

# APPLICATION/CLUB MEMBER AGREEMENT

This Application/Club Member Agreement and accompanying Intake Form (collectively, the "Application") is tendered as of the "Application Date" (as set forth below the signature affixed hereto of the individual submitting this Application) by the individual signing below as the "Applicant" to Club Holdings, LLC, (hereinafter, "CHS") doing business as the "Cremation Club<sup>SM</sup>"), a Wyoming corporation with a mailing address of 1912 Capitol Avenue, Suite 500, Cheyenne, WY 82001.

If this Application, once received and reviewed by CHS (the "Application Review Process"), results in the express written acceptance of Applicant by CHS as a "Club Member" (as hereinafter defined), said acceptance being at CHS's sole unfettered discretion, the term "Application" or phrase "Application/Club Member Agreement" appearing herein or hereupon, shall be replaced in their entirety with the phrase "Club Member Agreement" (hereinafter, the "CMA"), references to "Applicant" shall be replaced with references to "Club Member" and the CMA shall be made effective as of the "CMA Effective Date" (as set forth below the signature affixed hereto of the individual granting Approval on behalf of CHS in conjunction with this Application), with no term or condition contained herein having lapsed between the Application Date and the CMA Effective Date, or thereafter, if applicable, unless said term or condition lapses or is changed by virtue of express language set forth herein.

For ease of reference, the aforementioned parties may be referred to throughout this Application individually as a "Party" or collectively as the "Parties," and said reference shall not imply any agreement between the Parties until and unless the conditions for the CMA Effective Date to have occurred shall have been satisfied in their entirety.

## **A-1. Purpose.**

The Applicant wishes to apply to become a "Club Member" in the Cremation Club<sup>SM</sup> (the "Club"), at the membership tier selected by the Applicant (the "Membership Plan"), which shall be one of the following: Silver, Gold, or Platinum, each as further defined herein and upon the Benefits Disclosure Statement, in order to take advantage of special benefits, offers and opportunities (the "Benefits") made available incidental to an Applicant having attained status as an active Club Member under the applicable Membership Plan. An express written approval by CHS of an Applicant's request to become a Club Member, an example of which is set forth within the "Determination" section of Exhibit A ("Determination; Key Disclosures & Acknowledgements"), and the Applicant's continuing satisfaction of all terms and conditions associated therewith, including, but not limited to, those terms and conditions set forth or referenced within this Application, shall qualify the Applicant as a "Club Member."

Together, the Club and Benefits may be referred to collectively as the "Program." A description of the Benefits to which a Club Member is entitled is set forth upon the Benefits Disclosure Statement (the "Statement") which can be found on the Club website at [www.cremationclub.com](http://www.cremationclub.com) (the "Website"). The Benefits as set forth upon the Statement from time-to-time notwithstanding, the "Cremation Benefit," as further discussed below in Section A-7, shall never change during the "Term" (as defined in Section A-4) of the CMA entered into by and between CHS and a Club Member.

The Benefits, eligibility requirements, and Club Member Fee Schedule applicable to each Membership Plan are set forth upon the Benefits Disclosure Statement and the applicable Club Member Fee Schedule. The Membership Plan selected by the Applicant shall be specified on the Intake Form and shall constitute a material term of the CMA.

## **A-2. Additional Agreements, Policies and Acknowledgements.**

This Application sets forth only a portion of the terms and conditions applicable to a Club Member's participation in the Program. If granted approval to become a Club Member the Applicant hereby acknowledges and agrees to be further and additionally bound by the terms and conditions set forth within each of the following "Ancillary Agreements" and "Policies," all of which can be found on the Website:

### **Ancillary Agreements**

- Terms of Use
- Terms and Conditions
- Membership Plan Description

### **Policies**

- Privacy Policy
- Cookie Policy
- Consent to Receive Automated Telephone Calls, Text Messages and Communications
- Takedown Policy

In addition, in the event that this Application is Approved, as part of the acceptance process to be undertaken by the Applicant, the Applicant agrees to acknowledge the disclosures set forth within the "Key Disclosures & Acknowledgements" section of Exhibit A by taking any action requested by CHS to signify the Applicant's acknowledgement thereof, as well as acknowledging the Frequently Asked Questions ("FAQs") published by CHS from time to time.

## **A-3. Confidentiality.**

As part of the Application Review Process, each Party may disclose to the other Party certain confidential financial, health and business information which the disclosing Party desires to treat as confidential. The Terms and Conditions set forth a complete definition of the phrase "Confidential Information," but in general this phrase means any information disclosed to one Party by another Party, either directly or indirectly in writing or orally, without limitation, that a Party reasonably intended to be treated as confidential.

Each Party agrees not to disclose any Confidential Information to third-parties or to representatives of the receiving Party, except to those third-parties, employees, agents or principals associated with the receiving Party who are required to have the information in order to evaluate or engage in discussions concerning the Application.

In the event that this Application results in Club Member status being granted to the Applicant, this Section A-3 shall lapse in favor of the Confidentiality provisions set forth within the Terms and Conditions.

#### **A-4. Term.**

The Term of a Club Member's participation in the Club, once and if granted Club Member status, shall never expire until such time as the Cremation Benefit is delivered for the benefit of ("FBO") the Member. The aforementioned notwithstanding, the Term can be terminated pursuant to one (1) of the "Event(s) of Default" as defined within Section A-9.

#### **A-4A. Eligibility Requirements.**

In addition to the general requirements for Club membership set forth herein, certain Membership Plans are subject to additional eligibility requirements as follows:

(a) Gold Plan and Platinum Plan: The Applicant must be under eighty (80) years of age as of the Application Date. If the Applicant does not meet this age requirement, CHS may, in its sole discretion, decline the Application or offer the Applicant enrollment in a Membership Plan that does not carry an age restriction.

(b) Silver Plan: There are no age-based eligibility restrictions for the Silver Plan.

(c) An Applicant who satisfies the age eligibility requirement at the time of the Application Date shall not lose eligibility solely by reason of attaining age eighty (80) during the Term.

#### **A-5. Club Member Fees.**

The "Club Member Fees" to be paid by an Applicant who is granted Club Member status shall be as set forth upon the "Club Member Fee Schedule" applicable to the Applicant's selected Membership Plan, which will be provided to Applicant by CHS during the Application Review Process.

The Club Member Fee Schedule shall specify the applicable billing frequency (monthly or annual) and the corresponding Fee amount for the Applicant's Membership Plan. In the event that a Club Member wishes to change Membership Plans (an "Upgrade" or "Downgrade"), the terms of Section A-17A shall apply.

#### **A-6. Benefits Subject to Change.**

The Benefits offered through the Program, other than the Cremation Benefit, are subject to change or terminate without notice, and the specific Benefits available to a Club Member may vary by Membership Plan as set forth upon the Benefits Disclosure Statement. Certain Benefits may require the payment of additional fees or may not be combined with any other offers or promotions, all at the sole unfettered discretion of CHS.

#### **A-7. Cremation Benefit.**

The "Guaranteed Cremation Price" is the price at which CHS agrees to arrange for the cremation of the Club Member, as specified in the Club Member Fee Schedule applicable to the Club Member's Membership Plan. As of the date of this Agreement, the Guaranteed Cremation Price is Ninety-Nine Dollars (\$99.00) for Gold and Platinum Plans, and One Thousand Two Hundred Fifty Dollars (\$1,250.00) for the Silver Plan. In the event that the actual cost of cremation exceeds the Guaranteed Cremation Price, CHS shall bear the difference; the Club Member (or the Club Member's estate) shall not be responsible for any amount in excess of the Guaranteed Cremation Price.

The Cremation Benefit forms the core Benefit around which the Program is offered, and as such, the Cremation Benefit in effect as of the CMA Effective Date shall not be subject to modification or termination by CHS, unless one (1) or more of the following conditions or events were to occur:

- (a) For Gold Plan and Platinum Plan Club Members only: Club Member seeks to use the Cremation Benefit on or before three hundred and sixty-five (365) days have passed subsequent to the CMA Effective Date. For the avoidance of doubt, the Silver Plan does not carry a waiting period, and a Silver Plan Club Member's Cremation Benefit shall be available immediately upon the CMA Effective Date; and/or,
- (b) an "Event of Default" (as further defined and set forth in Section A-9), as determined by CHS in its sole unfettered discretion; and/or
- (c) an Early Termination by CHS as defined below.

If any circumstance were to occur that met the conditions described within Section A-7(a) or Section A-7(b), the Cremation Benefit shall terminate automatically, contemporaneously at the time that the condition occurred, and CHS may exercise any remedy set forth in Section A-10. If any circumstance were to occur that met the conditions described within this Section A-7(c), the terms of Section A-12 shall apply.

#### **A-8. Assignability of Club Member Status or Benefits.**

Neither a Club Member's status, nor any of the Benefits available to a Club Member through the Program, are assignable or transferable by the Club Member to any third-party. Any attempt by a Club Member, or any third-party acting on the Club Member's behalf, to sell, buy, gift, convey, exchange, rent, hypothecate, assign or transfer the Club Member's status or any of the Benefits, or any attempt to use the Club Member's status or any of the Benefits for a commercial purpose, shall result in an immediate termination of the Club Member's status as a Club Member without any compensation due thereto. Any action undertaken by the Club Member, or a third-party acting on the Club Member's behalf, which is in contravention of this Section A-8 shall constitute an Event of Default.

The aforementioned notwithstanding, any third party who is duly-authorized to act on behalf of the Club Member may request the use of a Benefit, including, but not limited to, the Cremation Benefit, if said request is FBO the Club Member, in which event the duly-authorized third-party requester shall be referred to as the "FBO Requester."

#### **A-9. Event(s) of Default.**

An Event of Default (or Events of Default if there are more than one (1)) shall be deemed to have immediately occurred if any of the following conditions are met:

- (a) it is determined that the Applicant provided inaccurate or false information on the Application or during the Application Review Process, including, but not limited to, providing inaccurate or false information on the Intake Form; and/or,
- (b) the Club Member fails to adhere to the payment schedule set forth upon the Club Member Fee Schedule applicable to the Club Member's Membership Plan (which is referred to hereinafter as a "Payment Default"); and/or,

(c) the Club Member, or a third-party acting on the Club Member's behalf, takes any action in contravention of Section A-8; and/or;

(d) the Club Member breaches any duty under the CMA, the Ancillary Agreements, or the Policies.

The occurrence of an Event of Default shall be determined by CHS in its sole and unfettered discretion, with the exception of a Payment Default, which is subject to the standard of commercial reasonableness, and which may be cured as set forth in Section A-11.

#### **A-10. Remedy(ies).**

The Applicant does not have any remedies in the event that the Applicant's Application to become a Club Member is not approved. In the event that the Applicant is approved to become a Club Member, the Terms and Conditions shall set forth the sole remedies available to the Applicant. In the event that this Application results in the Applicant being granted approval to become a Club Member, as it pertains to the Applicant only, this Section A-10 shall be superseded by the Remedy provisions set forth within the Terms and Conditions.

As it pertains to CHS only, if an Event of Default occurs, the Club Member's status as an active Club Member, and all rights associated therewith, shall be deemed to have terminated contemporaneously at the time that the condition occurred (a "Member Early Termination"), all Club Member Fees paid by the Club Member prior to the Member Early Termination shall be deemed to have been earned by CHS, and the Club Member shall have no recourse against CHS for any reason, including, but not limited to, for refunds of Club Member Fees that have been paid up to the effective date of the Member Early Termination. The retention by CHS of Club Member Fees paid prior to the Member Early Termination shall be deemed to be the retention of previously-earned Club Member Fees and shall not be considered to be liquidated damages.

#### **A-11. Cure of Payment Default.**

The occurrence of a Payment Default notwithstanding, a Club Member can take advantage of the "Grace Period" to maintain the Club Member's active standing within the Club. The Grace Period is set forth in greater detail within the Terms and Conditions. The Grace Period and cure provisions applicable to a Payment Default may vary by Membership Plan and billing frequency, as set forth in the Terms and Conditions.

#### **A-12. Program Discontinuance.**

Terms set forth within the Application, the CMA, the Ancillary Agreements, or the Policies notwithstanding, CHS may (i), discontinue the Club in its entirety in CHS's sole unfettered discretion; or, (ii) discontinue the Club as to a particular Club Member if CHS's performance is rendered impossible or commercially impracticable due to circumstances or occurrences beyond CHS's control, including, without limitation, acts of God; flood, fire, earthquake, other potential disasters or catastrophes, such as epidemics, or explosion; war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; government order, law, or action; national or regional emergency; strikes, labor stoppages or slowdowns, or other industrial disturbances; telecommunication breakdowns, power outages or shortages, inadequate transportation services, or inability or delay in obtaining supplies of

adequate or suitable materials; and any other reasons whatsoever beyond the control of CHS (each of which, a “CHS Early Termination”). In the event of a CHS Early Termination, all of CHS’s duties under the Club Member Agreement and the Ancillary Agreements, including, but not limited to, the duty to provide the Cremation Benefit set forth under Section A-7, shall be terminated and CHS shall repay all Club Member Fees paid by the affected Club Member(s) prior to the CHS Early Termination. Such repayment shall be deemed to be a “Refund” of previously-earned Club Member Fees and shall be considered to be liquidated damages, and upon the issuance of the Refund by CHS the Member waives and discharges any and all claims that Member may have had against CHS, under any legal theory, including, but not limited to, under theories of tort, breach of contract, state or federal statutory non-compliance or equity claims.

#### **A-13. Survival of Application and Detrimental Reliance.**

For the sole benefit of CHS, this Application shall be deemed to have survived the approval of an Applicant’s request to become a Club Member for the purpose of establishing an Event of Default as set forth within Section A-9, and further, CHS shall not have a duty to demonstrate that it detrimentally relied upon any inaccurate or false information provided by the Applicant to CHS during the Application Review Process in order for the inaccurate or false information to serve as the basis for the establishment of an Event of Default.

#### **A-14. Governing Law, Dispute Resolution, and Class Action Waiver.**

This Application shall be governed by the laws of the State of Delaware, without reference to conflict of laws principles.

Except for claims within the jurisdiction of small claims court, any dispute, controversy, or claim arising out of, relating to or in connection with this Application, the CMA or the Ancillary Agreements, including the breach, termination or validity thereof, shall be finally resolved by arbitration pursuant to the American Arbitration Association Consumer Arbitration Rules. Claims shall be heard by a single arbitrator. The arbitration shall be conducted by virtual hearing via videoconference. The arbitrator shall have no authority to award punitive or other damages not measured by the prevailing Party’s actual damages, except as may be required by statute. Except as may be required by law, neither a Party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of all Parties. The arbitral tribunal shall have the power to rule on any challenge to its own jurisdiction or to the validity or enforceability of any portion of this agreement to arbitrate. THE PARTIES AGREE TO ARBITRATE SOLELY ON AN INDIVIDUAL BASIS, AND THAT THIS AGREEMENT DOES NOT PERMIT CLASS ARBITRATION OR ANY CLAIMS BROUGHT AS A PLAINTIFF OR CLASS MEMBER IN ANY CLASS OR REPRESENTATIVE ARBITRATION PROCEEDING. The arbitral tribunal may not consolidate more than one (1) person’s claims, and may not otherwise preside over any form of a representative or class proceeding. Notwithstanding the arbitral tribunal’s power to rule on its own jurisdiction and the validity or enforceability of the agreement to arbitrate, the tribunal has no power to rule on the validity or enforceability of the agreement to arbitrate solely on an individual basis. In the event the prohibition on class arbitration is deemed invalid or unenforceable, then the entire agreement to arbitrate will be null and void.

#### **A-15. Disclaimer.**

The Club is a commercial service offered by CHS, which is a for-profit enterprise that is owned by a third-party that is not a Club Member. While the use of the word “Club” herein or in conjunction with any aspect of the Cremation Club<sup>SM</sup> service offering may be construed as representing a group of people organized for a common purpose, this organization is not for the purpose of forming a member-owned cooperative or mutual association. CHS’s use of the word “Club” is intended merely to describe an ingredient, quality, characteristic, function, feature, purpose, or use of CHS’s goods and/or services (as contemplated by 15 U.S.C. §1052(e)(1), and does not grant to or confer upon the Club Member, either expressly or implicitly, any ownership in CHS, in the Cremation Club<sup>SM</sup> service mark or in any other tangible or intangible asset owned or controlled by CHS, including, but not limited to, all intellectual property assets and contract rights (such as licenses).

#### **A-16. Miscellaneous.**

This Application shall bind and inure to the benefit of the Parties and their successors and permitted assigns, subject to any limitations imposed upon the Applicant herein. This Application may not be amended, nor any obligation waived, except by a writing signed by both Parties. Subject to the last sentence of Section A-14, in the event any term of this Application, or any Ancillary Agreement or Policy, is found to be void or otherwise unenforceable, the remainder of this Application shall remain valid and enforceable as though such term was absent upon the Application Date or CMA Effective Date, as the case may be.

#### **A-17. Plan Cancellation.**

Club Member Fees are billed on a recurring basis at the frequency (monthly or annual) specified on the Club Member Fee Schedule. The billing date, amount, and frequency applicable to the Club Member’s Membership Plan are set forth upon the Club Member Fee Schedule provided to the Club Member during the Application Review Process.

The Cremation Club Membership Plan may only be cancelled by the member. Cancellation may be made by the member by either 1) speaking with a Cremation Club support staff member and clearly expressing its cancellation; 2) sending a cancellation request for your Cremation Club Membership Plan via e-mail at [support@cremationclub.com](mailto:support@cremationclub.com); or 3) online cancellation, available at (<https://cremationclub.com/login>). If the cancellation request is not received at least five (5) business days prior to the date of the recurring payment each month during the Term, Cremation Club will charge for that month. When the plan is cancelled, recurring charges will be stopped. Cancellations may take up to ten (10) days to fully process. If any charges are incurred after a cancellation request has been received, Cremation Club will refund for any months following the month in which the plan was cancelled.

#### **A-17A. Membership Plan Changes.**

(a) Upgrade. A Club Member may request to change from a lower-tier Membership Plan to a higher-tier Membership Plan (an “Upgrade”). An Upgrade shall be effective as of the next billing cycle following the request, unless otherwise agreed by CHS. If the Club Member is upgrading from the Silver Plan to a Gold or Platinum Plan, the

Club Member acknowledges that the Gold and Platinum Plans carry a one-year eligibility waiting period for the Cremation Benefit, which shall commence as of the effective date of the Upgrade. The Club Member must also satisfy any additional eligibility requirements applicable to the new Membership Plan, including, but not limited to, the age requirements set forth in Section A-4A.

(b) Downgrade. A Club Member may request to change from a higher-tier Membership Plan to a lower-tier Membership Plan (a "Downgrade"). A Downgrade shall be effective as of the next billing cycle following the request. The Club Member's Benefits shall be adjusted to reflect those available under the new Membership Plan as of the effective date of the Downgrade. If the Club Member downgrades from a Gold or Platinum Plan to the Silver Plan, the Guaranteed Cremation Price shall be adjusted to the Silver Plan rate.

(c) Proration. In the event of a mid-cycle Upgrade or Downgrade, CHS shall apply any prorated credit or charge to the Club Member's next billing cycle. There shall be no refund of previously paid Club Member Fees solely by reason of a Downgrade.

## Exhibit A

### Determination; Key Disclosures & Acknowledgements

#### Determination

The completed processing of this Application will result in a determination by CHS as to whether an Application is "Approved" or "Declined," and will be in a format similar to the following:

*Club Member Approved / Club Member Declined*

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

CMA Effective Date: \_\_\_\_\_ [Only if "Club Member Approved"]

Application Declined Date: \_\_\_\_\_ [Only if "Club Member Declined"]

#### Key Disclosures & Acknowledgements

The Applicant, if approved as a Club Member, acknowledges an understanding of the Key Disclosures & Acknowledgements set forth below:

- The Cremation Club<sup>SM</sup> is a commercial service offered by Club Holdings, LLC, a for-profit entity, and being approved for Club Member status does not grant or confer upon a Club Member any ownership right or interest in Club Holdings, LLC, or any right or interest in any asset owned, licensed or controlled by Club Holdings, LLC, including the Cremation Club<sup>SM</sup> service mark.
- [Gold and Platinum Plans only] The Club Member is not entitled to receive the Cremation Benefit until three hundred and sixty-five (365) days have passed subsequent to the effective date of the Club Member Agreement.
- The Club Member is not entitled to receive the Cremation Benefit if the Club Member's status is not active at the time of the Club Member's death.
- The Club Member is not entitled to receive the Cremation Benefit if all of the Club Member Fees due as of the Club Member's date of death are not paid in full.
- [Gold and Platinum Plans only] If the Club Member's status changes from active to inactive, and then from inactive back to active once again, the Cremation Benefit is not available until three hundred and sixty-five (365) days have passed subsequent to the most recent date when the Club Member's status changed from inactive back to active.
- [Gold and Platinum Plans only] The Applicant must be under eighty (80) years of age as of the Application Date. If the Applicant does not meet this requirement, the Application may be declined or the Applicant may be offered enrollment in a Membership Plan without an age restriction.
- [Silver Plan only] The Guaranteed Cremation Price under the Silver Plan is \$1,250.00, which is higher than the Guaranteed Cremation Price under the

Gold or Platinum Plans (\$99.00). The Silver Plan does not include International Away from Home Protection.

- [Platinum Plan only] The Platinum Plan includes International Away from Home Protection (USA and International), subject to the terms set forth in the Benefits Disclosure Statement.