

## Terms and Conditions

**1. Requirement for terms and conditions.** James Giles & Sons Ltd always aim to provide a high quality service and as such would not seek to enter into a long and unnecessarily detailed contract for service. It acknowledges that its areas of responsibility and obligations should be clearly defined in writing to clients who should also be aware of the level of protection offered to them and of their obligations to the Company. Throughout these terms and conditions the "Company" is James Giles and Sons Ltd.

**2. Who can arrange a funeral.** The Company has no means of independently establishing who has the legal right to arrange a particular funeral and it will therefore contract with any person that purports to have the authority to arrange the funeral by virtue of being the next of kin, an executor of the estate or acting on the instructions of those persons or in the absence of the existence of any executor or family. Hereinafter called the "Client".

**3. General observations.** The Company employs experienced staff who will use their best professional skill to ensure that the requests of its client are honoured. During the initial planning the Company representative may not be aware of all the individual family circumstances and as these are disclosed it may transpire that certain requests cannot be met. In these circumstances the Company will assist in making alternative arrangements but it will not accept any liability for additional costs or losses that may arise as a result.

**4. Changes to funeral timings, extra services and supply failures.**

The dates and times for the funeral cannot be guaranteed until final bookings are made and confirmation received from all third parties involved. On occasion, even after confirming details to its client, the Company is forced to make other minor changes to funeral arrangements and timings due to reasons beyond its control. Timing is not therefore the essence of this contract. Where possible any changes are notified to the client in advance but this is not always possible and the Company does not accept liability for delays caused by third party suppliers or factors outside its control such as road works, adverse weather, traffic congestion or mechanical failure and in these circumstances the Company's charges remain payable in full. The Company always attempts to contact its client to agree any changes but this is not always possible. If the Company cannot contact the client it makes an assessment of the situation and acts in the manner that it believes is in the best interest of the client. It reserves the right to make additional charges for extra services provided. For example if more flowers arrive at the funeral home than the hearse can accommodate an attempt is made to contact the client by telephone to ask for instructions regarding the provision of additional transport. If the call is not answered the Company will supply an additional vehicle for the flowers. In these circumstances the extra charges for any additional services are added to the final invoice.

Where for any reason the Company is unable to supply the coffin/casket ordered by the required time the Company notifies the client and offers alternatives, the price of the alternative selected by the client and not the price of the original selection is invoiced and payable.

Some of the facilities offered are dependent upon the behaviour of animals such as horse drawn vehicles and dove releases and it must be understood that in certain circumstances these animals may be unable to perform the required duties due to ill health and weather conditions. Further some of the vehicles used are vintage or classic and as such are prone to mechanical failure. The Company does not accept any liability should any of these events occur.

**5. Clothing and personal effects.** The Company transfers the deceased person to its premises in the clothing worn unless given instruction to the contrary. All underwear, socks, daywear or nightwear are, together with any soiled clothing, treated as waste and disposed of as appropriate unless the Company is instructed otherwise. All clothing provided for the deceased person to wear (excluding shoes in the case of cremation, which are removed and sent for recycling or disposed of unless specific instructions are received to the contrary) will remain with them. All valuables left with the deceased at the time of collection will remain with the deceased person unless specific instructions from our Client are

received to the contrary. When jewellery and/or other valuables are placed in the coffin and left in situ on/with the deceased person during Chapel visits the Company is not responsible for its safekeeping and does not accept any liability in the event of loss or damage.

**6. Size of the deceased person.** The Company is, usually, unaware of the size of the deceased person at the time the funeral is being arranged. The prices quoted and availability of products and services are based on the assumption that the size of the deceased person falls below certain reasonable limits. Once known the Company takes account of the size of the deceased person (in terms of both weight and dimension) as there are maximum sizes for each coffin and casket, for each hearse, for each grave and for each crematorium. The preferred method of movement on a funeral is to carry the coffin by shoulder but as a responsible employer conforming to the Manual Handling Operations Regulations 1992 a risk assessment is carried out before each movement. Where this indicates there is or could be an unacceptable avoidable risk, the Company either move the coffin on a wheeled bier or arrange for additional staff or both. Where the size exceeds any of the limits the Company may, at its absolute discretion, provide additional staff, transport and equipment, and changes may be made to the type of coffin/casket (or method of construction), crematorium, cemetery or to any other part of the service and any additional costs involved in these changes are shown on the final invoice.

**7. Right to Cancel the Contract** - The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013.7. This regulation gives a client signing a contract with a company in their home a right to cancel within a period of 14 days starting with day one being the date the client signs and acknowledges receipt of this agreement. If the client wishes to cancel, a cancellation notice needs to be sent within the 14 day cancellation period to James Giles & Sons Ltd, 24 Stourbridge Road, Bromsgrove B61 0AE

**8. Final dispersal of cremated remains.** The Company will only follow the instructions of the client in regard to the cremated remains. An exception to this must be made when the applicant for cremation instructs the cremation authority to do something contrary to the instructions of the client. In these situations the crematorium must by statute follow the instructions of the applicant. Once the cremated remains are brought into the custody of the Company the instructions of the client will always be followed.

The client is responsible for collecting the ashes from the Company. The client may nominate a third party to collect ashes on their behalf. This must be done by prior agreement with the Company. The person collecting ashes must produce photographic identification.

**9. Third party supplies.** The Company is only responsible for those parts of the funeral arrangement that it performs itself. The Company, as a matter of course, makes all other necessary arrangements with third parties on behalf of its clients (such as with Ministers, Cemeteries, Crematoria, Organists, Gravediggers etc.) and it does so as a declared agent. Accordingly the third parties involved (and not the Company) are responsible to the client for the provision of those services.

In most cases the third parties charge the Company for their services and the Company charges its client for those services and shows these as disbursements on the final invoice. The charge by the Company to its clients will be the third party's normal gross price which will not necessarily be exactly the same as the suppliers' net rate payable by the Company. Some third party suppliers offer to invoice the client directly for their services rather than invoicing the Company.

When this option is available the Company always selects it on the client's behalf. In practice most crematoria ensure that every cremation takes place on the day the deceased person is received by them but there is no guarantee of this. The "Code of Practice for Cremation" states that the cremation must take place within 72 hours of receipt of the deceased and clients should take note of this that certain crematoria follow this guidance rather than always cremating on the day received.

Some places of worship including cemetery and crematorium chapels

are now restricted by fire regulations with regard to the number of people who may enter the building. The Company does not accept any liability if some mourners are declined entry to the building for the funeral service.

**10. Unfair trading practices.** All funeral arrangers employed by the Company are aware of the “thirty one things that must not be said or done by a salesperson” as specified in “The Consumer Protection from Unfair Trading Regulations” that came into force on 26th May 2008. In particular the Company does not tolerate any action by its representatives that can be construed as an “aggressive selling practice”. If a client feels that a representative of the Company is behaving in contravention of these regulations the incident should be reported to one of the Company Directors immediately.

**11. Data Protection and Personal Data.** In this clause the following words have the following meanings:

Data Protection Legislation: up to but excluding 25 May 2018, the Data Protection Act 1998 and thereafter:

(a) unless and until the General Data Protection Regulation ((EU) 2016/679) (GDPR) is no longer directly applicable in the UK, the GDPR and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK; and then (b) any successor legislation to the GDPR or the Data Protection Act 1998.

Personal Data: has the meaning set out in the Data Protection Legislation, being any data, which identifies a natural person (by way of example, name, address, phone number and so on). Please note: Personal Data does not relate to the deceased person.

11.1 The Company is registered with the Information Commissioner’s Office. It is committed to complying with Data Protection Legislation and ensuring your Personal Data is protected by adopting appropriate security, organisational and technical measures. If you have a concern at any stage please contact [bromsgrove@jamesgilesandsonsltd.co.uk](mailto:bromsgrove@jamesgilesandsonsltd.co.uk)

11.2 If you submit an enquiry, your Personal Data will be processed and stored in accordance with the Company’s Data Protection, Privacy and Cookies Policy. The Company will otherwise process and store your Personal Data to perform its contract with you in accordance with Data Protection Legislation and the Company policy.

11.3 It is the Company practice to keep details of the funerals it carries out indefinitely. It does this because it often receives queries several years later (for example to advise where a relative is buried or to arrange a similar funeral for another family member or friend) If you do not want details of the funeral arrangements being retained please indicate on the form (your right of deletion is subject to any statutory or other legal obligations that the Company may have).

**12. The final charges.** The Company’s final account for its services may vary from the estimate as it will include the charges for any additional goods and services subsequently ordered and the third party values will be actual gross amounts rather than estimated. Manual calculations are used to compile the estimate and where addition errors are found later the corrected total will be shown on the final invoice.

**13. Advance payment of charges.** The Company may require payment for some services in advance of the service date. If a client fails to make payment by the required date the contract for the provision of those services will be deemed to be breached and the Company will not provide those goods and services. The Company will only make a new arrangement to provide those goods and services when full payment for those services (together with any penalties or cancellation fees) has been received.

**14. Payment of charges.** The Company will forward its final invoice to another person when so instructed by the client. The client is however personally liable for making payment in full of all Company charges and disbursements and simply forwarding the final invoice to another person will not discharge that liability. The client remains liable to the Company until full payment is received by it. The client also remains liable for any outstanding balance due to the Company which (in applicable cases) is not discharged by the nominated other person, the DWP or whoever is administering the deceased’s estate

and in any case the client is responsible for ensuring that payment is made within the payment terms detailed below.

**15. Payment terms.** Please pay special attention to these. The Company requires payment for the total estimated cost of Direct Cremation and Exhumation (including disbursements) in advance of the date of the funeral/exhumation:

- a) The Company requires payment for the total estimated cost of the basic funeral, direct cremation and exhumation (including disbursements) in advance of the date of the funeral/exhumation.
- b) The Company requires payment for the provision of Somerset Willow coffins in advance of the Company placing an order with the supplier for these caskets.
- c) The Company will (in appropriate circumstances) make commitments to third parties to a maximum disbursement total of £1,000.00. Any commitment beyond this figure will normally only be made upon receipt of the excess by the Company.
- d) The Company retains the title to all goods supplied and rights obtained from third parties until such time as it receives full payment for the final total amount invoiced.
- e) The Company produces its final invoice as soon as reasonably practical after the provision of the service (usually seven days after the funeral). This details all applicable charges and disbursements (except those payable by a pre-payment fund) and records any payments already received. The balance shown is due for payment within 35 days of the funeral date.
- g) There is no surcharge for payment by Credit Card, however, American Express Cards and Reward Credit Cards are not accepted.

**16. Overdue accounts.** Payment is due in accordance with the Company payment terms. In the event that these terms are not met and an amount is still outstanding 35 days after the date of the funeral, the Company will:

- a) Add 2% over base rate to the outstanding balance and add a further 2% to any outstanding balance each calendar month thereafter.
- b) Hand the account to a collection agency or solicitor if, at its absolute discretion, it feels that this is necessary and add all charges and fees to the outstanding balance.
- c) Prepare the matter for court when, at its absolute discretion, it feels that this is necessary and add all legal fees, court fees and associated charges to the outstanding balance.

**17. Severability.** The clauses and paragraphs of these terms and conditions are intended to be read and construed independent of each other. If any term, covenant, condition or provision is held by a court of competent jurisdiction to be invalid, void or unenforceable, it is intended that such provision be reduced in scope by the court only to the extent deemed necessary by that court to render the provision reasonable and enforceable and the remainder of the provisions of terms and conditions will in no way be affected, impaired or invalidated as a result.

**18. Complaints procedure.** The Company is a member of the National Association of Funeral Directors and support the complaints and conciliation procedures of their Code of Practice and The Funeral Arbitration Scheme (copy supplied). However nothing in this Contract impinges on the statutory rights under the Consumer Rights Act 2015 and other legislation. Those rights remain unaffected.

September 2019