

**FIFTH AMENDMENT TO
PURCHASE AND SALE AGREEMENT**

This FIFTH AMENDMENT TO PURCHASE AND SALE AGREEMENT (this "Amendment") is made as of the 24th day of September 2010 by and between Mary Ann Caouette, Frances Simeone and John E. Simeone, individually and as trustees of The Simeone Irrevocable Trust u/d/t dated November 17, 1998 and recorded with the Middlesex South Registry of Deeds at Book 31063, Page 219, with a mailing address care of Mary Ann Caouette, 10 Stow Street, Acton, MA 01720 (collectively, the "Seller"), and the Town of Acton, 472 Main Street, Acton, MA 01720 (the "Buyer").

WHEREAS, Seller and Buyer entered into that certain Purchase and Sale Agreement dated as of April 26, 2010 in connection with the conveyance of a certain parcel of vacant land off of Martin Street and Stow Street in Acton (the "Initial Agreement"); and

WHEREAS, pursuant to that certain Amendment to Purchase and Sale Agreement dated June 9, 2010, the parties extended the initial closing date to 10 A.M. on June 21, 2010 (the "First Amendment"); and

WHEREAS, pursuant to that certain Second Amendment to Purchase and Sale Agreement dated June 21, 2010, the parties further extended said closing date to 10 A.M. on July 7, 2010 (the "Second Amendment"); and

WHEREAS, pursuant to that certain Third Amendment to Purchase and Sale Agreement dated July 7, 2010, the parties further extended said closing date to 5 P.M. on July 13, 2010 (the "Third Amendment"); and

WHEREAS, pursuant to that certain Fourth Amendment to Purchase and Sale Agreement dated July 13, 2010, the parties further extended said closing date to 10 A.M. on October 12, 2010 and agreed upon certain other changes to the terms of their deal (the "Fourth Amendment"), together with the Initial Agreement, the First Amendment, the Second Amendment and the Third Amendment, the "Agreement"); and

WHEREAS, as part of Buyer's due diligence, Buyer's consultants have discovered reportable levels of environmental contamination on the premises; and

WHEREAS, Buyer must seek approval at a Special Town Meeting to appropriate funds for any environmental assessment, containment, removal and/or remedial actions required for the premises as well as the closing date extension payments that have been made or may be made to Seller under the Agreement, as amended; and

WHEREAS, the parties wish to amend the Agreement to reflect new, mutually agreeable terms for allowing for the appropriation of funds as identified above as well as establishing a new closing date.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Closing Schedule. The time for closing under the Agreement is extended from 10 A.M. on October 12, 2010 to 10 A.M. on October 26, 2010 and, pursuant to the Fourth Amendment, Buyer shall pay Seller \$5,000 as consideration for said extension upon the execution of this Amendment. Buyer shall use reasonable diligent efforts to meet the closing date of October 26, 2010, however, Buyer shall be entitled, at Buyer's option, to extend the time for closing for up to one (1) additional period of 30 days upon notice to Seller and the payment of \$5,000 for such extension period, provided that (i) there has been a Special Town Meeting vote approving the allocation of funds for remediation of the environmental contamination on the premises, as set forth in Section 2 hereof, and (ii) Buyer is reasonably satisfied that satisfactory environmental remediation for the premises can be accomplished with funds available to Buyer for that purpose.

2. Municipal Approvals. The Board of Selectmen of the Town of Acton have called a Special Town Meeting for October 12, 2010 for the approval of the appropriation of up to \$200,000 to pay for any environmental assessment, containment, removal and/or remedial actions required for the premises, up to \$34,000 to pay for environmental testing and remediation recommendations for the premises, and up to \$22,500 to pay for extensions of the closing date under the Agreement, as amended, and Buyer's obligations hereunder are contingent upon approval of the appropriation of said funds at said Special Town Meeting. The Board of Selectmen will use diligent and good faith efforts to pursue such approval at Special Town Meeting. If Special Town Meeting fails to approve the appropriation of said funds, the Board of Selectmen shall be entitled to terminate the Agreement, as amended, and all deposits under the Agreement shall promptly be returned to Buyer, provided, however, that Seller shall be entitled to retain any extension payments referenced in Section 1 above and in Section 2 of the Fourth Amendment.

3. Counterparts. This Amendment may be executed by facsimile and in multiple counterparts which, when taken together, shall constitute one instrument.

4. Ratification. Except as amended hereby, (a) the Agreement shall be, and hereby is, ratified, confirmed and approved and shall remain in full force and effect in accordance with its terms and (b) Seller and Buyer restate and affirm the representations and warranties of each set forth in the Agreement. Defined terms that are not specifically defined herein shall have the meanings ascribed to them under the Agreement.

[The remainder of this page has been intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment under seal as of the date first above written.

SELLER

BUYER

Town of Acton
By its Town Manager



For Mary Ann Caouette, individually and as trustee of The Simeone Irrevocable Trust Hereunto duly authorized

Steve Ledoux
Hereunto duly authorized



For Frances Simeone, individually and as trustee of The Simeone Irrevocable Trust Hereunto duly authorized



For John E. Simeone, individually and as trustee of The Simeone Irrevocable Trust Hereunto duly authorized

IN WITNESS WHEREOF, the parties hereto have executed this Amendment under seal as of the date first above written.

SELLER

BUYER

Town of Acton
By its Town Manager

Mary Ann Caouette, individually and as trustee of The Simeone Irrevocable Trust
Hereunto duly authorized



Steve Ledoux
Hereunto duly authorized

Frances Simeone, individually and as trustee of The Simeone Irrevocable Trust
Hereunto duly authorized

John E. Simeone, individually and as trustee of The Simeone Irrevocable Trust
Hereunto duly authorized