

**PERFORMANCE BOND**  
**(Texas Health & Safety Code, §712.067)**

**BOND NUMBER** \_\_\_\_\_

**KNOW ALL MEN BY THESE PRESENTS:** That \_\_\_\_\_ (“Cemetery”), having a place of business in \_\_\_\_\_, \_\_\_\_\_ County, Texas, as principal, and \_\_\_\_\_ (“Surety”), authorized to conduct and carry on a general surety business in the State of Texas, as surety, are held and firmly bound unto the Banking Commissioner of Texas (“Commissioner”) and his successors in office, in the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), for the payment of which Cemetery and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Cemetery offers to sell or plans to offer for sale, directly or through one or more duly authorized agents, mausoleum space prior to the construction of such space (“Undeveloped Mausoleum Space”), which Undeveloped Mausoleum Space is to be in a mausoleum physically located at \_\_\_\_\_ and includes \_\_\_\_\_ casket crypt spaces and \_\_\_\_\_ niche spaces; and

WHEREAS, Cemetery is subject to Texas Health & Safety Code (“Code”), Chapter 712, Subchapter D, relating to the Sale of Undeveloped Mausoleum Space, including without limitation §712.064, which requires Cemetery to commence and complete construction of the Undeveloped Mausoleum Space in accordance with the time periods established in that section or, upon the request of the buyer, refund the entire amount paid for the Undeveloped Mausoleum Space and, if applicable, the net income earned; §712.066, which requires that sales contracts for Undeveloped Mausoleum Spaces include certain disclosures; and §712.067, which authorizes Cemetery to post a bond in lieu of establishing the preconstruction trust otherwise required by the Code; and

WHEREAS, Cemetery is required and agrees to enter into a written sales contract (“Contract”) with each buyer of Undeveloped Mausoleum Space that includes the disclosures required by §712.066 of the Code and to comply with the terms of the Contract and the substantive requirements of such disclosures.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Cemetery promptly and faithfully performs its obligations under a Contract, then this obligation shall be null and void; otherwise, it shall remain in full force and effect for a period commencing on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ and continuing until cancelled in accordance with the terms hereof.

Whenever the Cemetery shall be, and is declared by the Commissioner to be, in default of an obligation under a Contract or the substantive requirements of the disclosures required by §712.066 of the Code, Surety, promptly upon receipt of the Commissioner’s sworn notice of default, must refund to the Contract buyer the amount due under §712.064 as determined by the Commissioner and reflected in the Commissioner’s notice of default.

This Bond is a continuing obligation and shall remain in full force and effect until cancelled as provided for below, provided that, regardless of the number of years this Bond remains in effect, in no event shall the aggregate liability of the Surety exceed the sum of this Bond.

Surety hereby waives notice of an extension of time granted by the Commissioner.

This Bond may be cancelled upon Surety's receipt of written notice of release signed by the Commissioner, upon the Commissioner's finding that construction of the Undeveloped Mausoleum Space is complete, that Cemetery has established a preconstruction trust that meets the requirements of §712.063 of the Code and is substituting such trust for the Bond, or that Cemetery has provided a Performance Bond with a successor surety that is acceptable to the Commissioner.

IN WITNESS WHEREOF, we have duly executed the foregoing obligation this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, to be effective \_\_\_\_\_.

\_\_\_\_\_  
Cemetery

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

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_  
City State Zip

\_\_\_\_\_  
Surety

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

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_  
City State Zip

(Seal)