

THIS LEASE is made the 12 day of August 2009

BETWEEN

- (1) **SHAFTESBURY TOWN COUNCIL** of The Town Hall Shaftesbury Dorset ('the Landlord') and
- (2) [REDACTED] of [REDACTED] Shaftesbury Dorset [REDACTED] of [REDACTED] Shaftesbury aforesaid and [REDACTED] of [REDACTED] Shaftesbury aforesaid the present trustees of the Friends Of The Donkey Field Community Orchard ('the Tenant')

NOW IT IS AGREED as follows:

1 Orchard

The Landlord lets to the Tenant all that piece of land situate at known as The Donkey Field Enmore Green Shaftesbury Dorset shown edged in red on the attached plan ('the Donkey Field').

2 Tenancy and rent

The Tenant shall hold The Donkey Field for a term of 7 years from 12 August 2009 at a rent of One peppercorn or an apple payable to the Landlord (if demanded) yearly on 29th day of September 2009 and on the same date in each succeeding year.

3 Rates and taxes

The Landlord must pay all rates and taxes.

4 Use

The Tenant must not use The Donkey Field or allow it to be used for the purpose of any trade or business, but the Tenant must use it, and permit it to be used, for the purposes of a community orchard for the benefit of local people visitors and wildlife.

5 Management of Land

The Tenant must manage the Donkey Field in accordance with the Management Provisions set out in the Schedule to this Lease and must so deliver it up at the end of the tenancy.

6 Agreement against underletting

The Tenant must not underlet, assign or part with possession of the Donkey Field or any part of it except for the purpose of a community orchard save that where on the retirement or death of any Trustee a new Trustee is appointed in his or her place.

7 Nuisance and paths

The Tenant must not cause permit or suffer any nuisance or annoyance to the occupier of any adjoining property, or obstruct, or permit to be obstructed, the public right of way through the Donkey Field and must undertake appropriate health and safety risk assessments and implement any necessary action to minimise the risk to any member of the public using the field.

8 Animals

Any dogs allowed on the Donkey Field must be kept under control and no other animal except tethered grazing animals and natural wildlife may be kept or let loose on the Donkey Field.

9 Buildings

The Tenant must not erect any permanent building or structure of any kind on the Donkey Field

10 To preserve hedges and ditches

The Tenant must keep every hedge forming part of the Donkey Field properly maintained and cut and must keep all ditches in a reasonable condition and clear as appropriate and in working order

11 Determination of tenancy

11.1 Determination by notice

The Tenant may bring this Lease to an end by giving to the Landlord 3 months' previous notice in writing

11.2 Determination on default

This Lease comes to an end if the Landlord forfeits it by re-entry at any time after giving 28 day's previous notice in writing to the Tenant which the Landlord is entitled to do::

11.2.1 if the Tenant has not complied with the terms of this Lease (where appropriate after invoking the dispute procedure in the Management Agreement), or

11.2.2 if any steps are taken for the dissolution of the Friends to alter its objects without the written approval of the Landlord (which shall not be unreasonably withheld if the Prime objective of providing a Community Orchard is maintained

12. Compensation

The Tenant shall not be entitled to compensation for any of the improvements mentioned in the Small Holdings and Allotments Act 1908 Schedule 2 Part I nor, for any of the improvements mentioned in Part II of that Schedule.

13 Option to Renew

If the Tenant wishes to take a further lease of The Donkey Field from the end of the term and at any time after the end of the sixth year of the term gives to the Landlord not less than three months notice of that wish, then provided the Tenant has substantially performed and observed the obligations on its part in this Lease up to the end of the term the Landlord must grant the Tenant or the Trustees for the time being of the Friends a further Lease of the Donkey Field for a term of 7 years commencing on and including the day following the last day of the term on the same terms and conditions as this Lease. The Tenant is entitled to a maximum of 13 such renewals the last of which will exclude the option for a further lease

For the avoidance of doubt this enables the Tenant to have consecutive leases of the Donkey Field for a total of 98 years (i.e. the initial term of 7 years and 13 further terms of 7 years)

14 Management Agreement

For the duration of this Lease and any renewal of it the Landlord and the Tenant agree to abide by the provisions of the Management Provisions set out in the Schedule hereto or to such variation of it as from time to time may be agreed between them in writing

15. Notices:

All notices to the parties required by this Lease or the Agreement shall be delivered by hand or by first class post to the addresses listed in the Particulars in article 1 above.

THE SCHEDULE

**MANAGEMENT PROVISIONS
FOR THE LAND KNOWN AS
THE DONKEY FIELD**

1. PARTICULARS:

The Town Council: Shaftesbury Town Council, Town Hall, Shaftesbury High Street, Shaftesbury SP7 8JE

The Friends: The Friends of the Donkey Field Community Orchard acting through its Trustees, c/o 18
The Knapp, Shaftesbury SP7 8LT

The Holding: The land known as The Donkey Field shown for identification purposes on the attached
plan

2. TOWN COUNCIL'S OBLIGATIONS:

The Town Council will continue to meet its statutory obligations as Landlord under relevant legislation and will provide a duty of care. It is agreed that:

- a. Shaftesbury Town Council retain the freehold interest in the site subject to the leasehold interest of the Friends;
- b. Ownership of any fixtures on the site will transfer to the Town Council at the end of the lease upon satisfactory inspection and agreement in writing from the Town Council;
- c. Shaftesbury Town Council will continue to maintain all non-living boundaries and fences in Town Council ownership;
- d. Shaftesbury Town Council will maintain the footpath as a right of way but will consult with the Friends before so doing and will agree appropriate timings for work that recognise the Friend's plans and schedules;
- e. Shaftesbury Town Council will not take vehicles onto the land without prior permission from the Friends, which will not be unreasonably refused;
- f. On production of a receipted invoice for the premium Shaftesbury Town Council will reimburse the Friends for the costs of Public Liability and Personal Accident Insurance reasonably and properly incurred unless the cost rises prohibitively and it feels that it will not be able to reimburse the full cost of the premium. If there is a dispute over what constitutes a prohibitive rise then this should be resolved by invoking the dispute procedure in the Management Agreement.

3. FRIENDS' OBLIGATIONS:

In addition to any legal, health and safety, duty of care and other legislative requirements of the operations of the Community Orchard, the Friends shall:

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Dorset County West

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- a. Provide a copy of their Constitution, and Management Plan and a copy of any subsequently amended Constitution or Management Plan within thirty (30) days of such amendment;
- b. Take out Public Liability and Personal Accident insurance and provide evidence of certificates of insurance to the landlord.
- c. Manage the land using their best endeavours and in accordance with the Donkey Field Community Orchard Management Plan at no additional cost to the landlord except where items are maintained or agreed to be maintained by the Shaftesbury Town Council;
- d. Keep the said land and any fixtures and fittings there, whether above or below ground, in good condition and to use the said land hereby leased for the purposes of a community orchard only;
- e. Allow the Shaftesbury Town Council's staff, agents or contractors and other statutory agencies access to the site to carry out emergency or specific works as may be agreed between the two parties and at agreed times;
- f. Inform Shaftesbury Town Council in writing at the tenant's earliest convenience of any significant damage, wilful or accidental, to the site, its fixings or boundaries;
- g. Refrain from the use of motorised or powered tools other than strimmers, refrain from applying chemicals (including pesticides, herbicides, fertiliser) of any kind unless suitably qualified to do so and then only using chemicals or motorised or powered tools (other than strimmers) whilst wearing the correct protective equipment, using the equipment correctly and safely in accordance with manufacturers' recommendations and being adequately covered by the relevant insurance;
- h. Provide appropriate adult supervision at organised workdays when young people or youth groups are performing work on the community orchard. An adult must accompany participants under 18 years of age when engaged in such activities;
- i. Ensure that work on site is only carried out during the hours of daylight;
- j. Ensure that any proceeds received from the sale of any part of whole of the orchard crop including fruit, nuts and any other produce without deduction shall be invested back into the community orchard;

- k. Ensure that no monies shall be collected for personal gain from the community orchard;
- l. Ensure that no businesses shall be run out of, in conjunction with, or related to the community orchard;
- m. Ensure that no works cause loss of crops of adjacent allotment users;
- n. Ensure that the right of way is clear at all times.
- o. Aim to ensure the future viability of the Community Orchard by attempting to involve young people in its management and operation.

4. DISPUTES, ARBITRATION AND TERMINATION:

- a) If either party claims that the obligations in this management provisions have not been complied with it must give at least 28 days written notice to the other party requiring compliance.
- b) The party receiving such notice shall within 28 days of service of such notice either:
 - 1. submit a written proposal for rectification (which shall include a proposed timescale for compliance) or
 - 2. give written notice that it disputes any breach
- c) In the event of any such dispute or failure to agree appropriate rectification or time-scale for compliance the parties will use all reasonable endeavours to promptly resolve their differences.

d) If the parties agree any such matter which remains unresolved for a period of 28 days or any other dispute regarding the provisions of this management agreement may be determined by arbitration under sub-clause (e) below.

e) Any matter which the parties require to be determined by arbitration under this management agreement is to be referred to a single arbitrator under the Arbitration Act 1996. The parties may either agree the appointment of the arbitrator or apply to [the President for the Royal Institution of Chartered Surveyors] to make the appointment

5. LAW:

All issues relating to this project shall be governed by and construed according to the law of England and Wales.

Each party shall bear its own legal and other fees in the preparation and submission of this agreement and from any formal agreement on subsequent renewal of this agreement or Lease of the Donkey Field.

IN WITNESS whereof the parties hereto have signed this instrument as their deed in the presence of the persons mentioned below

Signed as a Deed by

LESTER DIBBEN

On behalf of SHAFTESBURY TOWN COUNCIL

In the presence of:-

