

## TERMS & CONDITIONS

(Use of Platform and Services)

If you access and use the Platform, you agree to be bound by these Terms & Conditions, as the Customer.

### 1. DEFINITIONS AND INTERPRETATION

#### 1.1 Definitions

In these Terms & Conditions, unless the context otherwise requires:

**Act** means the *Environment Protection Act* 1993.

**Bin** means a 240 litre wheelie bin identified with BYC's logo, as delivered by BYC to the Customer's Address in accordance with clause 2.2 and includes each replacement Bin delivered in accordance with clause 4.2(c).

**Bin Fee** means the one-off licence fee of \$40, payable by the Customer to BYC in accordance with clause 5.1.

**Business Day** means any weekday other than a day which is a public holiday in South Australia.

**BYC** means Backyard Cash

**Collection Day** means between 7am – 7pm on the day as selected by the Customer through the Platform for the collection of the Bin from the Customer's Address.

**Container** means a *container* with *approved refund marking*.

**Container Payment** means, in respect of each Container collected by BYC from the Customer's Bin, the sum of \$0.07.

**Customer** means the person whose details have been populated as the "Customer" on the Platform.

**Customer's Address** means the Customer's nominated address, as specified by the Customer on the Platform from time to time.

**Minimum Threshold** means in relation to the contents of the Bin on a Collection Day, at least 200 Containers.

**Nominated Account** means the Customer's nominated bank account, as specified by the Customer on the Platform from time to time.

**Platform** means the combination of:

- (a) firstly, the system of webpages and computer programs operated by BYC and located at the Internet address known as <https://backyardcash.net.au/>
- (b) secondly, Suitable description of app technology/platform if applicable ; and
- (c) thirdly, SMS communications and notifications to the Customer's mobile telephone.

**Services** means those services to be performed by BYC pursuant to these Terms & Conditions.

## 1.2 Interpretation

In these Terms & Conditions unless the context otherwise requires:

- (a) words which are written in *italics and underlined* and defined in the Act have the same meaning in these Terms & Conditions;
- (b) words denoting the singular number include the plural and vice versa;
- (c) references to clauses are to clauses of these Terms & Conditions;
- (d) all references to money are inclusive of GST; and
- (e) headings are for convenience only and do not affect interpretation.

## 2. THE BIN

### 2.1 Ownership and Licence

The Bin (including each replacement Bin) remains the property of BYC at all times, but:

- (a) in consideration of the Customer's payment of the Bin Fee in accordance with clause 5.1; and
- (b) subject to the Customer's compliance with those obligations imposed under clauses 3.1 and 3.2 in relation to the use and care of the Bin,

BYC grants to the Customer a licence to use the Bin as contemplated by these Terms & Conditions.

### 2.2 Delivery to Customer

Within 10 Business Days after the Customer's acceptance of these Terms & Conditions, BYC shall deliver a Bin to the Customer's Address.

### 2.3 Return on Termination

Upon termination of these Terms & Conditions, the Customer shall make the Bin available for collection by BYC during the Collection Day from the Customer's Address.

## 3. CUSTOMER'S OBLIGATIONS

### 3.1 Bin's Exclusive Use

The Customer agrees to:

- (a) use the Bin exclusively for the collection of Containers; and
- (b) keep the Bin in a secure location at the Customer's Address at all times.

### 3.2 Bin Care and Contents

The Customer must:

- (a) not place inside the Bin any general rubbish, other waste products or any recyclable materials (other than Containers);
- (b) look after the Bin with due care and take reasonable steps to ensure that remains clean and is not damaged; and
- (c) use reasonable endeavours to compress all non-glass Containers before placing them in the Bin (in order to minimise the volume of the Containers).

### **3.3 Notification to BYC**

The Customer shall promptly notify BYC on the Platform when the Bin is ready for collection, which means that:

- (a) the Customer has:
  - (i) squashed, folded or otherwise compressed all non-glass Containers; and
  - (ii) removed all bottle caps from Containers;
- (b) the Bin's contents are exclusively Containers (and it contains nothing else); and
- (c) the Bin is at least 90% full of Containers and contains no less than the Minimum Threshold.

### **3.4 Access for Bin Collection**

The Customer must make the Bin readily accessible for collection by BYC at any time during the Collection Day, including:

- (a) leaving the Bin in a safe location at the Customer's Address (for example, near a carport or garage and not on the footpath outside the Customer's Address);
- (b) leaving unlocked any gates which are required to gain access to the Bin within the Customer's Address; and
- (c) ensuring that any pets of the Customer (particularly dogs) are securely restrained at all times.

The Customer acknowledges that BYC may refuse to collect the Bin if these conditions are not met.

## **4. BYC'S OBLIGATIONS**

### **4.1 Warranty**

BYC warrants that the Containers will be processed and counted by the operator of an approved collection depot.

### **4.2 Bin Collection and Replacement**

Upon receipt of notification on the Platform that the Bin is ready for collection in accordance with clause 3.3, BYC shall:

- (a) allow the Customer to use the Platform to book a Collection Day (being no more than 10 Business Days after the Customer's notification);
- (b) during the Collection Day, arrange to collect the Bin from the Customer's Address (subject to the Customer complying with clause 3.4); and
- (c) replace (in the same location) the Bin with a clean and empty replacement Bin.

#### **4.3 Container Counting and Reporting**

After collecting the Bin in accordance with clause 4.2, BYC shall:

- (a) count the number of Containers within the Bin; and
- (b) report to the Customer through the Platform within 5 Business Days after a Collection Day:
  - (i) the number of Containers collected from the Bin;
  - (ii) the Container Payment attributable to the Containers collected from the Bin; and

### **5. PAYMENTS**

#### **5.1 Bin Fee**

In consideration of BYC's:

- (a) delivery of the Bin in accordance with clause 2.2; and
- (b) replacement of the Bin in accordance with clause 4.2(c),

the Customer:

- (c) agrees to pay the Bin Fee by authorising 4 (or more) deductions to be made in accordance with clause 5.1(d) until the Bin Fee is paid in full; and
- (d) authorises BYC to deduct up to the sum of \$10 from each of the first 4 (or more) payments of the Container Payment to be made by BYC under clause 5.2 until the Bin Fee is paid in full.

#### **5.2 Container Payment**

Subject to BYC's deduction of any portion of the Bin Fee payable in accordance with clause 5.1(d), BYC agrees to pay the Container Payment (for each of those Containers collected by BYC from the Bin) to the Nominated Account by a secure electronic method within 5 Business Days after a Collection Day.

### **6. TERMINATION**

#### **6.1 Termination by Customer**

At any time and for any reason, the Customer may notify BYC of the Customer's intention to terminate:

- (a) the Customer's licence to use the Bin under clause 2.1; and

- (b) BYC's provision of the Services.

## **6.2 Termination by BYC**

If the Customer either:

- (a) fails to comply with any of the Customer's obligations under these Terms & Conditions; or
- (b) fails to have the Minimum Threshold in the Bin on three occasions in any 12 month period; or
- (c) fails to arrange a Collection Day within 6 months after the preceding Collection Day,

then BYC may notify the Customer of BYC's intention to terminate:

- (d) the Customer's licence to use the Bin under clause 2.1; and
- (e) BYC's provision of the Services.

## **6.3 Consequences of Termination**

Following a notification of an intention to terminate (whether by the Customer under clause 6.1 or by BYC under clause 6.2):

- (a) BYC shall notify the Customer on the Platform of the next available Collection Day (being no more than 10 Business Days after such notification);
- (b) the Customer shall make the Bin accessible for collection during the Collection Day in accordance with clause 3.4;
- (c) during the Collection Day, BYC shall arrange to collect the Bin from the Customer's Address (subject to the Customer complying with clause 3.4);
- (d) clause 4.3 (Container Counting and Reporting) and clause 5 (Payments) shall apply; and
- (e) subject to BYC's and the Customer's compliance with these Terms & Conditions, these Terms & Conditions shall cease to apply and neither party shall have any claim against the other in respect of any matter in relation to any event or circumstance arising after this termination.

## **7. ENTIRE AGREEMENT**

These Terms & Conditions record the entire agreement between the parties as to its subject matter. Any prior negotiations, agreements, arrangements, representations and understandings related to the subject matter of these Terms & Conditions are superseded by these Terms & Conditions.

## **8. GOVERNING LAW**

These Terms & Conditions will be governed by and interpreted in accordance with the laws for the time being in force in South Australia and each party submits to the non-exclusive

jurisdiction of the Courts of or exercising jurisdiction of that State and waives any right it might have to claim that those Courts are an inconvenient forum.

**9. WAIVER**

A waiver by a party of a provision of these Terms & Conditions is binding on the party granting the waiver only if it is given in writing and is signed by the party or an authorised officer of the party granting the waiver. Further, a waiver is effective only in the specific instance and for the specific purpose for which it is given. The failure of a party to enforce at any time any of the provisions of these Terms & Conditions or the granting of any time or other indulgence will not be construed as a waiver of that provision or of the right of that party to subsequently enforce that or any other provision.

**10. AMENDMENT**

These Terms & Conditions may be amended at any time and from time to time by BYC and, unless the Customer elects to terminate in accordance with clause 6.1, any such amendment shall take effect on such date as notified by BYC on the Platform.

**11. SEVERANCE**

Any provision of, or the application of any provision of, these Terms & Conditions which is void, illegal or unenforceable in any jurisdiction does not affect the validity, legality or enforceability of that provision in any other jurisdiction or of the remaining provisions in that or any other jurisdiction.