

# **EXHIBIT A**

## AGREEMENT FOR SERVICES

This Agreement dated as of March 28, 2003, is entered between Fleming Companies, Inc. ("Customer" or "Debtor") and Bankruptcy Management Corporation ("BMC").

The services rendered by BMC pursuant to this Agreement will commence on the date first set forth above and will continue until the Agreement is terminated as set forth below.

### TERMS AND CONDITIONS

#### I. SERVICES

In accordance with the terms and conditions contained in this Agreement and in the Fee Schedule annexed hereto, BMC agrees to provide bankruptcy administrative services. Such services will include (a) assisting the Office of the Clerk and Customer with noticing and claims docketing and (b) assisting Customer with noticing and the compilation, administration, evaluation and production of documents and information. At Customer's or the Clerk's Office's direction, as the case may be, and in accordance with any court orders or rules in the bankruptcy cases (including the court order authorizing BMC's engagement), BMC will: (1) prepare and serve all notices required in the bankruptcy cases; (2) maintain copies of all proofs of claim and proofs of interest filed in the bankruptcy cases; (3) maintain the official claims register(s); (4) receive and record all transfers of claims pursuant to Bankruptcy Rule 3001(e); (5) maintain an up-to-date mailing list for all entities who have filed proofs of claim and/or requests for notices in the bankruptcy cases; (6) assist Customer with the management, reconciliation and resolution of claims; (7) mail and tabulate ballots for purposes of plan voting; (8) assist Customer with the preparation and maintenance of its Schedules of Assets and Liabilities, Statements of Financial Affairs and other master lists and databases of creditors, assets and liabilities; (9) assist Customer with the production of reports, exhibits and schedules of information or use by the Customer or to be delivered the Court, the Clerk's Office, the U.S. Trustee or third parties; (10) provide other technical and document management services of a similar nature requested by Customer or the Clerk's office; and (11) facilitate or perform distributions.

#### II. TECHNOLOGY SUPPORT

BMC agrees to provide computer software support and to educate and train Customer in the use of the support software, provide BMC's standard reports as well as consulting and programming support for Customer requested reports, program modifications, data base modification, and/or other features.

#### III. PRICES, CHARGES AND PAYMENT

- A. BMC agrees to charge, and Customer agrees to pay, BMC's standard prices for its services, expenses and supplies at the rates or prices in effect on the day such services and/or supplies are provided to the Customer, in accordance with the Fee Schedule annexed hereto.
- B. Notwithstanding paragraph III A, BMC raises its rates from time to time and generally does so in January.
- C. Customer agrees to pay BMC for any reasonable out-of-pocket expenses incurred for transportation, lodging, meals and related items. BMC shall adhere to Customer's internal travel policies with regard to such expenses. Travel time shall be billed by BMC and paid by Customer at one-half of BMC's applicable hourly rate.

- D. In connection with noticing services, Customer agrees prepay BMC estimated postage amounts with respect to each notice or shall authorize BMC to cause the courier's charges (such as UPS or FedEx) to be stated to Customer's own account with such courier. In lieu of prepayment, BMC may apply the retainer and any portion thereof referenced in Paragraph F below, as payment for such postage and courier costs at the time such costs are incurred.
- F. BMC agrees to submit its invoice for fees and expenses to Customer within thirty (30) business days of the end of each calendar month. Customer agrees that the amount invoiced is due and payable upon its receipt of the invoice. If any amount is unpaid as of thirty (30) days from the receipt of the invoice, Customer further agrees to pay a late charge, calculated as one and one-half percent (1-1/2%) interest on the amount unpaid, accruing from the invoice date. In the case of a dispute in the invoice amount, notice shall be given to BMC by Customer. Interest shall not accrue on any amounts in dispute. The undisputed portion of the invoice amount is due and payable in the normal course.
- F. At the commencement of this engagement, Customer will provide BMC with an advance payment retainer in the amount of fifty thousand dollars (\$50,000). The retainer or any portion thereof may be applied as set forth in Paragraph D above to payment for postage and courier charges, provided however, that Customer shall keep the retainer "evergreen" by making monthly payments to BMC in the amount necessary to restore the balance of the retainer to \$50,000. In addition, the retainer will be applied first to BMC's pre-petition bill and ultimately to its final bill for services and expenses rendered or incurred on behalf of Customer. After application to the final bill, the unapplied portion of the retainer (if any) shall be refunded to Customer.

#### IV. WARRANTY

The BMC warranty under the Agreement with respect to the generation of reports shall be limited to (i) the re-running, at its expense, of any inaccurate reports and (ii) reimbursement of any direct damages incurred by Customer relating to inaccurate reports, provided that such inaccuracies were caused as a result of BMC performance or non-performance hereunder. Customer agrees that the foregoing constitutes the exclusive remedy available with respect to inaccurate reports.

#### V. RIGHTS OF OWNERSHIP

- A. The parties understand that the software programs and other similar proprietary materials furnished by BMC pursuant to this Agreement and/or developed during the course of this Agreement by BMC are the sole property of BMC. The term "program" shall include, without limitation, data processing programs, specifications, applications, routines, sub-routines, procedural manuals, and documentation. Customer agrees not to copy or permit others to copy for unauthorized use the source code from the support software or any other programs or similar proprietary materials furnished pursuant to this Agreement.
- B. Customer further agrees that any ideas, concepts, know-how or techniques relating to data processing or BMC's performance of its services developed during the course of its Agreement by BMC shall be exclusive property of BMC.
- C. Upon Customer's request at any time or times while this Agreement is in effect, BMC shall immediately deliver to Customer at Customer's sole expense, any or all of the non-proprietary data, information and records held or controlled by BMC pursuant to this Agreement, in the form requested by Customer. Neither party asserts rights of ownership in the official claims register or materials filed with BMC as an agent of the court.

- D. Customer shall remain liable for all charges properly imposed under this Agreement as a result of data or physical media maintained by BMC. BMC shall dispose of the data and media in the manner requested by Customer. Customer agrees to pay BMC for reasonable expenses incurred as a result of the disposition of the data or media. After giving Customer thirty (30) days advance notice, BMC reserves the right to dispose of data or media maintained by BMC for Customer if Customer has not utilized the services provided herein for a period of at least ninety (90) days or if Customer has not paid all charges due to BMC.

## VI. NON-SOLICITATION

Customer agrees that neither it nor its subsidiaries or other affiliated companies shall directly or indirectly solicit for employment, employ or otherwise retain staff of BMC during the term of this Agreement for the purpose of providing services substantially similar to those provided by BMC hereunder, unless mutually agreed upon by both parties.

## VII. CONFIDENTIALITY

- A. BMC agrees to, and shall cause its servants, agents, employees, licensees, and subcontractors to, safeguard and keep confidential all data, records, information and communications of any sort or form, regardless of whether written, oral, visual or otherwise recorded or transmitted, with respect to Customer, but excluding such data, records, information and communications that exist in the public domain by reason other than a breach of BMC's obligations under this Section VII "Confidentiality" (the "Confidential Information"). BMC will use the Confidential Information only for the benefit of Customer in connection with the provision of services under this Agreement. Customer agrees to, and will cause its servants, agents, employees, licensees, and subcontractors to, keep all information with respect to BMC's system, procedures and software confidential; provided, however, that if either party is required to produce any such information by order of any governmental agency or other regulatory body, it may release the required information and shall deliver notice to the other party of such disclosure immediately. The obligations set forth in this paragraph shall survive termination of this Agreement.
- B. BMC agrees that in the event it is engaged to provide services to any of Customer's principal competitors during the course of this engagement, BMC will establish a wall of confidentiality between this engagement and those engagements and the individuals who work on them. During the course of this engagement with Customer, any and all individuals who provide services to Customer on behalf of BMC and who have access to Confidential Information identifiable as respecting Customer shall not be staffed on any engagement with any of Customer's principal competitors, unless otherwise consented to in writing by Customer.

## VIII. TERMINATION

- A. This Agreement shall remain in force until terminated by Customer on one (1) month's prior written notice received by BMC, or, by BMC upon two (2) months' prior written notice received by the Customer.
- B. In the event that this contract is terminated, regardless of the reason for such termination, BMC shall cooperate with Customer to orderly transfer to Customer or its designee (or destroy, at Customer's direction) data, records and information in its possession or control and to effect an orderly transition of record-keeping functions. BMC shall provide all necessary staff, services and assistance required for an orderly transfer and transition.

In the event of any termination by Customer without cause, Customer agrees to pay for such services in accordance with BMC's then existing prices for such services.

#### IX. SYSTEM IMPROVEMENTS

BMC's policy is to provide continuous improvements in the quality of service to the Customer. BMC, therefore, reserves the right to make changes in operation procedure, operating systems, programming languages, general purpose library programs, application programs, time period of accessibility, types of terminal and other equipment and the BMC data center serving the Customer. BMC shall use all reasonable efforts to avoid unnecessary disruption to the services provided to Customer under this Agreement.

#### X. LIMITATIONS OF LIABILITY AND INDEMNIFICATION

Except with respect to breaches under Section VII "Confidentiality" above, each party shall indemnify and hold the other party, and its officers, employees and agents, harmless against any losses, claims, damages, judgments, liabilities and expense (including reasonable counsel fees and expenses) resulting from action taken or omitted in good faith with due care and without negligence in reliance upon instructions or orders received from the other party as to anything arising in connection with its performance under this Agreement. Except with respect to breaches under Section VII "Confidentiality" above, neither party shall be liable to the other with respect to any performance or non-performance, in accordance with the terms of this Agreement or instructions properly received pursuant hereto, if done in good faith and without negligence or willful or wanton misconduct. Except with respect to breaches under Section VII "Confidentiality", in no event shall either party be liable for any indirect, special or consequential damages such as loss of anticipated profits or other economic loss in connection with or arising out of this Agreement.

#### XI. NOTICES

All notices in connection with this Agreement shall be given or made upon the respective parties in writing by a nationally recognized overnight courier and shall be deemed as given on the day it is delivered by such courier to the appropriate address set forth below:

Bankruptcy Management Corporation 6096 Upland Terrace Seattle, WA 98118 Attn: Sean Allen Fax: (206) 374-2727	Fleming Companies, Inc. 1945 Lakepointe Drive Lewisville, Texas 75057 Attn: General Counsel Fax: (972) 906-2322
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Or to such other address as the party to receive the notice or request so designates by written notice to the other.

#### XII. APPLICABLE LAW

This agreement shall be construed in accordance with the laws of the State of Delaware and may be modified only by a written instrument duly executed by an officer of Customer and BMC.

#### XIII. ENTIRE AGREEMENT/ MODIFICATIONS


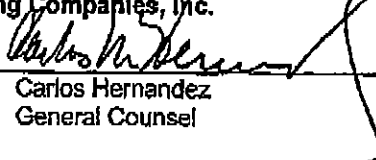
Each party acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and further agrees that it is the complete and exclusive statement

of the agreement between the parties, which supersedes and merges all prior proposals, understandings and other agreements, oral and written between the parties relating to the subject matter of this Agreement. Customer represents that it has the authority to enter into this Agreement, subject to bankruptcy court approval, if necessary. If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby. In the event of any conflict between a term of this Agreement and any order of the court exercising jurisdiction over the Customer bankruptcy cases, the term of the order shall govern.

**XIV. ASSIGNMENT**

This Agreement and the rights and duties hereunder shall not be assignable by the parties hereto except upon written consent of the other.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

<b>Bankruptcy Management Corporation</b> By:  Name: Sean Allen Title: President Date: March 28, 2003	<b>Fleming Companies, Inc.</b> By:  Name: Carlos Hernandez Title: General Counsel Date: March 28, 2003
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**Fee Schedule**

**Engagement Support**

Principals	\$200 - \$275 per hour
Consultants	\$95 - \$200 per hour
Case Support	\$75 - \$150 per hour
Technology Services	\$125 - \$175 per hour
Information Services	\$40 - \$75 per hour

**Document Management Services**

Copying	\$0.09 - \$0.15 per page
Printing (variable data printing)	\$0.09 - \$0.20 per page
Imaging and storage	\$0.10 - 0.25 per image

**Print Mail and Noticing Services**

Electronic noticing (no attachment)	\$150.00 per 1000
Document/Mail File Production Setup	\$0 - \$25.00 per file
Finishing (Fold, Stuff, Label, Envelope)	Varies based on requirements
Postage	At cost
Legal Notice Publication	Quote

**Claims Management**

Claims receipt and docketing (BMC custom)	\$1.25 each
Claims receipt and docketing (non-BMC form)	\$45.00 per hour

**Report Processing**

Claim Register and Standard Reports	\$50.00 per request
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**Balloting/Distribution**

Ballot Tabulation (BMC custom)	\$1.25 each
Check issuance; tax reporting	\$1.25 each

**BMC Case Management Tools (b-Linx and b-Worx)**

Minimum monthly charge	\$250.00
User fee	\$35.00 per month
Data Storage	Varies based on requirements

*Note: Reimbursable expenses such as travel and lodging, postage and courier are billed at cost. Postage is payable in advance for mass mailings.*