

## Tenancy Agreement.

THIS AGREEMENT is made the ..... day of.....

BETWEEN

- (1) Boxley Parish Council of Beechen Hall, Wildfell Close, Chatham, Kent ME5 9RU ("the Council") and
- (2) ?? of ??  
("the Tenant")

NOW IT IS AGREED as follows

### 1. Interpretation

"The Council" - Boxley Parish Council (BPC).

"Boxley Parish" - the area within the officially recognised boundary of the civil district of that name in Maidstone Borough.

"Applicant" - person applying for tenancy of an allotment garden.

"The Clerk" - the Clerk to BPC.

"Plot/plot" - the allotment site is divided into standard plots, each of 250 square metres (roughly the size of a tennis court). As is now common practice, BPC has divided these standard plots into more manageable ¼ plots, each of 62.5 m<sup>2</sup>. Unless otherwise specified, in this document the word "Plot" (with a capital P) means a standard 250sq metre plot and "plot" (with a small p) refers to these quarter-plots.

"Allotment garden" - the land available for cultivation by a tenant, which may consist of a number of quarter-plots.

"Allotment Site" - the whole of the site including allotments, entrance and access road.

"Disabled plot" - one of four plots designated as being especially suitable for use by the registered disabled.

"Site representative" - a person so designated by the parish council.

**Note:** words referring to one gender to be read as referring to any other gender and words referring to the singular to be read as referring to the plural and vice versa.

### 2. Allotment

- 2.1. The Council agrees to let and the Tenant agrees to lease all that piece of land situated at Dove Hill Allotments, Sandy Lane, Boxley ("the Allotment Site") and numbered plot ?????? on the Council's allotment plan and containing approximately ?? square metres ("the Allotment Garden").

### 3. Tenancy and Rent

The Allotment Garden shall be held on a yearly tenancy<sup>1</sup> from 1 October 2014 at an annual rent of £30 per half plot which is payable to the Council by the Tenant on the 21<sup>st</sup> August<sup>2</sup> each year ("the Rent Day"). Tenants taking up a plot within the rent year will be invoiced for the remainder of the year with a pro rata amount.

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<sup>1</sup> Four plots are designated for disabled persons (blue badge holders) however if there is no demand these may be allocated to abled-bodied tenants. Should a disabled person reach the top of the waiting list then the last tenant offered such a plot will be required to move to the next vacant non-disabled plot. This process will be followed until all disabled plots are filled by disabled people.

<sup>2</sup> 40 days before yearly tenancy.

3.1. 12 months' notice of any rent increase will be given by the Council to the Tenant in September of the preceding year to take effect the following year.

3.2. Water supply<sup>3</sup> shall be included in the rental charge.

3.3. Where additional amenities are provided on the Allotment Site these will be taken into account when setting the following year's rent.

#### 4. Rates and Taxes

4.1. The Council will pay all rates and taxes

#### 5. Cultivation<sup>4</sup> and Use

5.1. The Tenant shall use the plot as an allotment garden only as defined by the Allotments Act 1908 & 1922<sup>5</sup> (that is to say wholly or mainly for the production of vegetable, fruit and flower crops for consumption or enjoyment by the Tenant and his family) and for no other purpose and keep it free of hazards, e.g. broken glass or scrap metal etc., and reasonably free from weeds and noxious plants and in a good state of cultivation and fertility and in good condition.

5.2. The Tenant shall not plant any trees other than dwarf fruiting trees or bushes, not exceeding 2m in height when matured. All plant material must be kept properly pruned and cut back so as not to overhang or obstruct paths or encroach or cause the shading of adjoining plots or protrude through allotment fencing.

5.3. The Tenant may not carry on any trade or business from the Allotment Site (A small amount of surplus produce may be sold as ancillary to the provision of crops for the family.)

5.4. The Tenant shall have at least ¼ of the Allotment Garden under cultivation of crops after 3 months and at least ¾ of the Allotment Garden under cultivation of crops after 12 months and thereafter.

5.5. The maximum amount of the Allotment Garden allowed to be hard landscaped e.g. paved area, internal paths etc. is 20%.

5.6. Tenants may not use their Plot or the Allotment Site as a place of residence and/or for sleeping overnight and allotments may not be worked between sunset and sunrise.

#### 6. Prohibition on Under-letting

6.1. The Tenant shall not underlet, assign or part with possession of the Allotment Garden or any part thereof. (This shall not prohibit another person, authorised by the Tenant, from cultivation of the plot for short periods of time when the Tenant is incapacitated by illness or is on holiday, the Site Representative to be informed of the other person's name.)

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<sup>3</sup> Please note the water supply will be switched off from 1 November to 1 March. The parish council will endeavour to ensure a continuous supply during the remaining months but cannot be held responsible for situations that are out of its control.

<sup>4</sup> Cultivation is defined as the Plot being dug over ready for planting even if covered by weed suppressant membrane. Strimming of the Plot does not constitute cultivation.

<sup>5</sup> Copies are available from [www.communities.gov.uk](http://www.communities.gov.uk)

## 7. Conduct

- 7.1 Only the Tenant or a person authorised or accompanied by the Tenant is allowed on the Allotment Site and all guests must respect and abide by the Allotment Rules. Tenants may encourage their children to visit their Plot but children must be accompanied by an adult Tenant at all times. Children must keep to the main footpaths when accessing the Tenant's Plot and must not trespass on any other plot. The Health and Safety of any visiting children is the responsibility of the Tenant.
- 7.2. The Tenant must at all times during the tenancy observe and comply fully with all enactments, statutory instruments, local, parochial or other byelaws, orders or regulations affecting the Allotment Site.
- 7.3. The Tenant must comply with the conditions of use attached as Schedule 1.
- 7.4. The Tenant or their authorised guest must not cause or permit any nuisance (including noise) or annoyance to the occupier of any other plot or of any other property or land adjoining or near the Allotment Site.
- 7.5. No machinery may be operated outside the hours of 09.30 – 19.00 weekdays and 10.00 – 16.30 Sundays and bank holidays.
- 7.6. The Allotment Garden may not be used for any illegal or immoral purposes and the Tenant must observe all relevant legislation or codes of practice relating to activities they carry out on the Allotment Garden.
- 7.7. or any person who accompanies the tenant, shall enter onto any other plot at any time without the express permission of the relevant plot holder.
- 7.8. The Tenant is responsible for the actions of children and others entering the Allotment Site with his permission.
- 7.9. The Tenant must not remove produce from any other plot without the express permission of the relevant plot holder.
- 7.10. The Council has the right to refuse admittance to the Allotment Site or order a person to leave the Allotment site if that person, in the opinion of the Council, acts or behaves, or is likely to act or behave, in a manner likely to cause a nuisance or annoyance to any Tenant of an allotment garden or to the occupier of any other property or land adjoining or near the Allotment Site
- 7.11. Vehicles may only be parked in the designated parking area at the Allotment Site. They **must not park** in the shared entrance area, turning point or on Sandy Lane<sup>6</sup>. Failure to comply with this rule will result in action being taken by the council, see clause 8.2.8.

## 8. Termination of Tenancy

8.1. The tenancy of the Allotment Garden shall terminate:

- 8.1.1. Automatically on the Rent Day next after the death of the Tenant, (Note: Application may be made by the former tenant's family to be granted a new tenancy agreement if they meet the application requirements as detailed in the allocations procedure.)

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<sup>6</sup> See section 12 of schedule 1 conditions of use

- 8.1.2. by either the Council or the Tenant giving to the other at least twelve months notice in writing expiring on or before 6 April or on or after 29 September in any year, or
  - 8.1.3. by re-entry by the Council after 3 months previous notice in writing to the Tenant on account of the Allotment Garden being required:
    - 8.1.3.1. for building, mining, or any other industrial purpose or for roads or sewers necessary in connection with any of those purposes, or
    - 8.1.3.2. for any purpose (not being the use of the Allotment Garden for agriculture) for which it was acquired by the Council, or has been appropriated under any statutory provision, or
  - 8.1.4. by re-entry if the rent is in arrears for 40 days, or
  - 8.1.5. by re-entry if the Tenant becomes bankrupt or compounds with his creditors, or
  - 8.1.6. by the Council giving the Tenant at least one months notice in writing if, not less than 3 months after the commencement of this Agreement, it appears to the Council that the Tenant is resident more than one mile out of the borough, district or parish.
  - 8.1.7. Subject to 5.3, by re-entry if the tenant fails to keep the allotment free from weeds for a 3 month period, therefore not exercising a duty of care to other allotment holders, then a letter shall be sent to the tenant reminding them of their duty of care. If after a further month there has been no improvement then the tenancy will be terminated with immediate effect. An appeal against termination can be made using the Councils' Complaint and Appeal procedure (copy available from the parish office) and should include details of any extenuating circumstances that caused the problem and also clear dates of when the allotment will be weed free.
  - 8.1.8. By re-entry if the Tenant fails to comply with the Rules and Regulations of this Tenancy Agreement then a letter shall be sent to the tenant notifying them of the transgression and asking for the issue to be rectified. If after a month (or the time specified in the letter if longer) there has been no change then the tenancy will be terminated with immediate effect. An appeal against termination can be made using the Councils' Complaint and Appeal procedure (copy available from the parish office) and should include details of any extenuating circumstances that caused the issue not to be dealt with.
9. In the event of the termination of the tenancy the Tenant shall return to the Council any property (keys, etc.) made available to him during the Tenancy and shall leave the plot in a clean and tidy condition. If in the opinion of the Council the plot has not been left in a satisfactory condition, any work carried out by the Council to return the plot to a satisfactory condition shall be charged to the Tenant (section 4 Allotments Act 1950).

## **10. Change of Address**

The Tenant must immediately inform the Council of any change of address.

## 11. Notices

- 11.1 Any notice given under this agreement must be in writing and to ensure safe receipt should be delivered by hand or sent by registered post or recorded delivery. A notice may be sent by fax or email if a confirmatory copy is delivered by hand or sent by registered post or recorded delivery on the same day.
- 11.2. Any notice served on the Tenant should be delivered at or sent to his last known home address. Any address served on the Council should be sent to the address given in this agreement or any address specified in a notice given by the Council to the Tenant.
- 11.3. A notice sent by registered post or recorded delivery is to be treated as having been served on the third working day after posting whether it is received or not.
- 11.4. A notice sent by fax or email is to be treated as served on the day on which it is sent or the next working day where the fax or email is sent after 16.00 hours or on a non working day, whether it is received or not, unless the confirmatory copy is returned to the sender undelivered.

Executed by the Council by

In the presence of

Signed by the Tenant

In the presence of

## SCHEDULE 1

### Conditions of Use

#### **1. Trees**

- 1.1. The Tenant shall not without the written consent of the Council cut or prune any trees, apart from carrying out the recognised pruning practices of fruit trees.
- 1.2. The Tenant shall not plant any trees other than dwarf fruiting trees and or fruiting bushes without the prior consent of the Council.

#### **2. Hedges, Fences and Paths**

- 2.1. The Tenant shall keep all pathways between plots trimmed and well maintained up to the nearest half width by each adjoining tenant and keep in good repair any other fences and any other gates or sheds on his Allotment Garden.
- 2.2. No fence shall be higher than 1051 mm.
- 2.3. The Tenant shall not use any barbed or razor wire (or similar) for a fence adjoining any path on the Allotment Site.
- 2.4. Public paths and haulage ways (roads) must be kept clear at all times.
- 2.5. All paths between plots must be kept a minimum of 45 centimetres wide.

#### **3. Security**

- 3.1. The Tenant shall be issued with a key<sup>7</sup> to access the allotment facilities. No replicas are to be made. No key shall be passed to anyone other than a person authorised by the Tenant to work on his Allotment Garden under paragraph 5 of the Agreement.
- 3.2. The key is to be used by the Tenant only or by an authorised person under paragraph 5 of the Agreement.
- 3.3. The Tenant will be required to pay for the cutting of a replacement key if the original is lost or not returned when the tenancy finishes.
- 3.4. The last person leaving the site shall ensure that the Sandy Lane access gate is locked.
- 3.5. The rabbit-proof gates to the allotment gardens must be left closed at all times and the last person leaving the site should ensure that it is locked.

#### **4. Inspection**

- 4.1. An officer of the Council if so directed may enter the plots for inspection of the state of cultivation and general condition of the plot, sheds, greenhouses and any livestock and full access must be given by the Tenant to the officer at a mutually agreed, mutually convenient time.

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<sup>7</sup> A refundable deposit of £15 is required

## **5. Water/Hoses /Fires**

- 5.1. The Tenant shall practice sensible water conservation, sheds and other buildings should be provided with guttering and covered water butts for water harvesting and the tenant shall consider mulching as a water conservation practice.
- 5.2. The Tenant shall have consideration at all times for other tenants when obtaining water from water points. No hoses or pumps are to be used at any time.
- 5.3. Only disabled tenants are allowed the use of the tap adjacent to the allocated disabled plots.
- 5.4. Fires are allowed for the burning of materials from the Allotment Garden only i.e. diseased plants and dried-out organic material that will burn without creating hazardous residue, between the hours of 15.00 and 19.00 and 15.00 and dusk in winter. All fires must be within a suitable metal incinerator<sup>8</sup> and attended at all times and fires must not cause a nuisance to neighbouring residents or other plot holders. All fires must be fully extinguished before leaving the site. The Tenant shall not bring or allow to be brought on to the Allotment Site any materials for the purpose of burning such waste. No ground fires are allowed.
- 5.5. BBQ's are permitted subject to careful disposal of ashes and not causing a nuisance.

## **6. Dogs**

- 6.1. The Tenant shall not bring or cause to be brought onto the Allotment Site a dog unless it is held at all times on a short lead, kept under control and remains on the Tenant's Allotment Garden only. Any faeces to be removed and disposed of off-site by the Tenant.

## **7. Livestock**

- 7.1. The Tenant shall not keep any animals or livestock on the Allotment Garden except rabbits and hens (no cockerels) to the extent permitted by section 12 Allotments Act 1950. (Such animals not to be kept for trade or business purposes and accordingly to be limited in number to a maximum of 5 hens per plot). Approval for the keeping of rabbits must be sought in advance along with full details of the rabbit proof enclosure that is to be provided.
- 7.2. Livestock must be kept so that they are not prejudicial to health or a nuisance.

## **8. Buildings and Structures**

- 8.1. The Tenant shall not without the written consent of the Council erect any building or pond on the Allotment Garden, provided that consent shall not be refused under this clause for the erection of any building reasonably necessary for the purpose of keeping rabbits or hens or be unreasonably withheld for the erection of a garden shed or greenhouse the maximum size<sup>9</sup> and positioning of which shall be determined by the Council. No shed or greenhouse maybe erected on a permanent base.
- 8.2. Polytunnels not exceeding one metre in height will be allowed.

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<sup>8</sup> Fires must take place on the tenant's plot with, for safety, a 1m clearance around the incinerator.

<sup>9</sup> Sheds and greenhouse each no larger than 1.8m x 1.2m x 2m in height will normally be permitted by the Council and may be erected in a position to be agreed by the Council. Sheds or greenhouses must have an 18 inch gap between them and an adjacent path to allow safe passage and machinery to operate.

- 8.3. Glass must not be used for glazing, only glass substitutes such as polycarbonate, perspex or other alternatives may be used in any permitted structures.
- 8.4. The Tenant shall keep all sheds, greenhouses and other structures in good repair to the satisfaction of the Council.
- 8.5. Any shed, greenhouse or structure erected on a Plot must be removed at the termination of the tenancy or if not removed then either deemed to be donated to the next tenant on that Plot or the Council may dispose of it at the outgoing Tenant's expense.
- 8.6. Oil, fuel, lubricants or other inflammable liquids shall not be stored in any shed except in an approved container with a maximum capacity of 5 litres for use with garden equipment only. The storage of a small portable camping stove, with disposable gas canisters, for the brewing of hot drinks is allowed.
- 8.7. The Council will not be held responsible for loss by accident, fire, theft or damage from Allotment Garden.

## **9. General**

- 9.1. The Tenant shall not deposit or allow other persons to deposit on the Allotment Garden any rubbish, refuse or any decaying matter (except manure and compost in such quantities as may reasonably be required for use in cultivation) or place any matter in the hedges, woods, ditches or dykes in or surrounding the Allotment Site.
- 9.2. The Tenant must cover any manure on the Allotment Garden which has not been dug in.
- 9.3. The Tenant must ensure that only bagged manure is delivered to the Allotment Site.
- 9.4. All non compostable waste shall be removed from the Allotment Site by the Tenant.
- 9.5. The Tenant shall not utilise carpets or underlay on the Allotment Garden.
- 9.6. All compost heaps must be contained.
- 9.7. Soil shall not be removed from the Plot and any spoil resulting from clearance by removing the topsoil to cultivate must be composted and replaced on the Plot to avoid unnatural erosion.
- 9.8. No vehicles trailers or any other equipment is to be left or stored on the Allotment Site.
- 9.9. No barbed wire or razor wire may be used within the Allotment Site.
- 9.10. There must be no obstruction of pathways or gates by Tenants.
- 9.11. The Allotment Notice Board must not be defaced and may be used by Tenants for displaying information but the advertising of produce for sale is strictly prohibited.



## **10. Chemicals, Pests, Diseases and Vermin**

- 10.1. Only commercially available products from garden or horticultural suppliers shall be used for the control of pests, diseases or vegetation.
- 10.2. When using any sprays or fertilisers the Tenant must
  - 10.2.1. take all reasonable care to ensure that adjoining hedges, trees and crops are not adversely affected and must make good or replant as necessary should any damage occur, and
  - 10.2.2. so far as possible select and use chemicals, whether for spraying, seed dressing or for any other purpose whatsoever, that will cause the least harm to members of the public, birds and other wildlife, other than vermin or pests, and
  - 10.2.3. comply at all times with current regulations on the use of such sprays and fertiliser.
- 10.3. The use and storage of chemicals must be in compliance with the all relevant legislation.
- 10.4. Any incidence of vermin (rats) or wasps' nests on the Allotment Site must be reported to the Local Authority and The Council.

## **11. Notices**

- 11.1. The Tenant will endeavour to maintain the plot number provided by the Council in good order and ensure it is visible at all times.
- 11.2. The Tenant shall not erect any notice or advertisement on the Allotment Site without prior consent of the Council.

## **12. Car Parking**

- 12.1. Only the Tenant or persons acting for them shall be permitted to bring cars onto the site and they must be parked in the designated areas for parking shown on the allotment plan and not obstruct the haulage ways at any time. No parking is allowed in Sandy Lane and no vehicle or trailer can be left overnight in the parking area.
- 12.2. The pick-up and drop-off of equipment and materials at Allotment Gardens is permitted with a reasonable amount of time allowed for the act.

## **Complaints and appeals**

### **BOXLEY PARISH COUNCIL** **Complaint and Appeal procedure (Allotments)**

#### **COMPLAINT**

Boxley Parish Council is committed to providing a quality service to residents of the Parish and to anyone who deals with the Parish Council. The Parish Council is determined to conduct its business in a fair and equitable manner.

To meet this standard the following complaints procedure has been adopted and will be managed by the Parish Council's Estates Committee.

### **Misconduct by Council personnel in dealing with Allotments.**

Any complaints should be made in writing to the Chairman of the Estates Committee, this should be sent c/o the parish office or via e-mail to the Chairman (details are available on the Council's website). In certain circumstances the complaint may need to be passed to the Chairman of the Parish Council to be dealt with under the adopted Disciplinary Procedure of the Parish Council. If this is the case the complainant will be advised.

### **Grounds for complaints against the Parish Council or its committees.**

A complaint should not be made just because you do not agree with a decision of the Estates Committee. You will need to show that the Committee did not follow correct procedure or policy and this has resulted in unfair treatment. The Parish Council and Estates Committee have numerous policies and procedures and its minutes and most records are open for public scrutiny. This policy is in accordance with the Freedom of Information Act 2000 – Publication Scheme, a copy of which is available from the parish office and can be viewed on the Parish Council's website [boxleyparishcouncil.org.uk](http://boxleyparishcouncil.org.uk)

The Local Government Ombudsman is unable to deal with complaints about Parish Councils as its legal remit only covers County, District and Borough Councils.

### **Complaints regarding Allotments.**

It is in the particular interest of a Parish Council and its committees to settle a complaint because, even if it is unjustified, it will in the absence of a settlement be raised again. This is bad for the council since it wastes time and affects its reputation.

1. If a complaint about procedures or administration is notified verbally to a Councillor or Clerk and they cannot satisfy the complainant forthwith the complainant shall be asked to put the complaint in writing to the Clerk.
2. If the complainant prefers not to put the complaint to the Clerk he/she shall be advised to put it to the Chairman of the Estates Committee.
3. (a) On receipt of a written complaint the Clerk or Chairman, as the case may be, shall try to settle the complaint directly with the complainant but shall not do so in respect of a complaint about the behaviour of the Clerk or of a Councillor without first notifying that person and giving them an opportunity for comment on the manner in which it is intended to attempt to settle the complaint. The Estates Committee shall not get involved with complainants about the misconduct of a Councillor but will instead refer the complainant to the Local Monitoring Officer at Maidstone Borough Council.  
(b) Where the Chairman receives a written complaint about his or her own actions then he or she shall forthwith refer the complaint to the Chairman of the Parish Council.  
(c) Where the Clerk receives a written complaint about his or her own actions then he or she shall forthwith refer the complaint to the Chairman of the Estates Committee or Parish Council (depending on the nature of the complaint).
4. The Chairman or the Clerk shall report to the next meeting of the Estates Committee any written complaint disposed of by direct action with the complainant.
5. The Chairman or Clerk shall bring any written complaint that has not been settled to the next meeting of the Estates Committee. The Clerk shall notify the complainant of the date on which the complaint will be considered, and the complainant shall be offered an opportunity to explain the complaint verbally.

If the complainant is submitting documentation or evidence to which they will be referring to at the meeting then they should, 7 clear working days prior to the meeting, provide copies to the parish office. Similarly the Estates Committee should supply the complainant with copies of any Parish Council documents, which are requested and available under the Freedom of Information Act - Publication Scheme.

6. The Estates Committee shall consider whether the circumstances attending any complaint warrants the matter being discussed in the absence of the press and public but any decision on a complaint shall be announced at the Estates Committee meeting in public. In the interest of openness and accountability there must be clear relevant reasons or a request from the complainant for the matter to be held without the presence of the press or public.
7. At the meeting the Chairman should
  - (a) Introduce everyone
  - (b) Explain the procedure
  - (c) Ask the complainant to outline the grounds of the complaint.
  - (d) Allow members to ask questions.
  - (e) Allow the Clerk or other Proper Officer to explain the council's position.
  - (f) Allow members to question the Clerk or Proper Officer.
  - (g) Members to decide whether or not the grounds for the complaint have been made.
8. Within 7 working days of the meeting the decision and the nature of any action to be taken shall be communicated in writing to the complainant.
9. The Estates Committee shall defer dealing with any written complaint only if it is of the opinion that the issue should be dealt with by full Council or another committee, or there are issues of law or practice on which advice is necessary. The complaint shall be dealt with at the next meeting after the advice has been received.

## **APPEAL**

An appeal can only be made against the decision of the Estates Committee that deals with the Tenancy or rules and regulations of the Allotments. A decision concerning the conduct of staff or a decision which is produced by the Parish Council has no right of appeal.

If on receipt of the response to the complaint (and within one month of the date of the letter detailing the decision) the Tenant wishes to appeal then they should submit a letter detailing the reasons for the appeal and why they think the original decision was wrong.

- (a) On receipt of a written appeal the Clerk will acknowledge receipt and notify the Chairman of the Parish Council and the Chairman of the Estates Committee.
- (b) The Clerk will arrange for at least 3 councillors (none of whom were involved in the original decision or who are members of the Estates Committee) to become the 'Appeals Group'.
- (c) The Clerk will produce a briefing paper on the situation and include the Appellants' letter. This document will be posted to the Appellant who will have 7 working days to respond with any additional information.
- (d) The Clerk will then arrange a meeting of the Appeals Group, giving at least 7 days' notice to the Appellant, supplying a copy of the briefing note and any information provided by the Appellant.

- (e) The Appellant and Chairman of the Estates Committee will be allowed to attend the meeting but only for the purpose of answering questions. The Clerk shall take notes of the meeting and answer any legal or policy questions.
- (f) Within 7 working days of the meeting the decision and the nature of any action to be taken shall be communicated in writing to the Appellant.

The decision of the Appeal Group will be accepted by the Estates Committee.