

accepted by the Customer and will become effective thirty (30) days after the date that Bingo/DADI delivers the Charge Notice to the Customer, unless the Customer elects to terminate this Agreement by delivering written notice to Bingo/DADI (**Charge Termination Notice**) before the increased Charges become effective. If a Charge Termination Notice is delivered to the Customer in accordance with this clause 3(d), the increase in Charges contemplated by the Charge Notice will not take effect in relation to this Agreement and this Agreement will terminate on the date that is sixty (60) days after the date that Bingo/DADI delivered the relevant Charge Notice to the Customer.

e. The Customer acknowledges that the Services may be suspended by Bingo/DADI if payment is not received or the Customer is otherwise in arrears of its payment obligations under this Agreement.

f. In addition to the Charges for the Services, additional charges may be applied and charged to the Customer at Bingo/DADI's reasonable discretion:

- i. any changes to this Agreement, including (without limitation):
 - 1. changes in the nature, type, weight or density of the Waste;
 - 2. changes in the Site or access to the Site which cause Bingo/DADI to incur additional expense;
- ii. the removal of Non-Accepted Waste; or
- iii. the delivery and collection of any Bin(s) to and from the Site during the Term.

4. Performance of Services

Bingo/DADI will, in its absolute discretion, not have to perform the Services on weekends or public holidays or for any of the following reasons; if Bingo/DADI cannot access the Site safely, if Bingo/DADI does not provide Services to the area in which the Customer's Site is located, if there is insufficient space on Site for Bingo/DADI to perform the Services, if the Bin(s) appears overweight, if the Bin(s) appears damaged or broken, if the Bin(s) has been filled unevenly, if the Customer has not paid the Charges, if the Customer is in breach of this Agreement or if Bingo/DADI is prevented from performing the Services by circumstances beyond Bingo/DADI's reasonable control (including, but not limited to, natural disaster or industrial action).

5. Collection Notification and Minimum Service

a. Subject to clause 5(b) below, the Customer irrevocably directs Bingo/DADI to perform the Services on the frequency detailed under the heading "Service Details" overleaf on the days determined by Bingo/DADI from time to time in its discretion.

b. The Customer may, by providing reasonable notice to Bingo/DADI, amend the frequency for the performance of the Service provided that the frequency of the Service as nominated by the Customer will not be less than once every four (4) weeks.

c. Bingo/DADI will use all reasonable endeavours to perform the Services on the frequency agreed in accordance with this Agreement but accepts no

liability where such performance is prevented, hindered or for some other reason does not occur by a cause that is beyond the reasonable control of Bingo/DADI. In the event that Bingo/DADI is unable to perform the Service at an agreed time, Bingo/DADI agrees to perform that Service within a reasonable time thereafter.

6. Cancellation and Termination

a. Bingo/DADI may terminate the Agreement immediately by giving notice to the Customer if:

i. the Customer is in breach of this Agreement, and such breach is either incapable of being remedied or has not been remedied within fourteen (14) days of Bingo/DADI giving the Customer written notice of that breach;

ii. the Customer fails to make the required payments or the Customer is otherwise in arrears of its payment obligations in accordance with this Agreement after Bingo/DADI has requested payment of such outstanding amounts within fourteen (14) days;

iii. in Bingo/DADI's opinion the Bin(s) is/are being used for a purpose contrary to law or this Agreement, and the Customer fails to remedy the purpose within seven (7) days of Bingo/DADI giving the Customer a written notice demanding that the Customer's use of the Bin(s) be changed; or

iv. Bingo/DADI has received notice that the Bin(s) has/have been placed on a Site without the Customer having first obtained appropriate permission in accordance with clause 14(c) of this Agreement, and the Customer has failed to obtain the necessary permission within seven (7) days of Bingo/DADI giving the Customer written notice of that breach.

b. In the event of termination of the Agreement in accordance with clause 6(a), Bingo/DADI may retrieve its Equipment at any time from the Customer's Site.

c. The Customer may terminate this Agreement:

i. immediately by giving written notice to Bingo/DADI if Bingo/DADI is in breach of a fundamental term of this Agreement; or

ii. if permitted by clauses 2(b), 3(f) or 18(g) of this Agreement.

d. If:

i. the Customer attempts to terminate this Agreement other than in accordance with the provisions of clause 6(c) of this Agreement or otherwise repudiates this Agreement; or

ii. Bingo/DADI terminates this Agreement for any of the reasons contemplated by clause 6(a) of this Agreement, Bingo/DADI will be entitled to early termination fees calculated, in addition to any outstanding amounts on the account for:

1. The cost of picking up the bins, especially on short notice (e.g. transport, fuel, driver cost)

2. Cost of clean, service and regular maintenance of bin(s) for safe use by another customer
3. Incremental administrative cost in the early closure of the account; and
4. Foregone earnings for discounts provided to the Customer by Bingo/DADI in entering into this Contract.

e. The early termination fees in clause 6(d) are agreed by both parties to be a genuine pre-estimate of Bingo/DADI's damages and are therefore not a penalty at law.

f. On termination of this Agreement by either party, all Charges that are outstanding and have not yet been paid by the Customer to Bingo/DADI will become immediately due and payable.

7. Ownership

- a. The Customer acknowledges that Bingo/DADI's Bin(s) and Equipment remains Bingo/DADI's property at all times.
- b. Bingo/DADI reserves the right not to empty any bin(s) that are not provided by Bingo/DADI.

8. Delays

If, through no fault of Bingo/DADI, the service vehicle is delayed on Site due to either the lack of access to the Bin(s), or for any other reason, a charge of \$25.00 plus GST per fifteen (15) minutes of waiting time will apply. This fee shall be charged to the Customer as an additional charge in accordance with this Agreement only if the delay has been caused by an act or omission of the Customer.

9. Change of address

- a. The Customer may change the address from where the Services are to be performed under this Agreement to an alternate address within an area where Bingo/DADI provides the Services and has a regular scheduled run by providing Bingo/DADI with reasonable notice of the change of address.
- b. If the Customer changes its address in accordance with clause 9(a) of this Agreement:
 - i. the Customer agrees that it shall be liable to pay Bingo/DADI's costs, fees and expenses to transport and install the Bin(s) and Equipment at the new address; and
 - ii. The parties agree that this Agreement will remain in effect at the new address.

10. Customer Obligations:

The Customer agrees to:



- a. Not compact waste;
- b. Maintain the Bin(s) in a sanitary condition;
- c. Only use the Bin(s) as directed by Bingo/DADI and at an agreed location;
- d. Instruct all personnel in the safe and proper use of the Bin(s);
- e. Not remove the Bin(s) from the Site to which it was delivered without permission;
- f. Not deface or otherwise damage the Bin(s);
- g. Reimburse Bingo/DADI for the costs of repairs for damage to the Bin(s) while in the possession of the Customer except for fair wear and tear;
- h. Indemnify Bingo/DADI in respect to all claims, suits, and demands for damages caused directly or indirectly to any person or property (including the Customer) by, or in connection with, the use or operation of Equipment.
- i. Inform Bingo/DADI if the Bin(s) is/are damaged, in dangerous condition or in need of repair;
- j. Grant Bingo/DADI exclusive rights to the removal from the Site of the types of Waste agreed by the Customer and Bingo/DADI (as set out overleaf) and the Customer agrees that it will not engage any other party to provide Waste removal services during the term of this Agreement in respect of the same or similar types of

Waste. This clause 10(j) does not prevent a Customer from contracting with third parties for waste management services relating to other types of Waste;

- l. At its own expense, obtain all required consents and approvals and comply with all laws relating to the Services and to the disposal of Waste by Bingo/DADI; and/or
- m. Comply with all reasonable directions given by Bingo/DADI.

11. Ground Surface

The Customer warrants the ground surfaces traversed by Bingo/DADI vehicles on and at the Site are suitable for the purpose of the delivery and collection of Bin(s) and acknowledges Bingo/DADI will not be liable for any damages resulting except in case of gross negligence by Bingo/DADI.

12. Weight

The Customer acknowledges and agrees that the weight of the Waste deposited in each Bin shall not exceed the allowable weight indicated under the heading "Service Details" overleaf. Where no allowable weight is specified overleaf, the Customer acknowledges and agrees that the weight of the Waste deposited in each Bin shall not exceed 100 kilograms per cubic metre (**Allowable Weight**). Bingo/DADI may in its discretion refuse to collect the Bin(s) if it is not within the Allowable Weight.

Alternatively, if Bingo/DADI elects to collect any Bin in excess of the Allowable Weight (**Overweight Bin**), Bingo/DADI may charge the Customer a reasonable amount for the collection of the Overweight Bin(s) and the Customer must pay such amount in accordance with clause 3 of this Agreement.

13. Waste

- a. The Customer will use the Bin(s) for Waste only and the Customer will not contaminate the Waste with any Non-Accepted Waste or place any Non-Accepted Waste in the Bin(s).
- b. Bingo/DADI will only collect the Waste. If the Waste has been contaminated with Non-Accepted Waste or Non-Accepted Waste has been otherwise placed in the Bin(s), Bingo/DADI may, at its discretion:
 - i. not collect the contaminated Waste and ask the Customer to remove the Non-Accepted Waste from the Bin(s);
 - ii. not collect any Bin which contains Non-Accepted Waste; or
 - iii. collect the Non-Accepted Waste and charge the Customer an additional fee for the transport and disposal of the Non-Accepted Waste in accordance with the Charges Schedule.
- c. Subject to clause 13(f) of this Agreement, all Waste becomes Bingo/DADI's property once the Waste has been collected from the Bin(s) by Bingo/DADI.
- d. The Customer will store all Waste securely and evenly spread the Waste inside the Bin(s) and the Customer will not overfill the Bin(s) or place Waste beside or on top of the Bin(s).
- e. If the Customer needs Non-Accepted Waste collected, the Customer must contact Bingo/DADI to arrange a special collection.
- f. For the avoidance of doubt, title and risk in any Non-Accepted Waste remains with the Customer until it is deposited to a waste facility that is legally authorised to accept such Non-Accepted Waste.

14. Site

- a. Bingo/DADI will rely on the information the Customer provides in respect of the Site.
- b. The Customer must ensure that there is unobstructed and safe access for Bingo/DADI to perform the Services.
- c. The Customer is solely responsible for obtaining permission from the relevant person, entity or authority (i.e. Council, Body Corporate/Strata Manager) if the Bin(s) is to be placed on a communal or public site or other location which in the circumstances requires the permission of a third party.

15. Delivery and removal delay



- a. Bingo/DADI will deliver the Bin(s) to the Site within a reasonable time from the date of this Agreement.
- b. If the Customer has requested Bingo/DADI to place the Bin(s) on a communal or public site or other location which in the circumstances requires the permission of a third party, Bingo/DADI may refuse to complete delivery of a Bin(s) if it is not satisfied that the Customer has permission to place that Bin(s) at that site or location.
- c. Bingo/DADI may at any time in its discretion replace the Bin(s) with an equivalent sized Bin(s).

16. Liability and Indemnity

16.1 To the maximum extent permitted by law:

- a. the Customer will be responsible for all liabilities, claims, damages, actions, costs and expenses which may be incurred by Bingo/DADI as a result of or arising out of any breach by the Customer of any of the terms, warranties, covenants or conditions of this Agreement;
- b. Bingo/DADI will not be liable to the Customer as a result of any loss, damage or injury caused or contributed to by any bins or other equipment not supplied by Bingo/DADI;
- c. Bingo/DADI will not be liable to the Customer for any consequential loss (including loss of use, opportunity, profit, anticipated profit, investment return, business opportunities and damage to goodwill, reputation or share price or failure to realise anticipated savings (whether the loss is direct or indirect)), or loss caused by (or to the extent contributed to by) the Customer or people associated with the Customer such as employees, contractors or the Customer's clients;
- d. the liability of Bingo/DADI (if any) to the Customer will be limited at Bingo/DADI's discretion, to either:
 - i. Bingo/DADI re-supplying of the Services; or
 - ii. Bingo/DADI paying the Customer the cost of the Services being supplied again to the Customer.
- e. the Customer will be responsible for any loss or damage to Bingo/DADI's property, Equipment or Bin(s) occasioned as a result of or in connection with the performance of the Services; and
- f. the Customer will be responsible for any claim or action which may be brought against Bingo/DADI, its employees or agents in respect of personal injury or death of any person and for any other claims whatsoever made against Bingo/DADI as a result of or in connection with the performance of the Services.

16.2 The Customer's liability to indemnify Bingo/DADI is reduced proportionally to the extent that an act or omission of the other contributed to the claim, damage, loss, liability, cost or expense.

17. Privacy Act

Bingo/DADI and its related entities are committed to the protection of personal information in accordance with the Australian Privacy Principles set out in the Privacy Act 1988 (Cth). Information collected as part of entering into, and the performance of, this Agreement will be collected, used and disclosed in accordance with Bingo/DADI's privacy policy available at <https://www.Bingo/DADlindustries.com.au/privacy-policy/>. Our Privacy Officer can be contacted on corporategovernance@Bingo/DADlindustries.com.au for a copy of the privacy policy.

18. General

- a. Bingo/DADI may assign or novate its rights and obligations under this Agreement to a related body corporate of Bingo/DADI without the consent of the Customer. The Customer may not assign or novate its rights and obligations under this Agreement without the prior written consent of Bingo/DADI (such consent not to be unreasonably withheld).
- b. This Agreement is subject to the laws of the State where the Services are provided and the parties submit to the jurisdiction of the courts of that State.
- c. This Agreement contains the entirety of the Agreement between Bingo/DADI and the Customer and supersedes any previous Agreement or statement.
- d. Any provision of this Agreement which is void, illegal or otherwise unenforceable will be severed to the extent permitted by law without affecting any other provision of this Agreement.
- e. The Customer must not make press or other announcements or releases relating in any way to this Agreement, the Services and/or the dealings the subject of this Agreement without the prior written approval of Bingo/DADI, which may be withheld at Bingo/DADI's discretion.
- f. If the person signing this Agreement is doing so on behalf of the Customer which is a corporation or other entity, that person hereby warrants that he/she is duly and legally authorised to execute and enter into this Agreement on behalf of the Customer.
- g. The Customer acknowledges and agrees that this Agreement may be amended from time to time at Bingo/DADI's discretion and the amended agreement will have full force and effect between the parties on the thirtieth (30th) day following the provision of written notice of the amended Agreement to the Customer (**Amendment Notice**), unless the Customer terminates the Agreement within thirty (30) days of being provided an Amendment Notice. The Customer must comply with the amended agreement. The amendments to this Agreement contemplated by this clause 18(g) to not include changes to the Charges, which are the subject of clause 3.
- h. In this Agreement, the following words have the following meaning:
- i. **Australian Consumer Law** means the Australian Consumer Law as set out in Schedule 2 of the Competition and Consumer Act 2010 (Cth);
- ii. **Bingo/DADI** means Bingo Commercial Pty Ltd (ABN 89 163 883 421); Bingo Bins Pty Ltd (ABN 20 162 984 027) or Dial a Dump Industries Pty Ltd (ABN 75 131 565 583);

- iii. **Bin or Bin(s)** means the waste bins Bingo/DADI provides to the Customer;
- iv. **Charges** means the fees, charges and additional charges that are paid to, or are due to Bingo/DADI in accordance with this Agreement;
- v. **Customer** means the party named as the Customer under the heading “The Customer” overleaf;
- vi. **Equipment** means any equipment supplied or utilised by Bingo/DADI in performing the services and includes Bin(s) and vehicles;
- vii. **Initial Term** means the Term of the Agreement referred to in clause 2(a);
- viii. **Non-Accepted Waste** means combustible, corrosive, contaminated, toxic, reactive, radioactive, volatile, highly flammable, explosive or other waste not approved by Bingo/DADI for disposal in the Bin(s)
- ix. **Renewed Term** means any renewed term of the Agreement in accordance with clauses 2(b);
- x. **Service(s)** means the collection and disposal of the Waste placed in the Bin(s);
- xi. **Site** means the location specified by the Customer for the location of the Bin(s) and the performance of the Services.
- xii. **Term** means the duration of the Agreement being the Initial Term plus any Renewed Term.
- xiii. **Waste** means the waste types (excluding Non-Accepted Waste) required by the Customer and approved by Bingo/DADI for disposal in the Bin(s).