



SUB-LICENCE AGREEMENT FOR BURNLEY BACKYARD RENTAL PLOT-HOLDERS

PARTIES

1. Richmond Community Garden Group Incorporated ('RCGG')

Registered Office, 49 Tudor Street, Richmond 3121
Registration No. A0056324M

2. The following member of RCGG

_____ (*insert name*)

of _____ (*insert address*)

('You')

RECITALS

- (a) The RCGG is the sub-licensee of part of the Burnley Backyard, 49 Tudor Street, Richmond 3121, as shown on the plan attached (The Rental Plots)
- (b) The garden is known as the Burnley Backyard Rental Plots.
- (c) Richmond Community Learning Centre is the Head Licensor to the garden.
- (d) The RCGG has agreed to grant you a sub-licence of part of the Burnley Backyard Rental Plots for the growing of plants and vegetables ("the plot") on the terms and conditions contained in this Agreement

THE PARTIES AGREE:

1. Interpretation

- (a) Words importing the singular or plural number shall include the plural or singular number respectively.
- (b) Reference to a month shall where the context so permits, mean a calendar month.
- (c) If pursuant to this Agreement the day on which any act, matter or thing is done is to be a Saturday or Sunday or public holiday in the State of Victoria, the act, matter or thing may be done on the next succeeding day which is not a Saturday, Sunday or public holiday.

2. Operative provisions

- (a) You shall sign all documents and do all things necessary as requested by the RCGG to give efficacy to this Agreement.
- (b) The RCGG sub-licenses the whole plot to you on the terms and conditions contained in this Agreement until terminated by either the RCGG or you.

3. Plot fees

You agree to pay the plot fee determined by the RCGG to the RCGG within 30 days of receiving an invoice from the RCGG.

4. Your obligations

- (a) You agree to pay all annual RCGG membership fees or other fees that may at any time during the continuance of the Agreement become payable in respect of the plot.
- (b) You shall genuinely and punctually comply with and observe all terms and conditions of the plot and membership as determined by the by-laws of the RCGG as amended from time to time.
- (c) You shall notify the RCGG as soon as reasonably practicable of any change of address. You acknowledge that a change in address may in some instances terminate this Agreement, and no compensation or refund of monies paid shall be payable in respect of the cancellation of the Agreement.
- (d) You may use the plot for the purposes of the growing of plants and vegetables and general gardening only.
- (e) You shall not, at any time throughout the term of this Agreement:-
 - (i) erect or construct upon the plot any fixture, structure or improvement without the written consent of the RCGG;
 - (ii) remove any fences, gates or other improvements upon the garden or alter the layout of the garden;
 - (iii) use the plot or the garden for any business or farming activities whatsoever for profit;
 - (iv) allow any plants or plant material which are invasive and have been listed of weeds of national significance or noxious weeds of Victoria;
 - (v) create a nuisance;
 - (vi) use herbicides or any other pest control products which have not been approved for use by the RCGG;
 - (vii) allow any rubbish to accumulate in or around the plot or the garden.

5. Default by you

- (a) The RCGG may terminate this Agreement, at its discretion if any of the following occur and are not remedied within 14 days after formal request has been made to you by the RCGG :-
 - (i) plot fees, or any part of it, are in arrears for 30 days; or
 - (ii) any monies due to the RCGG from you under this Agreement are in arrears for more than 30 days; or
 - (iii) you are in breach of Clause 4 above; or
 - (iv) you have failed to fulfill any obligation or provision of this Agreement.
- (b) The RCGG shall not be liable to pay to you compensation or refund any monies already paid in respect of the cancellation of the Agreement.

6. Time of access

- (a) You shall only be entitled to enter the garden during daylight hours.
- (b) If you are found to be in the garden outside of these periods, without the consent of the RCGG, this Agreement may be terminated at the discretion of

the RCGG and no compensation or refund of monies paid shall be payable in respect of the cancellation of the Agreement.

7. Your chattels

- (a) Your chattels shall remain your property during the term of this Agreement. On the cancellation or expiration of the Agreement, you must within 14 days, remove all of your chattels from the plot.
- (b) If your chattels are not removed at the end of the 14 day period, your chattels will become the property of the RCGG.

8. Acknowledgments

- (a) You acknowledge that all plant content on the plot will be planted and maintained by you.
- (b) If you allow weeds or noxious plants to be grown upon the plot or the garden you shall be required to remove such within 7 days' of notice by the RCGG ("the notice period")
- (c) If you fail to take action during the notice period to remove the weeds or take action, which, in the RCGG's reasonable belief, is insufficient to abate the weed problem, the RCGG may be required by the City of Yarra to apply herbicide. The only herbicide used by the City of Yarra will be Glyphosphate.
- (d) You acknowledge that plots will be reviewed by the RCGG regularly to ensure aesthetic is maintained. If in the RCGG's reasonable opinion, the aesthetic quality of the plot is not maintained, your entitlement to the plot under this Agreement may be terminated with 7 days' notice. In such cases no compensation or refund of monies paid shall be payable in respect of the cancellation of this Agreement.
- (e) You acknowledge that your name and address may be given to the City of Yarra at their request.

9. Shared plots

- (a) Members who are part of a shared plot shall be deemed as one entitlement to the plot. Any default of this Agreement by one Member shall constitute default by all Members sharing the plot and the cancellation of the Agreement for that Member shall cancel all Members Agreements, unless the RCGG states in writing to the contrary.
- (b) Termination of the Agreement in this clause shall not entitle any Member to payment of compensation or refund of monies paid in respect of the cancellation of the Agreement.

10. Hazards

- (a) You acknowledge that:-
- (i) prior to entering into use or occupation of the plot, you have reviewed a copy of the Environmental Report, which indicates that the existing site soil may be contaminated in low concentrations, and
 - (ii) whilst the Environment Report indicates that the quantity of the substances is within a safe and acceptable level, the City of Yarra and the RCLC and the RCGG accept no liability for the loss and damage that may occur to you or any other persons as a result of the presence of the substances in the soil of the plot and, in this respect, you use the plot at your own risk.
- A copy of the Detailed Soil Assessment - 49 Tudor Street, Burnley, Victoria (Environmental Report) is available for inspection at the Burnley Backyard, and also by request to the Secretary.

11. Licence not exclusive

The rights conferred by this Agreement shall rest in contract only and shall not create in or confer or grant upon or in this Agreement any tenancy or real estate or interest for a term, other estate, or interest otherwise whatsoever in the garden or the plot or otherwise create any estate or interest in land and the rights that you shall be those of the Sub-Licensee only and acknowledge that the use of the plot and garden will not be exclusive and the right to exclusive possession of the garden and of the plot as against the whole shall remain with the RCGG.

12. Dispute resolution

- (a) If a dispute arises between the RCGG and you or other Members, the parties must endeavour, in good faith, to settle the dispute by mediation administered by the Mediation Settlement Centre of Victoria ("MSCV") before having recourse to arbitration and/or litigation.
- (b) The party claiming that a dispute has arisen must give written notice to the party as to dispute best identifying the nature of the dispute ("notice"). This does not include notice by the RCGG pursuant to clause 5.
- (c) On receipt of the notice, the parties to the dispute must, within seven days of receipt of such notice, seek to resolve the dispute by negotiation. If the dispute is not resolved within seven days or within such further period as the parties agree, then the dispute must be referred to the MSCV.
- (d) The mediation shall be conducted in accordance the MSCV mediation guidelines which set out the procedures to be adopted, the process of selection of the mediator and the cost involved.
- (e) Each party to the dispute shall be liable for half of the cost of such mediation.

13. Assignment

- (a) You will not assign any other person to under-licence, assign or take possession of the plot subject to this Agreement without the written consent of the RCGG.
- (b) You will not prevent or attempt to prevent or in any other way hinder or obstruct the RCGG or RCLC or the City of Yarra or its agents from any time entering or remaining on the garden or the plot.

14. Governing law

This Agreement shall be governed by the laws of the State of Victoria and the parties agree to enter into this Agreement to the non-exclusion jurisdiction of the Courts of that State in relation to all matters concerning the operation and interpretation of this Agreement.

Signed by the Parties on the day set out below:

Signed by _____(*insert name*)
of (*address*) _____

Member's Signature

Dated:/...../20....

Signed for and on behalf of the **Richmond Community Garden Group Inc.**

Reg. No. A00356324M

Committee Member's
Signature

Committee position held