

***SAMPLE* – NOT TO BE USED AS ACTUAL P&S AGREEMENT**

CONDOMINIUM PURCHASE AND SALE AGREEMENT (hereinafter referred to as the "Agreement")

This ____ day of _____, 2008.

1. **PARTIES AND MAILING ADDRESSES** GGP Natick Residence LLC (hereinafter referred to as the "SELLER") agrees to sell and _____, presently of _____ (hereinafter referred to as the "BUYER") (SELLER and BUYER are sometimes hereinafter collectively referred to as the "Parties"), agrees to buy, upon the terms hereinafter set forth, the following described premises:
2. **DESCRIPTION** Unit No. _____ (the "Unit") of the _____ Condominium (the "Condominium") created pursuant to Chapter 183A of the Massachusetts General Laws (the "Act") by Master Deed dated _____, and recorded with the Middlesex South Registry of Deeds in Book _____, Page _____ as the same may have been or may hereafter be amended from time to time (the "Master Deed"), together with (a) an undivided percentage interest of _____ as set forth in the Master Deed, in both the common areas and facilities of the Condominium and the organization of unit owners through which the Condominium is managed and regulated, (b) the exclusive right to use parking space no. _____ and storage area no. _____, and (c) such other rights and easements appurtenant to the Unit as may be set forth in any document governing the operation of the Condominium, including without limitation the Master Deed, the Declaration of Trust, the By-Laws of the organization of unit owners, and any administrative rules and regulations adopted pursuant thereto (all of which are hereinafter referred to as the "Condominium Documents"). The Unit and such percentage interest, exclusive rights and other appurtenant rights and easements are sometimes hereinafter collectively referred to as the "Premises"). The Premises are those conveyed to the SELLER by deed recorded with the Middlesex South Registry of Deeds in Book _____, Page _____.
3. **FIXTURES** Included in the sale as a part of the Unit are the fixtures belonging to the SELLER and used in connection therewith. The extent to which any of such fixtures belong to the SELLER may be governed in part by provisions contained in the Condominium Documents.
4. **TITLE DEED** The Unit is to be conveyed by a good and sufficient quitclaim deed running to the BUYER set forth in paragraph 1 and no one else, and said deed shall convey a good and clear record and marketable title thereto, free from encumbrances, except
 - (a) Provisions of existing building and zoning laws;
 - (b) Existing rights and obligations in party walls which are not the subject of written agreement;
 - (c) Such taxes for the then current year as are not due and payable on the date of the delivery of such deed;
 - (d) Any liens for municipal betterments assessed after the date of this Agreement;
 - (e) The provisions of the Act and the Condominium Documents including without limitation all obligations of the unit owners to pay a proportionate share of the common expenses of the Condominium;
 - (f) All restrictions, easements and encumbrances referred to in the Condominium Documents; and
 - (g) Easements, restriction and reservations of record, if any, so long as the same do not prohibit or materially interfere with the use of the Unit as a residential dwelling.
5. **PLANS** If said deed refers to a plan necessary to be recorded therewith the SELLER shall deliver such plan with the deed in form adequate for recording or registration.
6. **REGISTERED TITLE** In addition to the foregoing, if the title to the Unit is registered, said deed shall be in form sufficient to entitle the BUYER to a Certificate of Title to the Unit.
7. **PURCHASE PRICE** The purchase price for the Premises is _____ Dollars (\$_____.00), of which

\$_____.00 has been paid as a deposit upon execution of this Agreement
(one and one-half percent (1.5%) of the purchase price), and

\$ _____ .00 is to be paid at the time of the delivery of the deed by wire, or by bank check.

8. TIME FOR PERFORMANCE; DELIVERY OF DEED (“CLOSING”) Such deed is to be delivered at **9:00 o’clock AM. on the ___ day of _____, 2008 [INSERT THE DATE THAT IS 30 DAYS AFTER THE DATE THE AGREEMENT IS SIGNED AS THE CLOSING DATE]**, at the office of Gilmartin, Magence & Ross, LLP, 376 Boylston Street, Boston, MA 02116, unless otherwise agreed upon in writing (sometimes hereinafter referred to as the “Closing” as the same may be extended pursuant to the terms of this Agreement). **It is agreed that time is of the essence of this Agreement.**
9. POSSESSION AND CONDITION OF UNIT Full possession of the Unit free of all tenants and occupants, is to be delivered at the time of the delivery of the deed, the Unit to be then (a) in the same condition as it was at the time of BUYER’s inspection, reasonable use and wear thereof excepted, and (b) in compliance with provisions of any instrument referred to in Paragraph Four (4) hereof. The BUYER shall be entitled personally to inspect the Unit prior to the delivery of the deed in order to determine whether the condition thereof complies with the terms of this Paragraph.
10. EXTENSION TO PERFECT TITLE OR MAKE UNIT CONFORM If the SELLER shall be unable to give title or to make conveyance, or to deliver possession of the Unit, all as herein stipulated, or if at the time of the delivery of the deed the Unit does not conform with the provisions hereof, the SELLER shall use reasonable efforts to remove any defects in title, or to deliver possession as provided herein, or to make the Unit conform to the provisions hereof, as the case may be, and the Closing shall be extended for a period of up to thirty (30) calendar days. The SELLER shall not be obligated to expend more than one half of one percent of the purchase price, inclusive of attorney’s fees but exclusive of voluntary monetary and municipal liens, pursuant to this Paragraph.
11. FAILURE TO PERFECT TITLE OR MAKE UNIT CONFORM, etc. If at the expiration of the extended time the SELLER shall have failed so to remove any defects in title, deliver possession, or make the Unit conform, as the case may be, all as herein agreed, or if at any time during the period of this Agreement or any extension thereof, the organization of unit owners shall fail to agree, within the time period set forth in the Act, if applicable, to proceed with such repair or restoration as may be necessary for such purposes, or shall expressly agree not to so proceed, or the holder of a mortgage on the Unit shall refuse to permit any insurance proceeds to be used for such purpose, then any payments made under this Agreement shall be forthwith refunded and all other obligations of the Parties hereto shall cease and this Agreement shall be void without recourse to the Parties hereto.
12. BUYER’S ELECTION TO ACCEPT TITLE The BUYER shall have the election, at either the original or any extended time for performance, to accept such title as the SELLER can deliver to the Unit in its then condition and to pay therefore the purchase price without deduction, in which case the SELLER shall convey such title, except that in the event of such conveyance in accord with the provisions of this Paragraph, if the Unit shall have been damaged by fire or casualty insured against by the organization of unit owners or by the SELLER, then the SELLER shall, on delivery of the deed, unless the Unit has previously been restored to its former condition, pay over or assign to the BUYER all amounts recovered by the SELLER on account of such insurance, and give the BUYER a credit against the purchase price equal to any amounts otherwise so recovered which are retained by the holder of a mortgage on the Unit, less any amounts reasonably expended by the SELLER for any partial restoration.
13. ACCEPTANCE OF DEED The acceptance and recording of a deed by the BUYER or his nominee as the case may be, shall be deemed to be a full performance and discharge of every agreement and obligation herein contained or expressed, except such as are, by the terms hereof, to be performed after the delivery of said deed.
14. USE OF MONEY TO CLEAR TITLE To enable the SELLER to make conveyance as herein provided, the SELLER may, at the time of delivery of the deed, use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests, provided that all instruments so procured are recorded within a reasonable time after the delivery of said deed in accordance with local conveyancing practices.
15. INSURANCE The SELLER represents that at the time of execution of this Agreement, the organization of unit owners maintains insurance with respect to the Condominium as follows:
- | <u>Type of Insurance</u> | <u>Amount of Coverage</u> |
|--------------------------------|---------------------------|
| (a) Fire and Extended Coverage | *\$ as presently insured |
16. EVIDENCE OF INSURANCE At the time of the delivery of the deed, the SELLER shall deliver to the BUYER a certificate of the Condominium insurance referred to in Paragraph Fifteen (15) as then in effect. The procuring of any supplemental insurance shall be at the option and sole expense of the BUYER.

17. ADJUSTMENTS Taxes for the then current fiscal year in which the Closing takes place and common expenses of the Condominium for the then current month, shall be apportioned as of the Closing day and the net amount thereof shall be added to or deducted from, as the case may be, the purchase price payable by the BUYER at the time of delivery of the deed. The conveyance of said Premises shall be deemed to include the SELLER's allocable share of any working capital or other reserve funds held by the organization of unit owners, without adjustment or payment of any additional consideration by the BUYER.
18. ADJUSTMENT OF UNASSESSED AND ABATED TAXES If the amount of the taxes are not known at the time of the delivery of the deed, they shall be apportioned on the basis of the taxes assessed for the preceding fiscal year. All apportionments shall be final and there shall be no reapportionment upon receipt of the actual tax bill for the apportionment period.
19. BROKER'S FEE INTENTIONALLY DELETED
20. BROKER(S) WARRANTY INTENTIONALLY DELETED
21. DEPOSIT All deposits made hereunder shall be held in escrow by Gilmartin, Magence & Ross, LLP as escrow agent subject to the terms of this Agreement and shall be duly accounted for at the time for performance of this Agreement. In the event of any disagreement between the Parties, the escrow agent shall retain all deposits made under this Agreement pending written instructions mutually given by the SELLER and the BUYER or the final judgment of a court with competent jurisdiction. The delivery, acceptance and recording of the Deed shall in all cases constitute the Parties' joint authorization for the release of all deposits held hereunder.
22. BUYER'S DEFAULT; DAMAGES If the BUYER shall fail to fulfill the BUYER's agreements herein, all deposits made hereunder by the BUYER shall be retained by the SELLER as liquidated damages and this shall be SELLER's sole and exclusive remedy at both law and in equity.
23. RELEASE BY HUSBAND OR WIFE INTENTIONALLY DELETED
24. BROKER AS PARTY INTENTIONALLY DELETED
25. LIABILITY OF TRUSTEE, SHAREHOLDER, BENEFICIARY, etc. If the SELLER or BUYER executes this Agreement in a representative or fiduciary capacity, only the principal or the estate represented shall be bound, and neither the SELLER or BUYER so executing, nor any shareholder or beneficiary of any trust, shall be personally liable for any obligation, express or implied, hereunder.
26. WARRANTIES AND REPRESENTATIONS The BUYER acknowledges that the BUYER has not been influenced to enter into this transaction nor has the BUYER relied upon any warranties or representations not expressly set forth or incorporated in this Agreement.
27. INTENTIONALLY DELETED INTENTIONALLY DELETED
28. CONSTRUCTION OF AGREEMENT This Agreement, executed in multiple counterparts, is to be construed as a Massachusetts contract, is to take effect as a sealed instrument, sets forth the entire contract between the Parties, is binding upon and enures to the benefit of the Parties hereto and their respective heirs, devisees, executors, administrators, successors and permitted assigns, and may be canceled, modified or amended only by a written instrument executed by both the SELLER and the BUYER or their respective attorneys. The Parties may rely upon facsimile copies of such written instruments. If two or more persons are named herein as BUYER and/or SELLER, their respective obligations hereunder shall be joint and several. The captions and marginal notes are used only as a matter of convenience and are not to be considered a part of this Agreement or to be used in determining the intent of the Parties to it.
29. LEAD PAINT LAW The Parties acknowledge that, under Massachusetts law, whenever a child or children under six years of age resides in any residential premises in which any paint, plaster or other accessible material contains dangerous levels of lead, the owner of said premises (i.e. BUYER herein) must remove or cover said paint, plaster or other material so as to make it inaccessible to children under six years of age.
30. SMOKE/CARBON MONOXIDE DETECTORS The SELLER shall, at the time of delivery of the deed, deliver a certificate from the fire department of the city or town in which the Unit is located stating that the Unit has been equipped with approved smoke and carbon monoxide detectors in conformity with applicable law.
31. ADDITIONAL PROVISIONS At the time of the delivery of the deed, the SELLER shall deliver to the BUYER a statement from the organization of unit owners in recordable form and setting forth, in accordance with Section 6(d) of the Act, that there are no outstanding common expenses assessed and due and payable against the Unit as of said time.

32. All notices required or to be given hereunder shall be in writing and deemed duly given when: hand delivered, or sent via recognized express/overnight carrier, or placed in the US Mail postage prepaid or by registered or certified mail, return receipt requested, postage and registration or certification charges prepaid, or sent via facsimile if sent during regular business hours between 8:00 A.M. and 6:00 PM with proof of delivery and receipt, or sent via e-mail if sent during regular business hours between 8:00 A.M. and 6:00 PM with proof of delivery and receipt, addressed as follows:

If to SELLER:

Craig Gilmartin, Esquire
Gilmartin, Magence & Ross LLP
376 Boylston Street
Boston, MA 02116
Telephone: 617-375-9000
Fax: 617-375-5700
E-mail: cgilmartin@gmr-law.com

and

If to BUYER:

Telephone:
Fax:
E-mail:

or to such other address or addresses as may from time to time be designated by either party by written notice to the other.

33. From and after the date of this Agreement, SELLER agrees to permit BUYER and its designees, including but not limited to prospective mortgage lenders and insurance agents, reasonable access (limited to a total of three (3) times), at reasonable times, to the Unit for the purpose of making measurements, inspections, and the like. Said right of access shall be exercised only in the presence of SELLER, or the SELLER's agents, and only after reasonable prior notice to the SELLER and with SELLER's prior consent. In consideration of the foregoing, BUYER agrees to indemnify, defend and hold harmless the SELLER from any and all costs, damages and claims for damage to property or persons caused by BUYER or BUYER's agent(s) while on the Premises or as a result of BUYER or BUYER's agent(s) being on the Premises. This indemnity shall survive the Closing and delivery of the Deed hereunder, or termination of this Agreement.
34. BUYER represents and agrees that BUYER has been provided ample opportunity to conduct any and all inspections of the Unit and the Condominium desired by the BUYER, including, without limitation, mechanical, structural, utility systems, pest, termite, lead paint, asbestos, radon, mold and any hazardous chemicals, materials or substances and any and all appliances and personal property being conveyed with the Unit as provided in this Agreement, and that BUYER is fully satisfied with the results of same, the condition of the Unit and the Condominium, and accepts the Unit and the Condominium "AS IS" (as of the time of BUYER's inspection), reasonable use and wear thereof excepted, and is not relying upon any representations of the SELLER or SELLER's agents regarding the Unit and the Condominium (structural or otherwise), including, without limitation, as to the character, quality, use, value, quantity or condition of the Unit and the Condominium, except as expressly set forth herein. BUYER further acknowledges and agrees that this provision has been specifically negotiated between SELLER and BUYER, that BUYER has had the opportunity to be represented by counsel in said negotiation, and that SELLER would not enter into this Agreement but for the inclusion of this acknowledgement and disclaimer herein. The provisions of this Paragraph shall survive the Closing and delivery of the Deed hereunder.
35. BUYER warrants and represents to SELLER and SELLER represents and warrants to BUYER that neither has dealt with any broker or other person entitled to a broker's commission in connection with the negotiation or execution of this Agreement or the consummation of the transaction contemplated hereby and each agrees to hold the other harmless and indemnify the other against all damages, claims, losses and liabilities, including legal fees, incurred by the other, arising out of or resulting from the inaccuracy of its representation and warranty. The provisions of this Paragraph shall survive the Closing and delivery of the Deed hereunder.
36. All deposits made by the BUYER pursuant to this Agreement are to be held in an FDIC insured interest-bearing escrow account so long as the BUYER provides the escrow agent with a completed and signed W-9 form at the signing of this Agreement. All interest shall be accounted for and allocated equally between the BUYER and SELLER at Closing; provided, however, that if the SELLER shall retain the deposit under the provisions of Paragraph Twenty-Two (22), then the entire amount of the interest earned will be the property of the SELLER, and, if the deposit is returned to the BUYER under the provisions of this Agreement, then the entire amount of interest earned shall be the property of the BUYER.
37. The Parties acknowledge and agree that SELLER has no adequate remedy in the event of BUYER's default under this Agreement because it is impossible to compute exactly the damages which would accrue to SELLER in such event. Therefore, the Parties have taken these facts into account in setting the amount of the deposit hereunder and hereby agree that: (i) the deposit hereunder is the best estimate of such damages which would accrue to SELLER in the event of BUYER's default hereunder; (ii) said deposit represents damages and not a penalty against BUYER, and (iii) the Parties have been afforded the opportunity to consult an attorney with regard to the provisions of this Paragraph.

38. In the event any apportionment/adjustment pursuant to this Agreement is, within sixty (60) days subsequent to the Closing, found to be erroneous, then either Party hereto who is entitled to additional monies shall invoice (along with reasonably detailed back-up data) the other Party for such additional amounts as may be owing, and such amounts shall be paid, with good funds, within ten (10) days from the date of the invoice. The provisions of this Paragraph shall survive the Closing and delivery of the Deed hereunder for only sixty (60) days.
39. SELLER shall execute, upon request, simultaneously with the delivery of the deed, , such documents customary for a residential closing in the Greater Boston area as may reasonably be required by BUYER's lender or its attorney, including without limiting the generality of the foregoing, certifications, or affidavits with respect to: (a) persons or parties in possession of the Unit; (b) facts or conditions which may give rise to mechanic's or materialmen's liens; (c) an affidavit pursuant to Section 1445 of the Internal Revenue Code; (d) the true purchase price of the Premises and whether the SELLER has or intends to lend to the BUYER a portion thereof; (e) a UFFI Disclosure Affidavit; and (f) a 1099 reporting form.
40. The BUYER acknowledges that BUYER has been provided with the opportunity to review the Condominium Documents as recorded at the Registry of Deeds and to make inquiry of the Trustees of the organization of unit owners concerning the Condominium Documents, as well as matters regarding the budget of the organization of unit owners. BUYER acknowledges all has been reviewed to their satisfaction.
41. Any title or practice matter arising under or relating to this Agreement which is the subject of a title or practice standard of the Real Estate Bar Association ("REBA") shall be governed by said title or practice standard to the extent applicable and to the extent such title or practice standard does not contradict any expressed term or condition of this Agreement.
42. SELLER represents that SELLER is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code of 1986, as amended, and agrees to deliver to BUYER, at or before the Closing, an executed "non-foreign" affidavit in compliance with the I.R.C. Section 1445(b)(2) and the regulations thereunder.
43. This Agreement may not be assigned or recorded by the BUYER.
44. For purposes of this Agreement, facsimile signatures shall be construed as original.
45. This Agreement, and every term, condition and provision hereof, shall be governed and controlled by mutual, reciprocal and objective covenants of good faith and fair dealings.
46. If this Agreement or any other provisions by way of reference incorporated herein shall contain any term or provision which shall be invalid, then the remainder of the Agreement or other instrument by way of reference incorporated herein, as the case may be, shall not be affected thereby and shall remain valid and in full force and effect to the fullest extent permitted by law.
47. Both BUYER and SELLER hereby acknowledge that they have been offered the opportunity to seek and confer with qualified legal counsel of their choice prior to signing this Agreement.
48. The BUYER understands and acknowledges that prior to and as a condition to Closing the BUYER must meet the affordable housing eligibility requirements established by the Town of Natick and the Commonwealth of Massachusetts' Department of Housing and Community Development ("DHCD"). At least two (2) weeks prior to Closing, the Lottery Agent shall provide to DHCD a signed copy of this Agreement, the BUYER's loan commitment letter, and the contact information for the closing attorney. DHCD will review these items and prepare a Deed Rider and a Resale Price Certificate which will be sent by DHCD directly to the closing attorney. The SELLER shall not be obligated to deliver the deed to the BUYER or to proceed to Closing unless the closing attorney has provided the SELLER a copy of the Deed Rider and the Resale Price Certificate prepared by DHCD. DHCD has advised the SELLER that the Deed Rider will be in substantially the form attached hereto as Exhibit A. The Deed Rider will be recorded with the BUYER'S deed at Closing. The BUYER shall be obligated to sign the Deed Rider at the time of Closing as a condition precedent to the SELLER's obligation to close and the BUYER hereby authorizes the SELLER to record the Deed Rider. The BUYER understands and acknowledges that the Deed Rider will place limitations upon the BUYER'S ability to sell the Unit, including, without limitation, the maximum sales price that the BUYER may collect in the event the BUYER decides to sell the Unit. The BUYER further acknowledges that the SELLER has recommended that the BUYER provide a copy of the sample Deed Rider attached hereto as Exhibit A to the BUYER'S attorney and also to the BUYER'S lender.
49. **[INCLUDE THIS PROVISION ONLY FOR UNITS BUILT PRIOR TO 1978.]** Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase. BUYER acknowledges that in certain circumstances, the BUYER may incur obligations to remove lead-based materials pursuant to Sections 190-197 of Chapter 111 of the Massachusetts General Laws. BUYER hereby agrees to accept and assume any such obligations, and acknowledges that no representations have been made by the SELLER concerning the presence or absence of lead-based materials. BUYER acknowledges that the SELLER has complied with the requirements of Massachusetts General Laws Chapter 111, as amended, relative to the possible presence of lead paint in the Premises, including the provisions of Section 197A of Chapter 111. BUYER acknowledges having been verbally informed of the possible presence of dangerous levels of lead in the Premises and of the provisions of the Lead Paint Statute, so called (M.G.L. Chapter 111, Sections 190 - 199A), and the regulations promulgated thereunder, and acknowledge receipt from SELLER and/or SELLER's agents, of a Commonwealth of Massachusetts, Department of Health Property Transfer Notification Certification, and further acknowledges being informed by SELLER and/or SELLER's agents about the availability of inspections for dangerous levels of lead. BUYER further acknowledges that SELLER

has allowed BUYER the opportunity to conduct inspections to determine whether lead is present on the Premises. BUYER acknowledges that, given the age of the Premises, it is highly likely that they contain lead-based materials. BUYER hereby releases SELLER, and SELLER's agents, from liability for any damages, costs or expenses BUYER incurs as a result of the presence of lead in the Premises or in the soil surrounding the Premises. A copy of the Property Transfer Notification Certification was signed by the BUYER at the signing of this Agreement and is attached hereto as Exhibit B. The terms of said Certification shall survive the delivery of the Deed hereunder. The provisions of this Paragraph shall survive the Closing and delivery of the Deed hereunder.

FOR RESIDENTIAL PROPERTY CONSTRUCTED PRIOR TO 1978, BUYER MUST ALL HAVE SIGNED LEAD PAINT "PROPERTY TRANSFER NOTIFICATION CERTIFICATION"

NOTICE: THIS IS A LEGAL DOCUMENT THAT CREATES BINDING OBLIGATIONS. IF NOT UNDERSTOOD, CONSULT AN ATTORNEY.

LIST OF EXHIBITS

EXHIBIT A –AFFORDABLE DEED RIDER

EXHIBIT B – LEAD PAINT NOTIFICATION **[INCLUDE THIS EXHIBIT ONLY FOR UNITS BUILT PRIOR TO 1978.]**

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SAMPLE

SIGNATURE PAGE TO CONDOMINIUM PURCHASE AND SALE AGREEMENT

SELLER:

GGP Natick Residence LLC,
a Delaware limited liability company

By: _____
Authorized Signatory

BUYER

BUYER

SAMPLE

EXHIBIT A
AFFORDABLE DEED RIDER

SAMPLE

EXHIBIT B
LEAD PAINT DISCLOSURE

SAMPLE