

STANDARD TERMS AND CONDITIONS FOR SKIP HIRE

1 Definitions and interpretation

1.1 Definitions

Unless the context requires otherwise, the following definitions shall apply to these Standard Terms and Conditions:

Business Day means a day, other than a Saturday, Sunday or public holiday in Scotland, when banks in Glasgow are open for business.

Contract means the contract between WRC and the Customer for the hire of the Skip, subject to these Standard Terms and Conditions.

Customer means any person who hires the Skip from WRC.

Day of Delivery means the day on which the Skip is Delivered to the Customer at the Site as agreed between the parties.

Delivery means the transfer of physical possession of the Skip to the Customer by placing the Skip at the Site and **Deliver** and **Delivered** shall be construed accordingly.

Removal means the removal of the Skip from the Site at the end of the Rental Period and **Remove** and **Removed** shall be construed accordingly.

Rental Payment means the price for hire of the Skip as agreed between the parties.

Rental Period means the period of hire as set out in clause 3.

Site means the place where the Skip is to be Delivered at the request of the Customer.

Skip means a container designed for the removal and disposal of builders' materials, rubble, waste, household and other rubbish or earth.

Standard Terms and Conditions means these standard terms and conditions for hire of the Skip.

Total Loss means the Skip is, in WRC's opinion or the opinion of its insurer(s), damaged beyond repair, lost, stolen, seized or confiscated.

VAT means value added tax chargeable in the UK.

WRC means WRC Recycling Limited, a company incorporated under the Companies Acts in Scotland (registered number SC370000), having its registered office address at Auchans Farm, Johnstone, Renfrewshire, United Kingdom PA6 7EE.

1.2 Clause headings shall not affect the interpretation of these Standard Terms and Conditions.

1.3 A person includes a natural person, company or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors and permitted assignees.

1.4 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.

- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7 A reference to legislation or a legislative provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.8 A reference to legislation or a legislative provision shall include all subordinate legislation made from time to time under that legislation or legislative provisions.
- 1.9 A reference to **writing** or **written** does not include fax.
- 1.10 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.11 References to clauses are to the clauses of these Terms and Conditions.
- 1.12 Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2 **Skip hire**

WRC shall hire the Skip to the Customer for use at the Site subject to these Standard Terms and Conditions.

3 **Rental Period**

- 3.1 The Rental Period shall be 7 days (inclusive of the Day of Delivery) unless agreed otherwise between the parties or unless the Contract is terminated earlier in accordance with its terms.
- 3.2 WRC shall be entitled at its own discretion to leave the Skip at the Site for longer than the Rental Period (for the avoidance of doubt, without any further costs to the Customer unless the Skip cannot be Removed from the Site due to the Customer's failure to ensure sufficient and timely access to the Site in which case the Rental Period shall be deemed to be extended until the day of Removal) and to collect the Skip at any time having given the Customer notice.
- 3.3 Where the hire of the Skip is to a Customer who is an individual the duration of the Rental Period shall not exceed three months. Accordingly, the hire of the Skip is not covered by the Consumer Credit Act 1974 (as amended).

4 **Rental Payment**

- 4.1 The Contract shall be created on the Customer's acceptance of WRC's quote whether by telephone, email or online.
- 4.2 The Rental Payment is exclusive of VAT and any other applicable taxes and duties or similar charges which shall be payable by the Customer at the rate and in the manner from time to time prescribed by law.
- 4.3 The Rental Payment and all other amounts due by the Customer under the Contract shall be paid in full no later than 30 days after the date of WRC's invoice without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

- 4.4 If the Customer fails to make a payment due to WRC under the Contract by the due date, then, without limiting WRC's remedies under clause 9, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each day at 4% a year above Bank of Scotland's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.

5 Delivery

- 5.1 Delivery of the Skip shall be made by or on behalf of WRC including by way of a subcontractor.
- 5.2 The Customer shall (or shall procure that a duly authorised representative of the Customer) be present at the Delivery of the Skip. Acceptance of Delivery by the Customer or such representative (as the case may be) shall constitute conclusive evidence that the Customer has examined the Skip and has found it to be in good condition, complete and fit in every way for the purpose for which it is intended. If required by the WRC, the Customer or the Customer's duly authorised representative shall sign a receipt confirming such acceptance.
- 5.3 The Customer shall be responsible for ensuring that at the time of Delivery the Skip is not positioned so as to obstruct access to premises, manhole covers, surface water drains or similar as to cause any nuisance, annoyance or danger to the public.
- 5.4 If a Skip delivered by or on behalf of WRC is to be placed in a location other than on private property, the Customer must at all times during the Rental Period ensure that:
- 5.4.1 they have the prior written permission of the roads authority in accordance with all applicable laws relating to the depositing of Skips (including, but not limited to, section 85 of the Roads (Scotland) Act 1984) before the Skip is Delivered at the Site;
 - 5.4.2 they are able to produce evidence of the permission referred to at clause 5.4.1 above;
 - 5.4.3 they observe and perform all the conditions subject to which the permission referred to at clause 5.4.1 is granted and in particular the Customer shall ensure that:
 - 5.4.3.1 the Skip is clearly marked with reflecting or fluorescent material (which shall be kept clean) and lit properly during the hours of darkness;
 - 5.4.3.2 notify WRC that the Skip is full so that it can be Removed from the Site;
 - 5.4.3.3 the Skip is not overloaded;
 - 5.4.3.4 adequate traffic cones are placed in an oblique line around the Skip; and
 - 5.4.3.5 the road in the immediate vicinity of the Skip is kept in a clean and tidy condition and that the road is not obstructed by any materials which should properly have been deposited in the Skip.

6 Title and risk

- 6.1 The Skip shall at all times remain the property of WRC, and the Customer shall have no right, title or interest in or to the Skip (save the right to possession and use of the Skip subject to these Standard Terms and Conditions).
- 6.2 The risk of loss, theft, damage or destruction of the Skip shall pass to the Customer on Delivery. The Skip shall remain at the sole risk of the Customer during the Rental Period and any further period during which the Skip is in the possession, custody or control of the Customer until such time as the Skip is Removed.

7 **Customer's responsibilities**

- 7.1 The Customer shall during the term of the Contract:
- 7.1.1 ensure that the Skip is kept in a suitable environment and used only for the purposes for which it is designed;
 - 7.1.2 take such steps as may be necessary to ensure, so far as is reasonably practicable, that the Skip is at all times safe and without risk to health when it is being used by a person at work;
 - 7.1.3 immediately notify WRC of any loss, theft, accident, defects, or damage to the Skip;
 - 7.1.4 not attempt to make good any defect or damage to the Skip and shall not continue to use the Skip where it has been damaged;
 - 7.1.5 keep WRC fully informed of all material matters relating to the Skip;
 - 7.1.6 keep the Skip at all times at the Site and shall not Remove, or move or attempt to move the Skip to any other location without WRC's prior written consent;
 - 7.1.7 ensure that the Skip is not overloaded or filled above the level of the sides thereof and if WRC (at its sole discretion) determines that the Skip is overloaded or would be hazardous to transport, WRC may refuse to Remove the Skip, such event resulting in the Customer being responsible for re-loading the Skip and having such extra Skips as may be necessary (in WRC's opinion) to deal with the load or to make the load safe to transport;
 - 7.1.8 at their own expense, obtain and maintain insurance against all risks relating to damage caused as a result of the Delivery to and/or Removal of the Skip from a private property or off road;
 - 7.1.9 not light fires in the Skip nor burn anything therein;
 - 7.1.10 not place any corrosive acid or noxious substance nor liquid cement or concrete in the Skip;
 - 7.1.11 not, without the prior written consent of WRC, part with control of, sell or offer for sale, underlet or lend the Skip or allow the creation of any mortgage, charge, lien or other security interest in respect of it;
 - 7.1.12 not do or permit to be done any act or thing which will or may jeopardise the right, title or interest of WRC in the Skip and, where the Skip has become affixed to any land or building, the Customer must take all necessary steps to ensure that WRC may enter such land or building and recover the Skip both during the term of the Contract and for a reasonable period thereafter, including by procuring from any person having an interest in such land or building, a waiver in writing

and in favour of WRC of any rights such person may have or acquire in the Skip and a right for WRC to enter onto such land or building to remove the Skip;

- 7.1.13 not suffer or permit the Skip to be stolen, confiscated, seized or taken out of its possession or control under any distress, execution or other legal process, but if the Skip is so stolen, confiscated, seized or taken, the Customer shall notify WRC and the Customer shall at its sole expense use its best endeavours to procure an immediate release of the Skip and shall indemnify WRC on demand against all losses, costs, charges, damages and expenses incurred as a result of such theft or confiscation;
 - 7.1.14 not use the Skip for any unlawful purpose;
 - 7.1.15 ensure that at all times the Skip remains identifiable as being WRC's property and wherever possible shall ensure that a visible sign to that effect is attached to the Skip; and
 - 7.1.16 allow WRC or its representatives access to the Site or any premises where the Skip is located for the purposes of Removal of the Skip.
- 7.2 The Customer shall provide WRC with a description in writing of the type of waste contained or to be deposited in the Skip. Such description must identify any hazards or potential hazards (whether or not apparent on inspection) to enable WRC to deal with and dispose of the waste in a safe and proper manner.
- 7.3 The Customer warrants that:
- 7.3.1 the waste deposited in the Skip corresponds with the description given to WRC by the Customer in accordance with clause 7.2;
 - 7.3.2 they will not deposit or permit to be deposited in the Skip any waste of the following nature and description without WRC's prior written consent:
 - 7.3.2.1 special waste (as defined by the Special Waste Regulations 1996); and
 - 7.3.2.2 dangerous, hazardous, toxic, explosive, inflammable or other similar substance or materials.
- 7.4 In the event of WRC discovering or becoming aware that waste has been deposited in the Skip which does not correspond with the description given by the Customer (in accordance with clause 7.2) or for which WRC has not given consent to be so deposited (in accordance with clause 7.3.2), WRC may take such action as it considers appropriate in the circumstances to deal with or dispose of such waste in accordance with the law (including, but limited to, returning the waste to the Customer and notifying the relevant regulatory or supervisory body of any breach of any statutory provision or other duty for which WRC believes the Customer is responsible).
- 7.5 The Customer agrees that they shall indemnify WRC in full against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by WRC arising out of, or in connection with:
- 7.5.1 any failure by the Customer to comply with the terms of the Contract;

- 7.5.2 any additional costs and expenses (including, but not limited to, the costs of any abortive journey) incurred by WRC as a result of any aborted Delivery to or Removal from the Site due to the Customer's failure to ensure sufficient and timely access to the Site;
- 7.5.3 any damage to the Skip, to any vehicle used for the Delivery or the Removal of the Skip, or to property of any third party or of the Customer (including, but not limited to, damage to road margins, driveways and pavements) caused as a result of the Customer requiring WRC, an authorised representative of WRC or a third party duly authorised by WRC to Deliver to or Remove the Skip from a private property or off road except from wilful damage caused by the driver of the vehicle;
- 7.5.4 the Customer any damage to, loss or theft of the Skip while on hire to the Customer which shall include damage howsoever caused; and
- 7.5.5 all claims for injuries to persons or damage to property arising out of use of the Skip while on hire.

8 **Limitation of liability**

- 8.1 The restrictions on liability in this clause 8 apply to every liability arising under or in connection with the Contract including liability in contract, delict (including negligence), misrepresentation, restitution or otherwise.
- 8.2 Nothing in the Contract limits any liability which cannot legally be limited including liability for:
 - 8.2.1 death or personal injury caused by negligence;
 - 8.2.2 fraud or fraudulent misrepresentation; or
 - 8.2.3 any matter in respect of which it would be unlawful for the parties to exclude or restrict liability (including, but not limited to, where the Skip is supplied to a person dealing as a consumer within the meaning of the Consumer Rights Act 2015).
- 8.3 Subject to clause 8.2, WRC's total liability to the Customer shall not exceed an amount equal to the Rental Payment payable by the Customer under the Contract.
- 8.4 Subject to clause 8.2, WRC shall not be liable under the Contract for any:
 - 8.4.1 loss of profits;
 - 8.4.2 loss of sales or business;
 - 8.4.3 loss of agreements or contracts;
 - 8.4.4 loss of anticipated savings;
 - 8.4.5 loss of use or corruption of software, data or information;
 - 8.4.6 loss of or damage to goodwill; and
 - 8.4.7 indirect or consequential loss.

- 8.5 Subject to clause 8.2, all implied terms and conditions as to the quality or performance of the Skip and any other goods or services provided under the Contract are, to the fullest extent permitted by law, excluded from this Contract.
- 8.6 The Customer acknowledges that WRC shall not be responsible for any loss of or damage to the Skip arising out of or in connection with any negligence, misuse, mishandling of the Skip or otherwise caused by the Customer or its officers, employees, agents and contractors.
- 8.7 Where the driver of the vehicle used for the Delivery or the Removal of the Skip is directed to deposit on or pick the Skip up from a Site which is off the road, WRC shall be under no liability whatsoever to the Customer for any damage however caused whilst the vehicle is off the road other than wilful damage caused by the driver of the vehicle.
- 8.8 WRC shall have no liability to the Customer to the extent that the Customer is covered by any policy of insurance arranged as a result of the Contract and the Customer shall ensure that the Customer's insurers waive any and all rights of subrogation they may have against WRC.

9 **Termination**

- 9.1 Without affecting any other right or remedy available to it, WRC may terminate the Contract with immediate effect by giving written notice to the Customer if:
 - 9.1.1 the Customer fails to pay any amount due under the Contract on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment;
 - 9.1.2 the Customer commits a material breach of any other term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;
 - 9.1.3 the Customer repeatedly breaches any of the terms of the Contract in such a manner as to reasonably justify the opinion that their conduct is inconsistent with them having the intention or ability to give effect to the terms of the Contract;
 - 9.1.4 the Customer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (**IA 1986**) as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the IA 1986;
 - 9.1.5 the Customer (being an individual) is deemed either unable to pay their debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the IA 1986;
 - 9.1.6 the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
 - 9.1.7 the Customer applies to court for, or obtains, a moratorium under Part A1 of the IA 1986;

- 9.1.8 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer (being a company, limited liability partnership or partnership) other than for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
- 9.1.9 an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed, over the Customer (being a company);
- 9.1.10 the holder of a qualifying floating charge over the assets of the Customer (being a company) has become entitled to appoint or has appointed an administrative receiver;
- 9.1.11 a person becomes entitled to appoint a receiver over all or any of the assets of the Customer or a receiver is appointed over all or any of the assets of the Customer;
- 9.1.12 a creditor or encumbrancer of the Customer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Customer's assets and such attachment or process is not discharged within 14 days;
- 9.1.13 any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 9.1.4 to clause 9.1.12 (inclusive);
- 9.1.14 the Customer's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy;
- 9.1.15 the Customer suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
- 9.1.16 there is a change of control of the Customer (within the meaning of section 1124 of the Corporation Tax Act 2010).
- 9.2 For the purposes of clause 9.1.2, **material breach** means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the Customer would otherwise derive from:
 - 9.2.1 a substantial portion of the Contract; or
 - 9.2.2 any of the obligations set out in clause 7,

over the term of the Contract. In deciding whether any breach is material no regard shall be had to whether it occurs by some accident, mishap, mistake or misunderstanding.
- 9.3 The Contract shall automatically terminate if a Total Loss occurs in relation to the Skip.

10 Consequences of termination or expiry

- 10.1 On expiry or termination of the Contract, however caused:

- 10.1.1 WRC's consent to the Customer's possession of the Skip shall terminate;
- 10.1.2 WRC may, by its authorised representatives, without notice and at the Customer's expense, retake possession of the Skip and for this purpose may enter the Site or any premises at which the Skip is located; and
- 10.1.3 without prejudice to any other rights or remedies of the Customer, the Customer shall pay to WRC on demand:
 - 10.1.3.1 the Rental Payment and other sums due but unpaid at the date of such demand together with any interest accrued pursuant to clause 4.4; and
 - 10.1.3.2 any costs and expenses incurred by WRC in recovering the Skip or in collecting any sums due under the Contract (including any storage, insurance, repair, transport, legal and remarketing costs).
- 10.2 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.
- 10.3 Termination or expiry of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.

11 **Force majeure**

Neither party shall be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract if such delay or failure results from events, circumstances or causes beyond its reasonable control. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for three weeks, the party not affected may terminate the Contract by giving 14 days' written notice to the affected party.

12 **Confidential information**

- 12.1 Each party undertakes that it shall not at any time during the Contract, and for a period of two years after termination or expiry of the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs, except as permitted by clause 12.2.
- 12.2 Each party may disclose the other party's confidential information:
 - 12.2.1 to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with clause 12; and
 - 12.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

- 12.3 Neither party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

13 **Assignment and other dealings**

- 13.1 The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract without WRC's prior written consent.
- 13.2 WRC may at any time assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.

14 **Entire agreement**

- 14.1 The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 14.2 Each party acknowledges that in entering into the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Contract.

15 **Variation**

No variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

16 **No partnership or agency**

- 16.1 Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.
- 16.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

17 **Third party rights**

Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contract (Third Party Rights) (Scotland) Act 2017 to enforce any term of the Contract.

18 **Notices**

- 18.1 Any notice given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand, by email or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case).
- 18.2 Any notice shall be deemed to have been received:
- 18.2.1 if delivered by hand, at the time the notice is left at the proper address;
or

18.2.2 if sent by email, at the time of transmission; or

18.2.3 if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting.

18.3 The email addresses for services of notices are:

18.3.1 WRC: skiporders@wrcrecycling.co.uk; and

18.3.2 the Customer: the email address confirmed by the Customer to WRC at the time of formation of the Contract.

18.4 This clause 18 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

18.5 A notice given under this Contract is not valid if sent by fax.

19 **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.

20 **Rights and remedies**

Except as expressly provided in the Contract, the rights and remedies provided under the Contract are in addition to, and not exclusive of, any rights or remedies provided by law.

21 **Severance**

21.1 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract.

21.2 If any provision or part-provision of the Contract is deemed deleted under clause 21.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

22 **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 Scots law.

23 **Jurisdiction**

Each party irrevocably agrees that the Scottish courts 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.