

**PERPETUAL CARE TRUST AGREEMENT**

---

*BE IT KNOWN*, that on the dates and places hereinafter provided, before us, the undersigned Notaries Public, duly commissioned, and qualified and sworn in and for State and Parish hereinafter provided, personally came and appeared:

\_\_\_\_\_,  
a Louisiana corporation, domiciled in the Parish of \_\_\_\_\_, herein represented by its undersigned Officer, duly authorized by a resolution of the Board of Directors, annexed hereto; hereinafter referred to as *SETTLOR*, and \_\_\_\_\_ herein represented by \_\_\_\_\_, its undersigned Officer, hereunto duly authorized; a federally insured financial institution or trust company located in Louisiana and authorized to exercise trust or fiduciary powers under the laws of Louisiana or the United States in accordance with Louisiana Revised Statutes, Title 8, Section 454B, hereinafter referred to as *TRUSTEE*.

Who declared that they do by these presents create the \_\_\_\_\_ Merchandise Trust Fund for the uses and purposes and on the terms and conditions hereinafter set forth (hereinafter sometimes called the "*TRUST FUND*").

**1. Purpose**

The \_\_\_\_\_ Perpetual Care Trust Fund shall be a perpetual trust and shall be an irrevocable trust for the benefit of the beneficiaries hereinafter set forth.

This trust is created pursuant to and for the uses and purposes set forth in Louisiana Revised Statutes, Title 8, Sections 906 inclusive, and particularly Sections 451 through 467, as they may be hereafter amended, and for the perpetual care, maintenance, and management of the \_\_\_\_\_ (hereinafter the "*CEMETERY*").

**2. Beneficiaries**

The property delivered to the Trustee shall be held in trust for the benefit of the purchasers of the cemetery spaces sold or transferred under the representation that such spaces will receive perpetual care and maintenance in the Cemetery. "*PURCHASER*" as used herein shall mean the original purchaser of any cemetery space sold with such representation of perpetual or endowed care, his legatees, heirs, transferees, successors, and assigns. No beneficiary shall be entitled to any portion of the income individually, by virtue of his status as a space owner. As provided here, all income from this trust shall be used for the collective maintenance, care, beautification, and preservation of the Cemetery.

**3. Corpus**

The Settlor does herewith transfer and deliver unto the Trustee the sum of \_\_\_\_\_ (\$ \_\_\_\_\_) DOLLARS as the initial corpus of this trust in accordance with Louisiana Revised Statutes, Title 8, Section 454A. The Settlor shall, as interment and/or entombment spaces in the Cemetery are sold or transferred, deliver to the Trustee ten per cent (10%) of the gross sales price received for each such space, and all funds so delivered shall be added to and form part of the corpus of this Trust.

**4. Trustee Powers**

The Trustee shall have all of the powers that may be exercised by a Trustee under Louisiana Law, including, but not limited to, those powers that Trustees are permitted to exercise under the provisions of the Louisiana Trust Code, provided that said powers are not in conflict

with any laws relating to perpetual or endowed care cemeteries or the Rules and Regulations of the Louisiana Cemetery Board. The powers granted by this instrument shall apply to all property originally in the Trust and to any property later acquired by the Trust, regardless of the nature and kind of said property.

#### **5. Income**

The principal of the Trust Fund shall remain permanently intact and only the income therefrom shall be expended. The income shall be used solely for the care of those portions of the Cemetery in which cemetery spaces have been sold with a provision for perpetual or endowed care. It is the intent of this paragraph that the income of said fund shall be used solely for the care of the cemetery spaces sold with a provision for perpetual or endowed care and for the care of other portions of the cemetery immediately surrounding said spaces as may be necessary to preserve the beauty and dignity of the spaces sold. The fund or its income shall never be used for the development, improvement, or embellishment of unsold portions of the cemetery so as to relieve the cemetery authority of ordinary costs incurred in preparing such property for sale. All income of the Trust Fund shall be paid to the Settlor monthly or at such intervals as the Trustee and Settlor shall from time to time deem appropriate.

#### **6. Perpetual Care**

The Trustee may require the Settlor to execute a written receipt for all funds received as income.

#### **7. Reports**

The Trustee and the Settlor shall file, record, and deliver all reports, accounts, and forms, and shall provide all information, required by law and/or the Rules and Regulations of the Louisiana Cemetery Board. By way of explanation and without limiting the generality of the foregoing, the Settlor shall file the reports required by R.S. 8:455 and R.S. 8:466, and the Report of Perpetual Care, Endowed Care Trust Fund Form. The Trustee shall file the annual account required by R.S. 8:456.

#### **8. Examination of Books and Records**

Both the Trustee and the Settlor shall have the right to examine the books and records of the other as they pertain to the Trust hereby created. Such examination shall be upon thirty (30) days written notice and shall be made during normal working hours at the office of the party who has possession of the books and records to be examined.

#### **9. Compensation**

The Trustee shall be entitled annually to receive reasonable compensation for its services as Trustee, including without limitation, the administration, management, and preservation of the Trust and the distribution of the Trust income as herein provided. All of such compensation shall be charged against the income of the Trust and none of it shall be charged against the principal of the Trust.

#### **10. Investments**

All funds held in trust for perpetual care purposes shall be administered by the Trustee with such skill and care as a man of ordinary prudence, discretion, and intelligence would exercise in the management of his own affairs, not in regard to speculation but in regard to the permanent disposition of his funds, considering the probable income as well as the probable safety of his capital, as provided by Louisiana Revised Statutes, Title 8, Section 465A.

The Trustee is authorized to invest and reinvest in all prudent types of securities. The Trustee is specifically authorized to sell property of the Trust Fund hereby created to himself as Trustee of another trust, pursuant to R.S. 9:2085B. Anything to the contrary contained herein notwithstanding, all investments made by the Trustee shall be in accordance with R.S. 8:465, inclusive, and the Rules and Regulations of the Louisiana Cemetery Board.

### **11. Successor Trustee**

The Settlor may from time to time select a successor Trustee by giving written notice to the Trustee herein named, and in this event, the Trustee herein named shall, within thirty (30) days after receiving said notice, deliver to the successor Trustee the corpus of the Trust and accumulated income, and render a full accounting to the Settlor and to the successor Trustee. The successor Trustee so named must be a financial institution the deposits of which are insured by the Federal Deposit Insurance Corporation and which is located within this State or a banking institution authorized to do business in this State, but limited by its Charter to fiduciary and trust-related activities, which is under the supervision of the Office of Financial Institutions of Louisiana. Such successor Trustee shall have all the powers and authority herein given to the named Trustee. The Settlor may from time to time name other successor Trustees.

The Trustee herein named may resign as Trustee upon giving thirty (30) days notice to the Settlor; provided, however, that such resignation shall not be effective until the Trustee shall have rendered a full accounting to the Settlor and shall have surrendered the corpus and accumulated income to a successor Trustee.

### **12. Acceptance**

\_\_\_\_\_, as Trustee, joins in the execution of this Trust Agreement and signified its acceptance of this Trust and receipt of the Trust initial Corpus described in Paragraph 3 of this Agreement.

### **13. Term; irrevocability**

The term of the Trust created hereby is perpetual. Further, this Agreement and the Trust created hereby are irrevocable. The Settlor reserves no right in the Trust property whatsoever. The Settlor and the Trustee reserve the right to amend this Trust Agreement should the same be necessary or desirable under the provisions of Louisiana Revised Statutes, Title 8, Section 1 through 906, inclusive, as they may be hereafter amended, or as may be required by the Rules and Regulations of the Louisiana Cemetery Board.

### **14. Hold Harmless**

Reasonable attorneys' fees, court costs, accounting fees, and similar expenses incurred by the Trustee in connection with this Trust are to be paid out of the income of the Trust. The Trustee shall hold and administer the Trust Fund pursuant to the terms of this Agreement, applicable law, and the Rules and Regulations of the Louisiana Cemetery Board. The Trustee may consult with counsel of its own selection and shall be fully protected against any liability for any action or non-action taken by it in good faith, in accordance with the opinion of its counsel, except for its negligence or failure to administer the Trust in accordance with applicable law, and particularly but without limitation, R.S. 8:1 through 906, inclusive, and the Rules and Regulations of the Louisiana Cemetery Board.

Notwithstanding any other provision contained in this Agreement, no part of the income of the Trust shall ever be paid to, for, or on account of the Trustee for any loss, damage, liability, cost, fee, or expense, including attorneys' or accountants' fees, incurred or sustained by virtue of the failure of the Trustee to administer the Trust in accordance with applicable law, and particularly, but without limitation, R. S. 8:1 through 906, inclusive, and the Rules and Regulations of the Louisiana Cemetery Board.

STATE OF LOUISIANA

PARISH OF \_\_\_\_\_

THUS DONE AND PASSED in multiple originals in my office in the Parish of \_\_\_\_\_, State of Louisiana, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, in the presence of the undersigned competent witnesses who hereunto affix their signatures with the said appearers and me, Notary, after due reading of the whole.

*WITNESSES:*

\_\_\_\_\_

By: \_\_\_\_\_

SETTLOR

\_\_\_\_\_

\_\_\_\_\_

TITLE, duly authorized

\_\_\_\_\_

Notary Public

Print name of Notary: \_\_\_\_\_

Notary number: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

STATE OF LOUISIANA

PARISH OF \_\_\_\_\_

THUS DONE AND PASSED in multiple originals in my office in the Parish of \_\_\_\_\_, State of Louisiana, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, in the presence of the undersigned competent witnesses who hereunto affix their signatures with the said appearers and me, Notary, after due reading of the whole.

*WITNESSES:*

\_\_\_\_\_ By: \_\_\_\_\_  
TRUSTEE

\_\_\_\_\_ \_\_\_\_\_  
TITLE, duly authorized

\_\_\_\_\_  
Notary Public  
Print name of Notary: \_\_\_\_\_  
Notary number: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**CORPORATE RESOLUTION**

A special meeting of the Board of Directors of \_\_\_\_\_  
(the "*Corporation*") was held at the office of the Corporation on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, pursuant to notice.

*PRESENT:* A Full Board

The President advised the Board of the purpose of the meeting, and after full discussion, and on motion duly made, seconded, and unanimously carried, it was

*RESOLVED:* That this Corporation create the \_\_\_\_\_  
Perpetual Care Trust Fund for the perpetual care, maintenance, and preservation of the \_\_\_\_\_ (the "*Cemetery*")

*RESOLVED FURTHER:* That \_\_\_\_\_, the \_\_\_\_\_ of this Corporation, be and said Officer is hereby authorized and empowered on behalf of the Corporation to execute a Perpetual Care Trust Agreement with \_\_\_\_\_, as Trustee, in the form and substance, and on the terms and conditions set forth in the Agreement attached to and made part of these minutes, and the said Officer is further authorized and empowered to execute, sign, and deliver any and all instruments and documents, and to do any and all things necessary, to give full force and effect to these resolutions.

There being no further business to come before the Board, the meeting was adjourned.

\_\_\_\_\_  
Secretary

Attest:

\_\_\_\_\_  
President

**CERTIFICATE**

I, the undersigned secretary of \_\_\_\_\_  
(the "*Corporation*"), do hereby certify that the above and foregoing is a true and correct copy of the minutes of a special meeting of the Board of Directors of the Corporation held on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ at which meeting all members were present and voting throughout, and that the resolutions adopted at said meeting are still in full force and effect and have not been revoked.

This certificate dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Secretary