

## **REAL ESTATE PURCHASE AGREEMENT**

This Real Estate Purchase Agreement (the "Agreement") is made and entered into as of the "Effective Date" of this Agreement (as hereinafter defined), by and between JFM Realty Trust with an address of 200 Baker Avenue, Concord, MA (the "Seller") and Fifteen Great Road LLC with an address of 200 Baker Avenue, Concord, MA and/or its assigns (the "Purchaser").

### **WITNESSETH:**

For and in consideration of the payment of Ten 00/100 Dollars (\$10.00) in hand paid by Purchaser to Seller, the mutual covenants and agreements herein set forth, and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby expressly acknowledged by the parties hereto, the parties hereby covenant and agree as follows:

1. **Agreement to Buy and Sell.** Seller shall sell to Purchaser, and Purchaser shall purchase from Seller, in the manner and upon the terms and conditions set forth herein, that certain parcel of land described on "Exhibit A" attached hereto (the "Land"), together with the property described below (the Land and the following described property hereinafter collectively referred to as the "Property"):

- (a) all improvements, if any, now and hereafter erected on the Land;
- (b) all easements, rights-of-way and other rights appurtenant to, and all the estate and rights of Seller in and to, the Land;
- (c) all shrubs, trees, plants, awnings and other fixtures now and hereafter located on or appurtenant to the Land;
- (d) all mineral, water, oil, and gas rights owned by Seller, ownership of which relates to the Land; and
- (e) all transferable certificates, permits, licenses, authorizations, approvals, warranties, guaranties and other documents, if any, issued for or with respect to the Land.

2. **Purchase Price.** The purchase price (hereinafter referred to as the "Purchase Price") for the Property shall be One Million Three Hundred Forty Five Thousand and 00/100 Dollars (\$1,345,000.00). The Purchase Price shall be paid by Purchaser to Seller at Closing in cash, by certified check, by cashier's check or by wire transfer of immediately available funds, less the amount of the Deposit, and subject to appropriate credits, adjustments and prorations as herein below provided.

3. **Deposit.** Within five (5) business days after the Effective Date, Purchaser shall deposit with a mutually agreed upon Escrow Agent, an Earnest Money Deposit in the amount of Ten Thousand Dollars and 00/100 Dollars (\$10,000.00) (said amount, together with any additional

sums deposited by Purchaser with Escrow Agent, and all interest, if any, accruing thereon hereinafter collectively referred to as the "Deposit"). The Deposit shall be held and disbursed in accordance with the terms and provisions of this Agreement. Except as otherwise provided herein, the Deposit shall be paid over to Seller and credited against the Purchase Price at Closing.

4. **Investigation Period.** Purchaser shall have one hundred eighty (180) days after the Effective Date (the "Investigation Period") to determine, in Purchaser's sole and absolute discretion that the Property is suitable and satisfactory for Purchaser's intended use. If Purchaser determines that the Property is not suitable for Purchaser's intended use, Purchaser may terminate this Agreement by providing written notice of such termination to Seller within five (5) days after the expiration of the Investigation Period, whereupon the Earnest Money Deposit shall be promptly returned to Purchaser and this Agreement shall be deemed null and void and of no force and effect, and neither party shall have any further rights, obligations or liability hereunder.

5. **Development Approvals Period.** Purchaser shall have 24 (twenty-four) months after the Effective Date (the "Development Approvals Period") to secure, at Purchaser's sole cost, all local, state, and federal approvals necessary and for the expiration of all appeal period pertaining to the approvals obtained to develop the Property for a 200 (two hundred) unit garden style apartment project (the "Project"). At the end of the initial 24 (twenty-four) month period, Purchaser may extend the Development Approvals Period by an additional 12 months. If Purchaser exercises its rights to extend the Development Approvals Period, Purchaser must pay Seller an additional Earnest Money Deposit of Ten Thousand Dollars and 00/100 Dollars (\$10,000.00) (the "Additional Deposit"). The Additional Deposit shall be held and disbursed in accordance with the terms and provisions of this Agreement

6. **Title and Survey Matters.**

- (a) **Title Insurance.** Within ninety (90) days after the Effective Date of this Agreement, Seller shall furnish to Purchaser a Preliminary Title Report and Binder (the "Title Commitment") and a copy of all title exceptions listed therein, and a copy of all leases affecting the Property ("Title Exceptions") issued by a title company (the "Title Company") acceptable to Purchaser.
- (b) **Survey.** Prior to the expiration of the Development Approvals Period, Purchaser shall obtain a survey of the Property (the "Survey"), prepared to the specifications of Purchaser, Purchaser's lender and/or the Title Company. In the event the legal description of the Property as established by the Survey differs from the legal description set forth in Exhibit A, Seller shall execute and deliver at Closing, in addition to the Warranty Deed, a Quitclaim Deed containing a legal description of the Property as established by the Survey.
- (c) **Title and Survey Objections.** Prior to the expiration of the Development Approvals Period, Purchaser shall provide Seller with written notice of any matters set forth in the Title Commitment and/or the Survey which are unacceptable to Purchaser (hereinafter collectively referred to as the "Title

Defects"). All matters set forth in the Title Commitment to which Purchaser does not object shall be permitted title exceptions (the "Permitted Title Exceptions"). Seller shall have thirty (30) days after receipt of such notice to cure the Title Defects to the satisfaction of Purchaser and the Title Company or to notify Purchaser and the Title Company that the Title Defects will be cured at or before Closing. If Seller fails to cure any Title Defect at or before Closing, Purchaser may, at its option, (i) accept title to the Property subject to the Title Defects, or (ii) terminate this Agreement, whereupon the Earnest Money Deposit(s) shall be promptly returned to Purchaser and this Agreement shall be deemed null and void and of no force and effect, and neither party shall have any further rights, obligations or liability hereunder.

7. **Closing Date.** The closing of the transaction contemplated by this Agreement (the "Closing") shall take place at a time and place mutually agreeable to Seller and Purchaser, on or before ninety (90) days after the expiration of the "Development Approvals Period." In the event Seller and Purchaser are unable to agree on a time and place, the closing shall take place at 1:00 p.m. eastern time on the ninetieth (90th) day following the expiration of the Development Approvals Period (or at 1:00 p.m. eastern time on the first business day thereafter in the event the thirtieth (30th) day following the expiration of the Development Approvals Period falls on a Saturday, Sunday or legal holiday) at Purchaser's office.

8. **Access to Property Before Closing.** Purchaser, its agents, representatives and consultants, shall have the right, at all times before Closing, to go upon the Land to inspect the Property and to undertake those actions which Purchaser, in its discretion, deems necessary or desirable to determine the suitability of the Property for Purchaser's intended use. Said privilege shall include, without limitation, the right to make surveys, environmental assessments and audits, and to conduct any and all other tests, inspections and examinations deemed necessary by Purchaser and to obtain any information relating to the Property. Purchaser hereby agrees to defend, indemnify and hold Seller harmless from and against any loss, damage, liability, suit, claim, cost or expense, specifically including, without limitation, reasonable attorneys' fees arising from or relating to any injury to person or to property sustained as a direct result of the exercise by Purchaser of such right of entry.

9. **Closing Procedures and Requirements.**

- (a) **Conveyance of Title.** At Closing, Seller shall execute and deliver to Purchaser a Warranty Deed conveying fee simple, marketable, record title to the Property to Purchaser, free and clear of all liens, special assessments, easements, restrictions and encumbrances whatsoever, except for the Permitted Title Exceptions. If any mortgage, lien or other encumbrance encumbers the Property, such mortgage, lien or other encumbrance shall be satisfied and paid at the Closing from the proceeds of the Purchase Price. Seller hereby agrees that such documents, affidavits, resolutions, certificates of good standing and certificates of authority as may be required by Purchaser and/or the Title Company to carry out the terms of this Agreement shall be executed and delivered by Seller at Closing, including, without

limitation, any and all affidavits and documents, in form and content sufficient to enable the Title Company, in conjunction with the Survey, to delete all standard title exceptions from the Title Policy.

- (b) **Prorating of Taxes and Assessments.** All real property ad valorem taxes and general assessments applicable to the Property shall be prorated between Seller and Purchaser as of the date of Closing. Said proration shall be based upon the most recently available tax or general assessment rate and valuation with respect to the Property; provided, however, that upon the issuance of the actual tax or general assessment statement or bill for the year of the Closing, Purchaser and Seller shall promptly make such prorations as may be necessary to ensure that the actual amount of such taxes and general assessments for the year of the Closing shall be prorated between Purchaser and Seller as of the date of Closing, said agreement to survive the Closing. All special assessments which have been levied or certified before the Closing Date shall be paid by Seller at or before the Closing.
- (c) **Closing Costs.** Seller shall pay State transfer tax applicable to the Warranty Deed and all costs relating to the issuance of the Title Commitment and the ALTA Owner's Title Insurance Policy in favor of Purchaser and all other costs allocated to Seller elsewhere in this Agreement. Purchaser shall pay (i) any fees charged by Escrow Agent, (ii) the cost of recording the Warranty Deed, (iii) the cost of the Survey, and (iv) all other costs allocated to Purchaser elsewhere in this Agreement. Each party shall pay its own attorney's fees and costs.

10. **Representations and Warranties of Seller.** To induce Purchaser to enter into this Agreement and to purchase the Property, Seller, in addition to the other representations and warranties set forth herein, makes the following representations and warranties, each of which is material and is being relied upon by Purchaser and shall survive the Closing:

- (a) That Seller owns fee simple, marketable record title to the Property, free and clear of all liens, special assessments, easements, adverse claims of title, reservation, encumbrances and any and all other matters other than the Permitted Title Exceptions;
- (b) That the execution and delivery of this Agreement and the consummation of the transaction contemplated herein shall not and do not constitute a violation or breach by Seller of any provisions of any Agreement or other instrument to which Seller is a party or to which Seller may be subject although not a party, nor result in or constitute a violation or breach of any judgment, order, writ, injunction or decree issued against Seller;
- (c) That Seller has not received any notice, and that, to the best of Seller's knowledge, neither the Property nor any portion or portions thereof is or will be subject to or affected by (i) any special assessments, whether or not

presently a lien thereof, or (ii) any condemnation, eminent domain, change in grade of public street or similar proceeding;

- (d) That there are no pending or threatened actions, suits or proceedings of any kind or nature whatsoever, legal or equitable, affecting the Property or any portion or portions thereof or relating to or arising out of the ownership of the Property;
- (e) That Seller has not received any notice and that, to the best of Seller's knowledge, there are no pending or threatened actions or proceedings arising out of the alleged violation of any federal, state or local environmental laws;
- (f) That the Property has full, free and adjacent access to and from public highways and roads and that, to the best of Seller's knowledge, there are no facts or conditions which would result in the termination of such access;
- (g) That the Property has not been used for (i) landfill, dumping or other waste disposed activities or operations, or (ii) a burial site or pit for stumps, organic material or construction debris;
- (h) That there are no storage tanks (or similar vessels) or associated piping or lines, either above or below ground, septic tanks or fields, sumps or wells at, on, in under, or above the Property;
- (i) That, to the best of Seller's knowledge, there are no Hazardous Substances located at, on, in, under, or above, the property. As used herein, "Hazardous Substances" means petroleum, petroleum products, polychlorinated biphenyl or PCBs, asbestos, pesticides, herbicides, explosive materials, containers, tanks, vessels, pipes or lines now or formerly used for storing or transporting any of the foregoing and other substance identified, defined, classified or regulated as a hazardous substance or waste in or pursuant to any federal, state or local law, ordinance, or regulation which pertains to health, safety, any Hazardous Substance or the environment ("Environmental Laws") or generally any substance or other material, the removal of which is prohibited, penalized or regulated by any federal, state or local agency; and
- (j) That each of the foregoing representations and warranties is true and correct as of the date hereof, will remain true and correct throughout the term of this Agreement and will be true and correct as of the date of Closing.

11. **Seller's Affirmative Covenants.** Seller hereby makes the following affirmative covenants, each of which shall survive the Closing:

- (a) From and after the date hereof and until physical possession of the Property has been delivered to Purchaser, Seller will keep and maintain the Property in good order and condition and will comply with and abide by all laws,

ordinances, regulations and restrictions affecting the Property or its use. Seller will pay all taxes and assessments prior to the due date thereof and will not commit or permit any waste with respect to the Property;

- (b) Seller shall take such other actions and perform such other obligations as are required or contemplated hereunder, including, without limitation, all obligations pertaining to satisfaction of any contingencies of this Agreement or conditions precedent to performance by Purchaser of its obligations hereunder.
- (c) That each of the foregoing representations and warranties is true and correct as of the date hereof, will remain true and correct throughout the term of this Agreement and will be true and correct as of the date of Closing.

12. **Conditions to Purchaser's Obligations.**

- (a) Purchaser's obligation to purchase the Property or to otherwise perform any obligation provided for herein shall be expressly conditioned upon the fulfillment of each of the following conditions precedent on or before the date or dates hereinafter specifically provided or, if no date is specified, on or before the date of Closing:
  - (i) The representations, warranties and covenants of Seller contained in this Agreement shall be continually true and correct from the Effective date through the date of Closing;
  - (ii) Seller shall have performed and complied with all covenants and agreements herein which are to be performed and complied with by Seller.
- (b) Purchaser may, at any time prior to Closing, at Purchaser's election, waive any of the foregoing conditions to its obligations hereunder, but any such waiver shall be effective only if contained in a written instrument, signed by Purchaser and delivered to Seller. Except as to any condition affirmatively waived by Purchaser in writing, no waiver shall reduce the rights or remedies of Purchaser by reason of any breach of any undertaking, agreement, warranty, representation or covenant of Seller.
- (c) If any of the foregoing conditions or other conditions to this Agreement are not fulfilled or waived prior to Closing, in addition to any and all other rights available to Purchaser as set forth in this Agreement, Purchaser shall have the right to terminate this Agreement, whereupon the Earnest Money Deposit(s) shall be promptly returned to Purchaser and this Agreement shall be deemed null and void and of no force and effect, and neither party shall have any further rights, obligations or liability hereunder.

13. **Remedies Upon Default.**

- (a) If Seller breaches any representation or warranty contained in this Agreement or fails to comply with or perform any of the conditions to be complied with or any of the covenants, agreements or obligations to be performed by Seller under the terms and provisions of this Agreement, Purchaser, in Purchaser's sole discretion, shall be entitled to (i) waive such defaults or conditions precedent and proceed to Closing, (ii) seek specific performance of this Agreement, or (iii) terminate this Agreement. In the event of termination of this Agreement, the Earnest Money Deposit(s) shall be promptly returned to Purchaser and this Agreement shall be deemed null and void and of no force and effect, and neither party shall have any further rights, obligations or liability hereunder.
- (b) If Purchaser breaches any representation or warranty contained in this Agreement or fails to comply with or perform any of the conditions to be complied with or any of the covenants, agreements or obligations to be performed by Purchaser under the terms and provisions of this Agreement, Seller's sole and exclusive remedy for such default shall be, upon giving written notice to Purchaser and the Escrow Agent, to receive the Earnest Money Deposit(s) as full liquidated damages, whereupon this Agreement shall automatically terminate and be deemed null and void and of no force and effect, and neither party shall have any further rights, obligations or liability hereunder. Purchaser and Seller acknowledge that it would be difficult or impossible to ascertain the actual damages suffered by Seller as a result of any default by Purchaser, that such liquidated damages are a reasonable estimate of such damages and that the receipt of such liquidated damages by Seller does not constitute a penalty or forfeiture. Seller further acknowledges and agrees that Purchaser was materially induced to enter into this Agreement in reliance upon Seller's agreement to accept such Earnest Money Deposit(s) as Seller's sole and exclusive remedy and that Purchaser would not have entered into this Agreement but for Seller's agreement to so limit Seller's remedies.

14. **Assignment.** Purchaser may, with Seller's consent, which consent shall not be unreasonably withheld, assign all or any of its rights, title and interest herein. Purchaser shall provide Seller with a copy of any assignment hereof within ten (10) days after the effective date of any such assignment. In the event of any assignment, Seller shall thereafter look solely to such transferee or assignee for the performance of all obligations, covenants, conditions and agreements imposed upon Purchaser pursuant to the terms of this Agreement or otherwise in connection with the transaction contemplated hereby.

15. **Possession of Property; Risk of Loss.** Seller shall deliver to Purchaser full and exclusive possession of the Property on the Closing Date. Risk of loss to the Property before the Closing Date shall be borne by the Seller.

16. **Condemnation.** If the Property or any portion or portions thereof shall be taken or condemned or be the subject of a bona fide threat of condemnation by any Governmental Authority or other entity before the date of Closing, Purchaser, at Purchaser's option, may (a) terminate this Agreement, whereupon the Earnest Money Deposit(s) shall be promptly returned to Purchaser and this Agreement shall be deemed null and void and of no force and effect, and neither party shall have any further rights, obligations or liability hereunder, or (b) require Seller to convey the remaining portion or portions of the Property to Purchaser pursuant to the terms and provisions hereof, in which event Seller shall transfer and assign to Purchaser at the Closing all right, title and interest of Seller in and to any award made or to be made by reason of such condemnation.

17. **Real Estate Commission.** Seller and Purchaser hereby agree that there are no monies due for any real estate brokerage commissions relating to this transaction and each will indemnify the other should a claim arise.

18. **Notices.** Any notice which may be permitted or required hereunder shall be in writing and shall be deemed to have been duly given as of the date of receipt of such notice in the event of personal delivery or the date of receipt or refusal in the event of delivery by certified mail, return receipt requested, or one (1) day after depositing the same with Federal Express or other overnight delivery service from which a receipt may be obtained, as the case may be, and addressed as follows:

To Purchaser at the following address:

Fifteen Great Road LLC  
c/o Omni Development LLC  
200 Baker Avenue  
Suite 303  
Concord, MA 01742

To Seller at the following address:

JFM Realty Trust  
c/o Omni Development LLC  
200 Baker Avenue  
Concord, MA 01742

or to such other address as any party hereto shall from time to time designate to the other party by notice in writing as hereby provided.

19. **Escrow Agent.** Escrow Agent shall be liable only to hold the Earnest Money Deposit(s) and to deliver the same to the parties named herein in accordance with the provisions of this Agreement. Escrow Agent shall not be liable or responsible to anyone for any damages, losses or expenses unless same shall be caused by the gross negligence or willful malfeasance of Escrow Agent. In the event of any disagreement between Seller and Purchaser, or between either of them and any other person, resulting in adverse claims and demands being made in connection with the Earnest Money Deposit(s), Escrow Agent shall refuse to comply with any such claims or demands until such time as (a) the rights of adverse claimants have been settled by binding arbitration or adjudicated in a court of competent jurisdiction, or (b) all differences have been resolved by



agreement and a copy of such agreement signed by Seller and Purchaser has been delivered to Escrow Agent. Escrow Agent shall have the right at any time after a dispute between Seller and Purchaser has arisen to pay the Earnest Money into the registry of a court of competent jurisdiction for payment to the appropriate party, whereupon Escrow Agent's obligations hereunder shall terminate.

20. **General Provisions.** This Agreement contains the entire agreement of the parties hereto. Any amendment to this Agreement shall not be binding upon any of the parties hereto unless such amendment is in writing and executed by Seller and Purchaser. The provisions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, personal representatives, successors and assigns. Time is of the essence of this Agreement. This Agreement may be executed in multiple counterparts, each of which shall constitute an original, but all of which, taken together, shall constitute one and the same agreement. The headings inserted at the beginning of each paragraph are for convenience only and do not add to or subtract from the meaning of the contents of each paragraph. Seller and Purchaser hereby covenant and agree that such documents as may be legally necessary or otherwise appropriate to carry out the terms and provisions of this Agreement shall be executed and delivered by each party at Closing. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the Commonwealth of Massachusetts.

21. **Survival of Provisions.** All covenants, representations and warranties set forth in this Agreement shall survive (a) the consummation of the transaction contemplated hereby, (b) the execution and delivery of any and all deeds and other documents at any time executed and delivered under, pursuant to or by reason of this Agreement, and (c) the payment of all monies made under, pursuant to or by reason of this Agreement.

22. **Severability.** This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations. If any provision of this Agreement or the application thereof to any person or circumstances shall, for any reason and to any extent, be invalid or unenforceable, the remaining provisions of this Agreement or the application thereof to any person or circumstances shall not be affected thereby but rather shall be enforced to the greatest extent permitted by law.

23. **Legal Fees and Costs.** If either party brings an action or proceeding for a declaration of the rights of the parties under this Agreement, for injunctive relief, for an alleged breach or default of this Agreement, or any legal action arising out of this Agreement or the transactions contemplated by this Agreement, or if any party is in default of its obligations under this Agreement (whether or not suit is filed or is prosecuted to final judgment or determination), the non-breaching or non-defaulting party shall be entitled to recover from the defaulting party reasonable attorney's fees and expenses, in addition to any court costs incurred and any other damages or relief awarded.

24. **Term of Offer.** This Agreement has been executed first by Purchaser as a continuing offer to purchase the Property, subject to and conditioned upon the terms and conditions set forth herein and shall be open for acceptance by Seller until 5:00 p.m. on March 31, 2011, at which time the offer shall be deemed to be withdrawn unless at least two (2) fully executed

**EXHIBIT A**  
**PROPERTY DESCRIPTION**

The land in Littleton and Acton, Middlesex County, Massachusetts, being further described as follows:

A certain parcel of land in Acton and Littleton, Middlesex County, Massachusetts, containing 12.836 acres of land, and being shown on a plan entitled, "Plan in Acton & Littleton, MA.", dated September 6, 2004, by Hayes Engineering, Inc., recorded with the Middlesex South District Registry of Deeds as Plan No. 1086 of 2004, and to which plan reference may be had for a more particular description of said parcel.

A portion of said parcel is also shown as "Parcel 2A" on a plan entitled, "Plan of Land in Acton & Littleton, MA (Middlesex County), For: Nagog Development Co.", Scale: 1"=80', Aug. 5, 1988, Rev. Sept. 7, 1988, Stamski and McNary, Inc., 80 Harris Street, Acton, Mass., recorded with the Middlesex South District Registry of Deeds in Book 19655, Page 88.

For title to the Grantor, see deed of Community Concepts Corporation dated October 29, 1974, recorded with the Middlesex South District Registry of Deeds in Book 12720, Page 127, deed of Carolyn Clark, Trustee of R.H. Family Trust, recorded with the Middlesex South District Registry of Deeds in Book 20777, Page 353, and deed of North Acton Treatment Corp. dated August 3, 2004, recorded with the Middlesex South District Registry of Deeds in Book 43707, Page 404.

The aforesaid parcels of land are conveyed together with the perpetual right and easement, to pass and repass, by foot and by vehicle, over under and upon those certain strips of land being shown as "Access and Utility Easement" situated on Lot 8C, (which is also known as Durkee Lane, Westford Lane or Durkee Road), and the westerly two hundred and eighty (280.00') feet of Parcel 2A shown as "Utility Easement", ("Easement Areas"), all shown on a plan entitled, "Plan of Land in Acton & Littleton, MA (Middlesex County), For: Nagog Development Co.", Scale: 1"=80', Aug. 5, 1988, Rev

Sept. 7, 1988, Stamski and McNary, Inc., 80 Harris Street, Acton, Mass., recorded with the Middlesex South District Registry of Deeds in Book 19655, Page 88, for ingress and egress to and from Durkee Lane/Westford Lane and Nagog Park Drive, and land conveyed by this deed and other land now or hereafter owned by the Grantee, its successors and/or assigns, which grant of easement shall include:

counterparts of this Agreement have theretofore been received by Purchaser.

25. **Effective Date.** When used herein, the term "Effective Date" or the phrase "the date hereof" or "the date of this Agreement" shall mean the date this Agreement is last executed by the Seller and Purchaser.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals as of the dates set forth below.

BUYER:  
Fifteen Great Road LLC

WITNESS:

John B. Gamaral

By: DS Hale  
David Hale, Managing Member

Date of Execution: March 21, 2011

SELLER:  
JFM Realty Trust

WITNESS:

John B. Gamaral

By: Leslie French  
Leslie French, TRUSTEE

Date of Execution: March 11, 2011

## **REAL ESTATE PURCHASE AGREEMENT**

This Real Estate Purchase Agreement (the "Agreement") is made and entered into as of the "Effective Date" of this Agreement (as hereinafter defined), by and between Mayel Development, Inc. with an address of 7 Dearborn Road, Peabody, MA (the "Seller") and Fifteen Great Road LLC with an address of 200 Baker Avenue, Concord, MA and/or its assigns (the "Purchaser").

### **WITNESSETH:**

For and in consideration of the payment of Ten 00/100 Dollars (\$10.00) in hand paid by Purchaser to Seller, the mutual covenants and agreements herein set forth, and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby expressly acknowledged by the parties hereto, the parties hereby covenant and agree as follows:

1. **Agreement to Buy and Sell.** Seller shall sell to Purchaser, and Purchaser shall purchase from Seller, in the manner and upon the terms and conditions set forth herein, that certain parcel of land described on "Exhibit A" attached hereto (the "Land"), together with the property described below (the Land and the following described property hereinafter collectively referred to as the "Property"):

- (a) all improvements, if any, now and hereafter erected on the Land;
- (b) all easements, rights-of-way and other rights appurtenant to, and all the estate and rights of Seller in and to, the Land;
- (c) all shrubs, trees, plants, awnings and other fixtures now and hereafter located on or appurtenant to the Land;
- (d) all mineral, water, oil, and gas rights owned by Seller, ownership of which relates to the Land; and
- (e) all transferable certificates, permits, licenses, authorizations, approvals, warranties, guaranties and other documents, if any, issued for or with respect to the Land.

2. **Purchase Price.** The purchase price (hereinafter referred to as the "Purchase Price") for the Property shall be Three Million Eight Hundred Thirty Thousand and 00/100 Dollars (\$3,830,000.00). The Purchase Price shall be paid by Purchaser to Seller at Closing in cash, by certified check, by cashier's check or by wire transfer of immediately available funds, less the amount of the Deposit, and subject to appropriate credits, adjustments and prorations as herein below provided.

3. **Deposit.** Within five (5) business days after the Effective Date, Purchaser shall deposit with a mutually agreed upon Escrow Agent, an Earnest Money Deposit in the amount of

Ten Thousand Dollars and 00/100 Dollars (\$10,000.00) (said amount, together with any additional sums deposited by Purchaser with Escrow Agent, and all interest, if any, accruing thereon hereinafter collectively referred to as the "Deposit"). The Deposit shall be held and disbursed in accordance with the terms and provisions of this Agreement. Except as otherwise provided herein, the Deposit shall be paid over to Seller and credited against the Purchase Price at Closing.

4. **Investigation Period.** Purchaser shall have one hundred eighty (180) days after the Effective Date (the "Investigation Period") to determine, in Purchaser's sole and absolute discretion that the Property is suitable and satisfactory for Purchaser's intended use. If Purchaser determines that the Property is not suitable for Purchaser's intended use, Purchaser may terminate this Agreement by providing written notice of such termination to Seller within five (5) days after the expiration of the Investigation Period, whereupon the Earnest Money Deposit shall be promptly returned to Purchaser and this Agreement shall be deemed null and void and of no force and effect, and neither party shall have any further rights, obligations or liability hereunder.

5. **Development Approvals Period.** Purchaser shall have 24 (twenty-four) months after the Effective Date (the "Development Approvals Period") to secure, at Purchaser's sole cost, all local, state, and federal approvals necessary and for the expiration of all appeal period pertaining to the approvals obtained to develop the Property for a 200 (two hundred) unit garden style apartment project (the "Project"). At the end of the initial 24 (twenty-four) month period, Purchaser may extend the Development Approvals Period by an additional 12 months. If Purchaser exercises its rights to extend the Development Approvals Period, Purchaser must pay Seller an additional Earnest Money Deposit of Ten Thousand Dollars and 00/100 Dollars (\$10,000.00) (the "Additional Deposit"). The Additional Deposit shall be held and disbursed in accordance with the terms and provisions of this Agreement

6. **Title and Survey Matters.**

- (a) **Title Insurance.** Within ninety (90) days after the Effective Date of this Agreement, Seller shall furnish to Purchaser a Preliminary Title Report and Binder (the "Title Commitment") and a copy of all title exceptions listed therein, and a copy of all leases affecting the Property ("Title Exceptions") issued by a title company (the "Title Company") acceptable to Purchaser.
- (b) **Survey.** Prior to the expiration of the Development Approvals Period, Purchaser shall obtain a survey of the Property (the "Survey"), prepared to the specifications of Purchaser, Purchaser's lender and/or the Title Company. In the event the legal description of the Property as established by the Survey differs from the legal description set forth in Exhibit A, Seller shall execute and deliver at Closing, in addition to the Warranty Deed, a Quitclaim Deed containing a legal description of the Property as established by the Survey.
- (c) **Title and Survey Objections.** Prior to the expiration of the Development Approvals Period, Purchaser shall provide Seller with written notice of any matters set forth in the Title Commitment and/or the Survey which are

unacceptable to Purchaser (hereinafter collectively referred to as the "Title Defects"). All matters set forth in the Title Commitment to which Purchaser does not object shall be permitted title exceptions (the "Permitted Title Exceptions"). Seller shall have thirty (30) days after receipt of such notice to cure the Title Defects to the satisfaction of Purchaser and the Title Company or to notify Purchaser and the Title Company that the Title Defects will be cured at or before Closing. If Seller fails to cure any Title Defect at or before Closing, Purchaser may, at its option, (i) accept title to the Property subject to the Title Defects, or (ii) terminate this Agreement, whereupon the Earnest Money Deposit(s) shall be promptly returned to Purchaser and this Agreement shall be deemed null and void and of no force and effect, and neither party shall have any further rights, obligations or liability hereunder.

7. **Closing Date.** The closing of the transaction contemplated by this Agreement (the "Closing") shall take place at a time and place mutually agreeable to Seller and Purchaser, on or before ninety (90) days after the expiration of the "Development Approvals Period." In the event Seller and Purchaser are unable to agree on a time and place, the closing shall take place at 1:00 p.m. eastern time on the ninetieth (90th) day following the expiration of the Development Approvals Period (or at 1:00 p.m. eastern time on the first business day thereafter in the event the thirtieth (30th) day following the expiration of the Development Approvals Period falls on a Saturday, Sunday or legal holiday) at Purchaser's office.

8. **Access to Property Before Closing.** Purchaser, its agents, representatives and consultants, shall have the right, at all times before Closing, to go upon the Land to inspect the Property and to undertake those actions which Purchaser, in its discretion, deems necessary or desirable to determine the suitability of the Property for Purchaser's intended use. Said privilege shall include, without limitation, the right to make surveys, environmental assessments and audits, and to conduct any and all other tests, inspections and examinations deemed necessary by Purchaser and to obtain any information relating to the Property. Purchaser hereby agrees to defend, indemnify and hold Seller harmless from and against any loss, damage, liability, suit, claim, cost or expense, specifically including, without limitation, reasonable attorneys' fees arising from or relating to any injury to person or to property sustained as a direct result of the exercise by Purchaser of such right of entry.

9. **Closing Procedures and Requirements.**

- (a) **Conveyance of Title.** At Closing, Seller shall execute and deliver to Purchaser a Warranty Deed conveying fee simple, marketable, record title to the Property to Purchaser, free and clear of all liens, special assessments, easements, restrictions and encumbrances whatsoever, except for the Permitted Title Exceptions. If any mortgage, lien or other encumbrance encumbers the Property, such mortgage, lien or other encumbrance shall be satisfied and paid at the Closing from the proceeds of the Purchase Price. Seller hereby agrees that such documents, affidavits, resolutions, certificates of good standing and certificates of authority as may be required by Purchaser and/or the Title Company to carry out the terms of this Agreement

shall be executed and delivered by Seller at Closing, including, without limitation, any and all affidavits and documents, in form and content sufficient to enable the Title Company, in conjunction with the Survey, to delete all standard title exceptions from the Title Policy.

- (b) **Prorating of Taxes and Assessments.** All real property ad valorem taxes and general assessments applicable to the Property shall be prorated between Seller and Purchaser as of the date of Closing. Said proration shall be based upon the most recently available tax or general assessment rate and valuation with respect to the Property; provided, however, that upon the issuance of the actual tax or general assessment statement or bill for the year of the Closing, Purchaser and Seller shall promptly make such prorations as may be necessary to ensure that the actual amount of such taxes and general assessments for the year of the Closing shall be prorated between Purchaser and Seller as of the date of Closing, said agreement to survive the Closing. All special assessments which have been levied or certified before the Closing Date shall be paid by Seller at or before the Closing.
- (c) **Closing Costs.** Seller shall pay State transfer tax applicable to the Warranty Deed and all costs relating to the issuance of the Title Commitment and the ALTA Owner's Title Insurance Policy in favor of Purchaser and all other costs allocated to Seller elsewhere in this Agreement. Purchaser shall pay (i) any fees charged by Escrow Agent, (ii) the cost of recording the Warranty Deed, (iii) the cost of the Survey, and (iv) all other costs allocated to Purchaser elsewhere in this Agreement. Each party shall pay its own attorney's fees and costs.

10. **Representations and Warranties of Seller.** To induce Purchaser to enter into this Agreement and to purchase the Property, Seller, in addition to the other representations and warranties set forth herein, makes the following representations and warranties, each of which is material and is being relied upon by Purchaser and shall survive the Closing:

- (a) That Seller owns fee simple, marketable record title to the Property, free and clear of all liens, special assessments, easements, adverse claims of title, reservation, encumbrances and any and all other matters other than the Permitted Title Exceptions;
- (b) That the execution and delivery of this Agreement and the consummation of the transaction contemplated herein shall not and do not constitute a violation or breach by Seller of any provisions of any Agreement or other instrument to which Seller is a party or to which Seller may be subject although not a party, nor result in or constitute a violation or breach of any judgment, order, writ, injunction or decree issued against Seller;
- (c) That Seller has not received any notice, and that, to the best of Seller's knowledge, neither the Property nor any portion or portions thereof is or will

be subject to or affected by (i) any special assessments, whether or not presently a lien thereof, or (ii) any condemnation, eminent domain, change in grade of public street or similar proceeding;

- (d) That there are no pending or threatened actions, suits or proceedings of any kind or nature whatsoever, legal or equitable, affecting the Property or any portion or portions thereof or relating to or arising out of the ownership of the Property;
- (e) That Seller has not received any notice and that, to the best of Seller's knowledge, there are no pending or threatened actions or proceedings arising out of the alleged violation of any federal, state or local environmental laws;
- (f) That the Property has full, free and adjacent access to and from public highways and roads and that, to the best of Seller's knowledge, there are no facts or conditions which would result in the termination of such access;
- (g) That the Property has not been used for (i) landfill, dumping or other waste disposed activities or operations, or (ii) a burial site or pit for stumps, organic material or construction debris;
- (h) That there are no storage tanks (or similar vessels) or associated piping or lines, either above or below ground, septic tanks or fields, sumps or wells at, on, in under, or above the Property;
- (i) That, to the best of Seller's knowledge, there are no Hazardous Substances located at, on, in, under, or above, the property. As used herein, "Hazardous Substances" means petroleum, petroleum products, polychlorinated biphenyl or PCBs, asbestos, pesticides, herbicides, explosive materials, containers, tanks, vessels, pipes or lines now or formerly used for storing or transporting any of the foregoing and other substance identified, defined, classified or regulated as a hazardous substance or waste in or pursuant to any federal, state or local law, ordinance, or regulation which pertains to health, safety, any Hazardous Substance or the environment ("Environmental Laws") or generally any substance or other material, the removal of which is prohibited, penalized or regulated by any federal, state or local agency; and
- (j) That each of the foregoing representations and warranties is true and correct as of the date hereof, will remain true and correct throughout the term of this Agreement and will be true and correct as of the date of Closing.

11. **Seller's Affirmative Covenants.** Seller hereby makes the following affirmative covenants, each of which shall survive the Closing:

- (a) From and after the date hereof and until physical possession of the Property has been delivered to Purchaser, Seller will keep and maintain the Property



in good order and condition and will comply with and abide by all laws, ordinances, regulations and restrictions affecting the Property or its use. Seller will pay all taxes and assessments prior to the due date thereof and will not commit or permit any waste with respect to the Property;

- (b) Seller shall take such other actions and perform such other obligations as are required or contemplated hereunder, including, without limitation, all obligations pertaining to satisfaction of any contingencies of this Agreement or conditions precedent to performance by Purchaser of its obligations hereunder.
- (c) That each of the foregoing representations and warranties is true and correct as of the date hereof, will remain true and correct throughout the term of this Agreement and will be true and correct as of the date of Closing.

12. **Conditions to Purchaser's Obligations.**

- (a) Purchaser's obligation to purchase the Property or to otherwise perform any obligation provided for herein shall be expressly conditioned upon the fulfillment of each of the following conditions precedent on or before the date or dates hereinafter specifically provided or, if no date is specified, on or before the date of Closing:
  - (i) The representations, warranties and covenants of Seller contained in this Agreement shall be continually true and correct from the Effective date through the date of Closing;
  - (ii) Seller shall have performed and complied with all covenants and agreements herein which are to be performed and complied with by Seller.
- (b) Purchaser may, at any time prior to Closing, at Purchaser's election, waive any of the foregoing conditions to its obligations hereunder, but any such waiver shall be effective only if contained in a written instrument, signed by Purchaser and delivered to Seller. Except as to any condition affirmatively waived by Purchaser in writing, no waiver shall reduce the rights or remedies of Purchaser by reason of any breach of any undertaking, agreement, warranty, representation or covenant of Seller.
- (c) If any of the foregoing conditions or other conditions to this Agreement are not fulfilled or waived prior to Closing, in addition to any and all other rights available to Purchaser as set forth in this Agreement, Purchaser shall have the right to terminate this Agreement, whereupon the Earnest Money Deposit(s) shall be promptly returned to Purchaser and this Agreement shall be deemed null and void and of no force and effect, and neither party shall have any further rights, obligations or liability hereunder.

13. **Remedies Upon Default.**

- (a) If Seller breaches any representation or warranty contained in this Agreement or fails to comply with or perform any of the conditions to be complied with or any of the covenants, agreements or obligations to be performed by Seller under the terms and provisions of this Agreement, Purchaser, in Purchaser's sole discretion, shall be entitled to (i) waive such defaults or conditions precedent and proceed to Closing, (ii) seek specific performance of this Agreement, or (iii) terminate this Agreement. In the event of termination of this Agreement, the Earnest Money Deposit(s) shall be promptly returned to Purchaser and this Agreement shall be deemed null and void and of no force and effect, and neither party shall have any further rights, obligations or liability hereunder.
- (b) If Purchaser breaches any representation or warranty contained in this Agreement or fails to comply with or perform any of the conditions to be complied with or any of the covenants, agreements or obligations to be performed by Purchaser under the terms and provisions of this Agreement, Seller's sole and exclusive remedy for such default shall be, upon giving written notice to Purchaser and the Escrow Agent, to receive the Earnest Money Deposit(s) as full liquidated damages, whereupon this Agreement shall automatically terminate and be deemed null and void and of no force and effect, and neither party shall have any further rights, obligations or liability hereunder. Purchaser and Seller acknowledge that it would be difficult or impossible to ascertain the actual damages suffered by Seller as a result of any default by Purchaser, that such liquidated damages are a reasonable estimate of such damages and that the receipt of such liquidated damages by Seller does not constitute a penalty or forfeiture. Seller further acknowledges and agrees that Purchaser was materially induced to enter into this Agreement in reliance upon Seller's agreement to accept such Earnest Money Deposit(s) as Seller's sole and exclusive remedy and that Purchaser would not have entered into this Agreement but for Seller's agreement to so limit Seller's remedies.

14. **Assignment.** Purchaser may, with Seller's consent, which consent shall not be unreasonably withheld, assign all or any of its rights, title and interest herein. Purchaser shall provide Seller with a copy of any assignment hereof within ten (10) days after the effective date of any such assignment. In the event of any assignment, Seller shall thereafter look solely to such transferee or assignee for the performance of all obligations, covenants, conditions and agreements imposed upon Purchaser pursuant to the terms of this Agreement or otherwise in connection with the transaction contemplated hereby.

15. **Possession of Property; Risk of Loss.** Seller shall deliver to Purchaser full and exclusive possession of the Property on the Closing Date. Risk of loss to the Property before the Closing Date shall be borne by the Seller.

16. **Condemnation.** If the Property or any portion or portions thereof shall be taken or condemned or be the subject of a bona fide threat of condemnation by any Governmental Authority or other entity before the date of Closing, Purchaser, at Purchaser's option, may (a) terminate this Agreement, whereupon the Earnest Money Deposit(s) shall be promptly returned to Purchaser and this Agreement shall be deemed null and void and of no force and effect, and neither party shall have any further rights, obligations or liability hereunder, or (b) require Seller to convey the remaining portion or portions of the Property to Purchaser pursuant to the terms and provisions hereof, in which event Seller shall transfer and assign to Purchaser at the Closing all right, title and interest of Seller in and to any award made or to be made by reason of such condemnation.

17. **Real Estate Commission.** Seller and Purchaser hereby agree that there are no monies due for any real estate brokerage commissions relating to this transaction and each will indemnify the other should a claim arise.

18. **Notices.** Any notice which may be permitted or required hereunder shall be in writing and shall be deemed to have been duly given as of the date of receipt of such notice in the event of personal delivery or the date of receipt or refusal in the event of delivery by certified mail, return receipt requested, or one (1) day after depositing the same with Federal Express or other overnight delivery service from which a receipt may be obtained, as the case may be, and addressed as follows:

To Purchaser at the following address:

Fifteen Great Road LLC  
c/o Omni Development LLC  
200 Baker Avenue  
Suite 303  
Concord, MA 01742

To Seller at the following address:

Mayel Development, Inc.  
7 Dearborn Road  
Peabody, MA 01960

or to such other address as any party hereto shall from time to time designate to the other party by notice in writing as hereby provided.

19. **Escrow Agent.** Escrow Agent shall be liable only to hold the Earnest Money Deposit(s) and to deliver the same to the parties named herein in accordance with the provisions of this Agreement. Escrow Agent shall not be liable or responsible to anyone for any damages, losses or expenses unless same shall be caused by the gross negligence or willful malfeasance of Escrow Agent. In the event of any disagreement between Seller and Purchaser, or between either of them and any other person, resulting in adverse claims and demands being made in connection with the Earnest Money Deposit(s), Escrow Agent shall refuse to comply with any such claims or demands until such time as (a) the rights of adverse claimants have been settled by binding arbitration or adjudicated in a court of competent jurisdiction, or (b) all differences have been resolved by

agreement and a copy of such agreement signed by Seller and Purchaser has been delivered to Escrow Agent. Escrow Agent shall have the right at any time after a dispute between Seller and Purchaser has arisen to pay the Earnest Money into the registry of a court of competent jurisdiction for payment to the appropriate party, whereupon Escrow Agent's obligations hereunder shall terminate.

20. **General Provisions.** This Agreement contains the entire agreement of the parties hereto. Any amendment to this Agreement shall not be binding upon any of the parties hereto unless such amendment is in writing and executed by Seller and Purchaser. The provisions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, personal representatives, successors and assigns. Time is of the essence of this Agreement. This Agreement may be executed in multiple counterparts, each of which shall constitute an original, but all of which, taken together, shall constitute one and the same agreement. The headings inserted at the beginning of each paragraph are for convenience only and do not add to or subtract from the meaning of the contents of each paragraph. Seller and Purchaser hereby covenant and agree that such documents as may be legally necessary or otherwise appropriate to carry out the terms and provisions of this Agreement shall be executed and delivered by each party at Closing. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the Commonwealth of Massachusetts.

21. **Survival of Provisions.** All covenants, representations and warranties set forth in this Agreement shall survive (a) the consummation of the transaction contemplated hereby, (b) the execution and delivery of any and all deeds and other documents at any time executed and delivered under, pursuant to or by reason of this Agreement, and (c) the payment of all monies made under, pursuant to or by reason of this Agreement.

22. **Severability.** This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations. If any provision of this Agreement or the application thereof to any person or circumstances shall, for any reason and to any extent, be invalid or unenforceable, the remaining provisions of this Agreement or the application thereof to any person or circumstances shall not be affected thereby but rather shall be enforced to the greatest extent permitted by law.

23. **Legal Fees and Costs.** If either party brings an action or proceeding for a declaration of the rights of the parties under this Agreement, for injunctive relief, for an alleged breach or default of this Agreement, or any legal action arising out of this Agreement or the transactions contemplated by this Agreement, or if any party is in default of its obligations under this Agreement (whether or not suit is filed or is prosecuted to final judgment or determination), the non-breaching or non-defaulting party shall be entitled to recover from the defaulting party reasonable attorney's fees and expenses, in addition to any court costs incurred and any other damages or relief awarded.

24. **Term of Offer.** This Agreement has been executed first by Purchaser as a continuing offer to purchase the Property, subject to and conditioned upon the terms and conditions set forth herein and shall be open for acceptance by Seller until 5:00 p.m. on March 31, 2011, at which time the offer shall be deemed to be withdrawn unless at least two (2) fully executed

counterparts of this Agreement have theretofore been received by Purchaser.

25. **Effective Date.** When used herein, the term "Effective Date" or the phrase "the date hereof" or "the date of this Agreement" shall mean the date this Agreement is last executed by the Seller and Purchaser.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals as of the dates set forth below.

WITNESS:

John B. Amaral

BUYER:

Fifteen Great Road LLC

By: David Hale

David Hale, Managing Member

Date of Execution: March 21, 2011

WITNESS:

Debrah Russo

SELLER:

Mayel Development, Inc.

By: Thomas M Ellis

Thomas M Ellis,

Date of Execution: March 11, 2011

**EXHIBIT A**  
**PROPERTY DESCRIPTION**

The following two (2) parcels of unimproved land subject to any and all rights, easements, restrictions and covenants of record insofar as the same are now in force and applicable.

Parcel 1: One parcel of unimproved land in Littleton and Westford, Middlesex County, Massachusetts being shown as shown as Lot 56A (inclusive of Parcel G) as shown on a Plan of Land entitled, "Plan of Land in Littleton/Westford Massachusetts" prepared for E.J. DiCarlo, Scale: 1"=40', dated September 13, 2000, prepared by J.D. Marquedant & Associates Inc. Land Surveying & Engineering" and recorded with the Middlesex South District Registry of Deeds on December 1, 2000, as Plan 1330 of 2000 in Book 32088, Plan 106 and in Middlesex Northern District Registry of Deeds on January 2, 2001 in Plan Book :204, as Plan 115, containing approximately 51,408 square feet more or less (inclusive of Parcel G on said Plan). Being the premises described in a Deed to the Grantor recorded at the Middlesex South District Registry of Deeds in Book 44885, Page 284.

Parcel 2: One parcel of unimproved land in the Town of Acton and Littleton, Massachusetts, shown on a plan entitled, "Plan of Land" prepared by Hayes Engineering, Inc., dated December 29, 2003 which Plan is filed with the Middlesex South Registry of Deeds as Plan #1349 of 2003. Being the premises described in a Deed to the Grantor recorded at the Middlesex South District Registry of Deeds in Book 41709, Page 502, containing an area of 1,519,142 Square Feet, or 34.875 Acres, more or less.

## **REAL ESTATE PURCHASE AGREEMENT**

This Real Estate Purchase Agreement (the "Agreement") is made and entered into as of the "Effective Date" of this Agreement (as hereinafter defined), by and between Fifteen Great Road LLC, Inc. with an address of 200 Baker Avenue, Concord, MA (the "Seller") and Fifteen Great Road II LLC with an address of 200 Baker Avenue, Concord, MA and/or its assigns (the "Purchaser").

### **WITNESSETH:**

For and in consideration of the payment of Ten 00/100 Dollars (\$10.00) in hand paid by Purchaser to Seller, the mutual covenants and agreements herein set forth, and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby expressly acknowledged by the parties hereto, the parties hereby covenant and agree as follows:

1. **Agreement to Buy and Sell.** Seller shall sell to Purchaser, and Purchaser shall purchase from Seller, in the manner and upon the terms and conditions set forth herein, that certain parcel of land described on "Exhibit A" attached hereto (the "Land"), together with the property described below (the Land and the following described property hereinafter collectively referred to as the "Property"):

- (a) all improvements, if any, now and hereafter erected on the Land;
- (b) all easements, rights-of-way and other rights appurtenant to, and all the estate and rights of Seller in and to, the Land;
- (c) all shrubs, trees, plants, awnings and other fixtures now and hereafter located on or appurtenant to the Land;
- (d) all mineral, water, oil, and gas rights owned by Seller, ownership of which relates to the Land; and
- (e) all transferable certificates, permits, licenses, authorizations, approvals, warranties, guaranties and other documents, if any, issued for or with respect to the Land.

2. **Purchase Price.** The purchase price (hereinafter referred to as the "Purchase Price") for the Property shall be Five Million and 00/100 Dollars (\$5,000,000.00). The Purchase Price shall be paid by Purchaser to Seller at Closing in cash, by certified check, by cashier's check or by wire transfer of immediately available funds, less the amount of the Deposit, and subject to appropriate credits, adjustments and prorations as herein below provided.

3. **Deposit.** Within five (5) business days after the Effective Date, Purchaser shall deposit with a mutually agreed upon Escrow Agent, an Earnest Money Deposit in the amount of Ten Thousand Dollars and 00/100 Dollars (\$10,000.00) (said amount, together with any additional

sums deposited by Purchaser with Escrow Agent, and all interest, if any, accruing thereon hereinafter collectively referred to as the "Deposit"). The Deposit shall be held and disbursed in accordance with the terms and provisions of this Agreement. Except as otherwise provided herein, the Deposit shall be paid over to Seller and credited against the Purchase Price at Closing.

4. **Investigation Period.** Purchaser shall have one hundred eighty (180) days after the Effective Date (the "Investigation Period") to determine, in Purchaser's sole and absolute discretion that the Property is suitable and satisfactory for Purchaser's intended use. If Purchaser determines that the Property is not suitable for Purchaser's intended use, Purchaser may terminate this Agreement by providing written notice of such termination to Seller within five (5) days after the expiration of the Investigation Period, whereupon the Earnest Money Deposit shall be promptly returned to Purchaser and this Agreement shall be deemed null and void and of no force and effect, and neither party shall have any further rights, obligations or liability hereunder.

5. **Development Approvals Period.** Purchaser shall have 24 (twenty-four) months after the Effective Date (the "Development Approvals Period") to secure, at Purchaser's sole cost, all local, state, and federal approvals necessary and for the expiration of all appeal period pertaining to the approvals obtained to develop the Property for a 200 (two hundred) unit garden style apartment project (the "Project"). At the end of the initial 24 (twenty-four) month period, Purchaser may extend the Development Approvals Period by an additional 12 months. If Purchaser exercises its rights to extend the Development Approvals Period, Purchaser must pay Seller an additional Earnest Money Deposit of Ten Thousand Dollars and 00/100 Dollars (\$10,000.00) (the "Additional Deposit"). The Additional Deposit shall be held and disbursed in accordance with the terms and provisions of this Agreement

6. **Title and Survey Matters.**

- (a) **Title Insurance.** Within ninety (90) days after the Effective Date of this Agreement, Seller shall furnish to Purchaser a Preliminary Title Report and Binder (the "Title Commitment") and a copy of all title exceptions listed therein, and a copy of all leases affecting the Property ("Title Exceptions") issued by a title company (the "Title Company") acceptable to Purchaser.
- (b) **Survey.** Prior to the expiration of the Development Approvals Period, Purchaser shall obtain a survey of the Property (the "Survey"), prepared to the specifications of Purchaser, Purchaser's lender and/or the Title Company. In the event the legal description of the Property as established by the Survey differs from the legal description set forth in Exhibit A, Seller shall execute and deliver at Closing, in addition to the Warranty Deed, a Quitclaim Deed containing a legal description of the Property as established by the Survey.
- (c) **Title and Survey Objections.** Prior to the expiration of the Development Approvals Period, Purchaser shall provide Seller with written notice of any matters set forth in the Title Commitment and/or the Survey which are unacceptable to Purchaser (hereinafter collectively referred to as the "Title



Defects"). All matters set forth in the Title Commitment to which Purchaser does not object shall be permitted title exceptions (the "Permitted Title Exceptions"). Seller shall have thirty (30) days after receipt of such notice to cure the Title Defects to the satisfaction of Purchaser and the Title Company or to notify Purchaser and the Title Company that the Title Defects will be cured at or before Closing. If Seller fails to cure any Title Defect at or before Closing, Purchaser may, at its option, (i) accept title to the Property subject to the Title Defects, or (ii) terminate this Agreement, whereupon the Earnest Money Deposit(s) shall be promptly returned to Purchaser and this Agreement shall be deemed null and void and of no force and effect, and neither party shall have any further rights, obligations or liability hereunder.

7. **Closing Date.** The closing of the transaction contemplated by this Agreement (the "Closing") shall take place at a time and place mutually agreeable to Seller and Purchaser, on or before ninety (90) days after the expiration of the "Development Approvals Period." In the event Seller and Purchaser are unable to agree on a time and place, the closing shall take place at 1:00 p.m. eastern time on the ninetieth (90th) day following the expiration of the Development Approvals Period (or at 1:00 p.m. eastern time on the first business day thereafter in the event the thirtieth (30th) day following the expiration of the Development Approvals Period falls on a Saturday, Sunday or legal holiday) at Purchaser's office.

8. **Access to Property Before Closing.** Purchaser, its agents, representatives and consultants, shall have the right, at all times before Closing, to go upon the Land to inspect the Property and to undertake those actions which Purchaser, in its discretion, deems necessary or desirable to determine the suitability of the Property for Purchaser's intended use. Said privilege shall include, without limitation, the right to make surveys, environmental assessments and audits, and to conduct any and all other tests, inspections and examinations deemed necessary by Purchaser and to obtain any information relating to the Property. Purchaser hereby agrees to defend, indemnify and hold Seller harmless from and against any loss, damage, liability, suit, claim, cost or expense, specifically including, without limitation, reasonable attorneys' fees arising from or relating to any injury to person or to property sustained as a direct result of the exercise by Purchaser of such right of entry.

9. **Closing Procedures and Requirements.**

- (a) **Conveyance of Title.** At Closing, Seller shall execute and deliver to Purchaser a Warranty Deed conveying fee simple, marketable, record title to the Property to Purchaser, free and clear of all liens, special assessments, easements, restrictions and encumbrances whatsoever, except for the Permitted Title Exceptions. If any mortgage, lien or other encumbrance encumbers the Property, such mortgage, lien or other encumbrance shall be satisfied and paid at the Closing from the proceeds of the Purchase Price. Seller hereby agrees that such documents, affidavits, resolutions, certificates of good standing and certificates of authority as may be required by Purchaser and/or the Title Company to carry out the terms of this Agreement shall be executed and delivered by Seller at Closing, including, without

limitation, any and all affidavits and documents, in form and content sufficient to enable the Title Company, in conjunction with the Survey, to delete all standard title exceptions from the Title Policy.

- (b) **Prorating of Taxes and Assessments.** All real property ad valorem taxes and general assessments applicable to the Property shall be prorated between Seller and Purchaser as of the date of Closing. Said proration shall be based upon the most recently available tax or general assessment rate and valuation with respect to the Property; provided, however, that upon the issuance of the actual tax or general assessment statement or bill for the year of the Closing, Purchaser and Seller shall promptly make such prorations as may be necessary to ensure that the actual amount of such taxes and general assessments for the year of the Closing shall be prorated between Purchaser and Seller as of the date of Closing, said agreement to survive the Closing. All special assessments which have been levied or certified before the Closing Date shall be paid by Seller at or before the Closing.
- (c) **Closing Costs.** Seller shall pay State transfer tax applicable to the Warranty Deed and all costs relating to the issuance of the Title Commitment and the ALTA Owner's Title Insurance Policy in favor of Purchaser and all other costs allocated to Seller elsewhere in this Agreement. Purchaser shall pay (i) any fees charged by Escrow Agent, (ii) the cost of recording the Warranty Deed, (iii) the cost of the Survey, and (iv) all other costs allocated to Purchaser elsewhere in this Agreement. Each party shall pay its own attorney's fees and costs.

10. **Representations and Warranties of Seller.** To induce Purchaser to enter into this Agreement and to purchase the Property, Seller, in addition to the other representations and warranties set forth herein, makes the following representations and warranties, each of which is material and is being relied upon by Purchaser and shall survive the Closing:

- (a) That Seller owns fee simple, marketable record title to the Property, free and clear of all liens, special assessments, easements, adverse claims of title, reservation, encumbrances and any and all other matters other than the Permitted Title Exceptions;
- (b) That the execution and delivery of this Agreement and the consummation of the transaction contemplated herein shall not and do not constitute a violation or breach by Seller of any provisions of any Agreement or other instrument to which Seller is a party or to which Seller may be subject although not a party, nor result in or constitute a violation or breach of any judgment, order, writ, injunction or decree issued against Seller;
- (c) That Seller has not received any notice, and that, to the best of Seller's knowledge, neither the Property nor any portion or portions thereof is or will be subject to or affected by (i) any special assessments, whether or not

presently a lien thereof, or (ii) any condemnation, eminent domain, change in grade of public street or similar proceeding;

- (d) That there are no pending or threatened actions, suits or proceedings of any kind or nature whatsoever, legal or equitable, affecting the Property or any portion or portions thereof or relating to or arising out of the ownership of the Property;
- (e) That Seller has not received any notice and that, to the best of Seller's knowledge, there are no pending or threatened actions or proceedings arising out of the alleged violation of any federal, state or local environmental laws;
- (f) That the Property has full, free and adjacent access to and from public highways and roads and that, to the best of Seller's knowledge, there are no facts or conditions which would result in the termination of such access;
- (g) That the Property has not been used for (i) landfill, dumping or other waste disposed activities or operations, or (ii) a burial site or pit for stumps, organic material or construction debris;
- (h) That there are no storage tanks (or similar vessels) or associated piping or lines, either above or below ground, septic tanks or fields, sumps or wells at, on, in under, or above the Property;
- (i) That, to the best of Seller's knowledge, there are no Hazardous Substances located at, on, in, under, or above, the property. As used herein, "Hazardous Substances" means petroleum, petroleum products, polychlorinated biphenyl or PCBs, asbestos, pesticides, herbicides, explosive materials, containers, tanks, vessels, pipes or lines now or formerly used for storing or transporting any of the foregoing and other substance identified, defined, classified or regulated as a hazardous substance or waste in or pursuant to any federal, state or local law, ordinance, or regulation which pertains to health, safety, any Hazardous Substance or the environment ("Environmental Laws") or generally any substance or other material, the removal of which is prohibited, penalized or regulated by any federal, state or local agency; and
- (j) That each of the foregoing representations and warranties is true and correct as of the date hereof, will remain true and correct throughout the term of this Agreement and will be true and correct as of the date of Closing.

11. **Seller's Affirmative Covenants.** Seller hereby makes the following affirmative covenants, each of which shall survive the Closing:

- (a) From and after the date hereof and until physical possession of the Property has been delivered to Purchaser, Seller will keep and maintain the Property in good order and condition and will comply with and abide by all laws,

ordinances, regulations and restrictions affecting the Property or its use. Seller will pay all taxes and assessments prior to the due date thereof and will not commit or permit any waste with respect to the Property;

- (b) Seller shall take such other actions and perform such other obligations as are required or contemplated hereunder, including, without limitation, all obligations pertaining to satisfaction of any contingencies of this Agreement or conditions precedent to performance by Purchaser of its obligations hereunder.
- (c) That each of the foregoing representations and warranties is true and correct as of the date hereof, will remain true and correct throughout the term of this Agreement and will be true and correct as of the date of Closing.

12. **Conditions to Purchaser's Obligations.**

- (a) Purchaser's obligation to purchase the Property or to otherwise perform any obligation provided for herein shall be expressly conditioned upon the fulfillment of each of the following conditions precedent on or before the date or dates hereinafter specifically provided or, if no date is specified, on or before the date of Closing:
  - (i) The representations, warranties and covenants of Seller contained in this Agreement shall be continually true and correct from the Effective date through the date of Closing;
  - (ii) Seller shall have performed and complied with all covenants and agreements herein which are to be performed and complied with by Seller.
- (b) Purchaser may, at any time prior to Closing, at Purchaser's election, waive any of the foregoing conditions to its obligations hereunder, but any such waiver shall be effective only if contained in a written instrument, signed by Purchaser and delivered to Seller. Except as to any condition affirmatively waived by Purchaser in writing, no waiver shall reduce the rights or remedies of Purchaser by reason of any breach of any undertaking, agreement, warranty, representation or covenant of Seller.
- (c) If any of the foregoing conditions or other conditions to this Agreement are not fulfilled or waived prior to Closing, in addition to any and all other rights available to Purchaser as set forth in this Agreement, Purchaser shall have the right to terminate this Agreement, whereupon the Earnest Money Deposit(s) shall be promptly returned to Purchaser and this Agreement shall be deemed null and void and of no force and effect, and neither party shall have any further rights, obligations or liability hereunder.

13. **Remedies Upon Default.**

- (a) If Seller breaches any representation or warranty contained in this Agreement or fails to comply with or perform any of the conditions to be complied with or any of the covenants, agreements or obligations to be performed by Seller under the terms and provisions of this Agreement, Purchaser, in Purchaser's sole discretion, shall be entitled to (i) waive such defaults or conditions precedent and proceed to Closing, (ii) seek specific performance of this Agreement, or (iii) terminate this Agreement. In the event of termination of this Agreement, the Earnest Money Deposit(s) shall be promptly returned to Purchaser and this Agreement shall be deemed null and void and of no force and effect, and neither party shall have any further rights, obligations or liability hereunder.
- (b) If Purchaser breaches any representation or warranty contained in this Agreement or fails to comply with or perform any of the conditions to be complied with or any of the covenants, agreements or obligations to be performed by Purchaser under the terms and provisions of this Agreement, Seller's sole and exclusive remedy for such default shall be, upon giving written notice to Purchaser and the Escrow Agent, to receive the Earnest Money Deposit(s) as full liquidated damages, whereupon this Agreement shall automatically terminate and be deemed null and void and of no force and effect, and neither party shall have any further rights, obligations or liability hereunder. Purchaser and Seller acknowledge that it would be difficult or impossible to ascertain the actual damages suffered by Seller as a result of any default by Purchaser, that such liquidated damages are a reasonable estimate of such damages and that the receipt of such liquidated damages by Seller does not constitute a penalty or forfeiture. Seller further acknowledges and agrees that Purchaser was materially induced to enter into this Agreement in reliance upon Seller's agreement to accept such Earnest Money Deposit(s) as Seller's sole and exclusive remedy and that Purchaser would not have entered into this Agreement but for Seller's agreement to so limit Seller's remedies.

14. **Assignment.** Purchaser may, with Seller's consent, which consent shall not be unreasonably withheld, assign all or any of its rights, title and interest herein. Purchaser shall provide Seller with a copy of any assignment hereof within ten (10) days after the effective date of any such assignment. In the event of any assignment, Seller shall thereafter look solely to such transferee or assignee for the performance of all obligations, covenants, conditions and agreements imposed upon Purchaser pursuant to the terms of this Agreement or otherwise in connection with the transaction contemplated hereby.

15. **Possession of Property; Risk of Loss.** Seller shall deliver to Purchaser full and exclusive possession of the Property on the Closing Date. Risk of loss to the Property before the Closing Date shall be borne by the Seller.

16. **Condemnation.** If the Property or any portion or portions thereof shall be taken or condemned or be the subject of a bona fide threat of condemnation by any Governmental Authority or other entity before the date of Closing, Purchaser, at Purchaser's option, may (a) terminate this Agreement, whereupon the Earnest Money Deposit(s) shall be promptly returned to Purchaser and this Agreement shall be deemed null and void and of no force and effect, and neither party shall have any further rights, obligations or liability hereunder, or (b) require Seller to convey the remaining portion or portions of the Property to Purchaser pursuant to the terms and provisions hereof, in which event Seller shall transfer and assign to Purchaser at the Closing all right, title and interest of Seller in and to any award made or to be made by reason of such condemnation.

17. **Real Estate Commission.** Seller and Purchaser hereby agree that there are no monies due for any real estate brokerage commissions relating to this transaction and each will indemnify the other should a claim arise.

18. **Notices.** Any notice which may be permitted or required hereunder shall be in writing and shall be deemed to have been duly given as of the date of receipt of such notice in the event of personal delivery or the date of receipt or refusal in the event of delivery by certified mail, return receipt requested, or one (1) day after depositing the same with Federal Express or other overnight delivery service from which a receipt may be obtained, as the case may be, and addressed as follows:

To Purchaser at the following address:

Fifteen Great Road II LLC  
c/o Omni Development LLC  
200 Baker Avenue  
Suite 303  
Concord, MA 01742

To Seller at the following address:

Fifteen Great Road LLC  
c/o Omni Development LLC  
200 Baker Avenue  
Suite 303  
Concord, MA 01742

or to such other address as any party hereto shall from time to time designate to the other party by notice in writing as hereby provided.

19. **Escrow Agent.** Escrow Agent shall be liable only to hold the Earnest Money Deposit(s) and to deliver the same to the parties named herein in accordance with the provisions of this Agreement. Escrow Agent shall not be liable or responsible to anyone for any damages, losses or expenses unless same shall be caused by the gross negligence or willful malfeasance of Escrow Agent. In the event of any disagreement between Seller and Purchaser, or between either of them and any other person, resulting in adverse claims and demands being made in connection with the Earnest Money Deposit(s), Escrow Agent shall refuse to comply with any such claims or demands until such time as (a) the rights of adverse claimants have been settled by binding arbitration or

adjudicated in a court of competent jurisdiction, or (b) all differences have been resolved by agreement and a copy of such agreement signed by Seller and Purchaser has been delivered to Escrow Agent. Escrow Agent shall have the right at any time after a dispute between Seller and Purchaser has arisen to pay the Earnest Money into the registry of a court of competent jurisdiction for payment to the appropriate party, whereupon Escrow Agent's obligations hereunder shall terminate.

20. **General Provisions.** This Agreement contains the entire agreement of the parties hereto. Any amendment to this Agreement shall not be binding upon any of the parties hereto unless such amendment is in writing and executed by Seller and Purchaser. The provisions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, personal representatives, successors and assigns. Time is of the essence of this Agreement. This Agreement may be executed in multiple counterparts, each of which shall constitute an original, but all of which, taken together, shall constitute one and the same agreement. The headings inserted at the beginning of each paragraph are for convenience only and do not add to or subtract from the meaning of the contents of each paragraph. Seller and Purchaser hereby covenant and agree that such documents as may be legally necessary or otherwise appropriate to carry out the terms and provisions of this Agreement shall be executed and delivered by each party at Closing. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the Commonwealth of Massachusetts.

21. **Survival of Provisions.** All covenants, representations and warranties set forth in this Agreement shall survive (a) the consummation of the transaction contemplated hereby, (b) the execution and delivery of any and all deeds and other documents at any time executed and delivered under, pursuant to or by reason of this Agreement, and (c) the payment of all monies made under, pursuant to or by reason of this Agreement.

22. **Severability.** This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations. If any provision of this Agreement or the application thereof to any person or circumstances shall, for any reason and to any extent, be invalid or unenforceable, the remaining provisions of this Agreement or the application thereof to any person or circumstances shall not be affected thereby but rather shall be enforced to the greatest extent permitted by law.

23. **Legal Fees and Costs.** If either party brings an action or proceeding for a declaration of the rights of the parties under this Agreement, for injunctive relief, for an alleged breach or default of this Agreement, or any legal action arising out of this Agreement or the transactions contemplated by this Agreement, or if any party is in default of its obligations under this Agreement (whether or not suit is filed or is prosecuted to final judgment or determination), the non-breaching or non-defaulting party shall be entitled to recover from the defaulting party reasonable attorney's fees and expenses, in addition to any court costs incurred and any other damages or relief awarded.

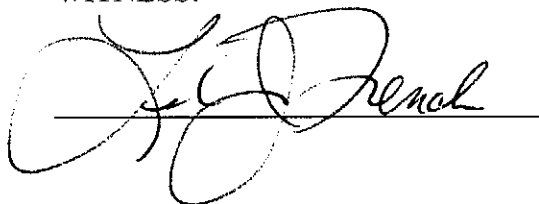
24. **Term of Offer.** This Agreement has been executed first by Purchaser as a continuing offer to purchase the Property, subject to and conditioned upon the terms and conditions set forth herein and shall be open for acceptance by Seller until 5:00 p.m. on March 31, 2011, at

which time the offer shall be deemed to be withdrawn unless at least two (2) fully executed counterparts of this Agreement have theretofore been received by Purchaser.

25. **Effective Date.** When used herein, the term "Effective Date" or the phrase "the date hereof" or "the date of this Agreement" shall mean the date this Agreement is last executed by the Seller and Purchaser.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals as of the dates set forth below.

WITNESS:

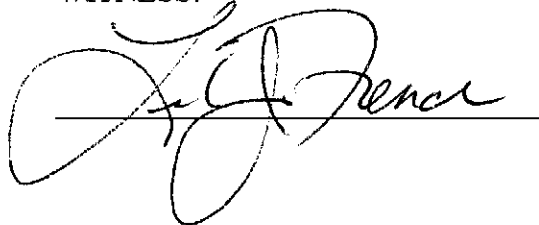


BUYER:  
Fifteen Great Road II LLC

By:   
David Hale, Managing Member

Date of Execution: March 21, 2011

WITNESS:



SELLER:  
Fifteen Great Road LLC

By:   
David Hale, Managing Member

Date of Execution: March 11, 2011



**EXHIBIT A**  
**PROPERTY DESCRIPTION**

A portion of the following three (3) parcels of unimproved land sufficient to construct the Project and as shown on the attached plan subject to any and all rights, easements, restrictions and covenants of record insofar as the same are now in force and applicable.

Parcel 1: One parcel of unimproved land in Littleton and Westford, Middlesex County, Massachusetts being shown as shown as Lot 56A (inclusive of Parcel G) as shown on a Plan of Land entitled, "Plan of Land in Littleton/Westford Massachusetts" prepared for E.J. DiCarlo, Scale: 1"=40', dated September 13, 2000, prepared by J.D. Marquedant & Associates Inc. Land Surveying & Engineering" and recorded with the Middlesex South District Registry of Deeds on December 1, 2000, as Plan 1330 of 2000 in Book 32088, Plan 106 and in Middlesex Northern District Registry of Deeds on January 2, 2001 in Plan Book :204, as Plan 115, containing approximately 51,408 square feet more or less (inclusive of Parcel G on said Plan). Being the premises described in a Deed to the Grantor recorded at the Middlesex South District Registry of Deeds in Book 44885, Page 284.

Parcel 2: One parcel of unimproved land in the Town of Acton and Littleton, Massachusetts, shown on a plan entitled, "Plan of Land" prepared by Hayes Engineering, Inc., dated December 29, 2003 which Plan is filed with the Middlesex South Registry of Deeds as Plan #1349 of 2003. Being the premises described in a Deed to the Grantor recorded at the Middlesex South District Registry of Deeds in Book 41709, Page 502, containing an area of 1,519,142 Square Feet, or 34.875 Acres, more or less.

Parcel 3: The land in Littleton and Acton, Middlesex County, Massachusetts, being further described as follows:

A certain parcel of land in Acton and Littleton, Middlesex County, Massachusetts, containing 12.836 acres of land, and being shown on a plan entitled, "Plan in Acton & Littleton, MA.", dated September 6, 2004, by Hayes Engineering, Inc., recorded with the Middlesex South District Registry of Deeds as Plan No. 1086 of 2004, and to which plan reference may be had for a more particular description of said parcel.

A portion of said parcel is also shown as "Parcel 2A" on a plan entitled, "Plan of Land in Acton & Littleton, MA (Middlesex County), For: Nagog Development Co.", Scale: 1"=80', Aug. 5, 1988, Rev. Sept. 7, 1988, Stamski and McNary, Inc., 80 Harris Street, Acton, Mass., recorded with the Middlesex South District Registry of Deeds in Book 19655, Page 88.

For title to the Grantor, see deed of Community Concepts Corporation dated October 29, 1974, recorded with the Middlesex South District Registry of Deeds in Book 12720, Page 127, deed of Carolyn Clark, Trustee of R.H. Family Trust, recorded with the Middlesex South District Registry of Deeds in Book 20777, Page 353, and deed of North Acton Treatment Corp. dated August 3, 2004, recorded with the Middlesex South District Registry of Deeds in Book 43707, Page 404.

The aforesaid parcels of land are conveyed together with the perpetual right and easement, to pass and repass, by foot and by vehicle, over under and upon those certain strips of land being shown as "Access and Utility Easement" situated on Lot 8C, (which is also known as Durkee Lane, Westford Lane or Durkee Road), and the westerly two hundred and eighty (280.00') feet of Parcel 2A shown as "Utility Easement", ("Easement Areas"), all shown on a plan entitled, "Plan of Land in Acton & Littleton, MA (Middlesex County), For: Nagog Development Co.", Scale: 1"=80', Aug. 5, 1988, Rev

Sept. 7, 1988, Stamski and McNary, Inc., 80 Harris Street, Acton, Mass., recorded with the Middlesex South District Registry of Deeds in Book 19655, Page 88, for ingress and egress to and from Durkee Lane/Westford Lane and Nagog Park Drive, and land conveyed by this deed and other land now or hereafter owned by the Grantee, its successors and/or assigns, which grant of easement shall include: