

Equipment Lease Terms and Conditions

1. Lessor agrees to provide to Lessee the following: (a) the Equipment; (b) supervision of the installation of Equipment; and (c) subject to the limits herein, service call repairs as reasonably required for the Equipment. Lessor will strive to provide service call repairs promptly, however, Lessor has no obligation to provide the service within a specified period of time. Lessor's obligation to provide service call repairs is limited to equipment malfunctions not resulting from abuse of equipment, failure to perform minimum cleaning and maintenance requirements as outlined by Lessor at time of delivery, or a lack of adequate utility service to the Equipment. In such events, Lessee agrees to pay a service charge which will be determined by Lessor at the time of the visit. All services to be provided by Lessor under this Agreement must be provided by its authorized representative.
2. Delivery of the Equipment under this Agreement will be made within thirty (30) days from the date hereof. Upon delivery, Lessee agrees to execute Lessor's standard form of delivery receipt. Lessee will, at its own expense, (a) provide adequate space and necessary utilities, including as applicable but not limited to hot and cold water, water drainage, electrical, and gas, such utilities to be properly installed and available for connection the Equipment without alteration to the Equipment or the utility service, and (b) obtain all permits necessary for the installation and operation of the Equipment, and (c) through Lessor, install, or cause to be installed, the Equipment within fifteen (15) days after it is delivered.
3. Title to the Equipment shall remain with, and the Equipment shall be the sole property of Lessor. Lessee shall have no title, right, or interest to or in the Equipment, other than the right to use it under this Agreement. Lessee agrees that it will not permit removal or defacement of any identifying labels and serial numbers affixed to the Equipment or the removal of the Equipment, or any of its components, from the location at which it was installed. Lessee agrees to notify Lessor promptly if any identifying labels on the Equipment become illegible or are defaced. Lessor and its authorized representatives shall at all times have a right of access to the Equipment for purposes of providing the services required of Lessor and of protecting the rights of Lessor provided in this Agreement. Lessee agrees that Lessor may file a copy of this Agreement as a financing statement, but acknowledges that Lessor's filing of the same will constitute only notice of this Agreement and shall not be construed as giving Lessee any rights to the Equipment except as a Lessee as contained herein.
4. Lessee agrees to pay Lessor, or its authorized representative, all sums due as provided in this Agreement within ten (10) days from the date of billing thereof. All payments and service charges (the "Lease Service Charges") will be payable in advance and will begin the date the Equipment is installed. In addition to the Lease Service Charges, Lessee agrees (a) to timely pay all personal property taxes assessed against the Equipment, or to reimburse Lessor for any such taxes it pays, and (b) to indemnify and hold Lessor harmless from all costs or damages, including reasonable attorneys' fees in contesting any tax assessed incurred for any reason. Agreement rates will remain in effect for the initial term of the Agreement. Thereafter, Lessor reserves the right to increase the base rate, and any additional changes and extended service prices, at any time, upon notice to Lessee. In the event of a price increase the Lessee may terminate this Agreement by giving sixty (60) days written notice to Lessor at P O. Box 2244, Grand Rapids,

MI 49501. To be effective, notice must be received by Lessor within thirty (30) days after the price increase takes effect.

5. Lessee agrees to (a) maintain adequate utilities for the Equipment, and that it will not change, alter, or repair the Equipment without Lessor's written consent and; (b) use only detergents, sanitizers or drying agents in the operation of the Equipment that are purchased from Lessor or approved by Lessor in writing for use in the Equipment. Lessee shall be liable for any loss, damage or injury caused to the Equipment by the action or omission of Lessee or its agents or employees.

6. Lessee's rights under this Agreement shall terminate at the option of Lessor and Lessor shall have the right to take immediate possession of the Equipment (a) upon expiration of the term; or (b) in the event of a default by the Lessee in the performance of any of its promises contained herein; or (c) if Lessee is a voluntary or involuntary party to any proceeding under the Federal bankruptcy laws or any state insolvency laws; or (d) if Lessee makes an assignment for the benefit of its creditors; or (e) if Lessee transfers substantially all of its assets outside the ordinary course of business; or (f) if Lessee is in default on any open account with Gordon Food Service or any affiliate, or (g) if Lessee fails to purchase chemicals or other products for the Equipment from Gordon Food Service by truck delivery. Lessee will pay for all costs of disconnecting Equipment. Upon the occurrence of any default, Lessor at its sole option may elect that all Lease Payments due are accelerated and the entire remaining amount of rental be due immediately; or Lessor may terminate this Agreement or may enter upon Lessee's premises and without court order may repossess and remove the Equipment with or without notice to Lessee. Any such repossession shall not constitute a termination of this Agreement unless Lessor so notifies Lessee, and Lessor shall have the right, but without obligation, to lease the Equipment to any other lessee upon such terms and conditions as Lessor shall determine; or to sell the Equipment to the highest bidder at public or private sale at which Lessor may be the purchaser. In either of such events, Lessee agrees to immediately pay to Lessor the difference between the total amount of rentals to be received from any third party, or the net price of sale, as the case may be, and the total amount owed to Lessor under this Agreement, plus all costs and expenses of Lessor in repossessing, releasing, transporting, repairing, refurbishing, selling or otherwise handling the Equipment. In the event enforcement of the terms of this Agreement becomes necessary, or legal process must be instituted to regain possession of the Equipment leased hereunder, Lessee shall pay Lessor actual attorney fees and costs.

7. The failure of either party to require performance by the other of any promise contained herein shall not constitute a waiver of that promise, or any other promise contained herein.

8. Lessee and Lessor each mutually agree that neither shall be liable to the other or its insurer for accidental property damages to or caused by the Equipment, except where negligence or malfeasance by either party caused the damage, and each hereby waives all rights of subrogation that either may have against the other.

9. Lessee assumes and shall bear the entire risk of loss and damage to the Equipment from any and every cause other than the negligence of the Lessor. No loss or damage to the Equipment or any part thereof from a cause other than the Lessor's negligence or a defect in design or

manufacture shall impair any obligation of Lessee under this Agreement which shall continue. Lessee shall keep the Equipment insured against all risks of loss or damage for not less than the full replacement value thereof as determined by Lessor and shall carry public liability and property damage insurance covering the Equipment. Lessee shall indemnify Lessor against and hold Lessor harmless from any and all claims, suits, or other liabilities, including attorney's fees, arising out of the operation of the Equipment. Lessor shall not be liable for consequential damages to Lessee (or to any person) by reason of its failure to perform its promises herein contained, or for any loss or damage for delays or otherwise incurred as a result of material shortages, manufacturing delays, transport problems, and any causes beyond Lessor's reasonable control. Except as for any applicable warranty provided by the manufacturer of the Equipment, Lessor makes no warranties, express or implied, INCLUDING ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. It is expressly understood that Lessee's sole and exclusive remedy in the event of a defect shall be repair or replacement of defective parts, and that Lessor shall not be liable for injury to persons or property resulting from the installation or use of the Equipment. Should the Equipment prove so defective, however, as to preclude the remedying of warranted defects by repair or replacement, then Lessee's sole and exclusive remedy shall then be termination of this Agreement.

10. Lessor may assign or hypothecate its right to the Equipment and to this Agreement, subject to the terms hereof but such assignment shall not relieve Lessor of any of its obligations hereunder. Lessee may not assign its rights under this Agreement without the written consent of Lessor.

11. This Agreement contains the entire understanding of the parties, and is a merger of all proposals, negotiations, and representations with reference to its subject matter. In the event any dispute arises with respect to the Agreement, Lessee waives (a) any right to a jury trial; and (b) Lessor's choice of forum or venue.

12. **PERSONAL GUARANTY.** The signatory to this Agreement ("Guarantor") personally guarantees all obligations of Lessor. All demands, presentments, notice of protest and of dishonor, and all other notices of any kind or nature of Lessee, Lessor, any co-guarantor, or other person, are expressly waived by Guarantor. Guarantor waives the right to require Lessor to first proceed against Lessee or any other party. Guarantor waives the right to require Lessor to pursue any other remedy for the benefit of Guarantor and agrees that Lessor may proceed against Guarantor on this guaranty without taking any action against the Lessee or any other party and without proceeding against any security it may hold. Guarantor further waives notice of acceptance of this guaranty and consents to all changes of terms, extensions of credit, and any extensions or forbearance by Lessor. Guarantor agrees to pay Lessor actual attorney fees and all other costs incurred in the collection of any indebtedness owed by Lessee. Until such time Lessor receives payment in full of all indebtedness owed by Lessee to Lessor, Guarantor waives any right to reimbursement, contribution, indemnification and subrogation it may have now or in the future against Lessee to recover any monies that are recovered from Guarantors under the guaranty. Guarantor consents to the use of non-business consumer credit reports on the Guarantor in order to further evaluate credit worthiness in connection with the extension of credit to Lessor. To the extent permitted by law, Guarantor waives the right to transfer or change venue of any litigation and waives the right to trial by jury. **USE OF A CORPORATE TITLE SHALL IN NO WAY LIMIT THE PERSONAL LIABILITY OF THE SIGNATORY.**