

## DISMISSAL AGREEMENT AND RELEASE

~~-[CPC SESSION AND PRESBYTERY RESOLUTION TEAM NEGOTIATED AGREEMENT SEPTEMBER 12, 2012]-~~  
(All the wording in this document is subject to review and revision by attorneys for CPC and Yellowstone Presbytery)

**This Dismissal Agreement and Release** (herein, the "Agreement") is made effective as of the date this Agreement is executed by both parties hereto, by and between the Presbytery of Yellowstone (herein, the "Presbytery"), 203 B Haggerty Lane, Bozeman, Montana, 59715, on its own behalf and as an agent of the Presbyterian Church (U.S.A.) (herein, the "PC(USA)") and Community Protestant Church of West Yellowstone, Inc. (herein, "CPC"), 505 North Electric, West Yellowstone, Montana, 59758.

**WHEREAS**, since 1963, CPC has been a participating member of the PC(USA) and its predecessor organizations and has been governed according to the provisions of the Constitution of the PC(USA) and all related ecclesiastical rules and laws;

**WHEREAS**, the session of CPC and the Resolution Team of Yellowstone met and negotiated this Agreement on September 12, 2012;

**WHEREAS**, 86 % of the members of CPC present on September 23, 2012 (representing 77% of the total membership) voted to ask to be dismissed from the PC(USA) to the Presbytery of the West of the Evangelical Presbyterian Church (EPC) according to this Agreement;

**WHEREAS**, the Presbytery is the ecclesiastical and geographical district of the PC(USA) in which CPC is located and is authorized by Sections G-3.0301a of the Constitution of the PC(USA) to dismiss CPC to another Reformed denomination;

**WHEREAS**, all of the assets owned or controlled by CPC have been fully disclosed to the Presbytery, with such assets including but not limited to the real property of CPC and any improvements thereupon located at the above-described address (herein, the "CPC Real Property") and any and all personal property owned and controlled by CPC whether or not existing at or on the CPC Real Property;

**WHEREAS**, pursuant to its Mission, CPC desires and intends to continue to worship and spread the Gospel of Christ from its current location;

**WHEREAS**, on \_\_\_\_\_, 2012, the Resolution Team of the Presbytery recommended that the Presbytery dismiss CPC to the Presbytery of the West of the Evangelical Presbyterian Church;

**WHEREAS**, upon a duly made motion to dismiss CPC, the Presbytery passed the recommendation of the Resolution Team by a \_\_\_ majority vote of those present at the Presbytery meeting on *November 3, 2012*;

**WHEREAS**, because the leadership and individuals affected by this Agreement will change through the years, the parties desire to memorialize the Agreement in writing to aid in its application in years to come;

**NOW, THEREFORE**, in consideration of the mutual promises, covenants, representations and agreements hereinafter set forth, receipt and sufficiency of which is acknowledged by each of the parties hereto, the parties hereto, intending to be legally bound, covenant, promise and agree as follows:

1. **Dismissal.** The Presbytery dismisses CPC to the Presbytery of the West of the Evangelical Presbyterian Church, ("EPC") which dismissal shall become effective upon official notification by the Presbytery of the West to Yellowstone Presbytery that it has received CPC as a congregation, of the EPC.

2. **Payment.**

(a) CPC shall make to the Presbytery payments *totaling sixty thousand dollars (\$60,000.00) in five equal installments of twelve thousand dollars (\$12,000) each year as follows: (a) the first installment payment shall be paid at the time this Agreement is executed by both parties hereto; and (b) the following installments within sixty (60) calendar days of the following four (4) annual anniversaries of the date this Agreement is executed by both parties hereto.*

(b) In the event 120 calendar days have elapsed from the due date of any installment payment, as described in Section 2, sub-section (a), the Presbytery shall have the right, at its sole discretion, to execute any of its legal rights, including but not limited to any rights afforded under this agreement, any rights afforded under the security interest described in Section 3, repossession of the property, The Presbytery's election to forego any of these rights shall not be construed as a waiver of its right to later assert its entitlement to remedies.

(c) There shall be no penalty for pre-payment of any portion of the payments set forth in this section.

(d) In the event the Property is sold prior to the fifth and final installment being paid to the Presbytery by CPC, CPC shall pay out of the sale proceeds all monies due and owing to the Presbytery under this Agreement at that time.

(e) In the event CPC withdraws, is dismissed or leaves the EPC and does not request re-admittance to the PC(USA) prior to the fifth anniversary of the execution of this agreement the Presbytery shall have the right, at its sole discretion, to execute any of its legal rights, including but not limited to any rights afforded under this agreement, any rights afforded under the security interest described in Section 3, repossession of the property and/or CPC will become a participating member of the PC(USA) or its successor organization and will be governed according to the provisions of the Constitution of the PC(USA) or its successor organization and all related ecclesiastical rules and laws.

3. **Security Interest:**

*(to be determined and negotiated by the Presbytery attorney and CPC's attorney)*

4. **Insurance.**

*(to be determined and negotiated by the Presbytery attorney and CPC's attorney)*

5. **Property.** The Presbytery, on its own behalf and specifically on behalf of the PC (USA), shall file with the Gallatin County Clerk and Recorder within a reasonable time after the execution of this agreement any documents necessary to grant CPC all right, title and interest in the CPC Real Property and all other personal and other property owned acquired by, or otherwise in the possession and /or control of CPC. The Presbytery agrees to execute any documents of conveyance reasonably requested by CPC to ratify and affirm such relinquishment of rights, if any, such documents will be prepared by CPC and any costs associated with the recording or filing of same will be paid by CPC.

6. **CPC Covenants.** CPC further covenants not to educate or encourage other PC(USA) congregations or leaders to enter into or join the EPC.

7. **Non-disparagement/mutual up-building:** Both parties agree to refrain from any statements and communications, public or private, written or oral, that disparage, slander, libel, or otherwise cast the other party in an unfavorable light.

8. **Use of Community Protestant Church Name.** The Presbytery agrees to allow CPC to keep the name "Community Protestant Church of West Yellowstone", or any derivative there of containing the words "Community" and "Church", as a sign of CPC's desire to remain a Reformed congregation. CPC understands that the Presbytery has no power to restrict any other PC(USA) affiliates, including other presbyteries from using the name "Community Protestant Church."

9. **Return of Books, Records, Symbols, etc.** At the time of the execution of this Agreement by both parties hereto, CPC will deliver to the Presbytery the original Session Minute Books, Rolls, and Registers.

10. **Mutual Release.**

(a) As of the date this Agreement is executed by both parties hereto, for and in consideration of the promises and covenants contained herein, the Presbytery, on its own behalf and on behalf of the PC(USA) and all principals, agents, affiliates, officers and directors, negotiating committee, predecessors, successors and assigns (the "Presbytery Parties"), hereby releases, remises and, forever discharges CPC, its members, affiliates, officers, directors, elders, deacons, auditors, employees, agents, negotiating committee, predecessors, successors and assigns (the "CPC Parties") from all claims, damages, demands, causes of action, suits, debts, dues, sums of money, accounts, interest, costs and expenses of whatever kind and nature, including but without limitation, attorneys' fees and any other cause of action, known and unknown, whether in contract, tort, equity or otherwise, whether statutory or common or ecclesiastical law, which the Presbytery Parties ever had or may have against the CPC Parties for any reason, legal or ecclesiastical.

(b) As of the date this Agreement is executed by both parties hereto, for and in consideration of the promises and covenants contained herein, CPC, on its own behalf and on behalf of the CPC Parties, hereby releases, remises and forever discharges, the Presbytery Parties from all claims, damages, demands, causes of action, suits, debts, dues, sums of money, accounts, interest, costs and expenses of whatever kind and nature, including but without limitation, attorneys fees and any other cause of action, known and unknown, whether in contract, tort, equity or otherwise, whether statutory or common or ecclesiastical law, which the CPC Parties ever had or may have for any reason, legal or ecclesiastical.

(c) Nothing in this "Mutual Release" term, described in Section 10, sub-sections (a) and (b), shall be construed as prohibiting either party hereto from enforcing this Agreement by any means, including but not limited to legal action.

**11. Covenant Not to Sue.**

(a) The CPC Parties and the Presbytery Parties agree, promise and covenant that neither they, nor any person, organization or other entity acting on their behalf will file, charge, claim, sue or cause or permit to be filed, charged or claimed, any action for damages or other relief (including injunctive, declaratory, monetary relief or other) against the other Parties, whether in legal or ecclesiastical courts, involving any matter occurring prior to the execution of this Agreement, or involving or based upon any disputes finally resolved by this Agreement.

(b) The Presbytery will defend and indemnify CPC from any claims purported to be released by this Agreement that are asserted against CPC by the PC(USA) or the Synod of the Rocky Mountains. In any such action, CPC shall have the right to be defended by counsel of its choice.

(c) CPC will defend and indemnify the Presbytery from any claims purported to be released by this Agreement asserted against the Presbytery by the EPC and/or any entity affiliated with it. In any such action, the Presbytery shall have the right to be defended by counsel of its choice.

(d) Nothing in this "Covenant Not to Sue" term, as described in this Section, shall be construed as prohibiting either party hereto from, enforcing this Agreement by any means, including but not limited to legal action.

**12. No Admission of Liability.** This Dismissal Agreement and Release shall not be construed or interpreted as an admission of liability by any party hereto with respect to any allegation, claim or cause of action made or asserted by any other party hereto arising out of the matters set forth above.

**13. Authority.** CPC represents it has the complete authority of its session, directors, officers, members, and any other persons or entities required to enter into this Agreement. The Presbytery represents it has the full and complete authority of the PC(USA), the Presbytery's members, and any other persons or entities, including all decision making bodies within the PC(USA), required to enter into this Agreement.

**14. Notices.** All notices, demands, requests, consents, approvals or other instruments required or permitted pursuant hereto shall be in writing and shall be deemed to have been given/received upon receipt memorialized by any form of mail or courier service offering "return receipt," including but not limited to certified USPS mail — return receipt requested, FedEx, and/or UPS. Notices shall be provided to the following addresses:

If to CPC:                   Community Protestant Church  
                                  Attention: Clerk of Session  
                                  505 North Electric  
                                  West Yellowstone, MT 59758

If to the Presbytery: Yellowstone Presbytery  
                                  Attention: Stated Clerk  
                                  203 B Haggerty Lane  
                                  Bozeman, MT 59715

15. **Costs.** Each party shall be responsible for and pay all of its own attorneys' fees and costs incurred prior to the execution of this Agreement by both parties hereto associated with the subject matter hereof.
16. **Complete Agreement.** This Agreement constitutes the entire and only understanding and agreement among the parties hereto with respect to the subject matter hereof. All prior or contemporaneous understandings, discussions or agreements with respect to said subject matter are expressly superseded by this Agreement.
17. **Binding Effect.** This Dismissal Agreement and Release shall be binding upon and inure to the benefit of the parties hereto and their respective representatives, agents, predecessors, successors, and assigns.
18. **Governing Law.** This Agreement shall be interpreted, endorsed and governed in accordance with the Constitution of the PC (USA) and the laws of the State of Montana.
19. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement.
20. **Attorneys' Fees.** In the event of a dispute arising in the interpretation or application of this Agreement, the prevailing party shall be entitled to attorneys' fees and costs incurred due to said dispute.
21. **Execution of Necessary Documents:** The parties agree to execute, expeditiously and in good faith, any and all supplementary documents that may be necessary and to take all supplementary steps necessary to give full force and effect to the terms of this Agreement.

22. **Joint Public Statements:** At the time of the execution of this document by both parties, each shall submit to the other party a public statement for review by the other party.

23. **Captions.** The captions set forth herein are used merely to assist the reader in reading this Agreement and referring to its terms. They should not be construed to change the duties and responsibilities of each party pursuant to the substantive terms herein.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby set our hands as of the dates set forth below.

**Yellowstone Presbytery**

BY: \_\_\_\_\_

Jody McDevitt

Moderator of the Presbytery

Dated this \_\_\_\_ day of \_\_\_\_\_ 2012

BY: \_\_\_\_\_

Ron Hanson

Stated Clerk of the Presbytery

Dated this \_\_\_\_ day of \_\_\_\_\_ 2012

**Community Protestant Church**

BY: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Clerk of Session

Dated this \_\_\_\_ day of \_\_\_\_\_ 2012

BY: \_\_\_\_\_

Printed Name: \_\_\_\_\_

\_\_\_\_\_ of the Corporation

Dated this \_\_\_\_ day of \_\_\_\_\_ 2012