

IRREVOCABLE FUNERAL TRUST AGREEMENT

This is an irrevocable contract requiring that Seller unconditionally deliver all services and merchandise specified herein on the death and/or final disposition of the Purchaser (or other person identified as "contract beneficiary") and for whom services and merchandise are to be provided, for the total consideration set forth herein, and exclusive of any extra charges except those specifically authorized by law and disclosed in this Agreement.

1. IDENTITY OF PARTIES

Purchaser: _____
Name _____ Age _____

Address _____

City/State _____

Social Security Number _____

Seller: _____
Name _____

Address _____

City/State _____

Certificate of Authority Number _____

Contract Beneficiary: _____
(if applicable) Name _____ Age _____

Address _____

City/State _____

Social Security Number _____

Trustee: _____

2. DESCRIPTION OF SERVICES AND MERCHANDISE

The services and merchandise seller agrees to deliver to Purchaser at death/final disposition are those shown on Seller's *Statement of Funeral Goods and Services Selected*, which is Exhibit A to this Agreement and is incorporated herein by reference. If at the time services and merchandise are to be delivered, one or more of the items selected is unavailable, Seller may substitute merchandise similar in style, quality and of equal value to the unavailable item(s).

3. CONSIDERATION/METHOD OF PAYMENT

A. Cash

(1) A lump sum cash payment of \$_____.

-- OR --

(2) Installment payments totaling \$_____ with a down payment in the amount of \$_____ and subsequent payments in the amount of \$_____ and payable over a term of _____ months. Seller may charge a finance charge in accordance with its retail installment sales contract which is incorporated herein by reference.

B. Insurance

(1) A newly issued insurance policy issued in conjunction with this Agreement, *to-wit*:

Name

Address (City/State)

Policy Number

-- OR --

(2) An insurance policy issued previously and apart from this Agreement, and insuring Purchaser's life and owned and assignable by him/her, *to-wit*:

Name

Address (City/State)

Policy Number

4. IRREVOCABLE STATUS

Thirty (30) days after the date this Agreement is signed, it becomes irrevocable. Before that date, the Purchaser may send written notice to Seller revoking this Agreement; if revoked, this Agreement becomes null and void and Seller agrees to return to Purchaser, but without interest, the cash or insurance policy tendered as consideration for this Agreement. At Purchaser's sole option, he/she may elect to waive the 30 day revocation period and this Agreement will then become irrevocable on the date of such waiver.

Waiver Election:

Purchaser

Date

5. ASSESSMENT OF EXTRA CHARGES/EXCEPTIONS TO FULL DELIVERY

Except in the event of the occurrence of one or more of the five (5) exceptions listed below, this Agreement and the services and merchandise sold hereunder and as listed on Seller's *Statement of Funeral Goods and Services Selected*, are fully guaranteed and are paid in full with no extra charges due or payable at time of delivery. The exceptions are:

- (1) *Cash installment contracts, or contracts funded with a newly issued installment insurance policy are guaranteed to the extent of cash paid or death benefits available at the time delivery is to occur.*
- (2) *Contracts funded with a previously issued insurance policy (one not sold in conjunction with the contract) are guaranteed to the extent of death benefit proceeds available at the time delivery is to occur.*
- (3) *Contracts funded with an insurance policy having a limited or qualified death benefit period are guaranteed to the extent of death benefit proceeds available at the time delivery is to occur.*
- (4) *Transportation expenses incurred while transporting human remains a distance greater than 25 miles from the seller's place of business, plus services/merchandise necessary to the transport of such remains.*
- (5) *Cash advance items are guaranteed to a level equal in value to the total value of Purchaser's trust account at the time of delivery multiplied by the percentage of the total original contract price represented by cash advance items.*

In the event one or more of these exceptions apply, the Seller may elect to reduce in value or number the items of services or merchandise to be delivered, or may charge such additional sums as are necessary to make up any difference between the current value of Purchaser's trust account and current retail price(s).

6. TRANSFER OF AGREEMENT TO NEW SELLER

The Purchaser has the absolute right to designate any successor seller as the provider of services and merchandise under this Agreement, provided, however, that such a transfer of this Agreement and the rights and obligations hereunder shall not be effective without the consent of the new seller. A new seller accepting transfer of this Agreement is required to honor this Agreement without modification or extra charge, except as specifically provided herein. The Seller and Purchaser agree to honor all provisions of Ind. Code 30-2-13-13 regarding transfer of preneed contracts.

7. APPLICATION OF FUNDS PAID BY PURCHASER OR INSURANCE POLICY PURCHASED/DELIVERED BY PURCHASER

At such time as this Agreement becomes irrevocable, the Seller is obligated to deposit all consideration paid by Purchaser to trust. The cash or insurance policy delivered to Seller as consideration for this Agreement

will be irrevocably held in trust by the Trustee until such time as Seller delivers one or more of the items of service and/or merchandise specified in this Agreement. This value of the trust account maintained for Purchaser under this Agreement is the sole source of compensation for Seller and when Seller delivers any item(s) of services and/or merchandise subject to this Agreement, it must apply to the Trustee for payment, either from cash/investments on deposit or through the payment of the insurance policy death benefit. If, at time of death or final disposition, the value of the Purchaser's trust is greater than Seller's current retail prices for the services and/or merchandise to be delivered under this Agreement, the Seller may, but need not, refund any excess amount paid to it from trust over and above its current retail price(s). If the Seller elects to refund any excess amount, it agrees to pay the refund to the Purchaser's estate or, if designated herein by Purchaser, to:

Name

Address

City, State

For contracts funded with a previously issued life insurance policy, excess must be refunded to the beneficiary designated on the policy whose name is:

Name

Address

City, State

8. FEES/COMMISSIONS PAID TO SELLER

- A. Cash Funded Agreements. Seller elects to charge and receive from trust, within 10 days after this Agreement becomes irrevocable, an amount not to exceed ____% of Seller's original cost of all services and/or merchandise sold under this Agreement.
- B. Insurance Funded Agreements. Seller and Purchaser acknowledge that Seller, or one of its agents, employees, etc., will or may be paid a fee or commission as a result of the sale of any insurance policy sold to fund this Agreement.

Seller and Purchaser understand that no fees or charges may be paid to or received by Seller except as specifically set forth herein.

9. TRUST ACCOUNT INFORMATION/ADOPTION AGREEMENT

The Purchaser of this Irrevocable Funeral Trust Agreement agrees to become a participant in a certain Master Trust Agreement between _____ and _____ Bank, as Trustee. The Purchaser acknowledges receipt of a summary copy of the Master Trust Agreement and acknowledges his/her willingness to become a participant and have all funds or property paid as consideration for this Agreement deposited into trust under and pursuant to the terms and provisions of the Master Trust Agreement. Further, the Purchaser understands that the trust to be established under this Agreement, and the Master Trust Agreement, are irrevocable and that the Purchaser is bound by all provisions of the same. The Purchaser further understands that the cash paid to Seller, or insurance policy purchased or delivered to Seller to

fund this Agreement, is to be irrevocably delivered into trust. However, Purchaser further understands that in the event this Agreement is funded with a previously issued life insurance policy, the Seller may act as trustee of the Purchaser's trust in the event the Seller is qualified to do so under IC 30-2-13-11(c). The Purchaser acknowledges that any and all cash that is initially deposited to trust will continue to be held in trust except for the amount which the Seller may elect to receive from trust pursuant to paragraph 8.A. of this Agreement. Further, Purchaser understands that all interest earned on the trust or any appreciation in value of assets held in trust will continue to be held in trust without any distribution to either Seller or Purchaser, except as specifically provided herein. Further, the Purchaser acknowledges that the trustee is authorized to charge certain fees for its services and other charges, all as authorized by IC 30-2-13-18. Further, the Purchaser understands that the Seller is designated as the ultimate beneficiary of the trust and that a separate account will be maintained in the name of each Purchaser and that any interest, dividend, or accumulation in such account will be reinvested and added to the principal of the Purchaser's account and that the assets of several, separate accounts may commingled for investment purposes. The Purchaser also understands that when the Seller submits proof of delivery of all services and/or merchandise subject to this Agreement, the trustee is authorized to remit to Seller the full amount of the Purchaser's trust, including all of the accumulated interest at such time as this Agreement is performed in full. Further, the Purchaser acknowledges that the provisions of paragraph 7 of this Agreement govern the ultimate distribution of the Purchaser's trust and the application and allocation of any excess amounts. Purchaser further agrees that in the event of the absence and/or failure of the Master Trust Agreement to which reference is made in this paragraph of the Agreement, this paragraph of the Agreement shall constitute the Purchaser's irrevocable trust and otherwise govern the relationship of the parties.

10. GOVERNING LAW

This Agreement is governed by and established pursuant to IC 30-2-13-1, *et seq.*, effective as of July 1, 1999, and as may be later amended. This Agreement will be construed in accordance with and governed by the laws of the State of Indiana.

11. CHANGE IN DESCRIPTION OF SERVICES AND MERCHANDISE

Purchaser understands that during his/her lifetime, he/she may change the description of funeral services and/or merchandise to be provided by Seller and select services and/or merchandise different from those currently set forth in the *Statement of Funeral Goods and Services Selected*. Additionally, the Purchaser understands that he/she may add other sums or property to the principal of his/her trust in such amounts as are necessary to cover the cost of expanded services and/or merchandise as may be later selected by Purchaser. Provided, however, the Purchaser shall not have any right to withdraw income or other property from the trust account established for his/her benefit, or to otherwise reduce the trust account for any reason. Purchaser understands that any change in the description of services/merchandise may only be instituted by the Purchaser.

12. MISCELLANEOUS

- A. This Agreement shall bind the heirs, successors and legal representatives of the parties.
- B. If any provision hereof is for any reason declared invalid or illegal, such action shall not affect the remaining provisions of this Agreement which shall remain in full force and effect.

IN WITNESS WHEREOF, the Purchaser and Seller have executed this Irrevocable Funeral Trust Agreement at the place and on the date stated hereinafter.

Purchaser understands that thirty (30) days after the date of signing of this Irrevocable Funeral Trust Agreement, this Agreement will become irrevocable in accordance with IC 30-2-13-12.5. Purchaser further understands that he/she may revoke this Agreement within such thirty (30) day period. If this Agreement is

revoked during such thirty (30) day period, Seller shall refund to Purchaser, without interest, all sums paid to or property delivered to Seller as consideration for this Agreement. At the end of the thirty (30) day period, this Agreement and the trust will become irrevocable.

C. In the event the Purchaser has been an applicant for, or recipient of, Medicaid assistance after 55 years of age, then notwithstanding any other provision herein, Purchaser designates either (as indicated):

The Purchaser's estate; or

The Office of Medicaid Policy and Planning;

As the recipient of any "remaining amounts" after delivery of all services and merchandise under this Contract. This designation is made pursuant to Indiana Code 12-15-2-17, as may be later amended.

Under penalties of perjury, Purchaser certifies that (1) the taxpayer identification number shown on this Agreement is correct and (2) the Purchaser is not subject to backup withholding either because (a) the Purchaser has not been notified that he/she is subject to backup withholding as a result of failure to report all interest or dividends, or because (b) the Internal Revenue Services has notified him/her that he/she is no longer subject to backup withholding.

Date

Purchaser's Signature

Date

Seller's Signature