



**STATE OF ARKANSAS
DEPARTMENT OF INSURANCE**

1200 West Third Street; Little Rock, AR 72201-1904
Phone: 501-371-2683 or 800-282-9134; Fax: 501-371-2747
Website: www.insurance.arkansas.gov/finance-prepaid.htm
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CUSTODIAL AGREEMENT

This is an agreement entered into by

_____ (the "Brokerage Firm"),

_____ (the "Prepaid Funeral Organization") and the Insurance Commissioner for the State of Arkansas ("Commissioner");

WHEREAS, all prepaid funeral organizations collecting cash proceeds under contracts for prepaid funeral benefits are required to deposit such sums with the trustee within twenty (20) business days after collection, pursuant to Ark. Code Ann. §23-40-114;

WHEREAS, pursuant to Ark. Code Ann. §23-40-103(13), a trustee is defined to be a state or national bank or savings and loan association in this State, or, in the reasonable discretion of the Insurance Commissioner, upon such terms and conditions as he may require, a securities brokerage firm licensed in good standing with appropriate state and federal regulatory authorities;

WHEREAS, the Prepaid Funeral Organization hereby desires to deposit cash funds from prepaid funeral contracts with a securities brokerage firm;

WHEREAS, the Prepaid Funeral Organization and the Brokerage Firm have provided evidence to the Commissioner that the securities brokerage firm is licensed and in good standing with appropriate state and federal regulatory authorities;

WHEREAS, the Prepaid Funeral Organization and the Brokerage Firm have provided evidence to the Commissioner that the securities brokerage firm is a solvent, and financially safe trustee with whom cash deposits will be protected from loss through reasonable safeguards developed by the securities brokerage firm;

WHEREAS, the Brokerage Firm agrees to act as a trustee over such deposits and agrees to make only those investments allowed of trustee in Ark. Code Ann. §23-40-115;

WHEREAS, upon execution of this Agreement by all parties, this Custodial Agreement shall replace any previous Custodial Agreement between the parties;

WHEREAS, it is the intent of both parties that upon execution of this Agreement by the parties, the Brokerage Firm's obligations, with respect to cash deposits made pursuant to Ark. Code Ann. §23-40-114, will be governed by the provisions of this Agreement;

WHEREAS, all parties agree that this agreement shall be interpreted according to Arkansas law;

WHEREAS, all parties agree that for any breach, or cause of action relating to the duties of the parties required in this agreement, or failures of any party to comply with agreement, shall be maintained in Pulaski County, Arkansas.

NOW THEREFORE, it is agreed as follows:

1. The Brokerage Firm, upon receipt of the funds shall act as a custodian thereof in accordance with the terms of this Agreement and the Arkansas Prepaid Funeral Benefits Law, as may be amended from time to time in the future.

2. The Brokerage Firm, as custodian, in its handling of said funds, will comply with applicable fiduciary duties under Arkansas law.
3. The Brokerage Firm, as custodian, shall keep all funds deposited by the Prepaid Funeral Organization, in a clearly identifiable manner separate and apart from other funds. Such funds and/or securities will be held by the Brokerage Firm subject to the instruction, and withdrawable upon the direction of the Prepaid Funeral Organization. The Brokerage Firm shall send to the Prepaid Funeral Organization a confirmation of all deposits, transfers or withdrawals of its funds held in a custodial capacity.
4. The Brokerage Firm, as custodian, and the Prepaid Funeral Organization, agree to honor any duly authorized and executed order of the Arkansas Insurance Commissioner, or duly authorized agent thereof, regarding the control, deposit or disposition of such funds or securities held in a custodial capacity pursuant to this Agreement.
5. The Brokerage Firm, as custodian, hereby agrees to honor any requests from the Commissioner, or one of his or her duly appointed representatives, to provide valuation or account statements for each of the securities held by the Brokerage Firm in this Agreement, or to provide any other information regarding the current status or value for each security held subject to the Custodial Agreement.
6. The Brokerage Firm agrees that it will not release any deposits/funds, or securities subject to this Agreement to any creditors of the Prepaid Funeral Organization.
7. In addition to any obligations the Brokerage Firm has to the Commissioner as set out herein, the Brokerage Firm agrees to furnish to the Commissioner, on an annual basis, a written statement identifying the deposits/funds/securities and amounts, valuation, par and market value, and the investment type of all securities in which the funds have been invested.

Entered into this _____ day of _____, 20____.

Jay Bradford
Insurance Commissioner
State of Arkansas

Brokerage Firm

By

Position

Prepaid Funeral Organization

By

Position