

## TERMS AND CONDITIONS

We are a member of the National Association of Funeral Directors (NAFD) and subscribe to its Code of Practice, a copy of which is available on request, we also abide by the 'NAFD Funeral Promise'. If you have any queries as to application of the code or promise, please ask us or contact the NAFD. **This code and promise require us to act professionally and provide a courteous, sensitive and dignified service to you as well as to treat you and your loved one with respect, at all times.**

Please read all these terms and conditions carefully: they are the legal basis upon which we provide our services to you. These terms will apply to the arrangement of the funeral by us. When we accept your instructions you and we will be legally bound by these terms.

These terms tell you who we are, how we will provide our services to you, how you or we may change or cancel the Contract should your plans change etc, what to do if there is a problem and other important information. If you are not sure about anything, just phone us on 0800 996 1927 or contact Scotmid Co-operative Funerals at 78/79 Angle Park Terrace, Edinburgh EH11 2JP.

### 1. Information about us and how to contact us

- 1.1 You are entering into a Contract with Scotmid Co-operative Funerals, part of Scottish Midland Co-operative Society Limited a company registered in Scotland under number SP2509RS who have their registered offices at Hillwood House, 2 Harvest Drive, Edinburgh EH28 8QJ with telephone number 0131 335 4400.
- 1.2 We may need to contact you and so will telephone you or write to you at the email or postal address you have provided to us.

### 2. Our Contract with you

Our acceptance of your instructions will take place when we tell you we are able to offer to provide the funeral. This means there is a binding contract between us as set out in these terms and conditions (referred to as the Contract). If we cannot accept your instructions we will inform you of this. This might be because aspects of the funeral you require are not available or because of unexpected limits on our resources, or because we have identified a mistake in the price or description of your funeral and rectification of this is not acceptable to you.

### 3. Your rights to make changes

If you wish to make a change to your instructions, please contact us. We will tell you if the change is possible. If it is possible, we will let you know in writing about any changes to the price, timing or

anything else which would be necessary as a result of your requested change and ask you to confirm you want to go ahead with the change. If you do not want to go ahead with the change you can cancel this Contract, but we may have incurred costs and we may charge you in respect of such costs.

### 4. Our rights to make changes

If, for reasons outwith our reasonable control, we need to make significant changes to your funeral we will contact you immediately by phone in the first instance and tell you about them. You can then notify us to cancel the Contract provided you do so by close of business the day after we have confirmed the position to you in writing. If you cancel the contract you may be asked to pay the third party costs which have been paid or we are committed to pay (and for which, although we have tried, cannot obtain a refund or credit, as appropriate) plus a reasonable amount based upon the work carried out to date.

### 5. Arranging the funeral

- 5.1 We will arrange the funeral to take place on the funeral date at the time as specified on the funeral arrangement form.
- 5.2 We are not responsible for delays outside our reasonable control. Obviously we will contact you as soon as possible if we cannot provide the funeral in accordance with the funeral arrangement form due to an event outside our reasonable control and we

will take steps to minimise the delay. Provided we do this, we will not be liable for delays caused by the event but, if there is a risk of substantial delay, you may contact us to cancel the Contract.

- 5.3 The ashes will be disposed of in accordance with the wishes of the applicant for cremation; the identity of this person may or may not be you. In certain circumstances, we may be permitted to take your instructions into account and we will notify you of this. You may forfeit the right to instruct us in relation to disposal, for example, if there is an express wish set out in the deceased's will or, if, before disposal takes place, you die or you are sentenced to a custodial sentence. In any event, we will retain ashes for a maximum of three months, after which time we may arrange for their disposal or return them to you at our discretion. If there is a dispute among the persons connected with the deceased, we may not be able to solve it to your satisfaction as we are required to follow the law, these terms and conditions and our Code of Practice but it may be advisable to speak to the NAFD who will be able to give guidance to persons in such circumstances.
- 5.4 Items of jewellery and other valuables will only be handed back to you (the person who is responsible for the funeral arrangements) unless we are aware of there being an executor or executors of the Deceased in which case they will be returned to them. Please note that items of jewellery not collected within six months of the funeral date will be sold and the proceeds donated to charity.
- 5.5 In most circumstances it is advisable for our trained bearers to carry the coffin but in certain cases, we may permit persons connected with the Deceased to do so. This will be at our discretion and subject to any conditions we consider appropriate. The relevant persons wishing to carry the coffin will be required to comply with any instructions from our staff which will be intended to ensure the smooth running of the funeral and the safety of all concerned. Other than personal injury or death arising from our negligence, we will have no liability in respect of any claim arising from any such person bearing the coffin and you agree to indemnify us against any such claim being brought.

## **6 Price, deposit and payment**

- 6.1 You, as the person who has signed the Confirmation and Estimate, are the person who is legally responsible for paying the funeral invoice and who accepts liability for the funeral account.
- 6.2 The price you will need to pay, if applicable, is set out in the Confirmation and Estimate together with details of how to pay; payment terms are 28 days from the date of the invoice. A minimum deposit of £250 is required.
- 6.3 As discussed, some of the prices are estimates so we

will need to check and we will contact you once we know the correct price but you will be bound by such price.

- 6.4 In certain cases, the Department of Work and Pensions (DWP) may contribute to the cost of the funeral. We will give you general information about this but it is your responsibility to check whether this applies to your specific circumstances relating to this funeral. Payments made by DWP will not cover the full amount owing and you will be required to pay the remaining balance.
- 6.5 If you cancel the funeral after signing the Confirmation and Estimate, any amounts you have paid may not be returned as set out in the Contract depending on the circumstances and you may be asked to pay the third party costs which have been paid or we are committed to pay and for which, although we have tried, cannot obtain a refund or credit, as appropriate, plus a reasonable amount based upon the work carried out to date.
- 6.6 If you do not pay the amounts you owe by the agreed payment date provided for in the Confirmation and Estimate, we may charge you interest on the outstanding amounts at the rate of 2% per annum above the base rate of our bank. Interest will accrue on a daily basis and will be compounded at the end of each month until the date of payment, whether before or after judgment. We may recover the cost of taking enforcement action.

## **7 Your rights to cancel the Contract between us and charges payable**

- 7.1 You can withdraw your instructions by telling us before you sign the Confirmation and Estimate, if you simply wish to change your mind - you don't need to give us a reason, however, you may be asked to pay reasonable costs for any services rendered e.g. collection of the deceased, payment of fees etc.
- 7.2 The Consumer Contracts (Information, Cancellation & Additional Charges) Regulations - 14 day cancellation period - if you have entered into this Contract in your home you have a legal right to cancel this Contract for a period of 14 days from the date you signed the Confirmation and Estimate. You may exercise this right by contacting us. However you will be responsible, if you have requested services during that period, to pay a reasonable sum for those services. In particular you will be obliged to pay the sums provided for in the Confirmation and Estimate in the event that the funeral has taken place prior to the expiry of the 14 day period.
- 7.3 You may cancel the funeral (meaning you are cancelling the Contract) at any time without telling us the reason but we may have to charge you as set out below.
- 7.4 If you are cancelling the funeral for a reason set out in (a) to (e) below, the Contract will also be cancelled

immediately and we will refund you in full, including any deposit, but you may be required to pay any third party fees which we have paid for or we are committed to pay and for which, although we have tried, cannot obtain a refund or credit, as appropriate:

- a. We have told you about a change we need to make and you do not agree.
- b. We have told you about an error in the price and you do not want to proceed.
- c. We have told you there is a risk that the funeral will be affected by a delay caused by an event outside our reasonable control.
- d. You have a legal right to cancel the Contract because of something significant we have done wrong.
- e. You decide to cancel the Contract because we have told you about a failure on our part caused by something beyond our reasonable control.

7.5 If you are cancelling the funeral but it is not because of one of the reasons set out in Clause 7.4, the Contract will also be cancelled immediately but we may charge our reasonable costs for services already rendered and we may need to charge you the third party fees if we cannot recover them as we will have incurred these costs.

## **8 Our rights to cancel the Contract**

- 8.1 We may cancel the Contract and so not have any obligation to provide the funeral if:
- a. You do not pay the deposit when due, 3 days prior to the funeral, and still have not paid within 24 hours of us reminding you that it is due
  - b. You have not provided the information we require set out on the funeral arrangement form
  - c. We decide to cancel the Contract because you have told us about a failure on your part caused by something beyond your reasonable control

8.2 If we cancel the Contract for the reasons set out in Clause 8.1, we will have to charge you for the costs we have incurred. This is in addition to having to charge you third party fees we have incurred on your behalf, if we cannot recover them.

## **9 Third party services**

- 9.1 We will need to engage the services of third parties, on your behalf, such as the minister, cemetery or crematorium. We will use reasonable endeavours to ensure that they comply with your wishes but we are not liable for their errors as we act as their agent. This does not affect your rights under statute and under Clause 11. Nothing in these conditions confer any benefit on any third parties under the Contract (Third Party Rights)(Scotland) Act 2017 or otherwise.

## **10 Circumstances beyond the control of either party**

- 10.1 In the event of any failure by either of us because of something beyond our respective reasonable control:
- a. the affected party will advise the other as soon as reasonably practicable; and
  - b. the affected party's obligations will be suspended so far as is reasonable, and provided that the affected party will act reasonably, the affected party will not be liable for any failure which it could not reasonably avoid, but this will not affect the other party's right to cancel this Contract.

## **11 Excluding liability**

- 11.1 There are certain liabilities for which, as a matter of law, we do not exclude liability because we are prevented from doing so by law, for example:
- a. any fraudulent act or omission; and
  - b. death or personal injury caused by negligence or
  - c. breach of your legal rights to which you are entitled as a result of being a consumer and which cannot be varied by agreement. These include, our obligation to provide the services with reasonable care and skill, and to provide the funeral as described.
- 11.2 Subject to this, we are not liable for
- a. loss which was not reasonably foreseeable to both parties at the time when the Contract was made, or
  - b. loss arising from commercial loss (eg loss of profit, loss of business or loss of business opportunity) to your business which would not be suffered by a consumer - because we believe you are not paying for the funeral wholly or mainly in connection with your business.

## **12 Governing law, jurisdiction and complaints**

- 12.1 The vast majority of funerals are carried out to the satisfaction of clients but if you have a query or complaint, please speak to our funeral arranger in our funeral office and we will try to resolve it. If they do not resolve it to your satisfaction, please ask to speak to their Manager. If you are still not happy with the way in which your query or complaint has been settled, you may take the matter to court or to Alternative Dispute Resolution but you must make your application within twelve months of the funeral date. Please see below in Clause 12.2 for details.
- 12.2 As we are a member of the National Association of Funeral Directors (NAFD), we adhere to its Code of Practice. Through its Funeral Arbitration Scheme, the NAFD provides a dedicated procedure for clients who feel they have not received the service to which

they were entitled. To use this service, a complaint must be made within twelve months of the date of the funeral and you must have followed the procedure set out in Clause 12.1 first. If you have not reached a resolution, you should contact The Funeral Arbitration Scheme (FAS) at 618 Warwick Road, Solihull, B91 1AA which provides independent conciliation and arbitration through the Centre for Effective Dispute Resolution (IDRS Limited), an independent scheme of Alternative Dispute Resolution. Please ask for the FAS leaflet "Your Right to Put it Right" which sets out the procedure in more detail.

- 12.3 In 2017, Scottish Ministers appointed an Inspector of Funeral Directors to critically assess the work of the sector across Scotland and to make recommendation on a regulatory framework. The Inspector can be contacted via the Burial & Cremation Legislation Team, Health Protection Division, Directorate for Population Health Improvement, Scottish Government, 3 East, St Andrew's House, Regent Road, Edinburgh EH1 3DG telephone 0131 244 3226.
- 12.4 The Contract (including any non-contractual matters) shall be governed by and construed in accordance with Scots law. Prorogation of Jurisdiction:- the courts of Scotland have exclusive jurisdiction to decide and settle any disputes or claim arising out of or in connection with this Contract.
- 12.5 The Contract will be subject to the provisions of the Burial & Cremation (Scotland) Act 2016 and any related subordinate legislation.

### **13 Data Protection**

- 13.1 We will use the personal data you provide to us to:
- provide the funeral;
  - process your payment for it;
  - pass to third parties who are providing services as part of the funeral as agreed with you.
  - after care services, e.g. questionnaires, remembrance services, memorial Christmas trees

All personal data will be held in accordance with our policies on data protection and privacy policies from time to time as displayed on our website [www.scotmidfunerals.coop](http://www.scotmidfunerals.coop) and in compliance with the European Union General Data Protection Regulation and any subordinate legislation relating thereto.

- 13.2 If you are a member of Scottish Midland Co-operative Society Limited, this Clause does not affect how we are already entitled to use the data we hold about you. Please call Member Services on 0131 335 4400 if you have any questions about this.
- 13.3 Examples of the third parties to whom we may pass your data are the minister, the cemetery or the crematorium and the online tribute service hosted by [www.funeralzone.com](http://www.funeralzone.com). These third parties will only use your details in relation to the funeral arrangements or the online tribute, as appropriate. We will never sell your data to third parties and will only pass your data to third parties where the law requires us or allows us to do so.
- 13.4 If you have indicated that the funeral arrangements will be publicly available on the online tribute service, the details may appear in any internet searches.

### **14 Other important terms**

- 14.1 This Contract is between you and ourselves. No other party has rights to enforce any of its terms.
- 14.2 If a court finds a part of this Contract illegal, it will not affect the rest of its terms. Each term operates separately and if a court finds one illegal the rest will remain in full force and effect.
- 14.3 Even if we delay in enforcing this Contract, we can still enforce it later. For example, if you miss a payment and we do not chase you for it and we provide the funeral, we can still require you to make the payment at a later date.

**0800 996 1927**

[info@scotmidfunerals.co.uk](mailto:info@scotmidfunerals.co.uk)

[www.scotmidfunerals.coop](http://www.scotmidfunerals.coop)

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