

LAND EXCHANGE AND DEVELOPMENT AGREEMENT

This Land Exchange and Development Agreement (this “Agreement”) is entered into as of this 11th day of August, 2004, by and between the **Roman Catholic Bishop of Fall River**, a corporation sole, with an address of 450 Highland Avenue, Fall River, Massachusetts (the “Diocese”), and the **Town of Provincetown**, a body corporate and politic, acting by and through its Board of Selectmen, having an address of Provincetown Town Hall, 260 Commercial Street, Provincetown, Massachusetts (the “Town”).

WHEREAS, the Town owns and operates a nursing home known as the Cape End Manor Nursing Home (the “Cape End Manor”) on a certain parcel of Town-owned land located at 100 Alden Street in Provincetown, Massachusetts (the “Town Property”);

WHEREAS, the continued operation of the Cape End Manor requires the renovation or reconstruction of the facility in compliance with all applicable standards, laws, rules, regulations and by-laws;

WHEREAS, it is the Town’s intent to effect the rehabilitation of the Cape End Manor to include a state-of-the-art skilled nursing care facility, an out-patient rehabilitation therapy center, and affordable assisting living facilities (together, the Project”), and to accomplish the foregoing by selecting a qualified health care entity (the “Qualified Entity”) to construct and operate the Project, and conveying to the Qualified Entity the Cape End Manor and the land on which it is situated;

WHEREAS, the Town needs approximately 1.1 acres of additional land for the Project;

WHEREAS, the Diocese is the owner of a certain parcel of land adjacent to the Town Property known as St. Peter’s Cemetery which is comprised of two lots, one identified on Assessors Map as 08-2-027 and the other as 08-2-024, having an address of 124 Alden Street and 116 Alden Street, respectively (together, the “Cemetery Property”);

WHEREAS, the Town desires to acquire a 1.1 acre portion of the Cemetery Property, which portion, though held for cemetery purposes, has never been used as a burial ground, and has requested the Diocese to convey said portion of the Cemetery Property to the Town;

WHEREAS, the Diocese is willing to convey said 1.1 acre portion of the Cemetery Property to the Town, on the condition that the Town conveys to the Diocese a portion of the Town-owned lot on 12 Winslow Street known as Grace Hall Parking Lot and described in a deed recorded with the Barnstable County Registry of Deeds in Book 1405, Page 374 (the “Town Parking Lot”);

WHEREAS, the Diocese desires to obtain a portion of the Town Parking Lot for the purpose of adding parking spaces to the parking lot that the Diocese currently owns and operates (the “Church Parking Lot”), which is located next to the Town Parking Lot;

WHEREAS, the Town is willing to convey a portion of the Town Parking Lot to the Diocese in exchange for said portion of the Cemetery Property; and

WHEREAS, the Town and the Diocese desire to set forth their respective obligations with respect to each other and the transfer of the various parcels of real property described herein.

NOW, THEREFORE, for good and valuable consideration the receipt and legal sufficiency of which are hereby acknowledged, the Town and the Diocese hereby agree as follows:

1. PREMISES:

The real estate to be conveyed by the Diocese to the Town consists of a 1.1 acre portion of the Cemetery Property (the “Diocese Exchange Parcel”), which Diocese Exchange Parcel is shown on the sketch plan attached hereto as Exhibit A. The real estate to be transferred by the Town to the Diocese is a portion of the Town Parking Lot, which portion shall be large enough to accommodate forty (40) parking spaces that comply with all applicable dimensional requirements set forth in the Provincetown Zoning Bylaws, but which portion shall not consist of more than 1.1 acres, and which is shown on the sketch plan attached hereto as Exhibit B (the “Town Exchange Parcel”).

2. TITLE DEED(S):

a. All transfers contemplated by the Agreement shall be by good and sufficient Quitclaim Deeds (the “Deeds”) running to the respective transferee. Said Deeds shall convey a title, which shall be good and clear record marketable title and, in addition, which title shall be such that a nationally recognized title insurance company will issue an Owner’s Title Insurance Policy in the respective transferee’s favor at standard rates with the standard title insurance exceptions for mechanics liens, parties in possession and survey matters deleted (provided that transferee will be responsible, at its sole cost and expense, for obtaining the required title insurance survey, if transferee desires survey matters to be deleted, and title insurance policy), and shall be free from encumbrance, except the following (hereafter called the “Permitted Encumbrances”):

- i. Provisions of existing building, zoning, environmental, health and subdivision control, laws, rules and regulations;
- ii. Such taxes for the then current year as are not due and payable on the date of the delivery of such Deed(s);
- iii. Any liens for municipal betterments assessed after the date of closing hereunder;
- iv. Such record matters affecting title to the applicable parcel of real property on the date of the Agreement to which the relevant transferee does not object prior to the expiration of the period commencing on the date of this Agreement and ending at the conclusion of the sixteen (16) months after the date hereof (the “Due

Diligence Period”) or which the relevant transferee accepts by virtue of its election not to terminate this Agreement as permitted during the Due Diligence Period;

- v. Such easements, covenants and restrictions of record so long as the same do not materially interfere with the use of the properties for the purposes set forth herein;
- vi. A restriction on the Town Exchange Parcel, limiting the use thereof to parking purposes and other uses approved by the Town; and
- vii. A permanent easement reserved by the Town in, over, under, through, across, upon, and along the Town Exchange Parcel to construct, inspect, repair, remove, replace, operate, and forever maintain or abandon in place the subsurface sewage disposal system located thereunder.

b. As appurtenant to the Diocese Exchange Parcel, the Diocese shall convey to the Town an easement for access over the way now existing upon the Cemetery Property and shown on Exhibit A as “emergency access corridor of +/- 21’”, subject to the restriction that said way may be used only for emergency access and not be used to transport residents of the Cape End Manor, except in the event of fire, flood, and other such disasters.

c. If said Deed(s) refer to plan(s) necessary to be recorded therewith, the Town shall deliver such plan(s) with the Deed(s) in form approved by the Diocese and adequate for recording or registration. The Town shall deliver a copy of said plan(s) to the Diocese for review and approval at least sixty (60) days prior to the date of delivery of the Deed(s), which approval shall not be unreasonably withheld or delayed.

d. In addition to the foregoing, if title to any of the parcels of real property is registered, the Deed(s) shall be in form sufficient to entitle the transferee to obtain Transfer Certificates of Title to said parcels, and the transferor shall deliver with said Deed(s) the transferor’s Owner’s Duplicate Certificate(s) of Title and all such other instruments, if any, necessary to enable the transferee to obtain such Transfer Certificates of Title.

3. TRANSFERS OF PROPERTY:

Thirty (30) days after the satisfaction of the conditions precedent set forth in Section 9 below, and upon no less than seven (7) days after prior written notice to each party, the following transfers shall occur simultaneously:

- a. The Diocese shall transfer the Diocese Exchange Parcel to the Town;
- b. The Town shall transfer the Town Exchange Parcel to the Diocese;
- c. The Diocese shall lease the Town Exchange Parcel to the Town for a period of ten (10) years; and

d. The Town shall convey the Town Property and the Diocese Exchange Parcel to the Qualified Entity.

4. PROHIBITION ON ASSIGNMENT:

No party to this Agreement shall, except for an assignment to a nominee controlled by a party to this Agreement or as otherwise specifically permitted in this Agreement, assign or transfer any of the party's rights hereunder prior to delivery and recording of the Deeds, except with the prior written approval of the other party to this Agreement. If any party assigns or transfers any of the said party's rights hereunder prior to delivery and recording of the Deed(s) without such consent, except as otherwise permitted in this Agreement, then the other party to this Agreement shall have the option of terminating this Agreement.

5. DEVELOPMENT AGREEMENTS:

In addition to the transfers of the real estate set forth above, the parties hereto agree to the following:

a. Parking Lot Lease. The Town and the Diocese shall enter into an lease (the "Lease") whereby the Diocese will lease the Town Exchange Parcel to the Town for a period of ten (10) years, for the purpose of operating a parking lot thereon, the terms of which Lease shall be negotiated in good faith by the parties and finalized prior to the delivery of the Deeds. The Town agrees to pay the Diocese an annual rent in the amount of (a) \$35,000.00, or (ii) 11.11% of the revenues generated from the parking spaces located on the entire Town Parking Lot (including the Town Exchange Parcel), whichever is greater. The Town agrees to be solely responsible for the operation and maintenance of the Town Exchange Parcel for the term of the Lease

b. Relocation of Storage Sheds. The Town agrees that it shall demolish the two cinderblock storage sheds, one of which is currently located on the Diocese Exchange Parcel, and the other near Winslow Street, and construct a new building, with utilities, which is large enough to accommodate the materials currently stored in the two cinderblock buildings, at another location on the remaining Cemetery Property approved by the Diocese.

c. Fencing off the Diocese Exchange Parcel. The Town agrees that it will erect a fence on the Diocese Exchange Parcel, of sufficient height to clearly delineate the Diocese Exchange Parcel and separate it from the rest of the Cemetery Property.

6. REPRESENTATIONS OF THE PARTIES: Each party to this Agreement represents to the other party as follows:

a. Authority. This Agreement and each other agreement and instrument described herein required to be executed by each party hereafter constitutes the legal, valid and binding obligation of such party and is enforceable against such party, in accordance with its respective terms. The execution, delivery and performance of this Agreement and each such other agreement and instrument have been authorized by all necessary action on the part of each party.

b. No Conflict. Neither the execution and delivery of this Agreement by each party to this Agreement, nor the consummation or performance by each party of any of the contemplated transactions hereunder, will, directly or indirectly:

- i. contravene, conflict with, or result in a violation of (A) any provision of the organizational documents of such party, or (B) any resolution adopted by the board of directors or the stockholders of any corporate party or by any person or group of persons exercising similar authority;
- ii. contravene, conflict with, or result in a material violation of, any legal requirement or any order to which any party to this Agreement is subject; and
- iii. contravene, conflict with, or result in a material violation of any of the term or requirements of any governmental authorization.

c. Notice of Environmental Liability. None of the parties to this Agreement has received any written citation, directive, inquiry, notice, order, summons, warning or other written communication that relates to Hazardous Substances (as defined below), or any alleged, actual or potential violation or failure to comply with any environmental law, or of any alleged, actual or potential obligation to undertake or bear the cost of any environmental, health and safety liabilities with respect to any of the properties or assets (whether real, personal or mixed) to be transferred hereby. The term “Hazardous Substances,” as used herein, shall mean any “oil”, “hazardous material”, “hazardous wastes” or “hazardous substances” as defined in the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, M.G.L. Chapter 21E, as amended, the Massachusetts Hazardous Waste Management Act, M.G.L. Chapter 21C, as amended, and the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 et seq., as amended, the Toxic Substances Control Act, 15 U.S.C. 52601 et seq; the Federal Insecticide Fungicide and Rodenticide Act, 7 U.S.C. 9136; the Massachusetts Pesticide Control Act, M.G.L. c 132B; the Hazardous Materials Transportation Act, 49 U.S.C. 51801-1812; the Federal Water Pollution Control Act, 32 U.S.C. 1251 et seq. and Massachusetts Water Pollution Control Act, M.G.L. c. 21 §26 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq., and the regulations adopted pursuant thereto, and any other present or subsequent environmental laws, rules and regulations, court decisions, decrees, consent orders and the like of a similar nature applicable to the premises (collectively, the “Hazardous Substances Laws”).

d. Litigation. Each of the parties to this Agreement represents that there is not now pending, nor to such party’s knowledge has there been threatened, any action, suit or proceeding against such party, before or by any federal or state court, commission, regulatory body, administrative agency or other governmental body, domestic or foreign, wherein an unfavorable ruling, decision or finding may reasonably be expected which would interfere with such party’s ability to consummate the transactions contemplated by this Agreement.

7. RIGHT TO INSPECTION:

- a. Inspection. Each of the parties to this Agreement and their agents, representatives, contractors, consultants, engineers, employees and independent contractors may, at their own risk and expense, at any time, and from time to time, so long as this Agreement continues, enter upon the premises to be acquired by such party for the purpose of making surveys, measurements, environmental studies, and engineering studies and other tests and actions which such party may reasonably desire. In performing its due diligence, each party shall give due consideration to the current owner's ongoing operations at the subject property and will use reasonable efforts to minimize the disruption thereto. No party shall conduct environmental sampling, monitoring or other physical testing which requires environmental permits or approvals without such permits or approvals first being obtained.
- b. Professionals. Each of the parties to this Agreement may retain professionals to determine the presence of Hazardous Substances in, on or under the property to be acquired by such party. No party shall conduct environmental sampling, monitoring or other physical testing which requires environmental permits or approvals without such permits or approvals first being obtained.
- c. Repair of Damage. Each party shall repair any physical damage to any property caused by such party or its agents, representatives, employees and independent contractors and shall not cause any unreasonable disruption to the businesses or operations being conducted on the subject property. In consideration of the right to enter upon the property to be acquired as set forth in this Section, the entering party, to the extent permitted by law, hereby indemnifies and holds the current owner of the property harmless from any loss, cost, claim, cause of action or damage incurred by the owner of the subject property due to any act or omission of the investigating party or, its agents, representatives, employees and independent contractors; provided that this indemnity shall not extend to an indemnification for any Hazardous Substances on any property as of the date of this Agreement or hereafter placed on the property by the current owner of the property other than as caused by the investigating parties' negligence. Each party agrees to maintain, or to cause its agents, representatives or independent contractors to maintain, general liability coverage, naming the current owner of any property on which investigative work is conducted as an additional insured, and to require that all those entering upon such property be insured with workman's compensation coverage. All insurance required by this Agreement shall be written by recognized carriers authorized to do business in the Commonwealth of Massachusetts and certificates thereof shall be delivered to the current owner of the property prior to commencing due diligence work. The foregoing indemnity of the parties to this Agreement shall survive the delivery of the Deeds and termination of this Agreement.
- d. Termination of Agreement. If prior to the expiration of the Due Diligence Period, any party notifies the other parties in writing of the unacceptability of title or of such party's determination that the subject property is not satisfactory with respect to Hazardous Substances or title, then this Agreement shall automatically terminate and all obligations of the parties hereunder shall cease and be null and void and without recourse to the parties hereto, except for obligations on the part of any party hereto (such as indemnity obligations) which are to survive such termination as otherwise specifically provided in this Agreement.

8. DELIVERY OF CERTAIN DOCUMENTS:

In order to facilitate each party's investigations of the property to be acquired by such party, each party shall deliver to the relevant acquiring party the following documents, to the extent such items are in the possession of any party:

- a. copies of the most recent survey(s) of the real property;
- b. copies of any permits and approvals and plans; and
- c. copies of any and all engineering reports, soil boring tests and reports, and reports relating to toxic and/or hazardous materials or substances, including, without limitation, asbestos, asbestos containing materials, lead paint, radon gas, petroleum products, urea-formaldehyde and other similar or dissimilar chemical or materials, prepared by or on behalf of such party or its affiliates, and otherwise within such party's possession.

9. CONDITIONS PRECEDENT TO TRANSFERS:

The following conditions precedent must be satisfied prior to the transfer of any of the properties contemplated by this Agreement:

- a. Compliance with General Laws Chapter 30B.
 - i. *Conveyance of Town Exchange Parcel:* the transfer of the Town Exchange Land to the Diocese must comply with General Laws Chapter 30B. The Town has issued/is in the process of issuing a Request for Proposals (the "RFP"), soliciting proposals for properties that the Town would use for the location of the Project in exchange for a parcel of Town-owned land. The transfer of the Town Exchange Parcel is contingent on the Diocese submitting a proposal in response to the RFP, and being chosen by the Town as the successful proposer. Notwithstanding anything herein to the contrary, the Town is not obligated to choose the Diocese as the successful proper under the RFP, but must, instead, choose the proposal that best meets its needs and complies with General Laws Chapter 30B;
 - ii. *Construction and Operation of Cape End Manor:* the Town intends to issue a Request for Proposals inviting qualified health care entities to submit proposals for the construction and operation of the Project. The transfer of the Town Exchange Parcel is contingent upon the Town entering into a satisfactory agreement with the Qualified Entity; and
 - iii. *Conveyance of Cape End Manor Land:* the Town must comply with General Laws Chapter 30B to transfer the Town Property and the Diocese Exchange Parcel to the Qualified Entity. The transfer of the Town Exchange Parcel is contingent upon the simultaneous transfer of the Town Property and the Diocese Exchange Parcel to the Qualified Entity.

- b. Project Approvals. The Town must obtain all necessary permits and approvals for the Project, including, without limitation, the following:
- i. *Approval of the Department of Health*: to transfer the nursing home license to a qualified health care entity, and the Determination of Need (D.O.N.) to construct a new facility; and
 - ii. *Approval of the Cape Cod Commission*: the Project must be approved as a “Project of Community Benefit” under the Cape Cod Commission’s Development of Regional Impact Guidelines.
- c. Town Meeting Authorization. Town Meeting must vote to:
- i. Authorize the Board of Selectmen to convey the Town Exchange Parcel to the Diocese;
 - ii. Authorize the Board of Selectmen to accept the Diocese Exchange Parcel;
 - iii. Approve a zoning amendment to rezone the site of the Project and the surrounding area as part of a “Health Care Overlay District;” and
 - iv. Authorize the Board of Selectmen to convey the Town Property and the Diocese Exchange Parcel to the Qualified Entity.
- d. Special Permit. The Diocese must obtain a special permit from the Zoning Board of Appeals under the Provincetown Zoning By-law Article 2, Section 2440, B7 for parking lot use of the Town Exchange Parcel.
- e. Title. At the time of transfer each of the transferees shall own their respective properties in fee simple absolute, and each shall have good and clear record marketable title, free from encumbrances, except the Permitted Encumbrances.
- f. Hazardous Substances. Each party’s obligations hereunder are conditional, at each party’s option, upon not having found on the premises any Hazardous Substances on the property to be acquired by said party.
- g. Representations. A certificate executed by a duly authorized representative of each of the parties to this Agreement certifying that the representations made in Section 6 of this Agreement are true and accurate as of the Closing Date.

10. CONDITION AND SUFFICIENCY OF REAL PROPERTY:

- a. Disclaimer of Warranties. EACH PARTY TO THIS AGREEMENT ACKNOWLEDGES THAT THIS AGREEMENT AFFORDS EACH PARTY AN OPPORTUNITY TO INSPECT THE PROPERTIES TO BE ACQUIRED BY SUCH PARTY IN CONNECTION WITH THE CONTEMPLATED TRANSACTIONS HEREUNDER. EACH PARTY UNDERSTANDS AND AGREES THAT ALL APPURTENANT RIGHTS AND IMPROVEMENTS AND ALL OF THE ASSETS AND PROPERTIES (WHETHER REAL, PERSONAL OR MIXED, AND WHETHER TANGIBLE OR INTANGIBLE) TO BE

ACQUIRED BY SUCH PARTY ARE BEING CONVEYED IN “AS IS” CONDITION. EACH PARTY TO THIS AGREEMENT EXCLUDES AND DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT THERETO, INCLUDING, WITHOUT LIMITATION, THE HABITABILITY OF ANY STRUCTURES, THE CONDITION (INCLUDING, WITHOUT LIMITATION, BOTH PATENT AND LATENT DEFECTS) OF ANY STRUCTURES, IMPROVEMENTS OR SYSTEMS (INCLUDING, WITHOUT LIMITATION, ALL SUBSURFACE CONDUITS, PIPES, CULVERTS, SYSTEMS OR OTHER IMPROVEMENTS OF ANY TYPE), THE AVAILABILITY OF ANY UTILITIES, ACCESS, COMPLIANCE OF THE PROPERTIES WITH ANY APPLICABLE ZONING, LAND USE, ENVIRONMENTAL OR OTHER LEGAL REQUIREMENTS, THE EXISTENCE OR NON-EXISTENCE OF HAZARDOUS MATERIALS, ASBESTOS, LEAD PAINT OR OTHER HEALTH HAZARDS, AND THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS OR ADEQUACY FOR ANY PARTICULAR PURPOSE OR USE.

b. Environmental Contingency. Notwithstanding anything herein to the contrary, each party’s performance hereunder is expressly conditional, at that party’s option, upon said party not having found any Hazardous Substances on the property to be acquired by said party. In the event Hazardous Substances are found, the party to acquire the real property shall have the right, to be exercised in its sole and absolute discretion, to terminate this Agreement by providing written notice to the other party prior to the expiration of the Due Diligence Period.

11. TIME FOR PERFORMANCE; DELIVERY OF DEEDS:

Such deeds are to be delivered at the Barnstable County Registry of Deeds, or at such other place as the parties may agree in writing thirty (30) days after satisfaction of the conditions precedent set forth in Section 9 above and upon at least seven (7) days prior written notice to each party (the “Closing Date”), time being of the essence in this Agreement.

12. POSSESSION AND CONDITION OF PREMISES:

Full possession of the subject property is to be delivered at the time of the delivery of the Deeds, the subject property to be then free of tenants and occupants, free of personal property and trade fixtures and free of debris and otherwise in the same condition as the property is in at the date of execution of this Agreement.

13. EXTENSION TO PERFECT TITLE OR MAKE PREMISES CONFORM:

If any party to this Agreement shall be unable to give title or to make conveyance, or to deliver possession of the subject property, all as herein stipulated, or if at the time of the delivery of the Deeds the property does not conform to the provisions hereof, then the owner of the subject property shall use reasonable efforts to remove any defects in title, or to deliver possession as provided herein, or to make the subject property conform to the provisions hereof, as the case may be, in which event, the time for performance hereof by all parties shall be extended for a period of time reasonably necessary to cure said defect, deliver possession or make the property conform, provided that such extension shall not exceed thirty (30) days

without written consent of all of the parties hereto. If at the end of such extended period the relevant owner is unable to deliver possession of the subject property, cure defects in title, or make the property conform, all as herein stipulated, then, unless otherwise agreed to in writing by all of the parties to this Agreement, this Agreement shall terminate and all other obligations of all parties hereto shall cease and this Agreement shall terminate without recourse to the parties hereto, except for those provisions that are expressly stated to survive termination.

14. ELECTION TO ACCEPT TITLE:

Notwithstanding the foregoing provisions, any party to this Agreement shall have the election, at either the original or any extended time for performance, subject to any cure obligations as set forth in this Agreement, to accept such title as the owner can deliver to the relevant property in its then condition, in which case the owner shall convey such title.

15. TRANSACTION BROKER:

Each of the parties to this Agreement represent and warrant to each other that it has not engaged any broker, entered into a listing agreement or other contract or otherwise retained a broker in connection with the transactions contemplated by this Agreement. Each party to this Agreement shall, to the extent permitted by law, indemnify and hold the other parties harmless from and against any loss, cost or damage suffered or incurred by the other as a result of a breach of the foregoing representations. The representations, warranties and obligations under this Section shall survive the delivery of the Deed(s) or, if the transfers contemplated herein do not occur, the termination of this Agreement.

16. LIABILITY OF SHAREHOLDER, OFFICER:

Only the parties to this Agreement shall be bound by this Agreement and no shareholder, director, employee, agent, parent corporation or officer or appointed or elected official of the Town, shall be personally liable for any obligation, express or implied, hereunder.

17. NOTICES:

All notices which a party to this Agreement may desire or be required to give hereunder shall be in writing and shall be given by Express Mail, return receipt requested, with postage prepaid, or delivered by Federal Express or other recognized overnight delivery service, which service obtains a signature on delivery, or sent by telecopier with a copy simultaneously sent by ordinary first class mail, postage prepaid, addressed to the parties as follows:

If to Town: Provincetown Town Hall
 260 Commercial Street
 Provincetown, MA 02657
 Attention: Board of Selectmen

with a copy to: Kopelman and Paige, P.C.
 31 St. James Avenue
 Boston, MA 02116

Attention: Jeanne S. McKnight, Esq.

If to the Diocese: Roman Catholic Bishop of Fall River, a Corporation Sole
450 Highland Avenue
Fall River, MA 02740
Attention: Bishop

with a copy to: Frederic J. Torphy, Esq.
Torphy & Sullivan, LLP
10 North Main Street
Fall River, MA 02722

Any party may designate another addressee (or a different address) for notices hereunder by notice given pursuant to this paragraph. A notice sent in compliance with the provisions of this paragraph shall be deemed given on the day after the notice is sent.

18. COSTS:

Except as may be otherwise provided for herein, each of the parties hereto shall each bear their own legal fees and other costs incurred in connection with the preparation of this Agreement, the plans for their respective premises, and the consummation of the transactions contemplated by this Agreement.

19. HOLIDAYS:

Wherever this Agreement provides for a date, day or period of time on or prior to which action or events are to occur or not occur, if such date, day or last day of such period of time falls on Saturday, Sunday or legal holiday, then same shall be deemed to fall on the immediately following business day.

20. DISPUTES:

In any action, suit or other proceeding relating to the obligations of the parties hereunder, the non-prevailing party shall pay the reasonable legal fees and costs and expenses of the prevailing party.

21. FURTHER ASSURANCE:

In addition to the obligations expressly required to be performed hereunder by the parties hereto, each party agrees to cooperate with the other and to perform such other acts and to execute, acknowledge and deliver, before and after the Closing Date, such other instruments, documents and materials as a party may reasonably request and as shall be necessary in order to effect the consummation of the transactions contemplated hereby and to vest title to the various properties, provided that no such other instrument, document, or material shall either extend or enlarge the obligations of the non-requesting party to make any payment or expend any funds which are not expressly provided for herein.

22. DEFAULT:

If any party shall default in the performance of their obligations hereunder, then the other party to this Agreement shall have the right either to: (a) terminate this Agreement, or (b) seek specific performance of the defaulting party's obligations hereunder. If this Agreement is terminated due to the default of any party, the defaulting party shall reimburse the non-defaulting party for the costs and expenses incurred by the non-defaulting party in connection with its performance of its obligations and exercise of its rights under this Agreement.

23. RECORDING:

This Agreement shall not be recorded by any party, and any such recordation shall constitute an event of default by such party under this Agreement.

24. ADDITIONAL CLOSING DOCUMENTS:

a. Each party to this Agreement agrees to deliver a title insurance affidavit at closing sufficient for the parties hereto to obtain title insurance free from parties in possession or mechanic's lien exceptions and such other documents as any party, its title insurer or lender may reasonably require.

b. Each party to this Agreement agrees to deliver at closing a corporate resolution or certified copies of public votes to establish the incumbency and authority of the party executing this Agreement, the Deed(s) and other closing documents.

25. CONSTRUCTION OF AGREEMENT:

This Agreement may be executed in one or more counterparts each of which shall be deemed an original but all of which shall constitute one and the same Agreement. This Agreement shall be construed as a Massachusetts contract, is to take effect as a sealed instrument, sets forth the entire contract between the parties, is binding upon and inures to the benefit of the parties hereto and the successors and assigns of the parties hereto and the permitted successors and assigns of the parties hereto, and may be cancelled, modified or amended only by a written instrument executed by the parties hereto (but this Agreement may not be assigned by the parties hereto except as otherwise expressly permitted hereunder).

26. TITLE AND PRACTICE STANDARDS

Any matter or practice arising under or relating to this Agreement which is the subject of a title standard or a practice standard of the Massachusetts Conveyancers Association/Real Estate Bar Association at the time for delivery of the deed shall be covered by said title standard or practice standard to the extent applicable.

EXECUTED as a sealed instrument as of the date first set forth above.

ROMAN CATHOLIC BISHOP
OF FALL RIVER

By: _____
Name: George W. Coleman
Title: Bishop

TOWN OF PROVINCETOWN,
Acting by and through its Board of Selectmen

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