

Terms and Conditions of Hires

The person or entity described on any credit application, enquiry or request for hire (“the Hirer”) agrees to hire from TFH Hire Services Pty Ltd ACN 128 947 759 as trustee for the TFH Hire Trust ABN 30 063 810 679 (“the Owner”); and the Owner agrees to hire to the Hirer the Equipment on the following terms and conditions.

1. Interpretation

In these terms and conditions:

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

“**Agreement**” means the agreement between the Hirer 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.

“**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 a mobile skip bin trailer and all equipment, accessories or component parts installed in or attached to the mobile skip bin trailer.

“**Owner**” means TFH Hire Services Pty Ltd ACN 128 947 759 as trustee for the TFH Hire Trust ABN 30 063 810 679, its employees, agents, successors and assigns. and includes persons who act as agents managing the hire process.

“**Hirer**” means the person or entity described on any Hire Document.

“**Hire Charge**” means the amounts detailed on any quotation or estimate provided to the Hirer 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 Hirer 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 Hirer;
- (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.

“**Hire Term**” means the period of hire specified in any Hire Document or any additional period calculated in accordance with these terms and conditions; and is operative from the time the Equipment comes into the possession of the Hirer until the time the Equipment is returned to the possession of the Owner.

“**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.

“**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.

“**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.

2. Hirers Obligations

It is the Hirers responsibility to ensure that:

- (a) the Equipment is not loaded past the rim and the lids are able to close at all times;
- (b) the weight of the contents placed in the Equipment do not exceed 1000kg;
- (c) the Hirer complies with all road and traffic regulations applicable to the operation of the Equipment in the State where the Equipment is being used.
- (d) Take out and maintain adequate insurance cover for third party liability, theft, fire and damage of and to the Equipment.
- (e) The Hirer inspects the Equipment and notify the Owner immediately of any damage.
- (f) The Hirer agrees that the rental equipment has been received in good working condition, and will be returned in the same condition, save for ordinary wear and tear.
- (g) The Hirer only uses the Equipment on roads that constitute the national road system or properly constructed driveways.
- (h) The Hirer immediately notifies the Owner of any incident involving the Equipment or damage to the Equipment and returns the Equipment to the Owner at the Hirer’s own expense.

3. Cancellation of order

- (a) The Hirer may cancel or modify an order for the Equipment upon giving written notice to the Owner at least 2 business days before the commencement of the Hire Term.
- (b) In all other circumstances the Hirer will be liable to a cancellation fee of \$100 plus GST.
- (c) The Owner may cancel any order for the Equipment if the Owner, acting reasonably, determines that delivery would provide a risk to the health and safety of any person, or a risk of damage to any property.
- (d) After cancellation by the Owner, the Hirer will be liable for the costs of attempted delivery unless the observed risk was beyond the control of the Hirer.
- (e) The Owner may cancel any order immediately without further liability to the Hirer if the Owner receives any notification from a card issuer of disputed or alleged unauthorised activity in respect of any credit card or debit card offered by the Hirer or noted in any Hire Document, or if the payment made by the Hirer is reversed, cancelled or is not otherwise completed.

4. Title and Ownership

- (a) The Equipment is the property of the Owner and the Hirer at no time does title transfer to the Hirer;
- (b) The Equipment is at the Hirer's risk for the Hire Term.
- (c) The Equipment shall at all times, be taken to be personal property of the Supplier and not fixtures, despite having been connected to another appliance or otherwise affixed to land owned or occupied by the Hirer or a third party.
- (d) The Hirer must identify and store the Equipment in a manner that clearly shows that it is the property of the Supplier.
- (e) The Owner may demand possession of the Equipment at any time, regardless of any Hire Term or other arrangement.
- (f) During the Hire Term the Hirer will not:
 - (i) a. Sell, offer for sale, assign, encumber, mortgage, pledge, or sub-let the Equipment or any interest of the Owner herein or create or allow to be created any security interest over the Equipment.
 - (ii) Part with possession of the Equipment.
 - (iii) Allow any lien to be created in respect of the Equipment.

5. Hire Rates And Payment

- (a) The Hire Charges for the applicable Hire Term shall be as set out in the Hire Documents.
- (b) Payment terms for hire of the Equipment are strictly in advance for the entirety of the Hire Period.
- (c) The Hire Charges are payable in full regardless of whether or not the entire Hire Period is used and no credits or refunds will be given in respect of Equipment that is returned prior to the expiry of the Hire Term.

- (d) All amounts expressed in these terms and conditions and any Hire Document are in Australian Dollars and exclusive of GST.
- (e) The Hirer authorises and directs the Owner to charge the any credit or debit card offered by the Hirer or noted in any Hire document, with the Hire Charge as well as any additional charges, including, but not limited to 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.
- (f) Any liability of the Hirer that is unpaid when due will attract interest at the rate of 2.5% per month

6. Hirer's Liability

- (a) The Hirer 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.
- (b) The Hirer 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 Hirer, or noted in any Hire Document, with such costs.
- (c) In the case of complete loss, destruction or Economic Write-off the Hirer will be liable for the replacement value of the Equipment or, \$3,000 + 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 Hirer.
- (e) The Hirer's failure to return the Equipment prior to the end of the Hire 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 Hire Term.
- (f) The Hirer is responsible for any traffic or parking offences incurred during the period of hire and will pay any camera fines or parking tickets incurred during such hire and consents to any personal details noted on any Hire Document being provided to a law enforcement agency for the purposes of nominating the Hirer as the person in charge of the Equipment.

7. Limitation of Liability

- (a) Under no circumstances shall the Owner be liable for any loss or damage howsoever caused (including as a result of a breach of contract or negligence of the Owner, its servants, agents, employees, contractors and assigns), including indirect or consequential loss or damage, or any special, punitive or exemplary damages), arising out of, or in connection with the Hirer's possession or use of the Equipment during the Hire Term, including but not limited to, death or personal injury or damages to tangible or intangible property of the Hirer or any third party.
- (b) The Hirer shall indemnify the Owner against all liability, claims, damage, loss, costs and expenses (including, without limitation, legal fees,

costs and disbursements on a full indemnity basis), whether incurred or awarded against the Owner, arising out of or in connection with the Hirer's possession or use of the Equipment during the Hire Term.

- (c) The indemnity in Clause (b) above is a continuing obligation, separate and independent from the other obligations of the parties and survives termination, completion and expiration of the Hire Term. It is not necessary for a party to incur an expense or make any payment before enforcing a right of indemnity conferred under these terms and conditions.

8. Exclusion of Warranties

- (a) The Hirer warrants and declares to the Owner that its use of the Equipment is commercial in nature and that the Hirer 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:
 - (i) In the case of goods, the replacement or repair of the goods or the supply of equivalent goods; or payment of an equivalent amount;
 - (ii) In the case of services the supply of the services again: or the payment of the cost of having the services supplied again.

9. Termination By The Owner

- (a) The Owner may terminate this Agreement and immediately repossess the Equipment in any of the following events:
 - (i) the Hirer's rights in the Equipment may or become prejudiced by any act or omission of the Hirer.
 - (ii) the Hirer is subject to an Insolvency Event;
 - (iii) the Hirer 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 Hirer 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.

10. Hirers Representations

- (a) The Hirer represents and warrants to the Owner that:
- (b) They have a current Australian Driver's licence and is licensed to drive a vehicle in any combination that involves the Equipment.
- (c) They have legal capacity to enter into this Agreement
- (d) They have not relied on any representation in entering this Agreement, other than those written herein.

11. General

- (a) The Owner will collect and use personal information that the Hirer provides pursuant to this Agreement.
- (b) The Owner will take reasonable steps to protect personal information from misuse, unauthorised access or wrongful disclosure and may disclose personal information to related and non-related third parties and store information about the Hirer in physical and electronic records storage applications.
- (c) The Owner uses geolocation technology associated with the hire of the Equipment and the Hirer acknowledges and consents to this.
- (d) The law of this agreement is the law of the State of Queensland, and the parties submit to the non-exclusive jurisdiction of the courts of Queensland.