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## Terms & Conditions of Application Form Walawaani Way Conservation Burial

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### Definitions

In these terms and conditions and in the Application Form the following definitions shall apply except when otherwise required by the context:

**Application Form** means our Application Form which you should complete and forward to us to purchase your Right of Burial.

**Certificate** means the Certificate which we will issue when you have paid for your Right of Burial in full.

**Intended Holder/s** means any person named on the Application Form as such.

**Price** means the specific price of your Right of Burial as stated in the brochure, fees & charges or Application Form.

**Representatives** means executors, trustees, personal representatives or other representatives who are lawfully appointed and authorised to act on your behalf (or the Intended Holder/s behalf if appropriate) after death.

**Right of Burial** gives the customer a right to be buried at Walawaani Way Conservation Burial. It is either the purchase of a Single, Double (buried side-by-side) or Family (multiple, buried side-by-side) exclusive Right of Burial (or ashes interment) you are selecting to purchase subject to these terms.

**Administration fee:** A fee of \$285 incl GST

**Us/we** means Fiona McCuaig and associates of Walawaani Way, ABN: 85781845304.

**You** means the Applicant.

**Native Tree** refers to a native tree or plant that is endemic to Bodalla's South East Dry Sclerophyll Forest.

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## Full Terms & Conditions

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### 1. Application Form

By submitting the Application Form to us you are agreeing to purchase the Right of Burial from us subject to these terms. To receive the Right of Burial, you must pay for them in full in accordance with these terms.

### 2. Issue of Certificate

Once you have paid the price of your Right of Burial in full we will issue you with the Certificate. If you lose or destroy the Certificate you must notify us immediately in writing and we will issue you with a duplicate for a fee of \$35 plus registered postage.

### 3. Non-payment

If you fail to keep to the agreed payment arrangement at any time then we may cancel the Right of Burial and return the monies you have paid us to you, less an administration fee per right of burial purchased.

### 4. Amendments/Purchase of Alternative Plan

The Right of Burial may not be varied or amended, however we are here to work with our customers, so we may at our discretion agree to variations to the Right of Burial that you request in writing with the administration fee. You must send any Certificate you have received to us (or any duplicate Certificate) when you make such a request.

### 5. Availability

Ground conditions, the passage of time, tree growth or changes in circumstances allow us to offer to you or your family a choice of three burial sites up to one month before the interment. We encourage you and your representatives to come to Walawaani Way to select the burial site. If a choice is not made 3 days prior to burial, then we will endeavour to select the best one for you.

## 6. Cancellation

You may cancel your Right of Burial within twelve months of the date of purchase. If you wish to cancel your Right of Burial, you must give us written notice and (where a Certificate has been issued) you must send this Certificate (and/or any duplicate) to us. We will not be able to return any monies to you unless we receive your Certificate. All monies that we have received from you in payment for the Right of Burial will then be repaid to you less a cancellation administration fee of \$285 per right of burial purchased. If you cancel within 30 days of submitting the Application Form then we will waive this fee. The Right of Burial cannot be cancelled after the death of the Intended Holder/s.

After 12 months from the date of purchase, we will offer you 50% of the original purchase price if you wish to cancel your Right of Burial or interment.

In the event that we are unable to provide the Right of Burial because of circumstances outside our control, e.g. changes in legislation, unsuitable ground conditions, strikes, floods, unforeseen construction delays, fire; then we reserve the right to cancel the Right of Burial and to reimburse the original purchase price to the person who made payment, less the administration fee which we will have no further obligation to provide the Right of Burial. We will plant and nurture a native tree or plant on the property on your behalf.

A sunset clause is a condition in the contract that sets a date for the contract to end if needed. If Walawaani Way Conservation Burial has not opened by March 2026 due to a number of reasons, such as unforeseen delays, then the holder/s of the interment right will be entitled to a full refund less the administration fee. A native tree will be planted on the property on your behalf.

## 7. Complaints

If you have any complaint in relation to your Right of Burial or payment, please write to us; Walawaani Way Conservation Burial, 8 Old Princes Highway, Bodalla NSW 2545 [Email: fiona@walawaaniway.com](mailto:fiona@walawaaniway.com).

We will ensure complaints are dealt with in a respectful and compassionate way. We will provide written acknowledgment of receipt of a complaint to the complainant within 7 days after receiving the complaint. We will give a written response of the complaint to the complainant within 30 days of the date on which the operator received the complaint. Fiona will personally be responsible for handling the complaint and work towards resolving it as soon as possible. If this dispute is not resolved then an independent third party mediator will be engaged. If needed, complaints can be made directly to the Cemeteries Agency and they will supply both parties with the relevant content to satisfy this condition.

## 8. Provision of the Right of Burial

We are not obliged to provide any Right of Burial until the Price is fully paid. Accordingly, after death, the relevant Representatives must supply: (1) the Applicant's or Intended Holder/s disposal certificate and (2) surrender the Certificate (or a certified duplicate Certificate) to us (at the address stated on the Certificate) as proof of payment before any Right of Burial is provided.

We will not be able to provide the Rights of Burial unless the Certificate together with the deceased's disposal certificates have been presented and surrendered to us. For the avoidance of doubt we are under no obligation to give any refund should you or your Representatives decide not to receive Burial Rights to which you are entitled.

## 9. Notifying us

You or your representatives must notify us in writing and deliver it personally, send it by registered post to our address or by email to [fiona@walawaaniway.com](mailto:fiona@walawaaniway.com) before the funeral arrangements are publicly announced. We must have at least 3 working days notice in advance of the interment. We do not accept any responsibility for errors or omissions arising out of the transmission to us of any information by telephone.

## 10. Payment

We reserve the right to have a third party collect or receive payments on our behalf.

## 11. Part Paid Payment Arrangements

Upon your death or the death of the registered Holder/s if the Right of Burial has not been fully paid, you or your Representatives have the option to pay any outstanding amount as a lump sum and we will issue a Certificate to you or to them as proof of payment. This must be done prior to arranging the funeral. If this is not done then we cannot provide the Right of Burial.

You or your Representatives may alternatively opt to cancel your Right of Burial in these circumstances by notifying us in writing, in which case we will return all monies you have paid less an administration fee per registered right of burial. Following which we will have no further obligation to provide the Right of Burial.

## **12. Responsibility for Claims**

Please note that it is solely the responsibility of you or your Representatives to claim the Right of Burial.

## **13. Conditions relating to the grave**

We will provide a GPS location to be used to locate the position of the grave. Families will be invited to plant and tend to the trees. Walawaani Way will have sole discretion in the selection of planting, landscaping and maintenance. We will take considerable effort to ensure that the site is protected from wildfires. The management of the land will include occasional slow cultural burns to reduce leaf litter. If a memorial tree is impacted by fire, we will endeavour to discuss the options of replanting and replacement as soon as possible.

Only biodegradable coffins, urns or shrouds from sustainable resources shall be used. No embalmed remains are to be interred. Only native flora, no plastic flowers or plastic items. You undertake to inform us of any particular requirements, hazards, chemicals or treatments relating to the remains, coffin and any other materials to be buried. This information is essential to enable us to comply with our duties. A form signed by the funeral director or agent and families will need to be signed confirming this.

## **14. Order for Interment**

The Order for Interment must be completed properly and in full. Responsibility for any errors and omissions rests with the person submitting the notice. We must receive notices at least three clear working days before the date of interment. All charges and fees connected with the interment shall accompany the Order for Interment. Except for memorials specified and approved by us, no other memorials, mementos, kerbs, vases, wreaths or other forms of memorial or marker will be permitted.

## **15. Grave Excavation**

For reasons of health and safety, only our staff or engaged contractors shall excavate graves. They will be ~1.3m deep and are for one single burial. The Right of Burial will not cover any charges imposed for excavating and back-filling the grave, which are the responsibility of, and must be paid by, you or your Representatives.

## **17. Additional Charges**

You will only get charged what you have agreed to in writing and in accordance with the Fees & Charges - before any interment or services takes place. We reserve the right to impose reasonable additional charges to reflect the impact of any regulatory change, taxation and legislative requirements relating to our provision of the Right of Burial. We do not take responsibility for any charges or misunderstandings with any third party operator such as funeral director.

## **18. Miscellaneous**

You enter Walawaani Way at your own risk. We cannot accept any liability whatsoever for the loss of or damage to any vehicle, its contents or your possessions save to the extent that it is proved to be directly caused by the negligence, or wilful act or wilful default of us or our staff or agents.

You and your Representatives shall be responsible for complying with all laws, regulations, codes of practice as may be amended from time to time and any reasonable instructions from us which relate to the site.

You and your Representatives shall be responsible for all persons present at Walawaani Way and shall ensure that at all times they behave in a suitable and appropriate manner. The site has areas with water, so children must be supervised at all times. Dogs are allowed on the site, but must be kept on a lead at all times.

## **19. Waiver**

The failure of either party at any time to enforce any of the terms, provisions or conditions of the agreement, or to exercise any right under it, shall not constitute a waiver or affect that party's rights thereafter.

## **20. General**

These terms and conditions, together with the payment and your Application Form constitute the agreement between us and you regarding the Right of Burial to which they refer. They do not affect your statutory rights. A person who is not party to this agreement (including, without limitation, the Intended Holder/s or their Representatives) shall have no right to enforce any term of this agreement.

This shall not affect any right or remedy of any person arising otherwise than under that Act. If any part of the agreement proves ineffective the remainder shall not be prejudiced. There is no interest payable to you in respect of the Price or of the monies used to purchase your Right of Burial whether fully paid, cancelled or redeemed.

## **21. Indemnity**

You and your representatives shall be responsible for and indemnify and keep us indemnified against any loss (including consequential or economic loss) or damage which we may sustain or suffer by or as a result of a breach of the terms of this Contract.

## **22. Transfers, bequests and revocation of interment rights, how the Operator determines the future holders of an interment right**

Right of Burial can be transferred and bequeathed. An administration fee will apply.

### **Transfer of an interment right**

The holder of an interment right can transfer the right to another person or back to the cemetery operator. The Cemeteries & Crematoria Act includes obligations to ensure that the transfer is transparent and appropriately recorded. For example, a transfer application must be made by the holder to the cemetery operator. If the interment right is held by joint holders, the application must be made by all holders. The cemetery operator must issue an interment right certificate to the new holder. Further, details about the right and the new holder must be recorded in the cemetery operator's register. A cemetery operator may refuse to transfer an interment right if, in the operator's opinion, the transfer would tend to create a monopoly or encourage dealing in interment rights.

### **Death of a joint right holder**

On the death of a joint holder, the remaining joint holder(s) becomes the interment right holder(s). The remaining holder(s) should contact the cemetery operator so the register can be updated.

### **Bequest of an interment right**

The holder of an interment right may bequeath the right as part of their personal estate. The person who benefits from the bequest does not become the holder of the right until the cemetery operator's register is amended.

### **Rules of Intestacy**

Rules of intestacy apply when interment rights are not bequeathed. A person to whom an interment right devolves as a result of intestacy does not become the holder of the right until the cemetery operator's register is amended.

## **23. Unclaimed Right of Burial – Revocation of a perpetual interment right**

A perpetual interment right must be used within 50 years of purchase. If it is not used, the cemetery operator can revoke the right. Before revoking a perpetual interment right, a cemetery operator must take reasonable steps to contact the holder of the interment right (as stipulated by Cemeteries & Crematoria NSW) If the right holder makes contact with the operator, the future of the site can be negotiated, the holder can either sell or retain the site.

## **24. The identity of persons authorised to exercise the interment right**

Including but not limited to Passport, Driving Licence, Birth Certificate, Last Will and Testament.

## **25. Provision of a Memorial**

Native trees will replace traditional headstones. The Price does not include any memorials – except native trees and plants which are specifically stated and included in the Price during purchase. We will soon be offering other memorials to acquire separately including wooden and stone engraved plaques, wooden seats and benches and conservation memorials such as cockatoo nesting boxes.