

UNITED STATES BANKRUPTCY COURT _____ DISTRICT OF DELAWARE

PROOF OF CLAIM

Name of Debtor
Fleming Companies, Inc.Case Number
03-10945(MFW)

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

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

August J. RichterName and address where notices should be sent
**c/o Paul A. Lucey, Esq.
Michael Best & Friedrich LLP
100 E. Wisconsin Avenue, Suite 3300
Milwaukee, WI 53202**Telephone number **(414) 271-6560**

- ☐ Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.
- ☐ Check box if you have never received any notices from the bankruptcy court in this case.
- ☐ Check box if the address differs from the address on the envelope sent to you by the court.

THIS SPACE IS FOR COURT USE ONLY

Account or other number by which creditor identifies debtor

Check here ☐ replaces a previously filed claim, dated _____

☐ amends

1 Basis for Claim

- ☐ Goods sold
- ☐ Services performed
- ☐ Money loaned
- ☐ Personal injury/wrongful death
- ☐ Taxes
- ☒ Other Unexpired Lease

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

2 Date debt was incurred**3 If court judgment, date obtained****4 Total Amount of Claim at Time Case Filed**\$ Unliquidated*

If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below.

- ☐ Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.
- *See attached Addendum.**

5 Secured Claim

- ☐ Check this box if your claim is secured by collateral (including a right of setoff).

Brief Description of Collateral

- ☐ Real Estate ☐ Motor Vehicle
- ☐ Other _____

Value of Collateral \$ _____

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

6 Unsecured Priority Claim

- ☐ Check this box if you have an unsecured priority claim.

Amount entitled to priority \$ _____

Specify the priority of the claim

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

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

7 Credits The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.**8 Supporting Documents** Attach copies of supporting documents such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.**9 Date-Stamped Copy** To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.

Date

9/12/03

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

Paul A. Lucey, Esq., counsel for the creditor

THIS SPACE IS FOR COURT USE ONLY

FILED

SEP 15 2003

BMC

Fleming Companies Claim



13507

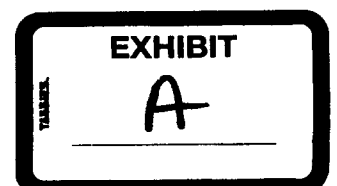
ADDENDUM TO PROOF OF CLAIM

August J Richter (“Landlord”) is the Landlord under that certain lease with the Debtor, a true and correct copy of which is attached as Exhibit A hereto (the “Lease”) The Lease has neither been assumed nor rejected under 11 U S C § 365 The Landlord has previously filed an objection to the § 365 “cure” amount proposed by the Debtor A copy of said objection (without exhibits) is attached hereto as Exhibit B The Landlord incorporates said objection 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 Lease 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

LEASE AGREEMENT

INDEX TO LEASE

	<u>Title</u>	<u>Page No.</u>
1	<u>USE</u>	1
2	<u>TERM AND RENT</u>	2
3	<u>OPTIONS TO EXTEND LEASE</u>	3
4	<u>REPAIRS AND MAINTENANCE; ADDITIONS AND STRUCTURAL ALTERATIONS</u>	4
5	<u>TAXES AND ASSESSMENTS</u>	8
6	<u>ASSIGNING AND SUBLEASING</u>	10
7	<u>LOSS OR DAMAGE TO PREMISES</u>	11
8	<u>PUBLIC UTILITIES BILLS</u>	14
9.	<u>INSURANCE AND INDEMNIFICATION</u>	15
10.	<u>FIXTURES AND EQUIPMENT</u>	17
11	<u>SUBORDINATION</u>	17
12	<u>EMINENT DOMAIN</u>	18
13	<u>MUTUAL RELEASE OF LIABILITY AND WAIVER OF SUBROGATION</u>	20
14	<u>NOTICES</u>	22
15	<u>SURRENDER</u>	22
16	<u>COVENANT OF TITLE, AUTHORITY AND QUIET POSSESSION</u>	23
17	<u>HOLDING OVER</u>	24
18	<u>DEFAULT</u>	25



19.	<u>NO PARTNERSHIP</u>	.	.	.	.	.	.	.	.	29
20.	<u>ENTIRE AGREEMENT</u>	.	.	.	.	.	.	.	.	30
21.	<u>PARTIES BOUND</u>	.	.	.	.	.	.	.	.	30
22	<u>SIGNS</u>	.	.	.	.	.	.	.	.	31
23.	<u>PURCHASE RIGHTS</u>	.	.	.	.	.	.	.	.	31
24	<u>MISCELLANEOUS</u>	.	.	.	.	.	.	.	.	34
<u>EXHIBIT A</u>	PLOT PLAN	.	.	.	.	.	.	.	.	41
<u>EXHIBIT A1</u>	SURVEY	.	.	.	.	.	.	.	.	42
<u>EXHIBIT B</u>	LEGAL DESCRIPTION	.	.	.	.	.	.	.	.	43
<u>EXHIBIT C</u>	PERMITTED ENCUMBRANCES	.	.	.	.	.	.	.	.	44
<u>EXHIBIT D</u>	SIGNAGE	.	.	.	.	.	.	.	.	45

LEASE

THIS INDENTURE is made this 16th day of September, 1992, by and between August Richter of Milwaukee, Wisconsin (hereinafter called "Landlord") and GODFREY COMPANY, a division of Malone & Hyde, Inc., a Delaware corporation, with its principal offices in Waukesha, Wisconsin (hereinafter called the "Tenant").

WITNESSETH:

The Landlord does hereby lease, demise and let to the Tenant the premises (the "Leased Premises") containing approximately twenty-nine thousand three hundred eighty-three (29,383) square feet of floor area and located at 253 Church Street, Berlin, Wisconsin, as described and shown on the plot plan attached hereto as Exhibit A and by the legal description attached hereto as Exhibit B

1. USE The Leased Premises shall be used for any lawful purpose except the sale of used merchandise. The Tenant shall not use nor suffer or permit any person to use the Leased Premises or any part thereof for any purpose or use in violation of any laws, ordinances, rules and regulations of any public authority having jurisdiction over the Leased Premises, nor for any immoral or unlawful purposes whatsoever. No part of the Leased Premises shall be occupied or used in any manner so that, in accordance with any requirements of law or any public authority, Landlord shall be

obligated to make any addition or alteration to or in the Leased Premises. Tenant shall not use any advertising medium such as loudspeakers, phonographs or radio broadcasts in a manner so as to be heard outside the Leased Premises. Tenant shall not be required to continuously operate the Leased Premises throughout the Lease Term and any extension thereof.

2 TERM AND RENT. The term of this Lease shall be approximately fifteen (15) years commencing on the date of execution hereof (the "Commencement Date"). The term shall end at midnight on the last day of the month which contains the fifteenth (15th) anniversary of the Rent Commencement Date (as hereinafter defined), unless sooner terminated in accordance with this Lease. The Rent Commencement Date of this Lease shall be on the earlier of either the date on which Tenant opens the Leased Premises, as fully expanded, for business with the public or December 18, 1992. At the request of Landlord or Tenant, the parties shall execute a written certificate confirming the Commencement Date, the Rent Commencement Date and the expiration date when determined.

From and after the Commencement Date and until the Rent Commencement Date, Tenant shall pay to Landlord a guaranteed fixed annual rent of Ninety-Five Thousand Sixty-Two Dollars and Fifty Cents (\$95,062.50) payable in advance on the first (1st) day of each month by equal monthly installments of Seven Thousand Nine

Hundred Twenty-One Dollars and Eighty-Eight Cents (\$7,921.88). From and after the Rent Commencement Date, Tenant shall pay to Landlord a guaranteed fixed annual rent of One Hundred Twenty-Two Thousand Eight Hundred Thirteen Dollars and Fifty Cents (\$122,813.-50) payable in advance on the first (1st) day of each month by equal monthly installments of Ten Thousand Two Hundred Thirty-four Dollars and Forty-Five Cents (\$10,234.45). Rent for any period less than one (1) month shall be prorated on the basis of a thirty (30)-day month. Rent and all other sums payable by Tenant hereunder shall be paid to Landlord at the address hereinafter designated for notices to Landlord or at any other place as Landlord may from time to time designate.

3. OPTIONS TO EXTEND LEASE. If this Lease is in full force and effect and Tenant is not in default under any of the terms of this Lease, it shall have four (4) successive extension options of five (5) years each under the same terms and conditions as provided during the initial term, except as expressly set forth herein. The Tenant shall notify the Landlord of its intention to exercise said option by giving notice in writing at least one hundred eighty (180) days prior to the expiration of the initial or extended Lease term, as the case may be. Time shall be of the essence with respect to Tenant's notices as aforesaid, and Tenant's failure to provide any of such notices by the dates specified above

shall thereafter extinguish Tenant's rights under this Paragraph. In the absence of Tenant's timely exercise of its option under the provisions of this Paragraph, the Lease shall be deemed terminated at the end of the then current Lease term.

4. REPAIRS AND MAINTENANCE, ADDITIONS AND STRUCTURAL ALTERATIONS. Tenant agrees during the term of this Lease, at Tenant's sole cost and expense, to properly maintain and make all necessary repairs and replacements to the Leased Premises, including but not limited to, roof, gutters, downspouts, foundation, exterior walls, bearing walls, the structural portions of the Leased Premises, and the parking lot and Tenant will be responsible for day-to-day maintenance and repair of the Leased Premises, including without limitation, resurfacing, striping, cleaning and snow removal for the parking lot. Tenant shall use insured, financially responsible contractors in performing such duties. Notwithstanding the foregoing, if any such repairs or replacements shall be occasioned by the fault or neglect of Landlord or its employees or agents, then the cost of such repairs shall be paid by Landlord.

Tenant shall, at its own cost and expense and at all times during the Lease term and any extension thereof, keep the Leased Premises in good condition and repair, except for casualty losses and ordinary wear and tear. Tenant shall make all necessary

repairs and replacements to the interior of the Leased Premises, including, but not limited to, the doors, door checks, windows, plate glass, store front, fixtures, mechanical systems and heating, ventilating, air conditioning, electrical, plumbing and sewage facilities located therein. Tenant agrees to keep the general utility systems which are a part of and serve the Leased Premises in good condition and repair. Tenant shall keep the Leased Premises in a clean, tenantable condition and shall not permit any garbage, rubbish, refuse or dirt of any kind to accumulate in or about the Leased Premises. Dumpsters for Tenant's waste disposal shall be placed adjacent to the Leased Premises, and the Tenant shall, at Tenant's sole cost and expense, cause the commercial removal of all garbage and refuse.

Tenant shall not make any alterations, additions, improvements or repairs to the Leased Premises without first delivering to Landlord the plans and specifications therefor and obtaining Landlord's written consent thereto, which shall not be unreasonably withheld or delayed. Landlord, by execution hereof, approves the plans and specifications for the current expansion of the Leased Premises which has been undertaken by Tenant, at Tenant's sole cost. Notwithstanding the foregoing, Tenant shall have the right, without Landlord's prior consent, to make alterations, additions, improvements and repairs in the interior of the

Leased Premises, as may from time to time be deemed necessary by Tenant for adapting the Leased Premises to the requirements and uses of Tenant and for the installation of its fixtures, appliances and equipment provided such alterations, additions and improvements do not affect the exterior appearance or structural integrity of the Leased Premises and the cost of such alterations, additions and improvements shall not exceed One Hundred Thousand Dollars (\$100,000 00) in the aggregate for any one (1) project or Two Hundred Thousand Dollars (\$200,000 00) in the aggregate for all such projects within any consecutive twelve (12) month period. All such alterations, additions, improvements or repairs shall be performed at the expense of the Tenant in a first class, workman-like manner employing new materials of good quality. Tenant covenants and agrees not to create, or suffer others to create, any lien or obligation against the Leased Premises by reason of the alterations or other work, and to promptly pay for any such work and promptly cause any claim for such lien to be discharged or bond over such liens, at its sole cost and expense, in accordance with applicable law, or to otherwise secure the Landlord to its satisfaction immediately upon request therefor by Landlord; to comply with all governmental requirements, to secure all necessary permits; to comply with all insurance requirements applicable to such work; to furnish certificates of insurance from all contrac-

Landlord which approval shall not be unreasonably withheld or delayed.

5. TAXES AND ASSESSMENTS. From and after the Commencement Date, Tenant shall pay all Taxes (as hereinafter defined) levied or imposed upon the Leased Premises before the same become delinquent. Landlord agrees that Tenant may pay Taxes levied or imposed upon the Leased Premises on the installment basis. Landlord agrees that Tenant may pay Taxes directly to the taxing authority by check made payable to the taxing authority. As used herein, Taxes shall mean:

A Any real estate taxes, assessments, sewer rents and charges, taxes based upon the receipt of rent, any other federal, state or local governmental tax or charge now or hereafter levied, assessed or imposed by any lawful authority against the land or improvements comprising the Leased Premises or the operation thereof (but not including any franchise taxes or any other taxes measured by Landlord's income or profits from the Leased Premises or the operation thereof, unless the same are imposed in lieu of real estate taxes or assessments), and any reasonable costs or expenses incurred by Landlord in contesting or protesting for the purpose of seeking a reduction in real estate taxes as defined herein.

B. All annual installments of special assessments applicable to the Leased Premises which are levied and become payable in each year during the term hereof; provided however, that Tenant shall be obligated to pay, prior to the expiration of this Lease if not extended as provided herein, the total amount of any special assessment which is levied on the Leased Premises during the first eight (8) years of the initial term of this Lease regardless of whether or not the annual installments for such special assessments would extend and be payable over a period of time exceeding the initial term of this Lease.

Amounts to be paid by Tenant with respect to the tax years during which the term hereof ends shall be adjusted pro rata on the basis of the number of days of the term hereof falling within said tax years. As used herein, the term "tax year" means a calendar year or such other twelve (12) month period during which said taxes are assessed and with respect to which such tax bills are issued. In the event of a special assessment being assessed against the Leased Premises, Landlord shall obtain the longest period for installment payments of any such assessments from the taxing authority and, except for such assessments levied during the first eight (8) years of the initial term of this Lease which will be paid in full by Tenant, Tenant shall pay, during the term of this Lease, such annual assessments together with any interest or

other charges (but not interest or charges for a delinquency which are not the result of Tenant's failure to pay) thereon as a result of the assessment being paid in installments.

Upon receipt of each tax bill from the taxing authority, Landlord shall furnish Tenant with a copy of each tax bill as issued. A copy of a tax bill or assessment bill submitted by Landlord to Tenant shall at all times be sufficient evidence of the amount of taxes assessed or levied against the property to which such bill relates. Tenant shall have no obligation to make monthly tax escrow deposits. Upon request of the Tenant, Landlord agrees to cooperate with the Tenant, at Tenant's sole expense, to contest any Taxes levied or imposed upon the Leased Premises. If, as a result of such contest, the Taxes are not reduced, all expenses in connection with such contest shall be borne by the Tenant.

6 ASSIGNING AND SUBLEASING. Tenant may assign or sublease or in any manner transfer this Lease to any entity controlling, controlled by or under common control with Tenant without Landlord's consent so long as if the insurance premiums payable hereunder are increased as a result of the use to which the Leased Premises shall be put under such assignment or transfer, Tenant shall pay such increase. Tenant may not assign or sublease or in any manner transfer this Lease to any other party without the Landlord's prior written consent, which consent will not be

unreasonably withheld or delayed. It shall be deemed reasonable for Landlord to withhold its consent if the proposed assignee, sublessee or transferee is not reputable or does not have the financial capability to meet the obligations of a tenant under this Lease. In the event that Tenant assigns or in any manner transfers this Lease or any estate or interest therein, Tenant shall in no way be released from any of its obligations under this Lease, including but not limited to such nonmonetary obligations as maintenance, repair and/or replacement of the improvements located in or on the Leased Premises.

7 LOSS OR DAMAGE TO PREMISES If the Leased Premises shall be damaged or destroyed in whole or in part by fire or other casualty during the term hereof, Tenant shall, at its own cost and expense, promptly repair and restore the entire Leased Premises to a condition substantially equal to the condition of the Leased Premises immediately prior to such damage or destruction and in conformity with and pursuant to all applicable requirements of law and duly constituted governmental authority.

Notwithstanding the foregoing, if the reasonably estimated cost of the repair or rebuilding of the Leased Premises exceeds fifty percent (50%) of the equalized assessed value of the Leased Premises, then Tenant may elect either (a) to repair or rebuild the Leased Premises or (b) to terminate this Lease. Tenant

shall make its election by giving written notice to Landlord of its election within ninety (90) days after the occurrence of such damage or destruction. If Tenant does not notify Landlord of its election within ninety (90) days after the occurrence of such damage or destruction, then this Lease shall be automatically terminated.

If Tenant elects to rebuild or repair the Leased Premises, then this Lease shall not terminate but shall continue in full force and effect and Tenant shall, at its own cost and expense to the extent insurance proceeds are insufficient, with all reasonable dispatch and diligence, rebuild and/or repair the Leased Premises or building as aforesaid to a condition equal or greater in value to that just prior to said damage or destruction in accordance with plans and specifications to be approved in writing by Landlord prior to commencement of said rebuilding and/or repair, which approval shall not be unreasonably withheld or delayed. Tenant shall complete said rebuilding and/or repair of the Leased Premises or building as aforesaid within a period not to exceed nine (9) months from the date of Tenant's election to rebuild or repair, subject to extension in the event of delays beyond the control of Tenant arising from acts of God, general labor strikes, the acts of Landlord or other contingencies which could not be anticipated or provided for by Tenant. For the purpose of making

such repairs and restorations, Landlord agrees that the insurance proceeds may be used for the payment thereof in accordance with reasonable pay-out procedures established by Landlord to insure that there are sufficient funds available for such repairs and restoration and that such work is done in a good and workmanlike manner in accordance with the plans and specifications approved by Landlord and Tenant and free from any liens for services, materials or supplies. In the event Tenant exercises its right to rebuild and/or repair pursuant to this Paragraph, Tenant's obligation to rebuild and/or repair shall be absolute whether or not the insurance proceeds available therefor shall be sufficient to defray the entire cost thereof. Further, if any surplus remains after completion of such rebuilding and/or repair, such surplus shall be paid over to and become the property of Tenant.

If Tenant repairs or rebuilds, then Tenant shall repair or replace its merchandise, trade fixtures, furnishings and equipment in a manner and to at least a condition equal to that prior to its damage or destruction. Tenant agrees, during any period of reconstruction or repair of the Leased Premises, to continue the operation of its business in the Leased Premises to the extent reasonably practicable.

Notwithstanding anything to the contrary contained herein, if the Leased Premises shall be partially or totally

damaged or destroyed within twenty-four (24) months of the expiration date of the then-current term, then Tenant shall furnish to Landlord, within thirty (30) days after the casualty, a statement of Tenant's contractor reasonably estimating the time necessary for the repair or rebuilding of the Leased Premises to a tenantable condition. In the event such statement discloses that the repair or rebuilding will require more than one hundred eighty (180) days after the date of the casualty to complete, subject to delays which may arise by reason of adjustment of loss under insurance policies and delays beyond the reasonable control of Tenant, then Tenant may, at its option, terminate this Lease by giving written notice to Landlord within thirty (30) days after Tenant has received the statement of Tenant's contractor as referred to above

8 PUBLIC UTILITIES BILLS. From and after the Commencement Date, the Tenant shall pay when due all charges for fuel, gas, heating, water, power and other utilities used on the Leased Premises. Tenant shall keep the Leased Premises sufficiently heated so as to minimize the likelihood of freezing and deterioration thereof and/or the equipment and facilities contained therein. In no event shall Landlord be liable for an interruption or failure in the supply of any utility to the Leased Premises.

9 INSURANCE AND INDEMNIFICATION. From and after the Commencement Date, the Tenant shall procure, maintain and pay for a policy of comprehensive public liability insurance with respect to the Leased Premises in the amount of at least One Million Dollars (\$1,000,000.00) combined single limit. In addition to the underlying public liability policy, the Tenant shall procure and maintain with respect to the Leased Premises a liability umbrella policy in an amount of not less than Five Million Dollars (\$5,000,000.00). It is agreed that the parties, every five (5) years from the date hereof, shall review the amounts of the liability insurance then in effect for the purpose of increasing same in light of what may be customary or advisable amounts of coverage at that time for operations of the type carried on by Tenant at the Leased Premises. The Tenant shall name the Landlord, Tenant and any other parties in interest designated by Landlord as insured in both policies. The policies shall provide that they may not be canceled or modified without thirty (30) days' prior written notice to Landlord. Such insurance may be furnished by Tenant under any blanket policy carried by it or under a separate policy therefor. The foregoing insurance policies shall be with an insurance company licensed or qualified in Wisconsin and certificates of the insurer certifying to the issuance of such policies shall be delivered to Landlord prior to commencement of the term of

this Lease, and such delivery shall also be made upon renewal of such policies not less than thirty (30) days prior to the expiration of such coverage.

If Tenant shall carry any stock of goods or do anything in or about the Leased Premises which increases the insurance rates on the Leased Premises or its buildings and improvements, then Tenant shall pay for any such increase in full. If Tenant installs any electrical equipment that overloads the electrical lines in the Leased Premises, Tenant shall, at its own expense, make such changes as may be necessary to comply with the requirements of insurance underwriters and governmental authority having jurisdiction.

Tenant agrees, during the term of this Lease, to carry insurance covering all risks of loss to all of the buildings and other improvements on or about the Leased Premises, subject only to standard policy exclusions, in an amount equal to one hundred percent (100%) of the full replacement cost of such improvements, without co-insurance, in such form as may be reasonably required by Landlord's mortgagee, if any. Said policy shall provide that all proceeds payable thereunder shall be paid directly to Landlord or, subject to pay-out procedures established by Landlord or Landlord's mortgagee, if any, to Tenant in the event Tenant elects to rebuild

and/or repair the Leased Premises pursuant to Paragraph 7 of this Lease

10. FIXTURES AND EQUIPMENT The Tenant shall have the right to place in or upon the Leased Premises such fixtures and equipment, including walk-in coolers, as may be considered necessary by the Tenant for the operation of its business, and title to all such trade fixtures and equipment shall remain in the Tenant, which shall have the right to remove or replace such fixtures and equipment, whether or not attached to the improvements, at any time The Tenant shall, however, repair all damages which may result from the removal of such fixtures and equipment at the expiration or earlier termination of the Lease

11. SUBORDINATION At Landlord's option, this Lease shall be and is subordinate to any existing mortgages covering said premises, any extension or renewal thereof, or to any new mortgages which may be placed thereon from time to time, 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 the Landlord's interest as long as the Tenant shall not be in default under any of the terms of this Lease. The Tenant shall execute any subordination instrument requested of Tenant in form which is reasonably acceptable to Tenant and Landlord's mortgagee Landlord shall reimburse Tenant

for any expenses, including, but not limited to, attorneys' fees, for reviewing and negotiating the terms of any such instrument. Further, it is agreed that if Tenant shall incur any costs or expenses, including, but not limited to, attorneys' fees, as a result of or arising out of any demand by Landlord's mortgagee for payment of rent under any form of rental assignment executed by Landlord, which demand is then disputed by Landlord, then Tenant shall have the right to offset against rent due hereunder the amount of any such costs or expenses. Tenant shall not be in default hereunder if (a) Tenant shall deposit any rent due hereunder which is the subject of a dispute between the Landlord and Landlord's mortgagee with the court having jurisdiction over the dispute and/or (b) Tenant shall withhold the rent due hereunder pending receipt of an order from a court of competent jurisdiction directing the payment of such rent.

12 EMINENT DOMAIN. If the whole Leased Premises shall be taken by any public authority under the power of eminent domain, this Lease shall terminate as of the day possession is taken by the public authority, and Tenant shall pay rent up to that date with an appropriate refund by Landlord of such rent as may have been paid in advance.

If less than all of the Leased Premises are taken and the taking would materially interfere with the Tenant's business in the

Leased Premises in Tenant's reasonable judgment and/or a portion of the parking lot is taken such that the parking ratio for the Leased Premises falls below four and twenty-two hundredths (4.22) spaces per one thousand (1,000) square feet of floor area of the Leased Premises remaining after any such taking, then Tenant shall have the option to terminate this Lease on the date the public authority takes possession, upon written notice to Landlord given within ninety (90) days after the date of such taking. In the event that this Lease shall terminate or be terminated under the provisions of this Paragraph, the rental and other charges hereunder shall, if and as necessary, be equitably adjusted. If any part of the Leased Premises shall be so taken and this Lease shall not terminate or be terminated under the provisions of this Paragraph, then the fixed annual rent and all other charges hereunder shall be equitably apportioned according to the space so taken; and the Tenant, at Landlord's sole cost and expense, shall promptly (i) make all repairs to the building in which the Leased Premises are located to the extent necessary to constitute the building a complete architectural unit, and (ii) restore the remaining portion of the Leased Premises, including any permanent betterment and improvements thereto installed by Tenant other than Tenant's merchandise, trade fixtures, equipment or decorative items, to a condition substantially equal to the condition of the Leased Premises

immediately prior to such taking and in conformity with and pursuant to all applicable requirements of law and duly constituted governmental authority. In no event shall Landlord be obligated to expend for such repairs an amount in excess of the condemnation proceeds available to Landlord for such rebuilding or restoration, and Tenant shall pay for any costs for such rebuilding or restoration in excess of the condemnation proceeds available to Landlord.

In the event that this Lease shall be terminated, as herein provided, the parties hereto shall be released from their respective obligations hereunder accruing subsequent to the date on which this Lease is so terminated, but Tenant shall remain liable for the payment of rent and other charges and the performance of all of the terms and provisions of this Lease due and owing or accrued up to and including the date of such taking.

Tenant shall not share in the award of damages due Landlord. Tenant shall be entitled to apply to the condemning authority directly for payments provided by the statute, ordinances or rules of the condemnor for moving, relocation and other losses arising from the taking.

13. MUTUAL RELEASE OF LIABILITY AND WAIVER OF SUBROGATION Each of the parties hereto mutually releases and discharges the other, and any officer, agent, employee or representative of such party, of and from any liability whatsoever, and

waives all right of recovery against the other, for any loss of or damage or injury to the property of each, including earnings derived therefrom, caused by or resulting from fire or other casualty for which insurance (permitting waiver of liability and waiver of subrogation) is carried by the injured party at the time of such loss, damage or injury to the extent of any recovery by the injured party under such insurance, regardless of the cause of such loss, damage or injury even though it results from some act or negligence of a party hereto, its agents or representatives; provided, however, that this provision shall be inapplicable if it shall have the effect, but only to the extent that it would have the effect, of invalidating the insurance coverage of the parties hereto. Each party shall immediately notify the other in writing if any of its applicable insurance policies shall not longer permit waiver of liability or waiver of subrogation.

Landlord and Tenant shall each, forthwith after the execution of this Lease, procure from each of the insurers under all policies of insurance, now and hereafter during the term hereof existing and purchased by either or both, a waiver of all rights of subrogation which the insurers under said policies might otherwise have against the other, said waiver to be in writing and for the express benefit of the other.

14. NOTICES. All notices hereunder shall be deemed sufficiently served when delivered personally or by messenger service such as Federal Express or when mailed by registered or certified mail and addressed to the Landlord at:

12700 West Bluemound Road
Elm Grove, Wisconsin 53122

and to Tenant at:

1200 West Sunset Drive
Waukesha, Wisconsin 53186-6597
Attn Michael J. George

or to such other address either may give to the other party from time to time by notice as herein provided

15 SURRENDER At the expiration of this Lease or on the sooner termination thereof, Tenant shall peaceably and quietly quit and surrender the Leased Premises in good order, condition and repair, reasonable wear and tear thereof, damage by fire and other casualty, and alterations or additions permitted under this Lease excepted. Tenant shall remove from the Leased Premises all of its signs (whether exterior or interior), shelving, equipment, trade fixtures and other personal property which it owns or has installed in, on or about said premises, provided that Tenant shall repair any damage to the Leased Premises or the building of which it is a part caused by such removal. Such signs, shelving, equipment, trade fixtures or other personal property of Tenant not removed by Tenant upon the last day of the term or the sooner termination of

this Lease shall become and remain the property of Landlord; provided, however, any such property belonging to Tenant that is not removed on the date of the termination of this Lease may be removed and stored by the Landlord at Tenant's expense, and if such property is not claimed by Tenant within ninety (90) days following the termination of this Lease, it may be sold or destroyed as the Landlord may elect.

All alterations, additions, improvements and fixtures (other than those items which may be removed by Tenant as set forth above) which may be made or installed by Tenant upon the Leased Premises, and all hard surface bonded or adhesively affixed flooring or attached carpeting shall be the property of Landlord and shall remain upon and be surrendered with the Leased Premises without compensation or credit to Tenant. If the Leased Premises be not surrendered at the end of the term, Tenant shall indemnify Landlord against all loss or liability resulting from delay by Tenant in so surrendering the Leased Premises, including, without limitation, any claim made by any succeeding tenant founded on such delay. Tenant shall also surrender all keys for the Leased Premises and shall inform Landlord of combinations on any locks, safes and vaults, if any, on the Leased Premises.

16 COVENANT OF TITLE, AUTHORITY AND QUIET POSSESSION.

Landlord represents and warrants to Tenant that Landlord has full

right and lawful authority to enter into and perform Landlord's obligations under this Lease for the full term and for all extensions herein provided for and has or, on or before the date of execution hereof, will have good and marketable title in fee simple to the Leased Premises described in Exhibit B hereto, free and clear of all contracts, leases, tenancies, agreements, restrictions as to use, violations, liens, mortgages or other encumbrances or defects in title of any nature whatsoever affecting the Leased Premises or the rights granted Tenant in this Lease, except for the matters specifically set forth in Exhibit D hereto Landlord covenants that, subject to the matters set forth in Exhibit D and the terms of this Lease and further subject to Tenant not being in default under this Lease, Tenant shall have and enjoy, during the term hereof, the quiet and undisturbed possession of (1) the Leased Premises, and (11) all other rights of Tenant under this Lease.

17 HOLDING OVER In the event Tenant shall continue to occupy the Leased Premises after the expiration of the term hereof, as it may be extended, without the execution of a new Lease, such holding over shall be deemed to constitute a tenancy from month to month, upon the same terms and conditions as herein provided with double the daily base rent, and in no event shall the tenancy be deemed to be one from year to year.

18 DEFAULT. If Tenant shall fail to pay the rental or other charges due hereunder within ten (10) days after notice of such default has been given to Tenant, or if Tenant shall fail to perform any of the other terms, conditions or covenants of this Lease to be performed or observed by Tenant for more than thirty (30) days after notice of such default has been given to Tenant (or such other reasonable time to cure as necessary if such default is not susceptible to cure within thirty (30) days and Tenant, upon receipt of such notice, immediately and diligently attempts to effect such cure and completes same within ninety (90) days after notice), or if Tenant shall be adjudged bankrupt or insolvent or shall make an assignment for the benefit of creditors, or if a receiver or trustee of Tenant's property shall be appointed and such receiver or trustee, as the case may be, shall not be discharged within thirty (30) days after such appointment, then in any such case, Landlord may, upon notice to Tenant, terminate this Lease and recover possession of and re-enter the Leased Premises without affecting Tenant's liability for past rent and other charges due or future rent and other charges to accrue hereunder. In the event of any such default, Landlord shall be entitled to recover from Tenant, in addition to rent and other charges equivalent to rent, all other damages sustained by Landlord on account of the breach of this Lease.

As an alternative, at the election of Landlord, the Landlord shall have the right by written notice given to the Tenant to terminate Tenant's occupancy of the Leased Premises without terminating this Lease and Tenant's obligations hereunder and it may thereafter declare this Lease terminated and canceled, without any further rights or obligations on the part of the Landlord or the Tenant (other than Tenant's obligation for rent and other charges due and owing through the date of termination) Notwithstanding anything to the contrary contained herein, Landlord shall use reasonable efforts to mitigate the damages which might arise as a result of a default by Tenant, and any rents collected by Landlord from a reletting of the Leased Premises shall be credited first to Landlord's attorney fees, then to all costs of reletting, including broker commissions, then to all costs of renovation/remodeling and then to the fulfillment of the agreements of Tenant under this Lease and to damages sustained by Landlord on account of Tenant's breach of this Lease; provided, however, in no event shall Tenant have any right to any payment from Landlord of any sums received by Landlord as a result of any reletting of the Leased Premises in excess of the rent and other charges payable by Tenant hereunder The provisions herein shall be in addition and without prejudice to any other rights and remedies Landlord may have

Notwithstanding anything to the contrary contained herein, should Landlord default in the performance of the covenants required to be performed by Landlord under this Lease, Tenant may serve upon Landlord a notice specifying the default and requiring performance by the Landlord within a period of time set forth in such notice, which shall not be less than thirty (30) days after receipt of said written notice; provided, however, Tenant shall have the right to remedy such default without notice in the event of emergency. In the event of such default by Landlord after notice shall have been given as aforesaid which is not cured by Landlord within such thirty (30) day period, Tenant may, in addition to any other right or remedy Tenant may have at law or equity, cure Landlord's default and Landlord, on demand, shall reimburse Tenant the reasonable costs incurred by Tenant in curing Landlord's default as aforesaid within fifteen (15) days after demand therefor from Tenant to Landlord, failing which Tenant shall have the right to offset the amount owing from Landlord to Tenant against the succeeding months' installments of rent due and payable by Tenant to Landlord until Landlord's obligation hereunder is repaid in full. However, if any default shall occur which cannot, with due diligence, be cured within a period of thirty (30) days from and after the giving of notice as aforesaid, then Landlord shall be deemed to be complying with such notice if Landlord

promptly commences to take reasonable steps to cure such default during such time period and proceeds diligently thereafter to in fact cure such default

The rights and remedies of Landlord or Tenant under this Lease shall be cumulative and the exercise of any of them shall not be exclusive of any other right or remedy provided by this Lease or allowed by law, and the waiver by Landlord or Tenant of any breach of any covenant of this Lease shall be limited to the particular instance and shall not operate or be deemed to waive any future breach of the same or any other covenant on the same or any other occasion, nor operate as a waiver of Landlord's right to enforce the payment of subsequent installments of rental or any of Landlord's or Tenant's rights under this Lease by such remedies as may be appropriate.

No extension of time, forbearance, neglect or waiver on the part of Landlord or Tenant with respect to any one or more of the covenants, terms or conditions of this Lease, shall be construed as a waiver of any of the other covenants, terms or conditions of this Lease, or as an estoppel against Landlord or Tenant. After the service of a notice or the commencement of a suit or after final judgment for possession of the premises, Landlord may receive and collect any rent due and apply the same as

and for use and occupancy, and the payment and receipt thereof shall not waive or affect any such notice, suit or judgment.

Landlord shall have the right at any time, after thirty (30) days' notice to Tenant (or without notice in case of emergency or in case any fine, penalty, interest or cost may otherwise be imposed or incurred) to make any payment or perform any act required of Tenant under any provision of this Lease. Nothing herein shall imply any obligation on the part of Landlord to make any payment or perform any act required of the Tenant, and this exercise of the right to so do shall not constitute a release of any obligation or a waiver of any default. All payments made and all costs and expenses incurred in connection with any exercise of such right, from the respective dates of the making of such payments or the incurring of such costs and expenses shall be reimbursed to Landlord by Tenant within ten (10) days after notice from Landlord to Tenant of the amount of such payment. In the event of non-payment thereof, Landlord shall have the rights and remedies it would have hereunder or by law in the case of non-payment of rent.

19. NO PARTNERSHIP Nothing contained in this Lease shall be deemed or construed by the parties hereto or by any third person to create a principal and agent relationship, a partnership, a joint venture, or any other 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 act of the parties hereto shall be deemed to create any relationship between Landlord and Tenant other than the relationship of lessor and lessee.

20 ENTIRE AGREEMENT. Except as set forth in the Purchase Agreement between the parties dated September __, 1992, this Lease sets forth all the covenants, promises, agreements, conditions and understandings between Landlord and Tenant concerning the Leased Premises and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between them other than as set forth herein. Except as herein otherwise provided, no subsequent modification, amendment, change or addition to this Lease shall be binding upon Landlord or Tenant unless reduced to writing and signed by them. Tenant agrees that Landlord and its agents have made no representations or promises with respect to the Leased Premises or the building or site of which the same are a part except as herein expressly set forth.

21. PARTIES BOUND It is mutually understood and agreed that the provisions of this Lease shall inure to the benefit of, and be binding upon, the parties hereto, their successors and assigns

22. SIGNS. Tenant shall have the right to erect signs to identify Tenant's business on pylons and/or on the fascia of the Leased Premises in accordance with renderings thereof approved by Landlord as shown on Exhibit E attached hereto. Any sign permitted to be installed must comply with all laws, ordinances, rules and regulations of any governmental authority; and Tenant shall keep same in good operating condition and repair at its sole expense and shall pay all permit and license fees for the same. Tenant agrees to indemnify the Landlord from and against any and all losses, damages, claims, suits, or actions for any damage or injury to any person or property caused by the erection and maintenance of such signs or parts thereof (except for any damage or injury caused by the intentional or negligent acts or omissions of Landlord, its agents or employees)

23 PURCHASE RIGHTS.

A In the event that, at any time or from time to time during the term of this Lease, Landlord accepts an unsolicited offer to purchase from a third party pursuant to which Landlord agrees to sell or exchange the Leased Premises, and Tenant is not in default under the terms of this Lease, then Tenant shall be promptly notified in writing thereof and furnished with a true and correct copy thereof, and Tenant shall have fifteen (15) days from date of receipt of a copy of the offer, time being of the essence,

to elect to purchase the Leased Premises on the same terms and conditions set forth therein, such right to be exercised by written notice from Tenant to Landlord. If Tenant exercises such right, the sale and purchase of the Leased Premises shall be closed and consummated on the terms and conditions set forth in such offer. If Tenant fails to exercise such right, then Landlord shall be free to sell the Leased Premises in accordance with the offer, free from Tenant's right to purchase hereunder but subject to all of the other terms and provisions of this Lease. Landlord shall be deemed to have sold the Leased Premises in accordance with the offer if Landlord sells the Leased Premises at not less than ninety percent (90%) of the purchase price contained in this offer submitted to Tenant and on other terms and conditions substantially similar to those contained in the offer submitted to Tenant. If Tenant shall fail to exercise its right hereunder, and the purchase and sale contemplated in the offer is not closed and consummated with the third party identified therein, then Tenant's right hereunder shall survive and be applicable to any subsequent offer entered into during the term of this Lease or any extension thereof.

B. In the event that at any time or from time to time during the term of this Lease, Landlord desires to sell the Leased Premises and has not received an unsolicited offer to purchase the Leased Premises, and provided Tenant is not in default

under the terms and provisions of this Lease, then Landlord shall notify Tenant in writing thereof and offer to sell the Leased Premises to Tenant at a purchase price to be specified by Landlord in such notice. Tenant shall have thirty (30) days from and after the receipt of such offer to accept the same by written instrument delivered to Landlord within such period, time being of the essence. If Tenant accepts such offer, the sale and purchase of the Leased Premises shall be closed and consummated on the terms and conditions set forth in Landlord's offer within sixty (60) days after Landlord's receipt of Tenant's acceptance, and this Lease shall terminate as of the date of closing. If Tenant fails to accept Landlord's offer within the time period set forth above, then Landlord shall have the right to sell the Leased Premises to any third party, provided (i) such sale shall be closed on terms substantially similar to those contained in the offer submitted to Tenant not later than nine (9) months after the date of submission of Landlord's offer to Tenant, and (ii) the purchase price for the Leased Premises shall be no less than ninety percent (90%) of the purchase price contained in the offer submitted to Tenant. Any such sale to a third party shall not affect Tenant's rights to use and occupy the Leased Premises pursuant to the terms and conditions of this Lease except that upon the closing of such sale, the right of Tenant set forth in this Paragraph shall be extinguished and of

no further force or effect. If Tenant shall fail to accept Landlord's offer with respect to the sale of the Leased Premises and the sale of the Leased Premises to a third party is not closed and consummated within the time period set forth herein, then Tenant's right of first offer shall survive and affect any sale of the Leased Premises during the term of this Lease. It is the intent of the parties hereto that the right granted to Tenant by this Paragraph shall not bind Landlord or encumber the Leased Premises after the expiration or termination of this Lease.

24 MISCELLANEOUS

A. Each party agrees, within twenty-one (21) days after request therefor by the other party, to execute and deliver a statement, in writing, certifying (if such be the case) (i) that this Lease is in full force and effect, (ii) the date of commencement of the term of this Lease, (iii) that rent is paid currently without any off-set or defense thereto, (iv) the amount of rent, if any, paid in advance, and (v) that there are no uncured defaults by either party or, if such defaults are claimed, stating the facts giving rise thereto. Tenant hereby irrevocably appoints Landlord as attorney-in-fact for Tenant with full power and authority to execute and deliver any such instrument in the name of Tenant in the event Tenant fails to execute such a statement within twenty-one (21) days after receipt of Landlord's written request. If

Landlord does not timely respond to Tenant's request for a statement as provided herein, such failure shall be deemed to be Landlord's affirmation of (1), (111) and (v) listed above and Landlord shall be estopped from thereafter asserting a contrary position against Tenant's lender or Fleming Companies, Inc. if they should rely upon such affirmation.

B. Tenant shall be responsible for and shall pay before delinquency all municipal, county, state and federal taxes assessed during the term of this Lease against any leasehold interest or personal property of any kind, owned by or placed in, upon or about the Leased Premises by Tenant

C Tenant shall give prompt notice to Landlord in case of fire or accidents in the Leased Premises or in the building of which the Leased Premises are a part of or defects therein or in any fixtures or equipment supplied by Landlord

D. Landlord shall have the right to enter upon the Leased Premises upon reasonable prior notice to Tenant during normal business hours for the purpose of inspecting the same, showing the premises to prospective purchasers or mortgagees of the Leased Premises, and making such repairs, alterations, improvements or additions as Landlord is required to perform hereunder or may reasonably deem necessary or desirable. Landlord shall be allowed to take all material into and upon said premises that may be

required therefor without the same constituting an eviction of Tenant in whole or in part, and the rent reserved shall not abate while said repairs, alterations, improvements or additions are being made. In exercising the rights set forth in this subparagraph, Landlord shall consult with Tenant and exercise all reasonable efforts to minimize interference with Tenant's business operations on the Leased Premises. In case of emergency (the existence of which shall be determined reasonably by Landlord), if Tenant shall not be present to permit entry, Landlord or its representatives may enter the same in a reasonable manner and shall take reasonable precautions to secure Tenant's property

E. Tenant shall, in the event of the sale or assignment of Landlord's interest in the Leased Premises, or in the event of any proceedings brought for the foreclosure thereof, or in the event of exercise of the power of sale under any mortgage made by Landlord covering the Leased Premises, attorn to the purchaser and recognize such purchaser as Landlord under this Lease so long as such purchaser recognizes the rights of Tenant under this Lease.

F In the event of any sale or other transfer of the land and buildings comprising the Leased Premises or an assignment of this Lease, the named Landlord shall be entirely relieved of all obligations hereunder accruing from and after the date of the transfer provided, however, that the transferee shall

have assumed such obligations accruing from and after the date of transfer and shall be subject to Tenant's rights of offset, if any, then existing

G The consent or approval by either party to or of any act by the other party requiring such party's consent or approval shall not be deemed to render unnecessary the party's consent or approval to or of any subsequent similar act by the other party No breach of a covenant or condition of this Lease shall be deemed to have been waived by either party unless such waiver be in writing signed by such party.

H Tenant shall not commit or suffer to be committed any waste upon the Leased Premises or any nuisance to exist.

I The captions and article numbers appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such articles of this Lease nor in any way affect this Lease.

J The invalidity or unenforceability of any provision of this Lease shall not affect or impair the validity of any other provision This Lease shall be governed by, and construed in accordance with, the laws of the State of Wisconsin.

K. The parties agree not to record this Lease, and both Landlord and Tenant agree to execute, acknowledge and deliver,

at any time after execution hereof, within ten (10) days after the request of the other, a "Short Form Lease" suitable for recording, setting forth such of those items, except details concerning the rent, contained herein as either of the parties shall request.

L The Lessor shall not be liable for any loss or damage to Tenant, its employees, agents, invitees or customers or any other persons or to the property of Tenant or of its employees, agents, invitees, or customers resulting from any cause whatsoever in connection with the Premises, unless caused by the negligence or intentional act of Landlord or his agents Tenant hereby indemnifies and holds Lessor harmless from and against any and all claims, damages, costs and expenses, including reasonable attorney's fees, arising from the conduct or management of the business conducted by Tenant in the Premises and/or arising in any way in connection with the Premises, unless caused by the negligence or intentional act of Landlord or his agents It is further understood and agreed that the Lessor shall not be liable and Tenant waives all claims for damage to person or property sustained by Tenant, its employees, agents, invitees or customers, resulting in any way in connection with the Premises, unless caused by the negligence or intentional act of Landlord or his agents In case any action or proceeding is brought against the Lessor by reason of the aforesaid causes, Tenant, upon receiving prompt written notice from Lessor, agrees to

defend such action or proceeding and Tenant hereby indemnifies and hold harmless Lessor from any such claims.

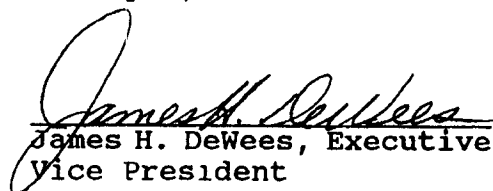
M. It is expressly understood and agreed by and between the parties that each and all of the representations, warranties, covenants, undertakings and agreements made on the part of Lessor are each and every one of them made and intended not as personal representations, warranties, covenants, undertakings and agreements by Lessor but are made and intended for the purpose only of subjecting Lessor's interest in the Leased Premises to the terms of this Lease. In the case of default under this Lease by Lessor or in case of any loss, claims, damages, costs or expenses arising out of or in any way in connection with the Leased Premises, the Tenant, its employees, agents, invitees and customers shall look solely to the interest of Lessor in the Leased Premises and Lessor shall have no personal liability therefor. Lessor shall have no personal liability to pay any indebtedness (other than personal obligations owed to Landlord's lender) occurring hereunder or to perform any covenant, either expressed or implied, and no personal liability or personal responsibility or any sort is assumed by nor shall at any time be asserted or enforceable against Lessor by Tenant, its officers, agents, employees, invitees or customers on account of this Lease or on account of any representation, warranty, covenant, undertaking or agreement of Lessor in this

Lease contained. All such personal liability, if any, is hereby expressly waived and released by Tenant and by all persons claiming by, through or under Tenant.

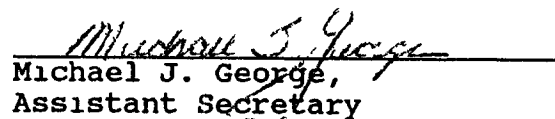
IN WITNESS WHEREOF, the said parties have hereunto set their hands and seals the day and year first above written

TENANT:
GODFREY COMPANY, a division of
Malone & Hyde, Inc.

By:


James H. DeWees, Executive
Vice President

ATTEST:


Michael J. George,
Assistant Secretary

LANDLORD.


August Richter

AMENDMENT TO LEASE

THIS INDENTURE is made this 20th day of November, 1992, by and between August J Richter of Milwaukee, Wisconsin (hereinafter called the "Landlord") and Godfrey Company, a division of Malone & Hyde, Inc , a Delaware corporation, with its principal offices in Waukesha, Wisconsin (hereinafter called the "Tenant").

W I T N E S S E T H:

The Landlord and the Tenant entered into that certain written lease dated September 16, 1992 (the "Lease"); pursuant to which the Tenant leased the real estate located in the City of Berlin, County of Green Lake, State of Wisconsin as more particularly described in Exhibit A attached to the Lease and incorporated herein by reference (the "Leased Premises") Pursuant to a Purchase and Sale Agreement dated September 16, 1992 between the parties hereto, it was agreed that the effective date of the Lease would be the date on which the Landlord purchased the Leased Premises from the Tenant

In consideration of the premises and mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties hereto, Landlord and Tenant agree as follows

1 The Commencement Date of the Lease, as defined in Paragraph 2 of the Lease, is established as the date of execution hereof, i.e , November 20, 1992 and the expiration date of the

Lease, unless extended by the Tenant as provided in the Lease, will be November 30, 2007. The Rent Commencement Date shall be November 20, 1992.

2. The Lease is amended to include a Paragraph 25 relating to an environmental indemnification of Landlord to read as follows:

25 ENVIRONMENTAL INDEMNIFICATION.

Tenant hereby indemnifies and holds Landlord harmless from and against any and all claims, damages, losses, actions, causes of action, costs, expenses, liabilities and obligations incurred by Landlord arising out of, resulting from or in any way connected with any releases or leakages existing as of the Commencement Date of this Lease from any underground storage tanks and the pipes, lines, equipment or systems associated with said tanks (herein collectively referred to as the "Tanks and Systems") located on the property owned by Condon Oil Company and located at 147 Ripon Road, Berlin, Wisconsin (the "Amoco Property") and any soil or groundwater contamination or contamination of any sort whatsoever adversely affecting the Leased Premises from the Tanks and Systems on the Amoco Property as described in or resulting from matters described in a Preliminary Site

Assessment Report No 052-24004, dated March 20, 1992, and amended October 14, 1992 and October 30, 1992, prepared by Professional Service Industries, Inc Landlord acknowledges that this indemnification applies only to the releases or leakages existing as of the Commencement Date of this Lease from the Tanks and Systems located on Amoco Property and/or any soil or groundwater contamination or contamination of any sort whatsoever resulting therefrom and adversely affecting the Leased Premises at any time and does not apply to any future releases or leakages from the Amoco Property or any other point source or any future soil or groundwater contamination or contamination of any sort whatsoever adversely affecting the Leased Premises as a result of any such future releases or leakages, unless such release or leakage is directly caused by Tenant as a result of its operation of the grocery store located on the Leased Premises. The terms of this indemnification will survive the expiration or termination of this Lease.

3 The terms of this Lease are hereby ratified and confirmed and shall remain in full force and effect, except as specifically amended herein This Amendment may be executed in counterpart.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

TENANT:
Godfrey Company, a division of
Malone & Hyde, Inc.

By: _____
James H. DeWees, Executive
Vice President

Attest:

Michael J. George,
Assistant Secretary

Landlord

August J. Richter, IV
August J. Richter, IV

AMENDMENT TO LEASE

THIS INDENTURE is made this 20th day of November, 1992, by and between August J Richter of Milwaukee, Wisconsin (hereinafter called the "Landlord") and Godfrey Company, a division of Malone & Hyde, Inc., a Delaware corporation, with its principal offices in Waukesha, Wisconsin (hereinafter called the "Tenant").

W I T N E S S E T H:

The Landlord and the Tenant entered into that certain written lease dated September 16, 1992 (the "Lease"); pursuant to which the Tenant leased the real estate located in the City of Berlin, County of Green Lake, State of Wisconsin as more particularly described in Exhibit A attached to the Lease and incorporated herein by reference (the "Leased Premises") Pursuant to a Purchase and Sale Agreement dated September 16, 1992 between the parties hereto, it was agreed that the effective date of the Lease would be the date on which the Landlord purchased the Leased Premises from the Tenant

In consideration of the premises and mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties hereto, Landlord and Tenant agree as follows:

1 The Commencement Date of the Lease, as defined in Paragraph 2 of the Lease, is established as the date of execution hereof, i.e., November 20, 1992 and the expiration date of the

Lease, unless extended by the Tenant as provided in the Lease, will be November 30, 2007. The Rent Commencement Date shall be November 20, 1992

2 The Lease is amended to include a Paragraph 25 relating to an environmental indemnification of Landlord to read as follows.

25. ENVIRONMENTAL INDEMNIFICATION.

Tenant hereby indemnifies and holds Landlord harmless from and against any and all claims, damages, losses, actions, causes of action, costs, expenses, liabilities and obligations incurred by Landlord arising out of, resulting from or in any way connected with any releases or leakages existing as of the Commencement Date of this Lease from any underground storage tanks and the pipes, lines, equipment or systems associated with said tanks (herein collectively referred to as the "Tanks and Systems") located on the property owned by Condon Oil Company and located at 147 Ripon Road, Berlin, Wisconsin (the "Amoco Property") and any soil or groundwater contamination or contamination of any sort whatsoever adversely affecting the Leased Premises from the Tanks and Systems on the Amoco Property as described in or resulting from matters described in a Preliminary Site

Assessment Report No. 052-24004, dated March 20, 1992, and amended October 14, 1992 and October 30, 1992, prepared by Professional Service Industries, Inc. Landlord acknowledges that this indemnification applies only to the releases or leakages existing as of the Commencement Date of this Lease from the Tanks and Systems located on Amoco Property and/or any soil or groundwater contamination or contamination of any sort whatsoever resulting therefrom and adversely affecting the Leased Premises at any time and does not apply to any future releases or leakages from the Amoco Property or any other point source or any future soil or groundwater contamination or contamination of any sort whatsoever adversely affecting the Leased Premises as a result of any such future releases or leakages, unless such release or leakage is directly caused by Tenant as a result of its operation of the grocery store located on the Leased Premises. The terms of this indemnification will survive the expiration or termination of this Lease

3 The terms of this Lease are hereby ratified and confirmed and shall remain in full force and effect, except as specifically amended herein. This Amendment may be executed in counterpart

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

TENANT:
Godfrey Company, a division of
Malone & Hyde, Inc

By: James H DeWees, Executive
Vice President

Attest.

Michael J. George,
Assistant Secretary

Landlord:

August J. Richter, IV
August J. Richter, IV

MEMORANDUM OF LEASE

KNOW ALL MEN BY THESE PRESENTS, that on the 16th day of September, 1992, August Richter of Milwaukee, Wisconsin ("Richter") and GODFREY COMPANY, a division of Malone & Hyde, Inc., a Delaware Corporation ("Godfrey"), entered into a lease dated September 16, 1992, and amended on November 20, 1992, pursuant to which Richter leased certain real estate located in the City of Berlin, Green Lake County, Wisconsin to Godfrey more particularly described as follows

Lots 8 and 17, except the north 6.00 feet,
also lots 9, 10, 11, 12, 13, 14, 15 and 16, of
Block 147, of the James Addition, in the City
of Berlin, Green Lake County, Wisconsin

The initial term of the lease is approximately fifteen (15) years commencing on November 20, 1992, and the termination of the initial lease term is November 30, 2007. Godfrey has an option to extend the Lease for four (4) additional terms of five (5) years each, with the last of such term ending on November 30, 2027.

This Memorandum Of Lease shall be recorded in the office of the Register of Deeds of Green Lake County, Wisconsin for the sole purpose of providing notice of the existence and the general terms of the Lease.

IN WITNESS WHEREOF, the parties hereto have caused this memorandum to be executed as of the ____ day of December, 1992


August Richter

GODFREY COMPANY, a division of
Malone & Hyde, Inc.

BY

ALLEN C. GEHRKE, Senior
Vice President

FLORIDA
STATE OF ~~WISCONSIN~~)
) SS
COUNTY OF Palm Beach)

1993 Personally came before me this 15 day of ~~December~~, February
~~1992~~, the above named August Richter to me known to be the person
who executed the foregoing instrument and acknowledges the same.



Phoebe L. Grier
Notary Public, State of ~~Wisconsin~~ Florida

My Commission NOTARY PUBLIC STATE OF FLORIDA
~~MY COMMISSION EXPIRES April 16, 1995~~
BONDED THRU NOTARY PUBLIC UNDERWRITERS

STATE OF WISCONSIN)
) SS.
COUNTY OF _____)

Personally came before me this _____ day of December,
1992, the above named Allen C. Gehrke, Sr. Vice President of
GODFREY COMPANY, a division of Malone & Hyde, Inc., to me known to
be the person who executed the foregoing instrument on behalf of
said corporation and acknowledges the same

Notary Public, State of Wisconsin

My Commission _____

THIS INSTRUMENT WAS DRAFTED BY
AND SHOULD BE RETURNED TO

J Miles Goodwin
O'Neil, Cannon & Hollman, S.C.
Suite 1400
111 East Wisconsin Avenue
Milwaukee, Wisconsin 53202-4803

SECOND AMENDMENT TO LEASE

THIS SECOND AMENDMENT TO LEASE ("Amendment") is made and entered into as of the 8th day of March, 1995 by and between AUGUST RICHTER A/K/A AUGUST J RICHTER, IV, ("Landlord") and FLEMING COMPANIES, INC as successor to GODFREY COMPANY, A DIVISION OF MALONE & HYDE, INC ("Tenant")

W I T N E S S E T H :

WHEREAS, pursuant to a Lease Agreement dated September 16, 1992 as amended by Amendment to Lease dated November 20, 1992 ("Lease"), Landlord leased to Tenant and Tenant leased from Landlord certain Leased Premises, located at 253 Church Street, Berlin, Wisconsin, as more particularly described in the Lease; and

WHEREAS, Landlord has been requested by the Department of Transportation of the State of Wisconsin to transfer a portion of the Leased Premises to the State of Wisconsin; and

WHEREAS, Tenant and Landlord are willing to agree to such transfer,

NOW, THEREFORE, in consideration of the terms, covenants and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree to amend the Lease as hereinafter provided. Capitalized terms used herein and not separately defined herein shall have the same meaning as provided in the Lease.

1 Consent to Transfer Tenant hereby consents to Landlord transferring to the State of Wisconsin that certain real estate more particularly described in that certain warranty deed dated February 1, 1995 from August J Richter, IV to State of Wisconsin, Department of Transportation, a copy of which is attached hereto as Exhibit A. Tenant further consents to the deletion from the Leased Premises of the real estate described on Exhibit A attached hereto.

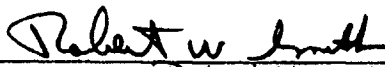
2 Amendment to Section 12 of the Lease The parking ratio contained in the second paragraph of Section 12 of the Lease is changed from Four and Twenty-Two Hundredths (4 22) spaces per One Thousand (1000) square feet of floor area to Three and Sixty-Seven Hundredths (3 67) spaces per One Thousand (1000) square feet of floor area.

3 Ratification In all other respects the Lease remains in full force and effect and unchanged by this Second Amendment To Lease, and is ratified and approved by the parties hereto

IN WITNESS WHEREOF, this First Amendment to Lease Agreement has been executed as of the date set forth above


AUGUST J RICTER, IV

FLEMING COMPANIES, INC

By 
Print Name: Robert W. Smith
Title: Vice President

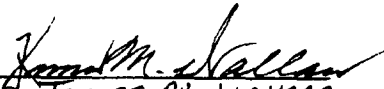
Attest: 
Print Name: James M. Wallace
Title: Asst. Secretary

EXHIBIT A

WARRANTY DEED

R43004 284

Document No

Exempt from fee s 77 25(2r)

THIS DEED made by AUGUST J. RICHTER, IV

grantor conveys and warrants the property described below to the State of Wisconsin Department of Transportation grantees for the sum of Two Thousand Two Hundred and NO/100 Dollars (\$2,200.00)

"NOTICE OF RIGHT TO APPEAL"

Any person named in this deed may make an appeal from the amount of compensation within six months after the date of recording of this deed as set forth in s 32.05(2a) Wisconsin Statutes. For the purpose of any such appeal, the amount of compensation stated on the deed shall be treated as the award, and the date the deed is recorded shall be treated as the date of taking and the date of evaluation.

Other persons having an interest of record in the property CATHOLIC FAMILY LIFE INSURANCE

This is not homestead property (Tax key # 206-0873 01)

LEGAL DESCRIPTION

Fee title in and to the following tract of land in the City of Berlin, County of Green Lake, State of Wisconsin, described as

All that land of the owner in Lots 16 and 17, Block 147 of James Addition to the City of Berlin, located in Government Lot 1, Section 10, T 17 N, R 13 E contained in the following traverse

Commencing at the southeast corner of Block 147, James Addition to the City of Berlin, thence N 00°24'17" W along the west right-of-way line of STH 49, 239.94 feet to the point of beginning, thence northwesterly 127.63 feet along the arc of a curve concave southwesterly having a radius of 217.00 feet, whose chord bears N 19°00'57" W, 125.80 feet, thence N 54°08'06" E, 33.00 feet to the centerline of said STH 49; thence southeasterly 147.03 feet along the arc of a curve concave southwesterly having a radius of 250.00 feet, whose chord bears S 19°00'57" E, 144.93 feet, thence S 87°50'00" W, 33.00 feet to the point of beginning

Said parcel comprises 450 square feet, more or less. Also included in this conveyance is 2,877 square feet, more or less, which is presently used for highway purposes

August J. Richter
(Signature)

August J. Richter, IV
(Print Name)

(Signature)

(Print Name)

(Signature)

(Print Name)

(Signature)

(Print Name)

2/1/95
(Date)

State of Wisconsin)

Waukesha County)
On the above date this instrument was acknowledged before me by the named person(s)

Patricia L. Galt
(Signature) Notary Public, State of Wisconsin

PATRICIA L. GALT
(Print of True Name) Notary Public, State of Wisconsin

5/18/97
(Date Commission Expires)

Project ID 6210-07 21This instrument was drafted by the Wisconsin Department of Transportation Parcel No 11

FEB 17 '95 12 31

4147892205 PAGE 201

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 AMOUNT AND PROPOSED ASSIGNMENT

AUGUST J RICHTER, ("Richter"), for his 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 6 of the schedule affixed to the Notice, the Debtor identifies a cure amount of \$0 with regard to assumption of certain a Lease dated September 16, 1992 (the "Lease"), for premises used as a Sentry Foods in Berlin, Wisconsin (the "Premises") The Lease has been assigned number 6339 in the Debtor's list of assignable contracts

2 A proposed assignee has not been designated, and Richter reserves all of his objections to assumption and assignment of the Lease pertaining to a particular proposed assignee

3 Subject to paragraph 2 above, Richter objects to the scheduled "cure amount " According to Richter's records, the Debtor remains indebted to Richter under the Lease in an aggregate amount not less than \$500 00 for post-petition attorneys fees

4 In addition, Richter claims both pre- and post-petition accrued and accruing 2003 real estate taxes, which amounts are not yet liquidated, and various amounts which continue to accrue post-petition, including, without limitation, attorneys fees, taxes and insurance



5 Richter 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 Lease and other material
supporting this Objection

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

DUANE MORRIS LLP

By _____
John L. Reed (I D No 3023)
William K. Harrington (I D No 4051)
Gary W. Lipkin (I D No 4044)
1100 North Market Street, Suite 1200
Wilmington, Delaware 19801
T (302) 657-4900
F (302) 657-4901

Of counsel

Paul A. Lucey, Esq.
Michael Best & Friedrich LLP
100 East Wisconsin Avenue, Suite 3300
Milwaukee, WI 53202
T (414) 271-6560

Dated July 28, 2003

X:\CLIENTB\080015\0001\A0607954.1