

These terms and conditions of sale ("**Terms**") apply to the purchase of cremation services and products by the buyer (hereafter referred to as "**Applicant**", "**Customer**", "**you**", and "**your**") from **Mountain View Crematoria Pty Ltd** (ABN 50 619 642 349) (hereafter referred to as "**Mountain View**", "**we**", "**us**" and "**our**") in response to the attached written quotation or online order presented to you by Mountain View ("**Quotation**").

1. QUOTATION AND AGREEMENT

- 1.1. All Quotations issued by Mountain View for the supply of Cremation 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 Mountain View then current pricelist.
- 1.2. Your purchase of Mountain View Services and Products in response to the Quotation or online order 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. Mountain View endeavours to provide fair and accurate information in relation to all costs associated with delivering the cremation service and products. Items that are supplied to you, **at your request**, as part of our 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 Mountain View's, 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. The Goods, Prices, and promotions offered on the Website **may not** be the same as those offered in Mountain View Crematoria's physical store. Mountain View Crematoria's physical store is not required to match a Mountain View Crematoria price where the offer or Price relates to an Online Only offer or where there is a price error.

3. ONLINE SHOPPING TERMS AND CONDITIONS

By using the Mountain View Crematoria website (www.mvc.net.au) in any way, you agree and accept these terms. You will be bound by these terms each time you place an order

- 3.1 By placing an Order on the Site, you are making an offer to enter into an agreement to purchase the product(s) in that order. Orders will be deemed received by us at the time we send an order confirmation to your nominated e-mail address. It is your responsibility to ensure that the correct email address and contact details are entered with your Order.
- 3.2 Each Order you place will be a separate contract. Each product in your Order is sold by Mountain View Crematoria.
- 3.3 A tax invoice will be issued at the time the Goods are ready for dispatch.
- 3.4 From time to time, Mountain View Crematoria may restrict the quantity of Goods which can be purchased in one Order or during a particular period of time or per person or per address. Any quantity restrictions will be stated on the product page, or in materials about the relevant promotion, or as otherwise advised to you.
- 3.5 We will not be liable to you for any loss as a result of, or in connection with, a delay or failure to process your Order or deliver Goods due to inaccurate or incomplete details provided in an Order.
- 3.6 You may place an Order on the Site if you are aged 16 years or over (18 years if purchasing using Zip Pay), and have an active email account or a telephone number at which you can be contacted.
- 3.7 If you place consecutive or separate Orders, we cannot consolidate your Orders. A separate Delivery Fee, if applicable, will apply to each Order. Subject to any applicable quantity restrictions, you can order as many Goods as you wish in one Order.
- 3.8 We reserve the right to accept or reject your Order for any reason at any time. If We reject your Order you will receive a refund of any money paid.
- 3.9 Your Order becomes a sale when your Order is dispatched and We have issued you a Tax Invoice.
- 3.10 From time to time, some Goods may be out of stock or are unavailable and we may not be able to fulfil all or part of your Order. If this happens, we will refund you the price paid for the Goods impacted. You will be notified of this before any part of your order is shipped.

- 3.11 We may withdraw or suspend from sale any Good displayed on the Website, either temporarily or permanently, at any time and without notice. Mountain View Crematoria will not be liable to you for any loss you or any third party suffer as a result of a withdrawal or suspension of sale of a particular Good.
- 3.12 Where a Good which is the subject of an Order has been withdrawn or suspended from sale and your payment for the Good has already been processed, we will refund any money paid to us in accordance with clause 5.8.
- 3.13 Mountain View Crematoria reserves the right not to honour any incorrect offers represented on the Website made by genuine human or system error. Where your Order is affected by an error on the Website (for example, in a description, an image, Price or otherwise), We will reject that part of the Order affected by the error. You will be refunded the value of that part of your Order affected by the error, in accordance with clause 5.8, and Mountain View Crematoria will fulfil the remainder of your Order. If you are not satisfied with the partial fulfilment of your Order, you can return your Order to us under the Returns Policy.
- 3.14 If your Order is affected by a genuine error (including in a description, an image or a Price), we reserve the right to cancel your Order and refund any money paid to us.
- 3.15 You acknowledge and agree that:
- a) all pictures and images of Goods displayed are for illustrative purposes only;
 - b) any accessory featured with the Goods is for illustrative purposes only, and may be sold separately; and
 - c) where we provide dimensions and measurements in the description of a Good, the dimensions may vary slightly in real life, and it is your responsibility to ensure that the actual size of each Good is suitable for your purpose prior to submitting your Order (including whether there is appropriate and safe access to your Delivery Address for delivery of the Good).
- 3.16 You may receive online offers and promotions, whether mailed to your home, distributed in the Mountain View Crematoria store, with your Order or emailed to you or available on the Site. Some offers may include a promotional or coupon code (Code) for use when placing an Order. It is your responsibility to ensure that the Code is valid, and that you enter the Code at the time of placing an Order. The Code cannot be applied after you have submitted your Order. Separate terms may apply to the use of the Code. The Code may be specific to only certain orders or Goods on the Site. Any Code is non-transferable, cannot be posted on a forum or website and may not be used with other offers.

4. PAYMENT

- 4.1. The payment terms are stated in the written Quotation or on our website. In the absence of any such statement, you must pay us in Australian Dollars 100% of the total price at the time of order of the product or service, plus any applicable delivery fee, unless otherwise agreed in writing, payment must be received in full before the release and/or delivery and/or supply of the Products.
- 4.2. 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 Mountain View 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 fifteen (15) % or any applicable maximum statutory rate on all unpaid amounts calculated, as well as charge you for all collection costs and legal fees incurred by Mountain View in connection with the late payment

5. CHANGES AND CANCELLATIONS

- 5.1. Mountain View 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 service or product
- 5.2. We encourage open communication with our customers in the days prior to the delivery of the cremation service and/or product(s) and strive to accommodate all change requests to the Products or Services ordered from Mountain View. However, change requests may only be accepted with the prior written consent of Mountain View.
- 5.3. If you change or cancel any part of the order without our prior written consent, we reserve the right to charge a cancellation fee 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.

- 5.4. Unless provided for under these Terms or as otherwise agreed by Mountain View Crematoria, no cancellations or changes to Orders will be accepted, and the Goods will be delivered to the Delivery Address in an Order. You should carefully check that your Order is accurate before you submit it.
- 5.5. If we cannot contact you about your Order using the contact details you provided in the Order, after having made reasonable attempts to contact you, we will cancel your Order and refund any money paid.
- 5.6. Unless otherwise explicitly stated by Us, Delivery Fees will not be refunded if you return Goods for change of mind or you made an incorrect selection, including if you ordered the incorrect size, colour etc.
- 5.7. Any Goods you purchase can only be returned in accordance with these Terms and the Returns Policy. The Returns Policy forms a part of these Terms.
- 5.8. Mountain View Crematoria will process any refunds within a reasonable time of agreeing to do so. If the original payment was made:
 - a) on a credit card, refunds will be processed on the same card as the original payment was made.
 - b) using Zip Pay, refunds will be processed back to the account through Zip Pay.
 - c) For In-Store Orders, where you paid in cash or by EFTPOS, you can obtain a refund by visiting Mountain View Crematoria at 21 Waverly Drive, Unanderra, 2526.

6. RETURNS POLICY

Should you wish you return an item to Mountain View Crematoria, there are some rules and conditions that may apply. Our policy including the change of mind limits do not exclude or replace your rights under Consumer Guarantees of the Australian Consumer Law, regulations or otherwise as required by law.

6.1 Change of mind

If you have changed your mind, we may offer you a refund provided that the refund is made within 30 days of purchase and meets these criteria:

- a) you are able to provide satisfactory proof of purchase; and
- b) the merchandise is in saleable condition, that is it is unworn or unused with all original sealed packaging or tags attached and where the product seal is not broken or tampered; and
- c) the item has not been personalised / memorialised; and
- d) there have been no cremains or substances placed into the items; and
- e) the item has not been sealed; and
- f) you agree to pay a 15% restocking fee. This 15% restocking fee is based upon the sale price listed on the tax invoice.

Our team members will assess the item (in-store and online returns) to determine whether a refund will be offered in accordance with our Returns Policy. Please note that delivery and memorialisation costs are non-refundable for change of mind returns.

Postage for change of mind purchases is at the expense of the consumer, Mountain View Crematoria will not pay any amount towards postage for a change of mind return.

Excluded change of mind items

Please choose carefully when purchasing merchandise designated as a clearance item (either marked as clearance or reduced to clear) as change of mind returns will not be accepted. Subject to availability, an exchange for an identical item (same style, model etc) may be provided.

6.2 Returns and exchanges will not be provided on the following types of merchandise unless the product fail to meet a consumer guarantee:

- Custom made, monogrammed, personalised, memorialised and altered products
- Items contain / have contained cremains
- Jewellery that has been worn
- Alba Rose products
- Sealed products
- Items that have a tag that accompanies the product that states no change of mind

Sales to individuals who Mountain View Crematoria believes to be resellers or bulk purchasers are final sales, and the change of mind policy does not apply.

If you are unable to provide satisfactory Proof of Purchase, we are unable to provide you with a change of mind return or exchange. Refunds, exchanges or repair requests must be accompanied by any one of the following proof of purchase documents for change of mind:

- Original register receipt tax invoice (electronic or photograph will be accepted)
- Online Tax Invoice (order confirmations will not be accepted)

Please note that our team members are not responsible for proving your purchase. You must supply the proof of purchase, which our team members can validate.

6.3 Where you believe an item is faulty or defective, it may be necessary for us to send your goods to the manufacturer or their service agent for it to be assessed within a reasonable period of time. If the goods or service has a major failure, you may reject the good or service and seek a refund, exchange or repair or you may keep the item and seek compensation for any drop in value. If the failure is minor, we will repair the item (or, at our discretion, we may replace the item or refund you) within a reasonable time.

Please be aware that goods presented for repair may be replaced by refurbished goods of the same type rather than being repaired. Refurbished parts may be used to repair goods.

6.4 Where an item is damaged through misuse, neglect or abnormal use, Mountain View Crematoria will not provide a refund, exchange or repair. This determination will be made solely by Us based on reasonable evidence.

6.5 Where merchandise is purchased with a gift or bonus offer, the gift or bonus must also be returned (unless otherwise stated). If you are unable to return the gift or bonus or it is not in a saleable condition, the value of any available refund will be reduced by the value of the gift or bonus (in full or in part). In the instance of bundle offers, all items within the bundle must also be returned or the value of the unreturned items will be deducted from any available refund.

7. DELIVERY AND DELAYS IN PERFORMANCE

7.1. Cremation Service and delivery times are approximate. Time for service will not be of the essence of these Terms and your purchase of the Cremation Service or Product. We are not liable for delays in performance of any of our obligations under these Terms (including Service delivery). Partial delivery is permitted, if applicable.

7.2. For a cremation service to proceed, we require confirmation from several third parties. These include (but are not limited to): medical practitioners, the coroners office, applicant, funeral directors. Whilst every effort will be made to minimise these delays, we cannot be held liable for any delays to the cremation service, due in whole or in part, to delays imposed by third parties.

7.3. For the transfer of cremains into the urn of your choice, delays may be experienced due to a number of factors. Mountain View will endeavour to keep you informed of any real or anticipated delays. Dispatch times may vary according to availability. Any representations made regarding delivery times are estimates only and are subject to delays resulting from postal delays or force majeure for which We are not responsible.

8. TRANSFER AND COLLECTION OF CREMAINS SERVICES

8.1 Mountain View employees will, in most circumstances, perform the transfer of your loved one's cremains into the receptacle of your choosing (if applicable). You give us permission and instruct us to undertake such transfers.

8.2 You also acknowledge that if we receive no further instructions from you, that after a period of no less than twelve (12) months after the cremation service has been performed, Mountain View may dispose of your loved one's cremains according to the then current NSW Department of Health Guidelines for such disposal.

9. ACCEPTANCE OF SERVICES AND PRODUCTS

You will be deemed to have accepted a Cremation 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; (b) on the date of delivery of the Product or Cremation service; or (c) ordering and paying for the Product and/or Service from our website

10. TRANSPORTATION, TITLE AND RISK OF LOSS

- 10.1. 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.
- 10.2. Title and ownership to each Product and Service will pass to you at the start of the Cremation Service or delivery of the Product. You will be responsible to pay us 100% of the Quoted price for the Cremation Service and Products.
- 10.3. 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.
- 10.4. Mountain View encourages the Applicant (or their nominee) to deliver (if applicable) and collect their loved one's cremains and/or Product(s) from our premises at 21 Waverley Dr, Unanderra, NSW.
- 10.5 If requested by the Applicant, Mountain View will post cremains and/or Products to your nominated address via the registered post service of Australia Post on the following terms:
- (a) Mountain View will request a signature on delivery however do not guarantee that Australia Post will comply with this request;
 - (b) Mountain View will bear no liability to you for loss of, or damage to, the posted items once they are posted by Mountain View; and
 - (c) the Applicant acknowledges that it has had the opportunity to review the terms and conditions of Australia Post's registered post service available on their website (<https://auspost.com.au/>) and accepts that Mountain View will post the items on these terms.
- 10.6 Mountain View bears no liability for the loss of, or damage to, your loved one's cremains after they have:
- (a) been collected from our premises by either You or your nominee;
 - (b) posted by the nominated postage service provider; or
 - (c) dispatched in another manner mutually agreed between You and Mountain View.

11 LIMITED WARRANTIES

- 11.1 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.
- 11.2 If Mountain View 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 Mountain View's liability will be limited to, at Mountain View's 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.

12 LIMITATION OF LIABILITY

To the extent permitted by law, you agree that: (a) the total liability of Mountain View 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) Mountain View 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.

13 INTELLECTUAL PROPERTY

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

14 CONFIDENTIAL INFORMATION AND PRIVACY

14.1 Mountain View will treat client information as confidential. Notwithstanding the foregoing, Mountain View may disclose the client's 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, Mountain View's pricelist for the Products and/or Services and these Terms will be considered as confidential information of Mountain View.

14.2 Each party must comply, and must ensure that their respective Personnel comply, with all applicable Privacy Law as they apply to that party.

14.3 If any Personal Information is provided or otherwise made available to Mountain View or its Personnel by the Customer, the Customer represents and warrants to Mountain View that the Customer has procured and obtained all necessary individual consents (as required by all applicable Privacy Law) to enable and permit Mountain View 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.

15 DATA ACCESS

You agree to permit us to connect, or to otherwise access data related to the Cremation 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

16 FORCE MAJEURE

Mountain View 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 Mountain View may cancel your order without any liability to you.

17 GENERAL MATTERS

17.1 The Agreement is the complete and exclusive statement of the terms of the arrangement between you and Mountain View 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 Mountain View 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 Mountain View (which will not be unreasonably withheld)

17.5 Mountain View 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 Mountain View.

18 DEFINITION

In these Terms, unless the context clearly indicates otherwise:

Cremains means the cremated remains of your loved one at the conclusion of the cremation process

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 Mountain View equipment, hardware, Software, other electronic or mechanical items, any consumables, equipment, spare parts agreed to be supplied by Mountain View to you under these Terms.

Services mean any services performed by Mountain View to you under the Agreement.

Software means any software or data compilations: (a) identified in the Quotation; or (b) provided to you by Mountain View 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