

## Annexure A: Perpetual Interment Right Terms & Conditions

These terms and conditions are part of the agreement between PSA (we, us) and the interment right holder(s) (you, your).

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### A.1. Perpetual interment right

- (a) This agreement gives you the exclusive right to a specific burial place or place for ashes, permanently. This is called a perpetual interment right. As the person who has this right, you are the interment right holder.
- (b) As the interment right holder, you can nominate who is interred into the interment site. This is known as the 'person(s) to be interred'. You may nominate:
  - Yourself or another person, if you are buying the right 'pre-need' - which means you do not immediately need a burial place or a place for ashes, or
  - A person who is deceased, if you are buying the right 'at-need' - which means you need a burial place or a place for ashes now.
- (c) We issue certificates confirming perpetual interment rights, and list current interment right holders in our cemetery operator's register. We must keep this register up to date and available to the public for inspection or for copies to be made on payment of a fee, subject to any applicable privacy laws.
- (d) A perpetual interment right does not include any rights or title in the land, roads, building or other structures in the interment site or on the premises.
- (e) Both parties to this agreement (you and us) agree that changes to the Cemeteries and Crematoria Act 2013 (the CC Act) and other laws can affect perpetual interment rights.
- (f) If you buy a perpetual interment right when you are 'at-need' the contract will describe the services that you have chosen.
- (g) If you buy a perpetual interment right to use in the future ('pre need'), you are buying the right now but (unless the contract states otherwise) you will need to pay for the interment service (the burial or placement of a body or ashes in the interment site) at the time of need. Whether you have selected related services (for example, a memorial service) within the contract or choose to add them later when needed, the price for these related services will be the price that applies in future when you need those services (if you still need them), unless otherwise specified in the contract.
- (h) We must issue an order for interment before a person can be buried or their ashes placed in the interment site.

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### A.2 Memorials, maintenance and goods and services

- (a) As the interment right holder, you are the person authorised to place a memorial or monument at the interment site and deal with it in future as long as you comply with the below requirements.
- (b) You must have our written approval to place a memorial or monument at the interment site (if it is not purchased as part of this contract). You also must place the memorial or monument in line with this approval.
- (c) We will guide you on the type of memorial or monument that we will approve. We can prohibit, change or remove a memorial or monument if it does not have our approval or meet the requirements of the approval we provided.

- (d) You are not allowed to place anything at the interment site that we believe is a public safety risk. Anything we believe is hazardous may be removed by the operator without notice.
- (e) We must maintain the premises regularly, at least to the minimum standard the law requires us to meet. This includes your interment site, with the exception of any memorial or monument built on your site. We may reduce the maintenance level in the future where we are no longer offering future interments at the premises.
- (f) You are responsible for the costs or activity needed to install or maintain a memorial or monument unless otherwise specified in the contract.
- (g) If the contract states we are responsible for maintaining the memorial or monument, we will take all reasonable steps to make sure that the maintenance:
  - is in line with agreed standards
  - respects any religious, spiritual or cultural requirements in the contract.
- (h) We will take all reasonable steps to make sure that our goods and services meet any religious or cultural requirements outlined in the contract.
- (i) You can buy extra goods and services from us after the agreement has started (which must be agreed in writing and will be a variation to this agreement). These items are not part of the total price. You must pay the rates that apply for them at the time.

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### A.3 Price and payment

- (a) If you are buying the perpetual interment right at the time of need (at need), you agree to pay the total price for the perpetual interment right and any other goods and services selected at the start of our agreement, as listed in item 10 of the contract.
- (b) If you are buying the perpetual interment right to use in the future (pre-need), you agree to pay for the perpetual interment right now (as listed in item 10 of the contract) and the interment service later at the time of need. You also agree to pay for any other related services later, at the time of need.
- (c) We update our policies, guides, rules and process documents from time to time in line with our needs and any changes in the law. The updated details will apply to this agreement, except that the updated details will not affect the agreed price or agreed services listed in the contract.
- (d) You will pay for the items included in this agreement as set out in item 11 of the contract.
- (e) Goods and services tax (GST) applies to certain (not all) goods and services that you buy from us. You must pay GST at the same time as you pay for your goods and services. If the contract does not state that GST applies to what you are buying, then you do not have to pay GST.

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### A.4 Changes and cancellations

- (a) You can ask us to transfer ownership of the perpetual interment right to someone else. We must respond to a transfer request within a reasonable time. We charge a fee for transferring ownership.
- (b) Perpetual interment rights can be held by 1 person (solely) or 2 or more people (jointly):
  - When a sole interment right holder dies, we must transfer the perpetual interment right to the person named in their will, or act as the law tells us if the interment right holder did not leave a will.
  - When a joint interment right holder dies, we must transfer the perpetual interment right to the surviving interment right holder.

- (c) You must talk to us if you want to transfer your rights or duties under this agreement to someone else. Your changes must be legal, and we must agree to them in writing.
- (d) Either party (you or we) can waive their own rights under this agreement by telling the other party in writing.
- (e) We can cancel a perpetual interment right when:
  - the interment site has not been used within 50 years of the time when it was granted (as per the CC Act). The 50-year time period may change if the law changes.
  - we follow all other cancellation requirements under the CC Act.

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#### A.5 End of agreement

- (a) You or we can end the agreement if the other party breaches the agreement and either:
  - the breach can be fixed, but the party does not fix it within 30 days of being told in writing about the breach, or
  - the breach cannot be fixed.
- (b) You can end this agreement by writing to us 30 days before you want it to end, and in line with clause A.5(c).
- (c) You can only end this agreement if the interment site has not been used for a burial or to place ashes.
- (d) The agreement automatically ends when you have paid us all the fees you owe and either:
  - the burial or placement of ashes in the interment site has been completed, or
  - we have cancelled your perpetual interment right, in line with section 52 of the CC Act.
- (e) Some rights and duties that you and we have under this agreement continue after the agreement has ended. These include the rights and duties set out in:
  - clauses A.1(c), A.2(b), A.2(d), A.2(e), A.2(g), A.2(h), A.2(i), A.4(c), A.4(d), A.5(f), A.5(g), A.7
  - clause A.6 (for as long as legally required)
  - any other terms (including Contract details and Definitions) which are intended to continue after the agreement has ended.
- (f) Where an exhumation has taken place in line with section 66 of the CC Act, the rights and duties set out in clauses A.2(b), A.2(d), A.2(e), A.2(g), A.2(h), A.2(i), A.4(c), A.4(d), A.7 that you and we have under this agreement will no longer continue.
- (g) If any part of the agreement cannot be enforced in court, then that part will be treated separately but the rest of the contract stands.

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#### A.6 Personal information

- (a) You agree that we need to collect and store personal information in line with this agreement, the CC Act and privacy legislation. We will use this personal information to provide the rights, goods and services this agreement covers.
- (b) We must manage personal information in line with our privacy policy and privacy legislation. We may need to share it with other regulatory authorities, if the law requires us to do so.
- (c) You must not give us other people's personal information unless they agree that we can have it and use it.
- (d) You must make sure that we have correct and up-to-date details (including contact details) for you and any next of kin or secondary contact which is necessary for us to provide the rights, goods and services



this agreement covers. Please contact PSA if you wish to check, update or correct any of the personal information that you give us.

- (e) We will write to you when we need to tell you something, and we will use the contact details set out in the contract, or the updated contact details you have given us.

#### A.7 Consumer protections, disputes and complaints

- (a) We will follow all relevant laws when we provide you with the rights, goods and services included in this agreement. This includes complying with Australian Consumer Law, laws, work health and safety law, the CC Act, and public health laws.
- (b) Nothing in the contract changes or limits your legal rights as a consumer. Find out more about these rights at <https://www.accc.gov.au/consumers/buying-products-and-services>.
- (c) We and you agree to follow our dispute resolution process if there is a disagreement about anything in this agreement. Please contact [sam@psa.sydney](mailto:sam@psa.sydney) for assistance.
- (d) Our dispute resolution process is consistent with the CC Act, and gives us the power to decide who holds the perpetual interment right for a particular site (on application), based on the CC Act.
- (e) To give us your feedback or to complain, please contact PSA on 0488 555 868.
- (f) If you are not satisfied with how we deal with your complaint, our dispute resolution process shows you who to contact next. In addition, you can also contact the government authority that regulates us: Cemeteries & Crematoria NSW. Visit <https://www.cemeteries.nsw.gov.au/complaints-and-enquiries/complaints>.
- (g) The laws of New South Wales govern this agreement. If you or we are unhappy with the dispute resolution outcome and the complaint is taken to court, you or we will use a New South Wales court.

#### Definitions

Some terms in this agreement have specific meanings, as shown below.

Term	Definition
<b>at-need</b>	The circumstances when a person needs a burial site or a place for ashes immediately. This usually means that a person has recently died (or where death is imminently expected).
<b>authorised agent</b>	A party that we engage to act on our behalf, such as a funeral director.
<b>CC Act</b>	The Cemeteries and Crematoria Act 2013 (NSW)
<b>cremation</b>	A process for reducing bodily remains by fire, heat, alkaline hydrolysis or another method allowed by the regulations.
<b>crematorium</b>	A building where deceased people are cremated. It does not matter whether or not the building (or part of it) is also used for memorial services.



Term	Definition
<b>interment</b>	The process of either: <ul style="list-style-type: none"> <li>burying human remains in the earth (directly in the earth or in a container)</li> </ul> placing human remains in a mausoleum, vault, columbarium or other structure designed to hold human remains.
<b>interment right holder or you or your</b>	<ul style="list-style-type: none"> <li>The person recorded in the cemetery operator's register as the person that currently has the perpetual interment right.</li> </ul>
<b>interment site</b>	The specific location on the premises where a person will be buried or their ashes will be placed.
<b>memorial</b>	A gravestone, plaque, cenotaph or other monument, or any other structure or permanent physical object used to memorialise a person.
<b>operator or we, our or us</b>	Personal Services Australia (PSA)
<b>operator's register</b>	A register kept by a cemetery or crematorium operator, in line with section 63 of the CC Act.
<b>order for interment</b>	A written order that the operator creates to confirm the details of the interment immediately prior to it occurring.
<b>person(s) to be interred</b>	The person(s) whose bodily remains or ashes are to be buried or placed in the interment site.
<b>perpetual interment right</b>	The right to have a person permanently buried or their ashes placed at the interment site, in line with this agreement and section 44 of the CC Act.
<b>premises</b>	The cemetery or crematorium named in item 1 of the Perpetual Interment Contract.
<b>pre-need</b>	The circumstances when a person needs a burial site or a place for ashes at a future date. This usually means that no-one has recently died.
<b>representative</b>	An officer, employee or volunteer that the operator authorises to act as its representative for the purpose of making this agreement. To be clear, a representative is not the same as an authorised agent.