

BIN SMART GROUP P/L TERMS AND CONDITIONS OF HIRE



ADAM 0438 7333 01 or 5979 8244 DRIVEWAY AND CROSSOVER DISCLAIMER & HIRE CONDITIONS

1. **ASBESTOS.** Client is responsible for what goes into the bin. DO not put OLD cement sheet - A.C Sheet Fibro etc without notifying BINSMART first. **Heavy penalties & extra costs apply.** We reserve the right to reject and return non complying loads to your site. If in doubt – ask us first.

The onus is on the client to prove it's not asbestos, without proof by law we must treat as asbestos.

PAINTS & LIQUIDS ARE ALSO NOT PERMITTED TO GO INTO BINS. TYRES & MATTRESSES INCURR EXTRA COST

Bin Smart is a recycler; all loads are sorted in our yard. If you put it in, we will find it. If we can't recycle your waste (ie building waste like bricks or dirt) or we cant separate it, then it must go direct to and be charged at transport + tip fees at \$150 per ton

2. Price charged is based on discussion with our office at the time of order. Most bins are subject to weight limits (see at the end of this document), these are explained at the time of the order, and proof of weight can be supplied if required. If you change the contents, add banned materials, exceed the stated weight limit, or overfill the bin, cost of hire WILL INCREASE. MOST BOBCAT LOADS are charged by weight & transport – this will be advised when applicable.

3. ALL BINS MUST BE LOADED LEVEL WITH THE SIDES. OVERFULL BINS ARE AGAINST THE LAW. HEAVY FINES APPLY. DO NOT MOVE OR DAMAGE BIN. YOU ARE RESPONSIBLE FOR DAMAGE

4. The placement, filling and pick-up of bins are under the direct control of the customer, and the customer indemnifies BIN SMART against any loss, damage or injury as a result of the function performed. **Once our truck leaves the road, any damage to driveways, surfaces, etc are at customer's liability. If you aren't sure that a surface can handle a large vehicle, then find an alternative place for the bin.**

Bin Orders are VERBAL, for multiple bins please keep your own records, if you are not present at delivery you automatically accept the number of bins delivered. Electronic proof of delivery is available on request.

5. To pay BIN SMART for any equipment damaged, lost or stolen, whilst on the customer's premises or under his control at the replacement or repair value as invoiced by BIN SMART.

6. To pay any extra costs, caused to BIN SMART as a result of overloading or incorrect loading of the bin by the customer, his/her agent or other person(s) whilst the bin is on the customer's premises or under his/her control. Also any costs incurred for public property placement – Permits are often required & cost extra.

7. BIN SMART will not accept any responsibility for any injury to person of persons, or damage to property belonging to the customer or any other person, arising out of the use of the service, however such injury or damage was caused.

8. The placement of the bin to the customer's verbal or written instructions at the time of placement of his order, will constitute the customer's acceptance of these conditions, should the customer be absent from the premises at the time of

delivery of the bin. If the customer's specified verbal position is unsuitable for placement, it will be at BIN SMART'S drivers discretion to find an alternative placement should the customer be absent at the time of delivery.

9. Bins are placed on public land where requested or when required. Customer must ensure that reflective tape or flashing lights are not obscured. Bin door to be closed at night.

The client acknowledges that they have instructed BIN SMART to place the bin at the following address _____ at their own risk entirely _____ date ____

1. SERVICE:

Bin Smart P\L 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. Bin Smart P\L is a recycler and all waste is dealt with at our facility in Hastings. Any banned materials or variations will be found and dealt with as per below. DO NOT PUT ASBESTOS, LIQUIDS, OR NON DISCLOSED ITEMS into your bin. EXTRA Charges apply for these materials also mattresses, Green Waste, Tyres & Agapanthus.

2. FEES AND CHARGES:

2.1 Maximum hire duration is 4 days.

2.2 The Customer will pay the Specified Fees to Bin Smart P\L in consideration of the agreed services to be provided by Bin Smart P\L 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 Bin Smart P\L the Additional Charges should the Customer incur such charges in accordance with clause 3.

3. EXTRA CHARGES:

3.1 The Customer shall pay to Bin Smart P\L the following Additional Charges:-

(a) Additional charges to meet tipping fees or special tipping fees and all handling charges including Excess Loading Fees, expenses and costs incurred by Bin Smart P\L including additional costs to deal with Prohibited Materials or types of materials placed in the Bins where additional charges are imposed by the tip or waste station where the materials are disposed by Bin Smart P\L.

(b) Restricted Delivery / Collection Fees.

(c) Excess Retrieval Fees where the Skip Bin is not available for collection on the Collection Date.

(d) Salvage costs if our vehicle becomes stuck or bogged on customer's site. Towing fees will be charged to the client at our cost, plus lost time.

3.2 The Additional Charges for the purposes of clause 3.1 will be reasonable charges in conformity with standard charges for such additional fees charged by Bin Smart P\L.

4. PAYMENT:

4.1 The Customer shall pay the Specified Fees due under this Agreement to Bin Smart

P\L at the time of submitting and processing the order.

4.2 The Customer shall pay the Additional Charges to Bin Smart P\L at the time of the waste being processed, or extra costs being incurred.

4.3 Payment shall be made by the Customer by Credit Card. The Customer irrevocably and unconditionally authorises Bin Smart P\L to charge its credit card or debit card for the amount of the Specified Fees under this Agreement and for any Additional Charges.

4.4 Bin Smart P\L will send a Tax Invoice for fees and Additional Charges in accordance with the GST Legislation.

4.5 Payment of the Specified Charges and Additional Charges to Bin Smart P\L shall operate as a good and effective discharge for the relevant fees owing to them.

5. CUSTOMER OBLIGATIONS

The Customer acknowledges and agrees:-

- (a) to use the supplied Skip Bin in a reasonable and sensible manner;
- (b) 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;
- (c) to render the Skip Bin to Bin Smart P\L 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;
- (d) to make the Skip Bin ready and available for collection by Bin Smart P\L on the Collection Date;
- (e) that legal title of the Skip Bin does not pass or vest in the Customer at any time;
- (f) the Customer shall not encumber or charge the Skip Bin in any way whatsoever;
- (g) that no interest whatsoever is created or conferred in the delivered Skip Bin to the Customer;
- (h) to only use the Skip Bin for the depositing Specified Waste Materials;
- (i) 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;
- (j) 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;
- (k) 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;
- (l) that Bin Smart P\L 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.
- (m) 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 Bin Smart P\L properly disposes of such contents;
- (n) where (m) above applies, Bin Smart P\L 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 Bin Smart P\L is able to collect the Skip Bin in an empty and clean state.

6. RESTRICTIONS ON USE OF SKIP BINS:

Whilst the Skip Bin is in the care, custody and control of the Customer, the Customer

shall not:-

- (a) place or allow to be placed whether directly or indirectly into the Skip Bin any Prohibited Materials.
- (b) light fires, burn or allow the burning of waste materials in the Skip Bin;
- (c) 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 of the Skip Bin;
- (d) relocate, move or otherwise allow the Skip Bin to be moved or relocated from the Site Address unless otherwise expressly authorised in writing by Bin Smart Waste Bins;
- (e) use the Skip Bin for any illegal purpose which contravenes this Agreement or any law;
- (f) 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 Bin Smart P\L written notice of the cancellation or variation to the order not less than three (3) business days prior to the Delivery Date.

(a) 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 Bin Smart Waste Bins.

(b) 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 Bin Smart P\L.

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 Bin Smart P\Land may be subject to payment of additional fees and charges for changing the Service required and other reasonable costs of Bin Smart Waste Bins.

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 Bin Smart P\L may cancel the Customer's order at any time on or prior to the scheduled Delivery Date in circumstances where Bin Smart P\L 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 Bin Smart P\L, 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 and otherwise shall have or incur no further liability.

7.6 Bin Smart P\L may cancel this Agreement without prejudice to its rights under this Agreement including Delivery / Collection Charges where Bin Smart P\L 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 Bin Smart P\L 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 &/Or additional 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 Bin Smart P\L 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 Bin Smart P\L

11. INDEMNITIES BY CUSTOMER:

The Customer shall be responsible for and shall indemnify Bin Smart P\L against liability for all loss, damage or injury to Bin Smart P\L 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 Bin Smart P\L) by the Customer, Customer's employees, the Customers sub-contractors, the Customer's agents and unauthorised third parties.

12. COMPLIANCE WITH THE LAW & 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 Bin Smart P\L from and against all actions, costs, charges, claims and demands in respect thereof

13. IMPLIED STATUTORY TERMS & 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 Bin Smart P\L under this Agreement are not of a kind ordinarily acquired for personal, domestic or household use or consumption then in the event Bin Smart P\L is in breach of this Agreement, or is liable for loss or damage, Bin Smart P\L shall not be liable for any consequential loss including economic loss and the liability of Bin Smart P\L to the Customer shall be limited to as Bin Smart P\L may decide:

(a) the supplying of the Service again;

- (b) the supplying of equivalent goods or services; or
- (c) 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 hereto submits to the jurisdiction of the Courts of that place including all Courts of Appeal therefrom 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 Bin Smart P\L or the date of delivery of the Skip Bin, which ever 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 no agreed time, a time as selected by Bin Smart P\L 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 protrude 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 delivered 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 there under 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) radio active 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 Bin Smart P\L 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 Bin Smart P\L 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 Bin Smart P\L 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 Bin Smart P\L with web address www.binsmart.net

WEIGH LIMITS for LIGHT LOADS

3m & 4m bins – 1 ton

6m & 8m bins – 1.5 ton

10m & 12m bins – 2 ton

15m bins – 2.5 ton

Additional fees apply