

AGREEMENT  
FOR THE USE OF LAND AS A COMMUNITY GARDEN  
by and between  
THE BROOKLYN QUEENS LAND TRUST  
and  
***Westbrook Memorial Garden***

The **Brooklyn Queens Land Trust (“BQLT”)**, a not-for-profit incorporated under the laws of the State of New York, having an address at 677 Lafayette Avenue, Brooklyn, New York 11216, has designated land owned by the trust, located at ***1233 Pacific Street, Brooklyn NY 11216***, for use as a community garden and/or open green space.

1. **Purpose of Agreement:** This agreement (the “Agreement”) licenses for public use and delegates management of the “Garden,” as defined in Section 2 below, contingent on agreement to the terms and conditions of this license, to ***Westbrook Memorial Garden*** (the “**Garden Group**”), a group of community volunteers, whether an unincorporated nonprofit association or an incorporated nonprofit organization.
2. **Land:** **BQLT** is the owner of the land located at ***1233 Pacific Street***, in the Borough of ***Brooklyn***, City of New York. The land, also referred to throughout this Agreement as the “Garden,” is known on the New York City Tax Maps as Block #***1200***, Lot #***70***. The land is preserved as a community open green space for gardeners and community use. Community residents may visit and enjoy the garden on a regular basis during open hours as defined in Section 12. The land has received permanent protection, safe from development, because it is recognized as a valuable neighborhood resource.
3. **Warranty Disclaimer:** The **Garden Group** accepts the Garden property “as is,” and **BQLT** makes no representations or warranty of fitness of property. All structures built by the **Garden Group** or by the previous group of Gardeners and existing in the Garden at the time of the signing of this Agreement are the responsibility of the **Garden Group**. By signing this Agreement, the **Garden Group** states that all existing structures in the Garden are safe and are not dangerous to any person(s) using the Garden. If **BQLT** determines that an existing structure is unsafe in any way, **BQLT** may remove the structure if repairs at a reasonable cost are not possible.
4. **Length of Agreement:** The term of this Agreement shall be for a period of two years, beginning on ***May 1, 2017***, and ending on ***April 30, 2019***, or earlier, subject to Paragraphs 7, 8 and 9 below. The Agreement shall be automatically renewed on the end date of each term, unless **BQLT** notifies the **Garden Group**, at least 30 days prior to the end date of that term, of their intention not to renew the Agreement.
5. **Responsibilities and Requirements of the Garden Group:** The undersigned **Garden Group**, in exchange for the use of the garden by its members, the surrounding community and the public, agrees to:
  - a. Pay a **user license fee of Fifty Dollars (\$50) per year** or as determined by **BQLT** Board based on garden membership vote of approval;

- b. Be bound by, implement and enforce the **BQLT Constitution**, in its current form as it may, from time to time, be amended, for the use, operation and management of the garden, including, but not limited to:
  - i. identified procedure for addressing violations;
  - ii. procedure for entering into third party user arrangements for use of the Garden for events;
  - iii. requirements for monitoring the Garden, and procedure for dealing with and informing **BQLT** of encroachment on garden lands; and
  - iv. restrictions on making improvements, of any kind, to the garden.
6. **Acknowledgment of Receipt of BQLT Bylaws and Constitution:** The undersigned, **Garden Group** acknowledges receiving a copy of the **BQLT Bylaws and Constitution** and agrees to be bound by them in their current form as they may, from time to time, be amended.
7. **Suspension of Agreement without Written Notice:** This Agreement may be suspended, after authorization from the **BQLT** Board, by the chairperson of the **BQLT** Garden Operations Committee (or by another **BQLT** official as designated by the **BQLT** Board of Directors) without prior written notice to the **Garden Group** for any of the following violations of this Agreement:
  - a. Use of the Garden for any illegal purpose, including drug sales or use;
  - b. Creation of a danger to the neighborhood, such as accumulation of garbage, existence of a fire hazard, or any other condition potentially harmful to the Garden or other persons or property near the Garden; or
  - c. Abandonment of the Garden.

If the **Garden Group** exists at the time the Agreement is suspended, the **BQLT** will notify in writing the Garden Representative and Alternate of the **Garden Group** by certified mail, return receipt, within a reasonable time after suspension of the Agreement, that the **Garden Group** can no longer use the Garden and must arrange with the **BQLT** a date and time to remove from the Garden any personal property not owned by **BQLT** or the Garden itself. The **BQLT** may send copies of the notification to all members of the **Garden Group** on the membership list, with addresses, as provided to **BQLT** by the **Garden Group**.

8. **Termination of the Agreement:** **BQLT** may terminate this Agreement by providing written notice to the **Garden Group** in the following circumstances:
  - a. If the **Garden Group** fails to engage in the **Conflict Resolution Procedure** as defined in Article VI of the **Constitution**, then the chairperson of the **BQLT** Garden Operations Committee may terminate this Agreement through written notification to the contact person of the **Garden Group** by certified mail, return receipt. **BQLT** may also send copies of the notification to all members of the **Garden Group** on the official membership list it has on file, with addresses, as provided to **BQLT** by the **Garden Group**.
  - b. If the **BQLT** Board votes in favor of replacing the **Garden Group** with a new group as described in the **Constitution under** Article VI, Section 2.B.5., *Replacement of The Garden*

*Group* (as it may be amended hereafter), then this Agreement is automatically terminated. The **BQLT** Board will notify in writing the contact persons of the **Garden Group** as listed on this **License Agreement** under Section 13.b, by certified mail, return receipt, that the Agreement is terminated. The **BQLT** may send copies of the notification to all **Garden Group** members on the official membership list it has on file, with addresses, as provided to **BQLT** by the **Garden Group**. A new **Garden Group** will be formed with consultation from former Garden Members, **BQLT** and the neighboring community.

9. **The Result of Termination, Suspension or Expiration:**

- a. If the Agreement is terminated or suspended, or expires, then the **Garden Group**, if it has not already done so, must leave the Garden and provides **BQLT** with the keys to all gates, sheds, structures, storage containers, etc.
- b. Termination does not relieve the **Garden Group** or **BQLT** of any liabilities incurred under the terms of this Agreement during the term of the Agreement.

10. **Removal of Certain Property After Termination:** Once this Agreement expires or is terminated for any reason, the **Garden Group** will remove from the Garden all personal property belonging to the **Garden Group**. The following items are **NOT** the personal property of the **Garden Group** and will remain in the Garden: plants, trees, shrubs and any vegetation; and any structures, improvements or additions donated to the Garden, including tables, benches, wood for raised planting beds, materials for paths and patios, gazebos, sheds, soil, fences, capital improvements, etc.

11. **Compliance with Laws and BQLT Rules, and Violations:** The **Garden Group** agrees to faithfully perform and carry out the provisions of this Agreement and the bylaws, policies and rules of the **BQLT**, and to cause the **Garden Group** and its volunteer members, agents and employees (if any) to comply with all federal, state and local laws and ordinances applicable to the Garden and the **Garden Group's** use and occupancy of the Garden property. If fines and/or penalties are incurred at any time due to the violation by the **Garden Group** of any laws and/or ordinances, or liability is incurred due to a violation of the **BQLT Bylaws or Constitution**, then the **BQLT** Board of Directors, in its sole discretion, may require the **Garden Group** to pay these fines, penalties and/or other forms of liability.

12. **Open Hours:** The **Garden Group** agrees to maintain consistent open hours during the growing season (May – October), which are communicated to **BQLT** and posted publicly as described in the **Constitution Article II, Section 1.5**.

13. **Notices and Contact Persons:** All correspondence regarding this Agreement is to be sent by regular, first-class mail (at a minimum) to the contact persons and addresses listed below. There must be at least four (4) contact persons for each party. The **Garden Group** will promptly notify **BQLT** of any change in a contact person's address or telephone number. Notice to the contact persons for the **Garden Group** is also notice to the **Garden Group**.

a. For **Brooklyn Queens Land Trust (BQLT)**, the contact persons are:

(1) \_\_\_\_\_  
**BQLT Board President**

(2) \_\_\_\_\_  
**BQLT Board Secretary**

(3) \_\_\_\_\_  
**BQLT Garden Operations Committee Chair**

(4) \_\_\_\_\_  
**BQLT Property Management Committee Chair**

b. For the **Garden Group**, the contact persons are:

(1) Name (Primary Contact/Garden Representative): \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip Code: \_\_\_\_\_

Daytime Telephone #: \_\_\_\_\_

Evening Telephone #: \_\_\_\_\_

Cell Phone #: \_\_\_\_\_

Email Address: \_\_\_\_\_

(2) Name (Secondary Contact/Garden Alternate Rep): \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip Code: \_\_\_\_\_

Daytime Telephone #: \_\_\_\_\_

Evening Telephone #: \_\_\_\_\_

Cell Phone #: \_\_\_\_\_

Email Address: \_\_\_\_\_

(3) Name (Primary Contact/Garden Member): \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip Code: \_\_\_\_\_  
Daytime Telephone #: \_\_\_\_\_  
Evening Telephone #: \_\_\_\_\_  
Cell Phone #: \_\_\_\_\_  
Email Address: \_\_\_\_\_

(4) Name (Primary Contact/Garden Member): \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip Code: \_\_\_\_\_  
Daytime Telephone #: \_\_\_\_\_  
Evening Telephone #: \_\_\_\_\_  
Cell Phone #: \_\_\_\_\_  
Email Address: \_\_\_\_\_

14. **Headings:** The paragraph headings contained in this Agreement are provided for convenience only and do not enlarge or limit the scope or meaning of the various and several paragraphs in the Agreement.
15. **Choice of Law, Consent to Jurisdiction and Venue:** This Agreement was executed in the City of New York, State of New York, and will be governed by and interpreted in accordance with the laws of the State of New York. Any and all claims asserted by or against **BQLT** arising under this Agreement or related to this Agreement will be heard and determined either in the federal courts of the United States located in New York City or in the courts of the State of New York located in New York City. If agreeable to all parties, any legal dispute will be settled through arbitration and/or mediation rather than through the court system.
16. **Severability:** If one or more of the provisions of this Agreement are held unenforceable for any reason, each and all other provisions will remain in full force and effect.

17. **Non-Assignable:** This Agreement cannot be assigned or transferred in any way to another party by the **Garden Group**.

18. **Entire Agreement:** This Agreement represents the entire agreement between the parties and cannot be changed or modified except in writing and signed by **BQLT** and the **Garden Group**.

**In agreement with this page and the above five (5) pages**, the parties have placed their signatures below:

\_\_\_\_\_  
BQLT Board President’s Printed Name

\_\_\_\_\_  
Garden Representative’s Printed Name

\_\_\_\_\_  
BQLT Board President’s Signature / Date

\_\_\_\_\_  
Garden Representative’s Signature / Date