

Note that this document does not refer to any skip bin mounted on a trailer (a “Mobile” skip bin).

The person or entity described on any credit application, enquiry or request for hire (“the Customer”) agrees to hire from Mega Hire Holdings PTY LTD, ABN 45 618 228 434 (“the Owner”); and the Owner agrees to hire to the Customer the Equipment on the following terms and conditions.

1. Definitions

In these terms and conditions:

“**ACL**” means Australian Consumer Law.

“**Additional Charges**” means the additional charges which may apply to the provision of the Services under this Agreement in the relevant month pursuant to clause 6.8, as set out in the Agreement Details and these terms and conditions;

“**Agreement**” means the agreement between the Customer and the Owner constituted by these terms and conditions and any Hire Document, guarantee and any alterations or variations subsequently agreed in writing between the parties.

“**Agreed Rates**” means the rates specified in the Hire Document, or as otherwise agreed by the parties;

“**Average Weight Band**” means the average Weight Band that applies to the Waste after no less than 5 successive weighs;

“**Commencement Date**” means the date specified in the Hire Document;

“**COR Laws**” means the Heavy Vehicle National Law or its equivalent as enacted in each relevant state and territory of Australia in so far as they relate to “Chain of Responsibility”;

“**Customer**” means the party named in the Agreement;

“**Disposal Costs**” means the treatment and / or disposal costs imposed by the relevant facility treating and / or disposing of the Waste;

“**Early Exit Fee**” is the amount specified in the Hire Documents;

“**Economic Write-off**” means a determination by the Owner, or any person with a right of subrogation over the Owner and/or the Equipment, that the Equipment is damaged to such a degree that it is uneconomical to repair the Equipment.

“**Equipment**” means the containers or any other equipment Mega Hire provides to the Customer specified in the Hire Document;

“**Futiles Fee**” means the amount specified in the Agreement Details, to be charged in accordance with clause 6.8;

“**Hire Charge**” means the amounts detailed on any quotation or estimate provided to the Customer, as noted in the Hire Document and/or attached to this agreement, including but not limited to the hire fee, damage waiver fee, deposit fee, and excess weight fee or any additional surcharges and fees resulting from additional day hires of the Equipment, payable by the Customer to the Owner.

“**Hire Document**” means

(a) any credit application, quotation, estimate or acknowledgement of order produced by the Owner in response to any request, purchase order, invitation or other enquiry by the Customer;

(b) any documents created for the purpose of evidencing the delivery, collection, removal, addition or alteration of the Equipment; and

(c) any documents produced by the Supplier in relation to any transaction entered into by the parties pursuant to these terms and conditions.

“**Hazardous Waste**” means hazardous waste as that term is defined in Annex III to the Basel Convention as well as was with explosive, flammable, poisonous, toxic, ecotoxic or infectious characteristics. It may include, but is not limited to radioactive waste, paint, medical waste, asbestos, acids, liquids and fire ants. The cost of disposal of any Hazardous Waste is the liability of the hirer.

“**Initial Term**” means the period set out in the Hire Document commencing on the Commencement Date;

“**Insolvency Event**” means any action is proposed, threatened or commenced that has the object of any compulsory or voluntary process pursuant to the Corporations Act 2001, the Bankruptcy Act 1966 or any common law power resulting in the appointment of a receiver or other external controller to the property of any entity or the control and management of any entity.

“**Landfill Levy**” means the government levy imposed on the disposal of Waste in landfill, as set out in the relevant legislation of each State and Territory;

“**Other Waste**” means any waste other than the Waste;

“**Owner**” means Mega Hire Holdings PTY LTD (“the Owner”), its employees, agents, successors and assigns. and includes persons who act as agents managing the hire process.

“**Personal Information**” has the meaning given in the Privacy Act;

“**Personnel**” means, in relation to a party, the directors, officers, agents, employees and sub-contractors of that party;

“**Privacy Laws**” means the Privacy Act, together with any applicable State or Territory health privacy legislation;

“**Replacement Value**” means the total cost to the Owner, including all delivery and statutory charges of purchasing the relevant Equipment of an equivalent age and condition, excluding Equipment that is less than 12 months old which will be valued as new equipment.

“**Services**” means the services to be provided by Mega Hire to the Customer, as set out in the Hire Document;

“**Site**” means the location(s) specified under Site Collection Details in the Hire Document, as amended from time to time in accordance with this Agreement;

“**Term**” means the Initial Term and any extension to the Initial Term in accordance with clauses 8.2 and/or 8.3;

“**Volume**” means the size of the bin multiplied by the number of the collections undertaken by Mega Hire in the time period specified in the Hire Document;

“**Waste**” means the waste specified in the Agreement Details;

“**Weight Band**” means the range in which the Customer has agreed that its Waste will weigh for each scheduled collection of Waste, as specified in the Agreement Details.

2. Services

2.1 The Customer appoints Mega Hire, and Mega Hire agrees, to provide the Services to the Customer for the Term, as set out in this Agreement.

2.2 Following notice to the Customer, Mega Hire may suspend the Services if:

- (a) Mega Hire reasonably determines that it cannot access the Site safely; or
- (b) the Customer has not paid the Hire Charges by the due date for payment.

2.3 The Customer must notify Mega Hire immediately if it wants to change the Waste type, or increase the Services, in which case Mega

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Hire may adjust the Hire Charges by giving the Customer prior notice of such adjustment.

2.4 The volume of Services at the Commencement Date is an agreed minimum Volume (Agreed Minimum Volume) which may only be reduced by the Customer during the Term if:

(a) the Customer provides Mega Hire with at least 14 days' written notice; and

(b) the proposed reduction is no more than 50% of the Agreed Minimum Volume.

2.5 If the Customer requests a reduction in the Volume of Services under clause 2.4 that is more than 50% of the Agreed Minimum Volume, the Customer acknowledges and agrees that Mega Hire may, following notice to the Customer, adjust the Hire Charges in accordance with the Agreed Rate.

2.6 The Customer may request additional unscheduled collections in relation to any Waste. If Mega Hire agrees to such request, the Customer will be charged for the unscheduled collection in accordance with the Agreed Rate for collections.

3. Site

3.1 Mega Hire will not commence or continue performing the Services until and unless Mega Hire is satisfied that it will have unobstructed and safe access to the Site.

3.2 The Customer must notify Mega Hire immediately if the Site, or access to the Site, changes during the Term (including a relocation of the Site). Mega Hire may adjust the Hire Charge as a result of such change to the Site and will notify the Customer in writing within 7 days of any such adjustment.

3.3 Subject to clause 3.2, if the Customer relocates its Site, this Agreement will continue and will apply to the relocated site.

4. Waste

4.1 In the event that either party notices that the Waste is contaminated with Other Waste, it must notify the other party of the contamination (and the nature of the Other Waste). Following such notification, Mega Hire may, at its discretion:

(a) not collect the contaminated Waste and direct the Customer to remove the Other Waste from the Equipment; or

(b) collect the contaminated Waste and Other Waste and invoice the Customer for the transport and disposal of the contaminated Waste and Other Waste. The Customer will be charged for this collection in accordance with the documented costs incurred by Mega Hire for transporting and disposing the contaminated Waste and Other Waste, or the Agreed Rates if applicable.

4.2 The Waste becomes Mega Hire's property once the Waste has been collected from the Equipment by Mega Hire.

4.3 The Customer's waste will not exceed a weight determined by Mega Hire as reasonable

4.4 Title and risk in the Other Waste remains with the Customer until it is disposed at a waste facility.

4.5 The Customer must store all Waste securely inside the Equipment.

4.6 The Customer must not overfill the Equipment or place Waste or Other Waste beside, around or on top of the Equipment.

5. Health, Safety and Environment

5.1 The Customer warrants that its activities related to generation of the Waste are lawful.

5.2 The Customer must act, and use the Equipment, in accordance with any Safety Instruction Sheet or direction from Mega Hire.

5.3 The Customer must at all times identify and exercise all reasonable precautions to ensure that no person is exposed to risks to their health or safety in relation to the Equipment or the provision of the Services.

5.4 The Customer must provide Mega Hire with complete and accurate information:

(a) in the required form under relevant laws or any licenses, certification, authorisations or approvals and required by Mega Hire to provide the Services;

(b) about the type, nature and amount of the Waste; and

(c) which is known or becomes known to the Customer at any point during the Term which could impact on the environment or health and safety arising from the provision of the Services, or could impact on Mega Hire's obligations under relevant laws in respect of the handling of the Waste.

5.5 The Customer and Mega Hire must comply with all legal and regulatory requirements relating to the Services, including any applicable COR Laws.

5.6 The Customer must promptly notify Mega Hire of any incident, injury, property damage or environmental damage which occurs in relation to the Equipment or the provision of the Services.

5.7 If Mega Hire agrees to handle or collect any Other Waste from the Customer, the provisions relating to the Waste in this clause 5 will also (to the extent applicable) apply to the Other Waste.

6. Hire rates and Payment

6.1 The Hire Charges for the applicable Term shall be as set out in the Hire Documents.

6.2 Unless the Customer is Credit Approved, the Hire Fees must be paid to Mega Hire at the start of the Hire Period.

6.3 If the Customer is Credit Approved, the Customer must pay their account within 30 days from the end of the month of the date of issue

6.4 The Hire Charges are payable in full regardless of whether or not the entire Term is used and no credits or refunds will be given in respect of Equipment that is returned prior to the expiry of the Term.

6.5 All amounts expressed in these terms and conditions and any Hire Document are in Australian Dollars and exclusive of GST.

6.6 The Customer authorises and directs the Owner to charge the any credit or debit card offered by the Customer or noted in any Hire Document, with the Hire Charge as well as any additional charges, including, but not limited to those fees or charges resulting from extended hire, overloading, loading of forbidden goods, fines and penalties imposed by any regulatory agency, transport and recovery costs, legal expenses and recovery of any loss or damage related to this agreement or the hire of the Equipment.

6.7 Any liability of the Customer that is unpaid when due will attract interest at the rate of 1.5% per month

6.8 In addition to the Hire Charges, Mega Hire may charge the Customer the following Additional Charges:

(a) the Futility Fee if Mega Hire attends the Site but is unable to collect the Waste:

(i) pursuant to clauses 2.2(a) or 4.5;

(ii) because its personnel reasonably determines that the Waste and/or Equipment is physically inaccessible and cannot be made physically accessible within 10 minutes; or

(iii) because there is no Waste to collect;

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(b) the Credit Card Surcharge; and

(d) any charges in accordance with clauses 2.6 and 4.1(b).

6.9 If the Customer's Average Weight Band exceeds the Weight Band, then Mega Hire may, on prior notice to the Customer, adjust the Hire Charges for the remainder of the Term accordingly.

6.10 If the Waste contains recyclable material, and if the Customer's Average Weight Band is less than the Weight Band, then Mega Hire may, on prior notice to the Customer, adjust the Hire Charges for the remainder of the Term to cover the loss of any applicable rebate to Mega Hire for such material.

6.11 During the Initial Term and any extension under clause 9.3, the Hire Charges may be adjusted by Mega Hire in the event of any increase in the Disposal Costs of the Waste or Other Waste, to the extent of the direct cost impact on Mega Hire of such increase.

6.12 If the Customer does not accept adjustment of the Hire Charges under clause 6.11, it may terminate this Agreement by giving at least 60 days' prior written notice to Mega Hire and will not incur the Early Exit Fee under clause 10.2.

6.13 The Hire Charges may be adjusted by Mega Hire in the event of the introduction of, or increase to, any charge, tax, levy (including Landfill Levies), other impost or scheme (including any greenhouse gas emission scheme) by any relevant governmental authority or change to legislation that increases the cost of Mega Hire performing the Services to the Customer.

6.14 Mega Hire will notify the Customer in advance in writing of any adjustment to the Hire Charges pursuant to this clause 6 and will provide supporting evidence where reasonably possible.

6.15 Mega Hire will invoice the Customer in relation to the Services performed in the preceding month, and the invoice will specify the Hire Charges, Additional Charges and the applicable GST.

6.16 The Customer must pay the full amount of the invoice to Mega Hire within 14 days of the date of the invoice in accordance with the Credit Terms and Conditions, or as otherwise indicated on the invoice.

7. Equipment

Mega Hire will provide the Equipment, which will remain Mega Hire's property at all times, and which will be at the Customer's risk from the date that the Equipment is delivered to the Site.

The Customer must:

(a) use the Equipment for the Waste only;

(b) place the Equipment only in agreed locations at the Site;

(c) not remove, damage, or deface the Equipment, or remove any marks, labels or other notations from the equipment that identify it as property of Mega Hire;

(d) maintain the cleanliness of the Equipment;

(e) provide any necessary services or utilities required to operate the Equipment or as requested by Mega Hire from time to time;

(f) promptly notify Mega Hire if any of the Equipment is broken, damaged or stolen, and the Customer must pay for the repair or replacement of any broken, damaged or stolen Equipment (excepting fair wear and tear); and

(g) not encumber or charge the Equipment in any way or otherwise permit any third party to have any security interest over the Equipment.

(h) The Owner may demand possession of the Equipment at any time, regardless of the Term or other arrangement.

8. Liability and Indemnity

(a) The Customer is strictly liable for the loss of (including complete loss, destruction or Economic Write-off), and all damage to, the Equipment, loads or goods carried by the Equipment, any personal property left in the Equipment, and property of any person damaged or lost by the use of the Equipment. This loss includes not only the material loss of the mobile skip but also the loss of earnings ordinarily derived by the mobile skip as determined by the Owner and any administrative and transport costs incurred in the recovery of this loss.

(b) The Customer will pay, on demand by the Owner, the cost of repair or replacement of the Equipment and hereby authorises and directs the Owner to charge any credit or debit card offered by the Customer, or noted in any Hire Document, with such costs.

(c) In the case of complete loss, destruction or Economic Write-off the Customer will be liable for the replacement value of the Equipment or, \$2,000 + GST, whichever is the greater.

(d) A statement signed by any officer or employee of the Owner as to the amount of loss is prima facie evidence of the liability of the Customer.

(e) The Customer's failure to return the Equipment prior to the end of the Term will result in an immediate liability to pay the daily hire rate specified in any Hire Document for each day, or part thereof, past the end of the Term.

(f) Mega Hire will not be liable to the Customer for loss caused or contributed to by the Customer or its employees, contractors or clients.

(g) The Customer indemnifies Mega Hire, its officers, employees, subcontractors and agents against all loss, damage or liability suffered or incurred by Mega Hire arising from or as a consequence of any personal injury, illness or death of any person, to the extent that such loss, damage or liability is caused or contributed to by any act or omission of the Customer, or its agents or contractors.

9. Term

9.1 This Agreement will commence on the Commencement Date and continue for the Initial Term, provided that the Customer has submitted a Credit Application and satisfactorily passed a credit check.

9.2 Subject to clause 9.3, following expiry of the Initial Term, this Agreement will continue on the same terms as during the Initial Term, terminable by either party by giving at least 60 days' prior written notice to the other party, provided that:

(a) the Customer either:

(i) provides written notice to Mega Hire that it consents to the continuation of the Agreement following the expiry of the Initial Term; or

(ii) otherwise by conduct indicates that it intends to continue to be bound by this Agreement following the expiry of the Initial Term, for example by continuing to deposit Waste in the Equipment following expiry of the Initial Term; and

(b) neither party has provided prior written notice to the other party requesting that the Agreement be terminated on the expiry of the Initial Term.

9.3 Mega Hire and the Customer may agree in writing to extend the Agreement beyond the expiration date of the Initial Term, for a specific period, in which case clause 9.2 will apply on the expiry of that subsequent period.

10. Termination or Expiry

10.1 The Customer may terminate this Agreement immediately by written notice to Mega Hire at any time if Mega Hire:

- (a) becomes bankrupt, insolvent or subject to any external administration; or
- (b) is in material breach of any term of this Agreement provided that:
 - (i) the Customer has notified Mega Hire of the material breach; and
 - (ii) the material breach has not been remedied within 7 days of receipt of notification in clause 10.1(b)(i).

10.2 If the Customer terminates this Agreement, or any part of it (other than in accordance with clause 10.1), or if Mega Hire terminates this Agreement in accordance with clause 10.3, the Customer must pay Mega Hire:

- (a) any outstanding amounts under this Agreement; and
- (b) the Early Exit Fee. The Customer agrees that the Early Exit Fee is a genuine pre-estimate of Mega Hire's loss.

10.3 Mega Hire may terminate this Agreement immediately on written notice to the Customer, if the Customer:

- (a) fails to pay the Hire Charges under clauses 6.2 and 6.3;
- (b) becomes bankrupt, insolvent or subject to any external administration;
- (c) is in material breach of any term of this Agreement, provided that:
 - (i) Mega Hire has notified the Customer of the material breach; and
 - (ii) the material breach has not been remedied within 7 days of receipt of notification pursuant to clause 10.3(c)(i).

11. Exclusion of warranties

- (a) The Customer warrants and declares to the Owner that its use of the Equipment is commercial in nature and that the Customer is not a Consumer within the meaning of the ACL.
- (b) To the extent permitted by law, the Owner excludes all warranties, implied or express, in relation to the Equipment.
- (c) The liability of the Owner is limited to the supply of the services again, or the payment of the cost of having the services supplied again.

12. Termination by the Owner

- (a) The Owner may terminate this Agreement and immediately repossess the Equipment in any of the following events:
 - (i) the Customer's rights in the Equipment may or become prejudiced by any act or omission of the Customer.
 - (ii) the Customer is subject to an Insolvency Event;
 - (iii) the Customer breaches any provision of this agreement or fails to pay any amount owed to the Owner on any account when such amount is due.
- (b) Without prejudice to any other rights of the Owner, upon termination:
 - (i) the Owner may recover from the Customer any monies due and damages for breach of the agreement
 - (ii) The Owner may enter into or upon any premises where the Equipment may be located for the purposes of repossessing the Equipment.

13. Information and Privacy

13.1 The information that Mega Hire collects, receives or obtains under this Agreement may include Personal Information about the Customer and/or its Personnel or other third parties.

13.2 In performing this Agreement, each party must comply, and must make sure that its Personnel comply, with all Privacy Laws in respect of all Personal Information collected, held, used, disclosed and otherwise handled by them under or in connection with this Agreement.

13.3 By accepting this Agreement, the Customer consents (including on behalf of its Personnel) to Mega Hire collecting, holding, using and disclosing Personal Information as set out in this Agreement.

13.4 The Owner uses geolocation technology associated with the hire of the Equipment and the Customer acknowledges and consents to this.

14. General

14.1 If a party is prevented from or delayed in complying with an obligation (other than a payment of money under this Agreement) by an event beyond its reasonable control (other than as a result of its fault or negligence) (Force Majeure Event), performance by it of that obligation is suspended during that time, but only to the extent that compliance is prevented or delayed. A party so affected must notify the non-affected party as soon as practicable if it seeks to rely on this clause and must provide details of the cause and extent of the Force Majeure Event and the expected delay.

14.2 Any changes to this Agreement must be in writing and signed by Mega Hire and the Customer.

14.3 Notices required to be in writing may be given by letter, email, or in writing on an invoice, addressed using the party's contact details set out in this Agreement or as otherwise notified by that party.

14.4 This Agreement is confidential.

14.5 In the case of any inconsistency between the Hire Document and the terms and conditions set out in this Agreement, the terms and conditions take precedence.

14.6 Each party must notify the other of any dispute as soon as possible, which will if necessary be escalated through management in an effort to resolve the dispute in good faith. Despite the existence of a dispute, each party must continue to perform its obligations under this Agreement that are unaffected by the dispute.

14.7 This Agreement is subject to the laws of the State or Territory where the Services are performed and both parties submit to the jurisdiction of the courts of that State or Territory.

14.8 The Customer may not assign this Agreement without Mega Hire's prior written consent, which will not be unreasonably withheld.

14.9 The parties' relationship is one of supplier and customer and nothing in this Agreement infers or allows the Customer to represent that it has any other relationship with Mega Hire.

14.10 The Customer acknowledges and agrees that Mega Hire has entered into this Agreement in reliance on the Customer's acknowledgements and warranties contained in this Agreement.

14.11 Any provision of this Agreement which is void, illegal or otherwise unenforceable will be severed to the extent permitted by law without affecting any other provision of this Agreement.

14.12 In this Agreement, any reference to 'including' shall not limit any preceding words and the singular includes the plural.