the restoration required by Tenant, Tenant shall pay such deficiency. During the time of such restoration, Tenant's rent shall proportionately abate as above described. Landlord reserves the right to terminate this Lease in the event that 50% or more of the rentable area of the Shopping Center shall have been damaged by fire or other casualty to such an extent as to render the restoration of the Shopping Center inadvisable in Landlord's opinion.

11 UTILITIES Tenant shall furnish and pay all charges for fuel, gas, heating, water, electricity and other utilities used on the Premises. In the event Landlord shall install any sub-meter for measuring any utilities furnished by it to Tenant, Tenant shall not be required to pay any more for such services than the cost if bought directly in the same quantity from the public utility furnishing the same. Landlord shall not be liable in damages or otherwise should the furnishing of any services by it to the Premises be interrupted by fire, accident, riot, strike, act of God or the making of necessary repairs or improvements or other causes beyond the control of Landlord, or in case Landlord discontinues any such service on account of nonpayment of charges therefor or nonpayment of rent.

The primary source of heat for the leased premises may be a heat reclamation process originating from the Tenant's refrigeration system. Upon termination and vacating the leased premises, the Tenant has a right under paragraph 14 to remove its fixtures and equipment, which results in the heat reclamation process being inoperative. Therefore, the Tenant agrees to replace, at its expense, the heat reclamation coil with a conventional piece of heating equipment, as approved by Wisconsin State Code.

12 INSURANCE Tenant shall procure, maintain and pay for a public liability policy naming Landlord as an insured thereunder covering the Premises, with limitations of \$1,000,000 bodily injury and \$300,000 property damage, with certificates of insurance to be furnished to Landlord and/or any mortgagee, as their interests may appear. Tenant shall also procure, maintain and pay for adequate plate glass insurance.

Landlord shall procure, maintain and pay for fire and extended coverage insurance on the Premises in amounts not less than 80% of the insurable value thereof, naming Landlord and/or any mortgagee, as their interests may appear as the insured. Certificates to be provided to Tenant.

Tenant agrees to indemnify and save Landlord harmless from and against any and all claims, damages, costs and expenses, including reasonable attorneys' fees, arising from the conduct or management of the business conducted by Tenant in the Premises or from any breach or default on the part of Tenant in the performance of any covenant or agreement on the part of Tenant to be performed pursuant to the terms of this Lease, or from any act of negligence of Tenant, its agents, contractors, servants, employees, sublessees, concessionaires or licensees on or about the Premises. In case any action or proceeding is brought against Landlord by reason of any such claim, Tenant, upon notice from Landlord, covenants to defend such action or proceeding by counsel not unsatisfactory to Landlord. It is further understood and agreed that Landlord shall not be liable, and Tenant waives all claims for damage to person or property sustained by Tenant or Tenant's employees, agents, servants, invitees and customers resulting from the building in which the Premises are situated or the Premises, or any equipment or appurtenance, becoming out of repair, or resulting from faulty design or construction of the building or the Premises, or resulting directly or indirectly from any act or neglect of any tenant in the Shopping Center, except where any such claim is based upon Landlord's negligence or Landlord's failure to make the repairs which it is required to make pursuant to the provisions of this Lease.

13 WAIVER OF SUBROGATION Landlord and Tenant shall each, forthwith after the execution of this lease, procure from and cause each of the insurers under all policies of insurance, now or hereafter during the term hereof existing and purchased by either or both insuring or covering the demised premises or any portion thereof and/or Tenant's business or operations in the

... policies might otherwise, if at all, have as against the other hereto, said waiver to be in writing and for the express benefit of the other.

Landlord agrees to indemnify and hold Tenant harmless from and against any and all claims, damages, costs and expenses including reasonable attorneys' fees arising from the conduct or management of the common areas of the Shopping Center except where such claims and damages are attributable to the negligence of Tenant

Tenant shall obey, observe and comply with all rules, regulations, ordinances and laws which shall be applicable to the Premises, and, with reference to the use and occupancy thereof, Tenant shall promptly comply with all ordinances, rules, rulings and directives of the Board of Fire Underwriters and of any governmental authority or agency having jurisdiction of the Premises

14 FIXTURES, EQUIPMENT AND SIGNS Tenant shall have the right to place in or upon the Premises such fixtures and equipment as may be considered necessary by Tenant for the operation of its business Title to such fixtures and equipment shall remain in Tenant, who shall remove such fixtures and equipment, whether or not attached to the Premises, at the termination of this Lease Tenant shall, however, repair forthwith all damage which may result from the removal of such fixtures and equipment at the termination of this Lease

Tenant shall not erect, install, display, inscribe, paint or affix any sign, lettering or advertising medium to, upon or above the exterior of the Premises or the building in which the Premises are situated without, in each instance, the prior written approval of the Landlord

15 SUBORDINATION At Landlord's option, this Lease shall be and is subordinated to any mortgages or ground leases now or hereafter covering the Premises and any extensions or renewals thereof, provided, however, anything to the contrary contained herein notwithstanding, every such mortgagee shall recognize the validity of this Lease in the event of a foreclosure of Landlord's interest and every such ground lessor shall recognize the leasehold estate of Tenant in the event of a termination of such ground lease as long as Tenant shall not be in default under any of the terms of this Lease Tenant shall execute whatever instruments may be required to effect such subordination Tenant covenants that it will not subordinate its interest under this Lease to any other mortgages without Landlord's prior written consent

6 HOLDING OVER No holding over by Tenant shall operate to extend or renew this Lease and any holding over after the expiration of the term or any extended term shall constitute a tenancy from month to month only subject to the provisions of this Lease consistent with a month-to-month tenancy

17. LANDLORD'S REMEDIES Landlord may terminate this Lease upon 15 days written notice to Tenant (unless Tenant within such 15-day period cures the specified default) upon the happening of any one or more of the following events

- (a) The levying of a writ of execution or attachment on or against the property of Tenant,
- (b) The making of an assignment of Tenant's property for the benefit of creditors, or the appointment by a court of competent jurisdiction of a receiver, guardian, conservator, trustee in bankruptcy or similar officer to take charge of all or any part of Tenant's property, or the filing by Tenant of a petition (including without limitation, a petition for reorganization or arrangement) under any bankruptcy law, or the filing of any such petition against Tenant under any bankruptcy law which is not dismissed within 30 days from the date upon which it is filed,
- (c) The taking of any action for the voluntary dissolution of Tenant,
- (d) The failure of Tenant to release of record or to furnish a bond indemnifying Landlord against loss by reason of any lien filed against the Premises,
- (e) The failure of Tenant to pay an installment of rent within ten days after due
- (f) The failure of Tenant to perform any other of its covenants under this Lease for 30 days after written notice thereof

Upon any such termination of this Lease, Landlord may reenter the Premises with or without process of law using such force as may be necessary, and remove all persons and chattels therefrom and Landlord shall not be liable for damages or other costs incurred by reason of reentry of termination of this Lease. Notwithstanding such termination, Tenant's liability for rent hereunder shall not be extinguished for the balance of the term remaining after such termination, and Landlord shall be entitled to recover immediately as liquidated damages an amount equal to the rent hereunder for the unexpired portion of the term, including minimum rent and percentage rent for the balance of the lease term assuming the percentage rent to be equal to the amount of the average annual percentage rent required to be paid during the last three previous years of the lease term in which Tenant has fully operated its business in the leased premises, or if three full years of the term have not elapsed, the average annual percentage rent required to be paid by Tenant for the entire period of time during which Tenant has operated its business in the Premises, less the fair rental value of the Premises for the balance of the term, together with all costs, including reasonable attorneys' fees, incurred in connection with collection of said damages.

18. QUIET ENJOYMENT Landlord, for itself and its successors and assigns, covenants that Tenant, its successors and assigns, on paying the rent and performing all of the covenants hereunder, shall and may peaceably and quietly hold and enjoy the Premises for the term hereof.

19. EMINENT DOMAIN If the whole of the Premises shall be taken by eminent domain, or in the event of conveyance in lieu thereof, then the term of this Lease shall cease as of the date possession shall be taken by such public authority and the rent shall be paid up to that day with a proportionate refund by Landlord of such rent as may have been paid in advance for a period subsequent to the date of taking

If 20% or more of the floor area of the Premises shall be so taken or conveyed, then the lease term shall cease only as respects the part so taken or conveyed, from the day possession shall be taken, and Tenant shall pay rent to that date with an appropriate refund by Landlord as described above, but

either Landlord or Tenant shall have the right to terminate this Lease upon notice in writing within 20 days after such taking of possession. If neither Landlord nor Tenant so terminates, all of the terms herein provided shall continue in effect except that the minimum rent shall be equitably adjusted, and Landlord shall make all necessary repairs or alterations so as to constitute the remaining Premises a complete architectural unit.

If less than 20% of the floor area of the Premises shall be so taken or conveyed, this Lease shall cease only as respects the parts so taken or conveyed, as of the day possession shall be taken, and Tenant shall pay rent up to that day, with an appropriate refund by Landlord as described above, and thereafter the minimum rent shall be equitably adjusted. Landlord shall, at its expense, make all necessary repairs or alterations so as to constitute the remaining Premises a complete architectural unit.

If more than 25% of the rentable area in the Shopping Center shall be so taken or conveyed, whether or not the Premises or any part thereof is taken or conveyed, or if all or substantially all of the parking area in the Shopping Center shall be so taken or conveyed, Landlord may, by notice in writing to Tenant delivered on or before the day of surrendering possession to the authority, terminate this Lease and minimum rent and percentage rent shall be paid or refunded as of the date of termination.

The entire compensation awarded shall belong to Landlord except for any amounts specifically applicable to any present or future estate of interest of Tenant under this Lease.

20. ACCESS TO PREMISES Landlord reserves the right to enter upon the Premises at all reasonable hours, but not in such a manner as to interfere with Tenant's normal course of business, for the purpose of inspecting the same, or of making repairs, additions or alterations to the building in which the Premises are located, to exhibit the Premises to prospective tenants, purchasers or others, to display during the last 90 days of the term, without hindrance or molestation by Tenant, "For Rent" or similar signs on the exterior of the Premises. The exercise by Landlord of any of its rights under this provision shall not be deemed an eviction or disturbance of Tenant's use and possession of the Premises.

21 MERCHANTS ASSOCIATION Landlord agrees that Tenant shall not be required to join any Merchants Association

22 RADIUS RESTRICTION Tenant agrees not to engage directly or indirectly or through subsidiary or affiliated corporations or other related commercial vehicles in the same or any similar business to that transacted in the Premises within a radius of two miles from the extreme limits of the Shopping Center during the term of this Lease and for a period of one year thereafter. The provisions of this paragraph shall not apply to any existing store of Tenants or to the existing Godfrey Co., Inc. headquarters and distributing center property located on Sunset Drive in Waukesha, Wisconsin.

23 NOTICES All notices to Tenant shall be sent by registered mail addressed to Tenant at 1200 West Sunset Drive, Waukesha, Wisconsin 53186, or at such other address as Tenant shall hereafter designate in writing to Landlord. All notices to Landlord shall be sent by registered mail addressed to Landlord at its office in Waukesha County, Wisconsin, or at such other address as Landlord shall hereafter designate in writing to Tenant.

24 COSTS OF ENFORCEMENT Tenant agrees to pay, upon demand, all Landlord's costs, charges and expenses including the fees of counsel, agents and others retained by Landlord incurred in enforcing Tenant's obligations hereunder or incurred by Landlord in any litigation in which Landlord, without Landlord's fault, becomes involved or concerned by reason of the existence of this Lease or the relationship hereunder of Landlord and Tenant. Landlord agrees to pay, upon demand, all Tenant's costs, charges and expenses including the fees of counsel, agents and others retained by Tenant incurred in enforcing Landlord's obligations hereunder or incurred by Tenant in any litigation in which Tenant, without Tenant's fault, becomes involved or concerned by reason of the existence of this Lease or the relationship hereunder of Landlord and Tenant.



25 GENERAL Nothing contained in this Lease shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent or of partnership or of joint venture or of any association between Landlord and Tenant, it being expressly understood and agreed that neither the method of computation of rent nor any other provisions contained in this Lease nor any acts of the parties hereto shall be deemed to create any relationship between Landlord and Tenant other than the relationship of Landlord and Tenant. No waiver of any default of Tenant or Landlord hereunder shall be implied from any omission by Landlord or Tenant to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated. One or more waivers of any covenant, term or condition of this Lease by Landlord or Tenant shall not be construed as a waiver of a subsequent breach of the same covenant, term or condition. The consent or approval by Landlord to or of any act by Tenant requiring Landlord's consent or approval shall not be deemed to waive or render unnecessary Landlord's consent or approval to or of any subsequent similar act by Tenant. The invalidity or unenforceability of any provision hereof shall not affect or impair any other provisions. The necessary grammatical changes required to make the provisions of this Lease apply in plural sense where there is more than one tenant and to either corporations, associations, partnerships or individuals, males or females, shall in all instances be assumed as though in each case fully expressed. The laws of the State of Wisconsin shall govern the validity, performance and enforcement of this Lease. It is understood and agreed that Landlord has made no representations as to location or tenancies of other stores in said Shopping Center, and reserves the right to make changes in same. This Lease becomes effective as a lease only upon execution and delivery thereof by Landlord and Tenant. Tenant shall pay all personal property taxes assessed against personal property located in the Premises. The headings contained herein are for convenience only and do not define, limit or construe the contents of the provisions hereof.

26 SHORT FORM LEASE Upon demand by Landlord a short form lease for recording purposes in form and content acceptable to Landlord and which shall in no way vary or alter the terms of this Lease shall be executed by the parties hereto

27. PARTIES BOUND The terms, covenants and conditions hereof shall be binding upon and inure to the successors in interest and assignees of the parties hereto

28 OPTIONS TO EXTEND If Tenant is not in default under any provisions of this Lease, Tenant shall have the option to renew this Lease for three additional terms of five years each upon the same terms and conditions, excepting only the provisions of this paragraph providing for said renewal terms. If Tenant elects to exercise its option to renew, it shall give Landlord written notice of such exercise on or before one year prior to expiration of the original or renewal term then in effect

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day, month and year first above written

Godfrey Company  
by John R. Godfrey  
President  
FOX RUN ASSOCIATES  
By [Signature]

AMENDMENT PAGES

SENTRY STORE

2 Landlord shall deliver to the Tenant a completion certificate executed by the registered architect or engineer who supervised the construction, stating that all work has been completed in accordance with the plans and specifications for Exhibit "C" as approved by Landlord and Tenant in writing Excepted are the interior retail areas of the Shopping Center Mall, Exhibit "A" which are not under a written and executed lease

3 The Sentry Food Store, Jim Handy Hardware Store, Fox Run Liquor Store and \_\_\_\_\_ Drug Store shall have a common grand opening This common grand opening may be held either on or before December 1, 1977, or on or after January 10, 1978 There shall be no common grand opening between December 2, 1977 and January 10, 1978 for the Sentry Food Store, Jim Handy Hardware Store, Fox Run Liquor Store, and \_\_\_\_\_ Drug Store

B The primary term of this lease shall be 25 years commencing on the first day of the month following expiration of the preliminary term, provided, however, if Tenant shall begin doing business in the middle of any month, additional rental shall be paid on a per diem basis for the balance of the month, which said portion of the month shall be added to the term.

The term "lease year" as used herein shall mean a period of 12 consecutive calendar months from the first day of January through the following December 31 Any portion of the lease term, occurring at the beginning or end of the lease term, which is less than a lease year, shall be called a "partial lease year "

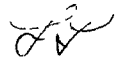
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- (3) The amount of any sales taxes or other taxes, except income taxes, imposed under any laws, ordinances, orders or regulations, whether now or hereafter in force, upon or based upon the gross receipts of the Tenant or upon or based upon the sale or sales price of merchandise and which must be paid by the Tenant, whether or not collected by the Tenant from its customers,
- (4) Returns of merchandise to shippers or manufacturers,
- (5) The net amount of discounts actually allowed to any customer pursuant to any customary and reasonable policy adopted by the Tenant from time to time, including in such discounts, but not by way of limitation, the net amount of any discounts allowed by way of or resulting from the issuance to customers of trading stamps or other evidences of purchase for immediate or future exchange for merchandise or other things of value, and
- (6) Merchandise or other things of value issued in redemption of such trading stamps or other evidences of value or issued as a premium or otherwise in connection with any sales promotion program of the Tenant

E Records and Reports Tenant shall submit to Landlord on or before the 45th day following the end of each lease year or partial lease year at the place then fixed for the payment of rent, a complete statement certified on behalf of Tenant by a duly authorized officer, showing the total of all gross sales made upon the Premises during the preceding lease year or partial lease year

Tenant shall keep for a period of one year following the end of each lease year, or following the termination of this Lease, a complete and accurate record of all sales of merchandise and service and all revenue derived from business conducted in the Premises during the lease year. All such records shall be open to the inspection and audit of Landlord and its agents at all reasonable times during ordinary business hours

If any audit made by Landlord reveals an error in Tenant's original statement prejudicial to Landlord's receipt of rent in an amount equal to or greater than 1% of the amount of rent reportedly due by Tenant's statement for the period of the audit, the expenses of the audit shall be paid by Tenant otherwise by Landlord



6 REPAIRS, MAINTENANCE AND STRUCTURAL ALTERATIONS Landlord shall

maintain and repair the exterior of the Premises, excluding plate glass repairs and replacement and repairs which become necessary or desirable except by reason of gross negligence of Tenant, its agents, employees or customers. In addition Landlord shall maintain, repair and replace any of the parts of the heating and air conditioning units serving the Premises during the contractor's warranty period of such equipment.

Tenant shall maintain, replace and keep in good repair the interior portions, entrances and plate glass of the Premises at its own expense and shall upon the expiration of the term of this Lease, deliver up the Premises in good condition and repair, reasonable wear and tear and damage by fire or other casualty excepted. Tenant shall maintain, repair and replace any of the parts of the heating and air conditioning units serving the Premises after the warranty period above described.

Tenant shall make no alterations or additions in or to the Premises without first obtaining Landlord's consent in writing which shall not be unreasonably withheld. All such alterations or additions shall be performed at Tenant's expense in a first class, workmanlike manner, and Tenant covenants and agrees not to create or suffer others to create any lien or obligation against the Premises or Landlord by reason of the alterations or additions so authorized and, further, to hold Landlord harmless of and from any and all claims and demands of third persons in any manner relating to or arising out of such work. All alterations or additions so made by Tenant shall become part of the realty, as a consequence of which Tenant, upon the expiration of this Lease, shall have neither the right nor the obligation to remove the same.

7 COMMON AREAS The parking area of the Shopping Center as well as the landscaped and vacant areas, passageways for trucks, areaways, roads, walks, corridors, public washrooms, comfort rooms, lounges, drinking fountains, toilets, stairs, ramps, shelters, porches, bus stations and loading docks and other areas and improvements which may be provided by Landlord for the general use in common of Tenants, their agents, employees and customers shall comprise the common areas ("common areas") of the Shopping Center and shall be available to all tenants, their customers and invitees. Landlord agrees to maintain all common areas in good condition and repair. Tenant agrees to pay upon demand but not more often than once each calendar month, and not less than once each calendar quarter, as additional rent a proportionate share of the cost of



properly maintaining and repairing (including a reasonable allowance for the depreciation of repair and maintenance equipment) the parking area and other common areas of the Shopping Center. Landlord, upon written request, shall furnish Tenant with documentation as to such common area charges and the computation of Tenant's share. The cost of maintaining and operating the common areas shall not include real estate taxes, special taxes, special assessments or depreciation of capital improvements, nor the cost of any capital improvements made thereto. The portion of the cost to be paid by Tenant shall be based on the ratio of the number of square feet of rentable first floor area in the Premises to the number of square feet of rentable first floor area in all buildings comprising the Shopping Center (Exhibit "C") hereafter referred to as Tenant's ("Proportionate share")

In the event Landlord fails to remove snow from the parking area and other common areas of the Shopping Center as provided in this paragraph 7, Tenant may, after reasonable notice to Landlord and Landlord's failure to provide such service, remove the snow or have the snow removed and at Tenant's option either bill Landlord for the reasonable cost thereof, or may offset against the common area charges.

Landlord expressly reserves the right to promulgate from time to time reasonable rules and regulations relating to the use of common areas. Said rules and regulations shall be binding upon Tenant upon the delivery of a copy thereof to Tenant. Said rules and regulations may be amended by Landlord from time to time. For the enforcement of said rules and regulations, Landlord shall have available to it all remedies in this lease providing for a breach thereof, and all legal remedies whether or not provided for in this lease, by law or in equity.

Landlord reserves the right to construct other buildings and improvements and to enlarge the Shopping Center, and to make alterations thereto or additions thereto, and to build adjacent thereto subject, however, to all of the following

- (a) No building or other structure shall be erected between the Sentry Store and Sunset Drive, and between the Sentry Store and Highway 59, except as shown on Exhibit "C"

LEASE

THIS LEASE, entered into and executed this 31<sup>st</sup> day of March, 1977, by and between Fox Run Associates, a limited partnership with its principal place of business at the City of Waukesha, Waukesha County, Wisconsin, hereinafter called the "Landlord", and the GODFREY COMPANY, a Wisconsin corporation, hereinafter called the "Tenant."

W I T N E S S E T H

WHEREAS, Landlord is now constructing a Shopping Center in the City of Waukesha, Waukesha County, Wisconsin, to be known as Fox Run Center (the "Shopping Center") to be developed approximately in the manner shown on Exhibit "C" attached hereto, and

WHEREAS, Tenant is desirous of leasing Building B (the "Premises") in a building to be constructed as shown on the tentative layout in Exhibit "B" consisting of approximately 26,658 square feet of first floor space and 1,200 square feet of mezzanine space,

NOW THEREFORE, in consideration of the covenants and agreements hereinafter contained, Landlord does hereby lease, demise and let unto Tenant, and Tenant does hereby take from Landlord, the Premises described above on the following terms and conditions,

1 CONSTRUCTION OF IMPROVEMENTS Landlord agrees at its sole cost and expense to construct on the site of the Shopping Center (Exhibit "C") a new building (Building B) in which the Premises are to be located. The Premises shall be constructed substantially in accordance with the plans and specifications entitled "Landlord's Work" set forth in Exhibit "B" attached hereto.

Landlord and Tenant will mutually approve in writing all plans and specifications for the Premises. It is understood and agreed by Tenant and Landlord that any minor changes from any plans or from said plans and specifications which may be necessary during construction of the building of the Premises shall not affect, change or invalidate this Lease.

Except as hereinafter provided, Landlord covenants that actual possession of the Premises shall be delivered to Tenant ready for Tenant's Work (see below) on or before ~~September 10~~ October 1, 1977. The Premises shall be deemed ready for Tenant's Work when Landlord shall have substantially completed construction of the Premises in accordance with its obligations set forth in Exhibit "B" as



Landlord's Work, Tenant shall have right of supervision of Landlord's Work on the construction of the Premises

Landlord shall, from time to time during the course of construction, provide written information to Tenant concerning the progress of construction of the building and shall, when construction progress so permits, notify Tenant in writing in advance of the exact or approximate date by which the Premises will be ready for Tenant's Work, and will notify Tenant in writing when the Premises are in fact ready for Tenant's Work,

If any disputes shall arise as to the Premises being ready for Tenant's Work, it shall be resolved in accordance with paragraph 2 hereof. It is agreed that by occupying the Premises as a tenant during the Preliminary term, Tenant formally accepts the same and acknowledges that the Premises are in the condition called for hereunder. Failure of Landlord to deliver possession of the Premises within the time and in the condition provided for in this Lease will not give rise to any claim for damages by the Tenant against the Landlord or against the Landlord's contractor

Tenant agrees, prior to the commencement of the primary term of this Lease, at Tenant's sole cost and expense, to provide all work of whatsoever nature in accordance with its obligations as set forth in Exhibit "B" as "Tenant's Work". Tenant shall, prior to commencement of any work, submit all plans and specifications to Landlord for its written approval, which shall not be unreasonably withheld. No changes shall be made in Tenant's Work in Exhibit "B" except upon written consent of both Landlord and Tenant, which shall not be unreasonably withheld.

2 SETTLEMENT OF DISPUTES It is understood and agreed that any disagreement or dispute which may arise between Landlord and Tenant with reference to the work to be performed pursuant to Exhibit "B" shall be resolved by arbitration and the disputed items shall be submitted to Landlord's architect and to an architect designated by Tenant, as arbitrators, and if they fail to agree, they are to select a third architect as arbitrator, the decision of the majority to be final and binding on both Landlord and Tenant and shall be enforceable by a court of competent jurisdiction

3 TERMS The term of this lease shall consist of a Preliminary Term and a Primary Term

A The Preliminary Term shall be the period of time necessary to construct and develop the improvements on Exhibit "C".

The Preliminary term shall commence when the Landlord provides the following to the Tenant

1 A written commitment from a responsible lender for construction and permanent mortgage financing for Exhibit "C", and reasonable evidence satisfactory to Tenant that all conditions thereto have been satisfied

2 A title report showing good and merchantable title in the Landlord or a valid land lease for the lands described in Exhibit "C" for a term at least as long as the term of this lease and all Tenant's options, and title report or other evidence reasonably satisfactory to Tenant that the lands are free and clear of all incumbrances except for construction and permanent financing for this project

3. Reasonable proof of Landlord's legal existence and authority to enter into this transaction.

4 Reasonable evidence that the Landlord has obtained necessary zoning for the project as described in Exhibit "C"

5. Reasonable proof satisfactory to Tenant that soil conditions are satisfactory for the construction of the project as described in Exhibit "C".

B The Preliminary Term shall commence prior to May 1, 1977, or Tenant may by written notice delivered to Landlord declare this lease null and void.

G. The Preliminary Term shall terminate when

1 That 75% of the first floor rentable space in the Shopping Center Mall, Exhibit "A", has been committed under written and executed lease for retail stores The Landlord or, if Tenant requests, Richter Schroeder Company shall certify the above in a manner satisfactory to the Tenant in writing

2 Landlord shall deliver to the Tenant a completion certificate executed by the registered architect or engineer who supervised the construction, stating that all work has been completed in accordance with the plans and specifications for Exhibit "C" as approved by Landlord and Tenant in writing. Excepted are the interior retail areas of the Shopping Center Mall, Exhibit "A" which are not under a written and executed lease.

3 The Sentry Food Store, Jim Handy Hardware Store, and the Fox Run Liquor Store shall have a common grand opening. This common grand opening may be held either on or before December 1, 1977, or on or after January 10, 1978. There shall be no common grand opening between December 2, 1977 and January 10, 1978 for the Sentry Food Store, Jim Handy Hardware Store, and the Fox Run Liquor Store.

B The primary term of this lease shall be 25 years commencing on the first day of the month following expiration of the preliminary term, provided however, if Tenant shall begin doing business in the middle of any month, additional rental shall be paid on a per diem basis for the balance of the month, which said portion of the month shall be added to the term.

The term "lease year" as used herein shall mean a period of 12 consecutive calendar months from the first day of January through the following December 31. Any portion of the lease term, occurring at the beginning or end of the lease term, which is less than a lease year, shall be called a "partial lease year."

4 RENT Tenant agrees to pay rent to Landlord, without notice or demand and without setoff or deduction, except as provided for in paragraph 7, at Landlord's office at Waukesha, Wisconsin, or at such other place as Landlord may from time to time designate in writing, as follows

A During the preliminary term, which shall also be the period for the development of the Shopping Center (Exhibit "C"), no rent shall be due or payable

B During the primary term the fixed annual minimum rent ("Minimum rent") shall be determined at the rate of \$2 85 for 26,400 first floor rentable square feet of the Premises

If the Sentry Food Store has 26,400 first floor rentable square feet, and the rate per first floor rentable square foot is \$2 85, then the minimum rent is Seventy Five Thousand Two Hundred Forty and no/100 Dollars (\$75,240.00).

Landlord and Tenant agree that if the first floor rentable square footage exceeds 26,400 square feet, and the mezzanine rental square footage exceeds 800 square feet, then the Tenant shall make a one time payment to the Landlord for the extra above area based upon actual net construction costs as determined by the architect after the building is completed. No rent shall be payable during the primary term or any extensions thereof for the first floor rentable square footage that exceeds 26,400 square feet, or for the rentable square feet of the mezzanine that exceeds 800 square feet. The actual first floor rentable square footage and mezzanine rentable square footage shall be established by the architect after the building is completed.

The fixed annual minimum rent shall be payable in advance in equal successive monthly installments on the first day of each and every calendar month during the primary term of this lease.

C. Percentage Rent In addition to the minimum rent, Tenant agrees to pay Landlord during each lease year or partial lease year the term hereof as annual percentage rent ("percentage rent") a sum equivalent to the amount, if any, by which 1-1/2% of the gross sales, as hereinafter defined, exceeds the sum of,

- (1) The fixed minimum rent payable during the lease year or partial lease year and,
- (2) The assessment for real estate taxes required by paragraph 8 hereof payable during the lease year or partial lease year and,
- (3) Tenant's portion of the common area charges pursuant to paragraph 7 hereof payable during the lease year or partial lease year

Percentage rent shall be paid annually on or before the 45th day after the last day of each lease year or partial lease year during the term of this lease.

D The term "Gross Sales" as used in this lease shall mean the gross sales made in, upon, or from the leased premises by the Tenant, or any assignee or subtenant of the Tenant, after first deducting the following

- (1) Credits or refunds made to customers for merchandise returned or exchanged,
- (2) Transfers of merchandise from the leased premises to other stores or warehouses of the Tenant or its affiliated companies,

- (3) The amount of any sales taxes or other taxes, except income taxes, imposed under any law, ordinance, orders or regulations, whether now or hereafter in force, upon or based upon the gross receipts of the Tenant or upon or based upon the sale or sales price of merchandise and which must be paid by the Tenant, either or not collected by the Tenant from its customers,

less of discounts to shippers or manufacturers;

less of discounts actually allowed to any person pursuant to any customary and reasonable practice followed by the Tenant from time to time, and such discounts, but not by way of limitation, the net amount of any discounts allowed by way of limitation, the net amount of any discounts allowed by way of or resulting from the issuance to customers of trading stamps or other evidences of purchase for immediate or future exchange for merchandise or other things of value, and

- (6) Merchandise or other things of value issued in redemption of such trading stamps or other evidences of value or issued as a premium or otherwise in connection with any sales promotion program of the Tenant.

Records and Reports Tenant shall submit to Landlord on or before the 45th day following the end of each lease year or partial lease year at the place then fixed for the payment of rent, a complete statement certified on behalf of Tenant by a duly authorized officer, showing the total of all gross sales made upon the Premises during the preceding lease year or partial lease year.

Tenant shall keep for a period of one year following the end of each lease year, or following the termination of this Lease, a complete and accurate record of all sales of merchandise and service and all revenue derived from business conducted in the Premises during the lease year. All such records shall be open to the inspection and audit of Landlord and its agents at all reasonable times during ordinary business hours.

If any audit made by Landlord reveals an error in Tenant's original statement prejudicial to Landlord's receipt of rent in an amount equal to or greater than 1% of the amount of rent reportedly due by Tenant's statement for the period of the audit, the expenses of the audit shall be paid by Tenant, otherwise by Landlord.

5. USE OF PREMISES The Tenant shall use and occupy the Premises during the primary term of this Lease solely for the purpose of conducting thereon a retail food supermarket for the retailing of foods and allied lines of the type and variety generally operated by Sentry Food Markets. So long as the premises are operated as a retail food supermarket, the Landlord further agrees that it will not lease, during the terms of this lease or any extensions thereof, any unit or space in the Shopping Center (Exhibit "C") to be developed, to any person, persons, partnership or corporation whose business is the sale of retail food for consumption off the premises, retail bakery, and retail floral units. Nothing contained herein shall limit or prohibit Landlord from leasing any space or unit in the Shopping Center for the purpose of a restaurant, whether of a sit-down or carry-out type, so long as the food is prepared on the premises. It is understood that other tenants of the Landlord in the Shopping Center may carry similar items for retail sales as tenant in a minor or ancillary manner.

The Tenant shall operate in compliance with all applicable laws, ordinances, and regulations of federal, state, and local governments.

No part of the Premises shall be occupied or used by any persons for any purpose or in any manner so as to increase the insurance risk or prevent the obtaining of insurance or so that in accordance with any requirement of law or any public authority Landlord shall be obliged to make any addition or alteration to or in the Premises. No auction, fire or bankruptcy sale shall be conducted upon the Premises without the prior written consent of Landlord.

Landlord agrees that during the primary term of this lease and any extension thereof, not less than 75% of the rentable first floor area of the Shopping Center Mall, (Exhibit "A") shall be available or rented for retail business. As used herein the term "retail business" shall mean a store in business for profit and the sale of goods or articles or services directly to the consumer, "Retail Business" shall not mean a restaurant, discotheque, library, public institution or office, professional or brokerage office, art gallery or similar shops, offices or institutions. In no event shall any space be rented for residential purposes.

6 REPAIRS, MAINTENANCE AND STRUCTURAL ALTERATIONS Landlord shall

maintain and repair the exterior of the Premises excluding plate glass repairs and replacement and repairs which become necessary or desirable except by reason of gross negligence of Tenant, its agents, employees or customers. In addition Landlord shall maintain, repair and replace any of the parts of the heating and air conditioning units serving the Premises during the first lease year.

Tenant shall maintain, replace and keep in good repair the interior portions, entrances and plate glass of the Premises at its own expense and shall upon the expiration of the term of this Lease, deliver up the Premises in good condition and repair, reasonable wear and tear and damage by fire or other casualty excepted. Tenant shall maintain, repair and replace any of the parts of the heating and air conditioning units serving the Premises after the first lease year.

Tenant shall make no alterations or additions in or to the Premises without first obtaining Landlord's consent in writing which shall not be unreasonably withheld. All such alterations or additions shall be performed at Tenant's expense in a first class, workmanlike manner, and Tenant covenants and agrees not to create or suffer others to create any lien or obligation against the Premises or Landlord by reason of the alterations or additions so authorized and, further, to hold Landlord harmless of and from any and all claims and demands of third persons in any manner relating to or arising out of such work. All alterations or additions so made by Tenant shall become part of the realty as a consequence of which Tenant, upon the expiration of this Lease, shall have neither the right nor the obligation to remove the same.

7 COMMON AREAS The parking area of the Shopping Center as well as the landscaped and vacant areas, passageways for trucks, alleyways, roads, walks, corridors, public washrooms, comfort rooms, lounges, drinking fountains, toilets, stairs, ramps, shelters, porches, bus stations and loading docks and other areas and improvements which may be provided by Landlord for the general use in common of tenants, their agents, employees and customers shall comprise the common areas ("common areas") of the Shopping Center and shall be available to all tenants, their customers and invitees. Landlord agrees to maintain all common areas in good condition and repair. Tenant agrees to pay upon demand but not more often than once each calendar month, and not less than once each calendar quarter, as additional rent a proportionate share of the cost of operating, lighting, cleaning, removing snow, policing, insuring against



properly maintaining and repairing (including a reasonable allowance for the depreciation of repair and maintenance equipment) the parking area and other common areas of the Shopping Center. Landlord, upon written request, shall furnish Tenant with documentation as to such common area charges and the computation of Tenant's share. The cost of maintaining and operating the common areas shall not include real estate taxes, special taxes, special assessments or depreciation of capital improvements, nor the cost of any capital improvements made thereto. The portion of the cost to be paid by Tenant shall be based on the ratio of the number of square feet of rentable first floor area in the Premises to the number of square feet of rentable first floor area in all buildings comprising the Shopping Center (Exhibit "C") hereafter referred to as Tenant's ("Proportionate share").

In the event Landlord fails to remove snow from the parking area and other common areas of the Shopping Center as provided in this paragraph 7, Tenant may, after reasonable notice to Landlord and Landlord's failure to provide such service, remove the snow or have the snow removed and at Tenant's option either bill Landlord for the reasonable cost thereof, or may offset against the common area charges.

Landlord expressly reserves the right to promulgate from time to time reasonable rules and regulations relating to the use of common areas. Said rules and regulations shall be binding upon Tenant upon the delivery of a copy thereof to Tenant. Said rules and regulations may be amended by Landlord from time to time. For the enforcement of said rules and regulations, Landlord shall have available to it all remedies in this lease providing for a breach thereof, and all legal remedies whether or not provided for in this lease, by law or inequity.

Landlord reserves the right to construct other buildings and improvements and to enlarge the Shopping Center, and to make alterations thereon or additions thereto, and to build adjacent thereto subject, however, to all of the following

~~(\*) Any additional construction to reduce the parking ratios as shown on the attached Shopping Center Site Plan, Exhibit "C".~~

(\*) No building or other structure shall be erected between the Sentry Store and Sunset Drive, and between the Sentry Store and Highway 59, except as shown on Exhibit "C"

(6) Landlord shall first obtain Tenant's approval in writing, which approval shall not unreasonably be withheld

In the event Landlord shall enter into any agreements for the use of any of the areas designated in Exhibit "C" by persons other than Tenants, such agreements shall not reduce the parking ratios thereon and shall be subject to the approval of the Tenant, which shall not be unreasonably withheld

The Landlord grants, at Tenant's option, the right to Tenant to expand the Sentry Food Store building under the same terms and conditions, during the primary term or any extensions thereof. Such expansions, specifications, and plans are subject to the approval of the Landlord. Such approval will not be unreasonably withheld. Such expansion will increase the Tenant's prorata share of common area expenses, and Tenant will be responsible for all increases in taxes resulting from such expansion, and all costs of said expansion. Tenant will also be responsible for any increase in Landlord's building insurance due to said expansion, and the repair and maintenance of the exterior of the expansion.

In the event Landlord reasonably deems it necessary in order to prevent the use of special rights, Landlord may from time to time close all or a portion of the common areas, direct private boundary marks or take such further action as shall be reasonably appropriate for that purpose, provided, however, he shall first obtain the written approval of Tenant, which shall not be unreasonably withheld.

Tenant shall not at any time park or permit the parking of its employees' automobiles, trucks or other delivery vehicles or the trucks or vehicles of others in the designated delivery passages or adjacent to loading docks so as to unreasonably interfere in any way with the use thereof, nor shall such parking be permitted in the common parking areas. Tenant and its employees and agents shall park their automobiles only in the common parking area as designated by Landlord.

8. TAXES Tenant shall pay as additional rent its proportionate share (as defined in paragraph 7) of the real estate taxes levied and assessed against the land and improvements comprising the Shopping Center as shown on Exhibit "C". Tenant shall also pay as additional rent its proportionate share of all assessments and other governmental charges, general and special, ordinary and extraordinary, of any kind and nature whatsoever, including but not limited

to assessments for public improvements or benefits, imposed against the land and improvements comprising the Shopping Center, which shall become due and payable after the commencement of the term of this Lease. Should the State of Wisconsin, or any political subdivision thereof or any governmental authority having jurisdiction thereover, impose a tax and/or assessment (other than an income or franchise tax) upon or against the rentals payable by tenants in the Shopping Center to Landlord, either by way of substitution against such land and buildings, or in addition thereto, such tax and/or assessment shall be deemed to constitute a tax and/or assessment against such land and buildings for the purpose of this paragraph. Such additional rent shall be paid by Tenant on or before January 31 of each year following the calendar year in which such charges were assessed upon presentation by Landlord to Tenant of certified statements showing the charges and the share to be paid by Tenant.

9 ASSIGNMENT AND SUBLEASING This Lease shall not be assigned in any way by Tenant, nor shall the Premises be subleased in whole or in part without the written consent of Landlord first had and obtained, which consent shall not be unreasonably withheld. Landlord's consent shall not be required if Tenant assigns or subleases to its subsidiary or franchise dealer. In the event of assignment or subleasing to any party whatsoever, Tenant shall remain primarily liable hereunder, notwithstanding that such assignee shall assume to carry out and perform all of the terms of this Lease.

10 LOSS OR DAMAGE TO PREMISES If the Premises are partially damaged by fire or other casualty, Landlord shall repair such damage as speedily as practicable provided that Landlord shall not be obligated to expend for such repair an amount in excess of the net insurance proceeds recovered or recoverable as a result of such damage. If such damage renders the Premises or a part thereof untenable, the rent during the period between the date when the damage occurred and the date when the Premises shall again be made tenable shall proportionately abate based upon the relation which the number of square feet in the Premises rendered untenable bears to the number of square feet in the Premises immediately prior to the date of such damage. If, however, the

damage shall exceed 50% of the insurable value of the Premises and the period required to restore the Premises shall exceed six months, Landlord or Tenant shall have the option of terminating this Lease upon giving the other written notice thereof within 30 days after the occurrence of such damage. However, if within 30 days after the occurrence of such damage in excess of 50% of the insurable value of the Premises, Tenant shall request that Landlord restore or replace the Premises to approximately the same condition prevailing immediately prior to the casualty, Landlord and Tenant agree that the entire net insurance proceeds recovered or recoverable as a result of such damage shall be applied to such replacement costs and, in the event that this fund is insufficient for the purpose of making the restoration required by Tenant, Tenant shall pay such deficiency. During the time of such restoration, Tenant's rent shall proportionately abate as above described. Landlord reserves the right to terminate this Lease in the event that 50% or more of the rentable area of the Shopping Center shall have been damaged by fire or other casualty to such an extent as to render the restoration of the Shopping Center inadvisable in Landlord's opinion.

11. UTILITIES Tenant shall furnish and pay all charges for fuel, gas, heating, water, electricity and other utilities used on the Premises. In the event Landlord shall install any sub-meter for measuring any utilities furnished by it to Tenant, Tenant shall not be required to pay any more for such services than the cost if bought directly in the same quantity from the public utility furnishing the same. Landlord shall not be liable in damages or otherwise should the furnishing of any services by it to the Premises be interrupted by fire, accident, riot, strike, act of God or the making of necessary repairs or improvements or other causes beyond the control of Landlord, or in case Landlord discontinues any such service on account of nonpayment of charges therefor or nonpayment of rent.

The primary source of heat for the leased premises may be a heat reclamation process originating from the Tenant's refrigeration system. Upon termination and vacating the leased premises, the Tenant has a right under paragraph 14 to remove its fixtures and equipment, which results in the heat reclamation process being inoperative. Therefore, the Tenant agrees to replace, at its expense, the heat reclamation coil with a conventional piece of heating equipment, as approved by Wisconsin State Code.

12 INSURANCE Tenant shall procure maintain and pay for a public liability policy naming Landlord as an insured thereunder covering the Premises, with limitations of \$1,000,000 bodily injury and \$300,000 property damage, with certificates of insurance to be furnished to Landlord and/or any mortgagees, as their interests may appear. Tenant shall also procure, maintain and pay for adequate plate glass insurance.

Landlord shall procure, maintain and pay for fire and extended coverage insurance on the Premises in amounts not less than 80% of the insurable value thereof, naming Landlord and/or any mortgagees, as their interests may appear, as the insured. Certificates to be provided to Tenant.

Tenant agrees to indemnify and save Landlord harmless from and against any and all claims, damages, costs and expenses, including reasonable attorneys' fees, arising from the conduct or management of the business conducted by Tenant in the Premises or from any breach or default on the part of Tenant in the performance of any covenant or agreement on the part of Tenant to be performed pursuant to the terms of this Lease, or from any act of negligence of Tenant, its agents, contractors, servants, employees, sublessees, concessionaires or licensees on or about the Premises. In case any action or proceeding is brought against Landlord by reason of any such claim, Tenant, upon notice from Landlord, covenants to defend such action or proceeding by counsel not unsatisfactory to Landlord. It is further understood and agreed that Landlord shall not be liable, and Tenant waives all claims for damage to person or property sustained by Tenant or Tenant's employees, agents, servants, invitees and customers resulting from the building in which the Premises are situated or the Premises, or any equipment or appurtenance, becoming out of repair, or resulting from faulty design or construction of the building or the Premises, or resulting directly or indirectly from any act or neglect of any tenant in the Shopping Center, except where any such claim is based upon Landlord's negligence or Landlord's failure to make the repairs which it is required to make pursuant to the provisions of this Lease.

13 WAIVER OF SUBROGATION Landlord and Tenant shall each, forthwith after the execution of this lease, procure from and cause each of the insurers under all policies of insurance, now or hereafter during the term hereof existing and purchased by either or both insuring or covering the demised premises or any portion thereof and/or Tenant's business or operations in the

leased premises, a waiver all rights of subrogation w/ the insurer under said policies might otherwise, if at all, have as against the other hereto, said waiver to be in writing and for the express benefit of the other

Landlord agrees to indemnify and hold Tenant harmless from and against any and all claims, damages, costs and expenses including reasonable attorneys' fees arising from the conduct or management of the common areas of the Shopping Center except where such claims and damages are attributable to the negligence of Tenant

Tenant shall obey, observe and comply with all rules, regulations, ordinances and laws which shall be applicable to the Premises, and, with reference to the use and occupancy thereof, Tenant shall promptly comply with all ordinances, rules, rulings and directives of the Board of Fire Underwriters and of any governmental authority or agency having jurisdiction of the Premises

14 FIXTURES, EQUIPMENT AND SIGNS Tenant shall have the right to place in or upon the Premises such fixtures and equipment as may be considered necessary by Tenant for the operation of its business Title to such fixtures and equipment shall remain in Tenant, who shall remove such fixtures and equipment, whether or not attached to the Premises, at the termination of this Lease, Tenant shall, however, repair forthwith all damage which may result from the removal of such fixtures and equipment at the termination of this Lease

Tenant shall not erect, install, display, inscribe, paint or affix any sign, lettering or advertising medium to, upon or above the exterior of the Premises or the building in which the Premises are situated without, in each instance, the prior written approval of the Landlord

15 SUBORDINATION At Landlord's option, this Lease shall be and is subordinated to any mortgages or ground leases now or hereafter covering the Premises and any extensions or renewals thereof, provided, however, anything to the contrary contained herein notwithstanding, every such mortgagee shall recognize the validity of this Lease in the event of a foreclosure of Landlord's interest and every such ground lessor shall recognize the leasehold estate of Tenant in the event of a termination of such ground lease as long as Tenant shall not be in default under any of the terms of this Lease Tenant shall execute whatever instruments may be required to effect such subordination Tenant covenants that it will not subordinate its interest under this Lease to any other mortgages without Landlord's prior written consent

16 HOLDING OVER No holding over by Tenant shall operate to extend or renew this Lease and any holding over after the expiration of the term or any extended term shall constitute a tenancy from month to month only subject to the provisions of this Lease consistent with a month-to-month tenancy

17 LANDLORD'S REMEDIES Landlord may terminate this Lease upon 15 days written notice to Tenant (unless Tenant within such 15-day period cures the specified default) upon the happening of any one or more of the following events

- (a) The levying of a writ of execution or attachment on or against the property of Tenant,
- (b) The making of an assignment of Tenant's property for the benefit of creditors, or the appointment by a court of competent jurisdiction of a receiver, guardian, conservator, trustee in bankruptcy or similar officer to take charge of all or any part of Tenant's property, or the filing by Tenant of a petition (including without limitation, a petition for reorganization or arrangement) under any bankruptcy law, or the filing of any such petition against Tenant under any bankruptcy law which is not dismissed within 30 days from the date upon which it is filed,
- (c) The taking of any action for the voluntary dissolution of Tenant,
- (d) The failure of Tenant to release of record or to furnish a bond indemnifying Landlord against loss by reason of any lien filed against the Premises,
- (e) The failure of Tenant to pay an installment of rent within ten days after due
- (f) The failure of Tenant to perform any other of its covenants under this Lease for 30 days after written notice thereof

Upon any such termination of this Lease, Landlord may reenter the Premises with or without process of law using such force as may be necessary, and remove all persons and chattels therefrom and Landlord shall not be liable for damages or other costs incurred by reason of reentry of termination of this Lease. Notwithstanding such termination, Tenant's liability for rent hereunder shall not be extinguished for the balance of the term remaining after such termination, and Landlord shall be entitled to recover immediately as liquidated damages an amount equal to the rent hereunder for the unexpired portion of the term, including minimum rent and percentage rent for the balance of the lease term assuming the percentage rent to be equal to the amount of the average annual percentage rent required to be paid during the last three previous years of the lease term in which Tenant has fully operated its business in the leased premises, or if three full years of the term have not elapsed, the average annual percentage rent required to be paid by Tenant for the entire period of time during which Tenant has operated its business in the Premises, less the fair rental value of the Premises for the balance of the term, together with all costs, including reasonable attorneys' fees, incurred in connection with collection of said damages.

18. QUIET ENJOYMENT. Landlord, for itself and its successors and assigns, covenants that Tenant, its successors and assigns, on paying the rent and performing all of the covenants hereunder, shall and may peaceably and quietly hold and enjoy the Premises for the term hereof

19. EMINENT DOMAIN. If the whole of the Premises shall be taken by eminent domain, or in the event of conveyance in lieu thereof, then the term of this Lease shall cease as of the date possession shall be taken by such public authority and the rent shall be paid up to that day with a proportionate refund by Landlord of such rent as may have been paid in advance for a period subsequent to the date of taking

If 20% or more of the floor area of the Premises shall be so taken or conveyed, then the lease term shall cease only as respects the part so taken or conveyed, from the day possession shall be taken, and Tenant shall pay rent to that date with an appropriate refund by Landlord as described above, but



either Landlord or Tenant shall have the right to terminate this Lease upon notice in writing within 20 days after such taking of possession. If neither Landlord nor Tenant so terminates, all of the terms herein provided shall continue in effect except that the minimum rent shall be equitably adjusted, and Landlord shall make all necessary repairs or alterations so as to constitute the remaining Premises a complete architectural unit.

If less than 20% of the floor area of the Premises shall be so taken or conveyed, this Lease shall cease only as respects the parts so taken or conveyed, as of the day possession shall be taken, and Tenant shall pay rent up to that day, with an appropriate refund by Landlord as described above, and thereafter the minimum rent shall be equitably adjusted. Landlord shall, at its expense, make all necessary repairs or alterations so as to constitute the remaining Premises a complete architectural unit.

If more than 25% of the rentable area in the Shopping Center shall be so taken or conveyed, whether or not the Premises or any part thereof is taken or conveyed, or if all or substantially all of the parking area in the Shopping Center shall be so taken or conveyed, Landlord may, by notice in writing to Tenant delivered on or before the day of surrendering possession to the authority, terminate this Lease and minimum rent and percentage rent shall be paid or refunded as of the date of termination.

The entire compensation awarded shall belong to Landlord except for any amounts specifically applicable to any present or future estate of interest of Tenant under this Lease.

20. ACCESS TO PREMISES Landlord reserves the right to enter upon the Premises at all reasonable hours, but not in such a manner as to interfere with Tenant's normal course of business, for the purpose of inspecting the same, or of making repairs, additions or alterations to the building in which the Premises are located, to exhibit the Premises to prospective tenants, purchasers or others, to display during the last 90 days of the term, without hindrance or molestation by Tenant, "For Rent" or similar signs on the exterior of the Premises. The exercise by Landlord of any of its rights under this provision shall not be deemed an eviction or disturbance of Tenant's use and possession of the Premises.

21 MERCHANTS ASSOCIATION Landlord agrees that Tenant shall not be required to join any Merchants Association

22 RADIUS RESTRICTION Tenant agrees not to engage directly or indirectly or through subsidiary or affiliated corporations or other related commercial vehicles in the same or any similar business to that transacted in the Premises within a radius of two miles from the extreme limits of the Shopping Center during the term of this Lease and for a period of one year thereafter. The provisions of this paragraph shall not apply to any existing store of Tenants or to the existing Godfrey Co., Inc. headquarters and distributing center property located on Sunset Drive in Waukesha, Wisconsin.

23 NOTICES All notices to Tenant shall be sent by registered mail addressed to Tenant at 1200 West Sunset Drive, Waukesha, Wisconsin 53186, or at such other address as Tenant shall hereafter designate in writing to Landlord. All notices to Landlord shall be sent by registered mail addressed to Landlord at its office in Waukesha County, Wisconsin, or at such other address as Landlord shall hereafter designate in writing to Tenant.

24 COSTS OF ENFORCEMENT Tenant agrees to pay, upon demand, all Landlord's costs, charges and expenses including the fees of counsel, agents and others retained by Landlord incurred in enforcing Tenant's obligations hereunder or incurred by Landlord in any litigation in which Landlord, without Landlord's fault, becomes involved or concerned by reason of the existence of this Lease or the relationship hereunder of Landlord and Tenant. Landlord agrees to pay, upon demand, all Tenant's costs, charges and expenses including the fees of counsel, agents and others retained by Tenant incurred in enforcing Landlord's obligations hereunder or incurred by Tenant in any litigation in which Tenant, without Tenant's fault, becomes involved or concerned by reason of the existence of this Lease or the relationship hereunder of Landlord and Tenant.

25. GENERAL Nothing contained in this Lease shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent or of partnership or of joint venture or of any association between Landlord and Tenant, it being expressly understood and agreed that neither the method of computation of rent nor any other provisions contained in this Lease nor any acts of the parties hereto shall be deemed to create any relationship between Landlord and Tenant other than the relationship of Landlord and Tenant. No waiver of any default of Tenant or Landlord hereunder shall be implied from any omission by Landlord or Tenant to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated. One or more waivers of any covenant, term or condition of this Lease by Landlord or Tenant shall not be construed as a waiver of a subsequent breach of the same covenant, term or condition. The consent or approval by Landlord to or of any act by Tenant requiring Landlord's consent or approval shall not be deemed to waive or render unnecessary Landlord's consent or approval to or of any subsequent similar act by Tenant. The invalidity or unenforceability of any provision hereof shall not affect or impair any other provisions. The necessary grammatical changes required to make the provisions of this Lease apply in plural sense where there is more than one tenant and to either corporations, associations, partnerships or individuals, males or females, shall in all instances be assumed as though in each case fully expressed. The laws of the State of Wisconsin shall govern the validity, performance and enforcement of this Lease. It is understood and agreed that Landlord has made no representations as to location or tenancies of other stores in said Shopping Center, and reserves the right to make changes in same. This Lease becomes effective as a lease only upon execution and delivery thereof by Landlord and Tenant. Tenant shall pay all personal property taxes assessed against personal property located in the Premises. The headings contained herein are for convenience only and do not define, limit or construe the contents of the provisions hereof.

26 SHORT FORM LEASE Upon demand by Landlord a short form lease for recording purposes in form and content acceptable to Landlord and which shall in no way vary or alter the terms of this Lease shall be executed by the parties hereto

27 PARTIES BOUND The terms, covenants and conditions hereof shall be binding upon and inure to the successors in interest and assignees of the parties hereto

28 OPTIONS TO EXTEND If Tenant is not in default under any provisions of this Lease, Tenant shall have the option to renew this Lease for three additional terms of five years each upon the same terms and conditions, excepting only the provisions of this paragraph providing for said renewal terms. If Tenant elects to exercise its option to renew, it shall give Landlord written notice of such exercise on or before one year prior to expiration of the original or renewal term then in effect

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day, month and year first above written

Goffroy Company  
by John D. Goffroy  
President  
FOX RUN ASSOCIATES  
By [Signature]

*Sentry Store*

EXHIBIT INDEX

Exhibit "A"	Plans and Specifications for the <u>Shopping Center Building</u>
Exhibit "B"	Plans and Specifications for the <u>Sentry Food Store</u> (A Free Standing Building)
Exhibit "C"	Combined Plans and Specifications for the 1 Shopping Center Building 2 Sentry Food Store 3 Land & Common Area Improvements
Exhibit "D"	A Plot Plan for the Fox Run Shopping Center showing the approximate location of the Shopping Center Building, Sentry Food Store, the Common Area Improvements, and the Land Boundaries
Building A-1	Hardware Store in Shopping Center Building
Building A-2	Liquor Store in Shopping Center Building
Building A-3 to A-10	Other Stores in Shopping Center Building
Building B-1	Sentry Food Store (Free Standing)

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re	)	Chapter 11
	)	
Fleming Companies, Inc , <u>et al</u> ,	)	Case No 03-10945 (MFW)
	)	(Jointly Administered)
Debtors	)	

**OBJECTION TO CURE AMOUNTS AND PROPOSED ASSIGNMENT**

FOX RUN CENTER, LLC, (“Fox Run”), for its objection to Debtor’s July 11, 2003 Notice and July 19, 2003 Supplemental Notice of Potential Assumption and Assignment of Certain Executory Contracts and Unexpired Leases in Connection with Sale Motion (the “Notice”) states

1 On page 37 of the schedule affixed to the Notice, the Debtor identifies certain cure amounts with regard to assumption of four Leases, three of which are dated July 28, 1977 and the fourth, March 31, 1977 (collectively, the “Leases”), for premises used, respectively, as a Sentry Food Store, a Sentry Drugstore, a Sentry Liquor, and a True Value Hardware Store, all located on West Sunset Drive in Waukesha, Wisconsin (the “Premises”) The Leases have been assigned numbers 6605, 6606, 6607 and 6608, respectively, in the Debtor’s list of assignable contracts

2 A proposed assignee has not been designated, and Fox Run reserves all of its objections to assumption and assignment of the Leases pertaining to a particular proposed assignee

3 Subject to paragraph 2 above, Fox Run objects to the scheduled “cure amounts ” According to Fox Run’s records, the Debtor is indebted to Fox Run under the Leases with respect to liquidated pre- and post-petition cure amounts as follows



Sentry Foods Lease / Contract Assignment No 6605

(i)	February 2003 CAM charges	\$1,912 63
(ii)	Post-petition attorneys fees through 6/30/03	<u>\$ 612 16</u>
	Total for Lease 6605	\$2,524 79

Sentry Drug Lease / Contract Assignment No 6606

(i)	February 2003 CAM charges	\$ 587 06
(ii)	Post-petition attorneys fees through 6/30/03	<u>\$ 612 16</u>
	Total for Lease 6606	\$1,199 22

Sentry Liquor Lease / Contract Assignment No 6607

(i)	February 2003 CAM charges	\$ 541 68
(ii)	Post-petition attorneys fees through 6/30/03	<u>\$ 612 16</u>
	Total for Lease 6607	\$1,153 84

True Value Lease / Contract Assignment No 6608

(i)	June 2003 CAM charges	\$ 435 05
(ii)	Post-petition attorneys fees through 6/30/03	<u>\$ 612 16</u>
	Total for Lease 6608	<u>\$1,047 21</u>

<b>GRAND TOTAL OF LIQUIDATED AMOUNTS</b>	<b>\$5,925 06</b>
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4 In addition, Fox Run claims both pre- and post-petition accrued and accruing 2003 real estate taxes, which amounts are not yet liquidated, and various other and further amounts with continue to accrue post-petition, including, without limitation, monthly CAM and insurance charges, attorneys fees and percentage rent Fox Run has estimated some of these accruing items, based on year 2002 figures, as follows

Sentry Foods Lease / Contract Assignment No 6605

(i)	July 2003 CAM charges (through July 24)	\$ 1,166 52
(ii)	2003 real estate taxes (through July 24)	\$25,192 91
(iii)	July 2003 insurance (through July 24)	<u>\$ 3,681 06</u>
	Total for Lease 6605, including liquidated amounts	\$32,565 28

Sentry Drug Lease / Contract Assignment No 6606

(i)	July 2003 CAM charges (through July 24)	\$ 358 05
(ii)	2003 estate taxes (through July 24)	\$ 7,732 68
(iii)	July 2003 insurance (through July 24)	\$ 1,129 86
(iv)	2003 percentage rent (through July 24)	<u>\$43,743 19</u>
Total for Lease 6606, including liquidated amounts		\$54,163 00

Sentry Liquor Lease / Contract Assignment No 6607

(i)	July 2003 CAM charges (through July 24)	\$ 330 43
(ii)	2003 real estate taxes (through July 24)	\$7,136 28
(iii)	July 2003 insurance (through July 24)	<u>\$1,042 72</u>
Total for Lease 6607, including liquidated amounts		\$9,663 27

True Value Lease / Contract Assignment No 6608

(i)	July 2003 CAM charges (through July 24)	\$ 396 46
(ii)	2003 real estate taxes (through July 24)	\$ 8,562 16
(iii)	July 2003 insurance (through July 24)	<u>\$ 1,251 06</u>
Total for Lease 6608, including liquidated amounts		<u>\$11,256 89</u>

**GRAND TOTAL OF LIQUIDATED AND ESTIMATED AMOUNTS \$107,648 44**

5 Fox Run is not aware of any other or further consequential damages at this time,  
but reserves the right to claim such damages as they become known

6 Attached hereto as Collective Exhibit A are copies of the Leases and other  
material supporting this Objection



WHEREFORE, Fox Run objects to the cure amounts proposed by the Debtor in the Notice and requests that this Court condition assumption and/or assignment of the Leases upon prompt payment of the full cure amounts set forth above, plus other and further accruing amounts, and for such other and further relief as the Court deems just and appropriate Fox Run reserves all objections to assumption and assignment of the Leases

**DUANE MORRIS LLP**

By \_\_\_\_\_  
John L Reed (I D No 3023)  
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Of counsel

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100 East Wisconsin Avenue, Suite 3300  
Milwaukee, WI 53202  
T (414) 271-6560

Dated July 28, 2003

T\CLIENTA\035263\0004\A0607521 1

September 12, 2003

**VIA FEDERAL EXPRESS**

Bankruptcy Management Corporation  
1330 E Franklin Avenue  
El Segundo, CA 90245

Re In re Fleming Companies, Inc  
Case No 03-10945

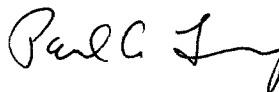
Ladies & Gentlemen

Enclosed for filing in the above-referenced case are one original and two copies of a Proof of Claim with supporting documentation for creditor Fox Run Center, LLC

Please file the original and one copy and return one conformed copy to me via the enclosed self-addressed, self-stamped envelope

Very truly yours,

**MICHAEL BEST & FRIEDRICH LLP**



Paul A. Lucey

PL lsc

Enclosures

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