# PURCHASE AND SALE AGREEMENT

(Property Numbers: 506-5089 and 500-0922 )

THIS PURCHASE AND SALE AGREEMENT (this "**Agreement**") is effective as of the Effective Date, by and between THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, a Utah corporation sole fka Corporation of the Presiding Bishop of The Church of Jesus Christ of Latter-day Saints, a Utah corporation sole ("**Seller**"), and Virgin Town, a Utah Municipal Corporation ("**Buyer**").

## RECITALS

A. Seller is the owner of certain real property located at approximately 91 S. Mill Road in Virgin, Utah, as more fully described on Exhibit A attached hereto (the "**Real Property**"), together with those items included in the definition of "**Property**" below.

B. Buyer desires to purchase from Seller, and Seller is willing to sell to Buyer, the Property upon the covenants, terms, conditions, and provisions set forth in this Agreement.

## AGREEMENT

NOW, THEREFORE, in consideration of the promises, covenants, representations, and warranties hereinafter set forth, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

1. **DEFINITIONS**. The following terms shall have the following meanings when used in this Agreement:

1.1 **Agreement** – This Purchase and Sale Agreement, including all exhibits and schedules attached hereto.

1.2 **Business Day** – A day other than a Saturday, Sunday, or day on which banking institutions in Utah are authorized or required by law or executive order to be closed.

1.3 **Buyer's Consultants** – The attorneys, lenders, and consultants of Buyer that are specifically working with Buyer on the Purchase and Sale Transaction.

1.4 **Cash** – United States currency represented by certified or cashier's check, wire transfer or other readily available funds.

1.5 **Closing or Close of Escrow** – The closing and consummation of the Purchase and Sale Transaction, as evidenced by the delivery of all required funds to Seller and the recording of the Deed.

1.6 **Closing Date** – On or before the date which is twenty (20) calendar days after the expiration of the Feasibility Review Period.

1.7 **Current Knowledge** – With respect to Seller shall mean the current, actual knowledge of the Seller Representatives, and with respect to Buyer shall mean the current, actual knowledge of Buyer.

1.8 **Effective Date** – The later of the date that Buyer or Seller acknowledges receipt of a fully executed Agreement, as evidenced by Buyer's or Seller's signatures and the date inserted following their signatures on the signature page herein.

1.9 **Escrow** – The escrow created with the Escrow Agent pursuant to this Agreement.

1.10 **Feasibility Review Period** – The period of time from the Effective Date until 5:00 pm, Mountain Standard Time, on the date which is thirty (30) calendar days after the Effective Date.

1.11 **Hazardous Materials** – Any (i) hazardous, harmful, dangerous, or toxic waste, item, substance, material, or product (including, without limitation, any and all asbestos or petroleum-based products) as presently defined by any federal, state, or local environmental and/or health law, act, edict, directive, decree, rule, statute, ordinance, or regulation, including without limitation, (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C.A. Section 9601, et. seq., (b) the Hazardous Materials Transportation Act, 49 U.S.C.A. Section 5101, et. seq., (c) the Resource Conversation and Recovery Act, 42 U.S.C.A. Section 6901, et. seq., (d) the Toxic Substances Control Act, 15 U.S.C.A. Section 2601, et. seq., (e) the Federal Water Pollution Control Act, 33 U.S.C.A. Section 1251, et. seq., (f) all state or local environmental laws, and (g) any and all regulations related to any of the foregoing; or (ii) other item, substance, material, or product prohibited, limited, or regulated by or under any of the laws, acts, edicts, directives, decrees, rules, statutes, ordinances, or regulations described above.

1.12 **Opening of Escrow** – The date of delivery to and acceptance by Escrow Agent of a fully executed original of this Agreement.

1.13 **Permitted Exceptions** – All taxes and assessments against the Property which are not yet due and payable as of the Closing Date, all then-current zoning laws and restrictions relating to the Property (all in connection with the Entitlements), any patent claims and/or reservations, and all other matters affecting title to the Property contained in the Title Report or shown on the Survey as are accepted by Buyer pursuant to the provisions of Section 6.2 of this Agreement.

1.14 Intentionally deleted

1.15 **Property** – The Real Property, together with (i) all buildings, structures and improvements currently included thereon; (ii) any and all easements, rights of way, and appurtenances running with or pertaining thereto, including without limitation any rights to use adjacent streets or alleyways; and (iii) applicable water rights, energy, and mineral rights.

1.16 **Purchase and Sale Transaction** – The purchase of all of the Property by Buyer, and the sale of all of the Property by Seller, all as contemplated by this Agreement.

2. **Purchase Agreement**. Seller hereby agrees to sell to Buyer, and Buyer hereby agrees to purchase from Seller, the Property. The Property shall be purchased in accordance with, and subject to, the terms, conditions, and provisions fully set forth below.

3. **Purchase Price**. The Purchase Price for the Purchase and Sale Transaction shall be as follows:

3.1 **Purchase Price**. The purchase price of the Property (the "**Purchase Price**") shall be One Million Three Hundred Thousand and No/100 Dollars ($1,300,000).

3.2 **Earnest Money**. Buyer shall deposit the following amounts (collectively with any and all interest accrued thereon, the "**Earnest Money**") in accordance with the following provisions:

3.2.1 Twenty Thousand and No/100 Dollars ($20,000) in Cash deposited with Escrow Agent within three (3) Business Days after the delivery to Escrow Agent of a fully executed original of this Agreement. In the event that the Earnest Money is not timely delivered by Buyer to Escrow Agent, then this Agreement shall be null and void in all respects and neither party shall have any obligations of any kind except to the extent the obligations by their terms expressly survive any termination of this Agreement.

3.3 **Balance of the Purchase Price**. The Purchase Price, less the Earnest Money, shall be paid by Buyer to Seller at the Closing of the Purchase and Sale Transaction.

4. **Disposition of Earnest Money**. Seller and Buyer hereby instruct Escrow Agent to hold the Earnest Money, if any, and to disburse the Earnest Money as follows:

4.1 **Distribution of Earnest Money to Buyer**. If the Purchase and Sale Transaction for the Property is not consummated due to (i) the timely termination of this Agreement by Buyer pursuant to an existing termination right under this Agreement in which the express terms of such termination right provide that Buyer is granted the right to receive the Earnest Money; or (ii) the termination of this Agreement by Buyer due to a material Seller Default under this Agreement, then all portions of the Earnest Money shall be paid and disbursed immediately to Buyer.

4.2 **Distribution of Earnest Money to Seller**. If the Purchase and Sale Transaction for the Property is not consummated due to (i) any termination of this Agreement by any party for any reason other than as expressly set forth in Section 4.1 above; or (ii) a Buyer Default under this Agreement, all portions of the Earnest Money shall be paid and disbursed immediately to Seller.

4.3 **Application of the Earnest Money to Purchase and Sale Transaction**. If the Purchase and Sale Transaction is consummated, the Earnest Money shall be applied at the Closing to the Purchase Price in accordance with Section 3.3 above and shall be paid to Seller.

5. **Feasibility Review Period**. During the Feasibility Review Period, Buyer shall have the right to inspect the Property and to conduct, review and approve any investigations, tests, analyses, studies or other matters deemed necessary by Buyer to determine the condition and fitness of the Property and the feasibility and desirability of acquiring the Property (the "Feasibility Review"), all in accordance with the terms and provisions of this Section 5.

5.1 **Feasibility Review**. Seller hereby grants to Buyer and Buyer's employees, contractors and agents, upon reasonable notice, a nonexclusive right and license to enter upon the Property, at Buyer's sole risk, to conduct the Feasibility Review, and other inspections during the Feasibility Review Period. Notwithstanding the foregoing, Buyer shall not have the right to perform an invasive or intrusive testing at, in, on or under the Property without the additional prior written consent of Seller, which consent may be withheld in Seller's sole discretion. In all events, Buyer shall use its best and most diligent efforts to minimize any inconvenience or disturbance of any and all tenants in connection with Buyer's entry onto, or Feasibility Review of, the Property.

5.1.1 **Damage; Repairs**. Buyer will immediately repair any damage to the Property resulting from such entry upon, or testing of, the Property to the same or better condition that existed prior to such entry upon or testing of the Property.

5.1.2 **Indemnification**. Buyer shall indemnify, defend, save and hold Seller harmless from any losses, costs, expenses, damages, injuries, deaths, causes of action, liens, penalties, fines, and liabilities of any and all kinds whatsoever (including, without limitation, reasonable attorneys' fees and costs) caused by, or in any way related to, the acts or omissions of Buyer and its employees, contractors and agents during and in connection with the Feasibility Review. The obligations of Buyer set forth above in the preceding sentence shall expressly survive any cancellation, termination, or expiration of this Agreement.

5.1.3 **Insurance Requirements**. Buyer shall obtain a Commercial General Liability Insurance Policy with a limit of not less than $2,000,000 each occurrence, covering the activities of Buyer and its employees, contractors, and agents while on the Property, and naming Seller as an additional insured, which policy shall be non-cancelable without thirty (30) days' prior written notice to Seller. A certificate evidencing such insurance and Seller as an additional insured shall be delivered to Seller prior to any entry by Buyer or Buyer's employees, contractors and/or agents onto any portion of the Property.

5.1.4 **Termination**. If the results of Buyer's Feasibility Review are unsatisfactory to Buyer for any reason, then Buyer may terminate this Agreement prior to the expiration of the Feasibility Review Period by giving Seller written notice of termination (a "**Termination Notice**"), whereupon all portions of the Earnest Money shall be returned to Buyer in accordance with Section 4 of this Agreement, and neither Buyer nor Seller shall have any further right, liability, duty or obligation under this Agreement, except for agreements or covenants that specifically survive termination. In the event Buyer does not timely terminate this Agreement prior to the expiration of the Feasibility Review Period, then Buyer (i) shall be deemed to have waived its right to terminate under this Section 5.1.4 and to have approved the condition of the Property in all respects (subject to the satisfaction of all conditions set forth herein); and (ii) Buyer and Seller shall continue to consummate the Purchase and Sale Transaction subject to all other terms and conditions set forth herein. Notwithstanding anything contained herein to the contrary, any amount deposited by Buyer with the Escrow Agent in connection with this Purchase and Sale Transaction shall become automatically non-refundable upon the expiration of the time period to which such deposit applied.

5.2 **Inspection Materials**.

5.2.1 **Inspection Materials Defined**. Seller, within a reasonable period after the Opening of Escrow, shall make available the following materials to Buyer to the extent same are in Seller's immediate possession or control, without a duty to investigate (collectively, the "**Inspection Materials**"):

(A)The most recent survey of the Real Property, if any; and

(B) A title commitment with respect to the Real Property issued by the Escrow Agent and committing to issue a standard owner's policy of title insurance with respect to the Property, together with copies of all instruments referred to on Schedule "B" of such report (collectively, the "**Title Report**")

5.2.2 **No Warranties for Inspection Materials**. In no event shall Seller be required to provide to Buyer any materials or documentation that are attorney work product or attorney-client privileged. All Inspection Materials are furnished to Buyer "AS IS" with no warranty or representations of any kind whatsoever from Seller.

5.3 **Confidentiality of Inspection Materials, Feasibility Review Results, and All Other Terms of this Agreement**. All Inspection Materials (whether provided to Buyer prior to, on or after the Effective Date), the results of any Feasibility Review (whether received by Buyer prior to, on or after the Effective Date), and all other terms and provisions of this Agreement (including the existence thereof and/or any negotiations that have occurred and/or will occur between Seller and

Buyer) shall be kept and maintained strictly confidential by Buyer and same shall not be disclosed to any other party; provided, however, such Inspection Materials, and the results of any Feasibility Review, may be disclosed to Buyer's Consultants to the limited extent necessary to allow Buyer (i) to review and approve the condition of the Property in connection with its purchase of the Property; and (ii) to consummate the Purchase and Sale Transaction specifically contemplated by this Agreement. In the event any Inspection Materials, the results of any Feasibility Review, and/or any terms and provisions of this Agreement (including the existence thereof and/or any negotiations that have occurred and/or will occur between Seller and Buyer) are disclosed to any Buyer's Consultants, Buyer shall cause Buyer's Consultants to agree in writing to keep and maintain the Inspection Materials and the results of any Feasibility Review confidential in the same manner as set forth above. The terms and conditions related to this confidentiality provision shall expressly survive any termination or cancellation of this Agreement. Buyer shall indemnify, defend, save, and hold Seller harmless (and all of its affiliates, parent companies, members, managers, directors, employees, representatives, agents, and/or representatives) from all liabilities of any kind relating to any disclosures by Buyer or Buyer's Consultants in breach of this Section 5.3. In addition, Buyer shall be responsible and liable for any and all damages of Seller with respect to any such breach. The terms and provisions of this Section 5.3 shall survive any cancellation, termination, or expiration of this Agreement.

5.4 **Return of Inspection Materials and Other Documentation**. Should this Agreement be terminated for any reason, Buyer shall furnish to Seller within ten (10) days thereafter: (i) copies of any and all Inspection Materials furnished to or obtained by Buyer; and (ii) copies of any surveys, reports and test results of any kind obtained by Buyer with respect to the Property. The terms and provisions of this Section 5.4 shall survive any cancellation, termination, or expiration of this Agreement.

6. **Survey and Title Review**.

6.1 **Survey**. Buyer may, at Buyer's expense, during the Feasibility Review Period obtain an ALTA survey for the Property by obtaining a new survey. In all events, the most recent survey for the Property, as may be updated or obtained by Buyer, shall be referred to herein as the "Survey." If Buyer elects to obtain a Survey, then such Survey shall be certified to both Seller and Buyer.

6.2 **Title Review**. Buyer shall have until the expiration of the Feasibility Review Period to review any easements, liens, encumbrances, or other exceptions or matters disclosed in or shown on the Survey and work together with the Escrow Agent to obtain such title insurance coverages. In the event that Buyer is unable to obtain any and all applicable title coverages, or if Buyer otherwise does not approve the condition of title to the Property, then Buyer shall have the right on or before the expiration of the Feasibility Review Period to terminate this Agreement by delivering a Termination Notice to Seller, whereupon all portions of the Earnest Money shall be returned to Buyer in accordance with Section 4 of this Agreement, and neither Buyer nor Seller shall have any further right, liability, duty or obligation under this Agreement, except for agreements or covenants that specifically survive termination. In the event Buyer does not timely terminate this Agreement prior to the expiration of the Feasibility Review Period, then (i) Buyer shall be deemed to have waived its right to terminate under this Section 6.2 and all items, exceptions, and conditions shown on the then-current Title Report and the Survey shall be deemed approved as "Permitted Exceptions" to the title of the Property; and (ii) Buyer and Seller shall continue to consummate the Purchase and Sale Transaction subject to all other terms and conditions set forth herein.

6.3 **<u>Title Policy</u>**. At the Closing, Escrow Agent shall issue to Buyer, at Seller's expense, a standard owner's policy of title insurance ("Title Policy") in the amount of the Purchase Price insuring Buyer as the fee owner of the Property, subject to all Permitted Exceptions and standard exceptions relating to a standard owner's policy of title insurance. Buyer may, at its expense, obtain extended coverage and/or such endorsements for the Property as Buyer may reasonably request or require. Obtaining extended coverage and/or any endorsements shall not be a condition or contingency of the Closing.

7. **<u>Entitlements</u>**.

7.1 Buyer, at its sole cost and expense, shall have until the expiration of the Feasibility Review Period to determine the suitability of the Property for Buyer's intended purposes. In no event shall Buyer cause to occur any action or matter that would cause a final change to the current zoning, plat, or legal description of the Property, including, without limitation, zoning change, final plat approval, final subdivision approval, the recording of any subdivision plat or boundary line agreement, or any other similar governmental action. Buyer acknowledges that such actions and filings may not occur until after Closing. In the event Buyer breaches this Section 7, then Buyer shall become irrevocably committed to purchase the Property and Seller shall, in addition to any other remedies set forth herein, have the right to specific performance.

8. **<u>Closing</u>**.

8.1 **<u>Time and Place</u>**. The Closing for the Purchase and Sale Transaction shall take place in the offices of Escrow Agent on the Closing Date.

8.2 **<u>Seller's Closing Deliveries</u>**. At the Closing, Seller shall deliver, or cause to be delivered, to Escrow Agent and Buyer, as applicable:

8.2.1 A special warranty deed, or its equivalent in the state where the Real Property is located (the "**Deed**"), on Seller's approved form, fully executed and properly acknowledged by Seller. The Seller and Buyer agree that the following conditions and restrictions (the **"Conditions"**) shall appear in the deed of conveyance: (i) Buyer, their successors and assigns shall not manufacture, keep for sale, or sell on the subject property any alcoholic beverages or intoxicating liquors; (ii) Buyer, its successors and assigns shall not operate a place of public entertainment or amusement (as defined by local statutes) on the subject property; and (iii) Buyer, its successors and assigns shall not permit on the subject property a nuisance or offensive activity which is an annoyance or a nuisance to a church or private dwelling located nearby. The foregoing Conditions shall be binding upon all persons now having or hereafter acquiring any right, title or interest in the property conveyed herein (the "**Subject Parcel**"), or any part thereof, and shall be included in the Deed. In the event that Buyer or any of Buyer's heirs, successors or assigns sells or transfers the Subject Parcel, Buyer shall cause the Conditions to be included in the deed to the grantee in that transaction. In the event of breach of any of the Conditions, Seller shall have the right to obtain an injunction enforcing the Conditions and shall be entitled to reasonable attorneys' fees and costs from Buyer incurred in the enforcement thereof. A breach of any of the Conditions, or injunctive relief obtained by Seller by reason of such breach, shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value as to the Subject Parcel or any part thereof, but the Conditions shall be binding upon, and effective against, any owner whose title to the Subject Parcel or any part thereof, is acquired by foreclosure, trustee's sale or otherwise. All and each of the Conditions shall in all respects terminate, expire and end and be of no further effect either legal or equitable and shall not be enforceable if: (1) Buyer or Buyer's heirs, successors or assigns, demolish all of Seller's buildings on the Subject Parcel; or (2) a period of 50 years expires from the date of the recording of this conveyance.

Buyer acknowledges that Seller has informed Buyer that the premises described in the Deed and the structures located thereon have not been tested for and cannot be confirmed to be free from asbestos. Buyer hereby releases Seller from any liability to Buyer with regard to asbestos found on said premises and/or structures and Buyer further agrees that Buyer will indemnify and save and hold Seller harmless from any injury or damage to persons or property caused by or resulting from contact, directly or indirectly, with asbestos on the above-described premises and/or structures. In the case of renovation, demolition or other occurrence requiring handling, repair or removal of asbestos or materials containing asbestos, Buyer hereby agrees to remove, cover or repair said materials at Buyer's own expense and to comply with the requirements pertaining to asbestos on the said premises and structures, as law may from time to time require. The requirements and provisions of this paragraph shall survive Closing and similar language shall be contained in the Deed.

8.2.2 An affidavit on Seller's approved form, fully executed and properly acknowledged by Seller, as required by Internal Revenue Code Section 1445(b)(2);

8.2.3 Intentionally deleted

8.2.4 A settlement statement signed by Seller, which is reasonably acceptable to Seller and accurately reflects the payments, credits and prorations required herein; and

8.2.5 Such other funds, instruments and documents as may be reasonably requested by Buyer or Escrow Agent or reasonably necessary to effect or carry out the purposes of this Agreement; provided, however, that such funds, instruments and documents shall be subject to Seller's prior approval thereof, which approval shall not be unreasonably withheld.

8.3 **Buyer's Closing Deliveries**. At the Closing, Buyer shall deliver to Escrow Agent:

8.3.1 Intentionally deleted

8.3.2 A settlement statement signed by Buyer, which is reasonably acceptable to Buyer and accurately reflects the payments, credits and prorations required herein;

8.3.3 Any funds required under this Agreement for closing costs, prorations, title policies, and/or other fees and expenses related to the Closing; and

8.3.4 Such other funds, instruments and documents as may be reasonably requested by Seller or Escrow Agent, or reasonably necessary to effect or carry out the purposes of this Agreement (which funds, instruments and documents shall be subject to Buyer's prior approval thereof, which approval shall not be unreasonably withheld).

8.4 **Prorations and Closing Costs**.

8.4.1 Except as expressly set forth in this Agreement, each party must bear its own costs (including attorneys' fees) in connection with its negotiation, due diligence investigation and conduct of the Purchase and Sale Transaction. Seller shall pay the premium for standard coverage in connection with the Title Policy for the Closing. Buyer shall pay the cost of the Survey and any extended coverage and/or endorsements that Buyer desires in connection with the Title Policy. Any and all recording fees, escrow fees and other customary closing costs shall be allocated between Seller and Buyer in the manner customary for commercial real estate transactions in the county in which the Property is located.

8.4.2 All real property taxes and assessments accrued for the current year shall be prorated between the parties as of Closing.

8.4.3 Payments to any and all utility and other service providers related to the Property shall be prorated between the parties as of Closing.

8.4.4 All transfer taxes, proceeds, or other taxes (not including general state and federal income taxes of Seller, if any) imposed upon this transaction by any state or local entity shall be paid by Buyer.

8.5 **Possession**. Buyer shall be entitled to possession of the Property at Closing.

9. **Representations and Warranties**.

9.1 **Seller Representations**. Seller, to Seller's Current Knowledge, as of the Effective Date and again at the Closing, represents and warrants to Buyer that:

9.1.1 **Organization and Standing**. Seller is duly formed, validly existing and in good standing under the laws of the State of its formation. Seller has full power and authority to enter into and perform this Agreement and all documents, instruments and agreements entered into by Seller pursuant to this Agreement, and to carry out the transactions contemplated hereby and thereby. This Agreement has been executed, and such other documents, instruments and agreements have been or will be executed, by a duly authorized representative of Seller.

9.1.2 **Binding Agreement**. Upon Seller's execution of this Agreement, this Agreement shall be binding and enforceable against Seller in accordance with its terms, and upon Seller's execution of the additional documents contemplated by this Agreement, they shall be binding and enforceable against Seller in accordance with their terms.

9.1.3 **No Condemnation**. Seller has not received any written notice of condemnation or eminent domain proceedings with respect to the Property, and no condemnation or eminent domain proceedings or negotiations have been commenced in connection with the Property.

9.1.4 **No Litigation**. There are no current actions, suits, or proceedings at law or in equity before any judicial body or governmental agency affecting or involving the Property.

The warranties and representations by Seller set forth in this Section 9.1 shall merge with the Deed and shall not survive Closing.

9.2 **Buyer's Representations**. Buyer, to Buyer's Current Knowledge, as of the date of this Agreement and again at Closing, represents and warrants to Seller that:

9.2.1 **Organization and Standing**. Buyer is duly formed, validly existing and in good standing under the laws of the State of its formation. Buyer has full power and authority to enter into and perform this Agreement and all documents, instruments and agreements entered into by Buyer pursuant to this Agreement, and to carry out the transactions contemplated hereby and thereby. This Agreement has been executed, and such other documents, instruments and agreements have been or will be executed, by a duly authorized representative of Buyer.

9.2.2 **Binding Agreement**. Upon Buyer's execution of this Agreement, this Agreement shall be binding and enforceable against Buyer in accordance with its terms, and upon Buyer's execution of the additional documents contemplated by this Agreement, they shall be binding and enforceable against Buyer in accordance with their terms.

The warranties and representations by Buyer set forth in this Section 9.2 shall merge with the Deed and shall not survive Closing.

10. **"AS IS" Purchase**.

10.1 **Disclaimer**. Except as expressly set forth in Section 9.1 above, Seller has not made, and Buyer acknowledges that Seller has not made, any warranty, certification, or representation, express or implied, written or oral, statutory or otherwise, concerning the Property, any portion thereof, or the Inspection Materials. Without limiting the generality of the foregoing, Seller has not made, and Buyer acknowledges that Seller has not made, any warranty, certification, or representation related to: (i) the condition of title to the Property; (ii) the nature, physical condition or any other aspect of the Property; (iii) the existence of Hazardous Materials in, on, about, under or affecting the Property; (iv) the compliance of the Property with any federal, state or local laws, ordinances, statutes, rules, codes or regulations (including, without limitation, any environmental laws or any zoning codes); (v) the size, dimensions or square footage of the Property; (vi) the fitness of the Property for any particular purpose (including without limitation the current or any future use thereof); or (vii) the completeness, adequacy, truthfulness, or accuracy of the Inspection Materials.

10.2 **Acceptance**. SUBJECT TO THE EXPRESS TERMS OF THIS AGREEMENT, BUYER ACKNOWLEDGES FOR BUYER AND BUYER'S SUCCESSORS AND ASSIGNS THAT BUYER WILL BE ACQUIRING THE PROPERTY BASED SOLELY UPON BUYER'S OWN INVESTIGATION AND INSPECTION THEREOF. SELLER AND BUYER AGREE THAT, EXCEPT AS EXPRESSLY SET FORTH IN SECTION 9.1, THE PROPERTY SHALL BE SOLD AND BUYER SHALL ACCEPT TITLE TO AND POSSESSION OF THE PROPERTY ON THE CLOSING DATES "AS IS, WHERE IS, WITH ALL FAULTS" WITH NO RIGHT OF SET OFF OR REDUCTION IN THE PURCHASE PRICE, AND THAT EXCEPT AS SET FORTH IN SECTION 9.1, SUCH SALE SHALL BE WITHOUT REPRESENTATION, CERTIFICATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, ORAL OR WRITTEN, STATUTORY OR OTHERWISE, AND SELLER DOES HEREBY DISCLAIM AND RENOUNCE ANY SUCH REPRESENTATION, CERTIFICATION OR WARRANTY.

10.3 **General Release**. Buyer, on behalf of itself and its successors, assigns and representatives, does hereby release Seller and Seller's employees, officers, directors, agents, representatives, managers, members, affiliates, parent companies, and the successors and assigns of each of the foregoing from any and all claims, actions, causes of action, demands, liabilities, damages, costs, expenses, or compensation whatsoever, including attorneys' fees, whether direct or indirect, known or unknown, foreseeable or unforeseeable, which Buyer may have at Closing Date or which may arise in the future on account of or in any way arising out of or connected with this Agreement. Buyer understands the significance of executing this Agreement and the general release of claims set forth above.

10.4 **Material Inducement**. Buyer hereby agrees and acknowledges that the terms and conditions of this Section 10 are a material inducement to Seller's sale of the Property, and that Seller would not sell or transfer all or any part of the Property to Buyer without Buyer's express agreement to the terms and conditions of this Section 10. All terms and provisions of all portions of this Section 10 shall survive the Closing and the recording of the Deed.

11. **Risk of Loss**.

11.1 **Risk of Loss**. Subject to the provisions of this Section 11 set forth below, the risk of loss with respect to the Property will be upon Seller with respect to any executory period related to this Agreement.

11.2 **Condemnation**. If a portion of the Property becomes the subject of condemnation proceedings, Seller shall notify Buyer of such proceedings, and this Agreement shall not terminate, but shall remain in full force and effect. In such event, at Closing (i) Seller shall pay to Buyer all condemnation awards or proceeds from any such proceedings or actions in lieu thereof received by Seller to the date of Closing; (ii) Seller shall assign to Buyer all of Seller's rights to defend such proceedings or actions in lieu thereof; and (iii) Buyer shall take the Property subject to any such proceedings. The Purchase Price shall not be adjusted or reduced for any such proceedings or for any land taken by condemnation, but rather the acreage for purposes of such calculation shall be the acreage of the Property prior to the condemnation. As used herein, the phrase "becomes the subject of condemnation proceedings" shall mean the service upon Seller of a formal notice of condemnation by a governmental authority with the power of eminent domain, specifying that all or a portion of the Property is subject to such proceeding or action.

11.3 **Casualty**.

11.3.1 **Minor Casualty**. If the Property shall be damaged by any casualty prior to Closing, and the loss in value to the Property because of such casualty (the "Casualty Loss Value"), as estimated by Seller in Seller's sole but reasonable discretion, is less than or equal to five percent (5%) of the Purchase Price, then this Agreement shall continue in full force and effect and the Closing shall occur as otherwise provided herein, without any adjustment to the Purchase Price.

11.3.2 **Major Casualty**. If the Property shall be damaged by any casualty prior to Closing, and the Casualty Loss Value, as estimated by Seller in Seller's sole but reasonable discretion, is more than five percent (5%) of the Purchase Price, then either Seller or Buyer may elect to terminate this Agreement, by written notice to the other party given not more than ten (10) days after receipt of written notice from Seller to Buyer of Seller's estimate of the valuation loss, which estimate notice Seller shall give within thirty (30) days after the casualty. If neither party elects to so terminate this Agreement, then this Agreement shall continue in full force and effect and the Closing shall occur as otherwise provided herein, without any adjustment to the Purchase Price.

12. **Broker's Commission**. Except as disclosed below in Section 15, Buyer and Seller represent and warrant that they have not dealt with any broker or finder in connection with this Agreement or the Purchase and Sale Transaction. Buyer and Seller shall and do hereby each indemnify the other against,

and agree to hold the other harmless from, any claim, demand or suit for any brokerage or real estate commission, finder's fee or similar fee or charge with respect to this Agreement or the Purchase and Sale Transaction based on any act by or agreement or contract with the indemnifying party asserted by anyone, and for all losses, obligations, costs, expenses and fees (including reasonable attorneys' fees) incurred by the other party on account of or arising from any such claim, demand or suit. Any brokerage agreement between Buyer and Seller with their respective broker(s) shall be memorialized by separate agreement; no brokerage fees or commissions shall be based on this Agreement.

**13. Remedies and Termination**

13.1 **Seller's Remedies**. In the event Buyer defaults in any of its agreements, covenants, representations, warranties or other obligations under this Agreement ("**Buyer's Default**"), Seller shall give Buyer written notice of such default and thereafter Buyer shall have ten (10) Business Days to cure such default (or such longer period if such is reasonably necessary in order to cure the default, not to exceed thirty (30) days, and then only if Buyer commences such cure within the initial ten (10) Business Day period, and thereafter, diligently pursues the cure to completion). Notwithstanding the foregoing, all time periods set forth herein in which Buyer must satisfy any condition, perform any act, or otherwise complete any task are not subject to any cure period. In the event that Buyer fails to timely cure Buyer's Default, Seller may: (i) waive the effect of such default and proceed to consummate the Purchase and Sale Transaction; (ii) cancel this Agreement and retain the Earnest Money if any, in accordance with Section 4 of this Agreement; (iii) bring an appropriate action for specific performance of this Agreement; and/or (iv) otherwise seek any other right or remedy available at law or in equity.

13.2 **Buyer's Remedies**. In the event Seller materially defaults in any of its agreements, covenants, representations, warranties or other obligations under this Agreement ("**Seller's Default**"), Buyer shall give Seller written notice of such default and thereafter Seller shall have ten (10) Business Days to cure such default (or such longer period if such is reasonably necessary in order to cure the default, not to exceed thirty (30) days, provided that Seller commences such cure within the initial ten (10) Business Day period and thereafter diligently pursues the cure to completion). In the event that Seller fails to cure Seller's Default within the cure period, Buyer may, as Buyer's sole remedies for such Seller's Default: (i) waive the effect of such default and proceed to consummate the Purchase and Sale Transaction; (ii) cancel this Agreement in accordance with Section 13.3 below; or (iii) bring an appropriate action for specific performance of this Agreement. All rights and remedies contained in this Section 13.2 shall be non-cumulative and exclusive. In no event shall Buyer be entitled to any punitive, special, or consequential damages of any kind.

13.3 **Termination**. If Buyer or Seller elects to terminate this Agreement pursuant to a right granted herein, the terminating party shall give written notice of the termination to the other party and Escrow Agent. Upon termination by notice as set forth in the preceding sentence, or upon an automatic termination in accordance with the terms of the Agreement, Escrow Agent shall disburse the Earnest Money, if any, in accordance with Section 4 above and return all documents deposited in the Escrow to the party who supplied the documents. Upon delivery of money and documents, this Agreement and the Escrow will be deemed terminated, and except as expressly provided in this Agreement, neither party will have any further liability or obligation under this Agreement. Upon termination of the Agreement because of a default by a party, the defaulting party shall be liable for and shall pay any escrow termination fees or costs; otherwise, upon any termination Seller and Buyer shall each pay half of any such fees and costs.

14. **Attorneys' Fees**. If there is any litigation between Seller and Buyer to enforce or interpret any provisions or rights under this Agreement, the unsuccessful party in such litigation, as determined by the court, shall pay to the successful party, as determined by the court, all costs and expenses, including but not limited to reasonable attorneys' fees, incurred by the successful party, such fees to be determined by the court sitting without a jury.

15. **Notices**. Except as otherwise required by law, any notice, demand, or request given in connection with the Purchase and Sale Transaction and this Agreement shall be in writing and shall be given by (i) personal delivery; (ii) recognized, national overnight courier service; (iii) United States certified mail, return receipt requested, postage or other delivery charge prepaid; or (iv) electronic mail. In all events, notice shall only be deemed given if properly addressed to Seller or Buyer as applicable, at the following addresses (or at such other address as Seller or Buyer or the person receiving copies may designate in writing given in accordance with this Section):

| | |
|---|---|
| **SELLER**<br>THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS<br><br>Attention: Real Estate Services Division<br>Address: 50 East North Temple Street, 12th Floor<br>Salt Lake City, Utah 84150<br>Phone: 801-353-1268<br>Email: Robertsjd@churchofjesuschrist.org | **SELLER'S BROKER**<br>N/A<br><br>Attention:<br>Email:<br><br>**WITH A COPY TO**<br>Kirton McConkie<br>Address: 50 E. South Temple<br>Salt Lake City, Utah 84111<br>Attention:<br>Email: |
| **BUYER**<br>Virgin Town<br><br>Attention: Town Clerk & Mayor<br>Address: 114 S. Mill Street<br>Virgin, Utah 84779<br>Phone: 435-680-6823<br>Emails: clerk@virgin.utah.gov; mayor@virgin.utah.gov | **BUYER'S BROKER**<br>N/A<br><br>Attention: AGENT<br>Email: BROKER EMAIL<br><br>**WITH A COPY TO**<br><br>Address:<br><br>Attention:<br>Email: |
| **TITLE COMPANY**<br>Backman Title Services<br>David Johnson<br>382 S. Bluff Street #100<br>St. George, Utah 84770<br>Phone: 435-229-8176<br>Fax: 801-820-8986<br>dj@backmantitle.com | **ESCROW COMPANY**<br>Backman Title Services<br>David Johnson<br>382 S. Bluff Street #100<br>St. George, Utah 84770<br>Phone: 435-229-8176<br>Fax: 801-820-8986<br>dj@backmantitle.com |

Notice shall be deemed to have been given on the date on which notice is delivered, if notice is given by personal delivery or electronic mail, on the date of delivery to the overnight courier service, if such a service is used, and on the date of deposit in the mail, if mailed. Notice shall be deemed to have been received on the date on which the notice is actually received or delivery is refused. Copies of all notices given to Seller or Buyer shall be given to Escrow Agent (provided, however, any omission on the part of either party to provide a copy of the applicable notice to Escrow Agent shall not affect the effectiveness of the notice if properly provided to the other parties as described above).

16. **Additional Acts**. The parties agree to promptly execute and deliver such other documents and perform such other acts as may be reasonably necessary to carry out the purposes and intent of this Agreement.

17. **Governing Law**; Jurisdiction. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Utah.

18. **Business Days**. If this Agreement requires any act to be done or action to be taken on a date which is not a Business Day, such act or action shall be deemed to have been validly done or taken if done or taken on the next succeeding Business Day.

19. **Waiver**. The waiver by any party hereto of any right granted to it hereunder shall not be deemed to be a waiver of any other right granted hereunder, nor shall the same be deemed to be a waiver of a subsequent right obtained by reason of the continuation of any matter previously waived.

20. **Survival**. Only where specifically so provided herein shall any of the covenants, agreements, representations, warranties, and indemnities set forth in this Agreement survive the Closing. Any such matters that survive Closing pursuant to the terms of this Agreement shall be subject to any time limitations set forth herein, and shall not merge into any deed, assignment or other instrument executed or delivered pursuant hereto. All claims for breach of the covenants, agreements, or warranties or for material misrepresentation and indemnity made in writing during the applicable time period limitation shall survive such period.

21. **Counterparts**. The parties may sign this Agreement in multiple identical counterparts, all of which taken together shall constitute one and the same agreement. Further, the parties shall treat a copy of an original signature to this Agreement for all purposes as an original signature. The parties shall consider a copy of the signed Agreement for all purposes as an original of the Agreement to the maximum extent permitted by law, and no party to this Agreement shall have any obligation to retain a version of this Agreement that contains original signatures in order to enforce this Agreement, or for any other purpose.

22. **Successors and Assigns**. Seller shall have the right to assign its rights and obligations under this Agreement to any entity to which it transfers the Property prior to Closing, provided such entity assumes Seller's obligations under this Agreement and thereafter notice of such assignment is given to Buyer. Buyer shall not have the right to assign, transfer or convey any of its rights, interests or obligations under this Agreement to any other person or entity, without Seller's prior written consent, which consent Seller may grant or withhold in Seller's sole discretion. Notwithstanding the preceding sentence, Buyer may designate a different entity to take title to the Property at Closing. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective permitted successors and assigns.

23. **Entire Agreement/Amendment**. This Agreement sets forth the entire understanding of the parties with respect to the matters set forth herein as of the date hereof, and supersedes all prior oral and written agreements, discussions, and understandings of the parties hereto as to the matters set forth herein and cannot be altered or amended except pursuant to an instrument in writing signed by both Buyer and Seller.

24. **Construction**. This Agreement is the result of negotiations between the parties, neither of whom has acted under any duress or compulsion, whether legal, economic, or otherwise. Accordingly, the terms and provisions hereof shall be construed in accordance with their usual and customary meanings. Seller and Buyer hereby waive the application of any rule of law which otherwise would be applicable in connection with the construction of this Agreement that provides in effect that ambiguous or conflicting terms or provisions should be construed against the party who (or whose attorney) prepared the executed Agreement or any earlier draft of the same.

25. **Interpretation**. If there is any specific and direct conflict between, or any ambiguity resulting from, the terms and provisions of this Agreement and the terms and provisions of any document, instrument or other agreement executed in connection herewith or in furtherance hereof, including any exhibits hereto, the same shall be consistently interpreted in such manner as to give effect to the general purposes and intentions as expressed in this Agreement, which shall be deemed to prevail and control.

26. **Headings**. The headings in this Agreement are for reference only and shall not limit or define the meaning of any provision of this Agreement.

27. **No Third-Party Beneficiary**. No term or provision of this Agreement or the exhibits hereto is intended to be, nor shall any such term or provision be construed to be, for the benefit of any person, firm, corporation, or other entity not a party hereto (including, without limitation, any broker), and no such other person, firm, corporation, or entity shall have any right or cause of action hereunder.

28. **Severability**. If any provision of this Agreement or any portion of any provision of this Agreement shall be deemed to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not alter the remaining portion of such provision, or any other provision hereof, as each provision of this Agreement shall be deemed severable from all other provisions hereof so long as removing the severed portion does not materially alter the overall intent of this Agreement.

29. **Confidentiality**. Buyer and Seller acknowledge and agree that the parties do not desire any publicity with respect to this transaction, and therefore each party hereto agrees, for itself and its employees, contractors and agents (including specifically real estate brokers and agents), that no publication of this transaction shall be made and no information with respect to this transaction shall be given to any media. Each party shall instruct any broker working with that party of this requirement and obtain the signed agreement of that broker to abide by the terms of this Section 29. The provisions of this Section 29 shall survive any termination of this Agreement.

30. **Time of the Essence**. With respect to all dates and time periods set forth in this Agreement, time is of the essence and such dates and time periods shall be strictly enforced.

31. **Relationship Disclosure**. Buyer hereby warrants and represents that it:

☐ does not have a personal, business, or other relationship to the Seller or affiliated corporations or groups other than the sale of the Property; or

☐ does have a relationship to Seller and is: (mark as applicable):

☐ a currently serving ecclesiastical leader of a unit of The Church of Jesus Christ of Latter-day Saints (the "Church") where the Property is located;

☐ an employee of the Seller or any Church entity;

☐ a relative of an employee of Seller or of any other Church entity; and/or

☐ a hired agent of the Seller or any Church entity.

**Buyer's Initials**: __________

The truth of the foregoing representations and warranties on and as of the Effective Date and on and as of the Closing Date shall be a condition precedent to Seller's obligations to sell the Property and otherwise perform under this Agreement. All representations and warranties by Buyer set forth in this Section shall survive the execution and delivery of this Agreement, the recording of the Deed and the Closing.

32. **Special Provisions**. Notwithstanding any provision in this Agreement to the contrary, to the extent there are any conflicts with the provisions of this Section 32, the provisions of this Section 32 shall prevail and govern:

Seller reserves the right to enter the Property prior to Closing and perform its standard decommissioning process which may include but not be limited to: the removal of any and all personal property, the removal of any and all signage, the removal of the steeple and/or font as applicable, and the removal of any other items deemed necessary by the Seller.

Further, Seller reserves the right to enter the Property post-Closing as determined by the Seller in order to perform its standard decommissioning process, and Buyer shall be deemed to have granted Seller a temporary license in connection therewith. In the event the Seller determines to decommission the Property post-Closing, the Buyer agrees to allow the Seller twenty-one (21) days from the Closing Date to enter the Property and perform all decommissioning as deemed necessary by the Seller.

Buyer shall not sell, gift, or salvage any items remaining on the Property after Closing. Buyer agrees to properly demolish, dispose and discard any items remaining on the Property that Seller does not remove and that the Buyer does not utilize for its intended purpose.

The terms of this Section 32 shall survive Closing and the recording of the Deed.

[SIGNATURES TO FOLLOW]

IN WITNESS WHEREOF, Seller and Buyer have executed this Agreement as of the Effective Date.

**SELLER:** THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, a Utah corporation sole fka Corporation of the Presiding Bishop of The Church of Jesus Christ of Latter-day Saints, a Utah corporation sole

By: ____________________________

Name: __________________________

Its: Authorized Agent

Date: __________________________

**BUYER:** Virgin Town, a Utah Municipal Corporation

By: ____________________________

Name: __________________________

Its: ____________________________

Date: __________________________

By: ____________________________

Name: __________________________

Its: ____________________________

Date: __________________________

**ESCROW AGENT ACCEPTANCE**

This Purchase and Sale Agreement (the “Agreement”), and the Earnest Money, are accepted and the Escrow is opened this ____ day of ___________, 20__. Escrow Agent hereby agrees to act as the Escrow Agent, as defined in the Agreement, and to perform its duties in accordance with the provisions of the Agreement. Further, Escrow Agent agrees to act as “the person responsible for closing” the Purchase and Sale Transaction within the meaning of Section 6045(a) of the Internal Revenue Code of 1986, as amended, and to file all forms and returns required thereby.

ESCROW AGENT: Old Republic National Title Insurance Company

By: ______________________________

Name: ______________________________

Title: ______________________________

**LIST OF EXHIBITS**

Exhibit A - Real Property Description

**EXHIBIT A**

REAL PROPERTY DESCRIPTION

**Parcel #1**

Lots 1 and 6, Block 1, Plat “B”, Virgin City Survey, according to the official plat thereof on file and of record in the office of the Washington County Recorder.

Tax ID.: V-58

**Parcel #2**

All of Lot 9, BLOCK 8, PLAT "A",VIRGIN TOWNSITE SURVEY also known as VIRGIN CITY SURVEY, a survey map of township of Virgin City, on file and recorded May 15, 1918 as Entry No. 17211A (also referenced as 17211 1/2) in Map Book 2 at Pages 30 & 31 in the Office of the Recorder of Washington County, State of Utah.

Tax ID: V-29-A-2-A