

Terms & Conditions

These terms and conditions of sale ("**Terms**") apply to the purchase of funeral services and products by the buyer (hereafter referred to as "**Applicant**", "**Customer**", "**you**", and "**your**") from **Wollongong City Funerals Pty Ltd** (ABN 44 000 470 977) (hereafter referred to as "**Wollongong City Funerals**", "**WCF**", "**we**", "**us**" and "**our**") in response to the attached written quotation presented to you by Wollongong City Funerals ("**Quotation**").

1. QUOTATION AND AGREEMENT

- 1.1. All Quotations issued by Wollongong City Funerals for the supply of Funeral Services and Products will remain open for acceptance for the period stated in the Quotation or, if none is stated, for fourteen (14) days. In all other cases, prices payable are those currently in effect in Wollongong City Funerals then current pricelist.
- 1.2. Your purchase of Wollongong City Funerals Services and Products in response to the Quotation is governed by the terms of any order confirmation we may send you in response to receiving your order or signed Quotation, ("**Order Confirmation**"), these Terms and any additional terms referenced in the Quotation (together, the "**Agreement**"). Any other terms and conditions submitted by you on any purchase order are hereby expressly excluded. In the event of a conflict between the terms of the Quotation and these Terms, the terms of the Quotation will prevail to the extent of the inconsistency.
- 1.3. Wollongong City Funerals endeavours to provide fair and accurate information in relation to all costs associated with delivering the funeral service and products. Items that are supplied to you, **at your request**, as part of the funeral service that are not included, or costed as part of this quotation, will be added to the final invoice at prices payable to those currently in effect in Wollongong City Funerals, or its subcontractor(s) then current pricelist.

2. PRICES

The prices for the Products and/or Services are as stated in the written Quotation. Quoted prices are **inclusive** of goods and services tax ("**GST**"). You must pay us any GST that may be levied or assessed against us in relation to the supply of the Products and/or Services. If we pay any GST you agree to reimburse us the amount of such GST on demand.

3. PAYMENT AND DEBT RECOVERY

- 3.1. The payment terms are stated in the written Quotation. In the absence of any such statement, you must pay us in Australian Dollars, 100% of the total 'known' costs 48 hours prior to the date of the service. The balance of all outstanding costs must be paid within 21 days from the date of delivery of the Funeral Service and/or supply of the Products.
- 3.2. 100% payment is not received 48 hours prior to the date of the funeral or funeral services, we reserve the right to cancel or postpone the funeral until such time as funds are received. If third party suppliers' payments are not made prior to the due date may also result in cancellation or postponement of the funeral or funeral services.
- 3.3. If you: (a) do not pay for an invoice by the due date; or (b) assign any of your property for the benefit of your creditors, enter into or threaten to enter into bankruptcy, receivership, liquidation, voluntary administration, or any other type of insolvency regime, and a Service has not been paid for in full, at the time, then Wollongong City Funerals may, upon 14 days written notice to you:
 - (i) suspend and/or cancel any of its outstanding obligations under the Agreement;

(ii) charge you a debt recovery fee at an initial rate of thirty (30) % or any applicable maximum statutory rate on all unpaid amounts calculated, as well as charge you for all debt recovery collection costs and legal fees incurred by Wollongong City Funerals in connection with the late payment

(iii) commence legal proceedings to recover the debt recovery

(iv) lodge a claim in any court of competent jurisdiction

(v) enforce any judgment obtained, including by the way of garnishee, writ, or other lawful enforcement measures

4. CHANGES AND CANCELLATIONS

- 4.1. Wollongong City Funerals reserves the right, subject to prior notice, to make any change in the specification of the Products or Services, which does not materially affect the funeral service
- 4.2. We encourage open communication with our customers in the days prior to the delivery of the funeral service and strive to accommodate all change requests to the Products or Services ordered from Wollongong City Funerals. However, change requests may only be accepted with the prior written consent of Wollongong City Funerals.
- 4.3. If you change or cancel any part of the order without our prior written consent and/or within 48 hours before the scheduled funeral delivery time, you will pay us a cancellation charge of 100% of the total price of the Service and Products ordered under the Quotation or Order Confirmation. We will retain as a credit toward the cancellation charge any payments we have received up to the amount of the cancellation charge. In addition, in the event of any cancellation for Products or Services requiring disbursement by us or our representatives to third parties, you will pay our reasonable charges for such disbursement services performed prior to cancellation.

5. DELIVERY AND DELAYS IN PERFORMANCE

- 5.1. Funeral Service delivery times are approximate. Time for delivery will not be of the essence of these Terms and your purchase of the Funeral Service. We are not liable for delays in performance of any of our obligations under these Terms (including Service delivery). Partial Service delivery is permitted, if applicable.
- 5.2. For a funeral service to proceed, we require confirmation from several third parties. These include (but are not limited to): medical practitioners, the coroners office, cemeteries, crematoria. Whilst every effort will be made to minimise these delays, we cannot be held liable for any delays to the funeral service, due in whole or in part, to delays imposed by third parties.

6. RESTORATIVE AND MORTUARY SERVICES

Wollongong City Funerals employees will, in most circumstances, perform reconstruction, invasive and/or restorative services as required in order to prepare your loved one's remains for viewing and/or the funeral service (if applicable). You give us permission and instruct us to undertake such restoration and restorative services and understands and acknowledges that the appearance of your loved one and the benefits of the embalming and restorative services provided by Wollongong City Funerals are not an exact science and that the results obtained by those services are dependent upon a number of other factors outside of our control. You hereby release and agree to hold Wollongong City Funerals, its owners, employees and agents harmless from any claims or causes of action arising or relating to the restoration of your loved one's remains or the viewing thereof.

7. ACCEPTANCE OF SERVICES AND PRODUCTS

You will be deemed to have accepted a Funeral Service and Products on the earlier of: (a) signing any of the following documents: the Quotation, the Arrangement Form as the Applicant and/or signing these Terms and Conditions; or (b) on the date of delivery of the funeral service. Note: At your request, or as agreed, other third-party organisations may supply services or products as part of the quotation. These organisations may have separate terms and conditions which may apply to the provision of that product or service.

8. TRANSPORTATION, TITLE AND RISK OF LOSS

- 8.1. Unless otherwise specified in the Quotation, we are responsible for payment and delivery of the Service and Products to you at the designated point of delivery of the Funeral Service.
- 8.2. Title and ownership to each Product and Service will pass to you at the start of the Funeral Service. You will be responsible to pay us 100% of the Quoted price for the Funeral Service and Products.
- 8.3. Risk of damage to or loss of the Product(s) will pass to you upon delivery of the Product to you at the

designated point of delivery of the Funeral Service.

9. FUNERAL RECORDINGS AND WEB STREAMING

9.1 Wollongong City Funerals takes great pride in our Audio Visual (AV) equipment and facilities. We go to great lengths to ensure our equipment operates correctly and continually strive to further reduce error rates. The nature of the AV services provided by us has a reliance on combinations of (including but not limited to): AV hardware, computer hardware, software, internet connections and human factors. Wollongong City Funerals specifically excludes any warranty given or implied, for the AV recording and/or web streaming services provided under this contract.

9.2 Where an audio visual presentation is requested at a venue that is not owned or controlled by Wollongong City Funerals, and where the equipment is owned, supplied, or operated by the venue or a third party, Wollongong City Funerals accepts no responsibility or liability for the performance, functionality, maintenance, age, compatibility, operation, or failure of such equipment. Wollongong City Funerals will make reasonable efforts to provide the presentation material to the venue; however, the operation and reliability of the venue's audio visual equipment remains solely the responsibility of the venue or equipment owner, and Wollongong City Funerals shall not be liable for any interruption, delay, malfunction, or inability to display or play the presentation caused by such equipment.

9.3 Any requested live stream services are only available for downloading for a maximum of six months from the date of the service.

10. LIMITED WARRANTIES

10.1. To the extent permitted by law, no express or implied warranties, including but not limited to implied warranties of merchantability, fitness for a particular purpose or data accuracy will apply to anything supplied to you under the Agreement.

10.2. If Wollongong City Funerals breaches any warranties set out in these Terms or a term or condition that is implied by law and which is not capable of being excluded, the parties agree that Wollongong City Funerals' liability will be limited to, at Wollongong City Funerals' discretion: resupply the non-conforming Products and/or Services; (b) paying the cost of such resupply; (c) paying the cost of having the non-conforming Products repaired or non-conforming Services resupplied (as the case may be); or (d) refund to you the price paid by you to us for the non-conforming Product and/or Services. You acknowledge and agree that you will not be entitled to a refund or credit of the purchase price of the Product and/or Services in any other circumstances.

11. LIMITATION OF LIABILITY

To the extent permitted by law, you agree that: (a) the total liability of Wollongong City Funerals and your exclusive remedy for any and all claims arising out of or related to the Agreement, your purchase and use of the Products and/or Services, regardless of the form of the action, will be limited to 100% of the total price of the Product and/or Services paid by you to us, the subject matter of the claim; and (b) Wollongong City Funerals will under no circumstances be liable to you for any loss of profit, loss of revenue, loss of goodwill or any indirect, consequential, or punitive damages.

12. INTELLECTUAL PROPERTY

You acknowledge that, unless otherwise agreed in writing, all intellectual property rights attaching to Wollongong City Funerals or Wollongong City Funerals branded Products are and will remain the property of Wollongong City Funerals.

13. CONFIDENTIAL INFORMATION AND PRIVACY

13.1. Wollongong City Funerals will treat client information as confidential. Notwithstanding the foregoing, Wollongong City Funerals may disclose the clients confidential information to: (a) its Personnel on a need to know basis for the purpose of performing its obligations under the Agreement; (b) if required by law, in which case such the Receiving Party will so notify the other party as soon as practicable and in any event prior to such party making such required disclosure. For the purpose of this clause 13, Wollongong City Funerals' pricelist for the Products and/or Services and these Terms will be considered as confidential information of Wollongong City Funerals.

13.2. Each party must comply, and must ensure that their respective Personnel comply, with all applicable Privacy

Law as they apply to that party.

13.3. If any Personal Information is provided or otherwise made available to Wollongong City Funerals or its Personnel by the Customer, the Customer represents and warrants to Wollongong City Funerals that the Customer has procured and obtained all necessary individual consents (as required by all applicable Privacy Law) to enable and permit Wollongong City Funerals and its Personnel to collect, store, use, disclose or otherwise deal with the Personal Information solely for the purpose of fulfilling its obligations to Customer as anticipated under the Agreement.

14. DATA ACCESS

You agree to permit us to connect, or to otherwise access data related to the Funeral Service and Products, to allow us to gather, aggregate, compile, and use data in various ways including quality initiatives, benchmarking and reporting services. The data collected by us will be used, during and after the expiration or termination of the Agreement, in a manner that will maintain client and customer level confidentiality

15. FORCE MAJEURE

Wollongong City Funerals will not be liable to you for the non-performance of any of its obligations under the Agreement to the extent such performance is prevented by any circumstances beyond its reasonable control including but not limited to, strikes, lock outs or labour disputes of any kind (whether relating to its own employees or others), fire, flood, explosion, natural catastrophe, acts or threats of terrorism, plant breakdown, computer or other equipment failure and inability to obtain material or equipment. If such a delay occurs, we may extend the performance of our obligation for a period of time equal to the delay. If an event of force majeure exceeds 10 days Wollongong City Funerals may cancel your order without any liability to you.

16. AUTHORISED CONTACT

The Client may nominate one or more authorised contacts ("Authorised Contact") to act on their behalf in relation to the funeral arrangements and services provided by Wollongong City Funerals. By nominating an Authorised Contact, the Client acknowledges and agrees that Wollongong City Funerals may rely on any instructions, approvals, consents, requests, or information provided by the Authorised Contact as if they were provided directly by the Client. The Authorised Contact is authorised to make decisions, approve arrangements, provide instructions regarding services, goods, scheduling, and associated matters relating to the funeral service. The Client accepts full responsibility for any instructions or decisions made by the Authorised Contact and agrees that Wollongong City Funerals will not be liable for any loss, cost, delay, or dispute arising from acting on such instructions. Wollongong City Funerals is not required to verify the authority of any person identified as an Authorised Contact and may continue to rely on the Authorised Contact's instructions unless notified otherwise in writing by the Client.

17. GENERAL MATTERS

17.1. The Agreement is the complete and exclusive statement of the terms of the arrangement between you and Wollongong City Funerals regarding its subject matter. No prior proposals, statements, course of dealing, or usage of the trade will form a part of Agreement. For the avoidance of doubt, any terms and conditions stated or attached to your purchase order or trade terms will not be deemed to be incorporated as a part of this Agreement and is hereby expressly excluded.

17.2. If any clause or part of any clause in the Agreement in any way unenforceable, invalid or illegal, it is to be read down so as to be enforceable, valid and legal. If this is not possible, the clause (or where possible, the offending part) is to be severed from the Agreement without affecting the enforceability, validity or legality of the remaining clauses (or parts of those clauses) which will continue in full force and effect

17.3. The Agreement will be governed by and construed in accordance with the laws of the state of New South Wales and the parties submit to the non-exclusive jurisdiction of the courts of the state of New South Wales and courts competent to hear appeals from those courts.

17.4. Wollongong City Funerals may assign its rights and benefits under the Agreement (in whole or in part) to any related bodies corporate without your consent. You may not assign any of your rights or benefits under the Agreement without the prior written consent of Wollongong City Funerals (which will not be unreasonably withheld)

17.5. Wollongong City Funerals can hire a subcontractor or use any of its related bodies corporate to perform any of our obligations under the Agreement.

17.6. The Agreement may not be varied except by a later written document executed by you and Wollongong City Funerals.

17.7. Wollongong City Funerals are dedicated to keeping you informed. We have found the best and fastest way

to communicate with you is via email, SMS and/or telephone for urgent matters. By providing us with your email address and mobile phone number, you agree to receive correspondence from us on (including but limited to): changes or modifications to the funeral, quotations, invoices, requests to confirm various funeral details, newsletters and other promotional correspondence. You may opt-out of receiving emails or SMS messages from Wollongong City Funerals at any time by contacting our team or replying 'stop' where applicable.

18. DEFINITION

In these Terms, unless the context clearly indicates otherwise:

Personal information means information or an opinion (including information or an opinion forming part of a database) whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

Personnel means, with respect to a party, any officer, employee, agent or contractor of that party.

Privacy Law means the Privacy Act 1988 (Cth) and any determinations, guidelines and interpretative explanations issued from time to time by the Office of the Privacy Commissioner under that Act.

Products means any Wollongong City Funerals equipment, hardware, Software, other electronic or mechanical items, any consumables, equipment, spare parts agreed to be supplied by Wollongong City Funerals to you under these Terms.

Services mean any services performed by Wollongong City Funerals to you under the Agreement.

Software means any software or data compilations: (a) identified in the Quotation; or (b) provided to you by Wollongong City Funerals in connection with the funeral service. For the avoidance of doubt, Software does not include any music, video, as any such music, video or data compilations will be subject to the terms and conditions set out in the relevant licenses.