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CEMETERY AND FUNERAL SERVICES

SAMPLE CARE FUND TRUST AGREEMENT

THIS AGREEMENT MADE THE _____ day of _____, A.D.20__

BETWEEN:

(herein called the "Operator")

OF THE FIRST PART

-and-

(herein called the "Trustee")

OF THE SECOND PART

WHEREAS the Operator is the owner of property located in the Municipality of _____ in the Province of British Columbia, as follows:

AND WHEREAS the Operator will develop the said lands for cemetery use;

AND WHEREAS the Operator proposes to sell rights to use lots and crypts in the said cemetery exclusively for the interment of human remains;

AND WHEREAS, under provisions of Part 7, Care Fund, of the *Cremation, Interment and Funeral Services Act* of the Province of British Columbia (S.B.C.2004), the contracts which the Operator proposes to make with purchasers of the said interment rights stipulate that a designated portion of the purchase price shall be deposited with a trust company in an irrevocable trust fund to be known as "The Care Fund Trust of the Cemetery";

AND WHEREAS the Operator has requested the Trustee to act as Trustee of the said Care Fund Trust in accordance with the provisions of the *Cremation, Interment and Funeral Services Act*, which the Trustee has agreed to do, in accordance with the terms hereof;

NOW THEREFORE, in consideration of the premises and the covenants and agreements herein contained, it is agreed between the Parties hereto as follows;

1. The Operator hereby establishes with the Trustee hereunder Care Fund Trust of the Cemetery, a fund which is separate and apart from all other funds, properties or securities belonging to the said Operator, to be forever conserved for the care and maintenance of the said cemetery property, together with the mausoleum and garden crypts, buildings and appurtenances, and any extensions or enlargements thereof.

2. The _____ Cemetery shall deposit or cause to be deposited with the Trustee hereunder, as and when Certificates of Easement conveying burial rights in the said _____ Cemetery are hereafter issued to purchasers pursuant to contracts for interment rights in presently unsold lots, crypts, niches, etc., moneys equivalent in amount to the percentage (as provided in the Tariff Schedule) of the principal sum or contract price of such lots, crypts, niches, etc., in every case in which said principal sum or contract price has been paid in full. However, when said principal sum or contract price has not been paid in full within one year from date of contract, upon expiry of the said year the Operator, in discharge of its commitment to the Fund for the said contract, shall deposit with the Trustee, from payments received from the purchaser, such moneys as would be due the Care Fund Trust if the contract price had in fact been paid in full, as above provided. Similarly, the Operator shall deposit or cause to be deposited with the Trustee hereunder the amount as provided in the Tariff Schedule upon the installation of each adult memorial. It is understood that the Operator will provide to the Trustee sufficient information in writing to verify the correctness of all payments due to, or deposited with it hereunder.
3. The Operator may, if it so desires, deposit or cause to be deposited additional moneys with the Trustee hereunder. The Trustee is authorized to accept gifts and bequests of money or property to the said Care Fund Trust from any source, to be subject to the terms of this trust.
4. All moneys deposited with the Trustee and all property transferred or conveyed to the Trustee shall become and constitute the principal of the Care Fund Trust hereby created, to be held and administered by the Trustee, subject to the provisions hereof.
5. The Trustee shall in no manner be responsible for or charged with the duty of collecting any money or property from the said Operator, or any other person or corporation.
6. The fund hereby established shall be known as "The Care Fund Trust of the _____ Cemetery."
7.
 - a) All moneys deposited with the Trustee hereunder shall be received by it for the purpose of the Care Fund Trust and shall be invested and from time to time reinvested in such securities and other property as at the time of purchase shall be proper investments for such funds under the provisions of the Trustee Act (R.S.B.C. 1996, chapter 464) and amendments thereto, and under the laws of the Province of British Columbia, and deemed by the Trustee appropriate for this Care Fund Trust, and the Trustee shall not be liable for any loss that may happen to the Care Fund Trust of the Operator in connection with any such investments made by them in good faith.
 - b) The Trustee agrees to review annually with the Operator the investments and the investment policy of The Care Fund Trust of the _____ Cemetery.
8. The Trustee shall manage the trust fund hereby established pursuant to the powers conferred upon Trustees by the Trustee Act.
9. The solicitor of the Trustee shall be employed from time to time by the Trustee as solicitor for this Care Fund Trust in all matters relating to the investment of the funds where legal services may be required.
10. The Trustee shall pay the net income from said Care Fund Trust annually to the Operator up to the amount spent by the Operator for care and maintenance during that calendar year as evidenced by a certificate of the Operator; should the Operator not withdraw any or all of the said income to which it is entitled, or should said income be in excess of that covered by the certificate for that particular year, the Trustee shall hold and reinvest the balance, if any, and such balance and the income therefrom shall be available to the Operator for care and maintenance in future years if required.
11. In the event, at any time hereafter, there is no person, firm or corporation lawfully in actual possession, management and operation of said cemetery, or there is dispute, question or uncertainty as to what person, firm or corporation, if any, is lawfully in actual possession management and operation of said Operator, the Trustee shall hold the Care Fund Trust and the income therefrom subject to payment of the income upon order of a Judge of a Court of competent jurisdiction, made upon application to the said Court by any person or corporation having an interest in the Care Fund Trust of the said Operator.
12. The Trustee agrees to keep a true and correct account of all receipts and disbursements made by it hereunder and agrees to furnish to the Operator, its successor or assigns, and also to the person, firm or

corporation lawfully in actual possession, management and control of said Operator, annual statements of account showing all such receipts and disbursements during the period covered and an inventory of assets. Such accounts and inventory shall be deemed to be accounts stated, accepted and approved except as to any items appearing or by inference included therein to which written objections are made to the Trustee within sixty (60) days from the mailing of said statement.

13. This Care Fund Trust is hereby declared to be irrevocable, except on 60 days notice of termination by either the Trustee or the Operator, approved by the Director, Consumer Protection BC.
14. It is understood and agreed by the parties hereto that no advertising shall be used in connection with the sale of the lots, crypts, niches, etc. of the said Operator, in which the Trustee is named or referred to, unless the same shall first have been submitted to and approved by the Trustee.
15. The Trustee may retain and reimburse itself out of the income therefrom of the Care Fund Trust of the Cemetery for all costs, charges and expenses of or incidental to the administration of the Care Fund Trust of the Cemetery or in relation thereto in accordance with the tariff of costs set out as the First Schedule to this agreement.
16. The tariff of costs set out in the First Schedule shall be subject to review at the request of the Trustee or at the request of the Operator but the party requesting the revision of the tariff of costs shall give notice of its request to the other party not less than 60 days before the intended effective date of the revision requested.
17. The Operator agrees to bring to the attention of the Trustee any new statute or regulations which may affect the provisions of this agreement and should the Operator fail so to do the Trustee shall not be responsible for any payments made contrary to or any acts at variance with the provisions of such statutory regulations.
18. For any extraordinary services not presently contemplated by the Parties, the Trustee shall be entitled to reasonable additional compensation and out-of-pocket disbursements. Until such time as income from the Care Fund Trust is sufficient to pay the said compensations, any deficiency therein shall be paid each year to the Trustee by the Operator.
19. Neither the principal nor income of this Care Fund Trust shall be subject to the claims of the Operator's creditors or to legal process, except as such claims arise from normal and proper execution of the Care Fund Trust.
20. Notwithstanding that this Care Fund Trust is irrevocable, or any successor Trustee may resign and discharge itself of the duties and obligations of Trustee by giving the Operator or its successors or assigns, sixty (60) days notice in writing before such resignation shall take effect, PROVIDED, however, that such resignation shall be accompanied by a complete and satisfactory accounting to the Operator, its successors or assigns, of the status and condition of the Care Fund Trust at that time and the transferring to the successor Trustee of all assets then belonging to said Care Fund Trust. This clause shall not relieve the Trustee from any liability for mismanagement which would otherwise be imposed by law.
21. In the event of the resignation of the said Trustee hereunder, pursuant to the provisions of the preceding paragraph, the Operator, its successors or assigns, shall appoint a successor Trustee, but in the event of failure so to do within a period of sixty (60) days after written notice to said Operator, its successors or assigns, of the intention of said Trustee to resign, said Trustee may apply to a Court of competent jurisdiction for the appointment of a successor Trustee. Any such successor Trustee shall have and incur the rights, duties and obligation of the Trustee hereunder. The resigning Trustee shall render a full, true and correct accounting to such successor Trustee.
22. The Trustee, by acceptance of this Care Fund Trust and the execution of this agreement, accepts no responsibility and in no way shall be called to account by any person for any Care Fund Trust previously established for this said property and held or operated by any person as Trustee thereof, other than to account for any capital in any such Care Fund Trust which may be paid over to it by any such Trustee. And in the event of the receipt by it of any such fund the same shall be added to this Care Fund Trust and invested and managed pursuant to the terms hereof.

- 23. The Operator may, on its own initiative, apply to the Director, Consumer Protection BC, for authority to appoint a successor Trustee to be the depository of trust funds under this Agreement. When the approval of the Director, Consumer Protection BC has been obtained and the Operator has notified the predecessor Trustee under this Agreement of the successor Trustee, the predecessor Trustee shall, within 60 days of such notice, transfer to the successor Trustee all assets then belonging to the Care Fund Trust together with a full, true and correct accounting of the Care Fund Trust; the receipt by the successor Trustee of these assets and accounting shall constitute a complete release of the predecessor Trustee from all obligations under this Agreement except any existing successor Trustee shall have the rights and incur the responsibilities and obligations of the Trustee under this Agreement but shall in no way be accountable for the previous administration of the Care Fund Trust other than to account for the actual assets received from the predecessor Trustee.

- 24. In the event the name of the said Operator's property is changed at any subsequent time or times, the new name, shall be substituted therefore throughout this agreement.

IN WITNESS WHEREOF, this instrument has been executed by the duly authorized officers of the parties hereto, and their respective corporate seals affixed hereto, on the day and year first above written.

owner of and on behalf of
The Cemetery

PER

PER

Trustee (Savings Institution)

PER

PER

FIRST SCHEDULE

TARIFF OF COSTS

1. Annual fee of % of the income earned by the Care Fund plus of % based upon the average annual market value of the Care Fund;

2. Closing out fee upon termination or winding up of the Care Fund of the Cemetery:

3. _____ will be entitled to reimbursement for any out-of-pocket expenses incurred in administering this agreement.