

## EQUIPMENT LEASE

THIS LEASE is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, by and between GALARDI GROUP FRANCHISE & LEASING, LLC, a California Limited Liability Company ("Lessor"), and \_\_\_\_\_ ("Lessee") with reference to and in contemplation of the following facts:

1. Lessor desires to lease to Lessee and Lessee desires to lease from Lessor on certain terms and conditions all furniture, fixtures, signs and equipment as listed on Exhibit "A" attached hereto ("Equipment").

NOW, THEREFORE, for good and valuable consideration, it is agreed as follows:

1. Property Leased. Lessor hereby leases to Lessee and Lessee hereby leases and hires from Lessor, the equipment.

2. Lease Term, Extensions, and Rental. Unless sooner terminated as set forth in this lease, the term of this lease shall commence \_\_\_\_\_, 200\_\_\_\_ and end \_\_\_\_\_, 200\_\_\_\_.

As rent for the equipment, Lessee shall pay to Lessor a rental, in advance, in installments of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_) per month. The first installment to become due and payable upon the commencement of the term of this lease and shall be prorated to the first (1st) day of the following month, if applicable, and each subsequent installment shall be due and payable on the first (1st) day of each succeeding month until the full rent has been paid in full. All rental shall be paid to Lessor at 4440 Von Karman Avenue, Post Office Box 7460, Newport Beach, California 92658-7460.

3. Security Deposit. As security for the property and full payment of the rent, and the faithful and timely performance of all provisions of this lease, and any extension or renewal thereof, on its part to be performed, Lessee pledged and deposited with Lessor the sum of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_). In the event any default shall be made in the performance of any of the covenants on the part of Lessee herein contained with respect to any item or items of equipment Lessor shall have the right, but shall not be obligated, to apply said security to the curing of such default. Any such application by Lessor shall not be a defense to any action by Lessor arising out of said default; and, on demand, Lessee shall restore said security to the full amount set forth in the schedule. On the expiration, or earlier termination, of this lease, or any extension or renewal thereof, provided Lessee has paid all of the rent herein called for and fully performed all of the other provisions of this lease on its part to be performed, Lessor will return to Lessee any then remaining balance of said security.

4. Location and Use. Said property shall be located at \_\_\_\_\_, Original Hamburger Stand No. \_\_\_\_\_, at all items during the term hereof and shall not be removed therefrom for any reason whatsoever without the express written consent of the Lessor first obtained.

5. Use. Lessee shall use the equipment in a careful and property manner and shall comply with and conform to all national, state, municipal, police, and other laws, ordinances, and regulations in anywise relating to the possession, use, or maintenance of the equipment. If at any time during the term hereof, Lessor supplies Lessee with labels, plates, or other markings, stating that the equipment is owned by Lessor, Lessee shall affix and keep the same on a prominent place on the equipment.

6. Lessee's Inspection; Conclusive Presumptions. Lessee shall inspect the equipment within forty-eight (48) hours after receipt thereof. Unless Lessee within said period of time gives written notice to Lessor, specifying any defect in or other proper objection to the equipment, Lessee agrees that it shall be conclusively presumed, as between Lessor and Lessee, that Lessee has fully inspected and acknowledged that the equipment is in good conditions and repair, and that Lessee is satisfied with and has accepted the equipment in such good condition and repair.

7. Lessor's Inspection. Lessor shall at any and all times during business hours have the right to enter into and on the premises where the equipment may be located for the purpose of inspecting the same or observing its use. Lessee shall give Lessor immediate notice of any attachment or other judicial process affecting any item of equipment.

8. Alterations. Without the prior written consent of Lessor, Lessee shall not make any alterations, additions, or improvements to the equipment. All additions and improvements of whatsoever kind or nature made to the equipment shall belong to and become the property of Lessor on the expiration, or earlier termination, of this lease.

9. Repairs and Maintenance Agreement. Lessee, at its own cost and expense, shall keep the equipment in good repair, condition, and working order and shall furnish any and all parts, mechanisms, and devices required to keep the equipment in good mechanical and working order. Lessee agrees to enter into a regular maintenance contract covering the refrigeration, air conditioning and fire extinguishing equipment during the term of this lease. Said maintenance is to be performed by the equipment manufacturer's authorized service depot, approved by Lessor, and will include preventative maintenance on a monthly basis and a full coverage service contract where available. This contract must commence at the expiration of the free servicing period, if any, called for, to be performed by the installing contractor in the plans and specifications for the installation of said equipment.

10. Loss and Damage; Stipulated Loss Value. Lessee hereby assumes and shall bear the entire risk of loss and damage to the equipment from any and every cause whatsoever. No loss or damage to the equipment or any part thereof shall impair any obligation of the Lessee under this lease which shall continue in full force and effect.

In the event of loss or damage of any kind whatever to any item of equipment, Lessee, at the option of Lessor, shall:

- (a) Replace the same in good repair, condition, and working order; or
- (b) Replace the same with like equipment in good repair, condition and working order; or, if same is determined by Lessor to be lost, stolen, destroyed, or damaged beyond repair, Lessee shall pay to Lessor a "stipulated loss value" for each item in the amount of the original cost of the item or items less straight line depreciation over a seven (7) year life plus ten percent (10%).

On such payment this lease shall terminate with respect to such item of equipment so paid for and Lessee thereon shall become entitled to such item of equipment AS IS WHERE IS WITHOUT WARRANTY, express or implied, with respect to any matter whatsoever.

11. Surrender. On the expiration or earlier termination of this lease, with respect to any item of equipment, Lessee shall (unless Lessee has paid Lessor in cash the "stipulated loss value" of such item of equipment pursuant to Paragraph 10 hereof) return the same to Lessor in good repair, condition, and working order, ordinary wear and tear resulting from proper use thereof alone excepted, in the following manner as may be specified by Lessor:

- (a) By delivering such item of equipment at Lessee's cost and expense to such place as Lessor shall specify within the city or county in which the same was delivered to Lessee or to which same was moved with the written consent of Lessor; or
- (b) By loading such item of equipment at Lessee's cost and expense on board such carrier as Lessor shall specify and shipping the same, freight collect, to the destination designated by Lessor.

12. Insurance. Lessee shall keep the equipment insured against all risks of loss or damage from every cause whatsoever 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. All said insurance shall be in form and amount and with companies approved by Lessor, and shall be in the joint names of Lessor and/or its designate and Lessee. Lessee shall pay the premiums therefor and deliver said policies, or duplicates thereof to Lessor. Each insurer shall agree, by endorsement upon the policy or policies issued by it or by independent instrument furnished to Lessor, that it will give Lessor thirty (30) days written notice

before the policy in question shall be altered or canceled. The proceeds of such insurance, at the option of Lessor, shall be applied (a) toward the replacement, restoration, or repair of the equipment or (b) toward payment of the obligations of Lessee hereunder. Lessee hereby appoints Lessor as Lessee's attorney-in-fact to make claims for, receive payment of, and execute and endorse all documents, checks, or drafts for loss or damage under any said insurance policy.

13. Taxes. Lessee shall keep the equipment free and clear of all levies, liens, and encumbrances and shall pay all license fees, registration fees, assessments, charges, and taxes (municipal, state, and federal) which may now or hereafter be imposed upon the ownership, leasing, renting, sale, possession, or use of the equipment.

14. Lessor's Payment. In case of failure of Lessee to procure or maintain said insurance or to pay said fees, assessments, charges, and taxes, all as hereinbefore specified, Lessor shall have the right, but shall not be obligated, to effect such insurance, or to pay said fees, assessments, charges, and taxes, as the case may be. In that event, the cost thereof shall be repayable to Lessor with the next installment of rent, and failure to repay the same shall carry with it the same consequent, including interest at the lesser of one percent (1%) per month or the maximum legal rate of interest, as failure to pay any installment of rent.

15. Warranties. LESSOR MAKES NO WARRANTIES, EITHER EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE CONDITION OF THE EQUIPMENT, ITS MERCHANTABILITY, OR ITS FITNESS FOR ANY PARTICULAR PURPOSE AND LESSOR IS LEASING THE EQUIPMENT IN AN "AS IS" CONDITION.

16. Indemnity. Lessee shall indemnify Lessor against, and hold Lessor harmless from, any and all claims, actions, suits, proceedings, costs, expenses, damages, and liabilities, including attorney's fees, arising out of, connected with, or resulting from the equipment, including without limitation the manufacture, selection, delivery, possession, use, operation, or return of the equipment.

17. Default. If Lessee with regard to any item or items of equipment fails to pay any rent or other amount herein provided within five (5) days after the same is due and payable, or if Lessee with regard to any item or items of equipment fails to observe, keep, or perform any other provision of this lease required to be observed, kept, or performed by Lessee, or if Lessee is in default of any other agreement between Lessee and Lessor and/or Lessor's affiliates, then Lessor shall have the right to exercise any one or more of the following remedies:

- (a) To declare the entire amount of rent hereunder immediately due and payable as to any or all items of equipment, without notice or demand to Lessee.
- (b) To sue for and recover all rents, and other payments then accrued or thereafter accruing, with respect to any or all items of equipment.
- (c) To take possession of any or all items of equipment, without demand or notice, wherever same may be located, without any court order or other process of law. Lessee hereby waives any and all damages occasioned by such taking of possession. Any said taking of possession shall not constitute a termination of this lease as to any or all items of equipment unless Lessor expressly so notifies Lessee in writing.
- (d) To terminate this lease as to any or all items of equipment.
- (e) To pursue any other remedy at law or in equity.

Notwithstanding any said repossession, or any other action which Lessor may take, Lessee shall be and remain liable for the full performance of all obligations on the part of Lessee to be performed under this lease.

All such remedies are cumulative, and may be exercised concurrently or separately.

18. Bankruptcy. Neither this lease nor any interest therein is assignable or transferable by operation of law. If any proceeding under the Bankruptcy Act, as amended, is commenced by or against the Lessee, or if the Lessee is adjudged insolvent, or if the Lessee makes any assignment for the benefit of his creditors, or if a writ of attachment or execution is levied on any item or items of the equipment and is not released or satisfied within ten (10) days thereafter, or if a receiver is appointed in any proceeding or action to which the Lessee is a party with authority to take possession or control of any item or items of the equipment, Lessor shall have an may exercise any one or more of the remedies set forth in Paragraph 17 hereof; and this lease shall, at the option of Lessor, without notice, immediately terminate and shall not be treated as an asset of Lessee after the exercise of said option.

19. Concurrent Remedies. No right or remedy herein conferred on or reserved to Lessor is exclusive of any other right or remedy herein or by law or equity provided or permitted; but each shall be cumulative of every other right to remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise, and may be enforced concurrently therewith or from time to time.

20. Lessor's Expenses. Lessee shall pay Lessor all costs and expenses, including attorney's fees, incurred by Lessor in exercising any of its rights or remedies hereunder or enforcing any of the terms, conditions or provisions hereof.

21. Assignment. Without the prior written consent of Lessor, Lessee shall not (a) assign, transfer, pledge, or hypothecate this lease, the equipment or any part thereof, or any interest therein or (b) sublet or lend the equipment or any part thereof, or permit the equipment or any part thereof to be used by anyone other than Lessee or Lessee's employees. Consent to any of the foregoing prohibited acts applies only in the given instance; and is not a consent to any subsequent like act by Lessee or any other person.

Subject always to the foregoing, this lease inures to the benefit of, and is binding on, the heirs, legatees, personal representatives, successors, and assigns of the parties hereto.

22. Lessor's Assignment. Lessor may assign this lease or mortgage the equipment and said assignee may assign the same. All rights of Lessor hereunder may be assigned, pledged, mortgaged, transferred, or otherwise disposed of, either in whole or in part, without notice to Lessee. If Lessor assigns this lease or the rentals due or to become due hereunder or any other interest herein, whether as security for any of its indebtedness or otherwise, no breach or default by Lessor hereunder or pursuant to any other agreement between Lessor or Lessee, should there be one, shall excuse the performance by Lessee of any provision hereof. No such assignee shall be obligated to perform any duty, covenant or condition required to be performed by Lessor under the terms of this lease.

23. Ownership. Lessee shall have no ownership right, title, or interest in or to the equipment except as expressly set forth in this lease.

24. Personal Property. The equipment is, and shall at all times be and remain, personal property notwithstanding that the equipment or any part thereof may now be, or hereafter become, in any manner affixed or attached to, or imbedded in, or permanently resting on, real property or any building thereon, or attached in any manner to what is permanent as by means of cement, plaster, nails, bolts, screws, or otherwise.

25. Interest and Late Charge. Any monies due the Lessor by Lessee for any reason pursuant to this lease shall be deemed delinquent if not paid on the date as stated in this lease, time being expressly deemed of the essence. All monies are due and payable and must be received at the Lessor's office at 4440 Von Karman Avenue, Post Office Box 7460, Newport Beach, California 92658-7460 on the dates stated in this lease. In the event Lessee shall not timely pay any such monies, said delinquent monies shall bear interest at the lesser of the maximum lawful rate of interest for a non-personal loan in the state in which the equipment is located or eighteen percent (18%) per annum from the date due until the date of payment. In addition to such interest, if Lessee shall fail to timely pay any monies due Lessor hereunder, Lessee shall pay to the Lessor a sum equal to ten percent (10%) of the delinquent monies. Lessee agrees that such sum is a reasonable compensation to Lessor for the additional services and expenses required of Lessor because of such failure to pay.

26. Offset. Lessee hereby waives any and all existing and future claims, and offsets, against any rent or other payments due hereunder; and agrees to pay the rent and other amounts hereunder regardless of any offset or claim which may be asserted by Lessee or on its behalf.

27. Non-Waiver. No covenant or condition of this lease can be waived except by the written consent of Lessor. Forbearance or indulgence by Lessor in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by Lessee to which the same may apply, and, until complete performance by lessee of said covenant or condition, Lessor shall be entitled to invoke any remedy available to Lessor under this lease or by law or in equity despite said forbearance or indulgence.

28. Entire Agreement. This Agreement contains all of the terms and conditions agreed upon by the parties with reference to the subject matter hereof. No other agreements, oral or otherwise, shall be deemed to exist or to bind any of the parties hereto and all prior agreements, understandings and representations are merged herein and superseded hereby. Lessee represents that there are no other contemporaneous agreements or understandings between the parties that are not contained herein. No officer or employee or agent of Lessor has any authority to make any representation or promise not contained in this Agreement, and Lessee agrees that he has executed this Agreement without reliance upon any such representation or promise. This Agreement cannot be modified or changed except by written instrument signed by all of the parties hereto.

29. Notices. Service of all notices under this agreement shall be sufficient if given personally or mailed to the party involved at its respective address hereinafter set forth or at such address as such party may provide in writing from time to time. Any such notice mailed to such address shall be effective when deposited in the United States mail, duly addressed, and with postage prepaid.

30. Gender; Number. Whenever the context of this lease requires, the masculine gender includes the feminine or neuter, and the singular number includes the plural; and whenever the word "Lessor" is used herein, it shall include all assignees of Lessor. If there is more than one Lessee named in the lease, the liability of each shall be joint and several.

31. Titles. The titles to the paragraphs of this lease are solely for the convenience of the parties, and are not an aid in the interpretation of the instrument.

32. Time. Time is of the essence of this lease and each and all of its provisions.

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

LESSOR:

LESSEE:

GALARDI GROUP FRANCHISE & LEASING, LLC,  
a California Limited Liability Company

By: Its Managing Member  
GALARDI GROUP FRANCHISE & LEASING, INC.

\_\_\_\_\_

By: \_\_\_\_\_  
Vice President

\_\_\_\_\_

ADDRESS:

ADDRESS:

4440 Von Karman Avenue, Suite 222  
Post Office Box 7460  
Newport Beach, California 92658-7460

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Lease Term, Extensions, and Rental. Unless sooner terminated as set forth in this lease, the term of this lease shall commence on \_\_\_\_\_, 200\_\_ and end \_\_\_\_\_, 200\_\_.

As rent for the equipment, Lessee shall pay to Lessor a rental, in advance, in installments of \_\_\_\_\_ DOLLARS (\$\_\_\_\_\_) per month. The first installment to become due and payable upon the commencement of the term of this lease and shall be prorated to the first (1st) day of the following month, if applicable, and each subsequent installment shall be due and payable on the first (1st) day of each succeeding month until the full rent has been paid in full.

All rental shall be paid to Lessor at 4440 Von Karman Avenue, Post Office Box 7460, Newport Beach, California 92658-7460.

In addition to such rent for the equipment, Lessee shall pay to Lessor on or before the seventh (7th) day of each month during the term of this lease a sum equal to \_\_\_\_\_ percent (\_\_\_\_%) of gross sales for the preceding month made upon and from the licensed premises less the rental of \_\_\_\_\_ DOLLARS (\$\_\_\_\_\_).

As used herein, gross sales shall mean all income received by Lessee from the sale of food and beverages from said licensed premises, but does not include:

- (a) State sales taxes paid;
- (b) Income from sales made by Lessee which is subsequently refunded; or
- (c) Gratuities paid to an employee of Lessee.

Lessee further agrees to record in writing all gross sales made on the licensed premises and to furnish Lessor a statement thereof on or before the seventh (7th) day of each month for the entire month's sales including a tabulation of the cash register's tape totals certified to be true and accurate by Lessee.

**(THIS PARAGRAPH USED FOR PERCENTAGE RENTAL EQUIPMENT LEASES)**

26. Offset. Lessee hereby waives any and all existing and future claims, and offsets, against any rent or other payments due hereunder; and agrees to pay the rent and other amounts hereunder regardless of any offset or claim which may be asserted by Lessee or on its behalf.

27. Non-Waiver. No covenant or condition of this lease can be waived except by the written consent of Lessor. Forbearance or indulgence by Lessor in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by Lessee to which the same may apply, and, until complete performance by lessee of said covenant or condition, Lessor shall be entitled to invoke any remedy available to Lessor under this lease or by law or in equity despite said forbearance or indulgence.

28. Entire Agreement. This Agreement contains all of the terms and conditions agreed upon by the parties with reference to the subject matter hereof. No other agreements, oral or otherwise, shall be deemed to exist or to bind any of the parties hereto and all prior agreements, understandings and representations are merged herein and superseded hereby. Lessee represents that there are no other contemporaneous agreements or understandings between the parties that are not contained herein. No officer or employee or agent of Lessor has any authority to make any representation or promise not contained in this Agreement, and Lessee agrees that he has executed this Agreement without reliance upon any such representation or promise. This Agreement cannot be modified or changed except by written instrument signed by all of the parties hereto.

29. Notices. Service of all notices under this agreement shall be sufficient if given personally or mailed to the party involved at its respective address hereinafter set forth or at such address as such party may provide in writing from time to time. Any such notice mailed to such address shall be effective when deposited in the United States mail, duly addressed, and with postage prepaid.

30. Gender; Number. Whenever the context of this lease requires, the masculine gender includes the feminine or neuter, and the singular number includes the plural; and whenever the word "Lessor" is used herein, it shall include all assignees of Lessor. If there is more than one Lessee named in the lease, the liability of each shall be joint and several.

31. Titles. The titles to the paragraphs of this lease are solely for the convenience of the parties, and are not an aid in the interpretation of the instrument.

32. Time. Time is of the essence of this lease and each and all of its provisions.

33. Cross Default. If Lessee shall default in the performance of any term or condition of this Equipment Lease, such default shall, at the option of Lessor, be deemed to be a default of the Franchise Agreement between Galardi Group Franchise Corp. and Lessee and/or any Sublease for the real property and improvements between Galardi Group, Inc., Lessor or Galardi Group Realty Corp. and Lessee under which Lessee operates a Wienerschnitzel restaurant at the premises.

34. Option to Purchase. At the expiration of the term of this Lease, Lessee shall have the option to either surrender the equipment as provided in Paragraph 11. or to purchase the equipment for the then fair market value plus sales tax. The purchase price shall be all cash payable within thirty (30) days after expiration of the term. If Lessor and Lessee cannot agree on the fair market value, the Lessor shall select an independent third party experienced in the valuation of similar equipment to set the fair market value, which shall be binding on Lessor and Lessee.

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

LESSOR:

GALARDI GROUP FRANCHISE & LEASING, LLC,  
a California Limited Liability Company

By: Its Managing Member  
GALARDI GROUP FRANCHISE & LEASING, INC.

By: \_\_\_\_\_  
Vice President

LESSEE:

\_\_\_\_\_  
\_\_\_\_\_

ADDRESS:

4440 Von Karman Avenue, Suite 222  
Post Office Box 7460  
Newport Beach, California 92658-7460

ADDRESS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**(THIS PAGE USED FOR PURCHASE OPTION EQUIPMENT LEASES ONLY)**