

VILLA PARK METRA COFFEE SHOP LEASE

DATE: February 1, 2017

LESSEE: Dawn Larson
5710 Fox Lake Road
McHenry, IL 60051 (hereinafter called "Lessee" dba The Crack of Dawn) hereby agrees to lease from the

LESSOR: VILLAGE OF VILLA PARK, 20 South Ardmore Avenue, Villa Park, Illinois 60181, Attn: Village Manager (hereinafter called "Lessor")

LOCATION: The real estate (hereinafter called the "Premises") of Lessor situated in the Villa Park METRA Station, County of DuPage, State of Illinois. The Premises are visually depicted on Exhibit 1 attached hereto and made a part hereof.

TERM: For and during the term of five (5) years, beginning on the day this lease is approved by the Village Board and terminating on March 31, 2022, unless terminated sooner or extended as provided herein.

1. **SECURITY DEPOSIT AND RENT:** Lessee covenants and agrees to pay Lessor a security deposit equal to one month's rent of One Hundred Thirty Dollars (\$130.00) and rent for the Premises, the sum of One Hundred Thirty Dollars (\$130.00) per month for years one (1) through five (5). Rental payments shall be due and payable on or before the first day of each month. Failure to pay the rent before the first of any month shall result in a penalty of Thirty Dollars (\$30.00).
2. **PURPOSE:** The Premises shall be used exclusively for the following purpose(s): retail coffee/pastry/breakfast and snack items and other items approved by the Lessor. Lessee will not do or permit anything to be done on or about the Premises that will in any way obstruct or interfere with the rights of occupants or invitees of the premises. Lessee will not permit the Premises to be used for any improper or objectionable purpose.
3. **ADVERTISING SIGN RESTRICTION:** Lessee shall not post, paint or place or permit others to post, paint or place on the Premises any advertisement or sign without the written approval of Lessor.
4. **HOURS OF OPERATION:** Lessee shall operate said between the hours of 5:00a.m. and 10:30a.m, Monday through Friday, excluding State, federal or Village holidays.
5. **ORDINANCES AND LAWS:** Lessee shall maintain and use the premises and buildings and structures thereon in accordance with the requirements of all ordinances of the Lessor and applicable State and federal laws and regulations.
6. **INDEMNIFICATION:** Lessee accepts this Lease of the Premises with knowledge of the existence of railroad tracks in the vicinity of the Premises and of all the risk of damage or injury which might or could occur to properties or persons upon or in the vicinity of the Premises from or in connection with the operation of railway equipment, or from or in connection with the operation, use, maintenance or improvement of said tracks. It is therefore agreed, as one of

the material consideration of this Lease and without which this Lease would not be granted, that Lessee assumes such risks with respect to any injury to Lessee, its agents, servants or employees, or damage to or loss of property of any of the foregoing. In addition, Lessee agrees to indemnify and hold the Lessor harmless from and against any and all liabilities and expenses whatsoever (to the extent permitted by law) for bodily injury or death, including, without limitation, injury or death to agents, employees, servants, invitees of the Lessor or Lessee, or loss or damage to the property of the Lessor, or Lessee, their agents, employees, servants or invitees, and to the person or property of any other person or corporation to the extent arising out of the acts or omissions of Lessee, its agents, servants or employees, except in the case of willful or wanton conduct by Lessor.

The Lessee shall indemnify and save the Village harmless from and against any loss, damage, or liability occasioned by, growing out of, or arising or resulting from any default hereunder, or any tortious or negligent act on the part of the Lessee or its agents or employees.

Notice to or knowledge by the Lessor of any act or omission by the Lessee which is or might be a breach by the Lessee of any of the terms or conditions of this Lease to be performed by the Lessee, and the acquiescence by the Lessor in or to such act or omission, shall neither be considered to relieve the Lessee of any obligation assumed by it under this paragraph nor be considered to be waiver or release by the Lessor of any rights granted to it under this paragraph.

7. **INSURANCE:** Prior to the execution to the Lease, the Lessee shall provide the Village with evidence of insurance, in a form and amount acceptable to the Village for liability which may arise from the Lessee's performance. The Lessee shall also name the Village, its officers, officials and employees as an additional non-contributing insured on its commercial general liability policy. Lessee shall file with the Village the additional insured endorsement form as well as the appropriate certificate of insurance.

During the term of the Lease, the Lessee shall purchase the following insurance, having the minimum amount of coverage shown:

- a) General liability insurance in an amount not less than \$1,000,000 per injury and \$1,000,000 per occurrence;
- b) property damage insurance in an amount not less than \$1,000,000; and
- c) Fire insurance in an amount equal to the replacement value of the Premises and the improvements thereon, as approved in writing by the Village.

Each certificate of insurance, additional insured endorsement, and other documentation required under this Lease shall be deposited with the Lessor's Village Manager prior to the Lease Commencement Date; and on renewal of the policy, not less than thirty (30) days before expiration of the term of the policy. All insurance under this Lease shall contain an endorsement requiring thirty (30) days written notice from the insurance company to both parties before cancellation or change in the coverage, scope, or amount of any policy. Should coverage be cancelled, the Lessee shall be responsible for obtaining new insurance coverage. All insurance under this Lease shall be issued as the primary policy and non-contributory.

8. **NO SUBROGATION:** Lessee agrees to have all insurance policies issued to it, or for or upon Lessee's account, covering any injuries to persons or any loss or damage to property so written

that the insurer shall have no claim or recourse of any kind whatsoever against Lessor or the Premises.

9. **CAUSES FOR BREACH TERMINATION:** It is agreed that if Lessee defaults in any Lessee's undertakings in this Lease, then such event or action shall be deemed to constitute a breach of this Lease, and this Lease shall cease and terminate; provided, however, that in cases of breaches that do not constitute a threat to health or safety, Lessor shall give Lessee written notice and a reasonable period (of not less than seven days) to cure such breach, and that if cured, such breach shall not cause a termination of this Lease.

In addition, if the Lessee's rental payment is delinquent, Lessor may immediately terminate this Lease.

a) Upon the termination of this Lease by any manner, means or contingency whatsoever, Lessee shall, without further notice or demand, pay any rent in arrearage and deliver possession of the Premises to Lessor in as good condition as when entered upon. Lessee hereby agrees to remove all equipment, structures, materials, signs, debris or any other articles owned by Lessee or permitted to be placed on the Premises by Lessee before the termination of this Lease. Upon any such termination, if rent shall have been paid in advance, Lessor shall refund to Lessee the unearned portion thereof for the period extending beyond such date of termination, provided the premises have been cleared by Lessee in a manner reasonably satisfactory to Lessor, normal wear and tear expected.

b) If Lessee shall fail to so remove such property, such failure shall constitute an abandonment of such property and title thereto shall pass to Lessor immediately, if Lessor so elects without any cost either by set-off credit allowance, or otherwise. Lessor may retain, tear down, remove or sell such property or any part thereof, without any liability for damage therefore in any respect whatsoever and Lessee shall promptly pay Lessor for any and all expenses incurred by Lessor in tearing down, removing or selling such property.

c) The security deposit shall be used by the Lessor to reimburse Lessor for any damage or costs caused by the Lessee in violation of this lease but if none the security deposit shall be returned within 30 days of the termination of this lease.

10. **REENTRY:** If Lessee shall breach or default in any of the terms of this Lease or this Lease shall expire or terminate in any manner, it shall be lawful for Lessor then or at any time thereafter to reenter the Premises and take possession thereof, with process of law. However, Lessee shall have the right to remove Lessee's properties as herein provided.

11. **NO WAIVER OF REMEDIES:**

a) No waiver of any default of Lessee shall be implied from omission by Lessor to take any action on account of such default. No express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated. No receipt of money by Lessor from Lessee (1) after any default by Lessee, (2) after the termination of this Lease, (3) after the service of any notice or demand or after the commencement of any suit, or (4) after final judgment for possession of the Premises, shall waive such default or reinstate, continue, or extend the term of this Lease or affect in any way such notice or suit, as the case may be.

b) Installation of improvements on the Premises shall not constitute a waiver or affect in any way the right of either party to terminate this Lease.

12. **ASSIGNMENT:** Any sale, assignment, transfers or under letting of this Lease by Lessee without the previous written consent of Lessor shall be void. No act of Lessor, including acceptance of money by Lessor from any other party, shall constitute a waiver of this provision.
13. **RIGHTS ARE CUMULATIVE:** All rights and remedies of Lessor shall be cumulative, and none shall exclude any other rights and remedies allowed by law.
14. **NOTICES:** All notices, demands, elections and other instruments required of permitted to be given or made by either party upon the other by the terms of this Lease or any statute shall be in writing. They shall be deemed to have been sufficiently served if sent by certified or registered mail, with proper postage prepaid, to Lessor or Lessee at the respective address first above show. Such notices, demands, elections and other instruments shall be considered as delivered to recipient on the first business day after deposit in the U.S. mail.
15. **ENTIRE AGREEMENT:** All of the representations and obligations of Lessor are contained in this Lease, including the Addendum hereto. No modification, waiver or amendment of this Lease, or any of its terms, shall be binding upon Lessor unless it is in writing and signed by duly authorized officer of the Lessor.
16. **RENT/LEASE EXTENTION REVIEW:** Lessor reserves the right to review and revise the rent applicable to this Lease upon (1) any changes in usage of the Premises, (2) any extension of the lease term, (3) any assignment of the Lease, (4) any subletting of the whole or any part of the Premises.

Lessor and Lessee agree to meet and confer with respect to an extension of the Lease no later than ninety (90) days prior to the Lease expiration date. If, forty-five (45) days prior to the Lease expiration of the Lease, the Lessor and Lessee has not agreed to an extension, then the Lease shall terminate on May 31, 2022, as hereinabove provided.

17. **RAIL SERVICE:** Lessor makes no warranties or representations, expressed or implied, as to continued rail service to the Premises. In the event that (a) rail service to the Premises is terminated for a period in excess of thirty (30) consecutive days, or (b) the Premises is rendered untenable due to fire, flood or other casualty for a period in excess of thirty (30) consecutive days, Lessee shall have the right, but not the obligation to terminate this Lease without penalty upon seven (7) days written notice to Lessor.
18. **JOINT OBLIGATION:** In the event that the ownership of Lessee's business comprises two or more individuals or corporations, the covenants and agreements herein contained shall be the joint and several obligations of each of such persons or corporations.
19. **MAINTENANCE AND UTILITIES:** Lessee has examined and knows the conditions of the Premises and shall enter upon and take the same in their condition at the commencement of the term of this Lease. Lessee will, as its own cost and expense, make any necessary alterations required; however, no alterations shall be made without the consent of Lessor. Lessor will not install, supply or maintain utilities to the said Premises. Lessor is responsible for payment of

water/sewer, electric and gas utility fees. Lessee will obtain all necessary licenses and permits needed to conduct business under the terms of this Lease.

Lessee shall perform routine daily maintenance to the coffee shop only, including debris removal and other general maintenance items. Other maintenance items, such as window cleaning and floor maintenance will be done by Lessor.


- 20. **SNOW DRAINAGE:** Lessee agrees not to dump any snow on Lessor's adjoining Land nor adversely alter in any way the drainage of either the Premises or Lessor's adjoining land. Lessor shall provide snow removal from parking areas, walkways and entrance ways, and Lessee shall have no responsibility for such snow removal.
- 21. **VENDING MACHINE:** Lessee shall be permitted to place two (2) vending machines, subject to the written approval of the Lessor, provided said vending machine(s) do not interfere with the operation of the Metra Station.
- 22. **SURRENDER OF PREMISES:** On the expiration of this Lease, the Lessee will return all keys and surrender the Premises to the Lessor in a broom clean condition and in as good condition as when Lessee took possession except for normal wear and tear. The Lessee will, upon Lessor's request remove Lessee's property on or before the expiration date and be responsible for any damage to the Premises caused by such removal. If the Lessee fails to remove the property upon the Lessor's request then the Lessor may remove the property. The property will be deemed abandoned and will be disposed of in accordance with State Law. All permanent fixtures including sinks, etc., shall remain the property of the Lessor, upon any termination.
- 23. **STATION OPERATION AGREEMENT:** Lessee acknowledges Lessor's current Agreement with the Regional Transportation Authority (RTA) and the terms of this Lease Agreement will be subject to the terms and conditions contained in any agreement with the RTA, with regard to subleases.
- 24. Lessee shall pay all sales, use, property, income and other taxes that are lawfully assessed against the Lessor or the Lessee in connection with the Lessee's use of the premises or operation of the coffee shop.

LESSEE:

LESSOR:

VILLAGE OF VILLA PARK


Dawn Larson


Village President

ATTEST:

ATTEST:





Date: Feb 16th 2017

Date: Feb. 13, 2017

