Milton Fields Cemetery

1150 Birmingham Rd. – Milton Georgia 30004- Phone 770-751-1445 – Fax 770-754-0298

CEMETERY INTERMENT RIGHTS, MERCHANDISE AND SERVICES PURCHASE AGREEMENT

Date: _____ Contract #_____

The undersigned, referred to as "Purchaser", hereby agrees to purchase the Interment Rights, Merchandise and Services described herein, subject to acceptance and approval of Milton Conservation Burial Partners, LLC d/b/a Milton Fields Cemetery, hereinafter referred to as "Seller". Interment funeral services occur at the above address.

Purchaser: _____Telephone: _____

Address: _____
Street City State Zip Code

Email Address: _____

Name of Deceased: _____ Date of Death: _____

Description of Interment Rights: _____

INTERMENT RIGHTS, MERCHANDISE AND SERVICES

Interment Rights (Including Endowment Care of $_____)…… $_____
Space Number _____

Interment Fees (Opening/Closing Grave)…… $_____

Grave Marker: Material_____ Color_____

Manufacturer:_____Design:_____ $_____

ALL MARKERS MUST BE APPROVED BY MILTON FIELDS PRIOR TO PURCHASE / INSTALLATION

Caskets must be approved by Milton Fields. No metal caskets will be allowed. $_____

Urn: Manufacturer:_____ Material:_____

Model:_____ Size:_____ …… $_____

Final Lettering: # of Letters_____ @ $_____/Letter……$_____

Sales Tax …… $ _____

Recording Fee…… $_____

Amount placed in trust:_____ $_____

Purchase price: …… **$_____**

Remarks: _____

_____

_____

_____

_____

_____

TERMS: This is a cash sale. The total cash price is due and payable as of the date of this Agreement. The Interment Rights, Merchandise and Services listed herein will not be provided until paid for. No further expenses will be incurred at the time of need. SECURITY INTEREST: Seller will have a security interest in the Interment Rights and Merchandise being purchased as described above. Seller will retain title to said Interment Rights and Merchandise until the total purchase price has been paid by Purchaser to Seller. CEMETERY RULES AND REGULATIONS: Purchaser agrees that all rights conveyed under this Agreement are subject to the present (and as may hereinafter be adopted, amended or altered) Rules, Regulations and Bylaws of the Seller, which Purchaser further agrees to comply with at all times. For approved caskets see Milton Fields General Price List. For home-made caskets please inquire to insure the casket will meet our requirements.

Milton Conservation Burial Partners, LLC

Signature: _____ **By:** _____

Purchaser **Relationship** **signature of cemetery representative**

Print Name: _____

Signature: _____

Purchaser **Relationship** **Print Title:** _____

THIS FACILITY IS LICENSED BY THE SECRETARY OF STATES OFFICE STATE OF GEORGIA. Milton Fields Cemetery is an Endowment Care cemetery. Endowment Care means the general care and maintenance of all developed portions of the cemetery and the memorials erected thereon. This agreement provides for endowment care. IF YOU HAVE ANY COMPLAINTS ABOUT THIS CONTRACT OR THIS TRANSACTION OR HAVE QUESTIONS ABOUT THE LAW GOVERNING THIS TRANSACTION, YOU MAY CONTACT THE OFFICE OF THE GEORGIA SECRETARY OF STATE AT (404) 656-3920. SEE OTHER SIDE FOR ADDITIONAL TERMS AND CONDITIONS.

ADDITIONAL TERMS AND CONDITIONS

No right in or to said Interment Rights, Merchandise and Services being purchased hereunder shall pass to Purchaser until the Total Cash Price is fully paid. Upon receiving the Total Cash Price and any delinquency charges, Seller agrees to cause to be executed and delivered to Purchaser a Certificate of Interment Rights. This Agreement is, and the Interment Rights being purchase hereunder are and shall be conveyed to and accepted by the Purchaser, subject to all the rules and regulations now existing and as may hereafter be amended, changed or new rules adopted; such rules and regulations being on file and subject to examination in the office of the Seller.

The Interment Rights being purchased hereunder do not necessarily possess a monument privilege. The Seller retains the right to prohibit upright monuments or to limit upright monuments to certain designated sections of the cemetery. A memorial tablet conforming to Seller's rules and regulations may be placed on any interment space covered by this agreement.
No interment shall be made nor any memorial placed thereon until the Total Cash Price and any delinquency charges are fully paid, except on written permission of Seller. Any interment made or memorial which may be placed before full payment of the Total Cash Price and delinquency charges shall be only temporary, and no rights shall, by reason of said interment or installation of memorial, be acquired by Purchaser.

It is expressly understood that acceptance of this Agreement shall not preclude the Seller from filing a claim against the estate of the deceased and such claim shall be an additional and cumulative remedy, the filing of which shall not release the Purchaser nor prevent the taking of any legal procedure necessary to effect the collection of amounts owed under this Agreement.
The Seller expressly reserves the right at any time it finds itself unable to fulfill this Agreement to perform any services or make any interment because of strike, lockout, invasion, insurrection, riot, war, order of any military or civil authority, order of the court, or because of any other unforeseen contingency outside of Seller's reasonable control, or misrepresentation or fraud of another in the procuring of same, or because of any mistake or error in description, location, or availability of property or because the person for whom the Interment Rights, Merchandise and/or Services are purchased is not eligible for interment in the property herein described, to return to the Purchaser all monies paid hereunder to the items affected by such, and this Agreement shall, as to such affected items, thereupon become null and void without further obligation or liability on the part of the Seller. In connection with the sale of monuments, Purchaser shall be entitled to a refund of the full sales price associated therewith by the third business day after Purchaser or Purchaser's heirs or assigns requests a refund provided that such request is made before the earlier of (a) the delivery of the merchandise, or (b) the death of the person for whose interment the monument is intended to be used. A refund of merchandise prices shall also be made if the merchandise is not delivered as represented. There shall otherwise be no refund, and such monies shall be kept as liquidated damages as described below. It is difficult or impossible to estimate accurately the actual injury that would be caused by Purchaser's breach of this Agreement or any error or mistake in connection therewith, and that in case of Purchaser's breach of this Agreement, or in case of any error or mistake in connection therewith, Seller shall retain all monies received from Purchaser under this Agreement as liquidated damages except to the extent of refundable amounts as described above. The parties intend to provide for damages rather than a penalty, and such sums are a reasonable preestimate of the probable losses.

Purchaser's rights under this Agreement may not be assigned without the written consent of the Seller. This Agreement shall be binding on the heirs, executors, administrators, successors and assigns of the Purchaser. Purchaser further agrees that Seller may assign its rights under this Agreement and that this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Seller. It is further agreed that when this Agreement is signed by more than one Purchaser, each of such Purchasers becomes jointly and severally liable hereunder. Purchaser agrees to pay all reasonable costs of collection to the extent permitted by law, including court costs, disbursements, and other lawful charges incurred in the collection of the Purchaser's indebtedness to Seller; provided, however, that each party shall pay its own attorneys' fees incurred in connection with any collection effort or any other dispute of any nature relating to this Agreement and the transaction contemplated hereby.

NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, SELLER SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES HOWEVER ARISING, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT, SELLER'S LIABILITY FOR DAMAGES ARISING OUT OF, RELATING TO, OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR THE PARTIES' RELATIONSHIP (WHETHER IN CONTRACT OR TORT) SHALL IN NO EVENT EXCEED THE AMOUNT RECEIVED BY SELLER FROM PURCHASER UNDER THIS AGREEMENT. Notwithstanding anything in this Agreement to the contrary, nothing in this Agreement shall act to waive liability that would otherwise be void or unlawful under O.C.G.A. §§ 10-14-17(c) (7) or 10-14-25 or other applicable law.

ENDOWMENT CARE FUND: (hereinafter referred to as "Perpetual Care Trust and Escrow Agreement"). Seller hereby binds itself to maintain the interment spaces or other interment facilities described herein, and to deposit from payments received hereunder the amounts required by law to a Perpetual Care Trust and Escrow Agreement created for the continual maintenance of all developed cemetery property without further assessment to Purchaser. Such deposit to the Perpetual Care Trust and Escrow Agreement shall be in trust with an established State or National bank or savings and loan association licensed in this State as Trustee and in accordance with the applicable law governing such Perpetual Care Trust and Escrow Agreement, and the net income from the Perpetual Care Trust and Escrow Agreement shall be used solely for the continuing care and maintenance of the developed cemetery and to pay such costs as may be reasonably necessary for the administration of the Perpetual Care Trust and Escrow Agreement .

ARBITRATION: ANY DISPUTE OR CONTROVERSY ARISING OUT OF OR RELATED TO THIS AGREEMENT SHALL BE SUBMITTED TO NON-BINDING ARBITRATION IN FULTON COUNTY, GEORGIA, UPON THE DELIVERY BY ONE PARTY TO THE OTHER OF A NOTICE SPECIFYING THE NATURE OF THE DISPUTE OR CONTROVERSY AND DEMANDING THAT THE MATTER BE SENT TO ARBITRATION (THE "ARBITRATION NOTICE"). WITHIN TEN (10) DAYS AFTER THE DELIVERY OF THE ARBITRATION NOTICE, EACH PARTY TO THE DISPUTE WILL SUBMIT A LIST OF PROPOSED ARBITRATORS TO THE OTHER PARTY. THE ARBITRATOR SHALL BE SELECTED BY AGREEMENT OF THE PARTIES TO THE DISPUTE FROM THE LIST OF PROPOSED ARBITRATORS NO LATER THAN TWENTY (20) DAYS AFTER THE DELIVERY OF THE ARBITRATION NOTICE. IF THE PARTIES DO NOT AGREE ON AN ARBITRATOR WITHIN THE SPECIFIED TIME, THEN THE PARTIES WILL SUBMIT THE ARBITRATION TO THE AMERICAN ARBITRATION ASSOCIATION LOCATED IN ATLANTA, GEORGIA AND WILL CONDUCT THE ARBITRATION PURSUANT TO THE SUPPLEMENTARY PROCEDURES FOR CONSUMER-RELATED DISPUTES RULES OF THE AMERICAN ARBITRATION ASSOCIATION. IN ANY EVENT, THE ARBITRATION WILL BE GOVERNED BY THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION. THE ARBITRATOR SHALL BE DIRECTED TO IDENTIFY THE PREVAILING PARTY IN THE ARBITRATION, AND THE NON-PREVAILING PARTY SHALL BE RESPONSIBLE FOR THE COSTS AND EXPENSES INCURRED IN CONDUCTING THE ARBITRATION PROCEEDING, INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES. THE ARBITRATOR'S AWARD SHALL BE ACCOMPANIED BY A REASONED, WRITTEN OPINION. JUDGMENT ON THE AWARD MAY BE ENTERED IN ANY COURT HAVING JURISDICTION THEREOF.

DISCLAIMER OF SELLER'S WARRANTIES: THE ONLY WARRANTY ON ANY GOODS SOLD IN CONNECTION WITH THIS AGREEMENT IS THE EXPRESS WRITTEN WARRANTY, IF ANY, GRANTED BY THE MANUFACTURER. SELLER MAKES NO WARRANTY, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE GOODS SO DESCRIBED.

ENTIRE AGREEMENT: THIS AGREEMENT CONTAINS ALL TERMS THAT HAVE BEEN AGREED UPON BY THE PURCHASER AND THE SELLER RELATING TO THE GOODS AND SERVICES LISTED ON THE OTHER SIDE. THIS CONTRACT REPLACES ALL OTHER DISCUSSIONS AND AGREEMENTS, WHETHER ORAL OR WRITTEN, RELATING TO THOSE GOODS AND SERVICES. NO SUBSEQUENT DISCUSSION OR AGREEMENT CAN CHANGE THE TERMS OF THIS CONTRACT UNLESS IT IS WRITTEN AND IS SIGNED BY THE PURCHASER AND THE SELLER (OR THE SELLER'S ASSIGNEE).

NOTICE: ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.