

Tribute Book Terms of Use

Last updated: March 17, 2022

These Terms of Use, together with Tribute Book's Privacy Policy (collectively, the "Terms") set forth the terms and conditions that apply to your access and use of the Tribute Book website (<https://www.tributebook.com/>) and associated services, as well as any other websites where we link to these Terms (together, the "Sites"), whether as a funeral home client ("Client"), end user or customer of a Client, or otherwise. All products or services made available on or through the Sites ("Products"), including, without limitation, Tribute Books, are subject to these Terms. The Terms constitute a legally binding agreement between you, whether personally or on behalf of an entity you represent ("you") and the applicable entity referred to in Section 14 of these Terms ("Tribute," "we" or "us") concerning your access to and use of the Sites. "Tribute" includes all officers, directors, employees, consultants, affiliates, subsidiaries, and agents.

By using or accessing the Sites, you agree to these Terms, as may be updated from time to time in accordance with Section 10 below. If you do not agree to the following Terms, do not access or use the Sites.

Notice of Binding Arbitration. These Terms provide that all disputes between you and us that in any way relate to these Terms or your use of the Sites will be resolved by **BINDING ARBITRATION. ACCORDINGLY, YOU AGREE TO GIVE UP YOUR RIGHT TO GO TO COURT (INCLUDING IN A CLASS ACTION PROCEEDING) to assert or defend your rights under these Terms. Your rights will be determined by a NEUTRAL ARBITRATOR and NOT a judge or jury and your claims cannot be brought as a class action. Please review Section 13 below entitled "Interpretations and Disputes" for the details regarding your agreement to arbitrate any disputes with us.**

1. Account Security. To use the Sites you must (i) be at least eighteen (18) years of age; (ii) have not previously been suspended or removed from the Sites; and (iii) register for and use the Sites in compliance with any and all applicable laws and regulations.

2. Account Registration. To access some features of the Sites, you may be required to register for an account. When you register for an account, we may ask you to give us certain identifying information about yourself, including but not limited to your email address and other contact information, and to create a user name and password ("Registration Information"). When registering for and maintaining an account, you agree to provide true, accurate, current, and complete information about yourself. You also agree not to impersonate anyone, misrepresent any affiliation with anyone else, use false information, or otherwise conceal your identity from Tribute for any purpose. You are solely responsible for maintaining the confidentiality and security of your password and other Registration Information. For your protection and the protection of other users, we ask you not to share your Registration Information with anyone else. If you do share this information with anyone, we will consider their activities to have been

authorized by you. If you have reason to believe that your account is no longer secure, you must immediately notify us at support@tributebook.com.

3. Prohibited. You agree not to:

- A. Use the Sites for any illegal purpose, or in violation of any local, state, national, or international law;
- B. Violate or encourage others to violate the rights of third parties, including intellectual property rights;
- C. Post, upload, or distribute any content that is unlawful, defamatory, libelous, inaccurate, or that a reasonable person could deem to be objectionable, profane, indecent, pornographic, harassing, threatening, hateful, or otherwise inappropriate, or that violates or infringes the privacy, copyright, trademark, trade dress, trade secrets or intellectual property rights of any person or entity;
- D. Interfere in any way with, bypass or attempt to bypass any security-related features of the Sites;
- E. Interfere with the operation or any user's enjoyment of the Sites, including by uploading or otherwise disseminating viruses, adware, spyware, worms, or other malicious code, making unsolicited offers or advertisements to other users, or attempting to collect personal information about users or third parties without their consent;
- F. Deep-link to any feature or content on the Sites, or access, monitor or copy any content or information of the Sites using any robot, spider, scraper, crawler or other automated means or any manual process for any purpose without Tribute's express written permission;
- G. Use, reproduce, modify, distribute or store any part of the Sites (including any Tribute Books, related obituary or event information, or other content) for any purpose without the prior written permission of Tribute;
- H. Perform any fraudulent activity, including impersonating any person or entity, claiming false affiliations, accessing the accounts of other users without permission, or falsifying your identity or any information about you, including age or date of birth;
- I. Post, disseminate, submit, transmit, host, share, and/or publish advertisements or solicitations of business; or
- J. Sell or otherwise transfer the access granted herein.

4. Product Terms. Tribute's ecommerce store may be embedded into, or otherwise linked to by or accessible from, a Client website. If you have navigated to the Sites from, or are

otherwise using the Sites in connection with, a Client website, please be aware that such Client will receive consideration or benefit from Tribute for items that you purchase from Tribute on the Sites, including, without limitation, Tribute Books and other Products.

Tribute uses reasonable efforts to make the descriptions of its Products accurate. However, Tribute does not warrant that the descriptions or other content of the Sites are accurate, reliable, complete, or current. We reserve the right to unilaterally correct any inaccuracies and otherwise update descriptions, depictions and other content on the Sites without notice. The prices for Products on the Sites are subject to change. It is possible for the price of a Product to change between the time you add it to your shopping cart and the time you check out. In the event a Product is listed at an incorrect price due to typographical or other error, we reserve the right to refuse or cancel any orders placed for any Products listed at the incorrect price. We shall have the right to refuse or cancel any such orders whether or not the order has been confirmed and your credit or debit card charged. If your credit or debit card has already been charged for the purchase and your order is canceled, we shall promptly issue a credit to your credit or debit card account in the amount of the incorrect price.

All prices are stated exclusive of all sales, use, value added and other taxes, and all shipping and related costs and expenses, all of which will be your responsibility. The risk of loss and title for all Products purchased from the Sites passes to you upon delivery of the Product to the carrier, if applicable.

5. Third Party Content. The Sites may contain links to third party websites and services. Tribute provides such links as a convenience, and does not control or endorse these websites and services. You acknowledge and agree that Tribute has not reviewed the content, advertising, products, services, or other materials that appear on such third party websites or services, and is not responsible for the legality, accuracy, or appropriateness of any such content, and shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with the use of any such third party websites or services.

6. Intellectual Property. You acknowledge and agree that when you submit, upload or post any comments, ideas, suggestions, information, files, music, images, videos, or other materials (together, "Content") to Tribute or any of the Sites, such Content will be shared with and stored by Tribute and its affiliates and partners, including but not limited to Tribute Archive (tributearchive.com). You hereby grant to Tribute and its agents, attorneys, representatives, predecessors, successors, affiliates, parents, subsidiaries, nominees, licensees, executors, administrators, assigns, funeral homes that are our Clients, and those acting with authority of the foregoing (collectively, "Tribute Parties"), a worldwide, non-exclusive, perpetual, irrevocable, royalty free, transferable, and sublicensable right and license to use, share, reproduce, distribute, sell, prepare derivative works of, excerpt, publicly display, publicly perform, host, cache, route, transmit, store, reformat, excerpt, edit, archive, index, crawl, create algorithms based on, modify, and/or transcode such Content in any and all formats and through any and all means and channels, including without limitation through downloading technologies, on the internet, and in publications and advertisements. You also hereby irrevocably waive, as against the Tribute

Parties, all moral rights and rights of restraint in such Content. The license, consent, and release herein are binding upon you and your heirs, executors, administrators, successors, licensees, and assigns.

Except for Content, all text, graphics, photographs, videos, user interfaces, trademarks, logos, taglines, animations, sounds, music and other materials contained on or comprising the Sites, including without limitation the design, structure, selection, organization, compilation, display, arrangement, expression, and “look and feel” of the Sites, and the software comprising and/or embodying the foregoing (collectively, the “Tribute Materials”), are owned, controlled, or licensed by or to Tribute, and are protected under applicable intellectual property laws, including without limitation copyright, trade dress, trademark, and/or patent laws. Your use of the Sites gives you no ownership rights in the Tribute Materials.

Tribute, or third parties from whom Tribute has permission, own the trademarks and service marks that are used on the Sites. All rights are reserved by Tribute and said third parties, and no implied rights are granted to you or any third parties. These and other graphics, logos, service marks, trademarks, and trade dress of Tribute and its licensors may not be used without prior written consent of Tribute or its licensor, as the case may be. Without limiting the foregoing, no Tribute trademark or trade dress may be used in connection with any product or service that is not Tribute’s in any manner that is likely to cause confusion among users, or in any manner that disparages or discredits Tribute.

You grant Tribute a perpetual, royalty free, irrevocable, sub-licensable, assignable, and transferable license to any feedback, submissions, ideas, concepts, know how, or techniques that you submit about the Sites or Tribute Materials for any purpose (including, without limitation, commercialization) and without compensation to you.

7. User Content. You represent and warrant that you own or otherwise have all rights, licenses, consents, and permissions necessary to provide Tribute the Content that you post to the Sites or otherwise provide to Tribute in connection with the services. If you believe that your content or other material posted on the Sites has been used in a way that constitutes copyright infringement, please notify us following the procedures set forth in this Section.

We respect the intellectual property rights of others and expect our users to do the same. In accordance with the Digital Millennium Copyright Act, we will respond promptly to notices of alleged infringement that are reported to our designated Copyright Agent, identified below.

Notices of Alleged Infringement:

If you are a copyright owner, authorized to act on behalf of one, or authorized to act under any exclusive right under copyright, please report alleged copyright infringements taking place on or through our Sites by sending us a notice (“Notice”) complying with the following requirements.

- A. Identify the copyrighted works that you claim have been infringed.
- B. Identify the material or link you claim is infringing (or the subject of infringing activity) and that access to which is to be disabled, including at a minimum, if applicable, the URL of the link shown on the Sites where such material may be found.
- C. Provide your mailing address, telephone number, and, if available, email address.
- D. Include both of the following statements in the body of the Notice:

"I hereby state that I have a good faith belief that the disputed use of the copyrighted material is not authorized by the copyright owner, its agent, or the law (e.g., as a fair use)."

"I hereby state that the information in this Notice is accurate and, under penalty of perjury, that I am the owner, or authorized to act on behalf of the owner, of the copyright or of an exclusive right under the copyright that is allegedly infringed."
- E. Provide your full legal name and your electronic or physical signature.

Please deliver this Notice, with all items completed, to our designated Copyright Agent at the following address:

Copyright Agent
c/o Tribute Technology
2501 Parmenter Street, Suite 300A
Middleton, WI 53562
Phone: 866-834-4420
Fax: 866-447-0311
Email: support@tributebook.com

Tribute has adopted and implements a policy that provides for termination in appropriate circumstances of accounts of users who repeatedly infringe copyright or other intellectual property rights of Tribute or others.

8. Indemnification. You agree that you will be personally responsible for your use of the Sites, and you agree to defend, indemnify, and hold harmless Tribute from and against any and all claims, liabilities, damages, losses, and expenses (including attorneys' and accounting fees and costs), arising out of or in any way connected with (i) your access to, use of, or alleged use of the Sites, including, without limitation, involving any Content you post or submit to us or the Sites; (ii) your violation of the Terms or any applicable law or regulation; (iii) your violation of any third party right, including without limitation any intellectual property right, publicity, confidentiality, property, or privacy right; (iv) any disputes or issues between you and any third party; or (v) access to, use of, or alleged use of the Sites by anyone accessing the Sites using your user name and password. Tribute reserves the right, at our own expense, to assume the

exclusive defense and control of any matter otherwise subject to indemnification by you, and in such case, you agree to cooperate with our defense of such claim. For the avoidance of doubt and without limiting the foregoing, you agree to defend, indemnify and hold harmless Tribute against any claims that Content you submit to Tribute violates the intellectual property and/or privacy rights of any person or third party.

9. Termination. If you violate these Terms, your permission to use the Sites will automatically terminate. In addition, Tribute in its sole discretion may suspend or terminate your user account and/or suspend or terminate some or all of your access to the Sites at any time, with or without notice to you. You may terminate your account at any time by contacting Tribute at support@tributebook.com. After your account is terminated, information and content previously provided by you will no longer be accessible through your account, but Tribute may continue to store such information and content, and it may also be stored by third parties to whom it has been transferred through your use of the Sites.

10. Modification of the Terms. Tribute reserves the right at any time to modify these Terms and to impose new or additional terms or conditions on your use of the Sites. Such modifications and additional terms and conditions will be effective immediately upon updating this posting of the Terms. You should, therefore, periodically visit this page to review the current Terms, so you are aware of any such revisions to which you are bound. Your continued use of the Sites following the posting of revisions to these Terms will be deemed acceptance of any modifications to the Terms.

11. Disclaimers of Warranties. THE SITES AND PRODUCTS ARE PROVIDED “AS IS” AND ON AN “AS AVAILABLE” BASIS, WITHOUT WARRANTY OR CONDITION OF ANY KIND, EITHER EXPRESS OR IMPLIED. Although Tribute seeks to maintain safe, secure, accurate, and well-functioning services, we cannot guarantee the continuous operation of or access to our Sites, and there may at times be inadvertent technical or factual errors or inaccuracies. TRIBUTE SPECIFICALLY (BUT WITHOUT LIMITATION) DISCLAIMS (I) ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY OF INFORMATION, QUIET ENJOYMENT, AND TITLE/NON-INFRINGEMENT; AND (II) ANY WARRANTIES ARISING OUT OF COURSE-OF-DEALING, USAGE, OR TRADE. YOU ASSUME ALL RISK FOR ANY/ALL DAMAGES THAT MAY RESULT FROM YOUR USE OF OR ACCESS TO THE SITES OR PRODUCTS. TRIBUTE DOES NOT WARRANT OR GUARANTEE THE ACCURACY, COMPLETENESS OR TIMELINESS OF, AND DISCLAIMS ALL LIABILITY FOR, ANY ERRORS OR OTHER INACCURACIES IN THE INFORMATION, CONTENT, RECOMMENDATIONS, PRODUCTS, AND MATERIALS MADE AVAILABLE THROUGH THE SITES. TRIBUTE DOES NOT WARRANT THAT FILES AVAILABLE FOR PURCHASE AND/OR DOWNLOAD WILL BE FREE OF VIRUSES, WORMS, TROJAN HORSES OR OTHER DESTRUCTIVE PROGRAMMING. YOU ARE RESPONSIBLE FOR IMPLEMENTING PROCEDURES SUFFICIENT TO SATISFY YOUR NEEDS FOR DATA BACK UP AND SECURITY.

12. Limitation of Liability. IN NO EVENT WILL TRIBUTE OR ITS AFFILIATES, VENDORS, SUPPLIERS OR PARTNERS BE LIABLE TO YOU FOR ANY INCIDENTAL, SPECIAL, CONSEQUENTIAL, INDIRECT, EXEMPLARY OR PUNITIVE DAMAGES, (INCLUDING, WITHOUT LIMITATION, THOSE RESULTING FROM LOST PROFITS, LOST DATA, OR BUSINESS INTERRUPTION), WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), STATUTE, OR ANY OTHER LEGAL THEORY, WHETHER OR NOT TRIBUTE HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THESE TERMS, UNDER NO CIRCUMSTANCES SHALL TRIBUTE'S, OR ITS AFFILIATE'S, VENDOR'S, SUPPLIER'S, OR PARTNER'S, AGGREGATE LIABILITY TO YOU EXCEED THE LESSER OF THE AMOUNT YOU PAID TO US FOR THE PRODUCT OR SERVICE RELATED TO THE CLAIM, IF ANY, OR ONE HUNDRED DOLLARS (\$100). SOME JURISDICTIONS DO NOT ALLOW THE DISCLAIMER OF WARRANTIES OR LIMITATION OF LIABILITY IN CERTAIN CIRCUMSTANCES. ACCORDINGLY, SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

13. Interpretations and Disputes. YOU AND TRIBUTE ARE AGREEING TO GIVE UP ANY RIGHTS TO LITIGATE CLAIMS IN A COURT OR BEFORE A JURY, OR TO PARTICIPATE IN A CLASS ACTION OR REPRESENTATIVE ACTION WITH RESPECT TO A CLAIM. OTHER RIGHTS THAT YOU WOULD HAVE IF YOU WENT TO COURT MAY ALSO BE UNAVAILABLE OR MAY BE LIMITED IN ARBITRATION.

- A. ANY CLAIM, DISPUTE OR CONTROVERSY (WHETHER IN CONTRACT, TORT OR OTHERWISE, WHETHER PREEXISTING, PRESENT OR FUTURE, AND INCLUDING STATUTORY, CONSUMER PROTECTION, COMMON LAW, INTENTIONAL TORT, INJUNCTIVE AND EQUITABLE CLAIMS) BETWEEN YOU AND US ARISING FROM OR RELATING IN ANY WAY TO THESE TERMS OR YOUR USE OF THE SITES, INCLUDING ANY PURCHASE AND/OR USE OF OUR SERVICES OR PRODUCTS, WILL BE RESOLVED EXCLUSIVELY AND FINALLY BY BINDING ARBITRATION.
- B. If the location of your primary residence (or if you are a business entity, your domicile) is in the United States, arbitration will be administered by the American Arbitration Association ("AAA") in accordance with either the Consumer Arbitration Rules or the Commercial Arbitration Rules as applicable (the "AAA Rules") then in effect, except as modified by this Section, and the Federal Arbitration Act ("FAA") will govern the interpretation and enforcement of this Section; provided, that if the FAA is inapplicable for any reason, the applicable governing law identified in Section 14 shall apply, including with respect to Delaware law, Del. Code tit. 10 § 5701 et seq, without regard to choice of law principles. (The AAA Rules are available at adr.org or by calling the AAA at 18007787879.) Unless you and we mutually agree otherwise, any in-person arbitration hearings between you and us will take place in the applicable jurisdiction identified in Section 14 below.

- C. If the location of your primary residence (or if you are a business entity, your domicile) is in Canada, arbitration will be administered by the International Centre for Dispute Resolution Canada (“ICDR Canada”) in accordance with the Canadian Arbitration Rules (the “ICDR Canada Arbitration Rules”) then in effect, except as modified by this Section. (The ICDR Canada Arbitration Rules are available at ICDR Canada | ICDR.org or by calling the ICDR Canada at 1-844-859-0845.) The seat of arbitration shall be Toronto, Ontario. Unless you and we mutually agree otherwise, any in-person arbitration hearings between you and us will take place in the applicable jurisdiction identified in Section 14 below.
- D. Except as provided herein, the arbitrator will have exclusive authority to resolve any dispute relating to arbitrability and/or enforceability of this arbitration provision, including any unconscionability challenge or any other challenge that the arbitration provision or the Terms are void, voidable or otherwise invalid. The arbitrator will be empowered to grant whatever relief would be available in court under law or in equity. Any award of the arbitrator(s) will be final and binding on each of the parties and may be entered as a judgment in any court of competent jurisdiction. You and we agree that neither party shall appeal any award of the arbitrator, including any appeal on a question of law, question of fact or question of mixed fact and law.
- E. We will be responsible for paying any individual consumer’s arbitration/arbitrator fees. If an individual consumer prevails on any claim that affords the prevailing party attorneys' fees, the arbitrator may award reasonable fees to you under the standards for fee shifting provided by law. For the avoidance of doubt, this Section 13(E) shall only apply to individual consumers.
- F. You agree to an arbitration on an individual basis. In any dispute, NEITHER YOU NOR TRIBUTE WILL BE ENTITLED TO JOIN OR CONSOLIDATE CLAIMS BY OR AGAINST OTHER CUSTOMERS IN COURT OR IN ARBITRATION OR OTHERWISE PARTICIPATE IN ANY CLAIM AS A CLASS REPRESENTATIVE, CLASS MEMBER OR IN A PRIVATE ATTORNEY GENERAL CAPACITY. The arbitral tribunal shall not consolidate more than one person's claims, and shall not otherwise preside over any form of a representative or class proceeding. The arbitral tribunal has no power to consider the enforceability of this class arbitration waiver and any challenge to the class arbitration waiver may only be raised in a court of competent jurisdiction located in the jurisdiction set forth in Section 14 below.
- G. If any provision of this Section is found unenforceable, the unenforceable provision will be severed and the remaining arbitration terms will be enforced; provided, that in the event subsection (F) is found to be unenforceable, all of this Section 13 shall be deemed null and void and of no effect.

14. Contracting Entity; Governing Law. All references to “Tribute,” “we,” “us” or “our” in the Terms refer to the applicable entity specified in the table below, which is based on

the location of your primary residence (or if you are a business entity, your domicile). Additionally, these Terms are governed by the laws of the state or province identified in the table below based on the location of your primary residence (or if you are a business entity, your domicile), and without regard to conflict of law principles. To the extent that any lawsuit or court proceeding is permitted hereunder, you and Tribute agree to submit to the exclusive personal jurisdiction of the courts located in and for the “Exclusive Jurisdiction” identified in the table below, for the purpose of litigating all such disputes. Any cause of action or claim with respect to the Sites must be commenced within two (2) years after the action or claim arises or is discovered.

Your Primary Residence or Domicile	Applicable Contracting Entity	Governing Law	Exclusive Jurisdiction
Canada	Tribute Technology Canada, ULC, a British Columbia unlimited liability company	Ontario	Toronto, Ontario
United States and the rest of the world	Tribute Technology US, LLC, a Delaware limited liability company	Delaware	Madison, Wisconsin

15. Modification of the Sites. Tribute reserves the right to modify or discontinue, temporarily or permanently, some or all of the Sites at any time without any notice or further obligation to you. You agree that Tribute will not be liable to you or to any third party for any modification, suspension, or discontinuance of any of the Sites.

16. California Consumer Privacy Act. With respect to personal information Client shares with Tribute in connection with the Sites, Tribute will act as a service provider and as such, will not retain, use, or disclose such personal information other than on behalf of customer and for the purposes of preparing a Tribute Book.

17. General

- A. Entire Agreement. These Terms constitute the entire and exclusive understanding and agreement between you and Tribute regarding your use of and access to the Sites, and except as expressly permitted above may only be amended by a written agreement signed by authorized representatives of the parties.
- B. No Waiver. The failure to require performance of any provision shall not affect our right to require performance at any time thereafter, nor shall a waiver of any breach or default of the Terms constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

- C. Paragraph Headers. Use of paragraph headers in the Terms is for convenience only and shall not have any impact on the interpretation of particular provisions.
- D. Severability. In the event that any part of the Terms is held to be invalid or unenforceable, the unenforceable part shall be given effect to the greatest extent possible and the remaining parts will remain in full force and effect.

18. Notice to California Residents. Under California Civil Code Section 1789.3, you may contact the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs in writing at 1625 N. Market Blvd., Suite N-112, Sacramento, California 95834, or by telephone at (800) 952-5210 in order to resolve a complaint regarding the service or to receive further information regarding use of the service.