**Memorial garden** **Terms and Conditions**

# Interpretation

## In these terms and conditions:

## ASHES mean human or pet cremated remains

## CHARGES mean the fee stated in the agreement, payable in full prior to placement of ashes

## MID-ENGLAND BARROW LTD is a company registered in England and Wales with company registration number 11205386 with its registered office at Suite 1, The Stables, 6 Church Street, St Neots, PE19 2BU and means the site owner and shall be deemed to include their successors in title

## PERIOD means the duration stated in the agreement

## SITE means the barrow and area of land fenced around it

## SITE RULES mean the rules attached to these terms and conditions

## URN / CONTAINER means the items used to hold the ashes

# These terms

## **What these terms cover**. These are the terms and conditions on which services are provided for the short- and long-term storage of human cremated remains at Mid-England Barrow Ltd.

## **Why you should read them**. Please read these terms carefully before you sign. These terms tell you who we are, how we will provide our Services to you, how you and we may change or end the contract, what to do if there is a problem, plus other important information.

# The Services

## The Services allow members of the community to place or scatter ashes at Mid-England Barrow Memorial Garden, Fenny Compton Road, Farnborough OX17 1FA.

# Information about us and how to contact us

## **Who we are**? The site is operated and owned by Mid-England Barrow Ltd.

## **How to contact us**. You can contact us: Telephone: 07791807970, Postal address: Blackberry Barn, Claydon Lane, Farnborough OX17 1FA, or email: info@mid-englandbarrow.co.uk

## **How we may contact you**. If we contact you, we will do so by telephone or in writing using the details you provided to us in your agreement. (N.B. ‘Writing’ includes emails.) It is your or your next of kin’s responsibility to ensure contact details held by Mid-England Barrow Ltd remain up to date.

# Forming a Contract

## **The legal documentation.** The legal arrangements for the provision of Services are set out in the following two documents:

### a separate formal written agreement between you, and us, Mid-England Barrow Ltd, under which you will be granted the right to use and access the site for a defined period and

### these terms and conditions, including the Site Rules, which appear in the Schedule at the end of these terms.

## **How you make a contract**. If you wish to use the Services you will be required to sign an Agreement and pay the required charges by cheque or bank transfer prior to placement of ashes.

## When you have signed the Agreement and returned it to us you accept that a contract will come into existence once it has been signed by Mid-England Barrow Ltd The Services will be provided subject to both the Agreement and to these terms.

# Your rights to make changes

Once the Agreement has been signed it will not be possible to make any changes without the agreement of Mid-England Barrow Ltd. If you wish to make a change, please contact us. We will let you know if the change is possible. If so, we will let you know about any adjustment to the price, any fee for making the change, or anything else which would be necessary as a result of your requested change and ask you to confirm whether you wish to go ahead with the change. If we cannot make the change or the consequences of making the change are unacceptable to you, the provisions of the original Niche Agreement will remain binding.

# Our rights to make changes

## We may change our Services:

### to reflect changes in relevant laws and regulatory requirements and codes of practice; and

### to implement technical adjustments and improvements, for example to our Site Rules. These changes will not materially affect your use of the Services.

# Providing the Services

## **When we will provide the Services**. The Services will be provided for the duration of the Agreement or until you end the contract or we end the contract by written notice to you.

## **We are not responsible for delays outside our control**. If the supply of the Services is delayed by an event outside our control then we will contact you as soon as possible to let you know. We will take steps to minimise the effect of the delay. Provided we do this we will not be liable for any issues caused by the delay.

## **What will happen if you do not give the required information to us**? We will not be responsible for a failure to supply any part of the Services if this is caused by you failing to fully complete the Agreement, or by giving us inaccurate information in the Agreement, or by failing to keep the information we hold up to date (or failing to provide the information needed within a reasonable time of us asking for it).

## **We may also suspend the supply of the Services if you do not pay**. If you do not pay us for the Services when you are supposed to and you still do not make payment within 14 days of us reminding you that payment is due, we may terminate the Agreement. We will make reasonable endeavours to contact you using the contact details you provided, to advise you we are terminating the agreement, and the reason for this. Fourteen days after the date of this attempt to contact, we will respectfully remove the engraved tribute and retain a record of the area in which the ashes are placed.

# Your rights to end the contract

## **Ending the contract because of something we have done or are going to do**. If you are ending a contract for a reason set out below the contract will end immediately. The reasons are:

### there is a risk that supply of the Services may be significantly delayed because of events outside our control;

### you have a legal right to end the contract because of something we have done wrong;

### you have the legal right to end the contract because of provisions in the Niche Agreement.

## **Exercising your right to change your mind (Consumer Contracts Regulations 2013)**. Where you are a consumer, or where you have applied for our Services online or away from our trade premises, you have a legal right to change your mind within 14 days and receive a refund. These rights, under the Consumer Contracts Regulations 2013, are explained in more detail below.

## **How long do I have to change my mind?** You have 14 days after the day that the Agreement has been signed by both parties to change your mind.

## **How we will refund you**. Where we are required to refund you, we will do so using bank transfer. However, we may make deductions from the amount. Deductions may include charges to cover costs incurred by us.

## **When your refund will be made**. We will make any refund due to you as soon as possible. If you are exercising your right to change your mind then your refund will be made within 14 days of your telling us you have changed your mind provided you have supplied us with your bank details.

# Rights to end the contract BY Mid-England Barrow Ltd

## 10.1 **We may end the contract if you breach it**. We may end the Agreement at any time by writing to you if

### you do not make a payment when it is due despite reminder correspondence.

### you do not comply with the Agreement;

### you do not comply with these Terms and Conditions and the Site Rules.

## **You must compensate us if you breach the contract**. If we end the contract you will not be refunded any Charges you have paid for the Services, and we shall be entitled to charge an administration fee.

# If there is a problem with the Services

## 11.1 **How to tell us about problems**. If you have any questions or complaints about the services, in the first instance please contact us on 07791807970, at Blackberry Barn, Claydon Lane, Farnborough OX17 1FA, or info@mid-englandbarrow.co.uk.

## **Summary of your legal rights**. We are under a legal duty to supply Services that are in conformity with the contract.These are subject to certain exceptions. For detailed information visit the Citizens Advice website www.adviceguide.org.uk or call 03454 04 05 06.

 Where you are receiving services, the Consumer Rights Act 2015 says:

* you can ask us to repeat or fix a service if it's not carried out with reasonable care and skill, or get some money back if we can't fix it.
* if you haven't agreed a price beforehand, what you're asked to pay must be reasonable.
* if you haven't agreed a time beforehand, it must be carried out within a reasonable time.

See also Exercising your right to change your mind (Consumer Contracts Regulations 2013).

# Price and payment

## **Where to find the price for the Services**. The charges of the Services will be the price detailed in the Agreement.

## **When you must pay and how you must pay**. We accept payment by cheque, or bank transfer. You must pay when submitting a signed Agreement, and payment in full under the terms of that Agreement within 30 days of the date of the invoice and 14 days prior to ashes being placed.

## **We can charge interest if you pay late**. If you do not make any payment to us by the due date, we may charge interest to you on the overdue amount at the rate of 4% a year above the base lending rate of the Bank of England. This interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. You must pay us interest together with any overdue amount.

## **What to do if you think an invoice is wrong**. If you think an invoice is wrong please contact us promptly to let us know and we will not charge you interest until we have resolved the issue if the error was our responsibility.

# Our responsibility for loss or damage suffered by you

## **We are responsible to you for foreseeable loss and damage caused by us**. If we fail to comply with these terms and the Agreement, we are responsible (on a joint and several basis) for loss or damage you suffer that is a foreseeable result of our breaking the contract or our failing to use reasonable care and skill, but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if either it is obvious that it will happen or if, at the time the contract was made, both we and you knew it might happen, for example, if you discussed it with us before signing the agreement and it was documented.

## **We do not exclude or limit in any way our liability to you where it would be unlawful to do so**. This includes liability for death or personal injury caused by our negligence or the negligence of our employees, agents or subcontractors; for fraud or fraudulent misrepresentation; or for breach of your legal rights in relation to the Services.

## **We shall not be liable to you** or any other party for any loss, damages, costs, expenses or other claims in relation to any of your articles or personal effects at Mid-England Barrow unless caused by our negligence or wilful misconduct. We shall not be liable if any articles are lost or become damaged during a visit to the site.

## **We are not liable for business losses**. We only supply our Services for private use. You may not use the Services for any commercial, business or re-sale purpose and we will have no liability to you for any loss of profit, loss of business, business interruption, or loss of business opportunity.

## **How we will use your personal information**. (See personal information policy) We will use the personal information you provide to us in accordance with the Data Protection Act 2018 and the General Data Protection Regulations:

### to supply the Services to you;

### to process your payment for the Services; and

### if you agreed to this prior to signing the Agreement, to give you information about similar services that we provide, but you may stop receiving this at any time by contacting us.

### The information you supply will be held securely, accurately and up to date.

### It will not be shared with any third party other than where the law requires or allows us to do so.

### You can request at any time to see any information we hold on you, and correct anything which is incorrect.

### You can request that the information is deleted or that it is not used for certain purposes.

# Other important terms

## **We may transfer this agreement to someone else (for example if we sell the business)**. We may transfer our rights and obligations under these terms to each other or to another organisation. We will always tell you in writing if this happens and we will ensure that the transfer will not affect your rights under the contract.

## **You cannot transfer your rights to someone else**. You may not transfer your rights or your obligations under these terms to another person.

## **Nobody else has any rights under these terms**. The contract is between you, and us, Mid-England Barrow Ltd, (or our assigns). No other person shall have any rights to enforce any of its terms.

## **If a court finds part of these terms illegal, the rest will continue in force**. Each of the paragraphs of these terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.

## **If we delay in enforcing these terms or the Agreement, we can enforce them later**. If we do not insist immediately that you do anything you are required to do under these terms or the Agreement, or if we delay in taking steps against you in respect of your breaking this contract, that will not mean that you do not have to do those things and it will not prevent us taking steps against you at a later date.

## **Which laws apply to the contract and where you may bring legal proceedings**. These Terms and Conditions and the Agreement are governed by English law and you can bring legal proceedings in respect of the Services in the English courts. If you live in Scotland you can bring legal proceedings in respect of the Services in either the Scottish or the English courts. If you live in Northern Ireland you can bring legal proceedings in respect of the Services in either the Northern Irish or the English courts.

Site Rules

These Site Rules are effective from 26.2.19.

1. DEFINITIONS. The definitions used in these Site Rules should be read in conjunction with the definitions in the Agreement, but such definitions are summarised in simple form in the following paragraphs.
2. SITE RULES PREVAIL. These Site Rules apply to all visitors, regardless of any terms which anyone may seek to impose.
3. CHANGING THE SITE RULES. Mid-England Barrow Ltd reserves the right to vary these Site Rules at any time in writing.
4. NO EXCLUSIVE RIGHTS. The Agreement does not create any right of exclusive occupation nor any interest in land at the site.
5. CHANGES TO THE SITE. Mid-England Barrow Ltd has absolute discretion in relation to the landscaping, layout, design and to any alterations or building from time to time at the site, and may develop, move or extend any part of the site (or vary the access to it or the Barrow) at any time as we may think fit. If considered necessary, you will be advised individually or via the website.
6. CONDUCT OF EVENTS. If you wish to carry out any ceremony, activity or other event at the site at any time, including in relation to placing of ashes, you are required to seek Mid-England Barrow Ltd.’s prior consent by giving reasonable prior written notice (and in any event not less than 14 days prior to the proposed Event), giving details, including timing and approximate number of attendees at the Event. Mid-England Barrow Ltd may impose conditions on the Event, including (but not by way of limitation) a charge (e.g. for the opening of the site and associated management of the Event). Provision of food and event space can be made by Mid-England Barrow Ltd, neither of which may be brought in by you.
7. CONTROL OF THE SITE. Mid-England Barrow Ltd shall have full control over all placements of Urns carried out at the site and may in its absolute discretion decline to permit access to the site to any person. In particular Mid-England Barrow Ltd may close the site and the Barrow during private placements of Urns.
8. ACCESS TO THE SITE. Access to the site and exterior of the Barrow will be permitted between 10am and 4pm each day by prior arrangement by email or telephone. This includes weekends via a remotely operated gate. The site and the Barrow may be closed for maintenance from time to time or in the event of emergency or other circumstances beyond Mid-England Barrow Ltd.’s reasonable control, and as contemplated by paragraph 7 above. Visitors are asked to use the car park inside the site gate. There is no provision for parking on the road or in the gateway as access is required at all times by other landowners. Please contact us to ensure the Barrow is not closed for a private placement or maintenance prior to travelling to the site.
9. CHARGES. Charges are payable for events within 30 days of Mid-England Barrow Ltd.’s invoice, unless the invoice from the Mid-England Barrow Ltd expressly specifies otherwise.
10. DECORATIONS. No headstone, stone cover, or other stone, vase, ornament, Urn markers, name plaques, decorations, wind chimes, jewellery, valuable items or any other structure or article shall be placed on the site at any time. By signing the Agreement you acknowledge that Mid-England Barrow Ltd reserves the right to remove, without warning, any items. If Mid-England Barrow Ltd can identify the owner of the item, they will be contacted and offered the opportunity to collect it.
11. FLORAL TRIBUTES. No bulbs, plants or flowers (save as permitted in this paragraph) or any other form of wreath or foliage (real or artificial) shall be planted, placed or retained on any part of the Site at any time without the prior written approval of the Mid-England Barrow Ltd.
12. URNS. Containers for ashes may be sourced via Mid-England Barrow Ltd with the design and material chosen by the client. It is the responsibility of the client to ensure the urns selected are made of suitable material.
13. RESPECTING THE SITE. You and other visitors with you must respect the integrity of the site and the adjoining land (which is private land and where no rights are granted) and the rights of access, and the privacy of others visiting the site and shall not act in a manner which causes or may cause loss, nuisance or inconvenience to Mid-England Barrow Ltd, other visitors to the site or any landowners. Visitors shall remain within the boundaries of the site. All litter must be removed by visitors. Alcohol is not permitted.
14. DOGS. Mid-England Barrow Ltd does not accept dogs visiting unless strictly by prior agreement. Such agreement may be retracted at any time.
15. ACCESS AND PARKING. Vehicular access is only permitted to the parking area and is by arrangement with Mid-England Barrow Ltd. Cars may not be parked on the road, verges, or in the gateway. Permission can be withheld at Mid-England Barrow Ltd.’s entire discretion. Access to the Barrow and Memorial Garden is on foot from the car park.
16. CLIMBING THE BARROW. Visitors must not climb the mound forming part of the Barrow or to place any item on it.
17. SMOKING. Smoking or the use of E-cigarettes is NOT permitted anywhere on the Barrow site.
18. MID-ENGLAND BARROW LTD’S DISCRETION. Visitors acknowledge that the Site is in the exclusive management of Mid-England Barrow Ltd and that Mid-England Barrow Ltd shall have absolute discretion in permitting access to the site by any person at any time.
19. MAINTENANCE OF REGISTER. Mid-England Barrow Ltd shall maintain a register of ‘placement’ of the Urns / ashes, and their location.
20. CONTACT DETAILS. You must keep Mid-England Barrow Ltd updated with all relevant contact details (including alternative/secondary contact details). All contact and other details given to Mid-England Barrow Ltd must be up to date and accurate and Mid-England Barrow Ltd shall not be liable for any issues arising through your failure to comply with this paragraph.
21. LIABILITY FOR ITEMS AT THE SITE. Mid-England Barrow Ltd shall not be responsible for loss or damage of any personal effects, including vehicles whilst on the site.
22. DAMAGE TO BARROW. If the Barrow and / or site is damaged (to the extent that it can no longer be operated or accessed) then the Agreement shall be terminated. Mid-England Barrow Ltd shall secure the area of the Barrow and preserve the same as a memorial area for the remainder of the periods stated in contracts.
23. BREACH OF THE SITE RULES. In the event that the Site Rules are breached, Mid-England Barrow Ltd reserves the right to remove any tribute and terminate the Agreement.