

SAMPLE CONTRACT FOR CEMETERY OPERATORS

The Bereavement Authority of Ontario (BAO) is pleased to offer this sample cemetery contract on the following pages to assist small cemetery operators in their obligation to comply with the *Funeral, Burial and Cremation Services Act, 2002* (FBCSA) and regulations thereunder.

Disclaimer: The BAO reminds operators that it is their responsibility to ensure their contracts comply with the FBCSA and associated regulations, and properly reflect their company policies. The BAO does not “approve” FBCSA contracts. It is recommended that operators have their contracts reviewed by their legal counsel prior to use.

This contract sample is not for prepaid services and supplies, but rather services and supplies to be provided within 30 days of the contract date. Interment rights are **NOT** a prepaid service.

For current statutory and regulatory requirements related to cemetery contracts, you may refer to the BAO’s [Compliance Self-Evaluation Checklist for Cemetery Operators Who do not Accept Prepaid Monies](#), as well as the [FBCSA](#) and [Ontario Regulation 30/11](#).

Template subject to change:

This template will be updated as necessary, if regulatory changes are made. Licensees will be advised via email when the template is updated.

Font type and size:

The font type chosen for this sample contract is “Arial,” which is easy for people to read. The minimum required font size per O. Regulation 30/11 is 10 point. We suggest you refer to the [CNIB’s Clear Print Accessibility Guidelines](#) for help in selecting a font, font size and layout.

Creating your own contract:

When creating your own contract based on this template, please delete this first page, the comments in the right-hand margin as you address them (click on the three dots in the right-hand side of the comment box and click on “Delete thread”), and any business prompts highlighted in green. Delete any services and supplies that do not apply to your cemetery. For example, if you do not offer or provide scattering services, then delete all references to “scattering.” Make sure to add any services and supplies that you offer and are missing from this sample contract template.

PLEASE READ THROUGH YOUR CONTRACT CAREFULLY AND THOROUGHLY and KNOW what your contract says. If you have any questions or need assistance, feel free to contact the BAO and ask to speak with an Inspector or Compliance Officer.

Thank you,

The BAO Compliance Team

Date contract last revised: June 26, 2023

Contract No. _____

CONTRACT FOR CEMETERY INTERMENT RIGHTS, SERVICES AND SUPPLIES

Business Name
a division of **Operator Name**
("the cemetery operator") Site Licence # xxxxx
123 First Street, Anytown ON DOI TRT
Telephone ###-###-#### info@businessname.com www.businessname.com

Commented [MC1]: You can choose a different short form description. Make sure you use it consistently throughout the contract.

Commented [MC2]: If your cemetery site does not have a "911" street address, add a description of the location, for example, east side of Hwy 10 Road, 1 km north of Hwy 9.

Commented [MC3]: If applicable. If the cemetery is associated with a church, it might be appropriate to add the church's website address.

This contract is between the purchaser and the cemetery operator concerning interment/scattering (I/S) rights and/or cemetery services and supplies described below and is subject to the terms and conditions of this contract, the cemetery operator's by-laws and the provisions of the *Funeral, Burial and Cremation Services Act, 2002* ("the Act"). The I/S rights and/or cemetery services and supplies are to be provided for the I/S rights holder(s) and/or recipient(s) named below.

Commented [MC4]: The Recipient is the person for whom the service or supply is to be provided.

Name: _____ Name: _____
("Purchaser") ("Recipient")
Address: _____ Address: _____
Address: _____ Address: _____
Telephone: _____ Date of death: _____
E-mail: _____ Place of death: _____
Relationship to Recipient: _____ Date of birth: _____

Interment/Scattering (I/S) Rights:

Location/Section:	Lot Number(s):	Type of I/S Right:	# of Interments or Scatterings Permitted	Dimensions of each lot or scattering ground:	Price:	Care & Maintenance contribution included in price
					\$	\$
					\$	\$

Commented [MC5]: Number of casket interments, number of cremated remains. If the interment rights relate to a private mausoleum or columbarium, the number of crypts or niches would be included here.

By-law restrictions with respect to exercising the interment/scattering rights: _____

Commented [MC6]: Describe any restrictions outlined in the by-laws re: who can be interred.

Other by-law restrictions re. markers, lot decorations and private structures: _____

Cemetery Services and Supplies:

Price

Interment fee: Standard Depth Double Depth Vault No Vault
 Adult grave Child Grave
Interment of cremated remains : Cremation Grave Common Ground
 Columbarium Niche
Scattering of cremated remains in scattering ground: _____
Late arrival fee for arrival at cemetery after _____ pm on _____ (date) _____
Disinterment from Standard Depth Double Depth Vault No Vault
 Adult grave Child Grave
 Cremation Grave Columbarium Niche
Winter storage fees - applicable between (date) and (date) _____
Administration fee for transfer of interment or scattering right to another person _____
Other: _____
Other: _____

Disbursements: Bereavement Authority of Ontario Consumer Protection Fee

Commented [MC7]: Licensed operators are not required to itemize the BAO licensing renewal fee on their contracts; however, if you choose to do so, it must be itemized as a disbursement and be named as indicated on this sample contract.

Subtotal _____
Discount (if appl.) _____
Total before HST _____
HST _____
Total incl. HST _____
Deposit _____
Amount Owing _____

Interment/Scattering Right Holders:

The purchaser hereby directs that the following individual(s) is/are to be the interment/scattering rights holder(s), hereinafter referred to as "rights holder(s)," of the interment/scattering rights described below. Written consent of ALL surviving rights holder(s) as set out in the cemetery by-laws is required for interments, scattering, entombments, disinterments, disentombments, and the placement of markers, monuments, inscriptions, or ceramic photos. Written authorization is not required to inter the last surviving rights holder.

Name:	_____	Name:	_____
Address:	_____	Address:	_____
Address:	_____	Address:	_____
Date of birth:	_____	Date of birth:	_____

Cemetery By-laws: The cemetery is governed by by-laws that govern the operation of the cemetery. A copy of the by-laws is available from the operator for review. Pursuant to the by-laws, supplies and services related to the following must be purchased from the operator: inspecting the installation of a marker or foundation, marking a lot or scattering ground for the installation of a foundation or marker, construction of a foundation, and installation or setting of a marker. The cemetery is required to sell the aforementioned services and supplies at the cemetery operator's cost (no mark-up).

Commented [MC8]: If your by-laws have any such restrictions or requirements, place them here, otherwise add or delete anything as required to properly reflect your by-laws.

Delivery within 30 days: By signing this contract, the purchaser consents to the delivery of supplies and services contained in this contract within 30 days, as outlined below. It is understood that some decisions may be made or changed subsequent to this contract. Any refund to be issued should the contract be cancelled will be reduced by the value of supplies and services already delivered.

Event:	Date:	Time:	Location: (Section, Lot #, etc.)	Single or Double Depth:
Interment				

Payment terms: The purchaser agrees to pay the total contract amount in full prior to any interment or scattering service and prior to the delivery of any other services and supplies in this contract.

If the total contract amount is not paid in full at the time the contract is signed, the purchaser agrees to pay the amount owing within _____ days, after which interest will be calculated and charged on any overdue amount at the rate of _____ % per month (equivalent to _____ % per annum) until the date payment is made in full. Any partial amounts paid will be first applied to the interment/scattering rights until they are paid in full. Once the interment/scattering rights are paid in full, a certificate of interment/scattering rights will be issued.

[Business prompt: Include statement about rate of interest or financing charges and how the rate and payment amounts are to be calculated (compounded monthly, simple interest), any other amounts to be charged for late or deficient payments or eligibility for discounts for prompt payment.]

Cancellation of Contract within 30 days:

The purchaser may cancel this contract by providing notice of the cancellation in writing to the cemetery operator. The cemetery operator will refund all amounts paid under this contract for any services or supplies not yet provided, within 30 days. If any portion of the interment/scattering rights purchased in this contract have been exercised, the rights holder no longer has the right to cancel this contract and receive a refund for the rights purchased.

Cancellation of Contract after 30 days (Supplies and Services only):

If this contract is cancelled after 30 days of this contract date and for any reason some or all of the services and supplies purchased have not yet been provided, the cemetery operator will refund all amounts paid under this contract for any services or supplies (not interment rights) not yet provided, plus any income that should have been earned on the amount paid if it had been deposited as required, and less a cancellation fee of 10% of the amount paid to a maximum of \$350.

[Business prompt: Choose one of the two following sections based on whether your cemetery by-laws allow or prohibit resale of interment/scattering rights to a third-party.]

If resale is allowed:

Resale of Interment Rights: In accordance with the cemetery's by-laws, the rights holder has the right to sell their interment/scattering rights to a third-party before the rights are exercised, at an amount that is no greater than the price of those rights as indicated on the cemetery's price list at the time of resale. The rights holder may also first inquire with the cemetery operator as to whether it would be willing to repurchase the rights at a negotiable price.

Upon selling the rights to a third-party purchaser, the rights holder must provide the third-party purchaser the following: *

- The interment/scattering rights certificate endorsed with the following:
 - A statement signed by the rights holder selling the rights, acknowledging the sale to the third-party purchaser
 - A signed confirmation by the cemetery operator that the person selling the rights is shown as the rights holder in the cemetery's records
 - The date on which the rights were sold to the third-party purchaser
 - The name and address of the third-party purchaser
 - A statement of any money owing to the cemetery operator in respect to the rights
- A copy of the current cemetery by-laws
- A written statement of the number of lots/scatterings that have been used in the plot/scattering grounds to which the rights relate and the number of lots/scatterings that remain available
- Any other documents in the rights holder's possession relating to the rights

After the rights holder sells the rights to a third-party purchaser but before the purchaser exercises those rights, the purchaser must provide the cemetery operator with the endorsed certificate and any other information that the cemetery

operator requires in order to issue a new certificate in relation to the rights.

***Transfer of Interment Rights:** If the rights holder transfers the rights to another person for no consideration (no money), the same obligations described above apply, with necessary modifications, to the rights holder and the transferee.

Administration fee for resale or transfer: In the case of a resale or transfer of rights, an administration fee applies for the cemetery operator to issue a new rights certificate to the third-party purchaser or transferee, as applicable. The fee, which is set out on the cemetery price list, is also charged for replacement of lost or damaged certificates.

OR

Choose this clause if resale is NOT allowed:

Cancellation of Contract after 30 Days (Interment/Scattering Rights): If any portion of the rights purchased in this contract have been exercised, the rights holder is no longer entitled to cancel the contract and receive a refund for the remaining unused portion of the rights. In accordance with the cemetery's by-laws, if none of the rights purchased in this contract have been exercised, the rights holder may at any time cancel this contract by giving the cemetery operator written notice of the cancellation and require the operator to repurchase the rights at current market value.

The operator shall pay the rights holder within 30 days of receiving written notice of cancellation, the greater of: all money received by the operator under the contract for the rights or the market value* of the rights on the day that the operator receives notice of the cancellation of the contract, less the amount, if any, owing under the contract as of that date, and less the care and maintenance contribution indicated in this contract.

***Market value:** The market value is the price for the rights as set out in the cemetery operator's price list as of the date of receipt of written notice of cancellation. If the price for the rights is no longer set out in the price list, then their market value shall be deemed to be equal to the market value of a lot in the cemetery that is equivalent to or better than the lot in respect of the rights purchased under this contract. If there is no equivalent or better lot in the cemetery, then their market value shall be deemed to be equal to the market value of a lot in a cemetery that is in the same geographic location, and that is similar in size, religious or ethnic affiliation and 'for profit/not for profit' status to the subject cemetery.

[Business prompt: Commissions and Benefits for Recommendations to Third Party: The Cemetery operator or [name of person to receive the benefit] will receive consideration or benefit from the following third party suppliers for referrals or recommendations: [name of person paying the benefit] (up to % or up to \$), [name of person paying the benefit] (up to % or up to \$), ...]

Commented [MC9]: Delete this section if the cemetery does not receive any commissions or benefits for referrals to third parties.

Warranties: The warranties granted in connection with the supplies provided as part of this contract are the express written warranties, if any, extended by the manufacturer of such supplies, and as required by Ontario consumer protection legislation. **[Business prompt: Include any additional warranties the operator may extend.]**

Substitution: The cemetery operator will make reasonable efforts to obtain and provide the services and supplies agreed to in this contract. If the cemetery operator is unable to obtain and provide a service or supply, the cemetery operator will inform the purchaser of the proposed substitution, and whether the substitution is of equal or greater value than the original supply or service. The purchaser may cancel this entire contract in accordance with the terms of cancellation; or, the purchaser may cancel the unavailable supply or service, in which case the cemetery operator will refund the amount paid for the supply or service. If the purchaser chooses not to cancel the entire contract, and the cemetery operator and the purchaser agree, the cemetery operator will substitute a supply or service of equal or greater value than the original supply or service that is unavailable, at no increase in purchase price.

[Business prompt: If a business sells a customized supply (e.g., monument), it must include the relevant FBCSA requirements and disclosures in the body of this contract or in an appendix.]

[Business prompt: Additional terms and conditions concerning: Privacy, Failure to Pay, additional business policies or disclosures.]

Additional Terms or Schedule of Payments: The purchaser and the cemetery operator agree to the additional terms or schedule of payments:

Purchaser's Declarations and Acknowledgements:

Initial **Legal authority:** The purchaser declares that he/she is legally authorized to make, or charged with the responsibility for, the arrangements contained in this contract.

Initial **Consumer Information Guide and Price List:** The purchaser acknowledges having received a copy of: _____ the cemetery operator's price list, AND,

Initial to the right _____ the Consumer Information Guide prepared by the Bereavement Authority of Ontario (BAO), OR _____ an electronic version of the Consumer Information Guide: The purchaser agrees to receive an electronic copy of the guide prepared by the BAO, at the following email address:

_____.

The guide is available on the BAO's website at: <https://thebao.ca/for-consumers/consumer-information-guide/>

Initial **By-laws:** The purchaser acknowledges having received a copy of the cemetery's by-laws.

Cemetery representative (print name)

Purchaser (print name)

Commented [KD10]: If cemetery representative has a BAO sales representative licence, include licence number

Cemetery representative's signature
For (insert operator name)

Date

Purchaser's signature

Date

Initial

Contract: The purchaser acknowledges having received a signed copy of this contract.