

REAL PROPERTY TRANSFER AGREEMENT

THIS REAL PROPERTY TRANSFER AGREEMENT (this “*Agreement*”), is made and entered into as of the ____ day of _____, 20____ (the “*Effective Date*”), by and among [DISAFFILIATING UNITED METHODIST CHURCH], a New York religious corporation having an address of [insert subject property address] (“*Transferor*”), and [TRANSFeree ENTITY], a New York [Religious/Not-for-Profit] corporation having an address of [insert subject property address] (“*Transferee*” and collectively with the Transferor, the “*Parties*”).

RECITALS:

A. Transferor is the owner of real property located at [STREET ADDRESS], [TOWN/VILLAGE/CITY], [COUNTY] County, New York, consisting of approximately +/- [ACREAGE] acres and being [COUNTY] County tax parcel number [TAX PARCEL ID NUMBER], as more particularly described on Exhibit “A” attached hereto (the “*Land*”).

B. Transferor desires to transfer and Transferee desires to accept title to the Property (as defined herein) in accordance with and subject to the terms and conditions hereinafter set forth.

CONSIDERATION AND AGREEMENT:

IN CONSIDERATION of the mutual covenants and agreements herein contained and of the benefits to be derived herefrom, receipt whereof is hereby severally acknowledged, Transferor and Transferee hereby agree as follows:

1. Sale and Purchase Price. On the terms and conditions provided in this Agreement, Transferor shall sell, convey and assign to Transferee, and Transferee shall purchase the Land from Transferor and shall include all right, title and interest of Transferor, if any, in and to:

a. All buildings, improvements and structures located on the Land, including but not limited to a [INSERT: former church building, fellowship hall, parsonage, etc.];

b. All tangible personal property of Transferor located at the Property as of the Closing (as hereinafter defined), including, without limitation, equipment, tools, supplies, wall partitions, and other items belonging to Transferor and used in the ownership, development, management, maintenance and operation of the Property (the “*Personal Property*”);

c. Strips and gores of land adjoining or abutting the Land, if any;

d. Any land lying in the bed of any street, road, avenue or alley, opened or proposed, in front of, running through or adjoining the Land;

e. Any easement, privilege or right-of-way over, contiguous or adjoining the Land, and all the other easements, if any, inuring to the benefit of the Land or the fee owner thereof;

f. The appurtenances and hereditaments belonging or in any way appertaining to the Land;

g. To the extent they may be transferred under applicable law, all licenses, permits, approvals and authorizations required for the use and operation of all or any portion of the Land; and

h. Any award made or to be made in lieu of any interest referred to in the above subdivisions (a) through (g), with Transferor agreeing to execute and deliver to Transferee on demand at the Closing (as hereinafter defined), or thereafter, all proper instruments for conveyance of such title and the assignment and collection of such award, the foregoing (a) through (g), together with the Land, being collectively known as the "**Property**."

2. Acceptance. Transferor hereby accepts the offer of Transferee. Such offer and acceptance are subject to and in accordance with the terms and conditions hereinafter set forth.

3. Purchase Price. The Purchase Price for the Property shall be One and 00/100 DOLLARS (\$1.00) (the "**Purchase Price**"), payable plus or minus closing adjustments, as the case may be, in wire transferred funds of U.S. currency to the Transferor's attorney for disbursement to Transferor at Closing.

4. Title. Within ten (10) days after the Effective Date, Seller shall order an updated abstract of title for the Property (the "**Abstract of Title**"). At the Closing, Purchaser shall reimburse Seller for any and all expenses incurred by the Seller in obtaining such Abstract of Title. Upon receipt of the Abstract of Title, Seller shall promptly forward the same to Purchaser. Purchaser hereby expressly waives any right to examine such Abstract of Title and to make objections on the basis of such Abstract of Title. Accordingly, Purchaser agrees to accept title to the Property subject to all Permitted Exceptions. "**Permitted Exceptions**" shall mean (i) those exceptions identified in the Abstract of Title, (ii) real estate taxes for the year of Closing which are not yet due and payable, (iii) matters created, suffered or permitted by or through the Purchaser, (iv) roads, highways and other public rights of way, (v) zoning, land use and other governmental laws, rules and regulations, (vi) any liens and other matters dismissed by bankruptcy court orders, (vii) utility, access and parking easements, and (viii) easements, covenants, conditions and restrictions of record

5. Possession. Possession of the Property shall be delivered at the time of Closing, subject to the rights of tenants (if any) under any pertinent leases and/or other rental arrangements.

6. Representations and Warranties of Transferor; Conditions Precedent. Transferor represents and warrants unto Transferee as of the date hereof, as follows:

a. Representations and Warranties.

i. Transferor, to its knowledge, has the legal power, right and authority to enter into this Agreement and the instruments referenced herein, and to consummate the transaction contemplated hereby.

ii. All requisite action has been or will be taken by Transferor in connection with entering into this Agreement, the instruments referenced herein, and the consummation of the transaction contemplated hereby.

iii. The individuals executing this Agreement and the instruments referenced herein on behalf of Transferor have the legal power, right, and actual authority to bind Transferor to the terms and conditions hereof and thereof.

iv. Transferor is not a “**foreign person**” as defined in §1445(f)(3) of the Internal Revenue Code and regulations promulgated thereunder, which Transferor shall so certify at Closing.

v. As of the date of this Agreement, Transferor has no pending lawsuit, charge, complaint or other action against Transferee or the Conference.

b. Conditions Precedent to Transferor’s Obligation to Close. Transferor’s obligation to consummate the transactions contemplated by this Agreement are expressly contingent upon the following:

i. Approval and acceptance of Transferor’s application for disaffiliation from The Upper New York Annual Conference of the United Methodist Church (the “Conference”) pursuant to Paragraph 2553 of the Book of Discipline of The United Methodist Church.

ii. Compliance with all of the terms and conditions set forth in that certain Disaffiliation Agreement by and between The Conference and Transferor dated [DATE OF DISAFFILIATION AGREEMENT].

iii. Approval of the transfer contemplated herein by the New York State Supreme Court as required pursuant to the Religious Corporation Law.

7. The representations and warranties of Transferor set forth in this Agreement shall merge with the Deed and shall not survive the Closing.

8. Representations and Warranties of Transferee; Indemnity. Transferee represents and warrants unto Transferor as follows:

a. Representations and Warranties.

i. Transferee has been duly incorporated, organized, or formed, whichever is applicable and validly exists in the State of New York. Transferee has the legal power, right and authority to enter into this Agreement and the instruments referenced herein, and to consummate the transaction contemplated hereby.

ii. All requisite action (corporate, trust, partnership or otherwise) has been taken by Transferee in connection with entering into this Agreement, the instruments referenced herein, and the consummation of the transaction contemplated hereby. No consent of any partner, shareholder, trustee, trustor, beneficiary, creditor, investor, judicial or administrative

body, governmental authority or other party is required for Transferee to consummate the transaction contemplated by this Agreement.

iii. Transferee has as of the date hereof, and will have as of the Closing, sufficient funds in cash in its possession to pay the cash portion of the Purchase Price.

iv. As of the date of this Agreement, Transferee has no pending lawsuit, charge, complaint or other action against Transferor or the Conference.

b. **Indemnity**. Transferee shall indemnify, defend, and hold Transferor, the Conference and the officers, directors, agents, employees, controlling persons and affiliates of Transferor and the Conference (individually, a "**Transferor Party**" and collectively, the "**Transferor Parties**") harmless from all losses, costs, liens, claims, causes of action, liability, damages and expenses, including, without limitation, reasonable attorneys' fees, incurred by any Transferor Party as a result of any breach by Transferee or its partners, shareholders, officers, directors, agents, employees, controlling persons and affiliates (individually, a "**Transferee Party**" and collectively, the "**Transferee Parties**") of the representations, warranties and covenants set forth in this Section 8 and/or resulting from Transferee Parties' failure to comply with all obligations of any Transferee Party required by this Agreement. Further, upon completion of the parties' respective obligations under this Agreement, the Transferee Parties hereby fully and forever covenant not to sue the Transferor Parties, and release and discharge the Transferor Parties from any liability for any and all causes of action and claims, including any statutory or common law cause of action, tort or contractual claims, any claims for attorneys' fees, expenses and all other damages, whether known or unknown, foreseen or unforeseen, which the Transferee Parties ever had, now has, hereafter may have or claim to have against any of the Transferor Parties in any way arising out of their relationship with each other. Notwithstanding the foregoing releases and covenants not to sue, the Transferor Parties may take action to enforce the terms of this Agreement, including the indemnity in this Section 8(b), in any court where jurisdiction and venue are proper and the Transferor Parties reserve their rights against the Transferee Parties and its successors and assigns for contribution and indemnification arising out of any personal injury or property damage claim raised by any third-party. The provisions of this paragraph shall survive closing. The Parties acknowledge and agree that the Conference is an intended third-party beneficiary of this Agreement including this Section 8(b).

9. **Inspection Waiver**. Transferee acknowledges that Transferee had the opportunity to conduct an inspection of the physical and economic condition of the Property and hereby expressly waives any opportunity to conduct any further inspection. Transferee hereby waives any objections to Closing based upon the condition of the Property (including any personal property acquired by Transferee pursuant to this Agreement).

10. **Closing**. Transferee and Transferor shall close the transaction contemplated by this Agreement fifteen (15) days after the satisfaction or waiver by Transferor in its sole discretion of the contingencies set forth in Section 6(b) of this Agreement. Transferee shall deliver the Purchase Price (subject to adjustment as set forth below) to the Transferor's attorney by no later than 1:00 p.m. EST on the date of Closing and the following documents, in the form attached or in such form and content as is reasonably satisfactory to Transferor, shall be executed by Transferor and Transferee, as the case may be, and delivered to the Transferor's attorney:

- a. A Quit Claim Deed conveying title to the Property to Transferee in a form to be prepared by Transferor.
- b. A Closing Statement setting forth all closing adjustments and prorations for the Property to be executed by both Transferee and Transferor.
- c. A Non-Foreign Person/Entity Affidavit signed by Transferor.
- d. Such other documents as are necessary to complete this transaction.

11. Closing Adjustments and Costs. The following shall be apportioned on the Closing Statement against sums due Transferor at Closing:

- a. All taxes and special assessments of whatever nature and kind which have become a lien on the land or due and payable as of the date of Closing shall be paid and discharged by Transferor. Current real and personal property taxes shall be prorated in accordance with local custom; Transferor shall be responsible for taxes up to but not including the day of Closing and Transferee shall be responsible for taxes from and after the date of Closing.
- b. Transferee shall pay all state, county and local real estate conveyance, stamp and similar taxes and any transfer taxes due upon Closing or required to be paid upon recording of the Deed with respect to the Property.
- c. Transferee shall pay all recording costs to file the Deed in the [COUNTRY] County Clerk's Office.
- d. Transferor shall pay all outstanding bills of utility companies and service providers paid by Transferor with respect to the Property through the day prior to the date of Closing.
- e. Transferee shall pay all of Transferee's title insurance premiums, if any.
- f. Transferor shall reimburse the Conference, as third-party beneficiary of this Agreement, for all costs and expenses incurred by the Conference in connection with the transfer contemplated herein including, but not limited to, attorneys' fees, the cost of obtaining any abstract of title for the Property, and all costs related to obtaining approval of the transfer contemplated herein by the New York State Supreme Court as required pursuant to the Religious Corporation Law and as set forth in Section 6(b)(iii) of this Agreement.

12. Cooperation. Upon execution hereof, Transferor shall use reasonable efforts to make available all information in Transferor's possession reasonably requested by Transferee regarding the Property.

13. As-Is, Waiver and Release. As a material inducement to the execution and delivery of this Agreement by Transferor and the performance by Transferor of its duties and obligations hereunder, Transferee does hereby acknowledge, represent, warrant and agree, to and with the Transferor, that (i) Transferee is purchasing the Property in an "AS-IS" condition as of the date

of the Closing with respect to any facts, circumstances, conditions and defects; (ii) Transferor has no obligation to repair or correct any such facts, circumstances, conditions or defects or compensate Transferee for same; (iii) by the Closing, Transferee shall have undertaken or waived, pursuant to this Agreement, all such physical inspections and examinations of the Property as Transferee deems necessary or appropriate under the circumstances, and that based upon same, Transferee is and will be relying strictly and solely upon such inspections and examinations and the advice and counsel of its agents and officers, and Transferee is and will be fully satisfied that the Purchase Price is fair and adequate consideration for the Property; (iv) except as expressly set forth above in Section 6 and for the duration thereof, Transferor is not making and has not made any warranty or representation with respect to all or any part of the Property (including, but not limited to, any matters contained in documents made available or delivered to Transferee in connection with this Agreement as an inducement to Transferee to enter into this Agreement and thereafter to purchase the Property or for any other purpose); and (v) by reason of all of the foregoing, Transferee shall assume the full risk of any liability, loss or damage occasioned by any fact, circumstance, condition or defect pertaining to the physical and financial condition of the Property, including without limitation the environmental condition of the Property, such as the presence of any asbestos containing material, mold, lead paint, hazardous toxic or radioactive wastes, substances or materials, petroleum, petroleum products or petroleum wastes, in, on, under or about the Property, and Transferee hereby expressly and unconditionally waives and releases the Transferor Parties from any and all rights and claims against the Transferor Parties with respect to the condition of the Property, including without limitation any rights of Transferee under the State or Federal Comprehensive Environmental Response, Compensation and Liability Act, the New York Environmental Conservation Law, the New York Navigation Law, common law theories of liability, and/or any similar laws. Transferee acknowledges and agrees that the foregoing waiver and release includes all rights and claims of Transferee against Transferor pertaining to the condition of the Property, including without limitation the environmental condition of the Property, whether heretofore or now existing or hereafter arising, or which could, might, or may be claimed to exist, of whatever kind or nature, whether known or unknown, suspected or unsuspected, liquidated or unliquidated, each as though fully set forth herein at length, which in any way arise out of, or are connected with, or relate to, the condition of the Property. The foregoing provisions shall survive the Closing Date and the consummation of the transaction contemplated by this Agreement.

14. Risk of Loss and Condemnation. Until Closing, Transferor has the risk of loss or damage to the Property. If any loss or damage occurs prior to Closing, Transferee may, at its option, cancel this Agreement. If all or any part of the Property is condemned or any condemnation action or proceeding is commenced prior to Closing, Transferee may, at its option, cancel this Agreement.

15. Intentionally Omitted.

16. Broker's Fees. Transferee and Transferor each represent and warrant to the other that they have not employed any investment banker, finder, broker, agent or other intermediary in connection with the negotiation or consummation of this Agreement or of any of the transactions contemplated hereby. Transferee and Transferor each represent and warrant to the other that they have not employed, retained or consulted any broker, agent or finder in connection with the solicitation of Transferee, the negotiations in connection with this Agreement or the purchase

and sale referenced herein. Transferee and Transferor shall indemnify each other and hold each other harmless from and against any and all claims, demands, causes of action, debts, liabilities, judgments and damages (including costs and reasonable attorneys' fees) which may be asserted or recovered against each other on account of any brokerage fee, commission or other compensation arising by reason of Transferee's or Transferor's breach of this representation and warranty.

17. Governing Law. This Agreement shall be governed by the laws of the State of New York.

18. Binding Effect. This Agreement shall bind the parties hereto, their respective heirs and assigns. Transferee may not assign its interest hereunder without the prior written approval of Transferor.

19. Notices. Any notices, communications, requests or consents which may be given or are required to be given under the terms of this Agreement shall be in writing and shall be sent (i) by registered or certified mail return receipt requested, or (ii) Federal Express (or other nationally recognized overnight service). Such notice, communication, request or consent shall be deemed to have been given (a) on the third (3rd) business day after deposit in the U.S. Mail, Certified or Registered or (b) on the first (1st) business day after delivery to the custody of a nationally recognized overnight courier service. Either party may designate any other name or address to receive notices.

If to Transferor:

[LOCAL CHURCH]
[LOCAL CHURCH ADDRESS]

With a copy to:

Attn: _____, Esq.

With a copy to:

Harter Secrest & Emery LLP
1600 Bausch & Lomb Place
Rochester, New York 14604
Attn: Kristin F. Zimar, Esq.
Phone: (585) 231-1418

If to Transferee:

[TRANSFEE]
[PROPERTY ADDRESS]

With a copy to:

Attn: _____, Esq.

With a copy to:

Harter Secrest & Emery LLP
1600 Bausch & Lomb Place
Rochester, New York 14604
Attn: Kristin F. Zimar, Esq.

Phone: (585) 231-1418

20. Time for Performance. Time shall be of the essence for purposes of this Agreement.

21. Number and Gender. Whenever required by the context or use in this Agreement, the singular word shall include the plural word and the masculine gender shall include the feminine and/or neuter gender, and vice versa.

22. Captions. The paragraph titles, headings and/or captions contained herein have been inserted solely as a means of reference and convenience. Such captions shall not affect the interpretation or construction of this Agreement and shall not define, limit, extend or otherwise describe the scope of this Agreement or the intent of any provision hereof.

(The remainder of this page is intentionally left blank; signatures on following page)

IN WITNESS WHEREOF, this Agreement shall be deemed entered into and effective as of the Effective Date.

TRANSFeree:

[TRANSFeree]

By: _____

Name: _____

Its: _____

TRANSFERor:

[TRANSFERor]

By: _____

Name: _____

Its: Trustee

By: _____

Name: _____

Its: Trustee

EXHIBIT “A”

PROPERTY DESCRIPTION

[TO BE ATTACHED WHEN FINALIZED]