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LISA SMITH, COUNTY RECORDER  
MADISON COUNTY IOWA

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**LEASE - BUSINESS PROPERTY**

**THE IOWA STATE BAR ASSOCIATION  
Official Form No. 165  
Recorder's Cover Sheet**

**Preparer Information:** (name, address and phone number)

Jane E. Rosien, 114 E. Jefferson Street, P.O. Box 67, Winterset, IA 50273-0067, Phone:  
(515) 462-4912

**Taxpayer Information:** (name and complete address)

City of Winterset, Iowa  
c/o Winterset City Hall  
124 W. Court Avenue  
Winterset, Iowa 50273

**Return Document To:** (name and complete address)

Jane E. Rosien, 223 E. Court Avenue, P.O. Box 67, Winterset, IA 50273-0067

**Lessors:**

City of Winterset, Iowa

**Leasee:**

The Drift, LLC

**Legal Description:** See Page 2

**Document or instrument number of previously recorded documents:** N/A

## LEASE - BUSINESS PROPERTY

THIS AGREEMENT, made and entered into this 16th day of March, 2021, by and between the City of Winterset, Iowa ("Landlord"), whose address, for the purpose of this lease, is 124 W. Court Avenue, Winterset, Iowa 50273, and The Drift, LLC ("Tenant"), whose address, for the purpose of this lease, is 1582 North River Trail, Winterset, Iowa 50273.

The parties agree as follows:

1. **PREMISES AND TERM.** Landlord leases to Tenant the following real estate, situated in Madison County, Iowa:

The South 12½ feet of the East 80 feet of the public alley lying south of Lot 2 and north of Lot 7, all in Block 18 of the Original Town, City of Winterset, Madison County, Iowa,

together with all improvements thereon, and all rights, easements and appurtenances thereto belonging, for a term beginning on the 1st day of April, 2021, and ending on the 31st day of March, 2022, upon the condition that Tenant performs as provided in this lease.

2. **RENT.** Tenant agrees to pay Landlord as rent One Thousand Two Hundred Dollars (\$1,200.00) per year, in advance, commencing on the 1st day of April, 2021, during the term of this lease or any extensions hereof.

All sums shall be paid at the address of Landlord, or at such other place as Landlord may designate in writing. Delinquent payments shall draw interest at 1% per annum.

3. **POSSESSION.** Tenant shall be entitled to possession on the first day of the lease term, and shall yield possession to Landlord at the termination of this lease.

4. **USE.** Tenant shall use the premises only to operate an extension of their tap room for activities currently allowed which include selling and serving alcohol and musical entertainment, including occasional live music. The Tenant at their cost may make such improvements to the premises as are necessary to serve this purpose. The Tenant agrees that the premises will be constructed and operated in accordance with any applicable federal, state and local laws and regulations.

5. **CARE AND MAINTENANCE.**

(a) Tenant takes the premises "as is", except as herein provided.

- (b) Tenant shall keep in good repair and maintain the premises, including any improvements made to or upon the premises by them, and any ingress and egress access to the premises.
- (c) Tenant shall maintain the premises in a reasonable safe, serviceable, clean and presentable condition.
- (d) Tenant shall provide all reasonably necessary snow removal and weed control.

6. **SURRENDER.** Upon the termination of this lease, Tenant will surrender the premises to Landlord in good and clean condition, except for ordinary wear and tear or damage without fault or liability of Tenant.

7. **ASSIGNMENT AND SUBLETTING.** No assignment or subletting, either voluntary or by operation of law, shall be effective without the prior written consent of Landlord, which consent shall not unreasonably be withheld.

8. **INSURANCE.**

- (a) **PROPERTY INSURANCE.** Landlord and Tenant agree to insure their respective real and personal property for the full insurable value. Such insurance shall cover losses included in the special form causes of loss (formerly all risks coverage). To the extent permitted by their policies the Landlord and Tenant waive all rights of recovery against each other.
- (b) **LIABILITY INSURANCE.** Tenant shall obtain commercial general liability insurance in the amounts of \$1,000,000.00 each occurrence and \$3,000,000.00 annual aggregate per location. This policy shall be endorsed to include the Landlord as an additional insured.

9. **LIABILITY FOR DAMAGE.** Each party shall be liable to the other for all damage to the property of the other negligently, recklessly or intentionally caused by that party (or their agents, employees or invitees), except to the extent the loss is insured and subrogation is waived under the owner's policy and except as provided for in paragraph eight (8) herein.

10. **INDEMNITY** Except for any negligence of Landlord, Tenant will protect, defend, and indemnify Landlord from and against any and all loss, costs, damage and expenses occasioned by, or arising out of, any accident or other occurrence causing or inflicting injury or damage to any person or property, happening or done in, upon or about the premises, or due directly or indirectly to the tenancy, use or occupancy thereof, or any part thereof by Tenant or any person claiming through or under Tenant.

11. **NOTICE.** Neither party shall terminate this Lease within the first one (1) year. Thereafter, this lease may be terminated at the option of either party. Such termination shall be effected by notice of one party to the other within sixty (60) days after such notice; and both parties shall thereafter be released from all future obligations hereunder.

12. **MECHANICS' LIENS.** Neither Tenant, nor anyone claiming by, through, or under Tenant, shall have the right to file any mechanic's lien against the premises. Tenant shall give notice in advance to all contractors and subcontractors who may furnish, or agree to furnish, any material, service or labor for any improvement on the premises.

13. **DEFAULT, NOTICE OF DEFAULT AND REMEDIES.**

EVENTS OF DEFAULT

- (a) Each of the following shall constitute an event of default by Tenant: (1) Failure to pay rent when due; (2) failure to observe or perform any duties, obligations, agreements, or conditions imposed on Tenant pursuant to the terms of the lease; (3) abandonment of the premises. "Abandonment" means the Tenant has failed to engage in its usual and customary business activities on the premises for more than fifteen (15) consecutive business days; (4) institution of voluntary bankruptcy proceedings by Tenant; institution of involuntary bankruptcy proceedings in which the Tenant thereafter is adjudged a bankruptcy; assignment for the benefit of creditors of the interest of Tenant under this lease agreement; appointment of a receiver for the property or affairs of Tenant, where the receivership is not vacated within ten (10) days after the appointment of the receiver.

NOTICE OF DEFAULT

- (b) Landlord shall give Tenant a written notice specifying the default and giving the Tenant ten (10) days in which to correct the default. If there is a default (other than for nonpayment of a monetary obligation of Tenant, including rent) that cannot be remedied in ten (10) days by diligent efforts of the Tenant, Tenant shall propose an additional period of time in which to remedy the default. Consent to additional time shall not be unreasonably withheld by Landlord. Landlord shall not be required to give Tenant any more than three notices for the same default within any 365 day period.

## REMEDIES

- (c) In the event Tenant has not remedied a default in a timely manner following a Notice of Default, Landlord may proceed with all available remedies at law or in equity, including but not limited to the following: (1) Termination. Landlord may declare this lease to be terminated and shall give Tenant a written notice of such termination. In the event of termination of this lease, Landlord shall be entitled to prove claim for and obtain judgment against Tenant for the balance of the rent agreed to be paid for the term herein provided, plus all expenses of Landlord in regaining possession of the premises and the reletting thereof, including attorney's fees and court costs, crediting against such claim, however, any amount obtained by reason of such reletting. (2) Forfeiture. If a default is not remedied in a timely manner, Landlord may then declare this lease to be forfeited and shall give Tenant a written notice of such forfeiture, and may, at the time, give Tenant the notice to quit provided for in Chapter 648 of the Code of Iowa.

14. **NOTICE ADDRESS AND DEMANDS.** All notices shall be given to the parties hereto at the addresses designated unless either party notifies the other, in writing, of a different address. Without prejudice to any other method of notifying a party in writing or making a demand or other communication, such notice shall be considered given under the terms of this lease when it is deposited in the U.S. Mail, registered or certified, properly addressed, return receipt requested, and postage prepaid.

15. **PROVISIONS BINDING.** Each and every covenant and agreement herein contained shall extend to and be binding upon the respective successors, heirs, administrators, executors and assigns of the parties hereto.

16. **CERTIFICATION.** Tenant certifies that it is not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person" or any other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and it is not engaged in this transaction, directly or indirectly on behalf of, or instigating or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity or nation. Tenant hereby agrees to defend, indemnify and hold harmless Landlord from and against any and all claims, damages, losses, risks, liabilities and expenses (including attorney's fees and costs) arising from or related to any breach of the foregoing certification.

17. **LEASE EXTENSIONS.** This terms of this Lease shall automatically renew for incremental terms of one (1) year each unless either party gives Notice of termination pursuant to Paragraph eleven (11) herein.

18. **OTHER TERMS.**

(a) **NEW IMPROVEMENTS.** All improvements of every kind and nature that may be erected or established upon the Real Estate during the term of the Lease by the Tenant shall remain the property of the Tenant and shall be removed by the Tenant at the end of the lease. Upon removal of all such items by the Tenant, the premises shall be restored and/or returned to the condition which existed at time of commencement of the original lease period.

(b) **LANDLORD RESERVATION OF RIGHTS.** Landlord reserves the right to enter upon, across and under the premises for and related to all matters incident to its municipal purposes and activities. Further, Landlord specifically reserves the all rights of ingress and egress to and upon the premises to install, maintain, repair, and replace public utilities along, across, upon and under this real estate. These reserved rights shall extend to the Landlord's agent(s), designee(s) or others acting on its behalf as well as to all public utility companies and their agent(s), designee(s) or others acting on their behalf. Tenant shall bear the cost of any and all repair to improvements made to or upon the premises by them, including repairs necessitated by actions taken by Landlord or others pursuant to this provision. Further, Landlord reserves the right to restrict Tenant's use of the leased premises if necessary for safety purposes.

(c) **BUILDING MAINTENANCE AND REPAIR.** Tenant shall allow access upon, across and through the premises for purposes of building maintenance and repair by the owners of the properties adjacent to the alley, including such owners agent(s), designee(s) or others acting on their behalf. Such access shall occur at such dates and times as mutually agreed upon with Tenant.

(d) **EASEMENT.** During the term of this Lease, Tenant is granted an easement over, across and through the remaining portion (approximately 3½ feet more or less) of the East 80 feet of the public alley lying south of Lot 2 and north of Lot 7, all in Block 18 of the Original Town of the City of Winterset, which is **not** part of the premises leased herein, for purposes of installation, repair, maintenance, inspection, replacement and removal of light posts and other related accessory items necessary for lighting the leased premises. Tenant shall have the right of access to the easement area and have all rights of ingress and egress reasonably necessary for the use and enjoyment of the easement area for the purpose described in this subparagraph. The rights granted to Tenant is this provision shall extend to the Tenant's agent(s), designee(s) or others acting on its behalf. Tenant's exercise of the easement rights granted herein shall not interfere in any way or at any time with access and use of the easement area by pedestrian foot traffic. Tenant shall provide all reasonably necessary snow removal and weed control for the easement area.

(e) **ACCESS THROUGH LEASED PREMISES.** At all times during the term of this Lease, Tenant shall permit and allow full access over, across and through the South 42 inches of the East 30 feet of the leased premises for pedestrian use. Tenant shall not place any object within this designated access area, even temporarily, that would interfere with such pedestrian usage.

(f) **ALLEY CLOSURE.** Landlord shall take any and all action necessary to close the East 80 feet of the public alley lying south of Lot 2 and north of Lot 7 in Block 18 of the Original Town of the City of Winterset to all traffic **except** pedestrian foot traffic. Landlord, at its expense, shall cause signage to be erected accordingly; and Landlord, at its expense, shall demarcate the boundary line between the leased premises and the retained premises. Tenant, at its expense, shall install appropriate safety posts or bollards at the east and west boundaries of the leased premises.

(g) **CITY OF WINTERSET DUTIES AND OBLIGATIONS UNDER IOWA CODE.** The City of Winterset, Iowa is a governmental subdivision of the State of Iowa and must adhere to applicable law regarding the lease of real estate. This Agreement is subject to the City's obligations under Iowa Code Sections 362 and 364.

Executed in duplicate or triplicate.

Dated at Winterset, Iowa on this 16 day of March, 2021.

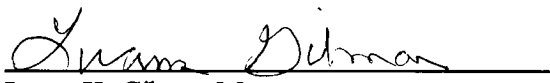
LANDLORD:

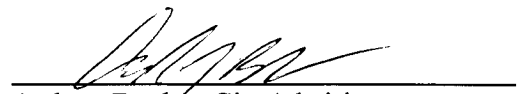
City of Winterset, Iowa  
124 W. Court Avenue  
Winterset, IA 50273

TENANT:

The Drift, LLC  
1582 North River Trail  
Winterset, IA 50273

  
Philip A. Macumber, Mayor

  
Luann K. Gilman, Manager

  
Andrew Barden, City Administrator