

Terms and Conditions

Standard conditions of hire (short term)

1. BASIS OF AGREEMENT

- a. Unless otherwise agreed by the Company in writing, the terms apply exclusively to every agreement between the Parties.
The Company may vary or amend these terms at any time.
- b. Any quotation, price schedule or price lists provided by the Company to the Hirer is only valid for the period indicated by the Company and constitutes an invitation to treat only.
- c. An order is accepted by the Company when the Company accepts, in writing, an offer from the Hirer or provides the Hirer with the equipment.
- d. The Company may in its absolute discretion refuse to accept any offer.

2. EQUIPMENT

- a. The Hirer must provide the Company with any information necessarily required by the Company to process the Hirer's order, including but not limited to the equipment, quantity and type; the hire period and the premises on which the equipment will be located or installed
- b. The Hirer shall pay to the Company the hire charges for the period in accordance with the Company's invoice. Upon the expiration or termination of the hire period and/or these terms or at the Company's request, the Hirer must return the equipment to the Company in good repair, condition and working order, ordinary wear and tear accepted
- c. These terms automatically terminate one day before the 12 month anniversary of the first date of hire and the Hirer must return the equipment to the Company

3. PAYMENT AND DEFAULT

- a. All rental and other charges payable to the Company are strictly met and are payable within 7 days from the date of the Company's invoice. If not paid within the period specified, the Company may at its discretion, charge interest thereon at the rate of 10 per centum per annum computed from the date on which the sum became due until payment of the same, such interest being agreed liquidated damages by way of compensation for delaying payment and not by way of penalty.
- b. The hirer is liable for all stamp duties, gst, any other taxes or liabilities or charges due to any statutory body or authority incidental to the equipment hire



- c. If the Hirer defaults on its payment or if any order is made for the sequestration of the Hirers estate or if he shall enter into any composition or arrangement with his creditors, or being a company enter inter liquidation or breach any of the terms, the Company may terminate these terms at its option and retake position of all equipment and the Hirer authorises the Company by his servants, agents and employees to do all things and commit all acts which may be required for that purpose and that the Company may not be responsible for all or any claims, demands and causes of action of whatsoever kind of nature which may arise out of or as a result thereof. Any termination of these terms shall be without prejudice to the rights of the Company accrued prior to such termination.
- d. The Company may also charge the Hirer for and the Hirer must indemnify the Company from all expenses and costs (including legal costs and expenses) incurred by the Company, resulting from the default and in taking action to enforce its rights.

4. DELIVERY AND PICK UP OF EQUIPMENT

- a. The Company will arrange for the delivery of the equipment to the address specified by the Hirer.
- b. The Company will use its reasonable endeavours to meet any estimated dates for delivery but will not be liable for any loss or damage suffered by the Hirer for failure to meet any estimated date.
- c. The Company's delivery docket shall be prima facie of the contents state in it and the Hirer may not lodge a claim with the Company for non delivery or that the equipment were not clean, in good condition or proper working order unless the Hirer provides written notice of the discrepancy or defect to the Company within 7 days of delivery or expected delivery.
- d. The removal or reposition of equipment to another location shall be performed by the Company at the Hirer's cost unless the equipment was delivered incorrectly. If delivered incorrectly the Hirer must notify the Company immediately or within 7 days of delivery
- e. The Hirer must notify the Company when pick up of equipment is required.

5. USE OF EQUIPMENT

- a. The Hirer acknowledges it has satisfied itself as to the suitability, condition and fitness of purpose of the equipment and the Company has made no representations and given no guarantee or warranty that the equipment is suitable for the Hirers intended purpose.
- b. The Hirer must at all times keep and maintain the equipment in proper working order and condition, and in good and substantial repair, fair wear and tear excluded.
- c. The Hirer must operate and maintain the Equipment in accordance with applicable laws and recognised methods and standards for Equipment including compliance with any manufacturers operating manual.
- d. The Hirer must not sell, offer for sale, assign, mortgage, pledge under let, loan, permit any lien to exist ever, encumber, create a charge or security interest or dispose of the Equipment or his interest under these Terms in any way.



- e. The Hirer must not remove or re-locate the Equipment from the site or re-hire out the Equipment to a third party without the written consent of the Company.
 - f. During the Hire Period, the Hirer will be liable for any damage to or loss of the Equipment from any cause whatsoever including theft, storm, tempest, fire, act of God or other natural catastrophe but excepting fair wear and tear. The Company may recover from the Hirer as a debt due and payable for the cost of repairing and/or replacing the Equipment.
 - g. The Hirer acknowledges that it:
 - a. Does not have rights, title or interest in the Equipment except for those rights granted by the Company under these Terms;
 - b. May not claim any lien or interest in the Equipment to secure any liquidated or un-liquidated debt or obligation that the Company may owe to the Hirer;
 - c. Must not remove, deface or obliterate any identifying plate, mark or number or any of the Equipment; and
 - d. Must store the Equipment separately and securely and in such manner as to indicate that they remain the personal property of the Company.
 - h. Where the Equipment comprises:
 - a. The Company shall deliver, install and remove these equipment as required by the Hirer at the Hirer's cost; and
 - b. The Company will charge the Hirer a cleaning fee at the termination of the Hire Period if the equipment requires cleaning.
6. EXCLUSION OF LIABILITY AND INDEMNITIES
- a. The Hirer agrees to use, operate and possess the Equipment at the Hirer's risk and the Company has no responsibility or liability for any loss or damage to any property of the Hirer by reason of the use or possession of the Equipment by the Hirer.
 - b. To the full extent permitted by law, the Hirer agrees and discharges the Company (including its directors, shareholders officers, agents and employees) from:
 - a. All claims and demands; and
 - b. Any loss or damage whatsoever and whenever caused to the Hirer or its agents or employees whether by way of death of, or injury to , any person of any nature or kind, accident or damage to property, delay, financial loss or otherwise, arising directly or indirectly from or incidental to:
 - c. A breakdown of, or defect in, the Equipment or any accident to or involving the Equipment;
 - d. The use, operation, repair, maintenance or storage (whether occasioned by the negligence of the Company or otherwise) of the Equipment;
 - e. Any other occurrence which may otherwise be suffered or sustained in, upon or near the Equipment; and/or
 - f. The Company enforcing any of its rights under these Terms.
 - c. The indemnities and assumptions of liability contained in this clause will continue in full force and effect, notwithstanding the termination of these Terms.



- d. Nothing in these Terms excludes, restricts or modifies any right or remedy or any guarantee, term, condition, warranty, undertaking, implied or imposed by any law which cannot be lawfully excluded or limited.
- e. Where any law impose a guarantee, term, condition, warranty, undertaking in relation to these Terms on the Company that is non-excludable, the Company's liability will be limited to :
 - a. The repair or replacement of the Equipment;
 - b. The supply of equivalent Equipment; or
 - c. The costs of repairing or replacing the Equipment.

7. DISPUTE RESOLUTION

- a. A party (Initiating Party) claiming that a Dispute has arisen must give the other party (Recipient Party) a notice setting out brief details of the Dispute (Dispute Notice). Within 5 Business Days of service of a Dispute Notice, the Recipient Party must give the Initiating Party a notice setting out brief details of the Recipient Party's position on the Dispute (Reply Notice).
- b. If Dispute and Reply Notices are given, the parties will enter into good faith discussions with the objective of settling the Dispute. At least one meeting of the authorised representatives must take place within 10 Business Days of service of a Reply Notice.
- c. If the Dispute continues to be unresolved, the parties must submit the Dispute to mediation in accordance with the Australian Commercial Disputes Centre (ACDC) Guidelines for Commercial Agreements.
- d. The parties will agree on the appointment of mediator. If the Parties do not agree on the mediator to be appointed within 10 Business Days of either Party referring the Dispute to mediation, then the mediator is to be appointed by the ACDC.
- e. The costs and expenses of the mediator will be shared by the parties equally.
- f. This dispute resolution clause will not be a bar to the commencement of legal proceedings or taking of immediate action where the Company consider in its sole discretion that it is necessary to do so.

8. MISCELLANEOUS

- a. The laws of Victoria govern these Terms. The parties agree to the non-exclusive jurisdiction of the courts and tribunals of Victoria.
- b. The Company's failure to enforce any of these Terms shall not be construed as a waiver of its rights.
- c. If any Term is unenforceable it must be read down to be enforceable, or if it cannot be read down, the term may be severed from these Terms without affecting the enforceability of the remaining Terms.
- d. A notice must be in writing and handed personally or sent by email, facsimile or prepaid mail to the last known address of the addressee. Notices sent by pre-paid post are deemed



to be received upon posting. Notices sent by facsimile or email are deemed received on confirmation of successful transmission.

- e. No rule of construction applies to the disadvantage of the Company because it was responsible for the preparation of the Terms.

9. DEFINITIONS

- a. In these Terms;
- b. **Company** means Phillip Island Waste and Recycling Pty Ltd
- c. **Hirer** means the person, jointly and severally if there is more than one, hiring the Equipment;
- d. **Hire Charges** means any fees payable by the Hirer to the Company for the hire of equipment;
- e. **Hire Period** means the start and end date for the equipment hire;
- f. **Equipment** means the equipment leased from the Company to the Hirer including but not limited to ;
- g. **Terms** means these Standard Conditions of Hire;
- h. **Security interest** has the meaning under the PPSA; and
- i. **PPSA** means *Personal Property Securities Act 2009* (Cth).

Skip Bags

1. ACCEPTANCE OF TERMS AND CONDITIONS

By purchasing a Skip Bag through the website www.phillipislandwaste.com.au ("Website"), by telephone or any other means and/or by placing an order for any waste removal and disposal services ("Services") provided by the Company, you, the purchaser ("You"), are acknowledging your understanding and acceptance of the Terms and Conditions ("Terms") set out below. These Terms govern the relationship between You, and Phillip Island Waste and Recycling. You cannot use the Services unless you accept and comply with these Terms and You must be over 18 years of age to order the Services. If, after purchasing the Skip Bag You are unable to comply with the Terms or if the Company does not provide the Services in your area then you may return the Skip Bag to the Company within five (5) business days from the day You purchased or received the Skip Bag.

2. PRICE AND PAYMENT

The price you pay for the Skip Bag is for the Skip Bag only and does not include the cost of any Services provided by the Company. Separate pickup and disposal fees are payable by You when You order such Services. You must provide full payment before a pickup service will be scheduled. Payment can be made by phoning 0417 598 968 using your Visa or Mastercard or by direct deposit.



Credit card and direct deposit transactions may require up to 48 (forty-eight) hours to show up in the Company's bank account and proof of deposit ie emailed remittance advice, may be required should the pickup service be scheduled prior to the deposit appearing in the Company's bank account. The price of the Services includes Goods and Services Tax (GST) unless otherwise expressly stated.

3. PURCHASE OF SKIP BAGS

When You purchase a Skip Bag, regardless of where or how You buy it, once You purchase and pay for the Skip Bag You are acknowledging your understanding and acceptance of these Terms and will be bound by them. If You purchase by telephone or through the internet then delivery of the Skip Bag will be made to your nominated address. You must make all arrangements necessary to take delivery of the Skip Bag whenever it/they are delivered. The Company will not be liable for any loss or damage whatsoever due to failure by the Company to deliver the Skip Bag's (or any part of them) promptly or at all. Postage/courier costs are additional to the purchase price of the Skip Bag and apply to all telephone and internet orders.

4. USE OF SKIP BAGS

Skip Bags have been designed and manufactured as a single use bin for the removal and disposal of certain types of non-hazardous, non-toxic household, garden, building, construction and industrial waste ("Waste") and is sold by the Company to You on that basis. You are responsible for properly positioning, using, and loading the Skip Bag with Waste in accordance with the instructions on the Skip Bag packaging, on the Skip Bag itself and as set forth on the Company's Website from time to time. You are also responsible for all Waste placed in the Skip Bag, including hazardous and toxic waste. You may only fill the Skip Bag with those items permitted by these Terms, any instructions provided by the Company and as allowed by the Environmental Protection (Controlled Waste) Regulations 2004 (the "Regulations"). If You do not comply with these requirements then the Company reserves the right to reject the Skip Bag and to refuse to pick it up. Except as expressly set out in these Terms, the Company has no obligation, express or implied to provide additional services or products to You, including but not limited to loading, collecting or disposing of the Skip Bag.

5. WASTE REMOVAL/DISPOSAL SERVICES – WEIGHT LIMITS

The Company reserves the right to use subcontractor's to provide the Services. The Company is not licensed to, and does not provide a service to remove Controlled Waste as defined by the Regulations ("Controlled Waste"). Therefore, You must not place any such hazardous or Controlled Waste, including but not limited to tyres, asbestos or liquids, in the Skip Bag. You will indemnify the Company for any costs, expenses or losses incurred should You not comply with this requirement.



The Skip Bag pickup fee includes the following weight allowances: 200 kgs for 1cubic metre. You can place additional waste in Your Skip Bag up to a maximum weight of 1.5 tonnes (limited for safety and legal reasons) but You will be charged at \$20 for every 100 kgs you are over the allowable weight for Your size Skip Bag.

As a guide, to stay within these limits and to avoid extra fees, light rubbish can be placed on top of the heavy fill, eg garden clippings, household waste.

If you exceed these weight limits and overfill your Skip Bag so that it weighs more than the safety limit of 1.5 tonnes then the Company may, in its absolute discretion, refuse to pick the Skip Bag up and the Company shall have no responsibility to You for not removing the Skip Bag. If the driver is dispatched to pick up the Skip Bag and it is not removed because it is overweight You will still be charged for the pickup.

You must not overfill the Skip Bag so that the lifting loops cannot be accessed thereby preventing the Skip Bag from being lifted on to the Company's vehicle. If You overfill or overload the Skip Bag it may require sorting and/or unloading to ensure that it complies with these Terms and any transport requirements. Such sorting and/or unloading will be at the sole discretion of the Company's driver and You will be responsible for any additional charges which may be incurred as a result. Skip Bags have been designed to be picked up and disposed of by the Company's crane vehicles. If You use any other company, organisation or person to pick up or dispose of your Skip Bag then the Company will have no responsibility for your Skip Bag or its contents and You will indemnify the Company for any damages or losses resulting from such pickup and disposal in accordance with Clause 10.

6. ACCESS FOR REMOVAL

You are responsible for providing free and suitable access for the Company's employees, contractors or agents and their vehicles to and from Your premises for the pickup of the Skip Bag and for ensuring suitable ground conditions for its removal. No responsibility is accepted for damage to the surface of any area at the premises which the Company's contractors, employees or agents are required to pass over to gain access to the Skip Bag or to any pipes, cables or other fixtures beneath such access ways. If the Company's employees, contractors or agents are unable to obtain access to the Skip Bag on the day of pickup, or if the Skip Bag is otherwise not available at the premises on that day, then, unless the Company expressly agrees otherwise, no refund will be made to You and any later collection and disposal of the Skip Bag will require a new collection service to be ordered and paid for by You.

You must ensure that the filled Skip Bag is easily accessible for removal. An additional charge may be incurred when clear and/or safe access is not available to the Company's driver when removing the Skip Bag and the Company's driver is required to wait while the access problem is rectified. You indemnify the Company for any damage to property caused during the removal of the Skip Bag when You have not made clear access available for such removal. You also indemnify the Company from any damage caused to the tyres of any Company vehicle should You or your representative



instruct the Company's driver to drive over objects to remove the Skip Bag that may reasonably be considered to have contributed to such damage.

7. PRICE AND AVAILABILITY OF SERVICES

The price payable by You for the Services is that stated on the Website or as advised to You on the telephone at the time of acceptance of your order, unless otherwise expressly agreed in writing by the company. Prices quoted for the Services are based upon the information which You provide on the telephone and the Company reserves the right to vary prices if that information is incorrect.

8. CANCELLATION OF SERVICES

You are entitled to cancel or vary an order for the Services provided that you notify the Company of the variation or cancellation no less than two (2) working days before the pick-up date under the order. Any other variation to your order will be granted at the Company's sole discretion and subject to payment of reasonable costs. The Company reserves the right to cancel or vary any order if it is no longer able to provide the Services set out in an order and in such event the Company will refund You any money paid in advance for the cancelled order.

9. INDEMNITY

You will indemnify, defend (at the Company's option), and hold harmless, the Company and its subsidiaries, affiliates, and directors, shareholders, agents, carriers, shippers, couriers and employees thereof (each of the "Indemnitees") from and against any fine, penalty, loss, cost, damages, injury, claim, expense, including reasonable attorney's fees, or liability (individually and collectively "Liabilities"), including, but not limited to, Liabilities associated with or arising out of any Waste or other material in the improper use of loading of the Skip Bag environmental matters, shipment or unauthorised materials, failure to follow the Company's instructions included on the Skip Bag itself and as set forth on the Website from time to time, or a breach of any warranty, representation or covenant by You, even if any negligence of the Company is alleged to have caused or contributed to the Liabilities. This Clause 9 will survive any termination of the relationship between the parties.

10. DISCLAIMER AND LIMITATION OF LIABILITY

The Company shall not be liable to You under any cause or causes of action, whether in tort, contract or otherwise (including but not limited to claims and liability under or for breach of contract, negligence, professional errors or omissions, strict liability, indemnity and breach of express or implied warranty for: (i) loss of actual or anticipated revenue or profits, business interruption, loss of use of property, loss of business opportunity, increased operating costs or increased financing costs; (ii) any type or amount of indirect, special or consequential damages,



howsoever claimed, calculated or characterised; and (iii) any punitive or exemplary damages. The Company will use all reasonable endeavours to perform the Services on a timely basis but the Company will not be liable for any failure or delay in providing any Services due to circumstances beyond its control. In no event will the Company be responsible for your inability to procure disposal of the Skip Bag.

The Company expressly excludes to the fullest extent permitted by law all warranties, representations or conditions, express or implied, in relation to the Skip Bag or the Services. If for any reason the Company is adjudged to be liable to You in contract, tort or otherwise, then the Company's liability for any claim, damages, loss or expense is limited to the cost paid by You for the Skip Bag or the Services (as applicable) except where statute expressly required otherwise.

11. TITLE

Title to the Waste you place in the Skip Bag vests in the Company when the Company picks up and removes the Skip Bag from your premises except that title to, and liability for, any hazardous or Controlled Waste you place in the Skip Bag will always remain with You, even when the Company removes such Controlled Waste from your premises.

12. DISPUTES

If the Skip Bag delivered to You does not match the specifications confirmed on the order or if the Services supplied to You fail to meet reasonable industry standards, and You are dissatisfied then You must contact the Company within 24 (twenty four) hours of receipt of the Skip Bag or the Services. The Company will then endeavour to resolve Your claim, dispute or question ("Dispute") within 7 days. If you are dissatisfied with the resolution proposed by the Company then You may request that a senior Company representative meet with You within 7 days to attempt to resolve the Dispute through negotiation. If You and the Company's representative fail to resolve the Dispute within a further period of 7 days, then either party may request that the Dispute be referred to mediation for resolution. The mediation will be held on Phillip Island and be conducted in accordance with the mediation rules of the Institute of Arbitrators and Mediators Australia. Should the mediation be unsuccessful then either party may instigate legal proceedings to resolve the Dispute.

13. PRIVACY

The Company is committed to protecting any personal information You may provide to the Company when doing business with the Company. As a condition of the Company providing You with the Skip Bag(s) and the Services You hereby authorise the Company to collect, retain, record, use and disclose consumer and/or commercial information about your 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



Company, a debt collector, credit reference organisation and/or any other individual or organisation which maintains credit references and/or default listings. You also authorise the Company to make enquiries with respect to Your consumer and commercial credit worthiness and to exchange information with other credit providers in respect to previous consumer and/or commercial defaults by You.

You agree that the Company may use your email address, mobile telephone number or other personal information You provide to the Company to undertake market and product analysis. You understand and agree that the Company may contact You or send You information about new developments, products, services and special offers by post, telephone or by any form of electronic message (including mobile phone text, facsimile, email, and the world wide web). In accordance with the Spam Act 2003 (Cth), any messages, offers or promotional materials which are sent to You by the Company will contain an unsubscribe facility which will enable You to opt out of receiving any such messages, offers or promotional materials from the Company. Removal of your name from the Company's electronic marketing distribution list may take up to 5 days during which time You may continue to receive messages from the Company.

14. YOUR RIGHTS AS A CONSUMER

The Competition and Consumer Act 2010 ("the Act") places certain obligations and responsibilities on the Company as a supplier of goods and services and provides comprehensive statutory protection for You as a consumer under the Act. Nothing in these Terms affects your rights as a consumer under the Act.

15. CHANGES TO TERMS

The Company may alter these Terms at any time by revising the Terms on the Website. By purchasing a Skip Bag or ordering the Services or continuing to use any such Services after such alteration is made, You agree to be bound by the amended Terms. No representation or statement made to You by any Company employee, contractor, agent, representative or suppliers in relation to the Skip Bag and the Services will be binding on the Company.

16. ENTIRE AGREEMENT

These Terms (including any Company instructions) constitute the entire agreement between You and the Company with respect to the purchase and use of the Skip Bag and the purchase or order of any Services superseding all prior communications, agreements or correspondence between You and the Company. No provision of the Terms will be deemed waived, amended, or modified by the Company (or such amendment or modification is made by the Company in accordance with the Terms). If any provision of the Terms is found invalid, to the extent possible, it will be amended in



such a manner that the invalid provision will be made valid under applicable law without invalidating the remainder of that provision or any other provisions of the Terms.

17. GOVERNING LAW AND JURISDICTION

These Terms are governed by the law in force in the State of Victoria in which the Company's premises are located and the parties submit to the non-exclusive jurisdiction of the courts of that State and any courts which may hear appeals from those courts in respect of any proceedings in connection with these Terms.

Skip Bins

1. SERVICE

Phillip Island Waste and Recycling will supply and deliver the Specified Skip Bin to the Site Address at the Delivery Date and collect the delivered Skip Bin on the Collection Date.

2. FEES AND CHARGES

2.1 Maximum hire duration is 7 days

2.2 The Customer will pay the Specified Fees to Phillip Island Waste and Recycling in consideration of the agreed services to be provided by Phillip Island Waste and Recycling to the Customer and pursuant to the terms of this Agreement

2.3 The fees and charges are inclusive of GST unless otherwise stated for the Specified Fees or Additional Charges

2.4 The Customer acknowledges that in addition to the Specified Fees that it shall pay to Phillip Island Waste and Recycling the Additional Charges should the Customer incur such charges in accordance with clause 3.

3. ADDITIONAL CHARGES

3.1 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 3.9

3.2 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



- 3.3 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
- 3.4 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:
- Any damage to the Supplier's bins;
 - Any expense incurred in recovering and/or removing the bins
- 3.5 Travelling time may be charged when the time and distance exceeds those normally allowed for in the Agreement. The standard rate is charged at \$27.50 inc GST per 15 minute increment or part thereof.
- 3.6 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 inc GST per 15 minute increment or part thereof.
- 3.7 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.
- 3.8 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.
- 3.9 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 3.6 of this agreement.
- 3.10 Council permits and fees. The hirer is responsible for all skip bin arrangements. The Hirer shall pay and be liable for all permits, fees, ticketed parking costs and the like. Fines and penalties imposed by any local government authority will be invoiced to the hirer at cost, payable in full within 7 days of invoice.
- 3.11 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 and 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 \$11.00 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.
- 3.12 Hazardous materials will incur a handling charge of \$88.00 to reload any skip bin or handle the hazardous material on site. This charge covers labour and PPE equipment used to handle the hazardous materials and is in addition any other fee or charge for bin hire and disposal of hazardous waste. Loads containing leaking fluids such as oil, paint, herbicides or pesticides, waste contaminated putrescible waste such as food and nappies, syringes, asbestos or asbestos related products such as hessian backed carpet older than 25 years, vinyl flooring containing asbestos and fence sheeting are examples of where this charge would apply.
- 3.13 Concealed hazardous waste such as car tyres will incur a charge if not picked up from our recycling yard within 48 hours. Tyres are \$27.50 inc GST per tyre for disposal and 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.

- 3.14 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 and additional charges for wasted journeys and weekly rental will be incurred by the bin hirer. This is to ensure the safety of the operator whilst tipping and lifting the bin and 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 weights 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.

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 10%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 2.2% surcharge in addition to clause 4.4.2.
- 4.4 Dishonoured Cheques – Dishonoured cheques will attract an administration fee of \$55 inc 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:
- Unload their bins at the Hirer’s site prior to removal and
 - Remove their bins from the Hirer’s site.

5. CUSTOMER OBLIGATIONS

- 5.1 The Customer acknowledges and agrees:-
- 5.1.1 To use the supplied Skip Bin in a reasonable and sensible manner;
 - 5.1.2 To bear responsibility and liability for any loss, damage or destruction of the Skip Bin whilst the Skip Bin is under the care, custody and control of the Customer;
- 5.2 Bin is under the care, custody and control of the Customer;
- 5.2.1 To render the Skip Bin to Phillip Island Waste and Recycling on the Collection Date in the same state and condition as when the Skip Bin was delivered to the Customer, subject to fair wear and tear;



- 5.2.2 To make the Skip Bin ready and available for collection by Phillip Island Waste and Recycling on the Collection Date;
- 5.2.3 That legal title of the Skip Bin does not pass or vest in the Customer at any time;
- 5.2.4 The Customer shall not encumber or charge the Skip Bin in any way whatsoever;
- 5.2.5 That no interest whatsoever is created or conferred in the delivered Skip Bin to the Customer; to only use the Skip Bin for the depositing Specified Waste Materials;
- 5.2.6 To obtain all necessary approvals and permits as may be required from any government authority, body corporate or third party for the delivery of the Skip Bin at the Site Address or adjacent or in proximity to the Site Address;
- 5.2.7 Without limiting the indemnities under these terms to assume all liability and responsibility for the delivered Skip Bin including liability for trespass to land, public or private nuisance, injury death penalties or fines in the event the Skip Bin is delivered on a footpath, road, lane, public property or private property not owned by the Customer;
- 5.2.8 To assume responsibility and liability for all materials deposited and placed in the Skip Bin by any person whatsoever including persons not authorised by the Customer;
- 5.2.9 That Phillip Island Waste and Recycling shall not be liable for the tort of conversion, detinue or trespass to goods for the disposal or removal of any goods or materials placed in the Skip Bin and is hereby indemnified of such liability from the Customer for the Customer itself and for any claim or action made or commenced by any third party;
- 5.2.10 Title in the contents of the Skip Bin remain with the Customer where the contents of the Skip Bin contain Prohibited Materials until and if Phillip Island Waste and Recycling properly disposes of such contents;
- 5.2.11 Where 5.2.10 above applies Phillip Island Waste and Recycling may at its absolute discretion dispose or return the contents to the Customer or at the Site Address or return the Skip Bin with the contents to the Site Address with Additional Charges applying until such time as Phillip Island Waste and Recycling is able to collect the Skip Bin in an empty and clean state.

6. RESTRICTIONS ON USE OF SKIP BINS:

- 6.1 Whilst the Skip Bin is in the care, custody and control of the Customer, the Customer shall not;
 - 6.1.1 Place or allow to be placed whether directly or indirectly into the Skip Bin any Prohibited Materials
 - 6.1.2 Light fires, burn or allow the burning of waste materials in the Skip Bin
 - 6.1.3 Excessively fill the Skip Bin whereby the waste materials protrude higher than the top of the Skip Bin or do not fully fit within the confines for the Skip Bin
 - 6.1.4 Relocate, move or otherwise allow the Skip Bin to be moved or relocated from the Site Address unless otherwise expressly authorised in writing by Phillip Island Waste and Recycling
 - 6.1.5 Use the Skip Bin for any illegal purpose which contravenes this Agreement or any law
 - 6.1.6 Use the Skip Bin for any other purpose other than that disclosed by the Customer and expressly agreed to by the parties and which may be reasonably anticipated in this Agreement.



7. CANCELLATION OR VARIATION OF ORDER:

- 7.1 The Customer may cancel or vary the order providing Phillip Island Waste and Recycling written notice of the cancellation or variation to the order not less than three (3) business days prior to the Delivery Date
- 7.1.1 In the event an order is cancelled by the Customer less than two (2) business days prior to the Delivery Date the cancellation fee will be 10% of the charged amount and payable to Phillip Island Waste and Recycling
- 7.1.2 In the event an order is cancelled by the Customer on the Delivery Date the cancellation fee will be 20% of the charged amount and payable to Phillip Island Waste and Recycling
- 7.2 In the event the Customer seeks to vary an order pursuant to this clause 7, the granting of the variation sought shall be at the absolute discretion of Phillip Island Waste and Recycling and may be subject to payment of additional fees and charges for changing the Service required and other reasonable costs of Phillip Island Waste and Recycling
- 7.3 The Customer acknowledges and accepts that it will not be entitled to a refund of any fees and charges paid in respect to a cancelled service whereby the Customer has failed to provide adequate notice of the cancellation or variation in accordance with this clause 7.
- 7.4 Phillip Island Waste and Recycling may cancel the Customer's order at any time on or prior to the scheduled Delivery Date in circumstances where Phillip Island Waste and recycling is unable or incapable of supplying and/or delivering the Skip Bins or carry out the Service on the date or time required by the Customer; and
- 7.5 In the event an order is cancelled by Phillip Island Waste and Recycling the Customer will be entitled to receive a full refund of any monies paid in respect to the cancelled order unless otherwise agreed in writing otherwise shall have or incur no further liability
- 7.6 Phillip Island Waste and Recycling may cancel this Agreement without prejudice to its rights under this Agreement including Delivery/Collection Charges where Phillip Island Waste and Recycling upon attending the Site address determines that access is restricted or not permitted, the gradient at the Site Address is dangerous or there are dangerous circumstances including circumstances that could pose occupational health and safety issues to persons in the vicinity of the suggested delivery point
- 7.7 Phillip Island Waste and Recycling is hereby authorised to terminate this Agreement and empty the contents of the Skip Bin on the Site Address at the sole risk of the Customer in the event the Skip Bin contains Prohibited Materials, has materials loaded beyond the height and capacity of the Skip Bin; has materials protruding from the Skip Bin or the Specified Fees have not been paid prior to delivery of the Skip Bin.

8. RISK

Subject to fair wear and tear, the Customer shall bear full responsibility and be liable for all loss, damage or destruction to the Skip Bin whilst the Skip Bin is in the care, custody or control of the Customer.



9. SITE ACCESS AND CONDITIONS

9.1 The Customer shall be responsible for ensuring reasonable access to the Site Address and ensure that the delivery point for the Skip Bin is freely and reasonably accessible for the delivery and collection and the Customer shall ensure that all necessary consents have been obtained for the delivery, placement, storage and removal of the Skip Bin at the Site Address

9.2 Phillip Island Waste and Recycling accepts no responsibility whatsoever for any damage caused to the ground, surface, road, path or passage of the Site Address or the location designated near or in proximity to the Site Address for the delivery and placement of the Skip Bin and the Customer should ensure the conditions including access heights are suitable for the placement and delivery of the Skip Bin.

10. ASSIGNABILITY:

This Agreement shall not be assigned by the Customer without the consent in writing of Phillip Island Waste and Recycling.

11. INDEMNITIES BY CUSTOER:

The Customer shall be responsible for and shall indemnify Phillip Island Waste and Recycling against liability for all loss, damage or injury to Phillip Island Waste and Recycling arising or caused by the Customer's breach of these terms or the Customer's use, custody and control of the Skip Bin howsoever caused (excepting attributed damage caused by the negligence of Phillip Island Waste and Recycling) by the Customer, Customer's employees, the Customers sub-contractors, the Customer's agents and unauthorised third parties.

12. COMPLIANCE WITH THE LAW AND ASSOCIATED INDEMNITIES:

Throughout the continuance of this Agreement the Customer shall conform at its own cost and expense with all Acts of both Federal and State Parliaments and all Regulations, By-laws, Ordinances or Orders made thereunder and the lawful requirements of any Public, Municipal or other authority so far as the same may affect or apply to the Customer and the Customer shall indemnify Phillip Island Waste and Recycling from and against all actions, costs, charges, claims and demands in respect thereof.

13. IMPLIED STATUTORY TERMS AND LIMITATION OF LOSSES

13.1 To the extent permissible by law the operation of any implied statutory term or terms are hereby excluded.

13.2 Where the Skip Bin services, if any, provided by Phillip Island Waste and Recycling under this Agreement are not of a kind ordinarily acquired for personal, domestic or household use or consumption then in the event Phillip Island Waste and Recycling is in breach of this Agreement or is liable for loss or damage, Phillip Island Waste and Recycling shall not be liable



for any consequential loss including economic loss and the liability of Phillip Island Waste and Recycling to the Customer shall be limited to as Phillips Island Waste and Recycling may decide:

- 13.2.1 the supplying of the Service again
- 13.2.2 the supplying of equivalent goods or services; or
- 13.2.3 the payment of the cost of having such services supplied again.

14. PROPER LAW OF CONTRACT:

This Agreement shall be construed and take effect in accordance with the laws of the State of Victoria. Each of the parties here to submits to the jurisdiction of the Courts of that place including all Courts of Appeal there from and this clause may be pleaded as a bar to action or suit brought in any Court in any other place in the world.

15. INTERPRETATION

“Additional Charges” are the charges referred to in clause 3.1.

“Additional Weight Charges” are charges payable where the weight of refuse or material placed in the delivered Skip Bin exceeds the prescribed weight for such Specified Skip Bin.

“Collection Date” means the date being the agreed collection date for the Skip Bin as varied by mutual consent by the parties in writing.

“Delivery Date” means the date agreed to be the date for delivery of the Skip Bin by Phillip Island Waste and Recycling or the date of delivery of the Skip Bin, whichever is the alter to occur.

“Delivery Period” means the date commencing at the Delivery Date and terminating at the agreed time on the Collection Date of if not agreed time, a time as selected by Phillip Island Waste and Recycling for such date or a later date.

“Excess Loading Fees” means additional fees payable for materials placed in the Skip Bin which protrude from the Skip Bin or are protruding above the height of the Skip Bin.

“Excess Retrieval Fees” means the additional cost per day or part thereof for the licensed use of the delivery Skip Bin extending beyond the initially agreed Collection Date to a date being when the Skip Bin is reasonably available for collection on a business day.

“GST Legislation” shall mean A New Tax System (Goods and Services Tax) Act 1999 and the regulations made thereunder as amended from time to time and any corresponding replacement legislation.

“Prohibited Materials” means and includes:-

- (a) Any liquids;
- (b) Any explosive materials or combinations of materials or substances which creates explosive materials by chemical reactions,
- (c) Dangerous, toxic, hazardous or noxious materials including but not limited to asbestos, acids, solvents, chemicals, paints, oils and medical biological wastes;
- (d) Radioactive materials; and
- (e) Materials or substances otherwise referred to as such on the Web Site at the time this Agreement is entered into; or
- (f) Materials placed in the Specified Skip Bin not conforming to the Waste Type.



“Restricted Delivery/Collection Fees” being additional fees and costs unnecessarily incurred or sustained by Phillip Island Waste and Recycling by reason of no or restricted access to the Site Address or for delivery and/or collection of the Skip Bin or where delivery or collection would otherwise occur in dangerous circumstances or on a dangerous gradient as determined by Phillip Island Waste and Recycling upon seeing the Site address.

“Skip Bin” means a waste bin receptacle commonly used for delivery to parties on a specialist use truck, disposal of materials and refuse in such receptacle and the collection and disposal of the materials in such receptacle at a proper waste disposal facility using the specialist use truck.

“Specified Fees” means the fees prescribed on the Website at the time of entering into this Agreement or otherwise quoted by Phillip Island Waste and Recycling for the provision of the service after taking into account or specified for:-

- (a) The size and type of the Specified Skip Bin
- (b) The Site Address
- (c) The Delivery Period
- (d) The Waste Type

“Site Address” means the address location for delivery of the Skip Bin as agreed between the parties.

“Specified Skip Bin” means the type and size of the Skip Bin as agreed between the parties.

“Specified Waste Materials” mean the Waste Type but excludes Prohibited Materials.

“Waste Type” means the type of waste as agreed between the parties for disposal in the Skip Bin and otherwise referred to and described on the Web Site for each type of Waste Type.

“Website” means the website of Phillip Island Waste and Recycling with web address phillipislandwaste.com.au.