

## Eden Community Gardens

### Gardener's Agreement

*Our Mission: Covenant United Methodist Church sponsors Eden Community Gardens, an open community garden, dedicated to cultivating community in the Gleneden and Colbert regions of Spokane County. We desire to propagate good stewardship of God's creation, to provide the ability for neighbors to raise healthy crops and to promote our children's appreciation of nature. We are also committed to growing an abundant harvest that will be shared with our neighbors through local, north-side food banks."*

This agreement, between \_\_\_\_\_, referred to as "Gardener" or "you" in this document, and the Covenant United Methodist Church (referred to as "Sponsor," "us," or "we" in this document), allows you the right to use the facilities of the Eden Community Gardens (referred to as the "Garden") for the purposes permitted herein and for the time period in which this Agreement remains in effect. This document along with the Garden Rules, as amended from time to time (referred to as "Garden Rules" or "Rules"), and any other attached or included-by-reference documents is a legal contract between you and us.

#### 1. TEMPORARY RIGHT TO GARDEN

- 1.1. **License to use:** We will provide areas of land suitable for non-commercial gardening (Plots). You have the temporary right (license) to garden in the Plots in the Garden as listed on an approved Garden Plot Assignment Request Form. The terms "Plot" and "Plots" will be used to refer to all plots assigned to you unless the context clearly indicates a single plot or multiple plots. We will also provide water for gardening use and certain other resources as described in the Garden Rules, referenced in section 2.1.
- 1.2. **Plot Usage Dates/Growing Season:** You may use your assigned Plots beginning on the Season Starting Date through the Season Ending Date (the Growing Season), as defined in the Garden Rules and on the Garden Calendar, as posted for each growing season and as may be amended from time to time..
- 1.3. **Plot Requests, Fees, Deposits:** You will request Plot assignments, and pay any required deposits and fees as described in the Garden Rules.
- 1.4. **Plot Usage:** Plots may only be used for purposes of growing permitted plants, as defined in the Garden Rules. They will not be used for any other purpose such as storage or sales.
- 1.5. **Agreement Term and Renewal:** Subject to our approval, and unless terminated as provided herein, this Agreement will continue in effect for the

current Growing Season and future Growing Seasons so long as you request and are assigned one or more Plots and make payment of the then current fees. With each Growing Season's Request, you may request to: keep your existing Plots, add Plots or change to different Plots (if available), or reduce the number of your Plots.

To be considered for renewal, you must submit a Request Form to us no later than the Request Deadline Date published on the Garden Calendar. Renewal requests submitted after the Request Deadline Date will be subject to plot availability, as described in the Garden Rules.

- 1.6. **Termination:** You may terminate this Agreement at any time upon written notice to us. You will still be required to perform any maintenance to bring your Plots into compliance with the Rules.

You agree that you have read a copy of the Rules and you will comply with them. If you fail to comply with the terms of this Agreement or the Rules, or if the Garden ceases operation as set forth in section 3.2, we can terminate this Agreement.

Upon termination for any reason, you will give up all rights to access the Garden, cease all use of your assigned Plots, give up all rights to any unharvested produce, and will promptly return any Garden property.

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- 1.7. No Refund/Reimbursement:** You understand that you will receive no refund of fees for assigned Plots, no reimbursement for any expenses, and no compensation of any kind if you or we terminate this Agreement. This applies even if you have invested significant time and money on the garden.
- 1.8. Applicability:** You understand that only the person or persons named herein as Gardener(s) and no one else, including your family, has any right under this Agreement, except certain rights to use the Garden as your guests, as provided herein.
- 1.9. Additional Named Gardeners:** If more than one person is named as Gardener herein, each named Gardener is jointly and severally liable for all provisions of this Agreement and agrees to comply with all provisions of the Rules.
- 1.10. Guests:** You are permitted to bring family members and other guests to the Garden as long as such guests (1) comply with the Rules; (2) have signed a Release Form and deposited it as provided for at the Official Bulletin Board in the Garden (Release Forms for minors must be signed by parent or guardian), and (3) are accompanied by and remain under your supervision. You shall be liable and responsible for your guests and any damages they may cause.
- 1.11. Transfers** You may transfer your fully paid-up rights under this Agreement for the current Growing Season to another person or persons, with our approval, providing the person(s) to whom you are transferring your rights signs a new Gardener's Agreement and Garden Plot Assignment Request Form for your current Plots and agrees to comply with all Garden Rules. You may not receive any payment or other compensation for transferring the Plot, other than reimbursement for the original Plot Fee paid.

## 2. GARDEN RULES, LIABILITY WAIVER, RELEASE, INDEMNIFICATION AND ACKNOWLEDGEMENTS

- 2.1. Garden Rules:** You agree to adhere to all provisions of the Garden Rules, a current copy of which has been provided to you and becomes part

of this Agreement (incorporated by reference). You also agree to be responsible for your guests' adhering to all Garden Rules while on the Garden grounds or Landowner property.

- 2.2. Awareness of Risk:** While we make a reasonable effort to provide a safe environment, you understand that there are inherent risks associated with participating in the Garden including but not limited to damage to your personal property and personal injury, up to and including death. Hazardous conditions or risks could be caused by you, other gardeners, us, the owner of the property on which the Garden is located (referred to as "Landowner"), neighbors, or other persons. The risks could also come from the condition of the land where the Garden is located, from the equipment, materials, substances, and tools available at the Garden, from the weather or other environmental or local conditions, or inability to fully secure the Garden area.

- 2.3. Assumption of Risk, Release of Claims, and Indemnification:** In exchange for your right to participate in the Garden, and based upon your understanding that participation in the Garden is conditioned upon this provision, you hereby, for yourself, your heirs and assigns, release the Sponsor and Landowner and each of their officers, directors, employees, volunteers, or anyone acting on their behalf (referred to altogether as the "Released Parties") from liability, and assume any and all risk inherent in all Garden activity and participation, and accept full responsibility for any and all injuries (including death) and accidents which may occur as a result of such participation. You agree to indemnify and hold harmless the Released Parties for any and all claims, including attorney's fees and costs, which may be brought against the Released Parties by anyone claiming to have been injured as a result of any injury to you or your guests related to use of the Garden or participation in its activities.

- 2.4. Publicity Release:** You agree to allow us or the Landowner to use any photographs, interviews, videotapes, film, other visual or auditory recordings, or any other medium, including the

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internet (collectively, "Media Representations"), of you or your guests that we or others may create in connection with your or your guest's participation in the Garden after we have received your written permission. You agree that you do not have to inspect or approve the finished project and you are not entitled to any compensation for the finished product.

We are not responsible for Media Representations produced, published, or distributed by any other person or entity.

## 3. OTHER PROVISIONS

- 3.1. No Refund or Other Claims:** Under no circumstances will you be entitled, directly or indirectly, to any refunds; any direct, incidental, consequential, punitive, or other damages; or any other forms of compensation from us or the Landowner; or to obtain an injunction, specific performance, or other equitable remedy, as a consequence of your use of the Garden or termination from participation in the Garden
- 3.2. Termination of Garden Operations:** This Gardener's Agreement is subject to an agreement between the Landowner who owns the Garden's land and us. As a result, if the Landowner terminates our Land Use Agreement, or if the Garden for other reason ceases operation, the Garden will close, and the Gardener's Agreement will terminate.
- 3.3. No Limit on Sponsor Rights:** Nothing in this Agreement or the Garden Rules shall be interpreted to (i) limit our ability to enforce our rights under the Agreement or Rules; (ii) limit or qualify your obligation to comply with applicable law or the Agreement or Rules; or (iii) limit our right to notify or involve government authorities.
- 3.4. Applicable Law:** This agreement will be interpreted in accordance with the laws of the State of Washington. Venue for any action related to this Agreement shall be in the courts of the County of Spokane, Washington.

- 3.5. Entire Agreement, Severability, Modification, and Headings:** This Agreement along with the Garden Rules, and the then-current approved Garden Plot Assignment Request Form represents the entire agreement between you and us. No modification, amendment, or waiver of any provision of this Agreement shall be binding unless in writing and signed by both parties; provided, however, that we reserve the right to amend the Garden Rules from time to time.

If any part of this Agreement is ineffective or unenforceable, the remaining portions of the Agreement shall remain in full force and effect.

Headings are for convenience only and do not affect the operability of the section.

- 3.6. Waiver:** The failure to insist upon strict performance of any of the covenants and provisions contained herein shall not be construed to be a waiver or relinquishment of such covenant or provision, but shall remain in full force and effect.
- 3.7. Garden Agreement/Rules Disambiguation:** Should there be any ambiguity or conflict between this Garden Agreement and Garden Rules, this Garden Agreement will control.
- 3.8. No Discrimination:** We will not discriminate on the basis of race, color, national origin, religion, sex, disability, age, medical condition, ancestry, marital status, citizenship, sexual orientation, gender identity, or status as a veteran
- 3.9. Translations Not Binding:** If we provide you with a translation of this Agreement, the Rules and related summaries, or other explanatory materials, we do so as a convenience. If there is any ambiguity or conflict between the English and the translated versions of these documents, the English language versions are the official, legally binding documents.
- 3.10. Third-Party Beneficiaries:** You understand that the Landowner is an express third party beneficiary, with a right to enforce certain parts of this Agreement against you.

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**3.11. Survives Agreement Termination:** Certain provisions of this Agreement will survive its termination: Sections 1.7, 2.2 through 2.3, 3.1, 3.3, 3.6, 3.7, and 3.10.

**3.12. Notices:** Legal notices to you, relating to this Agreement, will be sent by first class mail with courtesy email copy (if an email address has been provided) to the address provided on the most recent Garden Plot Assignment Request Form, and will be deemed to have been delivered within two business days after mailing. Notices to us will be mailed to Eden Community Gardens, at 15515 N. Gleneden Drive, Spokane, WA 99208.

**3.13. Attorney's Fees and Costs:** In the event either party resorts to legal action to enforce the terms of this Agreement, the prevailing party shall be entitled to recover the cost of such action so incurred, including, without limitation, reasonable attorney fees.

## GARDENER(S)

## SPONSOR

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_