

**1. Application**

These Terms and Conditions shall apply to the provision of Garden Waste Collection Services (the “Services”) by The London Borough of Sutton of 24 Denmark Road, Carshalton SM5 2JG (the “Council”) to you (the “Customer”). No other terms and conditions shall apply to the provision of Services unless agreed upon in writing between the Council and the Customer.

**2. Interpretation**

- 2.1. A “business day for Collections” means any day other than a Sunday, Bank or Public Holidays.
- 2.2. A “business day for Bins” means Monday – Friday (excluding Saturday – Sunday, Bank and Public Holidays)
- 2.3. The “Contractor” means an organisation that has a contract with the Council to provide the Services, (or some of part of them on the Council’s behalf.
- 2.4. The headings in these Terms and Conditions are for convenience only and shall not affect their interpretation.
- 2.5. Words imparting the singular number shall include the plural and vice-versa.

**3. Services**

- 3.1. The Council, through its sub-Contractor operates a chargeable collection service, for Garden Waste Collection (the “Services”), for households across the borough.
- 3.2. For an annual subscription, residents will be provided with 26 fortnightly collections of garden waste over a 12 month period.
- 3.3. The annual charge also covers the loan of the container(s) in which garden waste must be placed for collection. Depending on individual customer needs the type of container will be:
  - 240 litre green wheelie bin with a brown lid (standard service)
  - 2X 240 litre green wheelie bins with brown lids (Customers with large gardens)
  - 3 x 240 litre green wheelie bins with brown lids (Customers with extra large gardens)
  - 1X 140 litre green wheelie bin with a brown lid (Customers with small gardens)

- 3.4. For customers that currently receive a sack service for waste and recycling collections, the annual charge will cover the cost of the fortnightly collection of 240 litres of garden waste contained in compostable sacks
- 3.5. The chargeable garden waste service is available for domestic households, and/or other locations at the Council’s discretion.
- 3.6. The Council reserves the right to alter the sizes of the collection containers at any time.
- 3.7. The Contractor will first provide the service to you within 5 working days (Mon-Fri) after your application has been processed and payment received.
- 3.8. Garden waste will be collected fortnightly on your allocated day (although this may change due to Public / Bank Holidays or exceptional circumstances). Your subscription covers the emptying of your container once on your collection day. Information about collection days will be available on the Council’s website.
- 3.9. The Council reserves the right to alter collections if required, and will endeavour to provide adequate notice to all householders that would be affected by the alteration.
- 3.10. The Council (via the Contractor) will make every effort to carry out collections on your collection day between 6am and 8pm. However, there may be delays due to events outside of the Council’s control (see clause 13).
- 3.11. Once garden waste has been collected from the household it is the property of the Council. It is then sent to a composting facility where it is turned into a soil improver.

**4. Council Obligations**

- 4.1. The Council shall use reasonable care and skill in its performance of the Services and shall ensure compliance with any and all relevant codes of practice.
- 4.2. The Council shall use reasonable endeavours to complete its performance of the Services within the time agreed as set out within this agreement; however time will not be of the essence in the performance of these obligations.

**5. Subscription Fees**

- 5.1. The fees (“Fees”) for the Services are set out on the Council’s website and will be reviewed annually.
- 5.2. You must make payment for the chargeable garden waste service in advance by debit card, credit card or cheque.
- 5.3. You can join the scheme at any time during the year and will receive the Services for 12 months equating to 26 fortnightly garden waste collections.
- 5.4. Customers will be notified in advance about when the next annual payment is expected.
- 5.5. The Fee shall be non-refundable, except in the circumstances outlined within this agreement.
- 5.6. If you order an additional bin after your original subscription period begins, the subscription period for the additional bin will be the same as that for the original.

**6. Container Delivery and Container Maintenance**

- 6.1. The Contractor will deliver your container(s) within 5 working days (Monday-Friday) of your application.
- 6.2. Occasionally the Contractor’s delivery to you may be affected by a Clause 13 event. If the Contractor is not able to deliver the container(s) due to operational reasons or stock shortage, the Contractor will deliver the container(s) as soon as practically possible.
- 6.3. From the completion of delivery, the container(s) will be your responsibility. Delivery will be completed when the container(s) are placed at the property named in your Application.
- 6.4. If on arrival it is deemed that your property does not meet the requirements of an eligible property (Health and Safety Issues or other anomalies) the container(s) will not be delivered. In this instance you will not be entitled to the Service, but will receive a refund.
- 6.5. If you find that a container is damaged on delivery, you have the right to request the replacement or repair of the container(s). You must inform the Council within 48 hours. The Council will endeavour to get a new container(s) delivered, as soon as possible. In the event that delivery is unreasonably delayed, a partial refund may be considered; however this will be decided by the Council on a case by case basis.
- 6.6. If you order a container(s), but following delivery you wish to change the number and / or size of Container(s), the Council may impose a charge for collection of the existing container(s) and delivery of additional container(s).
- 6.7. The subscription payment otherwise covers the cost of the Service.
- 6.8. The container(s) remains the property of the Council at all times.
- 6.9. Whilst you maintain your subscription services, the container(s) are loaned to you, and therefore you are responsible for maintaining the container(s) in a serviceable condition, its cleanliness and the cleanliness around the container(s) location whilst in your possession. If you wish to put your house number or name on the container it must be done in such a way that if required the bin can be restored to its original condition.
- 6.10. The container(s) must not be removed from the premises stated on the application to the scheme unless removed by, or with the authority of the Council.
- 6.11. You shall keep the container(s) safe and secure. In the event of the Container being lost, stolen or damaged you may be required to pay to the Council the costs of an equivalent replacement container(s) and its delivery unless the Council has damaged the container(s) during collection.

6.12. Where the Council has damaged the container(s) during the collection of garden waste, you will need to inform the Council within 48 hours, to ensure a repair free of charge. Notification, after this time, may result in a repair being chargeable to you.

**7. Presentation**

- 7.1. You may only use the designated garden waste container(s) provided by the Council for the chargeable garden waste service.
- 7.2. The Contractor will not collect garden waste contained in any other container(s).**
- 7.3. The Contractor shall be under no obligation to provide a collection if:
  - The container is not presented at your property boundary closest to the highway, by 6am on collection day;
  - The container contents are contaminated, overflowing or overweight (over 25kg);
  - The container is damaged and emptying it would pose a health and safety risk; and
  - If the container is presented in such a way that it would pose a risk of being damaged by the Council’s equipment (example, excessive overflow of waste, as such, which would prevent the lid from closing).

- 7.4. If the container(s) or sack are contaminated with materials that are not accepted in the garden waste service, it is your responsibility to remove the contamination before the next scheduled collection. Frequent contamination may result in the cancellation of the service at the Council’s discretion.
- 7.5. There should be no sacks placed within the container(s). All garden waste should be placed loose inside the container(s).
- 7.6. You grant the Council the right (and the Contractor when authorised by the Council) to enter into or upon the premises to remove the container(s) in the event of withdrawal of the service or contamination of the material.
- 7.7. No side waste will be collected i.e. extra waste next to the bin or balanced on the lid, or next to the sack.
- 7.8. Residents that already receive an assisted collection service for waste and recycling collections will be eligible for an assisted collection for their garden waste.
- 7.9. The container(s) should be removed from the public highway as soon as possible after collection (it is an offence to obstruct the highway).

**8. Service Issues**

- 8.1. In the unlikely event that there is a problem with the garden waste collection service:
  - Please contact the Council to report the problem within 48 hours.
- 8.2. Any report of missed collection reported after the 48 hours, will not be recollected (with the exception of a reported missed assisted collection).

**9. Moving Home**

- 9.1. You **must** inform the Council of any change in address to:
  - enable the Council to amend your application details to state your new address and deliver the service to this address, if you remain in an eligible property/boundary in the London Borough of Sutton; and
  - cancel the service if you will no longer be a resident in an eligible property and/ or one within the London Borough of Sutton,.

9.2. In the event that Collection slot is missed, due to a change in address, the Council shall not make any refund of the Fees, as the Council require time to process the amendment. .

**10. Cancellation and Refund**

**The Parties can cancel the Services in the following ways:**

**Customer**

- 10.1. Before the Council begins to provide the chargeable garden waste service, you may cancel your Application within 3 working days of making payment. In this case, the Council will refund the payment made for the garden waste service. However, the Council will not refund any money if the cancellation is not made within 3 working days of the payment being made.
- 10.2. Once you are receiving the chargeable garden waste service, you may cancel the contract for the service at any time by providing the Council with at least one month’s notice in writing. Please note you will not be refunded any of the amount paid at the time of your Application.
- 10.3. Once cancelled, the Contractor will collect the container(s), if there is any damage, or if the container(s) are defaced or not available, the Council reserve the right to charge you for repair/replacement of said container(s).
- 10.4. Where the Customer has reported to the Council, the Contractor’s failure to provide 6 consecutive garden waste collections, and you have not breached your obligations in clause 6-7, you may cancel your subscription and the Council shall refund the amount paid at the time of your Application.

**Council**

- 10.5. If the Council cancel your subscription to the Service for the following reasons:
  - Cancellation of Services before the commencement of service;
  - Cancellation due to an event listed in Clause 13; and or
  - Cancellation due to the unavailability of stock.

The Council will promptly contact you, and offer a refund.

- 10.6. Once the Council has begun to provide you with a chargeable garden waste service, the Council may cancel the contract by providing you with at least one month’s notice in writing
- 10.7. The Council may cancel the contract with you for the chargeable garden waste service at any time with immediate effect by giving written notice if you breach the contract in any other material way and do not correct the problem within 7 working days of the council making its request for you to do so.
- 10.7 Clause 10.3 shall apply upon cancellation by the Council.

**11. Liability and Indemnity**

- 11.1. The Council will not be liable for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by the Council’s employees, contractors, agents or otherwise) in connection with its provision of the Services or the performance of any of its other obligations under these Terms and Conditions or with the use by the Customer of the Services supplied whether as a result of breach of contract, breach of statutory duty, tort, ( including negligence) or otherwise howsoever arising.
- 11.2. The Council shall not be liable to the Customer or be deemed to be in breach of these

Terms and Conditions by reason of any delay in performing, or any failure to perform, any of the Council's obligations if such delay or failure is due to any cause beyond the Council's reasonable control.

11.3. Nothing in these Terms and Conditions shall limit or exclude the Council's liability for death or personal injury caused by its negligence or for any other matters for which it would be unlawful to exclude or limit liability.

## **12. Sub-Contracting**

12.1 The Council shall be free to sub-contract the provision of the Services (or any part thereof).

## **13. Force Majeure (Event outside the Council's Control)**

Neither party shall be liable for any failure nor is delay in performing their obligations where such failure or delay results from any causing that beyond the reasonable control of that party. Such causes include, but are not limited to: power failure, Internet Service Provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the party in question.

## **14. Communications**

14.1 All notices under these Terms and Conditions shall be in writing and signed by, or on behalf of, the party giving notice (or a duly authorised officer of that party).

14.2 Notices shall be deemed to have been duly given:

(a) when delivered, if delivered by courier or other messenger (including registered mail) during the normal business hours of the recipient; or otherwise at the commencement of the next business hours

(b) when sent, if transmitted by fax or email and a successful transmission report or return receipt is generated;

(c) on the fifth business day following mailing, if mailed by national ordinary mail; or

(d) on the tenth business day following mailing, if mailed by airmail.

14.3 All notices under these Terms and Conditions shall be addressed to the most recent address, email address or fax number notified to the other party.

14.4 The Council and the Contractor will use your email and/or postal address to provide you with information about your garden waste collection service, including a reminder when your subscription is due for renewal.

## **15. No Waiver**

15.1 No waiver by the Council of any breach of these Terms and Conditions by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.

15.2 No failure or delay on the part of either the Council or the Customer to exercise any right, power or privilege under these Terms and Conditions shall operate as a waiver of, nor shall any single or partial exercise of any such right, power or privilege preclude, any other or further exercise of any other right, power or privilege.

## **16. Severance**

In the event that one or more of these Terms and Conditions is found to be unlawful, invalid or otherwise unenforceable, that / those provisions shall be deemed severed from the remainder of these Terms and Conditions (which shall remain valid and enforceable).

## **17. Law and Jurisdiction**

17.1 These Terms and Conditions (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales.

17.2 Any dispute, controversy, proceedings or claim between the Seller and the Buyer relating to these Terms and Conditions (including any non-contractual matters and obligations arising therefrom or associated therewith) shall fall within the jurisdiction of the courts of England and Wales.