

# LEASE AGREEMENT

**Spencer C. Young Investments / The Courtyard of Chapel Hill, LLC,**  
A North Carolina Limited Liability Company ("Landlord")

&

**Summer Bicknell & Connie Semans d/b/a LocoPops ("Tenant")**

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## INDEX

<u>Article</u>		<u>Page</u>
1.	Premises .....	2
2.	Definitions and Certain Key Provisions .....	2
3.	Occupancy and Acceptance of Premises .....	4
4.	Rent.....	4
5.	Sales Reports and Records.....	7
6.	Common Area.....	8
7.	Use and Care of Premises .....	9
8.	Maintenance and Repairs.....	11
9.	Additions/Improvements to Space.....	12
10.	Landlord's Right of Access And Use of Roof.....	13
11.	Store Front Signs.....	13
12.	Utilities .....	14
13.	Indemnity and Public Liability Insurance.....	14
14.	Non-Liability for Certain Damages .....	15
15.	Damage by Casualty.....	16
16.	Eminent Domain .....	16
17.	Assignment and Subletting .....	17
18.	Taxes .....	18
19.	Property Insurance.....	19
20.	Default by Tenant and Remedies.....	19
21.	Landlord's Lien.....	22
22.	Holding Over.....	24
23.	Subordination .....	24
24.	Advertising and Promotion.....	24
25.	Notices .....	24
26.	Waiver of Subrogation.....	25
27.	Miscellaneous.....	26

### EXHIBITS:

- A Site Plan
- B Personal Guarantee

STATE OF NORTH CAROLINA

COUNTY OF ORANGE:

THIS LEASE AGREEMENT is made and entered into as of the **5th** day of **December, 2006** by and between **Spencer C. Young Investments / The Courtyard of Chapel Hill, LLC**, a North Carolina Limited Liability Company, with its principal place of business in Orange County, North Carolina (hereinafter referred to as "Landlord") and **Summer Bicknell & Connie Semans** (hereinafter referred to as "Tenant");

WITNESSETH:

PREMISES            1.1    In consideration of the rents hereinafter agreed to be paid and the mutual covenants and agreements hereinafter recited, Landlord does hereby demise and lease to Tenant and Tenant does hereby take from Landlord those certain demised premises within **The Courtyard of Chapel Hill** and located at **431 West Franklin Street, Chapel Hill, NC 27516** (hereinafter referred to as "TCoCH"), being **Unit # 5**, comprised of approximately **576** square feet in area; said premises being more particularly designated in the attached Site Plan (**Exhibit A**) and incorporated herein by reference.



TO HAVE AND TO HOLD the said Premises unto the Tenant upon the following terms and conditions:

DEFINITIONS  
AND CERTAIN

KEY PROVISIONS: 2.1    TENANT'S TRADE NAME: **LocoPops**


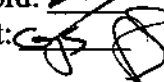
2.2    PERMITTED USE: **Operation of a Gourmet Ice Cream Parlor** and the sale at retail of products and services normally sold in such a business. **As long as Tenant is not in default on this lease, Landlord will not lease space at TCoCH to a similar stand-alone Ice Cream Parlor business operation.**

2.3    TERM: The term of this Lease shall begin on the Commencement Date of this Lease (Article 2.10) and extend for a period of **two (2)**

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**years from the first day of the month following expiration of the Rent Abatement Period (Article 2.11), ergo this lease shall expire at 12:00 midnight on February 28, 2009. Notwithstanding, Tenant shall have the option to extend the term of this Lease for a period of three (3) years, thereby extending the rental Term through February 29, 2012) by giving notice in writing to Landlord of the exercise of this option at least six months prior to expiration of the lease (i.e., on or before August 31, 2008) with all other provisions of this Lease otherwise applying, subject to Tenant not being in default with any provision of this Lease.**

- 2.4 **BASE RENT: \$1,440.00** per month or **\$30.00** per square foot per annum, which will be subject to **annual escalations beginning March 1, 2009** equal to the greater of: (a) **4.0%**; or (b) the applicable year-over-year percentage increase in the Consumer Price Index for Urban Consumers, as reported by the Bureau of Labor Statistics of the United States Department of Labor.
- 2.5 **"TRIPLE NET" RENT:** No Additional rent shall be paid in connection with Taxes, Insurance and Common Area Maintenance, as described more fully in Articles 18, 19 and 6, respectively.
- 2.6 **PERCENTAGE RENT:** No Additional rent shall be payable based upon gross sales, however Tenant agrees to report its gross sales, as outlined in Article 5.1.
- 2.7 **MARKETING FUND RENT:** No Additional rent shall be payable associated with Landlord undertaking marketing and promotional activities on behalf of TCoCH.
- 2.8 **PREPAID RENTAL DEPOSIT: \$1,440.00**, comprised of the Base Rent (Article 2.4) and the Triple Net Rent (Article 2.5), for Tenant's first full month of operation.
- 2.9 **SECURITY DEPOSIT: \$1,440.00** to be held throughout the lease term.
- 2.10 **COMMENCEMENT DATE.** The commencement date shall be **January 1, 2007.**

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2.11 RENT ABATEMENT ALLOWANCE: Rental payments for the first two (2) months of this lease shall be abated, therefore rent obligations under this Lease shall commence on **March 1, 2007**.

2.12 USE OF TENANT NAME: Landlord will submit to Tenant for Tenant's approval, any marketing materials which include the Tenant's name and description of its products and services.

Each of the foregoing definitions and basic provisions shall be construed in conjunction with and limited by the references thereto in the other provisions of this Lease.

OCCUPANCY AND  
ACCEPTANCE  
OF PREMISES

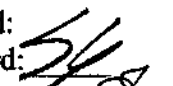

3.1 By occupying the Demised Premises, Tenant shall be deemed to have accepted the same and to have acknowledged that the same comply fully with the Landlord's covenants and obligations hereunder. Any measurements herein specified are from the exterior surface of outside walls of the building, and to the center of party walls adjacent to other tenant space.

RENT

4.1 Rental shall accrue hereunder from the Commencement Date, and shall be payable to Landlord and sent to the below address:

**Spencer C. Young Investments / The Courtyard of  
Chapel Hill, LLC  
c/o Hunter & Associates  
127 W. Hargett St.  
Suite 100  
Raleigh, NC 27601**

Tenant shall pay all Rents (Articles 2.4 through 2.7, as applicable) in monthly installments beginning with the amount specified in Article 2.4 above. The first such monthly installment shall be prepaid (Article 2.8) on the Commencement Date (Article 2.10), along with the security deposit (Article 2.9) and subsequent installments shall be due on the first day of each succeeding calendar month during the

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lease term, beginning with the **April 2007** rent payment. If the Commencement Date is other than the first day of a calendar month, there shall be a proration of certain rents (Articles 2.4 through 2.7, as applicable) for the applicative days of such calendar month, in proportion to the total number of days in such month; however, the Base Rent break-point in computing Percentage Rent shall be similarly adjusted for the partial month.

4.2 Not Applicable

4.3 Not Applicable

4.4 The term "Gross Sales" as used herein shall be construed to include the entire amount of the sales price, charges and fees, whether for cash or otherwise, of all sales of merchandise and property of every kind (including gift and merchandise certificates), services and other receipts whatsoever of all business conducted in or from the Demised Premises, including mail or telephone orders received or filled at the Demised Premises, deposits not refunded to purchasers, orders taken although filled elsewhere, sales to employees, sales through vending machines or other devices, and sales by any sublessee, concessionaire or licensee or otherwise in said premises. Each sale upon installment or credit shall be treated as a sale for the full price in the month during which such sale was made, irrespective of the time when Tenant receives payment from its customer. No deduction shall be allowed for uncollected or uncollectible credit accounts. Gross Sales shall not include, however, any sums collected and paid out for any sales or excise tax imposed by any duly constituted governmental authority nor shall it include the exchange of merchandise between the stores of Tenant, if any, where such exchanges are made solely for the convenient operation of the business for Tenant and not for the purpose of consummating a sale which has theretofore been made in or from the Demised Premises and/or for the purpose of depriving Landlord of the benefit of a sale which otherwise would be made in or from the Demised Premises, nor the amount of returns to shippers or manufacturers, nor the amount of any cash or credit refund made upon any sale where the merchandise sold, or some part thereof, is thereafter returned by purchaser and accepted by Tenant, nor sales of Tenant's fixtures.

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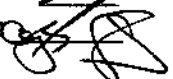
Tenant: 

4.5 It is understood that all Rents (Articles 2.4 through 2.7) are payable on or before the first day of the month. In the event any rental payment is received more than 5 days after its due date, for any reason whatsoever, it is agreed that all Rents (Articles 2.4 through 2.7) for that month shall be increased by an amount equal to 10.0% of the Base Rent. If any rental shall remain unpaid for 30 days after the rental payment is due the Base Rent for that month shall be further increased by an additional 10% (for a total of 20%). Any such increase shall be payable as additional rent hereunder, shall not be considered as a deduction from percentage rent, and shall be payable immediately on demand. If any such increased rental is payable more than twice during the term of this lease, or if twice during the lease term a check of Tenant's shall not be paid by Tenant's bank immediately upon presentation, Landlord may require, by giving written notice to Tenant, (and in addition to any penalty arising out of the above) that all future rental payments are to be made by cash, cashier's check, certified check or money order, and that the delivery of Tenant's personal or corporate check will no longer constitute a payment of rental as provided in this lease. Any acceptance by personal or corporate check thereafter by Landlord shall not be construed as a subsequent waiver of said rights.

**SALES REPORTS  
AND RECORDS**

5.1 On or before the 15th day of each calendar month during the term of this lease, Tenant shall deliver to Landlord a statement of Gross Sales made during the preceding calendar month. In addition, within sixty days after the expiration of each calendar year and within sixty days after the termination of this lease, Tenant shall deliver to Landlord a statement of Gross Sales during the preceding calendar year (or partial calendar year) certified to be correct by an independent Certified Public Accountant. Tenant shall furnish similar statements for its licensees, concessionaires and subtenants, if any. All such statements shall be in such form as Landlord may require.

5.2 Tenant shall keep in the Demised Premises or at some other location in a city nearby where the premises are located a permanent, accurate set of books and records of all sales of merchandise and revenue derived from business conducted in the Demised Premises, and all

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supporting records such as tax reports and banking records. All such books and records shall be retained and preserved for at least thirty-six months after the end of the calendar year to which they relate, and shall be subject to inspection and audit by Landlord and its agents at all reasonable times.


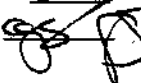
5.3 Not Applicable

COMMON AREA

6.1 The term "Common Area" is defined as that part of TCoCH intended for the common use of all tenants, including, among other facilities, parking areas, sidewalks, landscaping, curbs, truck-ways, delivery passages, loading areas, malls, public toilets, private streets and alleys, lighting facilities, drinking fountains and the like, but excluding space in buildings (or for future buildings) designed for rental or commercial purposes as the same may exist from time to time, and further excluding streets and alleys maintained by a public authority. Landlord reserves the right to change from time to time the size, dimensions and location of the Common Area, as well as the size, dimensions, identity and type of any buildings in TCoCH and to build additional buildings and improvements in TCoCH. Tenant, and its employees, customers and invitees shall have the non-exclusive right to use the Common Area as constituted from time to time, such use to be in common with Landlord, other tenants of TCoCH and other persons entitled to use the same, and subject to such reasonable rules and regulations governing use as Landlord may from time to time prescribe. Landlord may prescribe certain areas for Tenant employee parking and Tenant shall be responsible to enforce compliance with same by its employees. Tenant shall not solicit business within the Common Area by circulars or otherwise take any action which would interfere with the rights of other persons to use the Common Area. Landlord may temporarily close any part of the Common Area for such periods of time as may be necessary to prevent the public from obtaining prescriptive rights or to make repairs or alterations.

6.2 Landlord shall be responsible for the maintenance of the Common Area, the manner of maintenance and the expenditures therefore to be in the sole discretion of Landlord.

6.3 Tenant will **NOT** be required to pay as additional rent, its

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proportionate share of the cost of operation and maintenance of the Common Area (including among other costs, those for lighting, painting, cleaning, trash handling, security, landscaping, repairing and replacing, the cost of air conditioning and heating public areas) and management fee, which may be incurred by Landlord in Landlord's discretion, including a reasonable allowance for Landlord's overhead costs, and for depreciation of Maintenance equipment.



USE AND CARE OF  
PREMISES

- 7.1 The Demised Premises may be used only for the purpose specified in Article 2.2 above and for no other purpose without the prior written consent of Landlord. Tenant shall use in the transaction of business in the Demised Premises the trade name specified in Article 2.2 above and no other trade name without the prior written consent of Landlord. Tenant shall not at any time lease the Demised Premises vacant, but shall in good faith continuously throughout the term of this lease conduct and carry on in the entire Demised Premises the type of business for which the Demised Premises are leased. Tenant shall operate its business in an efficient, and reputable manner so as to produce the maximum amount of sales from the premises, and shall, except during reasonable periods for repairing, cleaning and decorating, keep the premises open to the public for business with adequate personnel in attendance on all days and during all hours (including evenings) established by Landlord from time to time as store hours for TCoCH, and during other hours when TCoCH generally is open to the public for business. **Notwithstanding, it is understood Tenant plans to operate its business 7 days per week from 11:30 am to 6:00 pm. (TS - 79 WKS/WK.)** 9/4
- 7.2 Tenant shall not, without Landlord's prior written consent, keep anything within the premises or use the premises for any purpose which increases the insurance premium cost or invalidates any insurance policy carried on the Demised Premises or other parts of TCoCH. All property kept, stored or maintained within the premises by Tenant shall be at Tenant's sole risk.
- 7.3 Tenant shall not conduct within the Demised Premises any fire, auction or bankruptcy sales or operate within the Demised Premises a "wholesale" or "factory outlet" store, a cooperative store, a "second

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hand" store, a "surplus" store or a store commonly referred to as a "discount house". Tenant shall not advertise that it sells its products or services at "discount", "cut-price", or "cut-rate" prices. Tenant shall not permit any objectionable or unpleasant odors nor any sounds to emanate from the premises; nor place or permit any radio, television, loudspeaker or amplifier or any excessively bright lights, changing, flashing, flickering or moving lights or devices on the roof or outside the Demised Premises or where the same can be seen or heard from outside the building; nor place any antenna, awning or other projection on the exterior of the Demised Premises; nor take any other action which would constitute a nuisance or would disturb or endanger other tenants of TCoCH or unreasonably interfere with their use of their respective premises; nor do anything which would tend to injure the reputation of TCoCH.

- 7.4 Tenant shall take good care of the Demised Premises and keep the same free from waste at all times. Tenant shall keep the Demised Premises and sidewalks, service-ways and loading areas adjacent to the Demised Premises neat, clean and free from dirt and rubbish at all times, and shall store all trash and garbage within the premises, arranging for the regular pick-up of such trash and garbage at Tenant's expense. Receiving and delivery of goods and merchandise and removal of garbage and trash shall be made only in the manner and areas prescribed by Landlord. Tenant shall not operate an incinerator or burn trash or garbage within TCoCH area.
- 7.5 Tenant shall maintain all display windows in a neat, attractive condition, and shall keep all display windows, exterior electric signs and exterior lighting under any canopy in front of the Demised Premises lighted from dusk until 1:00 am every day, including Sundays and holidays.
- 7.6 Tenant shall procure at its sole expense any permits and licenses required for the transaction of business in the Demised Premises and otherwise comply with applicable laws, ordinances, and governmental regulations. Tenant shall, and will be responsible for causing its employees, sub-tenants, licensees, and concessionaires to comply with all rules and regulations which Landlord, in its discretion, may prescribe for TCoCH, including rules for and designation of employee parking.

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**MAINTENANCE  
AND REPAIRS**

- 8.1 Landlord shall at its expense maintain only the roof, foundation, and the structural soundness of the exterior walls (excluding all glass, windows, doors, window and other opening and closing devices; window door and other frames, moldings, locks and hardware, lighting and electrical fixtures, wiring and installations, heating, air conditioning and plumbing systems, ducts and fixtures; and interior painting or other interior treatment of exterior walls) of the Demised Premises in good repair and condition except for reasonable wear and tear except that Landlord shall not be required to make any repairs occasioned by the act or negligence of Tenant, its agents, employees, subtenants, licensees, concessionaires and invitees. Tenant shall give immediate written notice to Landlord of the need for repairs performable by Landlord and Landlord shall not be responsible for failure to make any such repair until a reasonable time after such notice. Landlord's liability for such repairs shall be limited to the cost of such repairs.
- 8.2 If Tenant shall occupy the Demised Premises for the first time under this Lease Agreement, Landlord represents that at Commencement Date, any plumbing, electrical installation, heating and air conditioning system ducts and fixtures furnished and installed by Landlord, if any, are in good operating condition.
- 8.3 Tenant shall keep the Demised Premises in good clean condition and shall at its sole cost and expense keep the Demised Premises free of insects, rodents and other pests and make all needed repairs and replacements, including replacement of cracked or broken glass; fire protection and sprinkler system; electrical, heating, air conditioning and plumbing, fixtures, systems, ducts, conduits, pipes and wiring in, under and above the Demised Premises; except for repairs and replacement expressly required to be made by Landlord under the provisions of this section and Article 14. If any repairs required to be made by Tenant hereunder are not made within ten days after written notice delivered to Tenant by Landlord, Landlord may at its option make such repairs without liability to Tenant for any loss or damage which may result to Tenant's stock or business by reason of such repairs, and Tenant shall pay the Landlord upon demand as

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additional rental hereunder the cost of such repairs plus interest at the rate of fifteen percent (15%) per annum from the date of payment by Landlord until repaid by Tenant. At the expiration of this lease Tenant shall surrender the Demised Premises in good condition, reasonable wear and tear and loss by fire or other casualty excepted.

- 8.4 Any electrical, plumbing, and other utility outlets, fixtures, bulbs, tubes and other parts between the Demised Premises and the curb in front of and behind the Demised Premises (including any such items in, on and under any canopy) shall be maintained, repaired and replaced when necessary by Tenant at Tenant's expense.
- 8.5 If Landlord shall at any time prescribe the joint use by Tenant with others of a trash compactor, Tenant shall join in such use and shall pay its pro rata portion of the expense thus incurred by Landlord. Otherwise, Tenant shall obtain its own trash container and maintain same in good clean condition.

**ADDITIONS/  
IMPROVEMENTS  
TO SPACE**

- 9.1 Tenant shall not make any alterations, additions or improvements to the Demised Premises without the prior written consent of the Landlord, except for the installation of unattached moveable trade fixtures which may be installed without drilling, cutting or otherwise defacing the premises. All alterations, additions, improvements and fixtures (other than unattached, moveable trade fixtures) which may be made or installed by either party upon the Demised Premises including any floor covering cemented or adhesively attached, shall remain upon and be surrendered with the premises and become the property of Landlord at the termination of this lease, unless Landlord requests their removal in which event Tenant shall remove the same and restore the premises to its original condition at Tenant's expense. If Tenant fails to so remove same and restore the premises, Landlord may do so at the expense of Tenant, which expense Tenant will pay to Landlord within 10 days of demand therefore, plus interest thereon at fifteen percent (15%) per annum to date of payment.
- 9.2 All construction work done by Tenant within the Demised Premises must have prior approval by Landlord. Tenant shall provide Landlord, prior to initiation of any work, plans detailing entire scope

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Landlord: \_\_\_\_\_  
Tenant: \_\_\_\_\_



of work and list of contractors. Additionally, tenant shall provide evidence of contractors' licenses, general liability and workmen's compensation insurance. Landlord shall have final approval of plans, contractors and work to be completed. Once Landlord has approved plans, tenant is required to get building permits from appropriate governing authorities. All work shall be performed in a good and workmanlike manner, in compliance with all governmental requirements, and in such manner as to cause a minimum of interference with other construction in progress and with the transaction of business in TCoCH. Tenant agrees to indemnify Landlord and hold him harmless against any loss, liability or damage resulting from such work, and Tenant shall, if requested by Landlord, furnish bond or other security satisfactory to Landlord against any such loss, liability or damage.

**LANDLORD'S RIGHT  
OF ACCESS AND  
USE OF ROOF**

- 10.1 Landlord shall have the right to enter upon the Demised Premises at any time for the purpose of inspecting the same, or of making repairs to the Demised Premises, or of making repairs, alterations or additions to adjacent premises, or of showing the Demised Premises to prospective purchasers, lessees or lenders. Landlord may display an appropriate "For Rent" sign on the exterior of the Demised Premises for the period commencing six months prior to the end of the lease. Use of the roof above the Demised Premises is reserved to Landlord.

**STORE FRONT  
SIGNS:**

- 11.1 Tenant shall not, without Landlord's prior written consent (a) make any changes to the store front or (b) install any exterior lighting, decorations or paintings or (c) erect or install any signs, window or door lettering, placards, decorations or advertising media of any type which can be viewed from the exterior of the Demised Premises, excepting only dignified displays of customary type for its display windows. All signs, lettering, placards, decorations and advertising media shall conform in all respects to the sign criteria established by Landlord for TCoCH from time to time in the exercise of its sole discretion, and shall be subject to the prior written approval of

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Landlord as to construction, method of attachment, size, shape, height, weight, lighting, color and general appearance. Tenant shall keep all signs in good condition and in proper operating order at all times. No signs, placards or posters shall be taped to glass display windows or doors.

**UTILITIES**

- 12.1 Landlord agrees to provide at Commencement Date, the utility service connections necessary to supply water, electricity, telephone service and sewerage service to the Demised Premises.
- 12.2 Tenant shall promptly pay all charges for electricity, water, gas, telephone service, sewerage service and other utilities furnished to the Demised Premises including initial connection charges and shall furnish all electric light bulbs and tubes. Landlord may, if it so elects, furnish one or more utility services to Tenant, and in such event Tenant shall purchase the use of such services as are tendered by Landlord, and shall pay on demand as additional rental the rates established therefor by Landlord which shall not exceed the rates charged by the local public utility companies. Landlord may at any time discontinue furnishing and such service without obligation to Tenant.
- 12.3 Landlord shall not be liable for any interruption whatsoever in utility services not furnished by him, nor for interruptions in utility services furnished by him which are due to fire, accident, strike, acts of God or other causes beyond the control of Landlord or in order to make alterations, repairs or improvements.

**INDEMNITY AND  
PUBLIC LIABILITY  
INSURANCE**

- 13.1 Landlord shall not be liable for Tenant's employees, agents or visitors, or to any other person whomsoever, for any injury to person or damage to property on or about the Demised Premises or the Common Area caused by the negligence or misconduct of Tenant, its employees, sub-tenants, licensees or concessionaires, or of any other person entering TCoCH under express or implied invitation of Tenant, or arising out of the use of the premises by Tenant and the conduct of its business therein, or arising out of any breach or default by Tenant in the performance of its obligations hereunder; and Tenant hereby agrees to indemnify Landlord and hold it harmless




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from any loss, expense or claims arising out of such damage or injury.

- 13.2 Tenant shall procure and maintain throughout the term of this lease a policy or policies of insurance, at its sole cost and expense, insuring both Landlord and Tenant against all claims, demands or actions arising out of or in connection with Tenant's use or occupancy of the Demised Premises, or by the condition of the Demised Premises, the limits of such policy or policies to be in an amount not less than \$1,000,000 in respect to bodily injury, and in an amount not less than \$250,000 in respect to property damaged or destroyed. Tenant shall also carry business interruption insurance in an amount equal to one year of revenue. Tenant's insurance coverage is to be underwritten by insurance companies satisfactory to Landlord. Tenant shall obtain a written obligation on the part of each insurance company to notify Landlord at least fifteen days prior to cancellation of such insurance. Such policies or duly executed certificates of insurance shall be promptly delivered to Landlord and renewals thereof as required shall be delivered to Landlord at least thirty days prior to the expiration of the respective policy terms. If Tenant should fail to comply with the foregoing requirements relating to insurance, Landlord may obtain such insurance and Tenant shall pay to Landlord on demand as additional rent hereunder the premium cost thereof plus interest at the rate of fifteen percent (15%) per annum from the date of payment by Landlord until repaid by Tenant.

**NON-LIABILITY  
FOR CERTAIN  
DAMAGES**

- 14.1 Landlord and Landlord's agents and employees shall not be liable to Tenant for any injury to person or damage to property caused by the Demised Premises or other portions of TCoCH being or becoming out of repair or by defect in or failure of equipment, sprinkler systems, pipes, wiring, broken glass, or by the backing up of drains, or by gas, water, steam, electricity or oil leaking, escaping or flowing into the Demised Premises (except where due to Landlord's willful failure to make repairs required to be made hereunder, the expiration of a reasonable time after written notice to Landlord of the need for such repairs), nor shall Landlord be liable to Tenant for any loss or damage that may be occasioned by or through the acts or omissions of third parties or other Tenants of TCoCH.

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DAMAGE BY  
CASUALTY

- 15.1 Tenant shall give immediate written notice to Landlord of any damage caused to the Demised Premises by fire or other casualty.
- 15.2 In the event that the Demised Premises shall be damaged or destroyed by fire or other casualty insurable under standard fire and extended coverage insurance and Landlord does not elect to terminate this lease as hereinafter provided, Landlord shall proceed with reasonable diligence and at its sole cost and expense to rebuild and repair Demised Premises, and this lease shall continue in force and effect. If the Demised Premises or any part of TCoCH is damaged by fire or other casualty to such an extent that rebuilding thereof cannot reasonably be completed within 180 days after such casualty, then Landlord may elect either to terminate this lease or to proceed to rebuild and repair the Demised Premises, or other part of TCoCH, and this lease shall continue in force and effect. Landlord shall give written notice to Tenant of such election within 60 days after the occurrence of such casualty.
- 15.3 Landlord's obligation to rebuild and repair shall in any event be limited to restoring the Demised Premises to substantially the condition in which the same existed prior to such casualty, exclusive of any work performed by and improvements, fixtures and equipment installed by Tenant. Tenant agrees that promptly after completion of such work by Landlord, Tenant will proceed with reasonable diligence and at Tenant's sole cost and expense to restore, repair and replace all alterations, additions, improvements, fixtures, signs and equipment installed by Tenant. Tenant agrees at all times to keep its merchandise, fixtures and other property situated within the Demised Premises insured against fire and other casualties.
- 15.4 Tenant agrees that during any period of reconstruction or repair of the Demised Premises it will continue the operation of its business within the Demised Premises to the extent practicable.

EMINENT  
DOMAIN

- 16.1 If more than thirty percent (30%) of the floor area of the Demised

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Tenant: 

Premises should be taken for any public or quasi-public use under any governmental law, ordinance or regulation or by right of eminent domain, this lease shall terminate. If any other part of TCoCH shall be so taken resulting in cancellation of the lease of any other tenant in TCoCH, Landlord may terminate this lease by notice to Tenant. Upon any such termination the rent shall be abated during the unexpired portion of this lease, effective on the date physical possession is taken by the condemning authority.

- 16.2 If thirty percent (30%) or less of the Demised Premises should be taken as aforesaid, this lease shall not terminate (except as provided above); however, the Base Rent (but not percentage rental) payable hereunder during the unexpired portion of this lease shall be reduced in proportion to the area taken, effective on the date physical possession is taken by the condemning authority. Following such partial taking, Landlord shall make all necessary repairs or alterations to the remaining premises required to make the remaining portions of the Demised Premises an architectural whole, exclusive of any work performed by Tenant and improvements, fixtures and equipment installed by Tenant.
- 16.3 All compensation awarded for any taking (or the proceeds of private sale in lieu thereof) of the Demised Premises or Common Area shall be the property of Landlord, and Tenant hereby assigns its interest in any such award to Landlord; provided, however, Landlord shall have no interest in any award made to Tenant for loss of business or for the taking of Tenant's fixtures and other property if a separate award for such items is made to Tenant.

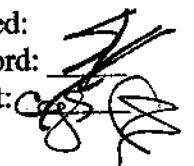
ASSIGNMENT AND  
SUBLETTING

- 17.1 Tenant shall not assign, mortgage, encumber or in any manner transfer this lease or any estate or interest therein, or sublet the Demised Premises or any part thereof, or grant any license, concession or other right of occupancy of any portion of the Demised Premises without the prior written consent of Landlord. Consent by Landlord to one or more assignments or subleases shall not operate as a waiver of Landlord's rights as to any subsequent assignments and subleases. Notwithstanding any assignment or subletting, Tenant and any guarantor of Tenant's obligations under this lease shall at all times remain fully and primarily responsible and liable for

Initialed:

Landlord:

Tenant:



the payment of the rent herein specified and for compliance with all of its other obligations under this lease.

17.2 In the event of the transfer and assignment by Landlord of its interest in this lease and in the building containing the Demised Premises to a person expressly assuming Landlord's obligations under this lease, Landlord shall thereby be released from any further obligations hereunder, and Tenant agrees to attorn to and look solely to such successor in interest of the Landlord for performance of such obligations. Any security given by Tenant to secure performance of Tenant's obligations hereunder may be assigned and transferred by Landlord to such successor in interest of the Landlord for performance of such obligations. Any security given by Tenant to secure performance of Tenant's obligations hereunder may be assigned and transferred by Landlord to such successor in interest, and Landlord shall thereby be discharged of any further obligation relating thereto. Tenant agrees promptly to execute such documents as shall evidence recognizing of such succession to Landlord and attornment by Tenant.

#### TAXES

18.1 Landlord shall pay all real estate taxes, assessments and other governmental levies and charges which may be imposed, levied, assessed or confirmed by any lawful taxing authorities on TCoCH all of which such real estate taxes, assessments and other governmental levies and charges are hereafter collectively referred to as "Real Property Taxes". Tenant **WILL NOT BE REQUIRED** to pay Landlord, as additional rent hereunder, its pro rata share of such Real Property Taxes by a fraction, the numerator of which shall be the gross leasable area of the Demised Premises and the denominator of which shall be the gross leasable area of TCoCH (including the Demised Premises) determined as of the date such Real Property Taxes are billed to Tenant. Tenant **WILL NOT BE REQUIRED** to pay Landlord its pro rata share of Real Property Taxes as part of the Triple Net Rent (Article 2.5), which may be estimated by Landlord or its agents, with a final reconciliation completed within three months of the end of each calendar year. With respect to any taxes for which Tenant is responsible, a copy of a tax bill submitted by Landlord to Tenant shall be conclusive evidence of the amount of taxes assessed or levied, as well as of the items taxed. Tenant shall be liable to pay directly to the taxing authority all taxes levied

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Landlord: 

Tenant: 

against personal property and fixtures placed by Tenant in the Demised Premises.

- 18.2 In the event that any tax or assessment other than real estate, public utility, school zone or poll tax is ever levied against TCoCH, such as a rent tax or otherwise, said tax shall be the sole responsibility of **LANDLORD**.

**PROPERTY  
INSURANCE**



- 19.1 Landlord shall keep the Demised Premises and Buildings comprising TCoCH insured to the extent of its full insurable value against loss or damage by fire, with extended coverage. Tenant **WILL NOT BE REQUIRED** to pay its pro rata share of the cost of such Insurance as part of the Triple Net Rent (Article 2.5), equal to the product obtained by multiplying the total cost of such Insurance (which may be estimated by Landlord or its agents, with a final reconciliation completed within three months of the end of each calendar year, by a fraction, the numerator of which shall be the gross leasable area of the Demised Premises and the denominator of which shall be the net rentable area of TCoCH (including the Demised Premises), determined as of the date such amount is billed to Tenant. Tenant agrees to pay Landlord its pro rata share of Real Property Taxes

- 19.2 Tenant at its sole cost and expense shall keep all furniture, fixtures, and equipment, whether supplied or owned by Tenant or by Landlord, and in addition, all glass forming a part of premises, including but not limited to plate glass, insured to the extent of its full insurable value against loss or damage by fire, with extended coverage. The policy of insurance required to be obtained hereunder by Tenant shall provide that any and all proceeds shall be payable to Landlord and Tenant, as their interest may appear.

**DEFAULT BY  
TENANT AND  
REMEDIES**

- 20.1 The following events shall be deemed to be events of default by Tenant under this lease:



A. Tenant shall fail to pay any installment of rent hereunder and

Initialed:  
Landlord:   
Tenant: 

such failure shall continue for a period of 10 days.

- B. Tenant shall fail to comply with any term, provision or covenant of this lease, other than the payment of rent, and shall not cure such failure within 15 days after written notice thereof to Tenant. In the event the cure of a non-monetary default is possible, but cannot, with due diligence, be accomplished within the fifteen (15) day period described herein, Tenant shall have such additional time as is reasonably necessary to complete the cure provided Tenant promptly commences in good faith the cure and proceeds with its due diligence to complete the cure as soon as possible.
- C. Tenant or any guarantor of Tenant's obligations under this lease shall become insolvent, or shall make a transfer in fraud of creditors, or shall make an assignment for the benefit of creditors.
- D. Tenant or any guarantor of Tenant's obligations under this lease shall file a petition under any section or chapter of the National Bankruptcy Act, as amended, or under any similar law or statute of the United States or any State thereof; or Tenant or any guarantor of Tenant's obligations under this lease shall be adjudged bankrupt or insolvent in proceedings filed against Tenant or any guarantor of Tenant's obligations under this lease thereunder.
- E. A receiver or Trustee shall be appointed for the Demised Premises or for all or substantially all of the assets of Tenant or any guarantor of Tenant's obligations under this lease.
- F. Tenant shall fail to do business as required in Article 7 hereof, or shall desert or vacate any substantial portion of the premises.
- G. Tenant shall do or permit to be done anything which creates a lien upon the premises.



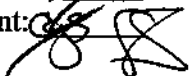
20.2 Upon the occurrence of any such events of default, Landlord shall

Initialed:  
Landlord:   
Tenant: 

have the option to pursue any one or more of the following remedies without any notice or demand whatsoever:



- (1) Terminate this lease, in which event Tenant shall immediately surrender the Demised Premises to Landlord, and if Tenant fails to do so, Landlord may, without prejudice to any other remedy which he may have for possession or arrearages in rent, enter upon and take possession of the Demised Premises and expel or remove Tenant and any other person who may be occupying said premises or any part thereof, by force if necessary, without being liable for prosecution or any claim for damages resulting there from; and Tenant agrees to pay to Landlord on demand the amount of all loss and damage which Landlord may suffer by reason of such termination, whether through inability to re-lease the premises on satisfactory terms or otherwise.
- (2) Enter upon and take possession of the Demised Premises and expel or remove Tenant and any other person who may be occupying said premises or any part thereof, by force if necessary, without being liable for prosecution or any claim for damages therefrom, and, if Landlord so elects, re-lease the premises on such terms as Landlord may deem advisable and receive the rent therefor; and Tenant agrees to pay to Landlord on demand any deficiency that may arise by reason of such re-leasing.
- (3) Enter upon the Demised Premises by force if necessary without being liable for prosecution or any claim for damages therefor, and do whatever Tenant is obligated to do under the terms of this lease; and Tenant agrees to reimburse Landlord on demand for any expenses which Landlord may incur thus effecting compliance with Tenant's obligations under this lease, and Tenant further agrees that Landlord shall not be liable for any damages resulting to the Tenant from such action.

20.3 Pursuit of any of the foregoing remedies shall not preclude pursuit of any other remedies herein provided or provided by law, nor shall pursuit of any other such remedy constitute a forfeiture or waiver of

Initialed:   
Landlord:   
Tenant: 

any rent due to Landlord hereunder or of any damages accruing to Landlord by reason of the violation of any of the terms, provisions and covenants herein contained. Forbearance by Landlord to enforce one or more of the remedies herein provided upon an event of default shall not be deemed or construed to constitute a waiver of such default. In determining the amount of loss or damage which Landlord may suffer by reason of termination of this lease or the deficiency arising by reason of any re-leasing by Landlord as above provided, allowance shall be made for the expense of repossession and any repairs or remodeling undertaken by Landlord following repossession, and there shall be added to the Base Rent herein provided for the period from the date of an event of default until the end of the term of this lease a sum equal to the average Percentage Rent required to be paid hereunder by Tenant during the two full calendar years (January 1 through December 31) immediately preceding the date of such termination or re-leasing (or if two full calendar years have not then elapsed then the period between the commencement date of this lease and the date of such termination or re-leasing with proportionate adjustment for partial years) multiplied by the number of calendar years or portions thereof falling within such period.




- 20.4 In the event that at any time during the term of this lease either Landlord or Tenant shall institute any action or proceeding against the other relating to the provisions of this lease, or any default hereunder, then, and in that event, the unsuccessful party in such action or proceeding agrees to reimburse the successful party for the reasonable expenses of attorneys' fees and disbursements incurred therein by the successful party.
- 20.5 Landlord hereby acknowledges receipt from Tenant of the sum stated in Article 2.8, to be applied to the first accruing installments of rent. Landlord further acknowledges receipt from Tenant of the sum stated in Article 2.9 to be held by Landlord without interest as security for the performance by Tenant of Tenant's covenants and obligations under this lease, it being expressly understood that such deposit is not an advance payment of rental or a measure of Landlord's damages in case of default by Tenant. Upon the occurrence of any event of default by Tenant, Landlord may, from time to time, without prejudice to any other remedy provided herein

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Landlord:   
Tenant: 

or provided by law, use such fund to the extent necessary to make good any arrears of rent and any other damage, injury, expense or liability caused to Landlord by such event of default, and Tenant shall pay to Landlord on demand the amount so applied in order to restore the security deposit to its original amount. If Tenant is not then in default hereunder, any remaining balance of such deposit shall be returned by Landlord to Tenant upon termination of this lease.

LANDLORD'S  
LIEN



21.1 In addition to the statutory Landlord's lien, Landlord shall have at all times a valid security interest to secure payment of all rentals and other sums of money becoming due hereunder from Tenant, and to secure payment of any damages or loss which Landlord may suffer by reason of the breach by Tenant of any covenant, agreement or condition contained herein, upon all goods, wares, equipment, fixtures, furniture, improvements and other personal property of Tenant presently, or which may hereafter be, situated on the demised premises, and all proceeds therefrom, and such property shall not be removed therefrom without the consent of Landlord until all arrearages in rent as well as any and all other sums of money then due to Landlord hereunder shall first have been paid and discharged and all the covenants, agreements and conditions hereof have been fully complied with and performed by Tenant. Upon the occurrence of an event of default by Tenant, Landlord may, in addition to any other remedies provided herein or under the Uniform Commercial Code as adopted by the state in which the demised premises are located enter upon the Demised Premises and take possession of any and all goods, ware, equipment, fixtures, furniture, improvements and other personal property of Tenant situated on the premises, without liability for trespass or conversion, and sell the same at public or private sale, with or without having such property at the sale, after giving Tenant reasonable notice of the time and place of any public sale or the time after which any private sale is to be made, at which sale the Landlord or its assigns may purchase unless otherwise prohibited by law. Unless otherwise provided by law, and without intending to exclude any other manner of giving Tenant reasonable notice, the requirement of reasonable notice shall be met if such notice is given in the manner prescribed in this lease at least 10 days before the time of sale. Any sale made pursuant to the

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Landlord:   
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provisions of this paragraph shall be deemed to have been a public sale conducted in a reasonable manner if held in the above described premises or where the property is located after the time, place and method of sale and a general description of the types of property to be sold have been advertised in a daily newspaper published in the county, in which TCoCH is located for five consecutive days before the date of the sale. The proceeds from any such disposition, less any and all expenses connected with the taking of possession, holding and selling of the property (including reasonable attorney's fees and legal expenses), shall be applied as a credit against the indebtedness secured by the security interest granted in this paragraph. Any surplus shall be paid to Tenant or as otherwise required by law; the Tenant shall pay any deficiencies forthwith. Upon request by Landlord, Tenant agrees to execute and deliver to Landlord a financing statement in form sufficient to perfect the security interest of Landlord in the aforementioned property and proceeds therefor under the provisions of the Uniform Commercial Code in force in the State of North Carolina. The statutory lien for rent is not hereby waived, the security interest herein granted being in addition and supplementary thereto. The provisions of this Article shall constitute a Security Agreement between Landlord and Tenant.

**HOLDING OVER** 22.1 In the event Tenant remains in possession of the Demised Premises after the expiration of this lease and without the execution of a new lease, it shall be deemed to be occupying said premises as a Tenant from month to month at a rental equal to the rental (including any percentage rental) herein provided plus fifty percent (50%) of such amount and otherwise subject to all the conditions, provisions and obligations of this lease insofar as the same are applicable to a month to month tenancy.

**SUBORDINATION** 23.1 Tenant accepts this lease subject and subordinate to any mortgage, deed of trust or other lien presently existing upon the Demised Premises or TCoCH as a whole, and to any renewals and extensions thereof; but Tenant agrees that any such mortgagee shall have the right at any time to subordinate such mortgage, deed of trust or other lien to this lease. Landlord is hereby irrevocably vested with full power and authority to subordinate this lease to any mortgage, deed of trust or other lien hereafter placed upon the Demised Premises or TCoCH as a whole, and Tenant agrees upon demand to execute such

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Landlord:   
Tenant: 

further instruments subordinating this lease as Landlord may request, provided such subordination shall be upon the express condition that this lease shall be recognized by the mortgagee, and that the rights of Tenant shall remain in full force and effect during the term of this lease so long as Tenant shall continue to perform all of the covenants and conditions of this lease. Upon request by Tenant, and at the Tenant's sole cost, Landlord shall exercise reasonable efforts to obtain a subordination, non-disturbance and attornment agreement ("SNDA") from the current mortgagee (if any).

**ADVERTISING AND  
PROMOTION**

24.1 Tenant **WILL NOT BE REQUIRED** to participate and contribute toward a Marketing Fund on a pro-rata basis (Article 2.7) using the square footage leased herein divided by the total net rentable square footage toward the advertising and promotion of TCoCH and sponsored events undertaken by Landlord.

**NOTICES**



25.1 Wherever any notice is required or permitted hereunder such notice shall be in writing. Any notice or document required or permitted to be delivered hereunder shall be deemed to be delivered whether actually received or not, when deposited in the United States Mail, postage prepaid, Certified or Registered Mail, addressed to the parties hereto at the respective addresses set out below (even if Tenant shall have vacated) or at such other addresses as they have theretofore specified by written notice.

For Notices to Landlord:

**Spencer C. Young Investments, Inc.  
134 Meadowmont Village Circle  
Chapel Hill, NC 27517**

With a Copy to:

**Womble Carlyle  
PO Box 831  
Raleigh, NC 27602  
Attn: William Matthews**

Initialed:  
Landlord:   
Tenant: 

For Notices to Tenant:

**Summer Bicknell & Connie Semans  
d/b/a LocoPops  
c/o The Courtyard of Chapel Hill  
431 W. Franklin Street  
Chapel Hill, NC 27516**

If "Tenant" is more than one person, corporation or other entity, all of them shall join in executing any such written notice specifying a different address or Landlord may elect to disregard such change of address.



**WAIVER OF  
SUBROGATION**

26.1 Anything herein to the contrary notwithstanding, Landlord and Tenant each hereby release the other from any and all liability or responsibility to the other or anyone claiming through or under them by way of subrogation or otherwise for any loss or damage to property caused by fire or any of the extended coverage or supplementary contract casualties, even if such fire or other casualty shall have been caused by the fault or negligence of the other party, or any one for whom such party may be responsible; provided however, that if the "releaser" carries insurance upon his property against fire and other casualties, this release shall be applicable and in force and effect only with respect to loss or damage occurring during such time as the releaser's policies shall contain a clause or endorsement to the effect that such release shall not adversely affect or impair such policies or prejudice the right of the releaser to recover thereunder. Landlord and Tenant each agree that they will request their insurance carriers to include in its policies such a clause or endorsement.

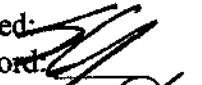

**MISCELLANEOUS**

27.1 The captions used herein are for convenience only and do not limit or amplify the provisions hereof.

27.2 Landlord agrees that if Tenant shall perform all of the covenants and agreements herein required to be performed by Tenant, Tenant shall, subject to the terms of this lease, at all times during the continuance of this lease have the peaceable and quiet enjoyment and possession of the Demised Premises.


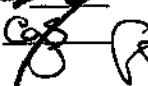

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- 27.3 This lease contains the entire agreement and understanding between the parties; there are no oral understandings, terms or conditions, and neither party has relied upon any representation expressed or implied not contained herein. No agreement shall be effective to change, modify or terminate this lease in whole or in part unless such agreement is in writing and duly signed by the party against whom enforcement of such change, modification or termination is sought.
- 27.4 The laws of the state of North Carolina shall govern the interpretation, validity, performance and enforcement of this lease. If any provision of this lease should be held to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this lease shall not be affected thereby.
- 27.5 Nothing herein contained shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto, it being understood and agreed that neither the method of computation of rent, nor any other provision contained herein, nor any acts of the parties hereto, shall be deemed to create any relationship between the parties hereto other than the relationship of Landlord and Tenant. Whenever herein the singular number is used, the same shall include the plural, and words of any gender shall include each other gender.
- 27.6 One or more waivers of any covenant, term or condition of this lease by either party shall not be construed as a waiver of a subsequent breach of the same covenant, term or condition. The consent or approval by either party to or of any act by the other party requiring such consent or approval shall not be deemed to waive or render unnecessary consent of or approval of any subsequent similar act.
- 27.7 Whenever a period of time is herein prescribed for action to be taken by Landlord, Landlord shall not be liable or responsible for, and there shall be excluded from the computation of any such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, governmental laws, regulations or restrictions or any other causes of any kinds whatsoever which are beyond the reasonable control of Landlord. At any time when there is




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outstanding a mortgage, deed of trust or similar security instrument covering Landlord's interest in the Demised Premises, Tenant may not exercise any remedies for default by Landlord hereunder unless and until the holder of the indebtedness secured by such mortgage, deed of trust or similar security instrument shall have received written notice of such default and a reasonable time for curing such default shall thereafter have elapsed.

- 27.8 If during the term of this lease, or any renewal or extension thereof, either Tenant or any person, firm or corporation, directly or indirectly controlling, controlled by or under common control with Tenant shall directly or indirectly operate, manage, conduct or have any interest in any commercial establishment within two miles of TCoCH, then, in any such event for the purpose of computing Percentage Rental, Landlord may require that all sales made from any such other commercial establishment which would have been Gross Sales if made in or from the Demised Premises be included in the computation of Percentage Rental as though said sales had actually been made in or from the Demised Premises, and Tenant agrees to pay such Percentage Rental to Landlord computed on the basis of such combined sales.
- 27.9 Tenant agrees that it will from time to time upon request by Landlord execute and deliver to Landlord a statement in recordable form certifying that this lease is unmodified and in full force and effect ( or if there have been modifications, that the same is in full force and effect as so modified).
- 27.10 The terms, provisions and covenants contained in this lease shall apply to, inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors in interest and legal representatives except as otherwise herein expressly provided.
- 27.11 If this lease is in fact a sublease, Tenant accepts this lease subject to all of the terms and conditions of the underlying lease under which Landlord holds TCoCH as lessee. Tenant covenants that it will do no act or thing which would constitute a violation by Landlord of his obligations under such underlying lease.

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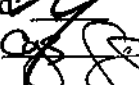

- 27.12 Tenant shall not withhold or make other adjustments in their specified rental amounts for any reason.
- 27.13 If Tenant is more than one person, corporation or other entity (i) all persons, corporations and other entities constituting Tenant shall be jointly and severally liable as Tenant hereunder and (ii) the term "Tenant" under Paragraph (C), (D), and (E) of Article 20.1 shall refer to any one of the persons, corporations or other entities constituting Tenant.
- 27.14 Tenant hereby agrees not to look to the mortgagee, as mortgagee, mortgagee in possession, or successor in title to the property, for accountability for any security deposit required by the Landlord hereinunder, unless said sums have actually been received by said mortgagee as security for the tenant's performance of this lease.
- 27.15 The submission of this lease to Tenant for examination does not constitute a reservation of or option for the Demised Premises and this lease becomes effective only upon execution by Landlord and Tenant.
- 27.16 In the event any provision of an Addendum attached hereto shall be inconsistent with a provision in the body of the lease, the provision as set forth in the Addendum shall be deemed to control.
- 27.17 In the event of a transfer of ownership or an assignment of a lease, Landlord will charge an administrative fee of two months rent.
- 27.18 Tenant will not store materials in or on the leased premises classified as hazardous by any governmental authority that would require any additional building requirements such as but not limited to those for increased sprinkler capacity and/or firewalls; provided that if Landlord shall consent to any such building additions, same shall be the sole cost and expense of Tenant.
- 27.19 Landlord agrees that Tenant may record a Short Form Notice of Lease in a form reasonably acceptable to Landlord and at Tenant's sole expense.

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Landlord:   
Tenant: 

Health Codes: Food Service Establishments must maintain at all times a health grade of an "A" as given by the **Orange** County Health Department. In the event Tenant is deemed a Food Service Establishment, any health grade less than an "A" will be a default by Tenant under this lease. **It is the mutual understanding of the Tenant and Landlord that Tenant's contemplated business operation is NOT subject to this requirement, but is rather governed by the U.S. Dept of Agriculture, and therefore Tenant agrees to maintain comparable health grades, to the extent so rendered.**

Pest Control: Tenant must maintain an exterminating contract with a reputable exterminating company for the full extent of their lease term, and food Tenants must provide Landlord with a copy of their on-going exterminating contract prior to restaurant commencing operation, and furnish copies of all renewals thereafter.

Serving Alcohol: The serving of alcohol shall be allowed with the express written consent of Landlord, and then only in accordance with such rules and regulations pertaining thereto by the State of North Carolina Alcoholic Beverage Control Board, as may be modified from time to time, without notice. Violation of any regulations of the by Tenant, including the sale of alcohol to persons under age, shall constitute immediate revocation by Landlord of Tenant's right to serve alcohol from or at its premises.

Initialed:   
Landlord:   
Tenant: 

Executed as of the date stated above.

TENANT

**Summer Bicknell & Connie Semans  
d/b/a LocoPops**

ATTEST:

~~S Lynn Bicknell~~  
\_\_\_\_\_

By: S Lynn Bicknell (SEAL)

By: \_\_\_\_\_ (SEAL)

LANDLORD:

**Spencer C. Young Investments/  
The Courtyard of Chapel Hill, LLC**

ATTEST:

\_\_\_\_\_

BY: Spencer C. Young (SEAL)  
Spencer C. Young  
President / Manager

Initialed: SY  
Landlord: SY  
Tenant: CS

**PERSONAL GUARANTY OF LEASE**

Connie G Samans  
Summer L Bicknell

THIS GUARANTY is given this 5<sup>th</sup> day of December, 2006, by \_\_\_\_\_, whose principal residence is located at Durham, NC ("Guarantor(s)"), to **Spencer C. Young Investments / The Courtyard of Chapel Hill, LLC**, "Landlord").

**RECITALS**

WHEREAS, at the request of Guarantor(s), Landlord has entered into that certain Lease Agreement, dated 12/5/06, ("Lease"), pursuant to which Landlord has agreed to lease space located at 431 W. PRANKINS (the "Premises") to Connie G Samans Tenant"); and

Chapel Hill, NC 27516 units Summer L Bicknell  
WHEREAS, in order to induce Landlord to enter into the Lease, Guarantor(s) has agreed to give this Personal Guaranty of Lease ("Guaranty") under the terms and conditions stated herein.

NOW THEREFORE, in consideration of Landlord's agreement to lease the Premises to Tenant and other valuable consideration, the receipt and sufficiency of which is specifically acknowledged, Guarantor(s) hereby agrees as follows:

1. GUARANTY. The Guarantor(s) and his/her/their legal representatives, jointly and severally guarantee the prompt payment when due, or whenever payment may become due under the terms of the Lease, all payments of rent, additional rent, and all other charges, expenses, and costs of every kind and nature, which are or may be due now or in the future under the terms of the Lease, any agreements or documents related to the Lease, or any other transaction between the Landlord and the Tenant directly or indirectly related to the Lease; and the complete and timely performance, satisfaction and observation of the terms and conditions of the Lease, rules and regulations and related obligations arising by reason of the Lease required to be performed, satisfied or observed by the Tenant.

2. BREADTH OF GUARANTY. This Guaranty extends to any and all liability which the Tenant has or may have to the Landlord by reason of (i) matters occurring before the signing of the Lease by the parties; or (ii) commencement of the terms of the Lease by reason of removal of Tenant property, surrender of possession or other matters. This Guaranty extends to any successor of the Lessee or any assignee or sublessee of the Tenant, to any extensions or renewals of the Lease, and any terms established by reason of the holdover of the Tenant, any assignee or sublessee.

3. PERFORMANCE OF GUARANTY. In the event the Tenant fails to perform, satisfy or observe the terms and conditions of the Lease, rules and regulations, and related Lease obligations required to be performed, satisfied or observed by the Tenant, Guarantor(s) will promptly and fully

Initialed: \_\_\_\_\_  
Landlord: [Signature]  
Tenant: [Signature]

perform, satisfy and observe the obligation or obligations in the place of the Tenant. The Guarantor(s) shall pay, reimburse and indemnify the Landlord for any all damages, costs, expenses, losses and other liabilities arising or resulting from the failure of the Tenant to perform, satisfy or observe any of the terms and conditions of the Lease, rules and regulations and related obligations, including, but not limited to, reasonable attorney's fees, expenses, and costs.

4. **WAIVER OF NOTICES.** Without notice to or further assent from the Guarantor(s), the Landlord may waive or modify any of the terms or conditions of the Lease, any rules and regulations or related Tenant obligations, or compromise, settle or extend the time of payment of any amount due from the Tenant or the time of performance of any obligation of the Tenant. These actions may be taken by the Landlord without discharging or otherwise affecting the obligations of the Guarantor(s).

5. **LEASE SECURITY.** This Guaranty shall remain in full force and effect, and the Guarantor(s) shall remain fully responsible, without regard to any security deposit or other collateral given to secure the performance of the terms and conditions of the Lease, or the receipt, disposition, application, or release of any security deposit or other collateral, now or hereafter held by or for the Landlord.

6. **UNCONDITIONAL OBLIGATIONS.** The liability of the Guarantor(s) is direct, immediate, absolute, continuing, unconditional and unlimited. The Landlord shall not be required to pursue any remedies it may have against the Tenant or against any security deposit or other collateral as a condition to enforcement of this Guaranty. Nor shall the Guarantor(s) be discharged or released by reason of the discharge or release of the Tenant for any reason, including discharge in bankruptcy, receivership or other proceedings, a disaffirmation or rejection of the Lease by a trustee, custodian, or other representative in bankruptcy, a stay or other enforcement restriction, or any other reduction, modification, impairment or limitations of the liability of the Tenant or any remedy of the Landlord.

7. **SUBORDINATION OF THE SUBROGATION RIGHTS.** The Guarantor(s) subordinates any and all claims which the Guarantor(s) has or may have against the Tenant by reason of subrogation for the payments or performances under this Guaranty or claims for any other reason or cause. The Guarantor(s) agrees not to assert any claim which they have or may have against the Tenant, including claims by reason of subordination under this Guaranty, until such time as the payment and other obligations of the Tenant to the Landlord are fully satisfied and discharged.

8. **BINDING EFFECT.** This Guaranty is binding upon the Guarantor(s), his/her/their legal representatives and assigns, and is binding upon and shall inure to the benefit of the Landlord, its successors and assigns. No assignment or delegation by the Guarantor(s) shall release the

Initialed: \_\_\_\_\_  
Landlord: \_\_\_\_\_  
Tenant: \_\_\_\_\_

Guarantor(s) of his/her/their obligations under this Guaranty. The term "Tenant" used in this Guaranty includes the first and any successive assignee of sublessee of the Tenant.

9. MODIFICATIONS. This Guaranty may not be modified orally, but only by a writing signed by the Guarantor(s) and the Landlord. Modifications include any waiver, discharge, modification, or termination.

10. APPLICABLE LAW. This Guaranty shall be governed by and construed in accordance with the internal laws of the State of North Carolina and the laws of the United States governing transactions of this nature in the State of North Carolina.

IN WITNESS WHEREOF, Guarantor(s) has set his/her/their hand and seal, on the date first written above.

S Lynn Bicknell  
S Lynn Bicknell  
(print name below signature)  
[Signature]  
Condi ct (Conni) G. Semans

Initialed: [Signature]  
Landlord: [Signature]  
Tenant: [Signature]

STATE OF NORTH CAROLINA

COUNTY OF ORANGE

I, \_\_\_\_\_, a Notary Public in and for the county aforesaid do hereby certify that \_\_\_\_\_ personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

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STATE OF NORTH CAROLINA

COUNTY OF ORANGE

I, \_\_\_\_\_, a Notary Public in and for the county aforesaid do hereby certify that \_\_\_\_\_ personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

STATE OF NORTH CAROLINA

COUNTY OF ORANGE

I, \_\_\_\_\_, a Notary Public in and for the county aforesaid do hereby certify that \_\_\_\_\_ personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

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STATE OF NORTH CAROLINA

COUNTY OF ORANGE

I, \_\_\_\_\_, a Notary Public in and for said County, do hereby certify that \_\_\_\_\_ personally appeared before me this day and acknowledged that \_\_\_\_\_ is \_\_\_\_\_ President of \_\_\_\_\_, a \_\_\_\_\_ corporation, and that by the authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its \_\_\_\_\_ President, sealed with its corporate seal and attested by \_\_\_\_\_ as its \_\_\_\_\_ Secretary.

WITNESS my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_