



LIGHTNING SKIPS TERMS AND CONDITIONS

PO BOX 3228 Norman Park QLD 4170;
Phone: 0472 975 477; Email: rob@lightningskips.com.au

1. General

- a. The Hire Contract between Lightning Skips ABN 50 758 175 893 ("Lightning Skips/us/we/our") and its customer ("you/your") are subject to these terms and conditions, in addition to any other quotation or document which we may provide to you for our services.

2. General Definitions

- a. **Skip Bin/s** means the bins provided to you by us for the purpose of waste removal;
- b. **Hire Contract** means a specific contract between us and you, agreed to by both parties including these terms and conditions, formed by the acceptance of our quotation by you;
- c. **Regulated Waste** has the meaning given to it by section 65 of the Environmental Protection Regulations 2008.

3. Quotes

- a. We may provide you with a Quotation for the delivery, use and pickup of a Skip Bin you have asked us to provide, expressed in Australian Dollars.
- b. Quotes are valid for 30 days only, and may be withdrawn by us at any time before acceptance by you.
- c. The Quote is based on the information you provided to us or entered into our booking system. In the event that you have failed to provide us with all the relevant information prior to the delivery of our Quote, we reserve the right to amend our Quote to account for any additional costs and expenses that were not accounted for at the time of our Quote.
- d. An online Quote received and accepted by you will be subject to these terms and conditions, whether signed by you or not.

4. GST and Other Taxes

- a. You are liable to pay any GST, taxes, levies, rates or government charges applicable to your transactions with us.

5. Delivery

- a. We will deliver the Skip Bin/s to your nominated address and you must make all necessary arrangements to receive the Skip Bin/s whenever we tender for delivery. We shall not be held liable for any damages, costs or losses you or someone else incurs if we are unable to deliver the Skip Bin/s due to there being inadequate access to your nominated address.
- b. We will strive to ensure the Skip Bins are delivered by the agreed time, however, we will not be liable for any damages, costs or losses you or someone else incurs as a result of any delay in delivery.

6. Terms of Payment

- a. You must pay our tax invoices within the terms specified on the invoice, without set off, counter-claim or demand.

7. Default

- a. You will be in Default of your agreement with us if you:
 - i. Fail to pay our tax invoices within the terms for payment;
 - ii. Experience an insolvency event (because you become bankrupt or a liquidator, receiver or administrator is appointed or an application for winding up is filed);
 - iii. Repudiate or terminate this agreement without a lawful excuse;
 - iv. Fail to provide us with the information we require to complete the work we have agreed to do; and
 - v. Breach these terms and conditions.
- b. Without prejudice to any other remedies we may have, if at any time you are in breach of any obligation relating to these terms and conditions, then we may:
 - i. Treat the whole of the agreement as repudiated and demand payment of the total amount owing against you and take steps to recover the debt;
 - ii. Claim the return of any Skip Bins in your possession;
 - iii. Refuse to supply you with any more Skip bins;
 - iv. Recover any costs, expenses or losses we incur as a direct or indirect consequence of your default (including legal costs on a solicitor and client / indemnity basis) from you, as a debt due and owing;

- v. Charge Interest on all overdue amounts at a rate of fifteen percent (15%) per annum calculated on a daily basis from the date of our Tax Invoice until payment;
- vi. Contact credit reporting agencies to notify them of your default.
- c. In an event of Default, all waste is deemed to belong to you until payment is made and we reserve the right to unload the Skip Bins at your site prior to removal of the Skips Bins from your site.
- d. If we cannot recover our Skip Bin/s at the agreed pick-up time for any reason, we reserve the right to charge you the hire fee at a daily rate specified by the Hire Contract until our Skip Bin/s are recovered.

8. Title of Goods

- a. Subject to the PPSA and these terms and conditions, legal and equitable title in the Skip Bin (including parts) supplied by us remain vested in us and shall not pass to you at any time. You are not entitled to sell, transfer, mortgage, charge or encumber in any way the Skips Bins nor part with possession of the Skip Bins or assign the benefit of the Hire Contract.
- b. In the event of Default by you, you acknowledge and agree that we may recover or retake possession of any Skips Bins we have supplied to you and you authorise and allow us (or our representatives, employee or agent) to enter any premises without notice, at any time, to retake possession of any or all of the goods we identify as having been provided by us.
- c. In the event that we incur costs as a result of us retaking possession of the goods, you agree to indemnify us for those costs on a full indemnity basis.

9. Personal Property Securities Act 2009 ("PPSA")

- a. In this clause the following words have the respective meaning given to them in the PPSA: Financing Statement, Financing Change Statement, Proceeds, Register, Security Agreement, Security Interest and Verification Statement.
- b. You acknowledge and agree:
 - i. That these terms and conditions constitute a Security Agreement that creates a Security Interest in all Skip Bins (and Proceeds):
 1. Previously supplied by us to you; and
 2. To be supplied by us to you in the future.
 - ii. That the Security Interest created by these terms and conditions is a continuing Security Interest in all Skip Bins (supplied now or in the future by us to you) and Proceeds, which will operate (despite any intervening payment or settlement of account) until we have signed a release;
 - iii. To waive your rights under section 157 of the PPSA and the following subsections of 115 of the PPSA, which will not apply to the Security Agreement created by these terms and conditions: 95, 117, 118, 121(4), 130, 132(4), 135 and 143.
- c. You undertake to:
 - i. Keep all Skip Bins free of any charge, lien or Security Interest except as created under these terms and conditions and not otherwise deal with the Skip Bins in a way that may prejudice any of our rights under these terms and conditions.
 - ii. Sign any further documents and provide any further information (which must be complete, accurate and up-to-date in all respects) that we may require to:
 1. Register a Financing Statement of Financing Change Statement in relation to a Security Interest in the Register;
 2. Register any other document required to be registered by the PPSA; or



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3. Correct a defect in a statement referred to in clause 9(c)(1) or 9(c)(2);
- iii. Indemnify, and upon demand reimburse, us for all fees (including actual legal fees on a solicitor/own client basis), costs, disbursements and expenses in:
 1. Registering and maintaining a Financing Statement or Financing Change Statement on the Register or releasing any Skip Bins charged thereby; and
 2. Enforcing or attempting to enforce the Security Interest created by these terms and conditions.
- iv. Not register, or allow to be registered, a Financing Statement or Financing Change statement in respect of the Skip Bins or Proceeds in favour of a third party, without the prior written consent of us; and
- v. Immediately advise us of any material change in its business details (including, but not limited to, its trading name, address, facsimile number) or business practices.

10. Credit Enquiries and Reporting

- a. You consent to us making inquiries in relation to your creditworthiness, including but not limited to obtaining reports from credit reporting agencies, trade suppliers, financial credit providers and trade insurers.
- b. You consent to us disclosing whole or part of the information you supply to us to credit reporting agencies for the purpose of that credit reporting agency to add or create any credit information file or database in relation to you.
- c. You consent to us obtaining a credit report from a credit reporting agency containing personal credit information about the principals of your business to support our assessment of your creditworthiness.
- d. You consent to us disclosing information about you to our business partners, professional advisors (including lawyers, auditors and bankers) in connection with the transaction that subject of the Hire Contract.

11. Regulated Waste

- a. No Regulated Waste types or toxic materials including but not limited to tyres, asbestos or liquids are to be placed in the Skip Bins.
- b. Removal of Regulated Waste types or any other toxic materials is **not** a service provided by us. You shall indemnify us from any costs, expenses or losses incurred should you dispose of Regulated Waste or toxic materials in the Skips Bins.

12. Additional Charges

- a. Over filled Skip Bins may require sorting and/or unloading to ensure they comply with transport requirements. Any such action will at our sole discretion and may incur a fee.
- b. We reserve the right to charge a cleaning fee for excessive amounts of paint, plaster, granosite and other such products disfiguring the exterior of the Skip Bins.
- c. Travelling time for delivery/pick up of Bins may be charged when the time and distance exceeds those normally allowed for in the Hire Contract. We will notify you if additional travel charges apply prior to confirming the Hire Contract.
- d. An additional charge may be incurred when clear and/or safe access is not available to our driver when delivering or removing the Skip Bins, resulting in our driver needing to wait until the access problem is rectified.
- e. A longer rental period and additional charges may be incurred by you if the pick-up location selected by you subsequently proves to be inaccessible due to weather conditions or other factors beyond our control.

13. General Matters

- a. When placement of a Skips Bin/s on a footpath or road is required or requested by you and a permit is required by the relevant council; the permit must be presented to the driver prior to placement of the Skip Bin on a footpath or road.

14. Termination of agreement

- a. You cannot cancel, terminate or suspend this agreement without our written consent, which will not be unreasonably withheld.
- b. In the event this agreement is cancelled, terminated or suspended, we will render a charge to you for the work done; material provided or committed expenditure under the agreement up to the date of cancellation, termination or suspension.

15. No reliance

- a. You acknowledge and agree that you have not relied on any prior representation or promises made by us, except as documented in writing by us.

16. Damage and Relocation of Skip Bins

- a. You shall indemnify us from any loss or damage to our Skip Bins caused by you (your representatives, employee, agent or anyone else) whilst in your possession.
- b. You (your representatives, employee, agent or anyone else) shall not remove, deface or cover up identifying marks nor shall you cause to move the Skip Bins from the initial location without our prior approval.
- c. You shall indemnify us from damage caused to truck tyres should you (your representatives, employee, agent or anyone else) instruct our driver, when delivering or collecting the Skip Bin, to drive over objects that may reasonably be considered to have contributed to such damage.
- d. Wet concrete cannot be placed in Skip Bins unless a suitable liner is first put in place.
- e. Burning rubbish in Bins is not permitted. You shall indemnify us from any costs involved in the cleaning or repair of Skip Bins affected in this way.

17. Force Majeure

- a. We will not be liable or responsible for any delay or failure of performance occasioned by strikes, riots, fire, insurrection, embargoes, failure of carriers, inability to obtain materials or transportation facilities, acts of God or of the public enemy, government tariffs and quotas, compliance with any law, regulation or other governmental or court order whether or not valid, or other causes beyond the control of us, irrespective of whether the cause could be alleviated by the payment of money, or the performance is prevented or delayed because of a failure of our machinery or our supplier.

18. No waiver

- a. No failure or delay by us in exercising any right, power or privilege to which we are entitled shall operate as a waiver, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise.
- b. These terms and conditions, including any obligations or acknowledgements, may only be waived or modified as agreed between us and documented in writing.

19. Liability

- a. To the maximum extent permitted by law, we do not accept any liability for any claim for loss or damage made by you (or someone claiming through you), whether for breach of contract, tort (including negligence), under statute, in equity, at common law or otherwise, including damage to property.

20. Severance

- a. In the event of any part of these terms and conditions becoming void or unenforceable, then that part shall be severed from the agreement and the remaining terms and provisions of the agreement will remain in full force and effect.

21. Applicable law

- a. The Hire Contract shall be governed by and construed in accordance with the laws of the state of Queensland, Australia.
- b. You agree to submit to the non-exclusive jurisdiction of the courts of Queensland and any court which may hear appeals from a court of Queensland.

22. Survival

- a. These terms and conditions survive the termination or expiration of the agreement.