

**CITY OF COTTONWOOD OLD TOWN JAIL
LEASE AGREEMENT**

THIS LEASE is entered into and effective as of, by and between the City of Cottonwood, an Arizona municipal corporation (hereinafter "Lessor") and Christina Williams (hereinafter "Lessees").

RECITALS

As an integral part of this Lease, the parties do agree and acknowledge as follows:

- I. Lessor is the owner of certain real property located in Yavapai County, Arizona, which is more particularly described as the property located at 1101 North Main Street, Cottonwood, Arizona (hereinafter "Leased Premises").
- II. The Leased Premises is the real property known as the Historic Old Town Jail and includes a restroom and jail cell space.
- III. The Leased Premises are intended for the operation of a retail operation to enhance Old Town Cottonwood.
- IV. Lessees desire to utilize the Leased Premises in relation to their business operations and have determined that the Leased Premises are suitable for such purposes.

LEASE

NOW THEREFORE, for valuable consideration, the parties do agree as follows:

1. Grant of Lease. Lessor hereby leases to Lessees, and Lessees hereby lease from Lessor, the Leased Premises for the period and on the terms and conditions set forth below.

2. Term. This Lease shall commence on October 1, 2016 and continue for a period of 6 months. The Lease may be extended for one or more additional six-month periods subject to mutual agreement by both parties.

3. Rent

- A. Basic Monthly Rent.** Lessees agree to pay, at such place as may be designated from time to time by Lessor, a Basic Monthly Rent of \$575 per month. Said rent obligation shall commence on October 1, 2016, and shall be due and payable on the first day of each month thereafter, without invoice or other notice. Rental payments shall be payable to the City of Cottonwood and shall be mailed to the following:

City of Cottonwood
Administrative Services Department
816 N. Main Street
Cottonwood, AZ 86326

Lessor Init.  Lessee Init. 

B. Unconditional Promise to Pay. The above described monthly installments shall be payable in advance in lawful money of the United States without any deductions or offsets whatever on the first day of each and every calendar month during the term of this Lease and any renewals hereof.

4. Security Deposit. At the same time as Lessees pay the first rental installment, Lessees shall deposit with Lessor a Security Deposit in the amount of \$500. Lessor shall hold such funds, in compliance with the laws of the State of Arizona, as security for the full faith and performance by Lessees of all terms, covenants, and conditions of this lease. Lessor shall apply such funds to all damages and expenses allowed by the laws of the State of Arizona, and shall return such funds, or such portion of said funds as are not applied to damages and expenses, to Lessees at the end of this lease, all in accordance with the laws of the State of Arizona.

5. Late Penalties. If rent is not received by the fifth day of the month, a penalty of \$100 shall be paid in addition to all payments then due under paragraph 3, *supra*. Lessees shall pay to Lessor a charge of \$35.00 for any check returned unpaid by Lessees' bank as well as a late month penalty for a payment received after the fifth.

6. Use of Premises

A. At such time as Lessees occupy the leased premises, Lessees shall be deemed to have accepted the leased premises and to acknowledge that the leased premises are in the condition required by this lease.

B. Lessees acknowledge that they have examined and know the condition of the leased premises, and have received the same in good order and repair.

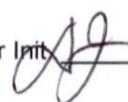
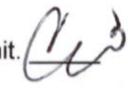
C. Lessees agree:

1. The Leased Premises are to be used by the Lessees for the purpose of operating a tea room, and such reasonably related operations as approved by Lessor. Lessees shall restrict their use of the Leased Premises to such purposes and shall not use or permit the use of the Leased Premises for any other purpose without the written consent of Lessor, which shall not be unreasonably withheld.

2. Lessees will obtain a City of Cottonwood Business Registration for the year within 10 days of the signing of this lease.

3. To surrender the Leased Premises to Lessor at the end of the term without the necessity of any notice from either Lessor or Lessees to terminate the same, and Lessees hereby expressly waive all right to any notice which may be required under any laws now in force or hereafter enacted.

4. To keep the leased premises in good condition, repair and cleanness, at Lessees' own expense, except repairs which are the duty of the Lessor.

Lessor Init.  Lessee Init. 

5. To not make any occupancy of the Leased Premises that is
 - a. contrary to law; or
 - b. injurious to any person or property
6. To not permit any waste or nuisance.
7. To not use the Leased Premises for living quarters or residence.
8. To not use the Leased Premises for excessive storage.
9. Report any and all damage found in common areas.

10. Notwithstanding the forgoing, Lessees shall not use the Leased Premises for the purposes of storing, manufacturing or selling any explosives, flammables or other inherently dangerous substance, chemical, thing or device.

7. Abandonment

A. Lessees shall not vacate or abandon, either voluntarily or involuntarily, the Leased Premises at any time during the term hereof.

B. Notwithstanding the foregoing, the Lessees may, upon written notice to Lessor, temporarily close their business for a period not to exceed thirty days, provided, however, that Lessees shall continue to timely pay all required rents.

8. Maintenance

A. Lessees shall keep and maintain the property herein leased in good repair and condition, including, without limitation, flooring, ceiling, paint, windows, electrical and plumbing fixtures, the exterior walls, and the plumbing and electrical systems within the wall or floors, and any units for cooling (A/C) and heating the property. Lessees shall return the property herein leased to Lessor at the end of the term hereof, in as good condition and repair, reasonable wear and usage accepted. Lessees expressly covenant to maintain the Leased Premises in conformity with applicable fire codes and other laws and regulations applicable to buildings of this nature.

B. Lessor, at its own expense, and upon reasonable notice to Lessees, shall have the right to repair, redecorate, paint, upgrade, modify or alter the exterior of the Leased Premises for purposes of maintaining the overall economic and/or aesthetic value of the Leased Premises.

C. Lessees may install, at their expense, all shelving, counters, fixtures and equipment as may be required in connection with the operation of their business. Said fixtures and equipment shall be installed in a workmanlike manner, and Lessees shall reimburse Lessor for any damage sustained by Lessor by reason of said installation. At the termination of this Lease, by expiration or otherwise, and if Lessees are not in default, Lessees shall have the right for an additional ten days to remove from the Leased Premises any personal property, including fixtures and equipment. Any personal property not removed within said ten-day period shall be deemed abandoned by Lessees,

Lessor Init.  Lessee Init. 

and shall become the property of Lessor. Lessees shall repair and replace at their expense, any portion of the property that may be damaged by removal of any property of Lessees, so as to return the Leased Premises in good condition, reasonable wear and usage excepted.

D. All property remaining on the Leased Premises after the last day of the term of this lease shall be conclusively deemed abandoned and may be removed by Lessor. Lessees shall reimburse Lessor for the cost of such removal.

E. Lessees hereby covenant and acknowledge that Lessees have inspected the property, and that the property is in proper condition and that Lessees accept said property in an "as is" condition.

9. Taxes

A. Lessees shall be responsible for, and shall pay all taxes other than Real Property Taxes, including without limitation personal property taxes, sales taxes, Department of Economic Security contribution, municipal taxes and/or any other fees or taxes levied by the City of Cottonwood, County of Yavapai, State of Arizona, or the United States of America, by reason of the operation of Lessees' business.

B. Lessor shall have the right, at its option, at all times during the term hereof to pay all taxes, assessments, or other charges levied or imposed on or against the Leased Premises or its fixtures and any other tax which Lessees are obligated to pay after the same have become due and payable, and to pay, cancel, and clear all taxes, assessments, tax sales, liens, charges, impositions and claims on or against the premises, and the amount paid, including the reasonable expenses of Lessor and Lessor's attorneys' fees, shall be so much additional rent due from Lessees at the next rent due date after any such payment, with interest thereon at the rate of eighteen percent (18%) per annum, from the date of payment thereof by Lessor until the repayment thereof by Lessees. It is agreed that, if Lessor shall exercise the option to advance or pay any such taxes, assessments, imposition, or other charges, it shall not be obligatory on Lessor to inquire into the validity of any such tax assessment, impositions, levy or other charge, unless Lessees shall have previously given notice of their intent to contest said taxes and deposited the amount of said taxes or charges with Lessor, together with all interest and penalties pending such contest.

C. **Government Property Lease Excise Tax (GPLET).** This Lease is subject to the provisions of A.R.S. §42-6201 through §42-6210, regarding the payment of the Government Property Lease Excise Tax (GPLET). Lessees shall submit returns on a form prescribed by the Arizona Department of Revenue (currently DOR 82620) to the Yavapai County Treasurer by or before December 1 of each year the Lease is in effect, together with any taxes due, and to submit a copy of the return to the City of Cottonwood Administrative Services Department.

10. Utilities

Lessor shall pay for any and all utility charges on or attributed to the Leased Premises.

11. Assignment. Lessees shall not assign this Lease or sublet the Leased Premises in whole or in

Lessor Init.  Lessee Init. 

part without the prior written consent of Lessor, and any such assignment or subletting without such consent shall be void and, at the option of Lessor, shall terminate this Lease.

12. Insurance.

12.1 General.

- a. Insurer Qualifications. Without limiting any obligations or liabilities of the Lessees, Lessees shall purchase and maintain, at their own expense, hereinafter stipulated minimum insurance with insurance companies duly licensed by the State of Arizona with an AM Best, Inc. rating of A- or above with policies and forms satisfactory to Lessor. Failure to maintain insurance as specified herein may result in termination of this Lease at Lessor's option.
- b. No Representation of Coverage Adequacy. By requiring insurance herein, Lessor does not represent that coverage and limits will be adequate to protect the Lessees. Lessor reserves the right to review any and all of the insurance policies and/or endorsements cited in this Lease but has no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this Lease or failure to identify any insurance deficiency shall not relieve the Lessees from, nor be construed or deemed a waiver of, their obligation to maintain the required insurance at all times during the performance of this Lease.
- c. Additional Insured. All insurance coverage and self-insured retention or deductible portions, except Workers' Compensation insurance and Professional Liability insurance, if applicable, shall name, to the fullest extent permitted by law for claims arising out of the performance of this Lease, Lessor, its agents, representatives, officers, directors, officials and employees as Additionally Insured as specified under the respective coverage sections of this Lease.
- d. Coverage Term. All insurance required herein shall be maintained in full force and effect until all obligations required to be performed under the terms of this Lease are satisfactorily performed, completed and formally accepted by Lessor, unless specified otherwise in this Lease.
- e. Primary Insurance. The Lessees' insurance shall be primary insurance with respect to performance of this Lease and in the protection of Lessor as an Additional Insured.
- f. Claims Made. In the event any insurance policies required by this Lease are written on a "claims made" basis, coverage shall extend, either by keeping coverage in force or purchasing an extended reporting option, for one year past completion. Such continuing coverage shall be evidenced by submission of annual Certificates of Insurance citing applicable coverage is in force and containing the provisions required herein for the one-year extended reporting period.

Lessor Init.  Lessee Init. 

g. Waiver. All policies, except for Professional Liability, including Workers' Compensation insurance, shall contain a waiver of rights of recovery (subrogation) against Lessor, its agents, representatives, officials, officers and employees for any claims arising out of the Lessees' activities, acts, or omissions. The Lessees shall arrange to have such subrogation waivers incorporated into each policy via formal written endorsement thereto.

h. Policy Deductibles and/or Self-Insured Retentions. The policies set forth in these requirements may provide coverage that contains deductibles or self-insured retention amounts. Such deductibles or self-insured retention shall not be applicable with respect to the policy limits provided to Lessor. The Lessees shall be solely responsible for any such deductible or self-insured retention amount.

i. Evidence of Insurance. Prior to occupying the Leased Premises, the Lessees shall furnish Lessor with certificate(s) of insurance, or formal endorsements as required by this Lease, from Lessees' insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverage, conditions and limits of coverage specified in this Lease and that such coverage and provisions are in full force and effect. If a certificate of insurance is submitted as verification of coverage, Lessor may reasonably rely upon the certificate of insurance as evidence of coverage but such acceptance and reliance shall not waive or alter in any way the insurance requirements or obligations of this Lease. If any of the above-cited policies expire during the life of this Lease, it shall be the Lessees' responsibility to forward renewal certificates within ten days after the renewal date containing all the aforementioned insurance provisions. Certificates of insurance shall specifically include the following provisions:

(1) Lessor, its agents, representatives, officers, directors, officials and employees are Additional Insureds as follows:

(a) Commercial General Liability - Under Insurance Services Office, Inc., ("ISO") Form CG 20 10 03 97 or equivalent.

(b) Auto Liability - [not applicable].

(c) Excess Liability - [not applicable].

(2) The Lessees' insurance shall be primary insurance as respects Lessees' obligations, activities, acts and omissions under the Lease.

(3) All policies, including Workers' Compensation, waive rights of recovery (subrogation) against Lessor, its agents, representatives, officers, officials and employees for any claims arising out of Lessees' activities,

Lessor Init.  Lessee Init. 

acts and omissions during their occupancy of the Leased Premises or otherwise.

(4) A 30-day advance notice cancellation provision. If ACORD certificate of insurance form is used, the phrases in the cancellation provision "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" shall be deleted. Certificate forms other than ACORD form shall have similar restrictive language deleted.

12.2 Required Insurance Coverage.

a. Commercial General Liability. The Lessees shall maintain "occurrence" form Commercial General Liability insurance with an unimpaired limit of not less than one million dollars (\$1,000,000.00) for each occurrence, one million dollars (\$1,000,000.00) Products and Completed Operations Annual Aggregate and a one million dollar (\$1,000,000.00) General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, bodily injury or death, personal injury, advertising injury and property damage. Coverage under the policy will be at least as broad as ISO policy form CG 00 010 93 or equivalent thereof, including but not limited to, separation of insureds clause. To the fullest extent allowed by law, for claims arising out of Lessees' activities, acts and omissions, Lessor, its agents, representatives, officers, officials, volunteers and employees shall be cited as an Additional Insured under ISO, Commercial General Liability Additional Insured Endorsement form CG 20 10 03 97, or equivalent, which shall read "Who is an Insured (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you." If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

b. Vehicle Liability. [not applicable].

c. Professional Liability (Errors and Omissions Liability). [not applicable]

d. Workers' Compensation Insurance. Lessees shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of any employees engaged in the performance of work or services during Lessees' occupancy of the Leased Premises and shall also maintain Employers Liability Insurance of not less than Five Hundred Thousand dollars (\$500,000.00) for each accident, Five Hundred Thousand dollars (\$500,000.00) disease for each employee and One Million dollars (\$1,000,000.00) disease policy limit.

12.3 Cancellation and Expiration Notice. Insurance required herein shall not expire, be

Lessor Init.  Lessee Init. 

canceled, or materially changed without 30 days prior written notice to Lessor.

13. Indemnification. Lessees shall and do hereby indemnify, defend, save and hold harmless the Lessor and its officers, officials, agents, and employees from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to real, tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the Lessees, or either of them, or any of their owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of Lessees to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. Lessees shall be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable, and hereby waive all rights of subrogation against Lessor, its officers, officials, agents and employees.

14. Default.

- A. Each of the following shall be deemed an event of default:
- a. Default in the payment of rent or other payments called for in this Lease.
 - b. Lessees' default in the performance or observance of any covenant or condition of this Lease.
 - c. Abandonment of the Leased Premises by Lessees.
 - d. Filing or execution or occurrence of:
 - i. Filing a Petition in Bankruptcy by or against Lessees.
 - ii. Filing a petition or answer seeking a reorganization, arrangement, composition, readjustment, liquidation, dissolution or other relief of the same or different kind under any provision of the Bankruptcy Act.
 - iii. Adjudication of Lessees, or either of them, as bankrupt or insolvent, or insolvency in the bankruptcy equity sense.
 - iv. Assignment for the benefit of creditors whether by trust, mortgage or otherwise.
 - v. Petition or other proceeding by or against Lessees or either of them for, or the appointment of, a trustee, receiver, guardian, conservator or liquidator of Lessees or either of them with respect to all or substantially all their property.
 - vi. Petition or other proceeding by or against Lessees or either of them for dissolution or liquidation, or the taking of possession of the property of Lessees or either of them by any governmental authority in connection with dissolution or liquidation.
- B. The written notice shall set forth the nature of the alleged default in the performance of the terms of this Lease.
- C. The written notice shall contain a description of the action the Lessees must perform to cure the alleged default and the date by which the default must be cured.

Lessor Init.  Lessee Init. 

15. Termination.

Without waiving any other right or remedy which Lessor may have pursuant to this Lease or Arizona law, when an event of default occurs, and after Lessor shall have given proper notice as described in this lease, Lessor, may at its option, terminate this Lease as follows:

- A. Lessor shall give notice to Lessees that this lease is terminated upon the date specified in the notice, which date shall not be earlier than ten (10) days after delivery of such notice.
- B. The notice of termination shall include the character of the default, the address of the Leased Premises, notification of termination, date on which Lessees must vacate, and Lessor or Lessor's agent's signature.

16. Acceleration.

- A. In the event that Lessor terminates this lease, the entire remaining balance of unpaid rent for the remaining term of the Lease shall accelerate, and the entire sum shall become immediately due and payable, except as provided in Section 19 below.
- B. To the extent allowed by Arizona law, Lessor may apply Lessees' security deposit as a partial offset to satisfaction of the accelerated rent.

17. Repossession.

Upon termination of this Lease as provided therein, or pursuant to statute, or by summary proceedings, or otherwise, Lessor may enter the Leased Premises, without further demand or notice, and resume possession of the Leased Premises. Such re-entry, or resumption of possession, or reletting of the Leased Premises shall not be deemed to be a waiver of any of Lessor's other rights or remedies under this Lease or at law.

18. Reletting.

In the event Lessor terminates this Lease, Lessor shall use reasonable efforts to re-let the premises.

19. Damages.

If Lessor terminates this Lease, in any manner, Lessees shall pay to Lessor, without demand or notice, the following:

- A. All rent and other payments accrued to the date of such termination and a proportionate part of the rent otherwise payable for the month in which such termination occurs.
- B. All future rent and other payments to be due under the terms of this Lease to the extent Lessor has not been able to offset same by re-letting the Leased Premises within 30 days of termination.
- C. Costs relating to the failure of Lessees to maintain the condition of the Leased Premises as well as any damage Lessees, Lessees' agents, and/or their guests may have

Lessor Init.  Lessee Init. 

caused to the Leased Premises and/or common areas.

D. Attorneys' fees and other reasonable costs and expenses.

20. Binding Effect

A. All of the terms, covenants and conditions of this Lease shall be binding upon and inure to the benefit of and shall apply to the respective heirs, executors, administrators, successors, and assigns and legal representatives of Lessor and Lessees.

B. Any rule of law that controls ambiguities against the drafter is expressly waived.

21. Notice. All notices, demands or other writing in this Lease provided to be given, made or sent by either party hereto to the other party shall be deemed to have been fully given, made or sent when made in writing and deposited in the United States Mail, certified and postage prepaid and addressed as follows:

LESSOR: Business Assistance Center
ATTN: Casey Rooney
821 N. Main Street
Cottonwood, AZ 86326

LESSEE: Christina Williams
651 Brindle Drive
Clarkdale, AZ 86324

The address to which any notice, demand or other writing may be given, made, or sent to either party may be changed by written notice given by such party as above provided.

22. Lessor Access. Lessees shall permit Lessor and the agents and employees of Lessor to enter into and upon the Leased Premises at all reasonable times for any lawful purpose, provided Lessor shall not thereby unreasonably interfere with Lessees' business on the Leased Premises.

23. Integration. This Lease contains the entire agreement of the parties, and no other agreement, representation, statement or promise made by or to any party, employee, officer or agent of any party, which is not contained in this Lease shall be binding or valid, such agreement, statement or promise being specifically waived.

24. Cancellation for Conflict of Interest. Lessor may cancel this Lease without penalty or further obligation in accordance with the provisions of Arizona Revised Statutes Section 38-511, which are hereby incorporated into this Lease as if fully set forth herein.

25. Modification. This Lease shall not be altered, modified, changed or amended except by an instrument in writing by the parties hereto.

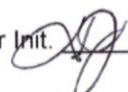
Lessor Init.  Lessee Init. 

26. Venue. Any action at law, suit in equity, or judicial proceeding for the enforcement of this Lease or any provision hereof or for breach hereof shall be instituted and maintained only in the Yavapai County Superior Court, in and for the State of Arizona. It is further agreed that this Lease shall be governed by the laws of the State of Arizona, both as to interpretation and performance.

27. Gender and Form. The words "Lessor" and "Lessees" as herein used shall include the plural as well as the singular. All obligations to be performed by Lessees under this Lease shall be joint and several. The neuter gender includes the masculine and feminine.

28. Interpretation. The language in all parts of this Lease shall in all cases be construed as a whole according to its full meaning and not strictly for nor against either Lessor or Lessees.

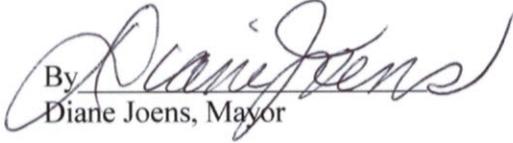
29. Time. Time is of the essence of this Lease.

Lessor Init.  Lessee Init. 

IN WITNESS WHEREOF, the parties execute this instrument and enter this Lease.

LESSOR
CITY OF COTTONWOOD

LESSEE:

By 
Diane Joens, Mayor

By 

Name C. Williams

Title OWNER

Date 9/8/2016

Date 9/5/2016

APPROVED AS TO FORM:

Steven B. Horton
City Attorney

Lessor Init.  Lessee Init. 