

S. Norton & Co Limited
Terms and conditions for the loan of skips

1. Interpretation

1.1 Definitions:

"Acceptance Criteria": the acceptance criteria specified by the Owner from time to time in respect of scrap metal or WEEE.

"Collection": collection of the Skip from the Customer by the Owner.

"Contract": the contract between the Owner and the Customer for the loan of the Skip.

"Customer": the person, company or firm to whom the Owner loans the Skip.

"Delivery": delivery of the Skip by or on behalf of the Owner to the Customer.

"Loan Period": the period between Delivery and Collection of the Skip.

"Owner": S. Norton & Co. Limited (registered in England and Wales with company number 01859428).

"Site": the agreed location on the Customer's premises.

"Skip": the skip loaned by the Owner to the Customer.

"WEEE": Waste electrical and electronic equipment.

1.2 Interpretation:

- (a) a reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted from time to time. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- (b) any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;
- (c) words in the singular shall include the plural and words in the plural shall include the singular; and
- (d) a reference to one gender shall include a reference to the other genders.

2. Basis of conditions

These Conditions apply to the loan of Skips to the Customer by the Owner to the exclusion of any other terms that the Customer may seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

3. Delivery and Collection

- 3.1 The Owner may from time to time deliver Skips to the Customer at the Site for the purpose of the Customer placing scrap metal or WEEE in the Skips. The Owner shall then collect the Skips from the Site following notification by the Customer to it that they are ready for collection. The Customer may not place materials that do not conform to the Acceptance Criteria for scrap metal or WEEE in the skips.
- 3.2 The Customer shall provide to the Owner, its agents and contractors access to the Site and suitable facilities and working conditions to enable the safe Delivery and Collection of the Skips to take place.
- 3.3 The Customer shall ensure that the Skips are made available for collection at the Site at the time specified by the Owner.
- 3.4 The Owner may at any time without notice to the Customer retake possession of the Skips and for this purpose may enter the Site.

4. The Skips

- 4.1 The Customer shall only use the Skips for the purpose of the placing therein of scrap metal or WEEE for collection by the Owner.
- 4.2 The Customer shall during the Loan Period;
 - (a) take such steps as may be necessary to ensure, so far as is reasonably practicable, that the Skips are at all time safe and without risk to health;
 - (b) at all times keep the Skips in the possession or control of the Customer and not move the Skips, or permit the Skips' removal, from the Site without the prior consent of the Owner;
 - (c) where the Skip is to be sited on a highway, obtain all prior permissions, licences and consents required including that of the highway authority required pursuant to s139(1) Highways Act 1980 and/or that of any authority required under the Roads (Scotland) Act 1984;
 - (d) at all times observe and comply with all legal requirements concerning the Skip, including all the conditions subject to which any permission, licence or consent referred to in condition 4.2(c) is granted, and all statutory regulations and local bye-laws, including the requirements of the Highways Act 1980 and/or the Roads (Scotland) Act 1984. Without prejudice to the generality of the foregoing the Customer shall ensure that:
 - (i) each Skip is properly sited in accordance with the permission given;
 - (ii) each Skip is marked with fluorescent markings, which must be kept clean; and
 - (iii) each Skip is properly lit during the hours of darkness.
- 4.3 The Customer shall:
 - (a) not sell or offer for sale, or lease, or allow the creation of any mortgage, charge, lien or other security in respect of the Skips;
 - (b) ensure that at all times the Skips remain identifiable, as being the Owner's property and wherever possible shall ensure that a visible sign to that effect is attached to the Skips

- (c) ensure that at all times the Skips identification number remains visible
- (d) not do any act or thing which will or may jeopardise the right, title and/or interest of the Owner in the Skips;
- (e) make good immediately any damage to the Skips caused by the act, neglect or default of the Customer or any persons under its control to the satisfaction of the Owner;
- (f) not burn any materials in the skips.

5. Title and risk

5.1 The Skips shall remain at all times the property of the Owner, and the Customer shall have no right, title or interest in or to the Skips (save the right to possession and use of the Skips subject to these Conditions).

5.2 The risk of loss, damage or destruction of the Skips shall pass to the Customer on Delivery. The Skips shall remain at the sole risk of the Customer during the Loan Period.

6. Insurance

The Customer shall during the Loan Period, at its own expense, obtain and maintain in force with a reputable insurance company:

- (a) insurance of the Skips to a value not less than their full replacement value comprehensively against all usual risks of loss, damage or destruction by fire, theft or accident; and
- (b) professional indemnity insurance at an appropriate amount and public liability insurance at an appropriate amount to cover the Customer's liabilities that may arise under or in connection with the Contract,

and shall produce to the Owner on request both the insurance certificates giving details of the cover and the receipt for the current year's premium in respect of each insurance, and ensure that the Owner's interest is noted on each policy of insurance.

7. Indemnity

The Customer shall keep the Owner indemnified against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties, fines and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by the Owner as a result of or in connection with:

- (a) any breach by the Customer of its obligations under these Conditions;
- (b) any claim made against the Owner by a third party for death, personal injury or damage to property arising during the Loan Period out of or in connection with the Skips, including any claims in relation to use of the Skips, or damage directly or indirectly caused by the Skips while they are situated on a highway.

8. Liability

8.1 The Owner shall have no liability to the Customer, whether in contract, tort (including negligence), breach of statutory duty or otherwise, arising under or in connection with the Contract, for any loss of profits or indirect or consequential losses.

8.2 Nothing in these Conditions shall exclude or limit liability for death or personal injury caused by negligence, for fraud or fraudulent misrepresentation, or for any other liability which it is not permitted to exclude or limit by law.

9. General

9.1 **Waiver.** No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

9.2 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this condition shall not affect the validity and enforceability of the rest of the Contract.

9.3 **Third party rights.** No one other than a party to the Contract and their permitted assignees shall have any right to enforce any of its terms.

9.4 **Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.

9.5 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.