



## DISCLOSURES

### 1. DEFINITIONS.

**AUTHORIZING AGENT:** The person who is lawfully authorized to control the final disposition of the **Contract Beneficiary**.

**CONTRACT:** Where the term "**Contract**" appears in bold, it refers to this document titled, "Contract for Preneed Cemetery Merchandise and Services."

**CONTRACT BENEFICIARY:** The person(s) who will be the recipient(s) of the Cemetery Merchandise and Services at his, her, or their time of death.

**PROVIDER:** The person who will actually provide the Cemetery Merchandise and Services under the terms of this **Contract**. The **Provider** may or may not be the **Seller**.

**PURCHASER:** The person who purchases this **Contract** either on his or her behalf or on behalf of the **Contract Beneficiary**.

**SELLER:** The person or entity offering or selling Cemetery Merchandise and Services on a preneed basis. The **Seller** may or may not be the **Provider**.

**2. CEMETERY MERCHANDISE AND SERVICES.** The **Provider** shall provide the selected Cemetery Merchandise and Services as shown in this **Contract**. The **Provider** will furnish the brands or makes of goods shown or, if unavailable, goods of equivalent quality. This **Contract** is revocable unless the **Purchaser** indicates otherwise by signing in the space provided on the reverse side of this **Contract**, under IRREVOCABLE OPTION (Section IV).

**3. THIS CONTRACT IS TRUST FUNDED.** Unless **Provider** has furnished a surety bond or letter of credit acceptable to the Insurance Commissioner, **Provider** will deposit all funds in accordance with **USE OF AMOUNT TO BE TRUSTED** (Disclosure 4) required for Cemetery Merchandise and Services in a state or national bank, trust company, federally insured savings and loan association or with a person lawfully appointed as fiduciary of the funds in accordance with Ala. Code § 27-17A-1 et seq. The trustee will be chosen by the **Provider** and the trust will be subject to a trust agreement approved by the Insurance Commissioner. As an alternative to the trust requirement, the **Provider** may purchase a surety bond in an amount not less than the aggregate value of outstanding liabilities on undelivered preneed contracts for merchandise, services and cash advances. The term outstanding liabilities means the original retail amount of services and cash advances and the actual cost to the **Provider** to provide the undelivered merchandise sold on each contract. In lieu of a surety bond, the **Provider** may purchase a letter of credit in the amount of the outstanding liabilities.

**4. USE OF AMOUNT TO BE TRUSTED.** Of the **Contract** price total, the **Seller** will place at least: (1) One Hundred Ten percent (110%) of the wholesale cost of cemetery merchandise; (2) Sixty percent (60%) of the purchase price collected for outer burial containers; (3) Sixty percent (60%) of the purchase price collected for cemetery services; (4) One hundred percent (100%) of the purchase price collected for all cash advance items sold; (5) seventy-five percent (75%) of the purchase price of caskets collected, in a trust.

Trust deposits shall be made not later than thirty (30) days after the end of the calendar month in which the sum of the monies collected on the **Contract** exceeds the amount that is not required to be trusted under Ala. Code § 27-17A-42, unless prior to that time all liabilities of the **Seller** under the **Contract** have been satisfied, or the preneed **Contract** has been validly cancelled. Any further required trust deposits shall thereafter be made not later than thirty (30) days after the end of the calendar month in which each **Contract** payment is collected by the **Seller**.

**5. MONEY DUE AT TIME OF FULFILLMENT.** If the **Purchaser** has not completed all required payments according to the terms of this **Contract** at the time of the **Contract Beneficiary's** death, then the difference between the total payments made and the **Contract** price, including adjustments for non-guaranteed cash advance items, is due and payable to the **Provider** at the time of fulfillment (see also Disclosure 6).

**6. GUARANTEED.** Subject to the terms of this **Contract**, and upon the death of the **Contract Beneficiary**, the **Provider** shall furnish the Cemetery Merchandise and Services as set forth in this **Contract**, regardless of the cost of the Cemetery Merchandise and Services at the date of the death of the **Contract Beneficiary**.

**THIS CONTRACT DOES NOT GUARANTEE THE PRICE OF CASH ADVANCE ITEMS.** Cash Advance Items are paid by the **Provider**, on the **Purchaser's** behalf, to third parties. The **Provider** has no way of guaranteeing Cash Advance Item prices at death, as they are estimated now. Any additional cost for Cash Advance Items will be the responsibility of the **Purchaser** or the **Contract Beneficiary's** Legal Representative. Any additional items chosen which are not specifically included in this **Contract** will be paid for when the Cemetery Merchandise and Services are provided. The **Provider** will be entitled to all trust funds on deposit including income, and all assigned insurance proceeds, even if in excess of the cost of Cemetery Merchandise and Services, at the time of the **Contract Beneficiary's** death. This **Contract** provides benefits in the form of Cemetery Merchandise and Services only, unless Non-Guaranteed Cash Advance Items are specified.

**7. CANCELLATION.** Unless made Irrevocable (Section IV), **Purchaser** may cancel this **Contract** at any time prior to midnight of the thirtieth (30<sup>th</sup>) day of the date this **Contract** was executed by providing written notice to the **Seller**. Upon providing written notice, **Purchaser** shall be entitled to a complete refund of the amount paid, except for the amount allocable to any Cemetery Merchandise and Services that has been delivered or performed.

Unless made Irrevocable (Section IV), **Purchaser** may cancel this **Contract** after thirty (30) days of the date the **Contract** was executed by providing written notice to the **Seller**. If cancelled after thirty (30) days, the **Seller** shall be entitled to the amount allocable to any Cemetery Merchandise and Services that has been delivered or performed and a cancellation fee not to exceed twenty percent (20%) of the purchase price collected. The refund shall be made within thirty (30) days after receipt by the **Seller** of the **Purchaser's** written request for cancellation.

In the event this **Contract** is made Irrevocable by the **Purchaser's** signature (Section IV), the **Purchaser** or **Authorizing Agent** shall have the right to appoint a **Provider** other than the **Seller** of this preneed **Contract** (see Disclosure 8).

**8. TRANSFER.** In the event that a **Provider** is appointed other than the **Seller**, the **Seller** shall transfer to the appointed **Provider** the amount paid by the **Purchaser** less the amount allocable to any Cemetery Merchandise and Services that has been delivered or performed and a reasonable transfer fee not to exceed twenty percent (20%) of the purchase price collected. No transfer shall occur without the acceptance of the appointed **Provider**.

**9. DEFAULT BY PURCHASER.** If the **Purchaser** is 90 days or more past due in making payment on the **Contract**, the **Contract** will be considered in default, and the **Provider** shall be entitled to cancel the **Contract** and withdraw the funds in trust. Upon making the withdrawal, the **Provider** shall refund to the **Purchaser** the amount collected under this **Contract** less any amounts allocable to Cemetery Merchandise and Services already delivered or performed and a cancellation fee of not more than twenty percent (20%) of the purchase price collected. Any accumulated earnings allocable to the preneed **Contract** shall be retained by the **Provider**. The **Provider** must give the **Purchaser** thirty (30) days notice of its intention to exercise any of its rights under this provision.

**10. FAILURE OF PERFORMANCE.** Upon breach of **Contract** or failure of the **Provider** to provide Cemetery Merchandise and Services under this **Contract**, the **Purchaser** shall be entitled to a refund of one hundred percent (100%) of all monies collected on the **Contract**. The refund shall be made within thirty (30) days after the **Provider** receives the **Purchaser's** written request for refund.

**11. DISCLAIMER OF WARRANTIES.** **Provider DOES NOT WARRANT** the merchandise or goods covered by this **Contract**. The only warranty, IF ANY, is the warranty issued by the manufacturer of the purchased merchandise or goods.

**ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY, AND WARRANTY OF FITNESS FOR ANY PARTICULAR PURPOSE, ARE EXCLUDED.**

**12. RECEIPT OF COPIES.** **Purchaser** acknowledges receipt of a legible, complete, and executed copy of this **Contract**, and approves the terms contained herein.

**By executing this Contract on the signature line provided on the reverse side (Section IV), Purchaser acknowledges and certifies that he or she has read this Contract and the personal information set forth on the reverse side is true and correct as the date thereof.**

**13. MISCELLANEOUS.** All notices given hereunder shall be in writing and delivered to the respective party by personal service or by depositing the same in the United States mail, postage prepaid, to the address indicated herein or to such other address as a party shall have previously designated by Notice to the other party given in accordance with this paragraph. All Notices shall be deemed received on the date of mailing or service. The provisions hereof constitute the entire and complete agreement between the parties. Amendments to this **Contract** may be necessary to comply with changes in the law or to assure to each party that the economic benefits of this **Contract** are not changed because of changes in law or regulations or actions taken by regulatory agencies of the State of Alabama or the United States of America. **Purchaser** agrees to execute such amendments to this **Contract** and if **Purchaser** is not available or fails to act within thirty (30) days of Notice being given, **Purchaser** hereby appoints the agent of **Seller** as his attorney-in-fact with full power to act in the place of **Purchaser** and bind **Purchaser** as to such amendment to this **Contract**. This **Contract** shall be construed in accordance with, and governed by, the laws of the State of Alabama. If any provision or part of this **Contract** is held for any reason to be unenforceable, the remainder of the **Contract** shall nevertheless remain in full force and effect. This **Contract** is for use solely for the Cemetery Merchandise and Services of the **Contract Beneficiary** and shall not be assignable by **Purchaser** or any other person for use in connection with the death of any person other than the **Contract Beneficiary**. Upon death or incapacity of **Purchaser**, this **Contract** may be enforced by, and **Provider** shall have the right to offer performance and deal with, in lieu of **Purchaser**, either an heir or Legal Representative of the **Contract Beneficiary** or the attorney-in-fact, an heir or the Legal Representative of **Purchaser**.