

# CEDAR SKIPS PTY LTD atf TCSCO TRUST TERMS AND CONDITIONS

**1. INTRODUCTION** - These General Terms & Conditions govern the rights and obligations of the Hirer and Cedar Skips Pty Ltd under the Agreement. Capitalised terms have the meanings given in this Agreement or these General Terms & Conditions, as applicable. This Agreement contains the entire agreement between the parties and no regard shall be had to any prior dealings. Any terms and conditions that may have been attached or embodied in the Supplier's tender, offer or included in correspondence are deemed to have been withdrawn in favour of the terms and conditions stated in this Agreement. Subject to the next sentence, if there is a conflict between these General Terms & Conditions and any other document or statement forming part of the Agreement, these General Terms & Conditions shall prevail. In the event that any of these General Terms & Conditions conflict with any Special Conditions, then such Special Conditions shall prevail to the extent of such conflict. The acceptance by the Hirer of the Agreement or the supply of the Equipment shall be deemed to be acceptance of the terms of the Agreement and shall constitute a binding contract between Cedar Skips Pty Ltd and the Hirer. In this Agreement: "APPLICATION FORM" includes the Application Form which may be attached to this Agreement and includes any subsequent Application Form submitted by the Hirer to CS. "CONDITIONS" means the terms and conditions contained in this Agreement as varied in writing by agreement between the Contractor and Hirer; "CHARGES" means the fees and charges payable by the Hirer to the Contractor pursuant to this Agreement. "CONTRACTOR" means "CS" or CEDAR SKIPS PTY LTD A.C.N 658 140 649, TCSCO Trust A.B.N 79 148 987 643 and/or their approved representative; "HIRE" means the hire of Equipment from the Contractor to the Hirer. "HIRE PERIOD" means the time between when the Equipment arrives at the Hirer's site until the time when the Equipment is returned to the Contractor's site. "HIRER" refers to the person, company, firm or corporation hiring Equipment from CS is named on the Application form or Job Docket provided by the Contractor to the Hirer. "HIRE AGREEMENT" means the Quote, Docket, Tax Invoice, Credit Application and or Work Authorisation. "INCLUDING" and similar expressions are not words of limitation. the operator supplied by the Contractor as part of the Hire for the Hire Period. "EQUIPMENT" refers to the Hook or skip bin being supplied by the Contractor to the Hirer for a fee pursuant to this Agreement. "PRICE" means the fee payable by the Hirer to CS for the Hire and all Charges incurred by CS. "SITE" means the location specified by the Hirer for the Contractor to deliver the Equipment for Hire. "CS Price List" means the price list for the Hire Period of the equipment. "CS Account" means CS's bank account, as shown on tax invoices. Words with Capital Letters in this Agreement have the meanings as defined.

**3. ORDER/BOOKING & DELIVERY/COLLECTION** – 3.1 The Hirer's order/booking for the delivery of Equipment and subsequent pick up may be made by telephone or email, to the CS's office. 3.2 Such orders/bookings will be considered binding and subject to these terms and conditions, whether signed off by the Hirer or not. To expedite the orders/bookings promptly the Hirer agrees to this assertion. 3.3 Both parties may terminate the Hire Contract with twenty four (24) hours' notice. The Hirer shall indemnify the Owner from any costs, losses or expenses incurred by the Owner should the Hirer terminate the Hire Contract. 3.4 CS's right of termination is in addition to any other rights under the Hire Contract and does not exclude any right or remedy under law or equity or the survival of other terms under the Hire Contract or in these Terms and Conditions of Hire. 3.5 Delivery of the Equipment shall be made to the Hirer's nominated address. The Hirer shall make all arrangements necessary to take delivery of the Equipment whenever they are tendered for delivery. Delivery of Equipment to a third party nominated by the Hirer is deemed to be delivery to the Hirer for the purpose of this Agreement. CS shall not be liable for any loss or damage whatever due to the failure by the Owner to promptly take delivery of the Equipment. 3.6 Collection of the Equipment shall be made to the Hirer's delivery address. The Hirer shall make all arrangements necessary to ensure collection of the Equipment is not impeded whenever they are tendered for collection. CS shall not be liable for any loss or damage whatever due to the failure by the CS to promptly collect the Equipment.

**2. HIRE PERIODS & CHARGES** - 2.1 Hire Periods a) The Hire rate is based upon the Equipment being hired for the period as stipulated in CS's Price List. b) The Hire shall commence from the date the Equipment arrives at the hirer's site. c) The hire period shall terminate when the Equipment has departed the Hirer's site. d) Surcharges will be applicable for work performed on a Saturday Sunday, outside operating hours as listed on CS price list or Statutory or gazetted public

holidays. e) For hire outside the Brisbane Metropolitan area (within 30km radius of the Brisbane GPO) increased Hire rates may apply (price/further information on application). 2.2 Hire Charges - The Hirer shall pay the Contractor as follows: (a) The rate(s) specified in CS price list for the Hire Period that the Equipment is located at the Hirer's site; (b) All hiring charges and any other amounts payable in accordance with these Conditions; (c) All charges including and not limited to all freight and other charges incurred by the Contractor in transporting the equipment or loading and unloading the Equipment at Site. Waiting time charges to be assessed according to time taken to delivery or collection of Equipment. Charges are to be paid to the Contractor by the Hirer in accordance with the Hire Agreement; (d) Where the Hirer is responsible for the loss or damage to the Equipment the whole or part of the cost of replacement or repair of the Equipment which will be added to the Charges; (e) The amount of tolls, levies, offences(traffic/parking) or like expenses incurred by the Contractor to any government body in respect of use of the Equipment; and (f) Additional Tipping fees incurred by the Contractor.

**3. PAYMENT** - Payment Methods - The Contractor accept payments made by: (a) Electronic Funds Transfer direct into CS Account; (b) Cheque; and (c) Cash; 3.2 Recoverable Costs (a) The Hirer must pay the Contractor any costs, expenses or losses incurred by the Contractor as a result of the Hirer's failure to pay the Contractor all sums outstanding as owed by the hirer to the Contractor including and without limiting the generality of the forgoing any debt collection and legal costs incurred in enforcing payment on a solicitor and own client basis. 3.3 Interest - The Contractor may charge accrued interest at 2% (two percent) calculated on a daily basis on amounts not paid within the time specified in the Credit Application. 3.4 At CS's sole discretion, if there are any disputes or claims for unpaid Equipment hire then the provisions of the Building Industry Fairness (Security of Payment) Act 2017 may apply.

**4. HIRER'S RESPONSIBILITY** - 4.1 Prior to the Hire Period commencing: (a) It is recommended that the Hirer in consultation with the Contractor, shall determine the condition and suitability of the Equipment hired for the purpose required. (i) On delivery, the Contractor and Hirer shall jointly inspect the Equipment and record details of the inspection. (ii) At the termination of the Hire, the Contractor and Hirer shall jointly inspect the Equipment and record details of the inspection.

(b) Must obtain the all necessary permits as legally required and pay any fee(s) payable to any local or Government authority. (c) Must clearly mark the location for delivery of the Equipment. Should the Hirer fail to provide the Contractor with the clear marking for the Site as specified, the Hirer shall indemnify the Contractor from any claim for costs, expenses or losses; 4.2 During the Hire Period the Hirer: (a) Immediately notify the Contractor of any facts or matters that the Hirer should become aware that might reasonably endanger the Contractor in the delivery or collection of Equipment; (b) The Contractor reserves the right, that if in the opinion of the Contractor, it would be dangerous or detrimental to the Equipment, to refuse to deliver or collect the Equipment under such conditions; (c) will be responsible for any loss or damage to the Equipment whether such loss is caused by the negligence of the Hirer or any person under the hirer's control or for any reason whatsoever; (d) Accept full responsibility for, and indemnify against all claims in respect of any injury to persons, or loss or damage to property, arising out of the delivery, storage, possession or use of the Equipment by the Hirer or any persons under its control during the Hire Period; (e) not alter, make any additions to, deface or erase any identifying mark, plate or number on or in the Equipment or in any other manner interfere with the Equipment; (f) be liable for any costs should the Equipment or delivery/collection vehicle, as a result of instructions given by the Hirer, become bogged. Costs referred to being the Hire Price and any additional costs of whatever equipment is required and necessary (including Hire of additional Plant and Equipment from the Hirer in the absolute discretion of the Hirer) to recover the Equipment and/or vehicle ; (g) take all reasonable precautions to keep all persons including the Hirer, its employees, agents and invitees, away from the Equipment and vehicle while in operation. Without limitation to this, the Hirer shall take all reasonable precautions to prevent bodily injury or damage property by ensuring that the Equipment is not handled by any person not duly authorised and to comply with all statutory obligations and by-laws and regulations imposed by any public authority for the safety of persons and property in relation to the work as though the Hirer was the Contractor; (h) comply with all reasonable safety requests of the Contractor, and shall ensure that no person having access to the Site does not, handle attempt to handle the Equipment and vehicle; (i) Not repair or attempt to repair or cause or repairs to be made to the Equipment without prior consent from CS. 4.3 The Hirer acknowledges and accepts that asbestos, any other hazardous waste/liquids, regulated household waste, food products & kitchen waste, paint, oils, chemicals, batteries, tyres, gas bottles/fire extinguishers are NOT to

be included in the CS's equipment. If any of these items are on site, it is the Hirer's responsibility to ensure the safe removal of the same. Under no circumstances will CS handle removal of any of these items. 4.4 The Hirer shall give CS not less than fourteen (14) days prior written notice of any proposed change of ownership of the Hirer and/or any other change in the Hirer's details (including but not limited to, changes in the Hirer's name, address, contact phone or fax number/s, change of trustees, or business practice).

**5. DISPUTES** - The Hirer shall within seven (7) days from the end of the Hire Period, notify the Contractor in writing of any alleged dispute. If the Hirer fails to comply with this provision, the hire shall be conclusively presumed to have been completed satisfactorily and free from any disputes.

**6. RETENTION OF TITLE** - 6.1 Title - The equipment shall remain the property of the CS at all times. The Hirer is not entitled to sell, transfer, mortgage, charge or encumber in any way the equipment nor part possession of the equipment or assign the benefit of the hire. 6.2 Repossession - If the Hirer commits to an act of bankruptcy, enters into any form of administration or liquidation, makes any composition or arrangement with its creditors, ceases to carry on business or breaches any fundamental clause of this Agreement, then CS may repossess any Equipment and may, without prejudice to any other remedies it may have, commence proceedings to recover the balance of any monies owing to the Contractor by the Hirer.

**7. PRIVACY** - 7.1 The Hirer hereby authorises the Contractor to collect, retain, record, use and disclose commercial and/or consumer information about the Hirer, 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 Supplier, a Debt Collector, Credit Reference Organisation and/or any other individual or organisation which maintains credit references and/or default listings. 7.2 The Hirer also authorises the Contractor to make enquiries with respect to the Hirer's commercial and/or consumer credit worthiness; to exchange information with other Credit Providers in respect to previous commercial and/or consumer defaults of the Hirer and to notify other Credit Providers of a commercial and/or consumer default by the Hirer.

**8. LIABILITY** - 8.1 Non-excludable Rights - The parties acknowledge that, under applicable State and Commonwealth law, certain conditions and warranties may be implied in these Terms and Conditions and there are rights and remedies conferred on the Hirer in relation to the provision of the Equipment or of services which cannot be excluded, restricted or modified by the Agreement ("Non-excludable Rights"). 8.2 Disclaimer of Liability - The Contractor disclaims all conditions and warranties expressed or implied, and all rights and remedies conferred on the Hirer, by statute, the common law, equity, trade, custom or

usage or otherwise and all those conditions and warranties and all those rights and remedies are excluded other than any Non-excludable Rights. To the extent permitted by law, the liability of the Contractor for a breach of a Non-Excludable Right is limited, at the Contractor's option, to the supplying of the Equipment and/or any services again or payment of the cost of having the Equipment and/or services supplied again. 8.3 Indirect Losses - Notwithstanding any other provision of these Terms and Conditions, the Contractor is in no circumstances (whatever the cause) liable in contract, tort including without limitation, negligence or breach of statutory duty or otherwise to compensate the Hirer for: (a) any increased costs or expenses; (b) any loss of profit, revenue, business, contracts or anticipated savings; (c) any loss or expense resulting from a claim by a third party; or (d) any special, indirect or consequential loss or damage of any nature whatsoever caused by the Contractor's failure to complete or delay in completing the Hire or to deliver the Plant and Equipment. 8.4 Force Majeure - The Contractor will have no liability to the Hirer in relation to any loss, damage or expense caused by the Contractor's failure to complete the Hire or to deliver the Plant and Equipment as a result of fire, flood, tempest, earthquake, riot, civil disturbance, theft, crime, strike, lockout, breakdown, war, the inability of the Contractor's normal suppliers to supply necessary material or any other matter beyond the Contractor's control.

**9. SECURITY AND CHARGE** - The Hirer hereby charges all property, both equitable and legal, present or future of the Hirer in respect of any monies that may be owing by the Hirer to the Contractor under the Terms and Conditions or otherwise and hereby authorises the Contractor or its solicitors to execute any consent form as its attorney for the purpose of registering a caveat over any real property owned by the Hirer at any time or to register this charge over assets of the Hirer with the Australian Securities and Investments Commission.

**10. GENERAL MATTERS** - 10.1 Severability - Any provision in these Terms and Conditions which is invalid or unenforceable in any jurisdiction must be read down for the purposes of that jurisdiction, if possible, so as to be valid and enforceable. If that provision cannot be read down then it is capable of being severed to the extent of the invalidity or unenforceability without affecting the remaining provisions of these Terms and Conditions or affecting the validity or enforceability of that provision in any other jurisdiction. 10.2 Governing Law and Jurisdiction - These terms and Conditions are governed by the law in force in the State or Territory in which the Contractor's premises are located and the parties submit to the non-exclusive jurisdiction of the courts of that State or Territory and any courts which may hear appeals from those courts in respect of any proceedings in connection with these Terms and Conditions.