



Wellfleet Affordable Housing Trust Accessory Dwelling Unit Incentive

DEFERRED, FORGIVABLE LOAN AGREEMENT

This Loan Agreement (hereinafter "Agreement") is made this ____ day of _____, 2023 between the borrower, _____ whose address is _____, ("Borrower") and the lender, the **Wellfleet Affordable Housing Trust**, whose address is 300 Main Street, Wellfleet, Massachusetts 02667 ("Lender") with reference to the accessory dwelling unit located at _____ ("ADU").

The Borrower and Lender (the "Parties") agree to the following:

I. LOAN AMOUNT. For value received, the Borrower promises to pay to the order of the Lender, **Ten Thousand And 00/100 Dollars (\$10,000.00)**, payable in accordance with the terms set forth herein, together with any costs and expenses, including reasonable attorneys' fees incurred in the collection of this loan ("Loan Amount"), in accordance with the payment terms set forth herein.

II. INTEREST. The Loan Amount shall not bear interest.

III. LOAN FORGIVENESS. Lender has agreed to provide a deferred, forgivable loan and to forgive this loan in whole increments of 1/5th per year on the anniversary of this Agreement for as long as Borrower remains in full compliance over 5 calendar years from the date of signing and until the balance reaches zero and the loan is discharged. Lender's agreement is contingent upon Lender being able to recapture from Borrower the whole or a part of the loan if the ownership of the Property is transferred by sale in whole or in part to a third party by Borrower, or if Borrower fails to rent the Property to low or moderate income persons, within Five (5) years from the date of this Agreement, or if Borrower is in default under any other terms or provisions.

III. PAYMENT. The outstanding balance of this loan is due and payable to Lender within thirty (30) days after Default, or sale or other conveyance of the Property, whether voluntary or involuntary ("Conveyance") if prior to five (5) years from the date of this Agreement.

IV. DEFAULT. Borrower will be in default of this loan if any of the following occurs:

- A. Borrower fails to rent the ADU at an affordable rate in accordance with HUD Affordable Fair Market Rent Guidelines to low-to-moderate income tenants who are at or below 120% of AMI in minimum twelve (12) month increments for a period of five (5) consecutive years from the date of this Loan Agreement. Borrower shall provide proof of a minimum twelve (12) month lease each year for the four (4) consecutive years following the date of this Loan Agreement. Said proof is to be provided within 30 days of the anniversary date of this Loan.
- B. Failure to re-pay the outstanding loan balance within thirty (30) days upon a conveyance of the Property.

V. LATE CHARGES. In the event the Loan Amount remains unpaid for a period of thirty (30) days or more after payment is due, a late fee equivalent to five percent (5%) of the Loan Amount shall be charged.

VI. WAIVER. BORROWER WAIVES PRESENTMENT, DEMAND FOR PAYMENT AND NOTICE OF DISHONOR, TOGETHER WITH ALL RIGHT TO TRIAL BY JURY IN ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS AGREEMENT.

VII. DISCHARGE OF LOAN. Absent Default by the Borrower and upon the fifth (5th) anniversary of this Loan Agreement, Lender shall forgive and discharge this Loan.

VIII. COLLATERAL: The Loan Amount under this Agreement shall be **UNSECURED**. There shall be NO COLLATERAL provided in this Agreement.

IX. REMEDIES. No delay or omission on part of the holder of this Agreement in exercising any right hereunder shall operate as a waiver of any such right or of any other right of such holder, nor shall any delay, omission or waiver on any one occasion be deemed a bar to or waiver of the same or any other right on any future occasion. The rights and remedies of the Lender shall be cumulative and may be pursued singly, successively, or together, in the sole discretion of the Lender.

X. ANNUAL REPORTING. Borrower shall provide proof of a minimum twelve (12) month lease each year for the four (4) consecutive years following the date of this Loan Agreement. Said proof is to be provided within 30 days of the anniversary date of this Loan.

XI. RISK OF LOSS. Property insurance is not required by Lender against loss or damage to the ADU. Borrower shall be responsible for and shall bear any and all risk of loss or damage to the ADU. Damage to or loss of the ADU does not waive Borrower's obligation under the terms of this Loan Agreement.

XII. GOVERNING LAW. This Agreement shall be governed by, and construed in accordance with, the laws of the Commonwealth of Massachusetts ("Governing Law").

XIII. SUCCESSORS. This Agreement is a promise of the Borrower and shall bind themselves including the Borrower's successors, heirs and assigns; provided, however, that Lender may not assign any of its rights or delegate any of its obligations hereunder without the prior written consent of the holder of this Agreement.

XIV. SEVERABILITY. In the event that any court of competent jurisdiction shall determine that any provision, or any portion thereof, contained in this Agreement shall be unenforceable in any respect, then such provision shall be deemed

limited to the extent that such court deems it enforceable, and as so limited shall remain in full force and effect. In the event that such court shall deem any such provision, or portion thereof, wholly unenforceable, the remaining provisions of this Agreement shall nevertheless remain in full force and effect.

XV. ENTIRE AGREEMENT. It is mutually understood and agreed that this Agreement and any accompanying contract documents are a final, complete and exclusive integration, setting out the entire agreement of the parties. This Agreement replaces all previous discussions, understandings, and oral agreements.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the undersigned dates written below.

Borrower's Signature: _____ Date: _____

Lender's Signature: _____ Date: _____

Name, Title, Wellfleet Affordable Housing Trust

COMMONWEALTH OF MASSACHUSETTS

Barnstable County, ss:

Date: _____

Then personally appeared before me, the undersigned notary public, the above-named **Borrower Name**, and proved to me through satisfactory evidence of identification, which was a Massachusetts driver's license, to be the persons whose name is signed on the preceding document, and acknowledged that s/he executed the foregoing instrument voluntarily for its stated purpose.

Notary Public

My Commission Expires: _____

COMMONWEALTH OF MASSACHUSETTS

Barnstable County, ss:

Date: _____

Then, personally appeared the above-named **Name, Title, Wellfleet Affordable Housing Trust**, personally known to me, to be the persons whose name is signed on the preceding document, and acknowledged that s/he executed the foregoing instrument voluntarily for its stated purpose.

Notary Public

My Commission Expires: _____