

SMALL BUSINESS FORGIVABLE LOAN AGREEMENT

This Agreement is entered into as of the **3rd day of September 2019** ("Award Date") among the City of Muscatine, Iowa (the "City"), **Flipped Out Furniture** (the "Company") and **Rebekah Despeghel** (the "Individual(s)" and together with the Company, the "Borrower"). The term of the loan's five years shall commence upon submittal of the requested proof of receipts and construction closeout items (listed in A.3). The Small Business Forgivable Loan Agreement ("Agreement") will be fully executed once a compliance closeout letter has been sent from the Community Development department recognizing the term's official start date.

WHEREAS, the City, pursuant to and in strict compliance with all laws applicable to the City, and in particular the provisions of Chapter 15A and Chapter 403 of the Code of Iowa, has established its Small Business Forgivable Loan Program (the "Program") in order to make available public funds for the support of economic development initiatives and business development in the community; and

WHEREAS, the Program includes the funding of forgivable economic development loans to private entities for the funding of improvements to local businesses and business facilities; and

WHEREAS, this Small Business Forgivable Loan Agreement between the City and the Borrower has been prepared to facilitate the funding of a forgivable economic development loan in the maximum amount of **\$25,000.00** (the "Forgivable Loan") from the City to the Borrower in connection with certain improvements to be undertaken by the Borrower (the "Improvements"), which Improvements are described on Exhibit A hereto; and

WHEREAS, the Improvements are for the benefit of the Borrower's business (the "Business"), which Business and the regular operations thereof are described on Exhibit B hereto; and

WHEREAS, Chapter 15A of the Code of Iowa authorizes cities to provide grants, loans, guarantees, tax incentives and other financial assistance to or for the benefit of private persons;

NOW THEREFORE, the parties hereto agree as follows:

A. Borrower's Covenants

1. The Borrower agrees to undertake and complete the Improvements by the **3rd day of September 2020**, subject to any extensions granted to the Borrower by the City, and to use the proceeds of the Forgivable Loan solely in connection therewith. All improvements must be completed by the first anniversary of the Award Date (identified in this Agreement). Once improvements have been made and the Community Development department issues a compliance closeout letter, commencement of the five-year forgivable loan period will begin. The term of the forgivable loan's Anniversary Date ("Anniversary Date") and commencement of the five years will originate on the date provided on the compliance closeout letter issued to the Borrower from the City.

2. The Borrower agrees that it will own and operate the Business as described on Exhibit B throughout the term of the Forgivable Loan, aside from any interruptions in regular operations

resulting from construction of the Improvements and with any exceptions from such regular operations as are agreed to in writing by the City.

3. The Borrower agrees to submit proof of receipts itemizing how the Forgivable Loan funds were spent and how the Borrower's investment match was spent as listed in Exhibit A. If expenses differ from those listed in Exhibit A, the Borrower must ensure that the new expense(s) are eligible expenses and must provide valid receipts. The proper building and certification permits must be pulled and authorized prior to classifying the project as complete and in compliance. Failure to abide to the above may result in the repayment of the Forgivable Loan in its entirety.

4. The Borrower agrees to repay all un-forgiven principal of the Forgivable Loan in sixty (60) equal monthly installments beginning on the first of each month immediately following the date of the Borrower's project closeout and origin date of the term's Forgivable Loan period. On the first, second, third, fourth and fifth annual Anniversary Date of the Forgivable Loan period start date **5,000, \$5,000, \$5,000, \$5,000 and \$5,000 will be forgiven** (each, an annual completion date), unless the loan is otherwise forgiven in accordance with the conditions hereinafter set forth in Section B.3. The Borrower hereby acknowledges and agrees to the loan repayment forgiveness conditions set forth in Section B.3 of this Agreement. The Borrower reserves the right to prepay such principal in any amount at any time without penalty. Payment of principal on the Forgivable Loan shall be made to the City of Muscatine at 215 Sycamore, Muscatine, Iowa 52761-3840 (the "City Administrator's Office") by 4:00 p.m. on each Anniversary Date, as set forth herein. The Borrower shall execute a promissory note in favor of the City to evidence its obligations with respect to the Forgivable Loan.

5. The Borrower agrees to submit an annual report to the City not more than 45 days not less than 30 days before each Anniversary Date demonstrating to the satisfaction of the City that the Borrower continues to maintain ownership of the Business and is operating the Business in accordance with its regular operations, as described on Exhibit B hereto. The Annual Report shall include such information, documentation and/or records as the City may require, which information, documents and/or records are listed on Exhibit B hereto.

6. Borrower agrees to complete additional improvements equal to or in excess of the loan award to meet the required 1:1 (applicant investment v. grant funding) match. (See exhibit "A" for additional improvements detail)

7. The Borrower understands the city will file an UCC-1 form.

8. The Borrower shall allow the City of Muscatine permission to use photographs, logos, published and printed information, and additional materials the borrower may supply in press releases and publications.

B. City's Obligations

1. The City hereby agrees to deliver to the Borrower proceeds of the Forgivable Loan in its entirety in the amount of **twenty-five thousand dollars and no cents (\$25,000.00)** on the date hereof.

2. The City will file an UCC-1 form to secure a position as a creditor for its loan until expiration.

3. Subject to the adequate demonstration (as set forth in Section A.4 above) by the Borrower, the City agrees to forgive one-sixtieth (1/60th) of the principal amount of the Forgivable Loan for each month the Borrower continues to own and operate the Business as covenanted in Section A.2 above. The date for the Forgivable Loan to be entirely forgiven is dependent on the issuance of the compliance closeout letter from the City to the Borrower. The term of the agreement's five year forgivable loan period should not begin later than July 20, 2020.

4. Promptly following discharge of the Borrower's obligations under the Forgivable Loan, whether by repayment as set forth in Section A.4. above, forgiveness as set forth in Section B.3. above, or a combination of repayment and forgiveness, the City agrees to cooperate with the Borrower to file a release of the Mortgage or the Financing Statement at the Borrower's expense.

C. Events of Default, Remedies & Offset.

1. The occurrence of any of the following shall constitute an Event of Default:

- a. The Borrower shall fail to complete the Improvements by the Completion Date.
- b. The Borrower shall cease to own and operate the Business as covenanted in Section A.2 above.
- c. The Borrower shall fail to complete the requirements outlined in A.3 and A.5.
- d. The Borrower shall fail to make when due, whether by acceleration or otherwise, any payment of principal of the Forgivable Loan.

2. If any Event of Default described in Section C.1 shall occur and be continuing for a period of five (5) days after notice of such Event of Default has been given to the Borrower, then the City may declare the outstanding unpaid principal balance of the Forgivable Loan to be forthwith due and payable, whereupon the Forgivable Loan shall immediately become due and payable, in each case without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived, anything in this Agreement to the contrary notwithstanding.

D. Administrative Provisions

1. This Agreement may not be amended or assigned by either party without the written consent of the other party.

2. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties.

3. This Agreement shall be deemed to be a contract made under the laws of the State of Iowa and for all purposes shall be governed by and construed in accordance with laws of the State of Iowa.

4. This Agreement shall remain in full force and effect during the forgivable loan time period (the "Term") and shall commence once a compliance closeout letter has been issued by the City's Community Development department, which shall be no later than **September 3, 2020**.

The City, the Company and the Individuals have caused this Agreement to be signed, in their names and on their behalf by their duly authorized officers, all as of the day and date written above.



CITY OF MUSCATINE, IOWA

By [Signature]
Mayor
Date: 9/3/19

Flipped Out Furniture,
COMPANY

By Rebekah Despeghe
Title: owner
Date: 8/22/2019

[Signature],
INDIVIDUAL

By Rebekah Despeghe
Title: owner
Date: 8/22/2019

Notary Public:



State of Iowa
County of Muscatine
Signed and sworn to (or affirmed) before me on
Date: 8/22/2019,
By: Christa Bailey,
Signature: Christa Bailey

EXHIBIT A – IMPROVEMENTS

(Describe the improvements to be undertaken with the Forgivable Loan.)

Eligible Start-up Costs:

Drop Ceiling Removal and Disposal - \$1,200

Remove Vinyl and Finish Reflooring - \$7,500

New Flooring in Display Windows - \$850

Build Checkout Counter - \$980

Interior Peeling Paint Removal and Repaint Celings and Walls - \$5,450

Total: \$15,980

Eligible Code Improvements:

New Electrical Box, Rewiring, and Lighting - \$26,090

New AC and Ductwork - \$11,043.31

Total: \$37,133.31

Ineligible Start-up Costs:

New Inventory/ Product Line/Finishing Supplies - \$18,000

Internet - \$1,400

POS - \$1,500

Marketing - \$2,000

Vinyl Store Front Graphics and Installation - \$486.85

Security System and Installation - \$1,850

Dehumidifier - \$255

Store Audio System - \$630

Rugs - \$300

Office Supplies - \$450

Total: \$26,871.85

The award amount: \$25,000 (\$15,000 for startup and \$10,000 for code)

Award amount is determined using the following; the award must meet all criteria.

- Maximum of \$25,000 total award
- Maximum of \$15,000 towards startup improvements
- Maximum of \$10,000 towards code compliance improvements
- 1:1 Match requirement based on submitted total project cost

Forgivable loan funds can only be used for eligible project cost items (up to \$15,000 for eligible startup costs and up to \$10,000 for eligible code compliance cost) The Borrower's personal investment (\$25,000 minimum) can go towards eligible and ineligible project costs.

EXHIBIT B – BUSINESS AND OPERATIONS

(Describe the Borrower's business and the regular operations of that business.)

Flipped Out Furniture takes old pieces of furniture with “good bones” and gives them an updated style. The business also builds farmhouse tables, benches, sofa tables, coffee tables, etc., as well as offering home décor, antiques, and furniture at an affordable price. Flipped Out Furniture's mission is preserve furniture that still has life, rather than have it thrown in the trash.

(List any and all information, documents and/or records Borrower will be required to present pursuant to Section A.4. of the Loan Agreement.)

○ **Annual report detailing**

- Ongoing business operations
- Sales and revenue
- Payroll totals
- Improvements completed
- Receipts for all project expenses (Year 1)*
- Receipts for all project investment match expenses (Year 1)*
- Future business improvement plans

**** If expenditures differ from those outlined in the Agreement, the new expenses must be eligible startup costs and/or code compliant costs. The Borrower must provide written documentation of the new expenses to the City's Community Development department.***

EXHIBIT C – FORM OF PROMISSORY NOTE

MAXIMUM PRINCIPAL AMOUNT: \$25,000.00

Borrower: Flipped Out Furniture

Lender: City of Muscatine

Interest Rate: 0%

Date: September 3, 2019

For the value received, the undersigned Borrower, jointly and severally, promises to pay to the City of Muscatine ("Lender"), or its successors or assigns, the maximum principal sum of \$25,000 or such lesser amount as may be endorsed on this Forgivable Loan Promissory Note ("Note") on behalf of the Lender, at the rate of sixty (60) or 1/60th equal monthly installments.

Terms and Conditions: The Borrower agrees to the following terms of this Note:

1. Loan Period. The borrower shall comply with the terms of this Forgivable Loan Promissory Note for a term of five years commencing upon completion of the project identified in the Small Business Forgivable Loan Agreement ("Agreement"). Final authorization of the project's construction closeout and commencement of the forgivable loan period will be dated on a compliance closeout letter prepared by the City's Community Development department. The Loan shall be forgiven 1/60th upon the completion of each month, following the date that the five year forgivable loan period originates.
2. Place of Business: After the Community Development department has received all required documentation including but not limited too; receipts itemizing project expenditures, project photographs, required building permits, and a certificate of occupancy, the department will send the Borrower a close-out letter that authorizes the start of the five year forgivable loan period.
3. Place of Business: The Borrower shall continue to operate the business as identified and approved in the Agreement. The Borrower shall immediately notify the Lender if the business is no longer in operation. The Borrower must request and receive Lender approval prior to relocating the business or transferring any portion of ownership in the funded business. If the Borrower closes the business, transfers ownership of the business, moves the business to a site not approved by the Lender, or is found to otherwise be in default under the Agreement of this Note, the Borrower hereby agrees to pay the Lender the un-forgiven balance of the loan, including all costs and expenses of collection and reasonable attorney's fees.
4. Collateral and Forgivable Loan. Borrower acknowledges this Forgivable Loan Promissory Note is secured by and its maturity is subject to acceleration in each case upon the terms provided in the Agreement. Borrower further agrees to be bound by the terms and conditions of the Agreement and agrees that the terms and conditions of the Agreement are incorporated into this Forgivable Loan Promissory Note as fully set forth herein.
5. Verification of Completion. The Borrower agrees to submit, at the request of the Lender, documentation verifying Borrower's completion of the approved project and compliance with local, state, and federal building codes, regulations and laws. Documentation required to be submitted by include but is not limited to receipts, building permits, certificates of occupancy, photos, etc, as requested by the Lender. Borrower must submit all requested documentation within one year of the date that the Agreement was signed, unless an extension is approved in writing in advance by Lender.

6. Acceleration Upon Default. The undersigned agrees that any portion of the loan is specifically conditioned upon the satisfactory fulfillment of all the terms and conditions set forth herein; and that any default on these conditions shall render the total principal amount of this loan immediately due and payable to the Lender.

7. Forgiveness Withdrawn. Notwithstanding the forgiveness provisions above, the total principal amount of this loan becomes immediately due and payable to the Lender if the Borrower, during the Loan Period and without the Lender's prior written consent, (a) fails to occupy the identified Property and operate the approved business for a period of two consecutive months; or (b) sells, abandons, or transfers, whether voluntary or involuntary, ownership of the approved business, or any part thereof.

8. Payments. Payments or correspondence required by this Note for the Lender shall be directed to the Community Development Department, City of Muscatine, 215 Sycamore St, Muscatine, Iowa 52761.

9. Waiver. No delay or omission on the part of the Lender in exercising any right under this Note shall operate as a waiver of that right or of any other right under this Note. A waiver on any one occasion shall not be construed as a bar to or waiver of any right and/or remedy on any future occasion.

10. Waiver of Protest. The Borrower of this Note expressly waives presentment, protest, demand notice of dishonor or default, and notice of any kind with respect to this Note.

BEFORE SIGNING THIS FORGIVABLE LOAN PROMISSORY NOTE, I HAVE READ AND UNDERSTOOD ALL THE PROVISIONS AND I AGREE TO THE TERMS OF THIS FORGIVABLE LOAN PROMISSORY NOTE.

I ACKNOWLEDGE RECEIPT OF A COMPLETED COPY OF THIS FORGIVABLE LOAN PROMISSORY NOTE AND ALL OTHER DOCUMENTS RELATING TO THIS DEBT.

BORROWER:

[Name of Borrower]

Rebekah Sawvell

[Name of Borrower]

8/22/2019
Date

Date

Notary Public:

State of Iowa

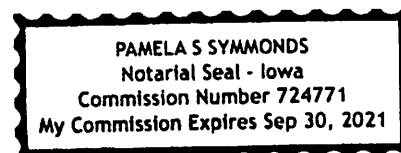
County of Muscatine

Signed and sworn to (or affirmed) before me on

Date: 8-22-19

By: Rebekah Sawvell Despeghe

Signature: Pamela S Symmonds



SECURITY AGREEMENT

On this **3 day of September 2019**, **Flipped Out Furniture**, ("Debtor"), for valuable consideration, receipt of which is acknowledged, grants to **City of Muscatine** ("Secured Party") a security interest in the following property of Debtor (the "Collateral")

- A. Drop Ceiling Removal and Disposal
- B. Remove Vinyl and Finish Reflooring
- C. New Flooring in Display Windows
- D. Build Checkout Counter
- E. Interior Peeling Paint Removal and Repaint Celings and Walls
- F. New Electrical Box, Rewiring, and Lighting
- G. New AC and Ductwork
- H. Water Heater
- I. Electricals
- J. Installation of Hood

to secure payment of the following obligations of Debtor to Secured Party (the "Obligations"): City of Muscatine – Small Business Forgivable Loan, **\$25,000** Forgivable Loan to **Flipped Out Furniture**

1. **Warranties and Covenants of Debtor.** Debtor warrants and covenants that:
 - (a) No other creditor has a security interest in the Collateral.
 - (b) Debtor is the owner of the Collateral free from any adverse lien or encumbrance except this lien and the others described in this Security Agreement.
 - (c) Debtor will defend the Collateral against all claims of other persons.
 - (d) Debtor will immediately notify the Secured Party in writing of any change in name or address.
 - (e) Debtor will do all such things as Secured Party at any time or from time to time may reasonably request to establish and maintain a perfected security interest in the Collateral.
 - (f) Debtor will pay the cost of filing this agreement in all public offices where recording is deemed by Secured Party to be necessary or desirable. A photographic or other reproduction of this agreement is sufficient as a financing statement.
 - (g) Debtor will not transfer or encumber the Collateral without the prior written consent of Secured Party.
 - (h) Debtor will keep the Collateral insured against risk of loss or damage upon such terms as Secured Party may reasonably require.
 - (i) Debtor will pay promptly when due all taxes and assessments upon the Collateral or for its use or operation or upon this Agreement or upon any note evidencing the Obligations.

2. **Events of Default.** Debtor shall be in default under this Agreement upon the occurrence of any of the following events or conditions: (a) the failure to perform any of the Obligations of this Agreement; (b) the loss, theft, substantial damage, destruction, transfer or

encumbrance of the Collateral; (c) the making of any levy, seizure or attachment upon the Collateral; or (d) the filing by Debtor or by any third party against Debtor of any petition under any Federal bankruptcy statute, the appointment of a receiver of any part of the property of Debtor, or any assignment by Debtor for the benefit of creditors.

4. **Remedies.** UPON DEFAULT AND AT ANY TIME THEREAFTER, SECURED PARTY MAY DECLARE ALL OBLIGATIONS IMMEDIATELY DUE AND PAYABLE AND SHALL HAVE THE REMEDIES OF A SECURED PARTY UNDER THE UNIFORM COMMERCIAL CODE OF IOWA.



City Administrator

Flipped Out Furniture,
COMPANY

By Rebekah Despaghel
Title: Owner
Date: 8/22/2019

Notary Public:



State of Iowa
County of Muscatine
Signed and sworn to (or affirmed) before me on
Date: 8/22/2019
By: Christa Bailey
Signature: Christa Bailey

LANDLORD WAIVER

THIS LANDLORD WAIVER ("**Agreement**") is made and entered into as of the **1st day of July 2019** by and among **AKA Properties** having an address of **200 Ash St., Muscatine IA, 52761** ("**Landlord**"); **Flipped Out Furniture**, having an address of **225 E. 2nd St., Muscatine, IA, 52761** ("**Tenant**"), and **City of Muscatine**, having an address at **215 Sycamore Street, Muscatine IA, 52761** ("**Lender**").

WITNESSETH:

A. Landlord and Tenant are parties to a Lease dated the **1st day of July 2019** (the "**Lease**") for the property as described therein and commonly known as **225 E. 2nd St., Muscatine, IA, 52761** (the "**Leased Premises**").

B. Tenant has requested that the Lender make and extend to Tenant ("**Borrower**") certain loans (the "**Loan**"), pursuant to the terms of a loan agreement and certain related loan documents (as amended, extended or renewed from time to time, collectively the "**Loan Documents**").

C. As security for the obligations of the Borrower under the Loan Documents, the Tenant and the Lender will enter into a Continuing Security Agreement (the "**Security Agreement**") pursuant to which the Tenant will grant a lien and security interest to the Lender in all of Tenant's Secured Collateral which is located on the Leased Premises (collectively the "**Collateral**").

NOW THEREFORE, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, the parties, with the intent to be legally bound hereby, agree as follows:

1. Landlord's Waiver.

(a) Any and all security interests, liens, claims, demands, interests or rights, including but not limited to the right to levy or distrain for unpaid rent or failure to perform, which the Landlord now has or may hereafter acquire in the Collateral by statute, agreement or otherwise, shall be subordinate and inferior to the lien or security interest of the Lender therein, and, as to the Lender, the Landlord waives and relinquishes all rights of levy, distrain or execution with respect to the Collateral.

(b) All or part of the Collateral may be affixed to or installed upon the Leased Premises but shall remain personal property and shall not constitute an accession, addition or fixture on or become a part of the Leased Premises until the Tenant's obligations to the Lender are satisfied in full, and the Landlord shall acquire no title to or interest in the Collateral by virtue of any such installation or attachment.

(c) The Lender may, in the exercise of its rights against Tenant, enter upon the Leased Premises and take immediate possession of the Collateral and sell or otherwise dispose of the Collateral from the Leased Premises, or remove the Collateral from the Leased Premises. The Landlord will make no objection to such removal or to the performance of whatever acts are necessary for such removal or sale, provided the Lender shall repair any damage to the Leased Premises directly resulting thereby. Landlord agrees that, at the Lender's option, the Collateral may remain upon the Leased Premises for a reasonable period of time in order for the Lender to prepare for disposition or removal of, or to remove, dispose of, or otherwise deal with, the Collateral.

(d) Except as specifically provided herein, no rights or benefits of Landlord under the Leases shall be affected by this Agreement, including, without limitation, (i) Landlord's rights and benefits arising from or related to any insurance required by the Lease, and (ii) Landlord's rights to indemnification as set forth in the Lease.

2. Lender's Right to Cure. Notwithstanding anything in the Lease to the contrary, in the event of a default by Tenant under the Lease, Landlord agrees to provide written notice of such an event of default, pursuant to the terms stated herein, to allow Lender, without obligation, to cure such default within thirty (30) days after receipt of such written notification from the Landlord of such default. Landlord agrees that the Lease shall remain in full force and effect, unrevoked and unmodified, during such thirty (30) day period so long as the Lender, its agents or representatives, endeavor to cure the default with due diligence and dispatch and thereafter (absent any subsequent default) so long as said cure is affected.

3. Representations, Warranties and Covenants. Landlord and Tenant jointly and severally represent, warrant and covenant to and with the Lender that the Lease is in full force and effect, and constitutes the entire understanding of Landlord and Tenant with respect to the Leased Premises. There exists no current default or breach under the Lease by either party, and, to the best knowledge of each of them, no event has occurred at this time which could constitute an event of default or breach thereunder, with the giving of notice, the passage of time, or both.

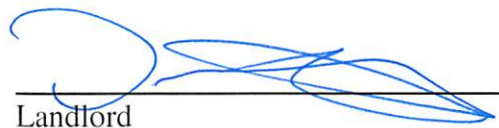
4. Miscellaneous.

(a) This Agreement shall be governed in all respects by the laws of the State of Iowa.

(b) The Lease shall in no way be altered, limited or otherwise affected by this Agreement.



City Administrator



Landlord

By 8-22-19

Notary Public:

State of Iowa

County of Muscatine

Signed and sworn to (or affirmed) before me on

Date: 8-22-19

By: Amanda Kemper

Signature: Amanda Kemper

