

## **Terms & Conditions of Trade**

### **1. INTRODUCTION**

**1.1** The Hirer agrees that prior to placing an order with the Supplier, the Hirer has read, acknowledged & agreed to the terms and conditions as set out hereunder.

**1.2** For the purposes of this contract, the Supplier is WA Machinery Hire & Sales Pty Ltd ABN 19 084 196 127 – 002, trading as The Bin Guys. The “Hirer” is the entity or person’s named on the hire contract with the Supplier.

**1.3** In these Conditions “Agreement” means Work Authorisation Agreement and “bins” means bin/s and services provided by the Supplier for waste removal.

### **2. RENTAL AGREEMENT**

**2.1** Supplier Agreement - The Supplier shall give the Hirer an Agreement specifying the work required to be done in order to fulfil the Hirer’s instructions.

**2.2** Acceptance by the Hirer - Where the Supplier has given the Hirer an Agreement:

(a) The Supplier need not commence work until the Agreement has been accepted by the Hirer;

(b) Acceptance by the Hirer of the Agreement will constitute acceptance by the Hirer of these Terms and Conditions.

In acceptance of the Agreement, the Hirer warrants that it has not relied on any representation by the Supplier and its employees and agents other than as supplied in writing in the Agreement.

**2.3** Supplier May Revise Agreement - The Supplier may amend the Agreement before the Order has been completed to take into account any rise or fall in the cost of performing the Order and the Supplier shall notify the Hirer of such amendment as soon as practicable thereafter. Upon the Supplier giving the Hirer notification of such amendment the amended Agreement shall be deemed to be the Agreement for the purposes of the Terms and Conditions.

**2.4** Verbal Confirmation - In the absence of a written Agreement and for practical purposes it is agreed that verbal confirmation shall also be binding.

### **3. DELIVERY**

**3.1** Bins – Delivery of the Bins shall be made to the Hirer’s nominated address.

The Hirer shall make all arrangements necessary to take delivery of the Bins whenever they are tendered for delivery. Delivery of bins to a third party nominated by the Hirer is deemed to be delivery to the Hirer for the purpose of this agreement. The failure of the Supplier to deliver shall not entitle either party to treat this contract as repudiated. The Supplier shall not be liable for any loss or damage whatever due to the failure by the Supplier to deliver the bins (or any part of them) promptly or at all.

### **4. PAYMENT**

**4.1 Time for Payment** – The Hirer will receive the Supplier’s invoice from delivery date of the bins and must pay the Supplier the total amount set out in the invoice at the time the Supplier has specified in the Agreement.

**4.2 Interest** - The Supplier may charge interest at 9.5% per calendar month on amounts not paid within the time specified in the Agreement plus an administration fee of \$22 for each month any amount is overdue.

**4.3 Credit Card Payment** – Credit card payments may incur a 3% surcharge in addition to clause 4.4.2.

**4.4 Dishonoured Cheques** - Dishonoured cheques will attract an administration fee of \$55 incl GST.

**4.5 Damages** - The Hirer must pay to the Supplier any costs, expenses or losses incurred by the Supplier as a result of the Hirer’s failure to pay to the Supplier all sums outstanding as owed by the Hirer to the Supplier including without limiting the generality of the forgoing any debt collection and legal costs incurred in enforcing payment on a Solicitor and own client basis.

**4.6** In the event of non payment, bankruptcy or insolvency all waste is deemed to belong to the Hirer until payment is made and the Supplier reserves the right to:

- (a) unload their bins at the Hirer’s site prior to removal and
- (b) remove their bins from the Hirer’s site.

## **5. DISPUTES**

**5.1** Queries/disputes relating to invoices and/or statements received by the Account Holder should be reported to the Supplier’s office within 5 working days of receipt of said invoice and/or statement.

**5.2** The Hirer shall contact the Supplier, within Eight (8) hours of delivery to site, should the bins not match the specifications confirmed on the order.

## **6. RETENTION OF TITLE**

**6.1** The Suppliers bins remain the property of the Supplier at all times.

**6.2** The Hirer shall indemnify the Supplier from any loss or damage to the Suppliers bins while in the Hirer’s care.

**6.3** The Hirer shall not remove, deface or cover up identifying marks, nor shall the Hirer cause to remove the bins from their initial location without prior approval from the Supplier.

## **7. LIABILITY**

**7.1 Indirect Losses** – Notwithstanding any other provision of these Terms and Conditions, the Supplier is in no circumstances (whatever the cause) liable in contract, tort including without limitation, negligence or breach of statutory duty or otherwise to compensate the Hirer for:

- (a) any increased costs or expenses;

- (b) any loss of profit, revenue, business, contracts or anticipated savings;
- (c) any loss or expense resulting from a claim by a third party; or
- (d) any special, indirect or consequential loss or damage of any nature whatsoever caused by the Supplier's failure to complete or delay in completing the Order or to deliver the bins.

**7.2 Exclusion of Consequential Liability** – The Supplier shall not be responsible or liable for damage, personal injury or loss of any kind whatsoever, to any property or person howsoever caused arising from the delivery, pickup or use of the bins at the Hirer's site, unless such loss or damage was caused by the negligence of the Supplier, its agents, sub suppliers or employees.

## **8. PRIVACY**

**8.1** The Hirer hereby authorises the Supplier to collect, retain, record, use and disclose consumer and/or commercial information about the Hirer's credit worthiness, credit standing, credit history or credit capacity, in accordance with the Privacy Act 1988, to persons and/or legal entities who are a Solicitor or any other professional consultant engaged by the Supplier, a Debt Collector, Credit Reference Organisation and/or any other individual or organisation which maintains credit references and/or default listings.

**8.2** The Hirer also authorises the Supplier to make enquiries with respect to the Hirer's consumer and commercial credit worthiness.

## **9. ADDITIONAL CHARGES**

**9.1** Over filled bins requiring unloading to ensure they comply with transport requirements will be at the hirers expense. Wasted journey fees will be charged to the bin hirer should the bin not be able to be retrieved as per clause 9.9

**9.2** The Hirer shall indemnify the Supplier from costs should bins be ordered and delivered and subsequently not be required by the Hirer or the specific drop off location offered by the Hirer in the opinion of the Supplier's driver be deemed to be unsafe or inaccessible.

**9.3** The Supplier reserves the right to charge a cleaning fee for excessive amounts of paint, plaster, concrete and other such products disfiguring the exterior of the bins.

**9.4** In the event of a non-approved use and/or relocation of bins by the Hirer, the Supplier reserves the right at all times to access the site to remove or recover the bins and charge the Hirer for:

- (a) any damage to the Supplier's bins;
- (b) any expense incurred in recovering and/or removing the bins.

**9.5** Travelling time may be charged when the time and distance exceeds those normally allowed for in the Agreement. The Supplier will notify the Hirer when confirming the hire. The standard rate is charged at \$27.50 incl GST per 15 minute increment or part thereof.

**9.6** An additional charge may be incurred when clear and/or safe access is not available to the Supplier's driver when delivering or removing bins, resulting in the Supplier's driver needing to wait until the access problem is rectified. The standard rate is charged at \$27.50 incl GST per 15 minute increment or part thereof.

**9.7** The Hirer shall indemnify the Supplier from any damage to property caused in the execution of the delivery or removal of bins when clear access has not been made available by the Hirer.

**9.8** The Hirer shall indemnify the Supplier from damage caused to truck tyres should the Hirer or their representative instruct the Supplier's driver to drive over unpaved ground or objects that may reasonably be considered to have contributed to such damage.

**9.9** Wasted Journey fee's will be charged to the hirer should any bin not be available for pick up or delivery upon arrival from the supplier if no prior notification has been made. The standard rate is \$88.00 inc GST Plus any waiting time on site as per clause 9.6 of this agreement.

**9.10** Council permits & fees. The hirer is responsible for all skip bin arrangements as per clause 3.1. The Hirer shall pay & be liable for all permits, fees, ticketed parking costs and the like. Fines & penalties imposed by any local government authority will be invoiced to the hirer at cost, payable in full within 7 days of invoice.

**9.11** DIFFICULT TO HANDLE MATERIALS. An additional fee will be charged for bins that contain difficult to handle materials.

This is necessary to keep our standard skip bin charge as low as possible.

Difficult to handle materials are materials that require burial at a putrescible landfill site as there is no other option for disposal.

Examples include CCA treated timber & copper logs, Carpet, Rubber carpet underlay, artificial turf mixed with sand or rubber fill, reconstituted rubber surfacing such as playground soft fall.

Please contact our office if you are unsure about this policy.

The charge is \$22.00 per cubic metre Inc. GST on top of the standard bin charge for difficult to handle materials for bins that contain more than 10% by volume.

**9.12** Hazardous materials will incur a handling charge of \$110.00 per cubic metre to re load any skip bin or handle the hazardous material on site. This charge covers labour & PPE equipment used to handle the hazardous materials & is in addition any other fee or charge for bin hire & disposal of hazardous waste as per clause 10.2. Loads containing leaking fluids such as oils, paint, herbicides or pesticides, waste contaminated putrescible waste such as food & nappies, syringes, asbestos or asbestos related products such as hessian backed carpet older than 25 years, vinyl flooring containing asbestos & fence sheeting are examples of where this charge would apply.

**9.13** Concealed hazardous waste such as car tyres will incur a charge if not picked up from our recycling yard within 48 hours.

Tyres are \$16.50 Inc. GST per tyre for disposal & liquids such as paint, oils or pesticides in sealed containers is \$5.50 per litre Inc. GST, based on the volume of the container - irrespective of how much liquid is contained within.

**9.14** Oversize loads – Loads that are deemed to have unreasonable or oversized materials placed within them will have an additional fee charged dependant of the item within the bin confines. The bin will remain on site until remedied & additional charges for wasted journeys & weekly rental will be incurred by the bin hirer. This is to ensure the safety of the operator whilst tipping & lifting the bin & also to protect the bin lifting equipment – large loads can

damage the lifter by not discharging or that become stuck or entangled within the bin lifting chains causing the lifter to twist. Examples of oversize material is where a particular piece of material weighs in excess of 250KG or is larger than 1 metre x 600mm x 400mm. Where oversize material is found to be hidden within the bin such as wet concrete may require the use of a crane to lift the material out or labour hire to break the material up with a jackhammer.

## **10. MISCELLANEOUS**

**10.1** No regulated waste types including but not limited to rubber waste such as tyres & carpet underlay, asbestos, medical & radioactive waste, LPG gas cylinders, paint, chemicals, petroleum fuels, oil & jellies or liquids are to be placed in the bins.

**DELIBERATE CONCEALMENT OF HAZARDOUS WASTE IS ILLEGAL & SEVERE PENALTIES APPLY BY LAW.**

**10.2** Removal of regulated waste types or any other toxic material is not a service provided by the Supplier. The Hirer shall indemnify the Supplier from any costs, expenses or losses incurred should the Hirer not comply.

**10.3** Burning rubbish in bins is not permitted. The Hirer shall indemnify the Supplier from any costs involved in the cleaning and repairing of bins affected in this way. Fire can structurally damage bin beyond repair & replacement of such will be charged to the hirer.

**10.4** When placement of bins requires a permit, it is the responsibility of the hirer to ensure this is done prior to the delivery taking place. The Hirer will indemnify the supplier from any cost's, notices & fines if this clause is not adhered to. In addition clause 9.9 wasted journey fees will apply if the bin delivery is not effected.

**10.5** Not all the Supplier's bins have been constructed or approved for crane use. Therefore before crane use the Hirer must contact the Supplier to confirm the bins supplied to the Hirer have been crane approved.

**10.6** All green waste is to be separated from the load & placed last on top of the bin. Green waste is all timber, wood, grass, Tree, shrub & palm type products. Additional contamination fees will apply if the bin is found to have green waste mixed through the load. The standard excess charge is \$22.00 per cubic metre inc GST.

**10.7** The hirer indemnifies the supplier from all costs relating to damaged property such as but not included to driveways, lawn, sprinklers & irrigation when placing or retrieving the bin from the hirers specified bin placement position.

**10.8** Ten (10) metre skip bins shall not be filled past the heavy line with concrete rubble or sand or a greater load than 12 tonnes placed within to comply with road safety requirements. The ten (10) metre bins are not rated to lift weights greater than 12 tonnes & any damage to the bin whilst lifting will be deemed the responsibility of the hirer. All charges for repair or replacement will be charged to the hirer & the hirer will indemnify the supplier for all costs & liability.

**10.9** Governing Law and Jurisdiction - These Terms and Conditions are governed by the law in force in the State or Territory in which the Supplier's premises are located and the parties

submit to the non-exclusive jurisdiction of the courts of that State or Territory and any courts which may hear appeals from those courts in respect of any proceedings in connection with these Terms and Conditions.

## **11. SAFETY**

**11.1** All job sites are to be made safe prior to delivery of bins – overhead powerlines and tree branches must be checked for access & clearance, building materials should allow for 1 metre of clear access around the bin at all times for operator safety.

**11.2** The bin Hirer is responsible for ensuring that the work site is safe for all contractors as per WA Worksafe Legislation.

**11.3** All bins are to be made safe for transport prior to collection – no open bin doors, no objects protruding over or above bin & no objects leaning against bin such as timber or scaffold.

**11.4** Clear access shall be provided on bin collection, scaffold must be at least 1 metre from all bin sides & 4 metres above bin at all times.

**11.5** All bin deliveries on any major arterial road must have traffic management supplied on both delivery & collection.

**11.6** The Hirer acknowledges they are responsible for complying with Main Roads WA Transport Legislation <https://www.mainroads.wa.gov.au/UsingRoads/HeavyVehicles/Compliance/Pages/CoR.aspx>.

**11.7** The Hirer acknowledges they are responsible for complying with the above requirements & any other relevant legislation with regards to safety & duty of care, including but not limited to disposal of hazardous materials such as asbestos.

**11.8** The hirer acknowledges they may be responsible for anything that comes off our truck such as bricks and tiles based on the Chain Of Responsibility legislation - <https://www.mainroads.wa.gov.au/Documents/CoR%20Fact%20Sheet%20No%203%20-%20Loader%20-%20Packer.RCN-D17%5E23697940.PDF>

**11.9** You are also responsible under this law to ensure the bin is safe to transport & not overfull as per the national load restraint guide 2004.