

Trustees Executors Online Will System

TERMS AND CONDITIONS

Terms of Purchase for an Online Will

These terms and conditions set out the basis on which Trustees Executors Limited provides an Online Will to you. By purchasing an Online Will, you are agreeing that these terms and conditions will apply.

1. In these terms and conditions, the following words mean:
 - 1.1 The words “we”, “us”, or “our” refer to Trustees Executors Limited
 - 1.2 The words “you” or “your” refer to the person or customer who purchased the Online Will.
 - 1.3 The words “default duties” refer to the default duties set out in sections 28 to 38 of the Trusts Act 2019.
 - 1.4 The word “loss” includes any loss of revenue or profit, any damages, any claims, any liability, and any costs (including the costs of legal representation on a solicitor client basis).
 - 1.5 The words “Online Will” refers to a Will created using the Online Will System.
 - 1.6 The words “Online Will System” refers to the tool used by you to enable you to create your Online Will.
 - 1.7 The word “price” refers to the cost of the Online Will or, where applicable, the relevant product or service.
 - 1.8 The word “terms” means these terms and conditions unless otherwise required by context.
2. When purchasing an Online Will, you will gain access to the use of our Online Will System for the purpose of preparing one Online Will. Our Online Will System is a useful tool designed to assist you in creating your Online Will. The Online Will System does not include personalised advice and will not be suitable for every person’s circumstances.
3. We have put together a guide 'Is an Online Will right for you? This is designed to help you to decide whether the Online Will is suitable for you. Whilst we have done our best to help you, the decision as to whether the Online Will System is a suitable tool for you is your decision and we will not be responsible if the Online Will System does not meet any specific needs.
4. We have created the Online Will System on the basis that you will be creating your own Online Will without any external influence or pressure and reflects your own wishes and intent.
5. When writing a will there are many factors to consider. New Zealand law provides mechanisms for certain people to make a claim against your estate (to obtain a share of your property after you die). Some important rules are set out in the Property (Relationships) Act 1976, the Family Protection Act 1955, and the Law Reforms (Testamentary Promises) Act 1949.

What you agree

6. You agree and understand that:
 - 6.1 The Online Will System is a tool to be used by you in creating your Will and is not a Will drafting service; and
 - 6.2 The comments or notes within the Online Will System are of a general nature and should not be taken as advice to you; and
 - 6.3 You will not rely solely on any information given by the Online Will System and will apply your own knowledge and wishes when preparing your Will; and
 - 6.4 You understand any legal and moral obligations you may have to provide for your family; and
 - 6.5 You understand that we do not review any Will created using the Online Will System to ensure the validity or accuracy of the Will; and
 - 6.6 The price is for the use of the Online Will System to create your own Online Will only and the price does not include the provision of any advice that you may need; and**
 - 6.7 We also provide services to write Wills and provide tailored advice (designed to let you know if your Will may not have the intended effect). These services are not included in our Online Will System and you have chosen not to purchase these services.**
7. You confirm that you understand making a Will cannot always prevent claims against your estate. If you are concerned that somebody may bring a claim against your estate, we do not recommend that you use the Online Will System but instead talk to one of our Trust Managers who will be able to draft a Will that is suited to your requirements.

The Trusts Act 2019

8. Under the Trust Act 2019, trustees have certain default duties that apply in relation to trusts unless the terms of a trust modify these duties. These duties can be found at sections 28 to 38 of the Trusts Act 2019.
9. Your Will may have the effect of creating a trust. The normal powers of administration set out in our Online Will state that your executor(s) and trustee(s) will not be bound by sections 31, 36, and 37 of the Trusts Act 2019 and that any professional executor(s) and trustee(s) may charge for their services.
10. If a person creating a trust pays for advice in relation to the establishment of the trust, the Trusts Act 2019 requires that the paid adviser must give advice in relation to any changes to the default duties set out in the Trusts Act 2019.
11. To avoid doubt, you have not paid us to give any advice (including advice in relation to the possible establishment of a trust).
12. If you do not agree with any term in your Online Will which opts out of default duties under the Trusts Act 2019, you may cross out the relevant provision (and initial this prior to signing your Will).
13. If we are appointed as an executor and trustee of your Will, but you have crossed the provisions of our Online Will (that opt out of the default duties of the Trusts Act 2019) it is possible that we will renounce our position as the executor and trustee of your Will. If all of the executors named in your Will are unwilling or unable to act, this may mean that your beneficiaries will need to apply to the court for a grant of administration.

Price

14. You must pay the price stated prior to your use of the Online Will System. This price is non-refundable unless there is a problem which prevents you from accessing the Online Will. If you believe that something has gone wrong and you have not received an Online Will, or if an exceptional circumstance applies, please contact 0800 878 783.
15. If you need technical support relating to the functionality of the Online Will System, or if you have not received your Online Will within three days of submitting it, please contact us on 0800 878 783 or at enquiries@trustees.co.nz. Please note that we do not give estate planning advice to people using the Online Will System.
16. You can upgrade an Online Will to a Will prepared by us by contacting us and an amount equal to the amount that you paid to use the Online Will System will be credited toward the cost of our preparing a Will for you.
17. The price for the Online Will includes the use of the Online Will System for creating one Online Will. There will be a further fee for any future Will or Wills made by you including any updates made following completion of your Online Will. Any further use or unauthorised duplication of the Online Will created is prohibited.
18. **You will not be able to make any amendments after you submit your completed answers to the questionnaire which generates your Will. Please check that you are satisfied with your answers to all questions before clicking on the "Complete" button.**

Payment

19. Payments of the price are made by credit card and are processed by a third party provider through the Stripe payment platform. By submitting your payment, you will be agreeing to the Terms and Conditions that are imposed by Stripe and which may be changed from time to time.
20. We are not responsible for any payment made by any third party banking or payment providers. This means that we are not responsible for the transaction between you, your bank, and the Stripe payment platform.

Your data

21. To use the Online Will System, you will need to provide certain data. The way that we collect and store your information can be found in the "Trustees Executors Online Will Privacy Statement." This policy may be updated from time to time but will comply with the applicable laws of New Zealand.
22. The Online Will System was created with the assistance of Automio Limited who prepared and manage the programme which adds the information you provide to your Online Will. Automio Limited also has access to the data that you provide. The way that Automio Limited stores your information can be found in the "Trustees Executors Online Will Privacy Statement." This policy may be updated from time to time but will comply with the applicable laws of New Zealand.
23. You agree that we may use your email address for the purpose of sending you promotional materials including newsletters and customer satisfaction surveys. You may unsubscribe from our newsletter by using the link within each newsletter.

Storage of your Will

24. Unless otherwise agreed by us, you are responsible for the safe storage of your Will.
25. It is important that you take responsibility for looking after your Will as we may not have any record of your wishes if your Will cannot be located for any reason. Whilst we (and Automio Limited) may store your information, we do not commit to doing so.

26. You are responsible for protecting your own electronic device to ensure that your data is protected.

Signing your Will

27. The Online Will System does not include any service to facilitate the signing or witnessing of your Will.
28. Any information provided by us regarding the method of signing your Will or the correct way to have your Will witnessed is intended as guidance only. This is not an exhaustive list of all law that relates to the witnessing of Wills and is of a general nature. If you have any concerns regarding the way that you need to sign your Will, we recommend that you contact an estate planning professional.
29. If you have an existing Will, you may wish to advise any other person (or trustee company or law firm) who holds your current Will that your Will has been updated. This is your decision and giving any such notification is your responsibility.

Intellectual property

30. The words used in your Online Will have been prepared carefully by our team of experts. These terms are and will remain our intellectual property. The unauthorised use or duplication of the terms in your Online Will is strictly prohibited.
31. Parts of the Online Will System are the intellectual property of Automio Limited. You agree that you will be liable for any loss caused to us or to Automio Limited if you copy, alter, modify, reproduce, reverse engineer, or otherwise utilise the Online Will System other than to create an Online Will for you.

No representations

32. You confirm that you have not relied on any representation or warranty by us that is not set out or referenced in these terms.

Our liability

33. Please read the guide "Is an Online Will right for you?" carefully. We are not liable if you have chosen to use the Online Will System and it is not suitable for your requirements.
34. We are not liable for any decision by you regarding the contents of your Online Will.
35. Our liability to you, your estate, and the actual or intended beneficiaries of your estate is limited to an amount equal to the price paid by you for the use of the Online Will System to produce one Online Will.

Termination

36. We reserve the right to cease the provision of all products and services at any time.

Refunds

37. If you are unable to complete your Will using the Online Wills System because the Online Will System is not available or is not operating as it is intended to operate for 10 days or more, then we will refund you the price paid by you to create your Online Will.
38. Other than as required by law or as set out in clause 37 above, you will not be entitled to a refund.

Miscellaneous terms

39. You agree to use the Online Will System in accordance with New Zealand Law.
40. The Online Will System, the sale of the Online Will to you, and these terms are subject to the laws of New Zealand Law.
41. Nothing in these terms is intended to limit any liability that cannot be limited by New Zealand law. If any of these terms are found not to comply with New Zealand law, then these terms should be modified to the minimum extent necessary to comply with New Zealand law.
42. Each term in this agreement may be read severally (take to apply separately from) to the other terms. If any court, agency, or arbitrator determines that any one or more of these terms does not apply for any reason, the remaining terms will still apply.
43. These terms may be amended by us from time to time. Any purchase of an Online Will is subject to any terms that apply at the time that purchase is made.
44. **You are responsible for making a new Will if your circumstances changes or if your wishes change.** Reasons to consider making a new Will may include entry into a new relationship or marriage, leaving a relationship or divorce, having children, the death of the people intended to benefit under your Will, the death of a trustee and executor or guardian named in your Will, or if your wishes have changed.