



CITY OF AURORA, ILLINOIS

RESOLUTION NO. R22-310  
DATE OF PASSAGE October 25, 2022

A Resolution Authorizing New Commercial Lease Agreements with Jolene Ryan, d/b/a Jumpin Java Coffee for Commercial Space at the ATC and Route 59 Train Stations.

WHEREAS, the City of Aurora has a population of more than 25,000 persons and is, therefore, a home rule unit under subsection (a) of Section 6 of Article VII of the Illinois Constitution of 1970; and

WHEREAS, subject to said Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs for the protection of the public health, safety, morals, and welfare; and

WHEREAS, Jumpin Java has been operating coffee shops and vending machines serving Aurora commuters at both the ATC and Route 59 Train Stations; and

WHEREAS, Jumpin Java's leases have expired and the business continues to lease the spaces on a month to month basis; and

WHEREAS, the City seeks to enter into two new thirty (30) month leases with Jumpin Java.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Aurora, Illinois, as follows: the Mayor is hereby authorized to enter into new Commercial Lease agreements with Jumpin Java for commercial space at the Aurora Transportation Center located at 233 N Broadway, Aurora, IL 60505 and at the Route 59 Train Station located at 1090 Route 59, Aurora IL, 60504.

RESOLUTION NO. R22-310  
LEGISTAR NO. 22-0804

PASSED AND APPROVED ON October 25, 2022

AYES 12 NAYS 0 NOT VOTING 0 ABSENT 0

ALDERMAN	Vote
Alderman Llamas, Ward 1	yes
Alderwoman Garza, Ward 2	yes
Alderman Mesiacos, Ward 3	yes
Alderman Donnell, Ward 4	yes
Alderman Franco, Ward 5	yes
Alderman Saville, Ward 6	yes
Alderwoman Hart-Burns, Ward 7	yes
Alderwoman Smith, Ward 8	yes
Alderman Bugg, Ward 9	yes
Alderwoman Baid, Ward 10	yes
Alderman Woerman, At Large	yes
Alderman Jenkins, At Large	yes

ATTEST:

Jennifer Stelling  
City Clerk

Richard C. [Signature]  
Mayor

## LEASE AGREEMENT

This LEASE AGREEMENT ("Lease"), dated as of the 25<sup>th</sup> of October, 2022, by and between **The City of Aurora**, a municipal corporation and home rule government, (herein after "**Lessor**") and **Jolene Ryan** owner of **Jumpin Java Co**, an Illinois corporation, (hereinafter "**Lessee**") and, together with Lessor, collectively referred to herein as the "**Parties**".

In consideration of the rents, covenants, and agreements hereinafter set forth, the sufficiency of which is hereby acknowledged and agreed, Lessor and Lessee covenant, warrant, and agree as follows:

### 1. Premises

(a) Lessor hereby leases to Lessee, and Lessee hereby rents from Lessor, the lower level Premises at the Route 59 Train Station, and space in train depot for three (3) vending machines at 1090 Route 59, Aurora, Illinois for the Term of this Agreement.

(b) Lessee shall have access to the lower level building space only.

(c) Lessee agrees to accept possession of the Premises in its existing **AS-IS** condition on the date of this Lease, without representation or warranty by Lessor, express or implied, and with no obligation of Lessor to repaint, remodel, repair, improve, or alter the Premises, or to perform any construction, remodeling, or other work of improvement upon the Premises. Without limiting the generality of the foregoing, Lessee acknowledges that neither Lessor nor any agent of Lessor has made any representation or warranty regarding the condition of the Premises, the Building, or the Property, the suitability of the Premises for Lessee's use, or the condition, capacity, or performance of the Building Systems.

### 2. Purpose

The purpose of this lease is to allow Lessee to access and use of the premise for operating their coffee and snack shop which primarily serves commuters using the Route 59 train station.

### 3. Term

(a) This Lease shall commence on November 1, 2022 or the date approved by the Aurora City Council; whichever date is later.

(b) The term of this lease will expire on April 30, 2025.

**4. Fixed Rent**

(a) Lessee covenants and agrees to pay fixed rent in advance on the first (1<sup>st</sup>) day of each calendar month during the term of the lease and without notice, a sum of three hundred and thirty dollars \$330.00 a month.

(b) This is a net lease. Rent shall be paid to Lessor absolutely net of all costs and expenses incurred by Lessee in connection with its occupancy of the Premises.

(c) Any Rent payable by Lessee to Lessor under this Lease that is not paid within ten (10) Business Days after the same is due, will be automatically subject to a late payment charge of six dollars and sixty cents, (\$6.60) which is 2% of the monthly rent to cover Lessor's additional administrative costs. Late charges will be due and payable as set forth herein and will accrue from the date that such Rent (including late charges) are payable under the provisions of this Lease until actually paid by Lessee. Lessee acknowledges that late payment by Lessee to Lessor of Rent will cause Lessor to incur costs not contemplated by this Lease, the exact amount of such costs being extremely difficult to fix. The Parties agree that the late charge represent a fair and reasonable estimate of the costs that Lessor will incur by reason of late payment of Rent by Lessee. Acceptance of any late charge or default interest shall not constitute a waiver of Lessee's default with respect to the overdue amount or prevent Lessor from exercising any of the other rights and remedies available to Lessor.

**5. Utilities**

Lessor shall pay utilities including water, natural gas and electricity. Lessee shall notify Lessor as soon as possible if there are any issues with utility services.

**6. Maintenance**

The Parties agree that maintenance shall be divided as follows:

(a) Lessor shall be responsible for: any exterior maintenance and repair; including structural and roof repairs. As soon as possible, once Lessee becomes aware of any maintenance needed that is Lessor's responsibility, Lessee will inform Lessor in writing.

(b) Lessee shall be responsible for: any interior maintenance and repair. This shall include making sure the interior property is maintained in a good, safe and clean condition. Lessee is responsible for day to day maintenance and replacement of all interior equipment including light fixtures, security systems, appliances, plumbing, smoke detectors, carbon monoxide detectors. Lessee shall be responsible for compliance with fire and building code inspections.

**7. Permitted Use of Premises; Compliance with Laws; Hazardous Materials**

(a) The Premises shall be used as a coffee shop for the day to day operations of Jumpin Java.



(b) Premises shall be used only for the permitted use, and for no other unauthorized purposes.

(c) Lessee, at Lessee's sole cost and expense, shall comply with all applicable laws, ordinances, rules, and regulations of governmental and quasi-governmental authorities, including, without limitation, the Americans with Disabilities Act of 1990, (and as amended by any Americans with Disabilities Act Amendments adopted thereafter) that are applicable to the Premises and the use or occupancy of the Premises.

(d) Lessee shall not cause or permit any Hazardous Materials to be generated, used, released, stored, or disposed of in or about the Premises, the Building, or the Property; provided, however, Lessee may use and store reasonable quantities of cleaning and office supplies and other similar materials as may be reasonably necessary for Lessee to conduct normal business operations and maintain the Premises. Lessee shall indemnify and hold Lessor, its employees, and agents, harmless from and against any damage, injury, loss, liability, charge, demand, claim, cost, or expense (including attorneys' fees and disbursements) based on or arising out of the presence or removal of, or failure to remove, Hazardous Materials generated, used, released, stored, or disposed of by Lessee or any Lessee Party in or about the Premises, the Building, or the Property, whether before or after the lease commencement date.

#### **8. Alterations**

(a) Lessee shall be permitted to make reasonable improvements to the premises upon obtaining Lessor's written consent. Lessor's written consent shall not be unreasonably withheld. Notwithstanding the foregoing, Lessee shall be required to provide Lessor with prior written notice at least thirty (30) days before commencing construction of any alteration.

(b) All improvements or alterations related to health and safety should be completed in advance of Lessee occupying the property.

(c) Lessee agrees that all such work shall be done at Lessee's sole cost and expense and in a good and workmanlike manner, that the structural integrity of the Building shall not be impaired, and that no liens shall attach to all or any part of the Premises, the building, or the property by reason thereof. Lessee shall obtain, at its sole expense, all permits required for such work.

(d) All permitted alterations and additions to the Premises shall remain for the benefit of the Lessor unless otherwise agreed to in writing by Lessor. All alterations and additions shall be surrendered to Lessor on or before the lease expiration date. Notwithstanding the foregoing, movable equipment, trade fixtures, personal property, furniture, or any other items that can be removed without material harm to the Premises will remain Lessee's property, and shall not become the property of Lessor but shall be removed by Lessee, at its sole cost and expense, not later than the lease expiration date.

(e) Any alterations approved by Lessor must be fully completed prior to the termination of the Lease. Any alterations or improvements left incomplete may be completed by Lessor, the cost of which Lessee will be responsible.

**9. Lessee Not to Misuse or Sublet/Assign Premises**

(a) Lessee will not allow the Premises to be used for any purpose that will increase the rate of insurance thereon, nor for any purpose other than as a coffee shop.

(b) Lessee will not permit the Premises to be used for any unlawful purpose, or for any purposes that will injure the reputation of the Lessor.

(c) Lessee will not make or allow anyone using the Premises to make any permanent surface improvements without prior written authorization by the Lessor.

(d) Lessee shall not have the right to assign this Lease or to sublet the Premises or any part thereof.

**10. Concealed Firearms Prohibited**

Pursuant to Illinois Statute, concealed firearms are prohibited from being carried on or into a building controlled by a local unit of government. 430 ILCS 66/65(a)(5). Lessee agrees to display Illinois State Police Concealed Carry Prohibited Area signs on the premises. 430 ILCS 66/65(d). These signs can be found on the Illinois State Police Firearms Services Bureau website. Signs shall be clearly and conspicuously posted at the entrance of a building, premises, or real property. 430 ILCS 66/65(d).

**11. Insurance**

(a) Lessee shall procure and maintain policies of insurance, at its own cost and expense, providing for public liability insurance during the entire term hereof covering both Lessee and Lessor as named co-insureds with terms and in companies satisfactory to Lessor with limits of not less than \$1,000,000/2,000,000 for personal injury and \$1,000,000 for property damage for any one occurrence.

(b) The aforesaid insurance shall be issued by a company authorized to do business in Illinois, and shall unconditionally provide that it is not subject to cancellation or non-renewal except after at least thirty (30) days prior written notice to Lessor for the purpose of assuring such notice as to liability insurance, Lessor shall be designated therein as the "Additional Named Insured". The original insurance policies (or certificates thereof satisfactory to Lessor) together with satisfactory evidence of payment of the premiums thereon, shall be deposited with Lessor at the commencement of lease, and renewals thereof not less than thirty (30) days prior to the end of the term of such coverage. Lessee's insurance shall provide primary coverage and any insurance of Lessor shall be considered secondary and non-contributory.

(c) Lessor shall not be liable for any damage or damages of any nature whatsoever to persons or property caused by explosion, fire, theft, breakage, vandalism, falling plaster,

sprinkler drainage, plumbing systems, air conditioning equipment, the interruption of any public utility or service, steam, gas, electricity, water, rain, or other substances leaking, issuing, or flowing into any part of the Premises, or by natural occurrence, acts of the public enemy, riot, strike, insurrection, war, court order, requisition, or order of a governmental body or authority, or by anything done or omitted to be done by any Lessee, occupant, or person in the building, it being agreed that Lessee shall be responsible for obtaining appropriate insurance to protect its interests.

**12. Indemnification**

Lessee shall indemnify, defend, and hold Lessor, its employees, agents, elected officials, and agents of Lessor or any such other person harmless from and against any and all claims, losses, costs, liabilities, damages, and expenses, including, without limitation, penalties, fines, and reasonable attorneys' fees, to the extent incurred in connection with or arising from the use or occupancy or manner of use or occupancy of the Premises or any injury or damage caused by Lessee, Lessee Parties, or any person occupying the Premises through Lessee.

**13. Damage and Destruction**

(a) If the Premises is destroyed or damaged by fire or other casualty, by no fault of the Lessee, so that Lessee is unable to occupy the Premises for its Permitted Use and, in Lessor's judgment reasonably exercised within seven (7) days after the destruction or damage, repairs cannot be made within thirty (30) days after the date of the damage or destruction, Lessor may terminate this Lease effective as of the date of the damage or destruction by giving Lessee written notice within ten (10) days of the date of the damage or destruction.

(b) If Lessor does not terminate this Lease as provided in Section 14(a) above, Lessor shall promptly rebuild, repair, and restore the Premises to its former condition; provided, however, that if Lessor has not completed such restoration within thirty (30) days after the date of the damage or destruction, Lessee may, at its option, terminate this Lease upon written notice to Lessor.

(c) If the damage or destruction renders all or part of the Premises unleaseable, Fixed Rent shall proportionately abate commencing on the date of the damage or destruction and ending on the date the Premises are delivered to Lessee with Lessor's restoration obligation substantially complete. The extent of the abatement shall be based upon the portion of the Premises rendered unleaseable, inaccessible, or unfit for the Permitted Use.

**14. Signs**

Lessee may at its own cost and expense install signs on the Premises. All signs must comply with all City of Aurora ordinances and shall not obstruct door or walkways.

**15. Lessor's Access to Premises**

Lessor, its agents, employees, and independent contractors shall have the right to enter the Premises upon not less than twenty four (24) hours' notice to:

- (a) Inspect the Premises;
- (b) Supply any service or repair to be provided or performed by Lessor to Lessee;
- (c) Show the Premises to prospective purchasers, mortgagees, beneficiaries, or Lessees (but with respect to prospective Lessees, no earlier than three (3) months prior to the Lease Expiration Date);
- (d) Determine whether Lessee is complying with its obligations under this Lease; and
- (e) Alter, improve, or repair the Premises or any other portion of the Building.

Notwithstanding the foregoing, Lessor shall not be required to provide prior notice to Lessee in the event of an emergency. Except to the extent caused by Lessor's gross negligence or willful misconduct, Lessee waives any claim for damages for any injury or inconvenience to or interference with Lessee's business.

**16. Lessee's Default**

Each of the following events shall be an "Event of Default" hereunder:

- (a) Lessee's failure to pay when due any installment of Rent for a period of thirty (30) days after the due date.
- (b) Lessee's failure to perform or observe any other covenant, condition, or other obligation of Lessee and such failure continues for a period of ten (10) days after Lessor gives Lessee written notice thereof.
- (c) The Premises becomes vacant or abandoned (other than in connection with a casualty under Section 14) for greater than thirty (30) days.
- (d) At Lessor's option, the occurrence of any of the following:
  - (i) the appointment of a receiver to take possession of all or substantially all the assets of Lessee or the Premises;
  - (ii) the filing of any voluntary petition in bankruptcy by Lessee, or the filing of any involuntary petition by Lessee's creditors, which involuntary petition remains undischarged for a period of thirty (30) days;
  - (iii) the attachment, execution, or other judicial seizure of all or substantially all of Lessee's assets or the Premises, if such attachment or other

seizure remains undismissed or undischarged for a period of thirty (30) days after the levy thereof;

(iv) the admission of Lessee in writing of its inability to pay its debts as they become due;

**17. Lessor's Remedies**

(a) If the City Treasurer determines that there has been an Event of Default, Lessor will serve Lessee with notice of such default.

(b) If Lessee defaults for failure to pay rent, Lessor may serve Lessee with a demand to pay any outstanding rent within five (5) days. If Lessee defaults for any other term of the lease, Lessor may serve Lessee with a demand to cure the breach within ten (10) days. Failure to pay all outstanding rent or remedy the breach within the timeframe of the demand may result in Lessor filing a Complaint for Forcible Entry and Detainer.

(c) If Lessee is found to have breached the terms of this Lease, Lessor may hold Lessee liable for:

(i) Rent and other indebtedness that otherwise would have been payable by Lessee to Lessor prior to the expiration of the Term, less any amount that Lessor receives from re-letting the Premises after all of Lessor's costs and expenses actually and reasonably incurred in such re-letting have been subtracted;

(ii) Any amounts Lessor actually and reasonably incurs in re-letting the Premises during the remainder of the Term; and

(iii) Other necessary and reasonable expenses (including without limitation reasonable attorneys' fees) incurred by Lessor in enforcing its remedies.

(d) Lessor shall use reasonable efforts to relet the Premises or any part thereof, alone or together with other premises, for such term(s) as Lessor, in its sole discretion, may determine, but Lessor shall not be liable for, nor shall Lessee's obligations be diminished by reason of, Lessor's failure to re-let the Premises or collect any rent due upon such reletting. If Lessor relets the Premises and collects rent in excess of the rent, additional rent, and other rent items owed by Lessee hereunder, Lessor shall be entitled to retain any such excess and Lessee shall not be entitled to a credit therefor.

(e) Lessor's rights and remedies set forth in this Lease are cumulative and in addition to Lessor's other rights and remedies at law or in equity, including those available as a result of any anticipatory breach of this Lease. Lessor's exercise of any such right or remedy shall not prevent the concurrent or subsequent exercise of any other right or remedy. Lessor's delay or failure to exercise or enforce any of Lessor's rights or remedies or Lessee's obligations shall not constitute a waiver of any such rights, remedies, or obligations. Lessor shall not be deemed to have waived any default unless such waiver expressly is set forth in an instrument signed by Lessor. Any such waiver shall not be construed as a waiver of any covenant or condition except as to the specific circumstances



described in such waiver. Neither Lessee's payment of an amount less than a sum due nor Lessee's endorsement or statement on any check or letter accompanying such payment shall be deemed an accord and satisfaction. Notwithstanding any request or designation by Lessee, Lessor may apply any payment received from Lessee to any payment then due. Lessor may accept the same without prejudice to Lessor's right to recover the balance of such sum or to pursue other remedies. Re-entry and acceptance of keys shall not be considered an acceptance of a surrender of this Lease.

**18. End of Term; Holding Over**

(a) No later than the expiration of the Lease date, Lessee shall remove its Lessee owned property (except as otherwise provided herein) and will peaceably yield up the Premises in broom clean condition. Notwithstanding the foregoing, Lessee shall not be responsible to repair the effects of normal wear and tear or for damage which is Lessor's responsibility to repair as listed herein this Lease.

(b) If Lessee shall hold over after the Lease expiration, Lessee shall pay one hundred and thirty percent (130%) of the Rent (including payments of Operating Expenses, Taxes, and all items of Additional Rent) payable during the final full month of the Term (exclusive of abatements, if any) and Lessee's occupancy shall otherwise be on the terms and conditions herein specified so far as applicable (but expressly excluding all renewal or extension rights). No holding over by Lessee after the Term shall operate to extend the Term. Any holding over with Lessor's written consent shall be construed as a tenancy at sufferance or from month to month, at Lessor's option. Any holding over without Lessor's written consent shall entitle Lessor to reenter the Premises as provided in Section 15, and to enforce all other rights and remedies provided by law or this Lease.

**19. Security Deposit**

(a) Lessee's has already provided Lessor with a Security Deposit in the amount of three hundred and thirty dollars (\$330.00) as security for the performance by Lessee of all of Lessee's obligations, covenants, conditions, and agreements under this Lease. If an Event of Default occurs under this Lease by Lessee, Lessor shall have the right, but not the obligation, to use, apply, or retain all or any portion of the Security Deposit for the payment of: (i) Fixed Rent, Additional Rent, or any other sum as to which Lessee is in default; or (ii) the amount Lessor spends or may become obligated to spend, or to compensate Lessor for any losses incurred by reason of Lessee's default. If any portion of the Security Deposit is so used or applied, then within thirty (30) days after Lessor gives Lessee written notice, Lessee shall deposit with Lessor cash in an amount sufficient to restore the Security Deposit to the original amount. Lessee's failure to do so shall constitute an Event of Default under this Lease.

(b) If Lessor transfers the Security Deposit to any purchaser or other transferee of Lessor's interest in the Property, then Lessee shall look only to such purchaser or transferee for the return of the Security Deposit and Lessor shall be released from all liability to Lessee for the return of the Security Deposit.

**20. Notices**

Notices or other writings which either party is required to, or may wish to send to the other in connection with this Lease, shall be in writing and shall be delivered personally or sent by U.S. registered or certified mail, return receipt required addressed as follows:

If to Lessor:

Mayor  
City of Aurora  
An Illinois Municipal Corporation  
44 East Downer Place  
Aurora, Illinois 60507

With a Copy to:

City of Aurora  
Corporation Counsel  
44 E. Downer Place  
Aurora, Illinois 60507

If to Lessee:

Jumpin Java Co  
c/o Jolene Ryan  
16727 Grace Street  
Lockport, Illinois 60441

**21. Severability**

It is the intention of both of the parties hereto that the provisions of this Lease shall be severable in respect to a declaration of invalidity of any provision hereof.

If any provision of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each provision of this Lease shall remain in effect and shall be enforceable to the full extent permitted by law.

**22. Modification of Lease Agreement Terms**

This Lease may only be amended, modified, or supplemented by an agreement in writing duly executed by both Lessor and Lessee.

**23. Survival**

Lessee's obligations and Lessor's right to recover under the following sections will survive the termination of this Lease Agreement:

Section 4. Rent  
Section 5. Utilities  
Section 7(d). Hazardous Materials  
Section 8. Alterations  
Section 12. Indemnification  
Section 17. Lessor's Remedies  
Section 24. Governing Law and Jurisdiction  
Section 25. Attorneys' Fees

**24. Governing Law and Jurisdiction**

The Laws of the State of Illinois shall govern the validity, performance and enforcement of this Lease. Any legal action or proceeding relating this Agreement shall be brought exclusively in the 16<sup>th</sup> Judicial Circuit Court in Kane County, Illinois. Lessee consents to such exclusive jurisdiction and agrees that venue is proper.

**25. Attorney's Fees**

Should there be any legal disputes regarding this Lease, the prevailing party shall have the right to collect from the other party its reasonable costs and necessary disbursements and attorneys' fees incurred in enforcing this Lease agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Lease as of the date first above written.

LESSEE:

Jumpin Java Co.,  
An Illinois Corporation

BY:   
Jolene Ryan, Owner

LESSOR:

CITY OF AURORA,  
an Illinois Municipal Corporation

BY:   
Richard C. Irvin, Mayor

ATTEST:   
Jennifer Stallings, City Clerk



## LEASE AGREEMENT

This LEASE AGREEMENT ("Lease"), dated as of the 25<sup>th</sup> of October, 2022, by and between **The City of Aurora**, a municipal corporation and home rule government, (herein after "Lessor") and **Jolene Ryan** owner of **Jumpin Java Co.**, an Illinois corporation, (hereinafter "Lessee") and, together with Lessor, collectively referred to herein as the "Parties".

In consideration of the rents, covenants, and agreements hereinafter set forth, the sufficiency of which is hereby acknowledged and agreed, Lessor and Lessee covenant, warrant, and agree as follows:

### 1. Premises

(a) Lessor hereby leases to Lessee, and Lessee hereby rents from Lessor, Suite 1, and space for five (5) vending machines at the Aurora Transportation Center, located at 233 N. Broadway, Aurora, Illinois for the Term of this Agreement.

(b) Lessee shall have access to Suite 1 as well the area immediately outside the entrance of Suite 1 for up to two small dining tables. Dining tables must not obstruct walkway flow.

(c) Lessee shall have access to all other public areas, but is not entitled to utilize the public areas for Lessee's private business

(d) Lessee agrees to accept possession of the Premises in its existing AS-IS condition on the date of this Lease, without representation or warranty by Lessor, express or implied, and with no obligation of Lessor to repaint, remodel, repair, improve, or alter the Premises, or to perform any construction, remodeling, or other work of improvement upon the Premises. Without limiting the generality of the foregoing, Lessee acknowledges that neither Lessor nor any agent of Lessor has made any representation or warranty regarding the condition of the Premises, the Building, or the Property, the suitability of the Premises for Lessee's use, or the condition, capacity, or performance of the Building Systems.

### 2. Purpose

The purpose of this lease is to allow Lessee to access and use of the premise for operating their coffee and snack shop and operate and service vending machines which primarily serve commuters using the Route 59 train station.

### 3. Term

(a) This Lease shall commence on November 1, 2022, or the date approved by the Aurora City Council; whichever date is later.

(b) The initial term of this lease will expire on April 30, 2025.

**4. Fixed Rent**

(a) Lessee covenants and agrees to pay fixed rent in advance on the first (1<sup>st</sup>) day of each calendar month during the term of the lease and without notice, a sum of four hundred and twenty-five dollars (\$425.00) a month.

(b) This is a net lease. Rent shall be paid to Lessor absolutely net of all costs and expenses incurred by Lessee in connection with its occupancy of the Premises.

(c) Any Rent payable by Lessee to Lessor under this Lease that is not paid within ten (10) Business Days after the same is due, will be automatically subject to a late payment charge of eight dollars and fifty cents, (\$8.50) which is 2% of the monthly rent to cover Lessor's additional administrative costs. Late charges will be due and payable as set forth herein and will accrue from the date that such Rent (including late charges) are payable under the provisions of this Lease until actually paid by Lessee. Lessee acknowledges that late payment by Lessee to Lessor of Rent will cause Lessor to incur costs not contemplated by this Lease, the exact amount of such costs being extremely difficult to fix. The Parties agree that the late charge represent a fair and reasonable estimate of the costs that Lessor will incur by reason of late payment of Rent by Lessee. Acceptance of any late charge or default interest shall not constitute a waiver of Lessee's default with respect to the overdue amount or prevent Lessor from exercising any of the other rights and remedies available to Lessor.

**5. Utilities**

Lessor shall pay utilities including water, natural gas and electricity. Lessee shall notify Lessor as soon as possible if there are any issues with utility services.

**6.** The Parties agree that maintenance shall be divided as follows:

(a) Lessor shall be responsible for: any exterior maintenance and repair; including structural and roof repairs. As soon as possible, once Lessee becomes aware of any maintenance needed that is Lessor's responsibility, Lessee will inform Lessor in writing.

(b) Lessee shall be responsible for: any interior maintenance and repair within the leased premises. This shall include making sure the interior property and HVAC system is maintained in a good, safe and clean condition. Lessee is responsible for day to day maintenance and replacement of all interior equipment including filters, light fixtures, security systems, appliances, plumbing, smoke detectors, carbon monoxide detectors. Lessee shall be responsible for compliance with fire and building code inspections.



**7. Permitted Use of Premises; Compliance with Laws; Hazardous Materials**

(a) The Premises shall be used as a coffee shop, for the day to day operations of Jumpin Java and for vending machine operations only.

(b) Premises shall be used only for the permitted use, and for no other unauthorized purposes.

(c) Lessee, at Lessee's sole cost and expense, shall comply with all applicable laws, ordinances, rules, and regulations of governmental and quasi-governmental authorities, including, without limitation, the Americans with Disabilities Act of 1990, (and as amended by any Americans with Disabilities Act Amendments adopted thereafter) that are applicable to the Premises and the use or occupancy of the Premises.

(d) Lessee shall not cause or permit any Hazardous Materials to be generated, used, released, stored, or disposed of in or about the Premises, the Building, or the Property; provided, however, Lessee may use and store reasonable quantities of cleaning and office supplies and other similar materials as may be reasonably necessary for Lessee to conduct normal business operations and maintain the Premises. Lessee shall indemnify and hold Lessor, its employees, and agents, harmless from and against any damage, injury, loss, liability, charge, demand, claim, cost, or expense (including attorneys' fees and disbursements) based on or arising out of the presence or removal of, or failure to remove, Hazardous Materials generated, used, released, stored, or disposed of by Lessee or any Lessee Party in or about the Premises, the Building, or the Property, whether before or after the lease commencement date.

**8. Alterations**

(a) Lessee shall be permitted to make reasonable improvements to the premises upon obtaining Lessor's written consent. Lessor's written consent shall not be unreasonably withheld. Notwithstanding the foregoing, Lessee shall be required to provide Lessor with prior written notice at least thirty (30) days before commencing construction of any alteration.

(b) All improvements or alterations related to health and safety should be completed in advance of Lessee occupying the property.

(c) Lessee agrees that all such work shall be done at Lessee's sole cost and expense and in a good and workmanlike manner, that the structural integrity of the Building shall not be impaired, and that no liens shall attach to all or any part of the Premises, the building, or the property by reason thereof. Lessee shall obtain, at its sole expense, all permits required for such work.

(d) All permitted alterations and additions to the Premises shall remain for the benefit of the Lessor unless otherwise agreed to in writing by Lessor. All alterations and additions shall be surrendered to Lessor on or before the lease expiration date. Notwithstanding the foregoing, movable equipment, trade fixtures, personal property, furniture, or any other items that can be removed without material harm to the Premises

will remain Lessee's property, and shall not become the property of Lessor but shall be removed by Lessee, at its sole cost and expense, not later than the lease expiration date.

(c) Any alterations approved by Lessor must be fully completed prior to the termination of the Lease. Any alterations or improvements left incomplete may be completed by Lessor, the cost of which Lessee will be responsible.

**9. Lessee Not to Misuse or Sublet/Assign Premises**

(a) Lessee will not allow the Premises to be used for any purpose that will increase the rate of insurance thereon, nor for any purpose other than as a coffee shop.

(b) Lessee will not permit the Premises to be used for any unlawful purpose, or for any purposes that will injure the reputation of the Lessor.

(c) Lessee will not make or allow anyone using the Premises to make any permanent surface improvements without prior written authorization by the Lessor.

(d) Lessee shall not have the right to assign this Lease or to sublet the Premises or any part thereof.

**10. Concealed Firearms Prohibited**

Pursuant to Illinois Statute, concealed firearms are prohibited from being carried on or into a building controlled by a local unit of government. 430 ILCS 66/65(a)(5). Lessee agrees to display Illinois State Police Concealed Carry Prohibited Area signs on the premises. 430 ILCS 66/65(d). These signs can be found on the Illinois State Police Firearms Services Bureau website. Signs shall be clearly and conspicuously posted at the entrance of a building, premises, or real property. 430 ILCS 66/65(d).

**11. Insurance**

(a) Lessee shall procure and maintain policies of insurance, at its own cost and expense, providing for public liability insurance during the entire term hereof covering both Lessee and Lessor as named co-insureds with terms and in companies satisfactory to Lessor with limits of not less than \$1,000,000/2,000,000 for personal injury and \$1,000,000 for property damage for any one occurrence.

(b) The aforesaid insurance shall be issued by a company authorized to do business in Illinois, and shall unconditionally provide that it is not subject to cancellation or non-renewal except after at least thirty (30) days prior written notice to Lessor for the purpose of assuring such notice as to liability insurance, Lessor shall be designated therein as the "Additional Named Insured". The original insurance policies (or certificates thereof satisfactory to Lessor) together with satisfactory evidence of payment of the premiums thereon, shall be deposited with Lessor at the commencement of lease, and renewals thereof not less than thirty (30) days prior to the end of the term of such coverage. Lessee's insurance shall provide primary coverage and any insurance of Lessor shall be considered secondary and non-contributory.

(c) Lessor shall not be liable for any damage or damages of any nature whatsoever to persons or property caused by explosion, fire, theft, breakage, vandalism, falling plaster, sprinkler drainage, plumbing systems, air conditioning equipment, the interruption of any public utility or service, steam, gas, electricity, water, rain, or other substances leaking, issuing, or flowing into any part of the Premises, or by natural occurrence, acts of the public enemy, riot, strike, insurrection, war, court order, requisition, or order of a governmental body or authority, or by anything done or omitted to be done by any Lessee, occupant, or person in the building, it being agreed that Lessee shall be responsible for obtaining appropriate insurance to protect its interests.

**12. Indemnification**

Lessee shall indemnify, defend, and hold Lessor, its employees, agents, elected officials, and agents of Lessor or any such other person harmless from and against any and all claims, losses, costs, liabilities, damages, and expenses, including, without limitation, penalties, fines, and reasonable attorneys' fees, to the extent incurred in connection with or arising from the use or occupancy or manner of use or occupancy of the Premises or any injury or damage caused by Lessee, Lessee Parties, or any person occupying the Premises through Lessee.

**13. Damage and Destruction**

(a) If the Premises is destroyed or damaged by fire or other casualty, by no fault of the Lessee, so that Lessee is unable to occupy the Premises for its Permitted Use and, in Lessor's judgment reasonably exercised within seven (7) days after the destruction or damage, repairs cannot be made within thirty (30) days after the date of the damage or destruction, Lessor may terminate this Lease effective as of the date of the damage or destruction by giving Lessee written notice within ten (10) days of the date of the damage or destruction.

(b) If Lessor does not terminate this Lease as provided in Section 14(a) above, Lessor shall promptly rebuild, repair, and restore the Premises to its former condition; provided, however, that if Lessor has not completed such restoration within thirty (30) days after the date of the damage or destruction, Lessee may, at its option, terminate this Lease upon written notice to Lessor.

(c) If the damage or destruction renders all or part of the Premises unleaseable, Fixed Rent shall proportionately abate commencing on the date of the damage or destruction and ending on the date the Premises are delivered to Lessee with Lessor's restoration obligation substantially complete. The extent of the abatement shall be based upon the portion of the Premises rendered unleaseable, inaccessible, or unfit for the Permitted Use.

**14. Signs**

Lessee may at its own cost and expense install signs on the Premises. All signs must comply with all City of Aurora ordinances and shall not obstruct doors or walkways.

**15. Lessor's Access to Premises**

Lessor, its agents, employees, and independent contractors shall have the right to enter the Premises upon not less than twenty four (24) hours' notice to:

- (a) Inspect the Premises;
- (b) Supply any service or repair to be provided or performed by Lessor to Lessee;
- (c) Show the Premises to prospective purchasers, mortgagees, beneficiaries, or Lessees (but with respect to prospective Lessees, no earlier than three (3) months prior to the Lease Expiration Date);
- (d) Determine whether Lessee is complying with its obligations under this Lease; and
- (e) Alter, improve, or repair the Premises or any other portion of the Building.

Notwithstanding the foregoing, Lessor shall not be required to provide prior notice to Lessee in the event of an emergency. Except to the extent caused by Lessor's gross negligence or willful misconduct, Lessee waives any claim for damages for any injury or inconvenience to or interference with Lessee's business.

**16. Lessee's Default**

Each of the following events shall be an "Event of Default" hereunder:

- (a) Lessee's failure to pay when due any installment of Rent for a period of thirty (30) days after the due date.
- (b) Lessee's failure to perform or observe any other covenant, condition, or other obligation of Lessee and such failure continues for a period of ten (10) days after Lessor gives Lessee written notice thereof.
- (c) The Premises becomes vacant or abandoned (other than in connection with a casualty under Section 14) for greater than thirty (30) days.
- (d) At Lessor's option, the occurrence of any of the following:
  - (i) the appointment of a receiver to take possession of all or substantially all the assets of Lessee or the Premises;
  - (ii) the filing of any voluntary petition in bankruptcy by Lessee, or the filing of any involuntary petition by Lessee's creditors, which involuntary petition remains undischarged for a period of thirty (30) days;
  - (iii) the attachment, execution, or other judicial seizure of all or substantially all of Lessee's assets or the Premises, if such attachment or other

seizure remains undismissed or undischarged for a period of thirty (30) days after the levy thereof;

(iv) the admission of Lessee in writing of its inability to pay its debts as they become due;

**17. Lessor's Remedies**

(a) If the City Treasurer determines that there has been an Event of Default, Lessor will serve Lessee with notice of such default.

(b) If Lessee defaults for failure to pay rent, Lessor may serve Lessee with a demand to pay any outstanding rent within five (5) days. If Lessee defaults for any other term of the lease, Lessor may serve Lessee with a demand to cure the breach within ten (10) days. Failure to pay all outstanding rent or remedy the breach within the timeframe of the demand may result in Lessor filing a Complaint for Forcible Entry and Detainer.

(c) If Lessee is found to have breached the terms of this Lease, Lessor may hold Lessee liable for:

(i) Rent and other indebtedness that otherwise would have been payable by Lessee to Lessor prior to the expiration of the Term, less any amount that Lessor receives from re-letting the Premises after all of Lessor's costs and expenses actually and reasonably incurred in such re-letting have been subtracted;

(ii) Any amounts Lessor actually and reasonably incurs in re-letting the Premises during the remainder of the Term; and

(iii) Other necessary and reasonable expenses (including without limitation reasonable attorneys' fees) incurred by Lessor in enforcing its remedies.

(d) Lessor shall use reasonable efforts to relet the Premises or any part thereof, alone or together with other premises, for such term(s) as Lessor, in its sole discretion, may determine, but Lessor shall not be liable for, nor shall Lessee's obligations be diminished by reason of, Lessor's failure to re-let the Premises or collect any rent due upon such reletting. If Lessor relets the Premises and collects rent in excess of the rent, additional rent, and other rent items owed by Lessee hereunder, Lessor shall be entitled to retain any such excess and Lessee shall not be entitled to a credit therefor.

(e) Lessor's rights and remedies set forth in this Lease are cumulative and in addition to Lessor's other rights and remedies at law or in equity, including those available as a result of any anticipatory breach of this Lease. Lessor's exercise of any such right or remedy shall not prevent the concurrent or subsequent exercise of any other right or remedy. Lessor's delay or failure to exercise or enforce any of Lessor's rights or remedies or Lessee's obligations shall not constitute a waiver of any such rights, remedies, or obligations. Lessor shall not be deemed to have waived any default unless such waiver expressly is set forth in an instrument signed by Lessor. Any such waiver shall not be construed as a waiver of any covenant or condition except as to the specific circumstances



described in such waiver. Neither Lessee's payment of an amount less than a sum due nor Lessee's endorsement or statement on any check or letter accompanying such payment shall be deemed an accord and satisfaction. Notwithstanding any request or designation by Lessee, Lessor may apply any payment received from Lessee to any payment then due. Lessor may accept the same without prejudice to Lessor's right to recover the balance of such sum or to pursue other remedies. Re-entry and acceptance of keys shall not be considered an acceptance of a surrender of this Lease.

**18. End of Term; Holding Over**

(a) No later than the expiration of the Lease date, Lessee shall remove its Lessee owned property (except as otherwise provided herein) and will peaceably yield up the Premises in broom clean condition. Notwithstanding the foregoing, Lessee shall not be responsible to repair the effects of normal wear and tear or for damage which is Lessor's responsibility to repair as listed herein this Lease.

(b) If Lessee shall hold over after the Lease expiration, Lessee shall pay one hundred and thirty percent (130%) of the Rent (including payments of Operating Expenses, Taxes, and all items of Additional Rent) payable during the final full month of the Term (exclusive of abatements, if any) and Lessee's occupancy shall otherwise be on the terms and conditions herein specified so far as applicable (but expressly excluding all renewal or extension rights). No holding over by Lessee after the Term shall operate to extend the Term. Any holding over with Lessor's written consent shall be construed as a tenancy at sufferance or from month to month, at Lessor's option. Any holding over without Lessor's written consent shall entitle Lessor to reenter the Premises as provided in Section 15, and to enforce all other rights and remedies provided by law or this Lease.

**19. Security Deposit**

(a) Lessee's has already provided Lessor with a Security Deposit in the amount of four hundred and twenty-five dollars (\$425.00) as security for the performance by Lessee of all of Lessee's obligations, covenants, conditions, and agreements under this Lease. If an Event of Default occurs under this Lease by Lessee, Lessor shall have the right, but not the obligation, to use, apply, or retain all or any portion of the Security Deposit for the payment of: (i) Fixed Rent, Additional Rent, or any other sum as to which Lessee is in default; or (ii) the amount Lessor spends or may become obligated to spend, or to compensate Lessor for any losses incurred by reason of Lessee's default. If any portion of the Security Deposit is so used or applied, then within thirty (30) days after Lessor gives Lessee written notice, Lessee shall deposit with Lessor cash in an amount sufficient to restore the Security Deposit to the original amount. Lessee's failure to do so shall constitute an Event of Default under this Lease.

(b) If Lessor transfers the Security Deposit to any purchaser or other transferee of Lessor's interest in the Property, then Lessee shall look only to such purchaser or transferee for the return of the Security Deposit and Lessor shall be released from all liability to Lessee for the return of the Security Deposit.

**20. Notices**

Notices or other writings which either party is required to, or may wish to send to the other in connection with this Lease, shall be in writing and shall be delivered personally or sent by U.S. registered or certified mail, return receipt required addressed as follows:

If to Lessor:

Mayor  
City of Aurora  
An Illinois Municipal Corporation  
44 East Downer Place  
Aurora, Illinois 60507

With a Copy to:

City of Aurora  
Corporation Counsel  
44 E. Downer Place  
Aurora, Illinois 60507

If to Lessee:

Jumpin Java Co  
c/o Jolene Ryan  
16727 Grace Street  
Lockport, Illinois 60441

**21. Severability**

It is the intention of both of the parties hereto that the provisions of this Lease shall be severable in respect to a declaration of invalidity of any provision hereof.

If any provision of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each provision of this Lease shall remain in effect and shall be enforceable to the full extent permitted by law.

**22. Modification of Lease Agreement Terms**

This Lease may only be amended, modified, or supplemented by an agreement in writing duly executed by both Lessor and Lessee.

**23. Survival**

Lessee's obligations and Lessor's right to recover under the following sections will survive the termination of this Lease Agreement:

Section 4. Rent  
Section 5. Utilities  
Section 7(d). Hazardous Materials  
Section 8. Alterations  
Section 12. Indemnification  
Section 17. Lessor's Remedies  
Section 24. Governing Law and Jurisdiction  
Section 25. Attorneys' Fees

**24. Governing Law and Jurisdiction**

The Laws of the State of Illinois shall govern the validity, performance and enforcement of this Lease. Any legal action or proceeding relating this Agreement shall be brought exclusively in the 16<sup>th</sup> Judicial Circuit Court in Kane County, Illinois. Lessee consents to such exclusive jurisdiction and agrees that venue is proper.

**25. Attorney's Fees**

Should there be any legal disputes regarding this Lease, the prevailing party shall have the right to collect from the other party its reasonable costs and necessary disbursements and attorneys' fees incurred in enforcing this Lease agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Lease as of the date first above written.

**LESSEE:**

Jumpin Java, Co. Inc.  
a(n) Illinois Corporation

BY: Jolene Ryan  
Jolene Ryan, Owner

**LESSOR:**

CITY OF AURORA,  
an Illinois Municipal Corporation

BY: Richard C. Irvin  
Richard C. Irvin, Mayor

ATTEST: Jennifer Stallings  
Jennifer Stallings, City Clerk