

This Agreement is made on the 30th day of September 2019.

Between:

- (1) TONBRIDGE & MALLING BOROUGH COUNCIL of Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent ME19 4LZ ("the Council") and
- (2) LES GARRETT of 40 Higham Lane, Tonbridge TN10 4JD, ADRIAN DEWEY of 15 The Ridgeway, Tonbridge TN10 4NA and GAIL DIXON of 76 Whitelake Road, Tonbridge TN10 3TJ being trustees of the TONBRIDGE ALLOTMENTS AND GARDENS ASSOCIATION (together known as "TAGA")

RECITALS:

- (1) The Council are the owners of the allotment gardens in Tonbridge known as Ridgeway, (Waveney Road) Longmead, Longmead Way, Farm Ground, Brook Street, Barden, Barden Park, Barden Housing as shown on the plans attached to this Agreement in Schedule 1 ("the Sites")
- (2) Under the Small Holdings and Allotments Act 1908 the Council has a duty to provide allotments. An allotment means an allotment garden as defined by the Allotment Act 1922 which is cultivated by the occupier for the production of vegetable and fruit crops for consumption by the occupier and their family
- (3) TAGA has been formed as an unincorporated association which elects a committee annually in order to manage the running and use of allotments within the Tonbridge area
- (4) It has been agreed between the parties that TAGA will manage and maintain the Sites as agents for the Council on the terms and conditions set out in this Agreement
- (5) Both parties to this Agreement are committed to the promotion of allotment gardening to all regardless of age, race, gender or disability

WE AGREE:

1. TERM

This Agreement will commence on today's date for a term of ten (10) years and thereafter from year to year unless terminated earlier in accordance with this Agreement ("the Term")

2. REVIEW

The Council and TAGA will meet together annually on or around the anniversary of the commencement of the Term to review the working of the Agreement and the management of the Sites

3. PAYMENT

The Council will pay to TAGA the sum of Five Thousand One Hundred Pounds in each year of the Term towards the costs of delivering their commitments under this Agreement

4. REPAIRS AND MAINTENANCE

4.1 TAGA will be responsible for all repairs and maintenance within the Sites including all fencing, gates, pathways, drives and access roadways, parking areas, buildings and constructions, water supplies, waste disposal, trees, hedges and all boundary features

4.2 The Council will be responsible for the replacement and any substantial repairs to the structure of the water system and toilet blocks on the Sites with TAGA being responsible for day to day monitoring and maintenance of the same

5. PLOT MANAGEMENT

TAGA will use its best endeavours to ensure that all plots are properly maintained and cultivated in accordance with the principles of good gardening and sustainability

6. IMPROVEMENTS

6.1 The Council shall retain the power to make capital improvements to the Sites as they see fit without being committed to incurring any expenditure in any year -

6.2 Where TAGA wish to make capital improvements to the Sites at their own expense they must obtain the consent of the Council prior to carrying out the work

6.3 It is the intention of both parties that the Sites will work towards being self-funding and that the cost of a plot should be set at a level sufficient to meet capital spending requirements in addition to the day to day maintenance and management costs

6.4 It is agreed that TAGA will make provision for accumulating a capital reservoir to meet capital works which may be necessary during the Term

6.5 By 30th June in each year of the Term, TAGA will submit to the Council in writing their suggestions for capital improvements for consideration. Both parties will agree how these will be funded, bearing in mind the self-funding principle set out above in point 6.3

7. ASSIGNMENT/UNDERLETTING

7.1 TAGA may not assign or underlet the benefit of this Agreement either wholly or in part at any time

8. LICENCES FOR PLOTS

8.1 TAGA may share occupation of the Sites only by granting allotment licences of plots to individuals who live within the Borough of Tonbridge and Malling. Such licences are to be granted in writing by completion of an allotment licence agreement with the individual in a form which is agreed prior to use with the Council.

8.2 The form of the document headed TAGA Agreement (Summer 2019) ("the Allotment Licence") at Schedule 2 to this Agreement is the current form of licence agreement. Where TAGA wish to amend the document from time to time they will do so in agreement with the Council

9. COUNCIL MAINTENANCE

The Council will:

9.1 Continue to maintain all services which supply the Sites and which are outside the perimeter fencing

9.2 Comply with its obligations to make any substantial and necessary repairs and replacement to any water systems on the Sites

9.3 Maintain and clear when required the two major ditches at the Barden Road allotment site.

9.4 Comply with its obligations to make any substantial and necessary repairs and replacements to any toilet blocks on the Sites

10. WAITING LIST AND PLOT ALLOCATION

TAGA will manage the Sites and will keep a waiting list of applicants whose applications will be considered in rotation when allocating plots which come free from time to time

11. PLOT RENTS & REGISTER OF TENANTS

11.1 TAGA will charge tenants of allotment plots the proper rent for the allotment plot, hose pipes, water supply and sheds.

11.2 TAGA will keep an up-to-date register of allotment tenants which will be available for inspection by the Council on request

11.3 Not later than 1st January in each year, TAGA will submit to the Council for approval their proposal for the rents to be charged in the following year.

11.4 TAGA will retain all rents received from plot holders and may use the same only in the administration, management, maintenance and repair of the Sites and mechanical and other equipment (such as lawn mowers, strimmers etc) used for the same.

- 11.5 When setting rent levels for the future, TAGA shall bear in mind the need for the Sites to be self-funding in all respects

12. DISPUTES

Disputes will be dealt with in the following manner:

- If a plot holder is in breach of any of the terms of the plot licence or if a dispute arises between plot holders then the TAGA Secretary or other committee member will first approach those involved to establish the reasons for the problem and make a good effort to find an amicable resolution
- If in the opinion of the TAGA Secretary and/or the committee the plot holder is at fault and is unwilling to agree to a resolution, the TAGA Secretary may issue a warning letter. This letter will outline the reasons for the warning and will give 28 days (or less in cases of more urgency, in the opinion of the TAGA Secretary) for the plot holder to rectify the problem. The TAGA Secretary will keep the trustees informed of the situation
- If the plot holder does not conform to the warning letter, then the Secretary or other committee member may issue a Notice to Quit to the plot holder
- A Notice to Quit will instruct the plot holder to vacate the plot and remove all items within 28 days. It should advise the plot holder that any items which have not been removed after this time may be distributed or disposed of
- If a plot holder disagrees with the decision of the TAGA committee member then they can ask for the case to be considered by the committee. TAGA should keep the Council informed of any cases which escalate to this stage
- In exceptional circumstances where there is a refusal to sign a plot licence agreement, or to pay rent or where there are serious breaches such as (including but not limited to) verbal abuse or harassment; physical abuse or any other conduct or situation which in the reasonable opinion of the TAGA Secretary places the use of the Sites or other plot holders or the Council at risk then Notice to Quit will be served immediately without the need to first serve a warning letter
- In the event that no resolution is possible, TAGA or the plot holder may refer the matter to the Council's complaints procedures in place from time to time

13. ACCOUNTS & FINANCIAL MANAGEMENT

- 13.1 TAGA shall keep a record of all financial transactions in connection with the Sites setting out rental income & expenditure, such records to be open to inspection by the Council at any time
- 13.2 TAGA shall ensure that its members are kept aware of the finances of the association throughout the year and shall produce full accounts annually – being a

profit/loss and a balance sheet which will be produced to and approved by the Council and by the Annual General Meeting of TAGA

- 13.3 TAGA agree to the auditing of their accounts and financial processes by the Council or by a third party appointed by the Council
- 13.4 No officer of TAGA may be remunerated for time spent on TAGA work.
- 13.5 Reasonable expenses incurred in the administration of this Agreement and for the benefit of the Sites may be claimed by officers of TAGA or other individuals authorised to incur such expenditure by an officer of TAGA
- 13.6 All profits made in any year by TAGA shall be put spent solely on the management, maintenance and improvement of the Sites which may include the provision of a sinking fund for planned maintenance and improvement works

14 INDEMNITY

TAGA agree to indemnify and keep indemnified the Council against all actions, proceedings, losses, claims, damages, costs, charges, expenses and liabilities suffered or incurred and all fines compensation or remedial action following and arising out of claims or complaints relating to the Sites

15 DATA PROTECTION AND INFORMATION RIGHTS

- 15.1 TAGA is a data controller and agrees to comply with the requirements of the GDPR, the Data Protection Act 2018 and will take all necessary steps to keep the personal data of plot-holders safe and secure and will advise plot-holders of their data rights.
- 15.2 Both parties acknowledge the importance of correct data handling and the need to have clear guidelines in place for data management. The way in which this will be done will be in line with the Council's requirements in all of its contracts and Agreements which have been adopted following guidance issued on best practice by central government.
- 15.3 TAGA agree that they will co-operate with the Council in relation to any requests for information or the exercise of data rights received by either party from third parties whether in relation to Data Protection Legislation, Freedom of Information requests Environmental Legislation or otherwise

16 SERVICE

- 16.1 Both parties agree that where notice in writing is required to be served, then service may be carried out by delivery by hand or by post at the addresses given at the top of this Agreement.

16.2 TAGA agree that they will advise the Council where any of the Trustees leave the committee /give up their trusteeship and will advise of the names and addresses of any new trustees joining the committee, so that the number of active trustees signed up to this Agreement shall not be less than two (2)

17

THE COMMON SEAL OF
TONBRIDGE & MALLING BOROUGH COUNCIL
Was duly affixed to this Agreement in the presence of:



Adina Stapeed
Authorised Signatory

SIGNED as a DEED by
LES GARRETT
In the presence of:

[Signature]
Signature of Les Garrett

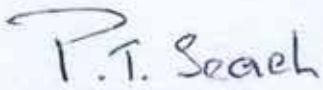
R. Burt
Witness Signature

R. Burt
Print Witness Name

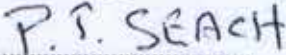
36 GOLDSMID RD
TONBRIDGE TN9 2BA
Witness Address

SIGNED as a DEED by
ADRIAN DEWEY
In the presence of:

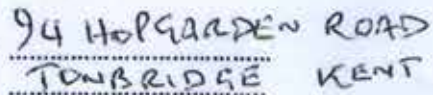

.....
Signature of Adrian Dewey



.....
Witness Signature

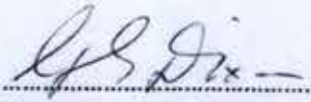


.....
Print Witness Name



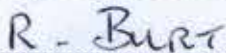
.....
Witness Address
TN10 4QU

SIGNED as a DEED by
GAIL DIXON
In the presence of:

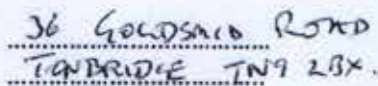

.....
Signature of Gail Dixon



.....
Witness Signature



.....
Print Witness Name



.....
Witness Address