



Simple, Safe, Secure

# PRE-NEED FUNERAL CONTRACT

## NON-BINDING ESTIMATE ONLY

If this box is checked and initialed by the Buyer, this document has been provided as an estimate only for a pre-need funeral contract and no funds have been received. \_\_\_\_\_ Buyer's initials

The price of the funeral goods and services to be provided by the funeral establishment is listed on the attached Statement of Funeral Goods and Services\* which is clearly marked "estimate". These prices are valid through \_\_\_\_\_.

The prices of the Non-Funeral Establishment Charges provided by a supplier or vendors other than a funeral establishment licensed in Massachusetts are listed on the attached Statement of Funeral Goods and Services which is clearly marked "estimate". These prices are valid through \_\_\_\_\_.

This is a Pre-Need Funeral Contract (referred to below as the "Agreement") dated as of \_\_\_\_\_, \_\_\_\_\_, by and between the (Name) \_\_\_\_\_, a licensed funeral establishment with a principal place of business at (Address) \_\_\_\_\_ ("Licensed Funeral Establishment") and (Name) \_\_\_\_\_ of (Address) \_\_\_\_\_ ("Buyer"). The Licensed Funeral Establishment and the Buyer are entering into the Agreement for the purpose of providing (Name) \_\_\_\_\_ of (Address) \_\_\_\_\_ ("Beneficiary") with certain goods and services related to the Beneficiary's funeral. This Pre-Need Contract is not valid unless accompanied by a Statement of Funeral Goods and Services\* and a Funeral Trust Agreement or a Pre-Need Insurance Application.

### THE LICENSED FUNERAL ESTABLISHMENT AND BUYER HEREBY AGREE AS FOLLOWS:

- FUNERAL GOODS AND SERVICES.** The Licensed Funeral Establishment agrees to provide only the goods and services listed in the attached Statement of Funeral Goods and Services to the Beneficiary upon his or her death.
- COST.** The total cost of the funeral goods and services and non-funeral establishment charges listed on the attached Statement of Funeral Goods and Services will be \$ \_\_\_\_\_ ("Total Cost").  
 \_\_\_\_\_ % of the Total Cost is attributable to funeral goods and services to be provided by the Licensed Funeral Establishment. The remaining \_\_\_\_\_ % of the Total Cost is attributable to Non-Funeral Establishment Charges.  
 If this box is checked and initialed by the Buyer, no services and/or merchandise have been selected and payment noted in Section 4 is a deposit. The attached Statement of Goods and Services has been clearly marked "No Goods or Services Selected". Buyer's initials \_\_\_\_\_
- FUNDING METHOD.**  
 Buyer will pay the cost for the funeral goods and services and Non-Funeral Establishment Charges in one of the following ways:  
 Please check appropriate box  
 By transferring funds to the Licensed Funeral Establishment for deposit into a funeral trust account at Cambridge Trust Company, 1335 Massachusetts Avenue, Cambridge, MA 02138 which will act as trustee for such funeral trust account.  
 By purchasing a pre-need insurance policy (as defined in 239 C.M.R. § 4.01) from (Name & Address of Insurance Company) \_\_\_\_\_, the proceeds of which will be payable to the Licensed Funeral Establishment to cover the Total Cost.
- PAYMENT.**  
 To fully fund this Agreement, Buyer will pay \$ \_\_\_\_\_ upon entering into this Agreement.  
 To partially fund this Agreement, Buyer will pay a deposit of \$ \_\_\_\_\_ and the remaining balance will be paid as follows:  
 \_\_\_\_\_  
 The Buyer has paid a deposit of \$ \_\_\_\_\_. The attached Statement of Goods and Services has been clearly marked "No Goods or Services Selected".
- COST PROTECTION.** This Agreement:  
 Please check appropriate box (1 of 2)  
 Is cost-protected with respect to goods and services provided by the Licensed Funeral Establishment upon receipt of payment to fully fund this Agreement.  
 Is not cost-protected with respect to goods and services provided by the Licensed Funeral Establishment.  
 Please check appropriate box (1 of 2)  
 Is cost-protected with respect to Non-Funeral Establishment charges for goods and services to be provided by other vendors and suppliers upon receipt of payment to fully fund this Agreement.  
 Is not cost-protected with respect to Non-Funeral Establishment charges for goods and services to be provided by other vendors and suppliers.
- REVOCABILITY.** This Agreement is:  REVOCABLE  IRREVOCABLE
- TERMINATION.**  
 a. Whether revocable or irrevocable, this Agreement can be terminated by Buyer without penalty within ten (10) days of the date first set forth above by giving written notice of such termination to the Licensed Funeral Establishment.  
 b. If this Agreement is revocable and funded by a Funeral Trust Account, Buyer can cancel this Agreement without penalty at any time after the expiration of the initial ten-day period by providing written notice to the Licensed Funeral Establishment.  
 c. If this Agreement is revocable and funded by a Preneed Insurance Policy and the policy is cancelled prior to the death of the Beneficiary, the amount that will be refunded to Buyer will be determined by the cash surrender value provision of the insurance policy.  
 d. If this Agreement is irrevocable, this Agreement may not be cancelled by either party except by order of a court of competent jurisdiction. Any attempt to revoke or cancel an irrevocable agreement more than ten days after signing it may have adverse consequences relating to eligibility for Medicaid or other government benefit programs.
- ~~**PRE-NEED INSURANCE POLICY DISCLOSURE.** If this Agreement is being funded through the purchase of a pre-need insurance policy, the seller (the funeral establishment, agent or employee)  will  will not receive a commission on the sale of the policy.~~
- TAXES.** Buyer shall reimburse the Licensed Funeral Establishment for any local, state or federal taxes or fees imposed after the signing of this Agreement, including but not limited to any value-added or sales taxes imposed by a taxing authority or governmental entity.
- INCORPORATION BY REFERENCE.** The Statement of Funeral Goods and Services attached to this Agreement is incorporated by reference in this Agreement and forms a part of this Agreement.
- AMENDMENT.** This Agreement may be amended prior to the death of the Beneficiary only by a written instrument signed by both the Licensed Funeral Establishment and Buyer or Buyer's legal representative.
- ASSIGNMENT.** This Agreement cannot be assigned by Buyer. This Agreement can be assigned by Licensed Funeral Establishment in accordance with 239 C.M.R. § 4.03.
- NOTICE.** Any notices under this Agreement shall be in writing and shall be sent by certified mail, return requested, to the addresses specified by the parties at the beginning of this Agreement.
- BUYER'S GUIDE.** By signing below, Buyer acknowledges that he has received a copy of "A Buyer's Guide to Pre-Need Funeral Contracts."
- GOVERNING LAW.** This Agreement shall be governed by and construed and enforced in accordance with the law of The Commonwealth of Massachusetts, without regard to conflict of law principles.

IN WITNESS WHEREOF, the parties have signed or caused to be signed this Agreement as of the date first above written.

BY: Registered Licensed or Certified Funeral Director  
\_\_\_\_\_  
(Printed Name) (Date)

BUYER:  
\_\_\_\_\_  
(Printed Name) (Date)

# DISCLOSURES RELATING TO FUNERAL TRUST ACCOUNTS

1. **DISTRIBUTIONS FROM THE TRUST ACCOUNT.** The Trustee shall only make distributions from the Trust Account as follows:
  - (i) The Trustee will release the trust account funds to the Licensed Funeral Establishment upon the receipt of a certified death certificate for the Beneficiary and a written statement from the Licensed Funeral Establishment stating that the Pre-Need Funeral Contract has been performed in full.
  - (ii) If funeral goods and services are not provided for the Beneficiary by the Licensed Funeral Establishment, the Trustee will release the trust account funds to the estate or legal representative of the Beneficiary upon receipt of a certified copy of the death certificate for the Beneficiary and a written statement from the legal representative of the Beneficiary stating that another funeral establishment provided funeral goods and services or that no funeral services were performed.
  - (iii) If the Pre-Need Funeral Contract is revocable, Buyer may revoke the contract and the related Trust at any time by sending written notice of such revocation, via certified mail, return receipt requested, to the Licensed Funeral Establishment. Upon receipt of notice thereof in proper form from the Licensed Funeral Establishment, the Trustee will distribute the trust account funds to the Buyer or his or her legal representative.
  - (iv) If the Licensed Funeral Establishment has not received notice of the death of the Beneficiary within 110 years of his or her date of birth, the Licensed Funeral Establishment will send a written notice that the trust exists to the last known address of the Beneficiary and his or her legal representative via certified mail, return receipt requested. If the Licensed Funeral Establishment receives no response to the notice after 30 days, it will notify the Trustee, which will pay the remaining funds the Treasurer of The Commonwealth of Massachusetts.
  - (v) In each case, before releasing any funds, the Trustee will deduct any bank charges attributable to the account, any taxes due on the account and any administrative fees of the Trustee or Licensed Funeral Establishment in accordance with the contractual terms and applicable laws. The Trustee will pay any administrative fees owed to Licensed Funeral Establishment in accordance with applicable laws and regulations. Upon making the foregoing payments and distributions, the Trustee and the Licensed Funeral Establishment will be released from all obligations under the Pre-Need Funeral Contract and related individual trust agreement.
  
2. **REMOVAL OR REPLACEMENT OF TRUSTEE.** The Trustee has entered in to a Trust Administration Agreement with NEFT Services, Inc., the terms of which are incorporated by reference into a Master Trust Agreement. Under the Trust Administration Agreement, NEFT Services, Inc. possesses certain rights to replace the Trustee. The Trustee may also be removed by the Licensed Funeral Establishment under the Master Trust Agreement and replaced with a successor appointed by the Licensed Funeral Establishment that is qualified to act as trustee.
  
3. **FEES AND EXPENSES OF TRUSTEE.** The Trustee shall deduct a per annum charge of 85/100 of 1% (subject to change without notice) of the average monthly balance in the funeral trust account quarterly in arrears from the earnings of the funeral trust account for the performance of the Trustee's fiduciary duties with respect to the funeral trust account. The Trustee will pay to NEFT Services, Inc., a wholly owned subsidiary of the Massachusetts Funeral Directors Association, a portion of the Trustee's fee, initially 60/100 of 1% (subject to change without notice), as consideration for its assistance in marketing the New England Funeral Trust Program and for providing certain trust administration services with respect to the funeral trust account. The Trustee or NEFT Services, Inc. may pay a portion of its fee to persons or entities performing services with respect to the Trust Account. The Trustee may also charge against the funeral trust account additional expenses of administration of such account, including the employment, if necessary, of legal counsel, investment counsel advisers, custodians, brokers, accountants, appraisers, attorneys or other agents. In addition, commissions and/or certain other fees required to be paid in connection with the investment of funds contained in the funeral trust account shall be deducted from the funeral trust account.
  
4. **DISCLOSURE.** Pursuant to Section 4B of Chapter 203 of the Massachusetts General Laws, the Trustee hereby discloses that:
  - (a) the interest of the Buyer and the Beneficiary (if different from the Buyer) under the Pre-Need Funeral Contract and this Agreement may at times be in conflict with the interests of the Trustee;
  - (b) the Trustee may have counsel representing its own interests review this Agreement, and the Buyer should obtain and pay for the services of an attorney at law of his or her own selection to represent his or her interests in connection with this Agreement;
  - (c) the Trustee's officers and employees may not engage in the practice of law and may not appear before the courts for the Buyer or the Beneficiary or his or her estate;
  - (d) many persons in the employ of the Trustee may contribute to the management and servicing of the funeral trust account and the personnel of the Trustee will change with the passage of time; and;
  - (e) if the Trustee invests any assets of the funeral trust account in any common trust fund or pooled fund operated by the Trustee, it will provide the Buyer with such information about such fund as is required by law.
  
5. **MISCELLANEOUS**
  - (a) This Agreement may only be amended by an instrument in writing signed by all parties hereto, or as may otherwise be contemplated herein or permitted by law.
  - (b) This Agreement shall be construed in accordance with the internal laws of The Commonwealth of Massachusetts. This Contract is intended to comply with Massachusetts laws relative to the practice of funeral directing, and all applicable rules and regulations thereunder, and shall be construed in such a way as to effectuate compliance with such laws and regulations.
  - (c) This Agreement shall be terminated and the Trustee relieved of all further duties hereunder upon its effective revocation if permissible by state regulations or upon the transfer of the assets of the funeral trust account to another trustee in compliance with applicable law.

IN WITNESS WHEREOF, the parties have executed or caused to be executed this Agreement as of the date written below.

Please Sign:

**x**  
 \_\_\_\_\_  
 Buyer Signature Date

**x**  
 \_\_\_\_\_  
 Beneficiary Signature Date

**x**  
 \_\_\_\_\_  
 Funeral Director Signature Date

\_\_\_\_\_  
 Funeral Director Name Printed License #

**Trustee's Acceptance:**

\_\_\_\_\_  
 Signature/Title

\_\_\_\_\_  
 Date



**REVOCABLE INDIVIDUAL TRUST AGREEMENT AND ACCEPTANCE DOCUMENT**

of a Pre-Need Funeral Contract

This Revocable Individual Trust Agreement made: \_\_\_\_\_, 20\_\_\_\_ by and between:

**LICENSED FUNERAL ESTABLISHMENT:** \_\_\_\_\_

Street: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Funeral Home Master Account #: \_\_\_\_\_ Telephone #: \_\_\_\_\_

**TRUSTEE: CAMBRIDGE TRUST COMPANY, 1336 MASSACHUSETTS AVENUE, CAMBRIDGE, MA 02138**

and the

**BUYER:** \_\_\_\_\_

Street: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Telephone #: \_\_\_\_\_

for the

**BENEFICIARY (FUNERAL RECIPIENT):** \_\_\_\_\_

Street: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Telephone #: \_\_\_\_\_  
DOB: \_\_\_\_\_ Social Security #: \_\_\_\_\_

**CONFIRMATION** and reports should be sent to:  Buyer  Beneficiary

The Buyer has entered into a Pre-Need Funeral Contract with the Licensed Funeral Establishment and has elected to pay for the cost of funeral goods and services by transferring funds to the Licensed Funeral Establishment for deposit into a funeral trust account. The Buyer, Licensed Funeral Establishment and Trustee now wish to create a funeral trust account on the terms described in this Agreement.

The parties agree as follows:

- Creation of Separate Trust and Designation of Trustee.** Licensed Funeral Establishment shall, within the time required by law, transfer all funds received from Buyer to Cambridge Trust Company to be held in a separate trust account pursuant to the terms of the Amended and Restated Master Trust Agreement by and between the Licensed Funeral Establishment and the Trustee, as it may be amended from time to time, the terms of which are incorporated herein by reference. *Cambridge Trust Company is hereby designated as the Trustee of the funeral trust account.*
- Use of Trust Funds.** The funds in the funeral trust account are to be used solely for the purpose of paying for funeral goods and/or services and/or non-funeral establishment charges listed in the "Statement of Funeral Goods and Services" which is attached unless otherwise required or permitted by law.
- Distribution of Trust Funds.** The entire balance of the funeral trust account is payable to Licensed Funeral Establishment (which may be the Licensed Funeral Establishment or any successor) which provides the specified funeral goods and/or services on behalf of the Beneficiary at the time of his or her death unless otherwise required by law. Payment shall be made upon delivery to the Trustee of evidence reasonably satisfactory to it of compliance with applicable law.
- Revocation of Trust.** The Buyer or his or her legal representative may, at any time, revoke the funeral trust created by this Agreement by sending a written notice of such revocation, via certified mail, return receipt requested, to the Licensed Funeral Establishment, which hereby agrees to forward a copy thereof promptly to the Trustee. Upon receipt of notice of the revocation of the funeral trust in proper form, the Trustee will distribute the funeral trust funds less any fees and expenses to the Buyer.
- Limitation of Liability; Agreement not to Assert Claims against Trustee.** Neither the Trustee nor any person or entity performing trust administration services with respect to the funeral trust account (any such person being referred to herein as a "Servicing Agent") shall have any liability to any party resulting from or arising out of, directly or indirectly, any act or omission of the Trustee or Servicing Agent resulting from (i) the Trustee's or Servicing Agent's reliance on any affidavit, statement, investment instructions, or certificate delivered to the Trustee or Servicing Agent, or any disbursement by the Trustee or Servicing Agent from the funeral trust account pursuant thereto or (ii) any other act or omission not involving the gross negligence or willful misconduct of the Trustee or the Servicing Agent, respectively; and the Buyer, for himself or herself, and his or her respective estate, heirs and assigns, and the Licensed Funeral Establishment each agree that no claim or demand of any kind or nature whatsoever shall be made upon or asserted against the Trustee or the Servicing Agent with respect to any such act or omission; provided however that nothing herein shall be deemed to waive the rights of the Buyer, Beneficiary or Licensed Funeral Establishment in the event of the gross negligence or willful misconduct of the Trustee or Servicing Agent. The term "Servicing Agent" shall include, but not be limited to, NEFT Services, Inc. and Penndata, Inc.
- Exclusion of Warranties.** There are no warranties of merchantability or fitness for a particular purpose extended by Licensed Funeral Establishment. The only warranties, express or implied, which are granted in connection with the merchandise listed in the "Statement of Funeral Goods and Services" are the warranties, if any, extended by the manufacturers of the merchandise sold. Licensed Funeral Establishment shall have no liability under any such warranties.

IN WITNESS WHEREOF, the parties have executed or caused to be executed this Agreement as of the first date written above.

Please Sign:

**x**  
\_\_\_\_\_  
Buyer Signature Date

**x**  
\_\_\_\_\_  
Beneficiary Signature Date

**x**  
\_\_\_\_\_  
Funeral Director Signature Date

\_\_\_\_\_  
Funeral Director Name Printed License #

*Trustee's Acceptance:*

\_\_\_\_\_  
Signature/Title

\_\_\_\_\_  
Date

**IRREVOCABLE INDIVIDUAL TRUST AGREEMENT AND ACCEPTANCE DOCUMENT**

of a Pre-Need Funeral Contract

This Irrevocable Individual Trust Agreement made: \_\_\_\_\_, 20\_\_\_\_ by and between:

**LICENSED FUNERAL ESTABLISHMENT:** \_\_\_\_\_

Street: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Funeral Home Master Account #: \_\_\_\_\_ Telephone #: \_\_\_\_\_

**TRUSTEE: CAMBRIDGE TRUST COMPANY, 1336 MASSACHUSETTS AVENUE, CAMBRIDGE, MA 02138**

and the

**BUYER:** \_\_\_\_\_  
 Street: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Telephone #: \_\_\_\_\_

for the

**BENEFICIARY (FUNERAL RECIPIENT):** \_\_\_\_\_  
 Street: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Telephone #: \_\_\_\_\_  
 DOB: \_\_\_\_\_ Social Security #: \_\_\_\_\_

**CONFIRMATION** and reports should be sent to:  Buyer  Beneficiary

The Buyer has entered into a Pre-Need Funeral Contract with the Licensed Funeral Establishment and has elected to pay for the cost of funeral goods and services by transferring funds to the Licensed Funeral Establishment for deposit into a funeral trust account. The Buyer, Licensed Funeral Establishment and Trustee now wish to create a funeral trust account on the terms described in this Agreement.

The parties agree as follows:

- Creation of Separate Trust and Designation of Trustee.** Licensed Funeral Establishment shall, within the time required by law, transfer all funds received from Buyer to Cambridge Trust Company to be held in a separate trust account pursuant to the terms of the Amended and Restated Master Trust Agreement by and between the Licensed Funeral Establishment and the Trustee, as it may be amended from time to time, the terms of which are incorporated herein by reference. *Cambridge Trust Company is hereby designated as the Trustee of the funeral trust account.*
- Use of Trust Funds.** The funds in the funeral trust account are to be used solely for the purpose of paying for funeral goods and/or services and/or non-funeral establishment charges listed in the "Statement of Funeral Goods and Services" which is attached unless otherwise required or permitted by law.
- Distribution of Trust Funds.** The entire balance of the funeral trust account is payable to Licensed Funeral Establishment (which may be the Licensed Funeral Establishment or any successor) which provides the specified funeral goods and/or services on behalf of the Beneficiary at the time of his or her death unless otherwise required by law. Payment shall be made upon delivery to the Trustee of evidence reasonably satisfactory to it of compliance with applicable law.
- Irrevocable Trust Created.** The acceptance of this Agreement creates an irrevocable trust which means that, except under very limited circumstances, any attempt to obtain a refund or withdrawal of the funeral trust funds and any accrued interest, for any purpose, must legally be refused by the Trustee and the Licensed Funeral Establishment. Any attempt to cancel this Agreement and the Irrevocable Pre-Need Funeral Contract may have adverse consequences in terms of eligibility for Medicaid or other government benefit programs. Following the tenth (10<sup>th</sup>) day after the buyer signs the irrevocable Pre-Need Funeral Contract, the funeral trust created hereby and the Pre-Need Funeral Contract can only be cancelled by order of a court of competent jurisdiction. The acceptance of an irrevocable trust does not remove the right of the buyer to transfer this agreement to another funeral establishment in compliance with applicable law
- Limitation of Liability; Agreement not to Assert Claims against Trustee.** Neither the Trustee nor any person or entity performing trust administration services with respect to the funeral trust account (any such person being referred to herein as a "Servicing Agent") shall have any liability to any party resulting from or arising out of, directly or indirectly, any act or omission of the Trustee or Servicing Agent resulting from (i) the Trustee's or Servicing Agent's reliance on any affidavit, statement, investment instructions, or certificate delivered to the Trustee or Servicing Agent, or any disbursement by the Trustee or Servicing Agent from the funeral trust account pursuant thereto or (ii) any other act or omission not involving the gross negligence or willful misconduct of the Trustee or the Servicing Agent, respectively; and the Buyer, for himself or herself, and his or her respective estate, heirs and assigns, and the Licensed Funeral Establishment each agree that no claim or demand of any kind or nature whatsoever shall be made upon or asserted against the Trustee or the Servicing Agent with respect to any such act or omission; **provided however** that nothing herein shall be deemed to waive the rights of the Buyer, Beneficiary or Licensed Funeral Establishment in the event of the gross negligence or willful misconduct of the Trustee or Servicing Agent. The term "Servicing Agent" shall include, but not be limited to, NEFT Services, Inc. and Penndata, Inc.
- Exclusion of Warranties.** There are no warranties of merchantability or fitness for a particular purpose extended by Licensed Funeral Establishment. The only warranties, express or implied, which are granted in connection with the merchandise listed in the "Statement of Funeral Goods and Services" are the warranties, if any, extended by the manufacturers of the merchandise sold. Licensed Funeral Establishment shall have no liability under any such warranties.

IN WITNESS WHEREOF, the parties have executed or caused to be executed this Agreement as of the first date written above.

Please Sign:

**x**  
 \_\_\_\_\_  
 Buyer Signature Date

**x**  
 \_\_\_\_\_  
 Beneficiary Signature Date

**x**  
 \_\_\_\_\_  
 Funeral Director Signature Date

\_\_\_\_\_  
 Funeral Director Name Printed License #

**Trustee's Acceptance:**

\_\_\_\_\_  
 Signature/Title

\_\_\_\_\_  
 Date