

**FAMILY FUNERAL NOTICE LIMITED
CONDITIONS AND TERMS OF SALE**

1. Definitions

- 1.1. Business Hours.** Business hours are defined as from 9.00 a.m. to 5.00 p.m. from Monday to Friday of each week, excepting Bank holidays.
- 1.2. Company:** Family Funeral Notices Ltd, a company registered in Scotland as SC554456, its subsidiaries and associates, hereinafter also referred to as 'we,' 'us' and by the adjectives 'our,' 'ours,' etc.
- 1.3. Company Users:** Directors, employees, agents and independent contractors of the company, authorised by us to use the services in connection with serving our customers.
- 1.4. Internet-enabled cell phone (Smart Phone):** A personal cell phone (also known as a Smart Phone) that in addition to functioning as a telephone can receive and forward text messages via the Short Message Service, hereinafter SMS, to use hypertext links and to connect to the Internet and view web sites.
- 1.5. Customer:** The person or legal entity purchasing our services, hereinafter 'customer,' 'he/she,' 'himself/herself' and by the use of the adjectives 'his/hers.'
- 1.6. Customer Account:** Facilitated access to the customer section of our web site by means of a User ID and Password, enabling the customer to use our services
- 1.7. Customer Content:** Data entered by the customer or customer users, for the purpose of using our services.
- 1.8. Customer Order:** The written order of the customer for our services
- 1.9. Customer Users:** Employees, agents and independent contractors to the Customer or any person or legal person under his or her control for the purpose of using our services and documentation.
- 1.10. Client.** Any authorised agent of a deceased person charged with arranging the funeral of the deceased, and who has engaged the services of our Customer.
- 1.11. Conditions:** These conditions and terms as amended.
- 1.12. Contract:** The formal agreement through which a customer purchases from the Company a Package (see 1.19. below) of Funeral Notices to be published on behalf of his/her clients.
- 1.13. Control:** The term 'control' hereinafter bears the meaning defined in section 1124 of the Corporation Tax Act of 2010 as amended.
- 1.14. Data Controller:** The term 'Data Controller shall have the meaning defined in the Data Protection Act of 1998 as amended.
- 1.15. Data Processor:** the Term 'Data Processor' shall have the meaning defined in the Data Protection Act of 1998 as amended.
- 1.16. Documentation:** The documents published on our web site for use by the customer, including but not limited to this one, our Web site Terms of Use, Service Usage Policy and Privacy Policy.
- 1.17. Funeral Notice:** Notice of an impending funeral, published by our customer and accessible to his/her client through an Internet-enabled cell phone, hereinafter referred to as a 'notice.'
- 1.18. Malware:** hereinafter means, but is not limited to, computer code, programme, file or software functioning as spyware, computer virus, worm, Trojan horse, ransomware, keystroke logger, rootkit or other malicious software, bearing the generally accepted definitions of these terms and intended to disrupt, alter, degrade, erase, publish or otherwise adversely affect our services, customer content or confidentiality.
- 1.19. Package:** Our offering of our services to customers, which always takes the form 'X notices provided over Y days from the date of payment for the order, and which terminates either on the exhaustion of the stipulated number of notices or the expiry of the time stipulated for their availability, whichever expires first. Here X represents the number of notices to be supplied and Y the time period for which the package shall run. For a first package to any customer, a limited number of free notices may be offered.
- 1.20. Persons:** References to persons shall include both natural and legal persons, however constituted or established.
- 1.21. Privacy Policy:** The document published on our web site setting out our Privacy Policy [here](#).
- 1.22. Services:** The provision to the customer of the facility to publish Funeral Notices on behalf of his/her Client on the Internet. This is done on the client's instructions to the Customer, designating the numbers of two Internet-enabled cell phones to receive hypertext link-bearing Text Messages, otherwise known as Short Message Services, hereinafter SMS's to the designated Smart Phones. Such SMS's enable the said clients both to forward the same and to access via the hypertext link, the Customer's Funeral Notices displayed on any Smart Phone receiving the said SMS.

- 1.23. Service Usage Policy:** The service usage policy set out on our web site [here](#).
- 1.24. Statutes:** Where reference to a statute is made hereinafter, such shall be taken to include all amendments and all subordinate legislation up to the date of the customer order.
- 1.25. Web site:** www.familyfuneralnotice.com, variously referred to hereinafter as 'the web site,' 'our web site' or similar phrase
- 1.26. Web Site Terms of Use:** The document published on our web site setting out its permissible use.
- 1.27. Third Parties** Third parties are defined as companies and services we make use of in providing our Service to the Customer, but to whom we are not contracted nor legally bound, nor they to us.
- 1.28. Words:** The singular shall include the plural and the plural the singular unless the context forbids this. The male, he, him, his shall be taken to imply also the female she, her, hers.
- 1.29. Write, Writing, written:** references to these words shall extend to faxes, email, email attachments and to documents accessed via our web site.

2. The Contract

- 2.1. Purchase Conditions:** Contracts are entered into with the customer on our behalf through our accredited agents only, on presentation to the agent of the Customer Order.
- 2.2. Currency and VAT:** All payments shall be in pounds sterling (GBP). The company is a registered VAT service provider, and all contract prices are inclusive of VAT.
- 2.3. Contract Validation:** The receipt into our bank account of the full purchase price of the contract shall be the sole acceptable evidence of the existence of a valid contract between us and the Customer and shall be demonstrated to the Customer by his/her receipt by email of our Invoice as in 2.4.5 below.
- 2.4. Payment:** Payment is due on acceptance by our agent of the Customer Order and may be made by bank card directly from our web site by dedicated link to the pay gate provided by our accredited payment service company.
 - 2.4.1.** On receipt of card payment, the Customer Account will automatically be at once enabled.
 - 2.4.2.** By arrangement, payment will be accepted by Electronic Funds Transfer (EFT), by cheque or in cash delivered to our accredited agent.
 - 2.4.3.** The customer accepts that both EFT payments and payments by cheque or cash will not be received by us until processed by our bankers.
 - 2.4.4.** On receipt of payment as above in 2.4.2., our agent will manually enable the customer account
 - 2.4.5.** Upon receipt of payment into our bank account, our web site automatically issues a receipted invoice by email to the customer, annotated to indicate the method of payment and serving as full and sufficient record of the transaction. This invoice bears the Customer Order number and reflects the amount of VAT paid as a separate amount.
 - 2.4.6.** On receipt of payment, we grant to the customer and customer users a non-exclusive, non-transferable right to use our services and documentation as stipulated in the valid contract (see 2.3. above), and subject to our Web Site Terms of Use [available here](#), our Service Usage Policy set out [here](#) and our Privacy Policy [here](#). Customers are urged to familiarise themselves and customer users with the binding contents of the said documents.
- 2.5 Notice of Approaching Contract Exhaustion:** When an existing contract has only one month left to run, or when the equivalent of one month's number of notices remains unused, our agent will contact the Customer to arrange renewal, and our web site will send a warning notice by email.
- 2.6. Termination of Contract:**
 - 2.6.1. Breach** Either Company or Customer shall have the right to terminate the contract immediately by notifying the other in writing upon actual or suspected breach of any of its provisions unless
 - 2.6.1.1.** The party in breach undertakes to remedy such breach within five working days of notification thereof and, if such a breach is remediable, fails to remedy it within the time allotted.
 - 2.6.2. Financial Viability:** If either the Company or the Customer takes any step that could reasonably be so construed as to cause the other to question its ability to continue to trade, any existing contract may be terminated without waiting for the Contract to expire, and any residual value therein shall be paid to the Customer within 14 day.

2.6.3. Voluntary Termination: Either the company or the Customer may terminate the contract, giving 14 days' notice in writing of intention to do so.

2.6.4. Fulfilment of Contract: Upon the publication of the full number of notices stipulated on the contract or the term of their currency expiring, the customer account will be disabled. The Customer will be able to access his/her account for other purposes, but unable to publish further Funeral Notices.

2.6.5. Consequences of Termination: On termination of the Contract for any reason:

2.6.5.1. Licences: All licences are automatically cancelled with immediate effect.

2.6.5.2. Return of Documentation: Any documentation in connection with the Customer Account that is in the possession of either party shall be returned to the originating party within ten working days.

2.6.5.3. Customer Content: The Company may destroy or otherwise dispose of Customer Content unless it receives from the Customer a written request for such content within ten days of termination, in which case the Company shall deliver to the Customer the most recent backup file available on the Company server within 30 days of such request and at the Customer's expense.

2.6.6. Ongoing Rights: All rights, remedies, obligations or liabilities of Company and Customer up to the date of Termination shall not be prejudiced or affected by it.

2.7. Renewal of Contract: Contracts to be renewed on the same customer account may be paid for in advance of their termination on presentation to our agent of a new Customer Order. The customer is free to choose a package for more of fewer notices at this time. The invoice and receipt will reflect the date of payment, the new contract will commence on the expiry date of the existing one and an email will be sent from the web site to the customer, the agent and the Sales Director, confirming the renewal.

2.8. Purchase of Additional Contracts: Should the customer wish to purchase additional contracts during the currency of an existing one (for example, to enable a branch or branches of his or her business to use our services), our agent will attend to this immediately by opening a fresh customer account under the conditions as set out above.

3. Company Responsibilities

3.1. Supply: We undertake to supply to the customer, during the period specified in his/her contract, the means to publish online the number of cell phone Funeral Notices specified therein, subject to the limitations set out in our Service Usage Policy available [here](#) and Web Site Terms of Use available [here](#). Since such supply is achieved through company servers, the Internet and third party suppliers of auxiliary services such as maps, we cannot and do not warrant that our service will be available without interruption, relying, as it does upon electronic communication such as the Internet. However, we undertake to do all in our power to restore the service following disruption or degradation.

3.2. Statutory Compliance: The Company warrants that it has all the necessary legal licences, consents and permissions needed to provide the Services as defined, and will maintain these for the future.

3.3. Customer Content: The Company undertakes to provide, as part of our service, all reasonable measures including secure servers and regular data backups, to keep the Customer Content safe at all times. No customer payment card details, passwords or the like are stored, processed, or accessible from our web site.

3.4. Privacy of Customer Content: The Company undertakes to act at all times in compliance with our Privacy Policy available on our Web Site [here](#).

3.5. Maintenance and Upgrade. Wherever possible, maintenance and upgrades to our service will be undertaken outside of business hours. We undertake to inform the Customer of impending actions of this nature by email, giving at least 24 hour notice.

3.6. Confidentiality: We undertake to keep customer content confidential as set out in our Privacy Policy found [here](#).

4. Customer Responsibilities and Obligations

4.1. Agent Identification: The customer is responsible to identify positively any person claiming to represent us as our Agent and may ask to see his/her agreement with us, and/or to contact us by email at

care@familyfuneralnotice.com or telephone **01412550160** to confirm that such representation is both genuine and current.

4.2. Compliance with Company Policy: The Customer agrees use our services only in compliance with our Web Site Terms of Use (see [here](#)), our Service Usage Policy available [here](#) and our Privacy Policy described [here](#). Breaches of any of these will be dealt with as described in the aforesaid documents.

4.3. Customer Content: Customer Content shall comply in all respects with our Service Usage Policy available [here](#). It is the responsibility of the customer to ensure this. Failure to comply may incur any or all of the consequences there set out.

4.3.1. Checking of Customer Content: The customer shall carefully check, or cause to be checked, the content of any Funeral Notice data entered on our web site for completeness, accuracy and compliance with all applicable legislation.

4.3.2. Map Check: In particular, the Customer and/or the Customer Users, shall ascertain that the third party map service used on the Funeral Notice has correctly identified the venue for the advertised ceremony to which the Notice refers and to which the client intends to invite guests.

4.4. Security of Service: The customer shall use all reasonable measures to prevent unauthorised access to or use of our services. He/she shall ensure the safe keeping and confidentiality of all User ID and password information protecting his/her access to our web site, and in particular, the following.

4.5. Customer Users List: The customer shall maintain a written list of customer users, updated when any person no longer qualifies (due to resignation, dismissal, death or any other reason) to have his/her name recorded, or any new customer user is added. In case we have reason to suspect that a security breach has occurred, the customer shall, within five business days, supply us with a copy of the list.

4.6. Customer User List Changes: Upon the deletion or addition of a name to the Customer User list, the customer shall on the day of the change, cancel the existing Password to the Customer Account, choose a new one and inform us immediately, but not more than two business days later.

4.7. Use of Customer Name: Unless agreed otherwise in writing, the Customer grants to us the right to use the Customer's name in our promotional, marketing or advertising material. The Customer may withdraw such consent by notice in writing to us at any time

5. Customer Content

5.1. Ownership: The Customer owns full right and title to all Customer Content published by him/her through our Services and takes full responsibility for its quality, accuracy and legality.

5.2. Loss or corruption of Customer Content: In the event of loss, partial loss or corruption of Customer Content, the sole recourse of the Customer shall be the restoration of the latest backed up data available on the Company's server. We will not be responsible for any loss, corruption, alteration or disclosure of Customer Content caused by a third party not contracted to the Company to perform tasks directly related to our the provision of our service

5.3. Agreement of Customer Content Control: It is agreed by the Customer that the Customer is, for the purposes of the Data Protection Act of 1998, as amended, the Data Controller of personal data. The Customer is directed to our Privacy Policy available on our Web Site [here](#).

8.2.3 Assured Authority: The right to make funeral arrangements may be disputed among bereaved families. It is the sole responsibility of the Customer to ensure that he/she has written authority, preferably from the Estate Executor, for the publication of the Funeral Notice. The company shall not be liable, either to the Customer of the Client, for any adverse consequences arising out of such dispute. See 4.3 above.

6. Third Parties contracted to or supplying parts of our Service:

6.1. Acknowledgement of Risk: The Customer accepts that third parties are involved in the provision of our services both to the Customer and to the Clients of the Customer. Third parties and third party web sites both accept, process and return Customer Content as set out in our Privacy Policy [here](#). We access and offer these to the Customer at his/her own risk. The Customer accepts that such third parties are not under our control. We make no representation about them, ac-

cept no responsibility for their services and shall have no obligation to the Customer regarding their service, their web sites or correspondence. The Customer is held to be dealing directly with such third parties, is bound by the third party's web site terms and conditions, and releases us from all obligations concerning them.

7. Indemnity

7.1. Company Indemnity. Please see our Service Usage Policy, Para. 6 available [here](#).

7.2. Customer Indemnity. Please see our Service Usage Policy Para. 7 available [here](#)

8. Limited Liability: The Company's full liability is here set out.

8.1. Inclusivity: This includes any liability for acts or omissions of its employees, agents and sub-contractors to the Customer that arises under this agreement, or in respect of any use made by the Customer of our Service and Documentation, and in respect of any representation, statement, act or omission arising in connection with or under this agreement.

8.2. Exceptions Excluded: Except as expressly provided in the agreement,

8.2.1 Results: the Customer is responsible for the results obtained from the use of our Service and Documentation, and the Company will not be liable for adverse consequences of the Customer's manner of use of it.

8.2.2 Statute and Common Law Provisions: All warranties, conditions, representations or rights implied by Statute or Common Law are, to the fullest extent permitted by Scots Law, excluded from this agreement, and

8.2.3 Services 'As Is': The services and Documentation are provided to the Customer 'as is.'

8.3. Disclaimer: Subject to the provisions of 8.2. and 8.3 above,

8.3.1. the Company shall bear no liability for any loss or damage, whether direct, indirect or consequential to the Customer, of any kind, including loss of profits, business, goodwill or similar, or loss or corruption of Customer Content, nor for any costs, damages, charges or expenses, whether in tort (including negligence or breach of Statutory duty) or otherwise, however arising under this agreement; and

8.3.2 The Company's contractual total liability (including indemnity as specified at 7 above) and tort (including negligence or breach of Statutory duty), misrepresentation, restitution or otherwise, arising in connection with the execution or contemplated execution of this agreement, shall be limited to two hundred and fifty thousand pounds sterling (£250,000.00).

8.3.3 Customer Content: The Customer assumes sole responsibility for Customer Content, its legality, completeness and accuracy and the Company shall not be responsible for any loss whatsoever, including but not limited to loss of reputation, money, business prospects, or client damage claims arising from Customer Content displayed on any Funeral Notice, late delivery of such Funeral Notice, or other matter such as the failure of third party services, over which we have no control.

9. Variation of Service: The Company shall have the right to make changes to our Services in the following circumstances: -

9.1. To improve them: Based on experience, the Company shall have the right to improve the Services offered to our Customers in any way consistent with this agreement.

9.2. To comply with any legal requirement: Laws change from time to time and the Company reserves the right to adapt our Services to comply with any applicable law or safety requirement and will notify the Customer of such changes.

10. Rights and Remedies: Except as provided in the agreement, the rights and remedies of the Company or the Customer are in addition to and not exclusive of any provision of rights or remedies under applicable law

11. No Waiver: No failure or delay by either Company or Customer to exercise any right or remedy provided under this agreement shall constitute a waiver of that or any other right or remedy. No partial or single exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

12. Conflict and Severance

12.1. Conflict: If any of the provisions of this agreement are in conflict with the main body of it, the position of the main body of the agreement shall take precedence

12.2. Severance:

12.2.1. If any clause, sub-clause or part of a clause in this agreement is found by a court or administrative body of a competent jurisdiction to be illegal or unenforceable, the remaining clauses and provisions shall remain in force.

12.2.2 If any such clause, sub-clause or part of a clause would be legal if some part of it were either deleted or altered, then the clause, sub-clause or part thereof shall apply with whatever modification is needed to give effect to the commercial intention of both the Company and the Customer.

13. Assignment by Company or Customer

13.1. The Customer shall not, without the prior written consent of the Company, assign, transfer, change, sub-contract or deal in any other manner with any or all of its rights or obligations under this agreement.

13.2. The Company may assign, transfer, change, sub-contract or deal in any other manner with any or all of its rights or obligations under this agreement.

14. No Third party rights: This agreement does not confer any rights on any legal or natural person other than the Company and the Customer and, where applicable, their successors and permitted assigns in accordance with the Contracts (Rights of Third Parties) Act of 1999.

15. Notices: Form and Delivery

15.1. Form: Any notice required to be given under this agreement shall be in writing as specified in 1.27 above, to such address as the other party may have specified and including email addresses and fax numbers.

15.2. Delivery: Various transmission methods

15.2.1 By hand: Notices so delivered shall be deemed to have been received when delivered, or if outside of business hours, on the business day following.

15.2.2. By Post: Notices sent by pre-paid post shall be deemed to have been delivered at the time of normal postal delivery.

15.2.3. By Fax: Delivery by Fax shall be deemed to have been delivered at the time of transmission as recorded on the printout indicating transmission success on the sender's fax machine.

15.2.5. By Email: Notices so delivered shall be deemed to be delivered at the time of transmission as recorded on the sender's computer, unless a message of rejection due to an incorrect address is displayed on the sender's computer. Due allowance shall be made in the case of sender and receiver in differing time zones.

16. The Scope of Agreement

16.1. These conditions and terms shall apply to the Contract to the exclusion of any other the Customer may seek to impose or incorporate, or which are implied by trade, custom or practice.

16.2. This agreement and all documents related to it and/or mentioned in it, constitute the whole agreement between Company and Customer, and supersede all previous agreements, understandings or arrangements between them relating to our Service.

16.3. Both Company and Customer acknowledge and agree that neither relies on any understanding of contract between them according to 17.2 above, outside of this agreement

17. Governing Law And Jurisdiction

17.1. Governing Law: This agreement and any disputes, claims or infringements arising from or in connection with it, its structure or subject matter (including non-contractual disputes or claims) shall be governed and construed in accordance with the law of Scotland.

17.2. Jurisdiction: All parties, including employees, sub-contractors, agents, associated companies agree that the courts of Scotland shall have exclusive jurisdiction to settle any claim or dispute arising out of, or in connection with this agreement, its structure or subject matter (including non-contractual disputes or claims).