



## Garden Waste Collection Service and Sale of Garden Waste Containers Terms and Conditions

Please read these terms and conditions before you purchase one of our Containers and/or sign up for our garden waste collection service. Please keep a copy of this document for your records.

### 1. Definitions

- 1.1 “Calendar Days” means all days including Saturdays, Sundays and Bank Holidays;
- 1.2 “Collection Period” means the period from the Service Start Date until the end of the Contract Year(s);
- 1.3 “Collection Service” means the garden waste collection service provided by us;
- 1.4 “Confidential Information” means any information which has been designated as confidential by either party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person, trade secrets, intellectual property rights and know-how of either party and all Personal Data and Special Categories of Data within the meaning of the Data Protection Legislation. Confidential Information shall not include information which:
- a) was public knowledge at the time of disclosure (otherwise than by breach of clause 12 (Confidential Information; Disclosure of Information and Freedom of Information));
  - b) was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;
  - c) is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or
  - d) is independently developed without access to the Confidential Information.
- 1.5 “Container(s)” means wheeled bins and/or reusable sacks (to be used by you for the disposal of garden waste only) that you agree to buy from us;

- 1.6 “Contract Year(s)” means the annual period from 1st April to 31st March;
- 1.7 “Contractor” means the contractor operating the Collection Service on behalf of Cornwall Council, from time to time;
- 1.8 “Data Controller” has the meaning given to it in the Data Protection Legislation;
- 1.9 “Data Guidance” means any applicable guidance, guidelines, direction or determination, framework, code of practice, standard or requirement regarding information governance, confidentiality, privacy or compliance with Data Protection Legislation (whether specifically mentioned in this Agreement or not) to the extent published and publicly available or their existence or contents have been notified to the Service Provider by the Council and/or any relevant Regulatory Body;
- 1.10 “Data Processor” has the meaning given to it in the Data Protection Legislation;
- 1.11 “Data Protection Legislation” means the UK General Data Protection Regulation ((EU) 2016/679) (“GDPR”) until it is no longer directly applicable in the UK, the Data Protection Act 2018 and any other applicable national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK;
- 1.12 “FOIA” means the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Authority or relevant government department in relation to such legislation and the Environmental Information Regulations 2004 (“EIR”);
- 1.13 “Garden Waste” means the following garden waste items: grass cuttings, leaves, organic sweepings, tree, shrub and rose prunings, branches (up to 30cm long and 2.5cm wide), cut flowers, weeds and windfall or as otherwise specified on our website from time to time;
- 1.14 “Order” means an order made by you to us for the Container(s);
- 1.15 “Pandemic Event” means the occurrence or continued existence of any pandemic or epidemic over a wide geographical area and affecting a large proportion of the population and includes the COVID-19 coronavirus pandemic.
- 1.16 “Personal Data” has the meaning given to it in the Data Protection Legislation;

- 1.17 "Service Start Date" means the planned start date for the Collection Service from your property. The Collection Service Start Date will depend upon when you subscribe to the Collection Service and for any subscriptions made after 31st December the Service Start Date will be from 1st April in the following Contract Year;
- 1.18 "Special Categories of Data" has the meaning given to it in the Data Protection Legislation;
- 1.19 "Terms and Conditions" means the terms and conditions set out in this document;
- 1.20 "us" "we" or "our" means The Cornwall Council of County Hall, Treyew Road, Truro, Cornwall, TR1 3AY;
- 1.21 "Working Days" means a day other than a Saturday, Sunday or a Bank Holiday;
- 1.22 "you" or "your" means the individual that buys or agrees to buy the Collection Service and/or Container(s) from us.

## **2. Conditions**

2.1 Nothing in these Terms and Conditions shall affect your statutory rights as a consumer.

2.2 These Terms and Conditions shall apply to:

- the Collection Service provided to you by us; and/or
- sales of Container(s) by us to you;

and shall prevail over any other documentation or communication from us, in respect of the Container(s) and the Collection Service.

2.3 Any variation to these Terms and Conditions shall be inapplicable unless agreed by us in writing.

## **3. Ordering**

### **3.1 The Collection Service**

3.1.1 For new subscribers, in order to access this Collection Service, you must purchase a wheeled bin or reusable sack from us at the point of paying for your first year's subscription to the Collection Service.

- 3.1.2 Existing subscribers only need to renew their subscription(s) to the Collection Service and may continue to use the existing wheeled bin or reusable sack purchased from us in a previous year. In accordance with clause 5.2, there must be a separate subscription taken out for each Container purchased and presented for collection.
- 3.1.3 You must subscribe to the Collection Service for the Collection Period which ends (each year) on 31st March.
- 3.1.4 You can subscribe to the Collection Service (and buy Container(s) for that subscription) by:
- Ordering online: [www.cornwall.gov.uk/gardenwaste](http://www.cornwall.gov.uk/gardenwaste)
  - Telephoning our Refuse and Recycling number: 0300 1234 141
- 3.1.5 Collections take place fortnightly.
- 3.1.6 You may only use our Container(s) for the Collection Service. This ensures they are recognizable by our Contractor's collection crew and are suitable to be emptied by their collection vehicle; you therefore cannot supply a bin or reusable sack of your own to use with this Collection Service.
- 3.1.7 Collections will only take place from Container(s) purchased from us.
- 3.1.8 If damaged Containers are presented for collection, eg, broken/missing lid, split sides, we reserve the right to suspend your Collection Service until a new or undamaged Container, purchased from the Council, is presented and no refund will be due for collections aborted for this reason.
- 3.2 The Container(s)
- 3.2.1 If we become aware of any error in the price or description of the Container(s) ordered, we will notify you and give you the option to either continue with the Order or cancel it.
- 3.2.2 All Orders for Container(s) are subject to availability. If we cannot supply the Container(s) for any reason you will be informed of the situation and you will not be charged for those Container(s). Any monies already paid by you for the Container(s) will be refunded; however, we will not be responsible for compensating you for any other losses, which may be suffered as a result of the Container(s) not being supplied.

- 3.2.3 Container(s) will only be sold to customers taking out a new subscription Collection Service or those with a current subscription Collection Service where their existing Container requires replacing due to loss, damage, etc.
- 3.2.4 You can order Container(s) for use with the subscription Collection Service by purchasing both at the same time, as detailed in 3.1.1 above.
- 3.2.5 If you need to replace an existing Container part-way through a Contract Year due to loss or damage, you can only order replacement Container(s) by telephoning our Refuse and Recycling line on 0300 1234 141. You cannot purchase Container(s) alone via our website.

#### **4. Price and Payment**

- 4.1 The price of the Collection Service and Container(s) shall be stated on our website and current advertising literature. Charges are set annually and apply from 1st April each year and you will be notified of the price of renewal at least 10 Working Days prior to payment being due for the next Contract Year. Should prices be changed before this date, this will not affect subscriptions already paid for the current Contract Year.
- 4.2 We reserve the right to increase the price at any time if there is any variation in our costs in delivering the Collection Service. We shall endeavour to give you not less than 1 calendar months' notice of any variation to the price under this clause but notwithstanding this you shall be liable to pay any increase from the date specified in the notice (which may be via our website).
- 4.3 Payment for the Collection Service must be made in full before the Collection Service will commence.
- 4.4 Container(s) must be paid for in full by you prior to dispatch to you.
- 4.5 There are no concessions on any of the fees relating to this Collection Service or the purchase of Container(s). You will be charged the full price for collection irrespective of the quantity of waste presented in the Container(s) for collection or whether you present your waste for all of the collection dates.
- 4.6 It can take up to 8 (eight) Calendar Days from the date your payment is received for the Container(s) to be delivered to you. Our Contractor will contact you to advise the date of delivery based on the details provided at the time of ordering.

## 5. The Collection Service

- 5.1 It may take up to 2 (two) Working Days from the date payment is received for your subscription Collection Service to be added to the Contractor's collection round and for the Service to commence. Once your payment has been received and your subscription to the Collection Service has been added to the Contractor's collection round, your next collection date will be visible to you on the Council's website at [www.cornwall.gov.uk/myarea](http://www.cornwall.gov.uk/myarea).
- 5.2 Collections will be as scheduled on all UK Bank Holidays save for Christmas Day and Boxing Day when there will be no collections. If a scheduled collection is due on Christmas Day and Boxing Day a new day will be identified by us and communicated in advance of the Christmas period.
- 5.3 The subscription price covers the cost of emptying one Container(s) item. If additional Container(s) are purchased, an additional subscription to the Collection Service must also be purchased for each separate Container.
- 5.4 Only household garden waste, as detailed on our literature and on our website, may be disposed of through this Collection Service.
- 5.5 We reserve the right to refuse to collect any waste other than that which has been detailed within our literature and on our website.
- 5.6 All garden waste must be contained within the Container(s) purchased from us. Any garden waste not contained in the relevant Container will not be collected.
- 5.7 Container(s) should not be filled with such a weight as to prevent bin lids from closing or make the moving or emptying process hazardous to the Contractor's operatives. We reserve the right to suspend or cancel the Collection Service in the event that Container(s) are too heavy or are stored in such a way that they cannot be accessed or moved safely.
- 5.8 Where the Container(s) are a wheeled bin, due to the mechanical methods used for emptying, it is a requirement that the Container(s) are presented with the lid in the closed position. We reserve the right to suspend or cancel the Collection Service where the Container(s), are presented for collection with the lid in the open position.
- 5.9 The Container(s) should be presented at the boundary of your property by 7.00 am on the day of collection, unless alternative arrangements have been agreed by us. There will be no return visit for aborted collections due to access not being made available by you, or for Container(s) being placed out later than

7.00 am on the day of collection. After collection, Container(s) are to be removed from the highway and returned to your property by no later than by the end of that collection day.

- 5.10 If your placement of the Container(s) is in a position which requires the collection vehicle or the collection crew to leave the public highway you shall indemnify and hold us harmless against any loss, costs, claims, damages or expenses which we may thereby incur whether as a result of damage to the collection vehicle, the Container(s), the property of you or a third-party including damage to the road margin or pavements.
- 5.11 We reserve the right not to collect a Container if it has been left for collection at a location that does not identify which property it belongs to and therefore prevents us from determining that a valid subscription to the Collection Service is in place. We would therefore recommend that you mark your Container with your house number/name and street so our Contractor can identify it.
- 5.12 You must ensure the collection crew and vehicles have free and unobstructed access to the Container(s) at all times so that the waste may be emptied directly into the vehicles. If such access is not provided we shall not be under any obligation to collect the waste. The driver of the collection vehicle may in their absolute discretion refuse to provide the Collection Service if they believe that access to the Container(s) or turning facilities are unsafe or likely to cause damage to the vehicle or if there is any reason to believe that the proposed area for siting the Container(s) is unsuitable.
- 5.13 Should collections be missed due to circumstances beyond our control, every effort will be made to arrange an alternative collection date but no partial refund of the subscription price will be due.
- 5.14 Where you have contacted us to report that your Container has not been emptied and after investigation this has been confirmed by our Contractor, a return visit will be made. No partial refund of the subscription price will be due. To report a missed collection please visit [www.cornwall.gov.uk/missedcollection](http://www.cornwall.gov.uk/missedcollection) or see 7.2 for other ways to contact us.
- 5.15 It is your responsibility to keep all Container(s) at your own risk, maintain the Container(s) in good condition. You shall be responsible for the cost of repairs, expenses and/or replacement Container(s). If the Container(s) are damaged by the collection vehicle when being emptied, this must be reported by no later than the next scheduled collection. Please see clause 7.2 for ways to contact us. You are responsible for maintaining the cleanliness of the Container(s).

- 5.16 This agreement continues to remain in force for the Collection Period. No refund will be issued if the Collection Service is cancelled by you at any time within this period except under the circumstances as detailed in 6.1 below.
- 5.17 Once purchased, the Container(s) remain your property. If you move property within the County of Cornwall and wish to continue to access the Collection Service at your new property, it is your responsibility to move the Container(s) to the new property and to notify us of your change of address. If you move outside of the County of Cornwall you can keep your Container(s) if you wish, but please notify us that you no longer require the Collection Service, so that we do not contact you regarding renewing your subscription for the next Contract Year. Please see 7.2 for ways to contact us.
- 5.18 If you choose not to continue to subscribe to the Collection Service but keep your Container(s), you cannot use them to present your household rubbish (residual waste) for collection, as the Contractor's rubbish collection crew will not check brown garden waste bins for household rubbish (residual waste).
- 5.19 If you wish to change to a larger capacity subscription Collection Service part way through the Contract Year, you can do so but you will need to telephone us to arrange this. You will need to make payment for the difference in price for the remainder of the Contract Year for the larger capacity subscription Collection Service and also purchase a larger capacity Container from us at the same time. You cannot return your existing smaller capacity Container in part payment of Container(s) unless this meets the terms laid out in para 7.3.
- 5.20 If you wish to change to a smaller capacity Container part way through the Contract Year you must purchase a new Container. You cannot return your existing larger capacity Container for partial refund of the difference in price unless this meets the terms laid out in para 7.3. We will convert your existing subscription Collection Service to match the smaller capacity Container but no refund will be due for the difference in price, nor will the equivalent amount be used in part payment towards subscription to the Collection Service for the next Contract year.

## **6. Cancellation of Collection Service**

- 6.1 Cancellation of the Collection Service and refund of subscription price is only available under the following circumstances:
- 6.1.1 a request is received to cancel the Collection Service before any collections have taken place; or



- 6.1.2 the death of the householder where they were the only adult occupant; or
- 6.1.3 the householder is no longer able to continue to live at their property and has to move to a hospice, hospital or nursing home.

For the avoidance of doubt, you shall not be entitled to a refund where you request to cancel the Collection Service for any other reason (including, but not limited to, a move out of County).

- 6.2 All refunds will be applied from the first day of the month following receipt of the cancellation notification and will be based on the number of full months remaining for the Collection Period. In the circumstances of 6.1.1 above, a full refund of the subscription price will be made.
- 6.3 No refund for the price of Container(s) purchased for use with the cancelled Collection Service will be due unless the conditions of 7.1 are met.
- 6.4 Suspensions to the Collection Service are not permitted and no refund will be due for periods where the Service is not used unless the conditions of 6.1 are met to cancel the Collection Service.
- 6.5 We shall have the right (at our sole discretion) to terminate the Collection Service without reason, on providing you with not less than 30 days' notice in writing.
- 6.6 If you breach any of the Terms and/or Conditions we may, in addition to our other rights in respect thereof, give notice to you to terminate the Collection Service immediately or, at our sole discretion, 30 days' from the date of such notice if you shall not have remedied the breach to our satisfaction during that time.

## **7. Return of Container(s)**

- 7.1 If you cancel your subscription to the Collection Service in accordance with clause 6.1 and no longer require the Container(s) purchased from us, you must notify us within 5 (five) Working Days of delivery of the Container(s) that you wish to return it. Provided that the Container(s) is in the same condition as when it was delivered, eg, has not been used or damaged, we will arrange for our Contractor to return to collect it. There will be a charge for the collection of the Container(s) which shall be at the rate detailed on our website (at the time of the collection) and will be deducted from any refund due. Once we have received confirmation from our Contractor that they have collected the Container(s) and that it is in the same condition as when delivered, we will process a refund for the price of the Container(s) less the charge to cover the cost of its collection. Refunds may take up to 20 (twenty) Working Days to be

processed depending on original method of payment.

7.2 To notify us that you wish to return your Container(s), please contact us by one of the following means:

- Telephone: 0300 1234 141
- Online: [www.cornwall.gov.uk/contactus](http://www.cornwall.gov.uk/contactus)

7.3 If you wish to exchange recently purchased Container(s) for a larger or smaller sized capacity container, you must notify us within 20 (twenty) Working Days of delivery and the item must remain in an unused condition. We will arrange for the original Container(s) to be collected at the same time as the new Container(s) are delivered. We will also need to alter your Collection Service subscription to match the capacity of the Container(s) you are exchanging for, as well as taking any additional payment to cover the difference in price if this is higher. Where the difference in price is lower, we will issue a partial refund.

## **8. Faulty and Damaged Container(s)**

8.1 You should inspect the Container(s) upon delivery and contact us within 5 (five) Working Days from the date of delivery to notify us of any damage or defect which a reasonable examination would reveal. Please see para 7.2 for ways to contact us. If you notify a problem to us under this Condition, once we have examined the Container(s) and agreed that the Container(s) are damaged or faulty we will:

- replace the Container(s); or
- provide you with a full refund for the Container(s);

## **9. Guarantee**

9.1 We guarantee that the Container(s) ordered from us will be free from any defects from the date of delivery for 12 (twelve) months for wheeled bins and 6 (six) months for reusable sacks. If the Container(s) have a defect within this period, you can choose whether to have them replaced or refunded (this does not extend to include a refund for your subscription to the Collection Service). Your statutory rights are not affected by this guarantee.

9.2 Damage attributable to misuse or accident (our decision as to the cause is final) for which we or our Contractor cannot be deemed responsible is excluded from the guarantee.

## **10. Force Majeure**

- 10.1 We shall not be liable for any delay or failure to perform any of our obligations if the delay or failure results from events or circumstance outside our reasonable control, including but not limited to acts of God, adverse weather, strikes, lock-outs, accidents, war, fire or breakdown of plant or machinery and we shall be entitled to a reasonable extension of our obligations.
- 10.2 If a Pandemic Event occurs or exists, we shall not be liable for any delay or failure of the Contractor to perform any of its obligations if the delay or failure results from events or circumstances outside its reasonable control.

## **11. Limitation of Liability: your attention is particularly drawn to this clause**

- 11.1 Each of the parties agrees that they will at their own cost effect and maintain appropriate policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the parties pursuant to these Terms and Conditions.
- 11.2 Nothing in the Contract limits any liability which cannot legally be limited, including but not limited to liability for:
- a) death or personal injury caused by negligence;
  - b) fraud or fraudulent misrepresentation; and
  - c) breach of the terms implied by section 2 of the Supply of Container(s) and Services Act 1982 (title and quiet possession).
- 11.3 Subject to clause 11.2 (liabilities which cannot legally be limited), our total liability to you for all loss or damage shall be limited to £50,000.
- 11.4 Subject to clause 11.2 (liabilities which cannot legally be limited), we shall not be responsible for any property (including personal effects), deposited by you or any other person in the Container(s) and shall not be bound to return the same, nor be liable for any loss or damage thereto.
- 11.5 Subject to clause 11.2 this clause 11.5 sets out the types of loss that are wholly excluded:
- a) loss of profits;
  - b) loss of sales or business;

- c) loss of agreements or contracts;
  - d) loss of anticipated savings;
  - e) loss of use or corruption of software, data or information;
  - f) loss of or damage to goodwill; and
  - g) any indirect or consequential loss.
- 11.6 The terms implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from these Terms and Conditions.
- 11.7 This clause 11 shall survive termination of the Collection Service.
- 12. Confidentiality, Data Protection and Freedom of Information**
- 12.1 We shall maintain the confidentiality of any Confidential Information belonging to you and shall not:
- (a) use such Confidential Information except for the purpose of performing our rights and obligations under or in connection with this Collection Service; or
  - (b) disclose such Confidential Information in whole or in part to any third party, except as expressly permitted by the parties in writing or as they are required to by law
- 12.2 We must comply with Data Protection Legislation, Data Guidance, the FOIA and the EIR.
- 12.3 The parties acknowledge that for the purposes of the Data Protection Legislation, we are the Data Controller and the Contractor is the Data Processor and that your details will be shared with the Contractor for the purposes of providing the Collection Service.
- 12.4 If we are required under Data Protection Legislation to notify the Information Commissioner or a Data Subject of a Personal Data Breach then within 48 hours of the breach occurring, we must inform you of the Personal Data Breach, and we will report the breach to the Information Commissioner within seventy two (72) hours as is required within the Data Protection Legislation.
- 12.5 Where required under Data Protection legislation, we shall ensure that we have a Privacy Notice or Consent Notice in place.
- 12.6 Without prejudice to the generality of this clause 12, we must ensure that all Personal Data processed by or on behalf of us in the course of delivering the Collection Service is processed in accordance with the obligations under Data Protection Legislation and Data Guidance.

12.7 You acknowledge that we are subject to the FOIA and shall give all reasonable assistance to us where appropriate or necessary to comply with such duties.

**13. Changes to Terms and Conditions**

13.1 We shall be entitled to alter these Terms and Conditions at any time but this right shall not affect the existing Terms and Conditions accepted by you upon placing an order.

**14. Subcontracting**

14.1 We reserve the right to subcontract the provision of the Collection Service or any part thereof to any person.

**15. Governing Law and Jurisdiction**

15.1 These Terms and Conditions shall be governed by and construed in accordance with the laws of England and Wales and the parties hereby submit to the exclusive jurisdiction of the English courts.