

APPENDIX 2

DRAFT LEASE FOR ALLOTMENTS & LEISURE GARDENS

Based on an Agreement in Bromley – NOT specifically agreed by the London Borough of Sutton – Provided for Information Purposes only.

This LEASE is made the on January the 1st 200x, and supersedes all previous Agreements or Leases and shall be referred to as the Lease throughout.

PARTIES

The London Borough of xxxx (The Council)
And
xxxx Plot Allotment Association. (The Association)

(Chairman.....)
(Secretary.....)

General Provisions:-

(1) DEMISE

The premises known as Xxxxx Plot Allotment Association, coloured red on the attached plan together with a right of access (shared with public use) coloured blue (and shared car park coloured brown) and fences or hedges which are the responsibility of the Association coloured green.

(2) TERM

The Lease will operate for an initial period of 99 years effective from January the 1st 200x. Xxxxx Plot Allotment Association, shall be entitled to re-negotiate future terms with the Council every 11 years during this period {excepting sites already leased to the Authority}.

(3) RENT

Rent reflected in a & b below are subject to option a or b being chosen in point 16.

- (a) The Association will pay a rent (e.g. £45.65 Forty-five pounds and sixty five pence only) per annum payable by the x of x of each year of the Agreement, subject to an annual review to reflect changes (based upon the change of the retail Price Index). The rent shall be adjusted pro rata to a change at any time in the area of the number of plots that are let and that could be let.

OR

- (b) The Association will pay a rent (e.g. £1,400.00 exclusive of rates and other outgoings) per annum payable by the x of x of each year of the Agreement, subject to an annual review to reflect changes (based upon the change of the retail Price Index).

The Association will be responsible for outgoings attributable to its occupation of the premises, such as Electricity, Water, Gas, etc.

(4) USE

The site shall be used for the purposes of allotments or leisure gardens and related activities. Communal buildings may be used for social functions and meetings, whilst Trading huts may be used for the sale of materials in connection with horticulture. Produce deriving from the site shall be used or consumed by the site's ploholders. Any excess production may be disposed of in accordance with current statute and policies agreed by the Council's Leisure Gardens and Allotments Consultative Panel.

(5) ARBITRATION

All disputes and differences that may arise between the parties, during this Agreement, shall be referred for discussion to four representatives. Two shall be appointed by the Association in consultation with the and two shall be appointed by the Council's Director of Leisure and Community Services; they may discuss the dispute or differences with others. An additional Member of the Xxxxx Plot Allotment society may act as an observer. The representatives shall discuss their findings and make recommendations to the Council's Director of Leisure and Community Services. In the event of an even split between the four representatives, the Director of Leisure and Community Services shall be the final arbiter.

Any difference which relates to or arises out of this Agreement, and that cannot be reconciled in the manner above, shall then be referred to arbitration by a single arbitrator who shall be appointed by the President of the Chartered Institute of Arbitrators to the satisfaction of both parties. The costs of such action shall be borne equally by both parties.

(6) TERMINATION

The Lease may be terminated by the Association upon giving twelve months written notice to the Council, or if the Association ceases to exist.

The Council may terminate this Lease if, after having been given a written notice allowing a period of three months for rectification, the Association fails to abide by the terms of the Lease. If after such rectification period the terms of the Lease are not complied with and the Lease is terminated, then the Council will take over the direct management of the site in a 'caretaker' capacity. Such direct management may involve the XXXXX PLOT ALLOTMENT ASSOCIATION and Council representation and will continue until such times as either the Lease terms can be adhered to or a new Association committee is formed which is able to adhere to the terms of this Lease; or where a Lease on similar terms may be granted.

All matters of termination shall be reported to the Council's Leisure Gardens and Allotments Consultative Panel for endorsement.

Only where an Association ceases to exist, shall all land and buildings or permanent structures revert to the Council. All tools, plant and machinery not bought with rental money and belonging to the former Association, shall at the Council's discretion, be disposed of by an agent appointed by the Council. All proceeds shall then be split equally amongst ploholders. All rental accounts shall be paid back to the Council.

(7) ASSIGNMENT

The Association must not underlet or part with possession of the premises or any part of them, or grant any licence for occupation or use of them or any part of them, other than by way of the letting of plots in accordance with Clause 13.

(8) ACCOUNTS AND AUDIT

The Association shall prepare and submit annual audited accounts to the Council's Director of Leisure and Community Services, containing such information, or in such form, as the Council agree with the XXXXX PLOT ALLOTMENT ASSOCIATION. A model document is appended in Schedule A.

(9) INDEMNITY AND INSURANCE

The Association shall be responsible for and shall hold harmless and indemnify the Council in respect of any claim, loss or proceedings in respect of bodily injury to or the death of any person or damage to property arising out of the Association's occupation and use of the premises as specified in this agreement. Further, it will effect and maintain Public Liability insurance with an insurance company of good repute in the joint names of the Association and the Council in respect of such claims, losses or liabilities and this insurance will have a minimum limit of indemnity of not less than £2 million. The Association will upon demand produce to the Council a copy of such insurance policy.

The Council will effect and maintain Public Liability on behalf of itself and the Association in respect of work carried out by the Association for the Council relative to the general maintenance of the premises under this agreement, and as set out in Schedule One attached to this agreement. This insurance will be for a minimum limit of indemnity of not less than £2 million.

The Council shall be responsible for effecting and maintaining insurance in respect of fire and such other perils as it shall in its absolute discretion determine in respect of any communal building and the contents thereof belonging to the Council within the curtilage of the premises, and the Association shall be responsible for effecting any insurance it deems appropriate in respect of any shed or other building belonging to the Association or any of its members which may be on the site at any time, as set out in Schedule Two.

The Association shall not allow any person to have possession or occupation of an allotment plot unless and until such person has entered into a tenancy agreement for that plot.

The Association is hereby authorised to issue notices of re-entry for service in the approved manner on ploholders on the grounds of rent arrears or failure to cultivate, maintain their plots or other major breach in accordance with the terms of their tenancy agreement. Such notices shall bear the signature of the designated officer of the Association, who is authorised to sign on behalf of the Council. Any access arrangement to the site from adjoining property shall be subject to a separate licence agreement between the Association and the individual concerned {who must also be a ploholder}

(14) DISPUTES AND NUISANCE

The Association shall not do, or suffer to be done, any act which causes nuisance to any plotho/der, adjoining occupier, shared user of the facilities or visitors to the site, save where temporary nuisance to ploholders is caused in the course of the Association's fulfilling its obligations under this lease and cannot reasonably be avoided.

The Association shall initially address any disputes with, or grievances by ploholders. Should this prove unsuccessful, then representation shall be made to elected officers of the XXXXX PLOT ALLOTMENT ASSOCIATION, who will if requested raise the matter with relevant officers of the Council. This in turn shall be brought to the attention of the Leisure Gardens and Allotments Consultative Panel and the Leisure and Community Services Committee as appropriate; if it cannot be resolved by the Director of Leisure and Community Services.

The Council will not consider disputes unless this procedure is adhered to.

(15) PLOT RENTAL LEVELS

The Association shall determine the rent levels and concessionary rates for all plot holders, (defined as sub-tenants of the Association renting an allotment plot) These shall be reported annually to the Council as a part of its Allotments Survey or at such other time and in such form as the Council may reasonably require.

(16) PLOT INCOME AND MAINTENANCE OF SITE

Option **(a)** below is for full management by the Xxxxx Plot Allotments Association; the rent to pay to the council is lower (see clause 3 option a)

Option **(b)** below is for lower level management by the Xxxxx Plot Allotments Association; the rent to pay to the council is lower (see clause 3 option b)

Option (a)

Income from lettings shall be used to maintain, manage and improve the site and its facilities in accordance with the terms of this Lease.

The Association shall be responsible, unless otherwise provided in this Lease, for all maintenance and repairs to the premises including the following: Grass areas shall be kept mown, paths kept in a safe condition and clear of overgrowing vegetation.

Hedges shall be kept regularly pruned both faces and top, where such vegetation exists within the boundary of the site, or where it overhangs any public right of way. The Association shall ensure that vacant plots are not in a hazardous condition and that weed growth is controlled so as not to cause a nuisance. General rubbish and items that present a health and safety hazard shall be removed from site. Fences, gates and other forms of enclosure shall be kept in good working condition.

Communal site buildings, water supplies, sewers, drains and services shall be maintained in a safe and working condition and be replaced as necessary if these are beyond economic repair.

Option (b)

Income from lettings shall be used to maintain, manage and improve the site and its facilities in accordance with the terms of this Lease. The association will be responsible:

- a) To pay all outgoings for services supplied for the property including the repair of the water system coloured green on the Sketch Plan (liability being limited to a maximum sum of £*** each year in respect of the water system) whether the consumption occurs through the use of the equipment situated on the premises or not
- b) To maintain the boundary hedges marked with a "T" on the plan (to be specified)
- c) To maintain in a reasonable condition all the existing gates and access roadways and footpaths shown on the Plan (to be specified)

(17) TENANT DETAILS

The Association shall keep an up to date record of the names and addresses of the tenants of the allotment plots and the rent payments made by the tenants and the plot number and area of land allocated to each tenant. This shall be made available to the Council upon its request and with reasonable notice.

(18) STATISTICAL DATA

The Association shall provide such statistical and other information, as the Council shall reasonably request on an annual basis as a part of the Council's Annual Allotment and Leisure Gardens Survey, or in such other form as the Council may reasonably prescribe.

The Association shall maintain an up to date site plan and make this available for inclusion in the statistical returns.

(19) EDUCATION AND PROMOTION

The Association shall seek to raise the profile of Allotments and Leisure Gardens wherever possible. The Association shall promote the Annual Allotments and Leisure Gardens Competition and encourage individuals and the site as a whole to participate in entry.

Site Provisions:-

(20) ACCESS ARRANGEMENTS FOR COUNCIL OFFICERS AND AGENTS

The Association will allow access to Council Officers, their agents or workmen, on production of a valid identification card at all reasonable working hours.

The Council will give 24 hours notice, except in an emergency, of intention to visit the site. Where car parks exist, Council officers' or approved and authorised contractors' vehicles may enter spaces allocated by the Site Secretary.

(21) BUILDINGS AND SHEDS

Permission from the Council as Landlord shall be obtained in writing prior to any construction of new buildings, or alterations of a structural nature to existing buildings, with the exception of ploholders' tool sheds.

The Association shall require that such sheds shall be constructed in a workmanlike manner and maintained in a safe condition.

In giving permission for the construction and erection of ploholders tool sheds, the Association shall have regard to the current statutory requirements as applied for the time being by the Council.

(22) ALTERATIONS TO FACILITIES

The Association shall advise the Council through its annual statistical return and business plan of any major site changes proposed. Where such change is liable to be controversial or against current policy, then the matter should be referred to the Council's Leisure Gardens and Allotments Consultative Panel for consideration.

(23) TREE WORK

The Council shall remain responsible for all existing tree works where pruning or felling is required in the interests of health and safety on the site, or adjoining properties. Such maintenance shall be undertaken after consultation, except in emergency, by the Council and the Association. The Association shall not remove any tree or hedge without the prior written approval of the Council.

(24) SIGNAGE

The Association shall provide clear signage on its site, indicating the name of the site and, where appropriate details for those seeking membership or other point of contact information.

Landlocked sites, or those with no access from a public highway, will not be required to have signage.

Signs shall be maintained in good order, with up to date information and be free of graffiti.

Environmental Provisions:-

(25) WATERCOURSES

The Association shall use reasonable endeavour to keep all open watercourses free of rubbish, vegetative material and not permit the discharge of pollutants into the water system. The Council shall be notified of any problems so that the Environment Agency may take appropriate action.

(25) COMPOSTING AND RECYCLING

The Association, shall encourage composting and the recycling of organic waste materials in order to support sustainability and minimise transport and landfill needs. It shall arrange the prompt and safe removal of glass/asbestos or other hazardous substances, in accordance with current Health and Safety Regulations, seeking the advice of the Council's appropriate officer, where necessary.

(26) BONFIRES

The Association shall provide in its tenancy agreement and/or rules that if bonfires are permitted then the minimum standards prescribed by current guidelines shall be followed. This shall be subject to such additional rules and guidelines as the Association may decide to impose and any statutory provisions.

Signed on behalf of the Council:-

.....

Dated

Signed on Behalf of the association: -

..... Position.....

Dated

..... Position.....

Dated

SCHEDULE ONE - ANNUAL ACCOUNTS SUBMISSION – MODEL DOCUMENT

London Borough of Xxxxx
 Leisure Gardens and Allotments
 Annual Accounts

Site Name: For Year Ending:

Income and Expenditure Statement

Income	Year	Current	Previous	Expenditure	Current	Previous
	Year	£	£	Year	£	£
Plot Rents				Maintenance		
Interest				Postage		
Trading Income				Telephones		
Other Income				Service Accounts		
				Insurances		
				Purchase of plants		
				Trading Stocks		
				Other Expenditure		
TOTAL				TOTAL		

Income minus Expenditure equals *Profit/Loss of £

- a) Balance brought forward from previous year £
- b) Add profit/loss from this year £
- c) Balance carried forward to next year (a+b) £

Treasurer: Dated:

I have examined the books and vouchers of the Association and, in my opinion, these accounts are a correct record.

Independent Examiner:

Dated:

SCHEDULE TWO - INSURANCE LIABILITIES

The insurances specified in Paragraph 9 of this Lease shall be effected and maintained in accordance with the following schedule of responsibilities:-

<i>Insurance Cover to be Effected and Maintained</i>	<i>Association</i>	<i>Council</i>
A. Material Damage		
1. Communal Buildings:		
' Fire and Perils		*
Theft of Council fixtures and fittings in such buildings		*
2. Plant, Tools and Equipment of the Association		
Fire and Perils	*	
Theft or Accidental Damage	*	
3. Huts or Temporary Structures Belonging to the Association or its Members:		
Fire and Perils	*	

Theft or Accidental Damage	*	
B. Public Liability:		
Cutting and maintenance of Paths		*
Cutting and Maintenance of Hedges		*
Maintenance of Communal Buildings and		*
All Other Activities Associated with the Cultivation or management of Allotments	*	

Insurances not included in this Agreement, such as Personal Accident insurance for Allotment Holders or insurance of their tools and equipment shall be entirely at the discretion of the plothead or their