

4. **Escrow.** All funds deposited or paid by the BUYER shall be held in a non-interest bearing escrow account, by _____, as escrow agent, subject to the terms of this Agreement and shall be paid or otherwise duly accounted for at the time for performance. If a dispute arises between the BUYER and SELLER concerning to whom escrowed funds should be paid, the escrow agent may retain all escrowed funds pending written instructions mutually given by the BUYER and the SELLER. The escrow agent shall abide by any Court decision concerning to whom the funds shall be paid and shall not be made a party to a lawsuit solely as a result of holding escrowed funds. Should the escrow agent be made a party in violation of this paragraph, the escrow agent shall be dismissed and the party asserting a claim against the escrow agent shall pay the agent's reasonable attorneys' fees and costs.

5. **Time For Performance.** The SELLER shall deliver the deed and the BUYER shall pay the balance of the purchase price at _____ o'clock ____ m. on the _____ day of _____, _____, at the _____ Registry of Deeds, or at such other time and place as is mutually agreed. TIME IS OF THE ESSENCE AS TO EACH PROVISION OF THIS AGREEMENT. Unless the deed and other documents required by this Agreement are recorded at the time for performance, all documents and funds are to be held in escrow, pending prompt rundown of the title and recording (or registration in the case of registered land). SELLER'S attorney or other escrow agent may disburse funds after 5:00 p.m. of the next business day following the date for performance, provided that the recording attorney has not reported a problem outside the recording attorney's control.

6. **Title/Plans.** The SELLER shall convey the Unit by a good and sufficient quitclaim deed running to the BUYER or to the BUYER'S nominee, conveying good and clear record and marketable title to the Unit, free from liens and encumbrances, except:

- (a) Real estate taxes assessed on the Unit which are not yet due and payable;
- (b) Betterment assessments, if any, which are not a recorded lien on the date of this Agreement;
- (c) Federal, state and local laws, ordinances, bylaws, rules and regulations regulating use of land, including building codes, zoning bylaws, health and environmental laws;
- (d) The terms of the Master Deed and the other documents governing the operation of the Condominium, including any documents creating the organization of unit owners, the by-laws of the organization of unit owners, any rules and regulations adopted pursuant to the by-laws and Massachusetts General Laws Chapter 183A, including the obligation to pay a percentage of the common expenses of the Condominium;
- (e) Any easement, restriction or agreement of record presently in force which does not interfere with the reasonable use of the Unit as now used;
- (f) Matters that would be disclosed by an accurate survey of the premises; and
- (g) _____

[Insert in (g) references to any other easement, restriction, lease or encumbrance which may continue after title is transferred]

If the deed refers to a plan needed to be recorded with it, at the time for performance the SELLER shall deliver the plan with the deed in proper form for recording or registration.

7. **Title Insurance.** BUYER'S obligations are contingent upon the availability (at normal premium rates) of an owner's title insurance policy insuring BUYER'S title to the Unit without exceptions other than the standard exclusions from coverage printed in the current American Land Title Association ("ALTA") policy cover, the standard printed exceptions contained in the ALTA form currently in use for survey matters and real estate taxes (which shall only except real estate taxes not yet due and payable) and those exceptions permitted by paragraph 6 of this Agreement.

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8. **Closing Certifications and Documents.** The SELLER shall execute and deliver simultaneously with the delivery of the deed such certifications and documents as may customarily and reasonably be required by the BUYER'S attorney, BUYER'S lender, BUYER'S lender's attorney or any title insurance company insuring the BUYER'S title to the Unit, including, without limitation, certifications and documents relating to: (a) parties in possession of the Unit; (b) the creation of mechanics' or materialmen's liens; (c) the underlying financial terms of the purchase and sale; (d) the citizenship and residency of SELLER; (e) information required to permit the closing agent to report the transaction to the Internal Revenue Service; (f) a statement from the organization of unit owners in a form suitable for recording, stating that there are no unpaid common area expenses for the Unit as of that date, pursuant to Massachusetts General Laws Chapter 183A, Section 6(d); (g) a statement in a form suitable for recording concerning the non-exercise of any right of first refusal, if applicable, contained in the Master Deed, Unit Deed or by-laws of the Condominium. At the time of delivery of the deed, the SELLER may use monies from the purchase to clear the title, provided that all documents related thereto are recorded with the deed or within a reasonable time thereafter acceptable to the BUYER and, provided further, that discharges of mortgages from banks, credit unions, insurance companies and other institutional lenders may be recorded within a reasonable time after recording of the deed in accordance with usual conveyancing practices. The SELLER'S spouse hereby agrees to release all statutory, common law or other rights or interest in the Premises and to execute the deed, if necessary.

9. **Possession And Condition Of Premises.** At the time for performance the SELLER shall give the BUYER possession of the entire Unit, free of all occupants and tenants and of all personal property, except property included in the sale. At the time for performance the Unit also shall comply with the requirements of paragraph 6, and be broom clean and in the same condition as the Unit now is, reasonable wear and tear excepted, with the SELLER to have performed all maintenance customarily undertaken by the SELLER between the date of this Agreement and the time for performance, and shall not be in violation of any building, zoning, health or environmental law, bylaw, code or regulation. The BUYER shall have the right to examine the Unit within forty-eight (48) hours prior to the time for performance or such other time as may be agreed and upon reasonable notice to SELLER for the purpose of determining compliance with this paragraph. At the time for performance the SELLER shall deliver to BUYER all keys to the Unit, garage door openers and any security codes. Until delivery of the deed, the SELLER shall maintain fire and extended coverage insurance on the Unit in the same amount as currently insured.

10. **Extension Of Time For Performance.** If the SELLER cannot convey title as required by this Agreement or cannot deliver possession of the Unit as agreed, or if at the time of the delivery of the deed the Unit do not conform with the requirements set forth in this Agreement, upon written notice given no later than the time for performance from either party to the other, the time for performance shall be automatically extended for thirty (30) days, except that if BUYER'S mortgage commitment expires or the terms will materially and adversely change in fewer than thirty (30) days, the time for performance set forth in paragraph 5 shall be extended to one business day before expiration of the mortgage commitment. SELLER shall use reasonable efforts to make title conform or to deliver possession as agreed, or to make the Unit conform to the requirements of this Agreement. Excluding discharge of mortgages and liens, about which the SELLER has actual knowledge at the time of signing this Agreement, the SELLER shall not be required to incur costs or expenses totaling in excess of _____ (\$ _____) to make the title or the Unit conform or to deliver possession as agreed. If at the expiration of the time for performance, or if there has been an extension, at the expiration of the time for performance as extended, the SELLER, despite reasonable efforts, cannot make the title or Unit conform, as agreed, or cannot deliver possession, as agreed, or cannot deliver possession, as agreed, or if during the period of this Agreement or any extension thereof, the SELLER has been unable to use proceeds from an insurance claim, if any, to make the Unit conform, then, at the BUYER'S election, any payments made by the BUYER pursuant to this Agreement shall be immediately returned. Upon return of all such funds, all obligations of the BUYER and SELLER shall terminate and this Agreement shall automatically become void and neither the BUYER nor SELLER shall have further recourse or remedy against the other.

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11. **Nonconformance Of Premises.** If the Unit does not conform because it has been damaged by fire or other casualty that is covered by insurance, then the BUYER shall have the right to elect whether or not to proceed to accept the Unit and take title. If BUYER elects to proceed BUYER shall have the right to elect to have the SELLER pay or assign to the BUYER, at the time for performance, the proceeds recoverable on account of such insurance, less any cost reasonably incurred by the SELLER for any incomplete repairs or restoration. If the SELLER, despite reasonable efforts, has neither been able to restore the Unit to its former condition nor to pay or assign to the BUYER the appropriate portion of insurance proceeds, the BUYER shall have the right to elect to have the SELLER give the BUYER a credit toward the purchase price, for the appropriate amount of insurance proceeds recoverable less any costs reasonably incurred by the SELLER for any incomplete restoration.

12. **Acceptance Of Deed.** The BUYER shall have the right to accept such title to the Unit as the SELLER can deliver at the time for performance and if extended, shall have such right at the time for performance, as extended. The BUYER shall also have the right to accept the Unit in the then current condition and to pay the purchase price without reduction of price. Upon notice in writing of BUYER'S decision to accept the Unit and title, the SELLER shall convey title and deliver possession. Acceptance of a deed by the BUYER or BUYER'S nominee, if any, shall constitute full performance by the SELLER and shall be deemed to release and discharge the SELLER from every duty and obligation set forth in this Agreement, except any duty or obligation of the SELLER that the SELLER has agreed to perform after the time for performance. Notwithstanding the foregoing, all warranties made by the SELLER shall survive delivery of the deed.

13. **Adjustments.** At the time for performance of this Agreement adjustments shall be made as of the date of performance for current real estate taxes, the monthly fee for common area charges, fuel value, water rates, sewer use charges, collected rents, uncollected rents (if and when collected by either party), prepaid premiums on insurance if assigned. The net total of such adjustments shall be added to or deducted from the purchase price payable by the BUYER at the time for performance. If the real estate tax rate or assessment has not been established at the time for performance, apportionment of real estate taxes shall be made on the basis of the tax for the most recent tax year with either party having the right to request apportionment within twelve months of the date that the amount of the current year's tax is established. There shall be no adjustment for the SELLER'S interest in working capital and other reserve funds of the organization of unit owners.

14. **Acknowledgment Of Fee Due Broker.** The SELLER and BUYER acknowledge that a fee of _____ (\$ _____) for professional services shall be paid by the SELLER to _____, the "BROKER", at the time for performance. In the event of a conflict between the terms of this Agreement and a prior fee agreement with BROKER, the terms of the prior fee agreement shall control unless BROKER has expressly agreed to a change in writing. The BUYER and SELLER acknowledge receipt of a notice from BROKER, pursuant to 254 of the Code of Massachusetts Regulations Section 3.0 (13), regarding any agency relationship of the BROKER with the BUYER and/or the SELLER. The BUYER and SELLER understand that _____, a real estate agent, is seeking a fee from _____ for services rendered as a seller's subagent / buyer's agent [choose one]. The BUYER further represents and warrants that there is no other broker with whom BUYER has dealt in connection with the purchase of the Premises.

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15. **Buyer's Default.** If the BUYER or BUYER'S nominee breaches this Agreement, all escrowed funds paid or deposited by the BUYER shall be paid to the SELLER as liquidated damages. Receipt of such payment shall constitute the SELLER'S sole remedy, at law, in equity or otherwise, for BUYER'S default. The BUYER and SELLER agree that in the event of default by the BUYER the amount of damages suffered by the SELLER will not be easy to ascertain with certainty and, therefore, BUYER and SELLER agree that the amount of the BUYER'S deposit represents a reasonable estimate of the damages likely to be suffered.

16. **Buyer's Financing.** *(Delete If Waived)* The BUYER'S obligation to purchase is conditioned upon obtaining mortgage financing in the amount of \$ _____ at prevailing rates and terms by _____. If, despite reasonable efforts, the BUYER has been unable to obtain such financing the BUYER may terminate this Agreement by giving written notice that is received by SELLER or SELLER'S agent by 5:00 p.m. on the calendar day after the date set forth above. In the event that notice has not been actually or constructively received, this condition is deemed waived. In the event that due notice has been received, all monies deposited or paid by the BUYER shall be returned and all obligations of the BUYER and SELLER pursuant to this Agreement shall cease and this Agreement shall become void. In no event shall the BUYER be deemed to have used reasonable efforts to obtain financing unless the BUYER has submitted at least one (1) application to a licensed mortgage lender by _____ and acted reasonably promptly in providing any additional information requested by the mortgage lender.

17. **Inspections/Survey.** *(Delete If Waived)* The BUYER'S obligations under this Agreement are subject to BUYER'S right to obtain inspection(s) of the Premises or any aspect thereof, including, but not limited to, home, pest, radon, lead paint, septic/sewer, water quality, and water drainage by consultant(s) regularly in the business of conducting said inspections, of BUYER'S own choosing, and at BUYER'S sole cost within _____ days after SELLER'S acceptance of this agreement. If the results are not satisfactory to BUYER, in BUYER'S sole discretion, BUYER shall have the right to give written notice received by the SELLER or SELLER'S agent by 5:00 p.m. on the calendar day after the date set forth above, terminating this agreement. Upon receipt of such notice this agreement shall be void and all monies deposited by the BUYER shall be returned. Failure to provide timely notice of termination shall constitute a waiver. In the event that the BUYER does not exercise the right to have such inspection(s) or to so terminate, the SELLER and the listing broker are each released from claims relating to the condition of the Premises that the BUYER or the BUYER'S consultants could reasonably have discovered. The BUYER acknowledges receipt of the Home Inspectors Facts For Consumers brochure prepared by the Office of Consumer Affairs.

18. **Lead Paint Laws.** For premises built before 1978 BUYER acknowledges receipt of the "Department of Public Health Property Transfer Notification" regarding the Lead Law, acknowledges verbal notification of the possible presence of lead hazards and the provisions of the Federal and Massachusetts Lead Laws and regulations, including the right to inspect for dangerous levels of lead. Occupancy of premises containing dangerous levels of lead by a child under six years of age is prohibited. BUYER further acknowledges that neither the SELLER nor any real estate agent has made any representation, express or implied, regarding the absence of lead paint or compliance with any lead law, except as set forth in writing. BUYER assumes full responsibility for compliance with all laws relating to lead paint removal and related matters (in particular, without limitation, Mass. G. L., c. 111, § 197), and BUYER assumes full responsibility for all tests, lead paint removal and other costs of compliance. Pursuant to 40 CMR 745.113(a), the Property Transfer Notification Certification is attached to this agreement.

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