



**Executed as an agreement:**

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**Executed** for and on behalf of Cash4Cans  
ABN 27 987 846 954 by its representative in  
the presence of:

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Signature of witness

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Signature of representative

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Full name of witness (print)

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Full name of representative (print)

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Address of witness (print)

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Date

**Executed** for and on behalf of (organisation name & ABN) \_\_\_\_\_

by its representative in the presence of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of representative

\_\_\_\_\_  
Full name of witness (print)

\_\_\_\_\_  
Full name of representative (print)

\_\_\_\_\_  
Address of witness (print)

\_\_\_\_\_  
Date

## Annexure A - Terms & Conditions

### 1. Definitions

In these terms and conditions each of the following terms has the meaning ascribed to it in the *Waste Avoidance and Resource Recovery Act 2007* (WA) or the Regulations (as applicable): 'appointed day', 'approved beverage product', 'bale', 'beverage product', 'bulk claim arrangement', 'bulk quantity', 'container', 'refund amount', 'refund point operator', 'relevant beverage product' and 'State'. In addition, in these terms and conditions:

**Act** means the *Waste Avoidance and Resource Recovery Act 2007* (WA) and includes the Regulations and all other delegated legislation made under it, together with all amendments, consolidations, replacements or re-enactments of any of them;

**Agreement** means the agreement described in clause 2;

**Agreement Details** means the details set out in the section of the Formal Instrument headed 'Agreement Details';

**Agreement Term** means the period commencing the date of execution of the Formal Instrument and continuing until the Agreement terminated in accordance with clause 7;

**Business Day** means a day on which banks are open for business in Perth, Western Australia excluding a Saturday, Sunday or public holiday in that city;

**Client** means the person described as such in the Formal Instrument;

**Client Obligations** means the obligations of the Client described in clause 3;

**Contaminated Container** has the meaning ascribed to it in regulation 4C(1) of the Regulations

**Formal Instrument** means the document executed by the parties to which these Terms are annexed;

**Operator** means the person described as such in the Formal Instrument;

**Operator's Property** means any bins or other property provided by the Operator to the Client as part of the Operator Services;

**Operator Services** means the services described as such in the Agreement Details;

**Other Client Obligations** means the obligations of the Client described as such in the Agreement Details;

**Regulations** means the *Waste Avoidance and Resource Recovery (container Deposit Scheme) Regulations 2019* (WA);

**Scheme** means the container deposit scheme established by Part 5A of the Act;

**Services Fees** means the fees described as such in the Formal Instrument; and

**Terms** means these terms and conditions.

### 2. Agreement

- (a) The Agreement comprises the Formal Instrument and these Terms.
- (b) The parties acknowledge and agree the Agreement is intended to be a bulk claim arrangement for the purpose of regulation 4E of the Regulations.

### 3. Client Obligations

During the Agreement Term, the Client must:

- (a) not breach any of the warranties in clause 4;
- (b) not, by any act or omission of the Client, or persons in respect of whom the Client is vicariously liable, cause the Operator to contravene the Act or other applicable law;
- (c) comply with the Act and all other applicable laws in carrying out its obligations and exercising its rights under the Agreement;
- (d) ensure that each container delivered by the Client to the Operator under the Agreement is:
  - (i) empty;
  - (ii) whole;
  - (iii) not a Contaminated Container;
  - (iv) able to be ascertained as the relevant beverage product by the Operator; and
  - (v) in such a condition that the Operator is reasonably able to confirm that it is a container;
- (e) pay the Services Fees (if any) at the times and in the manner specified in the Agreement Details; and
- (f) perform the Other Client Obligations (if any).

#### **4. Client warranties**

In accordance with the requirements of regulation 4E(1)(c) of the Regulations, in relation to all containers delivered by the Client to the Operator under the Agreement, the Client warrants to the Operator:

- (a) that the containers were collected in the State for the purpose of claiming the refund amount under the Scheme; and
- (b) that the Client reasonably believes that:
  - (i) all of the containers were first supplied in the State on or after the appointed day for section 47E of the Act; and
  - (ii) the relevant beverage product in relation to each container is an approved beverage product; and
  - (iii) a refund amount has not previously been paid for any container; and
  - (iv) none of the containers are or were part of a bale.

#### **5. Operator Obligations**

During the Agreement Term, the Operator must comply with the Act and all other applicable laws in carrying out its obligations and exercising its rights under the Agreement.

#### **6. Operator's Property**

The Client acknowledges and agrees that:

- (a) the Operator's Property remains the property of the Operator at all times; and
- (b) the Client must pay the Operator on demand for the costs of repairing or replacing (as applicable) any of the Operator's Property that is stolen, lost or damaged while in the Client's possession or control.

#### **7. Termination**

- (a) Either party may terminate the Agreement:
  - (i) if the other party commits a breach of the Agreement which is capable of being remedied and fails to remedy that breach within 5 Business Days of being requested to do so by the other party by notice in writing; or
  - (ii) if the other party commits a breach of the Agreement which is not capable of being remedied and is given a notice of termination on the basis of that breach within 5 Business Days of the breach occurring; or
  - (iii) for convenience, by giving not less than 10 Business Days' notice to the other party.
- (b) The Agreement will automatically terminate if the Operator ceases to be a refund point operator.
- (c) Termination or expiry of the Agreement, however it may occur, does not prejudice any claim that either party may have against the other under the Agreement as at the date of termination.

#### **8. Notices**

- (a) A notice under the Agreement must be in writing and:
  - (i) delivered by hand or sent by post; or
  - (ii) sent by email, or as an attachment to an email,to the address of the recipient party set out in the Formal Instrument or as otherwise most recently notified by the recipient party to the party giving the notice.
- (b) A notice is deemed to be given and received:
  - (i) if delivered by hand, on the day of delivery;
  - (ii) if sent by post, on the sixth Business Day after posting; or
  - (iii) if sent by email, when sent, unless the sender receives notification within 24 hours of sending from its or the recipient's email server that the email is undeliverable, was not delivered or the recipient is out of the office.

#### **9. General**

- (a) The Agreement states all of the express terms of the agreement between the parties, and supersedes all prior discussions, negotiations, understandings and agreements, in respect of its subject matter.
- (b) A waiver of a right, remedy or power under the Agreement must be in writing and signed by the party giving the waiver.
- (c) The Agreement is governed by the law in force in Western Australia. The parties submit to the non-exclusive jurisdiction of the courts exercising jurisdiction in Western Australia, and any court that may hear appeals from any of those courts, for any proceedings in connection with the Agreement.

- (d) A variation of any term of the Agreement will be of no force or effect unless it is in writing and signed by each of the parties.
  - (e) If the Client comprises two or more persons, each of those persons is jointly and severally liable under the Agreement.
- 9.2 Neither party may assign or otherwise transfer any of its rights under the Agreement to any other person without the other party's prior written consent.