



Report Date: April 20, 2021
Meeting Date: April 20, 2021
From: Wegland Sit, Operations Manager
Subject: Lot 10 Community Garden License Agreement

Background

The first community garden in the UNA – Hawthorn Community Garden opened in 2008, followed shortly by Rhodo Community Garden. Nobel Community Garden was opened in 2012. There are a total of 188 plots between the three gardens.

The three community gardens provide opportunities for community members to grow their own food and flowers, connect with nature, and to be part of the garden community.

The UNA manages all three community gardens, while day-to-day garden operations are also supported by garden volunteers and local garden representatives. Due to its high demand, as of April 2021 we have 167 residents on the UNA gardening application waitlist.

Decision Requested

THAT the Board approve the attached Lot 10 Community Garden License Agreement and authorize the Chair to execute the agreement.

Discussion

On June 2020, UBCPT advised the UNA about the new Greenway Community Garden Project near the UBC Farm Entrance in Lot 10 development.

The UNA took part in the garden layout and design after the mid-way point in the community garden construction project. The UNA Operations and Sustainability Department identified several layout concerns, later working closely with UBCPT project team, the UNA provided design recommendation and adjustments were made into the final design of the garden.

The Lot 10 Community Garden has 30 plots in total plus a garden tool shed.

30 raised garden plots are full size plot (10" x 5").

As UBC is the owner of the community garden site, the UNA would be given a License to operate a community garden by UBC.



Since this is a new license agreement between the UNA and UBC, the UNA Delegation of Authority corporate policy requires the agreement to be approved by the Board.

The license is based on the Hawthorn Community Garden License Agreement, which is almost identical to the Lot 11 Community Garden License Agreement that is presented today for board's approval.

This license has a three-year term, it will grant the UNA the permission to operate and manage Lot 10 as a community garden from April 2021 to April 2024. The UNA will be responsible for the upkeep and maintenance of the Lot 10 Community Garden. At the end of the term there is an option for extension. However, the extension is subjected to UBC's decision.

Financial Implications

Financial implications of the Lot 10 community garden are largely divided into two main categories:

- 1) Annual Garden Revenue, and
- 2) Operations and Management Expense

Annual Garden Revenue

The current annual garden plot gardening fee is at \$55.00 for a full garden plot. The annual garden fee covers the use of a garden plot, access to tools and equipment, workshops, and any other garden activities.

Given the high demand, we expect the Lot 10 Community Garden will be fully filled up by our waitlist gardeners immediately. This garden is expected to generate \$1,650.00 of garden revenue annually.

Operations and Management Expenses

For the garden's day-to-day operations, the short-term expenses are mainly coming from springtime topsoil delivery, green garden waste removal service, organic weed spray and line trimming. These expenses totaled approximately at \$860.00 annually.

Long term operation expense is more challenging to predict. Having said that, the garden is expected to face more expenses as it ages. For example, a more near-term item is mulch resurfacing cost. In 5 – 10 years, garden plots will require repair as required, garden fixtures maintenance cost will gradually appear further down the road.

The revenue of the community garden is an ongoing budgeted item that is under Sustainability and Operation department. The operation is an ongoing budgeted item that is budgeted under the Sustainability and Operation department.



Operational Implications

The UNA Operations department manages the maintenance and operations of the UNA Community Garden. The existing service provider that oversees the garden day-to-day operations can easily absorb the additional workload coming for the Lot 10 Community Garden. Hence, there is no negative operational implications expected.

The UNA Sustainability department manages the administration, initial allotment, and annual renewal process. To apply for a garden plot, gardener must be a UNA Resident with an active UNA Access Card. Plots are assigned on a first come first serve basis, according to the date of garden plot application. Once an application is received, the gardener's name will be added to the waitlist.

Strategic Objective

Community/Stakeholder Relations

Attachments

- 1. Community Garden License Agreement – UNA.pdf
- 2. Schedule B - Garden-Agreement_2021-2022.pdf

Concurrence

- 1. Julia Gellman, Sustainability Specialist

Respectfully submitted,

Wegland Sit
Operations Manager

Sundance Topham
Chief Administrative Officer

LICENSE AGREEMENT
(Over Part of Lot 10, Plan _____)

This License Agreement is dated for reference **April _____, 2021**

BETWEEN:

THE UNIVERSITY OF BRITISH COLUMBIA, THE UNIVERSITY OF BRITISH COLUMBIA, a British Columbia university continued under the University Act, RSBC 1996, c 468, with an address at 224 – 6328 Memorial Road, Vancouver, BC V6T 1Z2

(the "**Licensor**")

AND: **UNIVERSITY NEIGHBOURHOODS ASSOCIATION**, a society duly incorporated under the law of British Columbia (Incorporation No. S0044722), having its registered office at #202 – 5923 Berton Avenue, Vancouver, British Columbia V6S 0B3

(the "**Licensee**")

In this License Agreement "we", "our" and "us" refer to the Licensor and "you and "your" to the Licensee.

WHEREAS:

A. The Licensor is the leasehold owner of lands lying and being situate on the campus of The University of British Columbia and legally described as:

PID: _____
Lot 10 District Lot 6494 Group 1 New Westminster District Plan

(the "**Lands**")

B. The Licensee has requested a license to occupy a portion of the Lands to operate a community garden as shown outlined in black dashed lines and identified on Schedule A (the "**Licensed Area**").

C. The Licensor and the Licensee have agreed to enter into this License Agreement to permit the Licensee to operate a community garden on the Licensed Area and such other ancillary facilities as may be approved by the Licensor (collectively, the "**Permitted Uses**").

NOW THEREFORE, in consideration of the license fees, mutual covenants and agreements contained in this License Agreement and other good and valuable consideration (the receipt and sufficiency of which is acknowledged by the parties), the Licensor grants the Licensee the license and contractual right (the "**License**") to the exclusive use and enjoyment of the Licensed Area on the terms and conditions set out in this License.

1.0 GRANT OF LICENSE

1.1 The Licensor grants to the Licensee a License to occupy, subject to the terms and conditions of this License Agreement, the Licensed Area as shown outlined in black dashed lines and identified on the plan attached as Schedule A.

2.0 TERM:

2.1 The term of this License (the "**Term**") shall be three (3) years commencing on April _____, 2021 to and including April _____, 2024 (the "**Expiry Date**").

2.2 We may extend the term of this License on either a month-to-month, or year-to-year basis, at our sole discretion, for such additional period of time as you may require, provided however, it is always understood and agreed that we may give you notice prior to the end of a month, or year during any such extension period that, as of the end of the following month or year, the term shall be at an end.

3.0 LICENSE FEE, TAXES UTILITIES

3.1 The license fee for the term of this License shall be Ten Dollars (\$10.00), the receipt and sufficiency of which are hereby acknowledged by the Licensor.

3.2 The Licensee shall pay and discharge all existing and future taxes, levies, charges, assessments, duties and outgoings whatsoever which are now or during the term of the License shall be imposed, levied, assessed or charged upon the Licensed Area or the Licensee in respect thereof.

3.3 The Licensee covenants and agrees to pay all utilities which are incurred by the Licensee in connection with the operation of a community garden in the Licensed Area on their due dates to the providers thereof.

4.0 USE OF LICENSED AREA

4.1 The Licensed Area shall not be used by the Licensee for any purposes other than the Permitted Uses. The Licensee acknowledges that it has satisfied itself that the Licensed Area may be used for the Permitted Uses. The Licensee will not use or permit or suffer the Licensed Area to be used for any other purposes.

4.2 The Licensee shall conduct its business and affairs in the Licensed Area in a respectful and reputable manner. The Licensee shall not carry on or perform or suffer or permit to be carried on or performed or suffered on the Licensed Area any unreasonable practice or act, or engage in any activities which is or becomes a nuisance, a source of annoyance, a disturbance or interference to any person using or occupying the Lands.

4.3 For the purpose of section 4.2 above, the Licensee covenants and agrees that it will cause any individuals who are assigned a plot of land within the Licensed Area for gardening to sign the Plot Holder Agreement as annexed hereto at Schedule B, and make sure that all the rules and regulations stipulated thereon will be duly observed and performed by individual plot holder.

5.0 LIABILITY AND WAIVER

5.1 All property kept or stored by the Licensee on the Licensed Area shall be at the Licensee's sole risk. The Licensee shall be liable for any loss or damage (including; without limitation any obligation or liability with respect to any claim for personal injury, loss of life, consequential or other indirect damage with respect to property, revenues or profit) caused to the Licensee or other persons using the Licensed Area.

6.0 INSPECTION

6.1 The Licensor shall be entitled at all reasonable times (after written notice given to the Licensee specifying the purpose) to enter the Licensed Area and other improvement thereon for any of the following purposes:

- (a) inspecting the same;
- (b) inspecting the performance by the Licensee of the terms, covenants,, agreements and conditions of this License, and by any permitted sublicense claiming by, through or under the Licensee of any of its obligations under its License;
- (c) posting and keeping posted thereon notices as required or permitted by any law or regulation;
- (d) conducting an environmental audit; or
- (e) any other reasonable purpose.

In the event of a chemical spill or any incident related to hazardous materials being exposed or after receiving a complaint, the Licensor shall have the right of immediate access to the Licensed Area to inspect facilities and/or operations as necessary.

7.0 INDEMNITY

7.1 Except to the extent of the sole negligent acts of the Licensor, its employees and agents, the Licensee hereby indemnifies the Licensor, its employees and agents and save harmless the Licensor, its employees and agents from and against any and all claims, actions, damages, liabilities and expenses in connection with the loss of life, personal injury, bodily injury including death or damage to property arising from any act in the Licensed Area or through the occupancy or use of the Licensed Area, occasioned wholly or in part by an act or omission of the Licensee. In case the Licensor, its employees and agents, without actual (as opposed to merely vicarious) fault on its part, is made a party to litigation begun by or against the Licensee excepting in a bona fide action by the Licensee against the Licensor, its employees and agents, the Licensee will protect and hold harmless the Licensor, its employees and agents.

7.2 It is hereby acknowledged and agreed that any person who enters the Licensed Area shall be deemed to be the invitee of the Licensee.

7.3 The obligations of the Licensee to defend, indemnify and save harmless the Licensor shall apply and continue notwithstanding the termination of this License.

8.0 INSURANCE

8.1 The Licensor, its employees and agents shall not be responsible for damage or losses to the Licensee's property on the Licensed Area. The Licensee shall take out and keep in force during the term of this License General Liability Insurance on an occurrence basis, against claims for bodily injury, death and property damage, with respect to the Licensee's use and occupation of the Licensed Area. Such insurance shall have a per occurrence limit of not less than \$5,000,000.00 and shall include the Licensor, its employees and agents as an Additional Insured and shall contain a crossliability clause, and coverage for the Licensee's legal liability and broad form contractual liability. Evidence that the Licensee has purchased insurance in accordance with the above terms and conditions shall be provided to the Licensor upon execution of this License.

9.0 REPAIR AND MAINTENANCE

9.1 The Licensee shall execute all construction, repairs, maintenance or alterations on the Licensed Area in a good and substantial state of repair in accordance with any applicable statute, bylaw, code or regulation of any government, government agency or regulatory authority (the "**Authorities**"), including without limitation the British Columbia Building Code, the Rules and Regulations and Development Guidelines of the University of British Columbia (the "**University**") and pay all necessary fees, permits, assessments and charges related to any such construction, renovations or alterations.

9.2 The Licensee shall maintain the Licensed Area and those portions of the Lands in the immediate vicinity of the Licensed Area in a neat and sanitary condition.

9.3 The Licensor acknowledges that the Licensee shall make certain alterations, repairs, renovations, modifications, installations or improvements ("**Alterations**") to the Licensed Area consistent with the use of the Licensed Area as community gardens. The Licensor agrees that the Licensee shall not be obliged to obtain the Licensor's consent in relation to any Alterations PROVIDED that the Licensee shall not make any Alterations until it has first obtained the consent of the appropriate permitting Authorities and unless it shall first obtain and pay for all necessary fees for permits from the relevant Authorities. Upon the termination of this License and at the request of the Licensor, the Licensee shall forthwith remove any Alterations and restore the Licensed Area to its previous conditions.

9.4 All Alterations shall be done by contractors or other workers or tradespersons in good and a professional manner with first class materials in accordance with all applicable laws, building codes, rules and regulations of the University.

10.0 SIGNAGE

10.1 The Licensee shall not display any sign, picture, advertisement, or notice of any kind on any part of the Licensed Area, without the prior written consent of the Licensor. Notwithstanding the foregoing, the Licensee may only install signs in and on the Licensed Area, including fascia signage to the maximum extent permitted by the University's sign criteria.

11.0 LICENSES, PERMITS AND SAFETY

11.1 The Licensee is responsible for obtaining and maintaining all licenses and permits required by the federal and provincial laws and the rules and regulations of the University, which pertain to the conduct of the Licensee's operation on the Licensed Area and the Licensee will obtain and maintain such licenses and permits during the Term or any extension period of this License.

11.2 The Licensee is solely responsible for ensuring the safety of all persons that enter the Licensed Area.

11.3 The Licensee will not install or suffer to be installed equipment which will exceed or overloaded the capacity of utility facilities servicing the Lands and if equipment installed or allowed to be installed by the Licensee requires additional utility facilities such facilities will be installed at the Licensee's expenses in accordance with plans and specifications approved by the Authorities in writing prior to installation.

12.0 PARKING

12.1 The Licensee, its agents, officers, invitees and other persons having business with the Licensee shall be prohibited from using any part of the Lands designated for parking except as permitted by the Licensor. Should the Licensee, its agents, officers or invitees park vehicles in the designated parking area or area of the Lands not allocated for that purpose, the Licensor shall have the right to remove the trespassing vehicles and the Licensee shall indemnify and save harmless the Licensor and the Licensor from any costs, claims, damage, liability and expense from any claims by third parties arising out of the removal of trespassing vehicles.

13.0 TERMINATION

13.1 The Licensor shall have the right to terminate the Licensee's license by notice to the Licensee if the Licensee defaults in performing or observing any of the terms, and conditions of this License and fail to cure the default within 30 days after notice thereof is given to the Licensee.

13.2 If the Licensor terminates the Licensee's license pursuant to this License Agreement or if this License otherwise expires, the Licensee shall, upon the request of the Licensor and at the Licensor's sole discretion, be required at its expense to reinstate the Licensed Area to its original conditions immediately before the commencement of this License.

14.0 ASSIGNMENT

14.1 The Licensee shall not assign or sublicense or otherwise part with possession or permit others to use the whole or any part of the Licensed Area, without the written consent of the Licensor. The Licensee agrees that prior to providing consent pursuant to this section, the Licensor may request to see and approve of any proposed agreements with the proposed Licensees.

15.0 OCCUPATION OF THE LICENSED AREA

15.1 If the Licensee without default pays the License Fee, utilities and taxes at the times and in the manner herein provided and keeps and performs all the terms, covenants and agreements contained in this License that are required to be kept and performed by the Licensee, the Licensee may continue to occupy the Licensed Area for the Term without any interruption or disturbance from the Licensor, its successors or assigns or any other person or persons lawfully claiming by, from or under the Licensor or any of them, but subject always to the rights of the Licensor set out in this License.

16.0 NOTICE

16.1 Any notice, demand, request consent or objection required or contemplated to be given or made by any provision of this License shall be given or made in writing and shall be considered given or made on the day of delivery if delivered before 4:00 p.m. by personal delivery, otherwise it shall be considered delivered on the next following business day, or in the case of mail three clear business days after the day of delivery if sent by prepaid registered mail, addressed to the Licensor at:

University of British Columbia
224-6328 Memorial Road
Vancouver, BC V6T 1Z2
Attention: Yale Loh, Treasurer

or addressed to the Licensee at:

University Neighbourhood Association
#202 – 5923 Berton Avenue
Vancouver, BC V6S 0B3
Attention: CAO

17.0 NO PARTNERSHIP OR JOINT VENTURE

17.1 It is understood and agreed that nothing contained in this License or in any acts of the Licensor and the Licensee hereby shall be deemed to create a partnership or joint venture or any relationship between the parties other than the relationship of Licensor and Licensee.

18.0 NON-WAIVER OF DEFAULT

18.1 The waiver or acquiescence by the Licensor of any breach by the Licensee of any term or condition shall not be deemed to be a waiver of such term or condition or any subsequent or other breach of any term or condition of this License.

19.0 LICENSOR CAN CURE DEFAULTS

19.1 The Licensor shall have the right at all times to remedy or attempt to remedy any default of the Licensee, and in so doing may make any payments due or alleged to be due by the Licensee to third parties and may enter upon the Licensed Area to do any work or other things therein, and in such event all expenses of the Licensor in remedying or attempting to remedy such default together with an administrative charge equal to 15% of the total of such expenses shall be payable by the Licensee to the Licensor forthwith upon demand.

20.0 ENUREMENT

20.1 This License shall be binding upon and enure to the benefit of the Licensor's and the Licensee's successors and permitted assigns.

21.0 SEVERABILITY

21.1 If any article, section, paragraph or subparagraph of this License Agreement shall be held to be indefinite, invalid, illegal, or otherwise voidable or unenforceable, the entire License Agreement shall not fail on account thereof, and the balance of the License shall continue in full force and effect.

22.0 SURVIVAL OF OBLIGATIONS

22.1 All of the Licensee's obligations under the terms of this License and all of the indemnities hereunder shall survive the termination of this License.

IN WITNESS WHEREOF the parties hereto have hereunto executed this License.

EXECUTED by the Licensor on _____, 2021.

THE UNIVERSITY OF BRITISH COLUMBIA,
by its authorized signatories:)
)

Authorized Signatory)
)

Authorized Signatory)
)

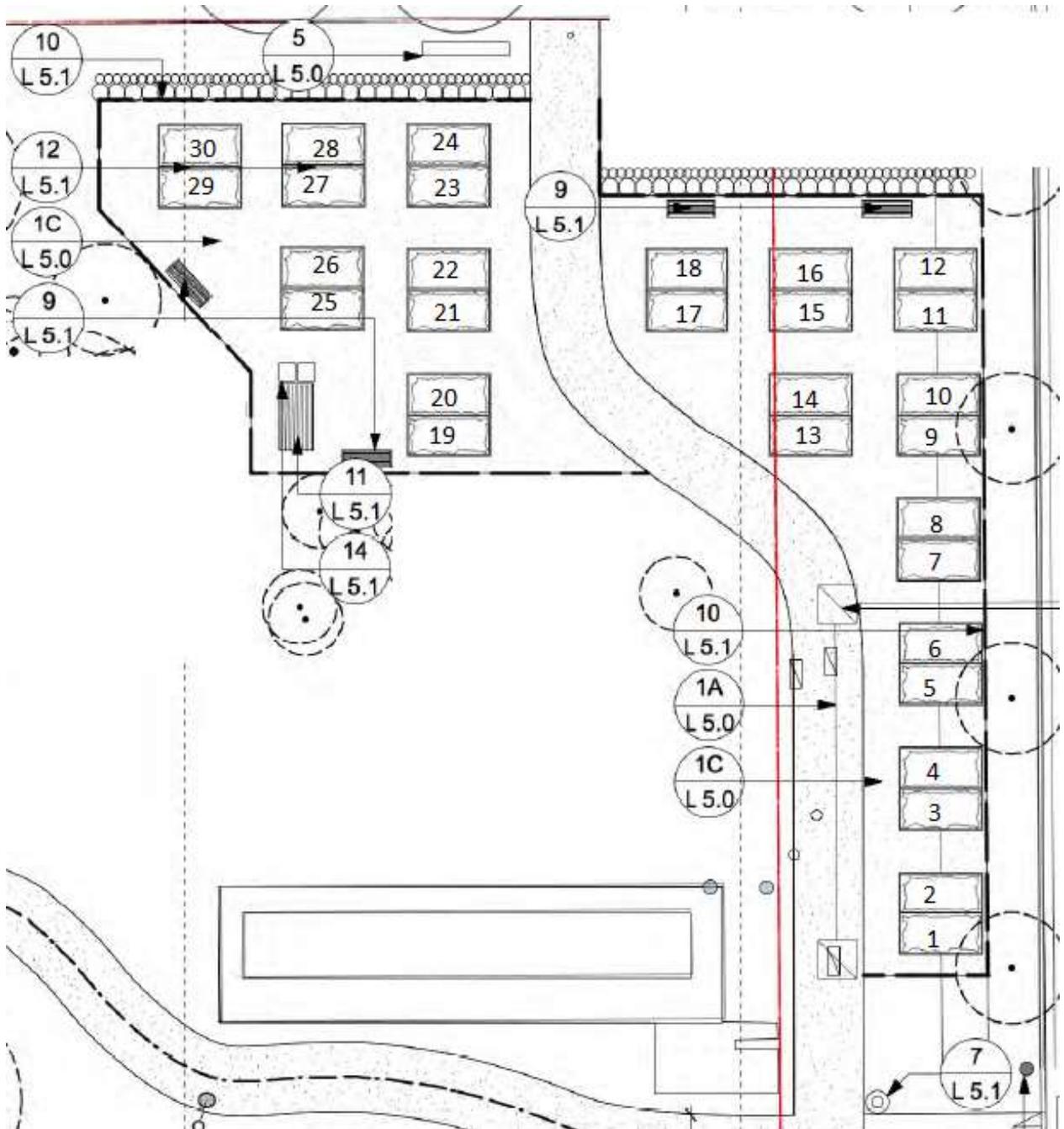
EXECUTED by the Licensee on _____, 2021

UNIVERSITY NEIGHBOURHOOD)
ASSOCIATION, by its authorized signatories:)
)

Authorized Signatory)
)

Authorized Signatory)
)

Schedule "A"
Plan of Licensed Area



Schedule "B"
Plot Holder Agreement
("Attached")

UNA Community Garden Agreement 2021 – 2022

The purpose of this agreement is to support the administration of the UNA Community Gardens program. To ensure the on-going viability of the program and successful upkeep of the community gardens, gardeners must comply with the below Terms and Conditions. All decisions made by the Sustainability Coordinator and the Community Garden Committee are in the best interest of those participating.

Violation of the Terms and Conditions will result in the following steps:

1. Gardener will receive violation notice from Sustainability Coordinator, by email.
2. Gardener will be given a deadline to remedy the violation.
3. If actions have not been taken to remedy the violation, a final notice will be issued indicating the date on which the garden plot in question will be forfeit.
4. If violation has not been remedied by date indicated on final notice, the garden plot will be forfeit without refund.

Terms and Conditions

1. The use of a garden plot is for one growing season (March 15, 2021 – March 14, 2022). Gardeners will have the opportunity to renew the plot each year.
2. Each household is permitted one plot. Plots are allocated based on original application date.
3. The gardens are for recreational and household gardening only. No harvest from the gardens may be sold.
4. Gardeners are responsible for cultivating, weeding, fertilizing, watering, and otherwise caring for their plot to maintain an orderly condition and keeping with the general aesthetic standard of the garden. Watering schedules must be complied with during dry weather.
5. Gardens are responsible for the weeding the pathways around their plots.
6. Gardeners must clean their tools after each use.
7. Gardeners must remove all garbage (plant I.D. tags, soil bags, garden supplies) from the garden. There is no garbage pick-up.
8. All plants and physical structures must be less than 5 feet tall and not shade neighbouring plots. All tall plants (i.e. sunflowers) should be avoided.
9. No trees may be planted in the garden plots.
10. Gardeners should limit their planting of any large bushes (blueberries, rosemary, hydrangeas) and will be responsible for their removal.
11. Gardeners must not plant:
 - Invasive species (such as English Ivy or those listed at <http://www.bcinvasives.ca/>)
 - Weedy species (such as mint)
 - Berries with rhizomes (such as raspberries or blackberries).



12. Gardeners must follow organic gardening practices. The use of pesticides, chemical fertilizers, or pet and human waste is prohibited. Manure, peat, seaweed, compost, bone meal and limestone are permitted.
13. Gardeners are strongly encouraged to participate in any work parties organized. If gardeners are unable to participate in work parties, they should aim to spend at least four hours in a year contributing to communal garden tasks (weeding pathways, cleaning tools, tidying shed, picking up litter, taking litter home, tending shared plots).
14. Plots must be tidied and prepped for winter by October 15, unless otherwise approved. This includes the removal of annual vegetation and the removal/collapse of remaining structures.
15. Gardeners must direct questions and concerns to the Sustainability Coordinator or other UNA staff.
16. Gardeners must use hand equipment only. No motorized equipment is permitted. Exceptions may be made for garden work tasks (such as plot repairs or blackberry removal).
17. Pets are not permitted in the garden unless they are service animals.
18. No smoking is permitted,
19. Open containers of water are not permitted, due to mosquito breeding.
20. Alcoholic drinks are not permitted. Picnics are welcome, but all food waste must be removed from the garden (and not disposed of in the garden yard waste bins).
21. The University Neighbourhoods Association does not assume liability for adverse reactions to food consumed, or items one may come into contact with, in the UNA Community Garden(s).

By signing this agreement, I agree to allow the UNA to share my contact information with the volunteer Community Garden Committee, and I agree to abide by the above Terms and Conditions.

Gardeners who have paid online have already electronically signed this agreement and do not need to re-submit this document.

Full Name: _____

Signature: _____

**Garden
& Plot Number:** _____