

**EXHIBIT B
to Common Areas Lease**

Form Sublease of Undivided Interest

EXHIBIT B to COMMON AREAS LEASE

SUBLEASE OF UNDIVIDED INTEREST

**UNIVERSITY TERRACE BERKELEY
HOMEOWNERS ASSOCIATION**

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SUBLEASE OF UNDIVIDED INTEREST

THIS SUBLEASE OF UNDIVIDED INTEREST ("Sublease") is made and entered into as of this ___ day of _____, 199__, by and between UNIVERSITY TERRACE BERKELEY HOMEOWNERS ASSOCIATION, a California nonprofit mutual benefit corporation (the "Association"), and _____ (the "Home Owner").

PREAMBLE

A. The Association is a mutual benefit corporation, the members of which are, or will be, owners of condominium interests described below. All of the directors of the Association were initially appointed by The Regents of the University of California ("The Regents").

B. The Association is the lessee of certain land and improvements abounded by Allston Way and California Street, Addison Street and Jefferson Avenue, in the City of Berkeley, County of Alameda, State of California, which is further described in Exhibit 1 (the "Premises") pursuant to a long-term lease (the "Common Areas Lease").

C. By means of the Declaration of Covenants, Conditions and Restrictions ("CC&Rs"), The Regents and the Association established a plan of ownership of condominium units located in the Premises as part of a housing program established for the principal benefit and convenience of the members of the faculty and academic staff of the University of California, Berkeley (the "Housing Program").

D. The principal objective of the Housing Program is to strengthen the educational program at the University of California, Berkeley, by fostering an academic community at or near the campus, creating and maintaining affordable for-sale housing for members of the University's faculty and academic staff, and assisting in the recruitment and retention of faculty.

E. The Association assigned back to The Regents, the exclusive right to sublease undivided leasehold interests in the Premises ("Unit Interest"), each of which must be associated with a specific Condominium, as defined below.

F. Home Owner seeks to sublease Unit Interest and to purchase from The Regents Unit _____ associated therewith.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties to this Sublease agree as follows:

ARTICLE 1 - DEFINITIONS AND EXHIBITS

Section 1.1 Definitions. As used in this Sublease:

"Academic Senate" means the Academic Senate of the University of California Berkeley.

"ARB" means the Architectural Review Board established pursuant to Section 16.2 of the CC&Rs.

"Association" means the University Terrace Berkeley Homeowners Association, a California mutual benefit corporation, its successors and assigns.

"Common Areas" means the Premises and entire Project, excluding all of the Units as defined below.

"Common Areas Lease" means that certain lease dated _____, 19____, by and between The Regents and the Association.

"Condominium" means an estate in real property, as defined in section 783 of the California Civil Code, consisting of an undivided interest as a tenant in common in all or any portion of the Common Areas, together with a separate determinable fee interest in a Unit and any other separate interests in the real property, including such easements as are described in the CC&Rs, the Condominium Plan, the Common Areas Lease, this Sublease, or in the deed conveying the Condominium. Reference to "the Condominium" herein shall mean that certain Condominium identified by the Unit number in the Preamble.

"Condominium Mortgage" means a mortgage, deed of trust, a deed to secure debt, or other security instrument by which Home Owner's Condominium is mortgaged, as described more fully in Section 5.2.

"Condominium Mortgagee" is defined in Section 5.3(b) herein.

"Covenants, Conditions and Restrictions" or "CC&Rs" means the Declaration of Covenants, Conditions and Restrictions for the Project which was recorded on _____, 19____ as Instrument No. _____, Official Records of the County of Alameda, State of California.

"Effective Date" means the date on the first paragraph on page 1 of this Sublease.

"Home Owner" means the lessee identified in the first paragraph of this Sublease.

"Housing Program" means the program described in the Preamble, as approved by The Regents, and includes any amendments or modification to such Program which, after approval by The Regents, may from time to time be made.

"Lender" means The Regents, any savings bank, savings and loan association, commercial bank, trust company, credit union, insurance company, real estate investment trust, pension fund, or other lending institution of substance (including secondary market mortgage purchasers) which performs functions similar to any of the foregoing, which makes or is the assignee of a loan to the Home Owner secured by a deed of trust on the Unit.

"Maximum Resale Price" means the maximum permitted resale price of the Unit, including the leasehold interest created by this Sublease, as determined pursuant to the provisions of Section 3.7 of this Sublease.

"Person" means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity as the context may require.

"Premises" means real property located in the City of Berkeley, County of Alameda, consisting of (i) land described in Exhibit 1 hereto, (ii) any improvements now or hereafter erected on such land, and (iii) any easements, rights or rights of way, or other interests in real property which are appurtenant thereto and which are of record.

"Project" means the Common Areas and all of the Units together with all rights appurtenant thereto.

"The Regents" means The Regents of the University of California or any successor or assign thereof.

"Regulations" means the University Terrace Berkeley Homeowners Association Property Use and Maintenance Regulations, as set forth in Exhibit 2 to this Sublease and as hereafter amended.

"Sublease" means this Sublease of Undivided Interest by and between the Association and Home Owner.

"Sublease Interest Rate" means ten percent (10%) per annum, provided that if, at the time of its imposition pursuant to the terms of this Sublease, such rate shall be deemed to be usurious, the term "Sublease Interest Rate" shall mean the highest interest rate then permitted by law.

"Successor Home Owner" means any purchaser/assignee who is a successor in interest to the Home Owner with respect to any Unit pursuant to the provisions of Section 3.4 of this Sublease or any other person who is permitted to succeed to an interest under this Sublease in the Premises as a result of circumstances described herein.

"Unit" means a separate interest in space as defined in Civil Code section 1351(f). A Unit consists of all those component elements bearing an identical number designation in the Condominium Plan for the Project. The number designation of a component element coincides with the number of that Unit of which it is a part. Whenever reference herein is made to "the Unit", it shall be that particular Unit designated in the Preamble hereof, and it shall be construed that reference is made to the Unit as a whole and to each and all of its component elements. The Units and their respective boundaries may be further described in the Condominium Plan, deeds conveying Condominiums and this Sublease, except that in interpreting deeds and plans, the existing physical boundaries of a Unit or of a Unit reconstructed in substantial accordance with the original plans shall be conclusively presumed to be its boundaries, rather than the description expressed in the deed or Condominium Plan, regardless of minor variance between boundaries shown on the Condominium Plan, or in the deed and those of the building and regardless of any settling or lateral movement of the building.

"Unit Interest" means an undivided one/seventy-fifth (1/75th) subleasehold interest in the Premises, which interest is associated with that certain Unit identified in the Preamble on page 1 hereof.

"University" means the University of California.

Section 1.2 Exhibits. All of the Exhibits to this Sublease are incorporated by reference in this Sublease and shall, together with this Sublease, be deemed one and the same instrument.

ARTICLE 2 - TRANSFER OF LEASEHOLD INTEREST AND BASIC TERMS OF SUBLEASE

Section 2.1 Transfer of Subleasehold Interest in the Premises. In consideration of the faithful performance by Home Owner of this Sublease, the Association leases the Unit Interest associated with the Unit to Home Owner, and Home Owner leases the Unit Interest associated with the Unit from the Association, together with all rights and privileges pertaining to the Unit Interest, subject, however, to the CC&Rs and any other covenants, conditions, restrictions, limitations, licenses, rights of way and other matters of record. Nothing herein shall be construed to provide Home Owner with any right which is in conflict with the Common Areas Lease.

Section 2.2 **Term.** This Sublease shall commence on the date first above written and shall end December 31, 2053, subject, however, to the provisions of Section 3.4 of this Sublease and to earlier termination as provided in this Sublease.

Section 2.3 **Sublease Rent.**

(a) In consideration of the lease of the Unit Interest, Home Owner shall pay to the Association rent of Four Hundred Twenty Dollars (\$420.00) per year, subject to increases, at the discretion of the Association, by an amount not to exceed five percent (5%) of the previous year's rent, such increase to take effect as of each July 1st during the term of this Sublease. Unless otherwise agreed to by the Association, this rent is prorated in monthly installments and is included in the regular Association assessments. Payments for partial years and partial months shall be prorated. Any other amount payable by Home Owner to Association under the terms of this Sublease and any amount paid on behalf of Home Owner under Section 5.15, below, by The Regents, shall constitute additional rent.

(b) All payments enumerated in this Section 2.3 shall be made without offset of any kind.

Section 2.4 **State of Title.**

(a) The Association represents that, as of the date hereof The Regents owns the Premises, free and clear of any lien, charge, encumbrance, or claim except the Common Areas Lease.

(b) The Association shall deliver to Home Owner on or before the Effective Date, an agreement of The Regents that, at all times during the term of this Sublease, so long as Home Owner is not in default under the terms hereof or of the CC&Rs, Home Owner shall hold, occupy, and enjoy the Unit Interest without disturbance or hindrance by The Regents or by any other person claiming under or by right of The Regents.

Section 2.5 **Uses and Purposes.**

(a) Home Owner shall not use or permit any other person to use the Premises or the Unit in any way that constitutes a nuisance. Home Owner shall conform to, and cause any person using or occupying the Unit and any person present in the Common Areas by license or invitation of Home Owner, to comply with the CC&Rs, the Regulations and with all other applicable public laws, ordinances, and regulations. Home Owner will hold harmless the Association and The Regents from any penalty, damages, or charge imposed for any violation of the CC&Rs, the Regulations or of any law, ordinance, or other regulation applicable to the use and occupancy of the Premises, Unit or Common Areas occasioned by the negligent or willful act or omission of Home Owner or by any person present therein or thereon by license or invitation of Home Owner.

(b) Notwithstanding Section 2.5(a), above, Home Owner shall have the right to contest, by appropriate judicial or administrative proceedings, without cost or expense to the Association or The Regents, the validity or application of any present or future law, ordinance or regulation which restricts use of the Unit or Common Areas.

Section 2.6 Taxes and Assessments.

(a) Home Owner may become subject to the payment of property taxes as well as other taxes and assessments imposed by governmental entities against the Condominium or the Unit Interest. In such event, Home Owner shall have sole responsibility for, and shall pay when due all such taxes and assessments. Any such tax or assessment may be paid in installments when so allowed by the taxing or assessing governmental entity.

(b) Home Owner will hold harmless the Association and The Regents from the payment of any tax or assessment required to be paid pursuant to Section 2.6(a), above. Subject to the provisions of Section 2.6(c), below, Home Owner will prevent any such tax or assessment from becoming a delinquency lien upon the Condominium or Unit Interest. If the payment of any such tax or assessment shall be more than ninety (90) days delinquent, the Association shall have the right, but not the obligation, to pay such tax or assessment. If the Association makes any such payment, the amount of the payment shall be immediately due and payable to the Association by Home Owner and shall bear interest pending payment by Home Owner at the Sublease Interest Rate.

(c) Home Owner shall pay when due each and every fee, charge or assessment duly levied against the Unit by the Association pursuant to Articles 7 and 9 of the CC&Rs.

(d) Home Owner shall have the right, at his or her own cost, to refuse to pay and to contest the amount or validity of any tax or assessment by an appropriate proceeding diligently conducted in good faith. However, Home Owner's right to contest shall be exercised in such a manner as to avoid any exposure of the Condominium or Unit Interest to foreclosure or execution sale. Pending final judgment in an appeal from any such proceeding, the Association shall not have the right to pay, remove, or discharge any tax or assessment so contested, provided that Home Owner shall protect the Association, The Regents, the Condominium and the Unit Interest from any lien by adequate surety bond or other security.

(e) Home Owner's obligation to pay taxes and assessments levied and assessed against the Unit Interest shall exclude, without limitation, the following taxes and charges, however denominated: business, income, or profits taxes levied or assessed against the Association, The Regents by a federal, state or other governmental entity; or succession or transfer taxes of The Regents or the Association.

Section 2.7 Insurance. Home Owner agrees to purchase and maintain, at Home Owner's expense, at all times during the term of this Sublease, general liability insurance covering Home Owner and his/her Unit Interest in an amount which need not exceed that generally required in Alameda County, California, by mortgagees of property which is comparable to the value of the Unit. Notwithstanding the preceding sentence, Home Owner's liability insurance obligations may be met by a "blanket" policy of insurance maintained by the Association.

(a) Except as provided in this subsection (a), Home Owner shall not separately insure the Condominium against loss by fire or other casualty covered by any insurance carried by the Association pursuant to Article 10 of the CC&Rs. If Home Owner violates this provision, any diminution in insurance proceeds otherwise payable under policies described in Article 10 of the CC&Rs that results from the existence of other such insurance will be chargeable to Home Owner, and Home Owner will be liable to the Association to the extent of such diminution. Home Owner may insure his or her personal property against loss. All such insurance that is individually carried must contain a waiver of subrogation rights by the carrier as to other Owners, the Association, The Regents and the first mortgagee of the Unit.

(b) All insurance provided for in this Section 2.7 shall be effected under valid and enforceable policies issued by insurers licensed to do so in the State of California and, with respect to liability coverage, shall name The Regents and the Association as additional insureds.

Section 2.8 **Ownership of Condominium Upon Expiration.** The Condominium shall be the property of Home Owner or of Successor Home Owners during the term of this Sublease. Upon expiration or termination of this Sublease, the Condominium shall become the property of the Association, subject to the provisions of the Common Areas Lease and to the provisions of Article 5 and Section 6.6 of this Sublease.

Section 2.9 **Condition of Premises.** The Association is not aware of, and hereby disclaims, any warranties or representations regarding the Premises as to land subsidence, slippage, soil instability, or damage resulting from such conditions. Home Owner hereby waives any claim against the Association arising from any alleged defect in the Premises.

Section 2.10 **Nonliability of the Association and The Regents.** This Sublease is made on the express condition that the Association and The Regents shall be free from all liability or loss by reason of injury or death to any person, or damage to or loss of property from whatever cause, whether in or about the Unit or the Premises, or in any way connected with the Unit or the Premises, including any liability for injury or death to the person or damage to or loss of property of Home Owner, his or her agents, servants, or employees, except to the extent that said injury or damage is caused by the willful or negligent act or omission of the Association or The Regents. Accordingly, in addition to the assurances set forth in Sections 2.5 and 2.6 of this Sublease, Home Owner agrees to hold harmless the Association and The Regents, their officers, employees, and agents from liability, loss, cost, or obligation arising out of any such injury or loss. Home Owner assumes all risks of injury or death of any person, or damage to or loss of any property of Home Owner and any property under the control or custody of Home Owner, while such person or property is on the Premises.

ARTICLE 3 - IMPROVEMENTS ON PREMISES AND ASSIGNMENT/SUBLEASE OF INTERESTS UNDER SUBLEASE

Section 3.1 **Plans and Specifications.**

(a) Before beginning any renovation on the Premises by Home Owner affecting the outward appearance or the structural or operational integrity of the Project, Home Owner must comply completely with Article 16 of the CC&Rs and with the Regulations applicable to Home Owner.

(b) If the ARB approves plans and specifications as required by this Section 3.1, neither the ARB, the Association, nor The Regents shall be responsible or liable to Home Owner or to third persons for the design, construction, or quality of any improvement or renovation with respect to which such approval is given.

Section 3.2 **Demolition of Improvements.** Other than pursuant to the exercise of the rights provided under Section 11.5 of the CC&Rs, during the term of this Sublease, Home Owner shall not, either singly or in conjunction with others, demolish any structure on the Premises without the express, written consent of the Association. Such consent shall be entirely within the Association's discretion to grant or to withhold, and shall be subject to the rights of The Regents under the Common Areas Lease. Any consent by the Association to such a request may be conditioned upon a requirement that Home Owner immediately commence and diligently complete construction of a replacement structure, which construction shall be undertaken in compliance with Section 3.1 of this Sublease and shall be otherwise consistent with the terms of this Sublease.

Section 3.3 **Utility Services.** Home Owner shall pay standard charges for each connection of Home Owner's Unit to utility lines (other than those utility lines to which the Unit is connected at the time of Home Owner's purchase) and for all utility services used by Home Owner other than those paid for by the Association.

Section 3.4 **Assignments.**

(a) Home Owner may sell and convey his or her Condominium (including the assignment of his or her interest under this Sublease) only in compliance with Sections 3.4(b), 3.5, 3.6, 3.7, and 3.8 of this Sublease, and with the procedures and priorities set forth in Articles 13 and 14 of the CC&Rs. Upon such a sale, if the remaining term of this Sublease is less than forty (40) years, the Successor Home Owner purchasing the Unit may request that (i) this Sublease be terminated and (ii) a new sublease be granted on the same general terms as this Sublease, provided that the term of such new sublease shall not exceed sixty (60) years. The Association will seek to obtain the consent of The Regents to enter into such a sublease extending beyond the term of the Common Areas Lease. Each subsequent qualifying purchaser under Article 13 of the CC&Rs shall have similar rights to request that this Sublease or the then applicable lease be terminated and a new lease from the Association be granted for a term not to exceed sixty (60) years. The Regents has undertaken to consider such requests in good faith and act favorably thereon if, in the judgment of The Regents, the goals of the Housing Program will be furthered thereby.

(b) An assignment by Home Owner described in Section 3.4(a), above, will be effective only if, at the time of such assignment, Home Owner shall (i) pay any and all assessments due and owing which may have been imposed pursuant to the powers reserved to the Association or, if any such assessment has been imposed but is not yet due and owing, pay the prorated portion that is attributable to the portion of the year during which Home Owner held an interest in the Condominium; and (ii) repay to The Regents (with interest, if any) the full amount owing and payable as a result of any cash assistance or loan made by The Regents to Home Owner in connection with Home Owner's occupancy of the Condominium.

Section 3.5 **The Regents' Option to Terminate Sublease and to Purchase Unit.**

Except as described in Sections 5.2 and 5.15 of this Sublease with respect to the rights of Lenders and their transferees, if an ownership interest of greater than fifty percent (50%) in the Condominium shall pass, whether by conveyance, will, operation of law, or otherwise, to any person who is not a "Qualified Person" or a "Conditionally Qualified Person" as those terms are defined in Article 13 of the CC&Rs, or if Home Owner shall, at any time, cease to be a Qualified Person or Conditionally Qualified Person, The Regents may, at any time thereafter, require the parties hereto to terminate this Sublease forty-five (45) days after notice to Home Owner and the Association to do so. Any event described in the preceding sentence shall also constitute an irrevocable offer to The Regents to sell the Condominium to The Regents or its designee, at the price and on the terms set forth in Sections 14.2 and 14.3 of the CC&Rs. The Regents may accept such offer at any time before the expiration of one (1) year from the date on which it received actual notice of the event giving rise to such offer.

Section 3.6 **Use of Premises for Residential Purposes.**

(a) Except as provided in subsections (b), (c), and (f) of this Section 3.6, the Unit shall be used only as the principal place of residence of Home Owner and for no purpose other than as expressly permitted under Article 4 of the CC&Rs.

(b) If Home Owner, with the consent of the Association in accordance with the requirements of the CC&Rs and this Sublease, substantially rehabilitates or demolishes the Unit, the requirement of this Section 3.6(a) shall not be applicable until such time as the renovation is completed or a new housing unit is constructed, as the case may be, provided that construction of such housing unit shall begin within six (6) months of the date on which demolition of the Unit commenced.

(c) In addition to complying with rules issued by the Association applicable to the Project generally, Home Owner may rent the Condominium to a third party only if Home Owner strictly complies with Section 14.7 of the CC&Rs.

(d) The Association may require Home Owner to provide such information as may be reasonably necessary to determine compliance with the provisions of this Section 3.6.

(e) If the Association determines that Home Owner is in violation of the requirements of this Section 3.6, and if Home Owner shall fail, within thirty (30) days of receipt of written notice of such determination to comply herewith, such failure shall constitute an irrevocable offer by Home Owner to terminate this Sublease and to sell the Condominium to The Regents at the price and on the same terms and conditions as specified in Section 3.5 of this Sublease.

(f) Nothing contained in this Section 3.6 shall prohibit an institutional Lender from holding an interest in the Condominium following a foreclosure or a transfer by a deed-in-lieu of foreclosure of the Condominium.

Section 3.7 **Resale Price Limitations.** To assure that the Condominium will remain affordable by persons associated with the University, the parties agree to impose a resale price limitation on the assignment of rights under this Sublease and the sale of the Condominium. To accomplish this purpose, this Sublease may not be assigned nor may the Condominium be sold by Home Owner at a price for such assignment and sale that is greater than the purchase price determined under Section 14.2 of the CC&Rs, nor on terms more favorable to Home Owner than as set forth in Sections 14.2 and 14.3 of the CC&Rs, except as provided in Sections 5.15, below. The Regents is a third-party beneficiary of this Section 3.7 and may enforce it.

Section 3.8 **Notices of Transfer and Sales Price.** No later than thirty (30) days prior to the proposed date of closing of any transaction as described in Section 3.4 of this Sublease, Home Owner shall notify the Association and The Regents of the proposed closing. The notice shall (i) identify the Successor Home Owner and describe his or her relationship to the University, and (ii) set forth the proposed sales price of the Condominium. Such notice shall be accompanied by adequate documentation describing the proposed transaction (in such form as may be prescribed by The Regents) signed by Home Owner and Successor Home Owner. The price as submitted and documented shall be the purchase price used in calculating the appreciation derived by the Successor Home Owner upon subsequent resale/reassignment. The Association may from time to time specify other reasonable information which must be included in such notice.

Section 3.9 **Effect of Assignment to a Successor Home Owner.**

(a) The transfer of the possession of the Condominium under Section 3.4 of this Sublease shall be a full and complete assignment. Following the effective date of the assignment, Home Owner shall have no further interest in the Condominium by virtue of this Sublease.

(b) Following each assignment under Section 3.4, the Successor Home Owner shall, either by execution of a document satisfactory to the Association or of a new Sublease, assume all of the obligations and responsibilities imposed on Home Owner under this Sublease, and all references in this Sublease to Home Owner shall be deemed to refer to such Successor Home Owner.

Section 3.10 **Limitation of Rights of Assignment or Subletting.** Except as provided in Section 5.2 of this Sublease, or as may be expressly approved by the Association, Home Owner shall not grant, assign, sublease, exchange, or otherwise transfer any rights under this Sublease other than in conformity with the provisions of this Article 3, nor attempt to sell, grant, transfer, lease or otherwise convey any interest in the Condominium other than in conformity with Article 14 of the CC&Rs. Any such attempted sale, grant, assignment, lease, sublease, exchange, or other transfer shall constitute a breach of this Sublease, and shall be void and of no force or effect.

**ARTICLE 4 - OTHER RIGHTS AND OBLIGATIONS
OF THE ASSOCIATION AND THE HOME OWNER**

Section 4.1 **Entry by the Association.** Except as described below, no representative of the Association or The Regents may enter the Unit without Home Owner's prior consent, except in case of an emergency that appears to threaten injury to any person or destruction of any portion of the Project.

Section 4.2 **Estoppel Certificates.** At the Association's request, Home Owner will execute, acknowledge and deliver a certificate certifying (i) that this Sublease is unmodified and in full force and effect (or, if there has been any modification, that this Sublease is in full force and effect as modified and stating the modification); (ii) the date to which the rent has been paid; (iii) that there are no existing offsets or defenses against the enforcement of any term of this Sublease on the part of Home Owner (or, if so, specifying the same); and (iv) that no notice has been given to Home Owner of any default which has not been cured.

Section 4.3 **Brokerage Commissions.** Each party will hold the other harmless from and against any real estate brokerage commission or other such obligation incurred by the party using such brokerage services as the result of the negotiation or execution of this Sublease or any assignment of this Sublease.

Section 4.4 **Compliance with the Regulations.** Home Owner shall comply with the requirements respecting maintenance and use of the Premises set forth in the Regulations, and failure to comply shall constitute a breach of this Sublease and give rise to a cause of action by the Association for the recovery of damages or for injunctive relief, or both.

ARTICLE 5 - CONDOMINIUM MORTGAGES

Section 5.1 **Nonsubordination of Sublease.** This Sublease shall be a prior lien against the Unit Interest in respect to any loan, mortgage, deed of trust, other lease, lien, or encumbrance that may hereafter be placed on the Unit Interest. Home Owner agrees, without any cost to the Association, to execute any instrument which is necessary or is reasonably requested by the Association to further effect the nonsubordination of the Sublease.

Section 5.2 **Condominium Mortgages Authorized.** Home Owner may from time to time encumber the Home Owner's Condominium, including the Unit Interest, with one or more "Condominium Mortgages." The term "Condominium Mortgage" as used herein shall include a mortgage, a deed of trust, a deed to secure debt, or other security instrument by which Home Owner's Condominium (including the Unit Interest) is mortgaged, conveyed, assigned or otherwise transferred, to secure a debt or other obligation.

Section 5.3 **Notices of Mortgage.** If Home Owner shall encumber Home Owner's Condominium (including the Unit Interest) with a Condominium Mortgage, the provisions of Sections 5.4 through 5.13 shall apply if:

- (a) the holder of such Condominium Mortgage is a Lender, or
- (b) Home Owner provides The Regents and the Association with notice of such Condominium Mortgage in the manner set forth in Section 7.4 of this Sublease, together with a true copy of such Condominium Mortgage and the name and address of the holder thereof. The term "Condominium Mortgage" as used herein shall refer to the holder of a Condominium Mortgage as to which the notice provided for by this Section 5.3 has been given. Home Owner, or the holder of a Condominium Mortgage may give The Regents and the Association notice of any change in the name or address of the Condominium Mortgage, in the manner set forth in Section 7.4 of this Sublease.

Section 5.4 **Consent of Condominium Mortgagee Required.** No cancellation, surrender or modification of this Sublease by the Home Owner shall be effective as to any Condominium Mortgagee unless consented to in writing by such Condominium Mortgagee.

Section 5.5 **Default Notice.** Any notice to a Home Owner of a default under this Sublease, or of a termination of this Sublease, or of a matter in which the Association may predicate or claim a default, shall at the same time be given to every Condominium Mortgagee. No such notice to Home Owner shall be deemed to have been duly given unless and until a copy thereof has been so provided to every Condominium Mortgagee. From and after the time such notice has been given to a Condominium Mortgagee, such Condominium Mortgagee shall have the same period, after the giving of such notice upon it, for remedying any default or acts or omissions which are the subject matter of such notice or causing the same to be remedied, as is given Home Owner after the giving of such notice to Home Owner, plus in each instance, the additional periods of time specified in Sections 5.6 and 5.7, to remedy, commence remedying or cause to be remedied, the defaults or acts or omissions which are the subject matter of such notice, specified in any such notice. The Association shall accept such performance by or at the instigation of such Condominium Mortgagee as though the same had been done by Home Owner.

Section 5.6 **Notice to Condominium Mortgagee.**

(a) Anything contained in this Sublease to the contrary notwithstanding, if any default shall occur which entitles the Association or The Regents to terminate this Sublease, the Association or The Regents shall have no right to terminate this Sublease unless, following the expiration of the period of time given Home Owner to cure such default, or the act or omission which gave rise to such default, every Condominium Mortgagee shall be given notice of such intent to so terminate at least thirty (30) days in advance of the proposed effective date of such termination, if such default is capable of being cured by the payment of money, and at least forty-five (45) days in advance of the proposed effective date of such termination if such default is not capable of being cured by the payment of money. The provisions of Section 5.7 below shall apply if, within such thirty (30) or forty-five (45) day termination notice period, any Condominium Mortgagee shall:

(1) notify the Association or The Regents of such Condominium Mortgagee's desire to nullify such notice, and

(2) pay or cause to be paid all rent, and other payments then due and in arrears as specified in the termination notice to such Condominium Mortgagee and which may become due during such thirty (30) or forty-five (45) day period, and

(3) comply or, in good faith and with reasonable diligence and continuity, commence to comply with all nonmonetary requirements of this Sublease then in default and reasonably susceptible of being complied with by such Condominium Mortgagee.

(b) Any notice to be given to a Condominium Mortgagee pursuant to any provision of this Article 5 shall be deemed properly addressed if sent to the address given pursuant to Section 5.3, as such address may have been changed by notice given pursuant to Section 5.3.

Section 5.7 Procedure on Default.

(a) If the Association shall elect to terminate this Sublease by reason of any default of Home Owner, and a Condominium Mortgagee shall have proceeded in the manner provided for by Section 5.6, the specified date for the termination of this Sublease as fixed by the Association in its termination notice shall be extended for a period of six (6) months, provided that such Condominium Mortgagee shall, during such six (6) month period:

(1) pay or cause to be paid all rent, and other monetary obligations of Home Owner under this Sublease as the same become due, and continue its good faith efforts to perform all of Home Owner's other obligations under this Sublease, excepting past nonmonetary obligations then in default and not reasonably susceptible of being cured by such Condominium Mortgagee; and

(2) take steps to acquire or sell Home Owner's interest in this Sublease by foreclosure of the Condominium Mortgage or other appropriate means and prosecute the same to completion with due diligence.

(b) If at the end of such six (6) month period such Condominium Mortgagee is complying with Section 5.7(a)(1), above, this Sublease shall not then terminate, and the time for completion by such Condominium Mortgagee of its proceedings shall continue for so long as such Condominium Mortgagee shall diligently proceed to complete steps to acquire or sell the Condominium, including the Unit Interest, by foreclosure of the Condominium Mortgage or by other appropriate means. Nothing in this Section 5.7, however, shall be construed to extend this Sublease beyond the original term hereof as extended by any options to extend the term of this Sublease, nor to require a Condominium Mortgagee to continue such foreclosure proceedings after the default has been cured. If the default shall be cured and the Condominium Mortgagee shall discontinue such foreclosure proceedings, this Sublease shall continue in full force and effect as if Home Owner had not defaulted under this Sublease.

(c) If a Condominium Mortgagee is complying with Section 5.7(a)(1) of this Article 5, upon the acquisition of Home Owner's estate herein by such Condominium Mortgagee or any other purchaser at a foreclosure sale or otherwise, this Sublease shall continue in full force and effect as if Home Owner had not defaulted under this Sublease.

(d) For the purposes of this Article 5, the making of a Condominium Mortgage shall not be deemed to constitute an assignment or transfer of this Sublease or of the Unit Interest, nor shall any Condominium Mortgagee, as such, be deemed to be an assignee or transferee of this Sublease or of the Unit Interest, so as to require such Condominium Mortgagee, as such, to assume the performance of any of the terms, covenants or conditions on the part of the Home Owner to be performed hereunder, but the purchaser at any sale of this Sublease and of the Unit Interest in any proceedings for the foreclosure of any Condominium Mortgage shall be deemed to be an assignee or transferee within the meaning of this Article 5, and shall be deemed to have agreed to perform all of the terms, covenants and conditions on the part of the Home Owner to be performed hereunder from and after the date of such purchase and assignment, but only for so long as such purchaser or assignee is the owner of the Unit Interest.

Section 5.8 New Sublease. If this Sublease shall terminate, the Association shall give prompt notice thereof to all Condominium Mortgagees. The Association shall, on written request of any such Condominium Mortgagee, made at any time within thirty (30) days after the giving of such notice by the Association:

(a) enter into a new sublease of the Unit Interest with such Condominium Mortgagee within thirty (30) days after receipt of such request, which new sublease shall be effective as of the date of such termination of this Sublease for the remainder of the term of this Sublease, at the rent provided for herein, and upon the same terms, covenants, conditions and agreements as are herein contained, and

(b) convey or cause to be conveyed to such Condominium Mortgagee by grant deed in recordable form a marketable and insurable fee simple determinable interest (which fee simple determinable interest shall expire upon the expiration or termination of such new sublease and any sublease entered into in substitution thereof) in the remainder of the Condominium appurtenant to the Unit Interest;

Provided that such Condominium Mortgagee shall:

(i) contemporaneously with the delivery of such request pay to the Association all the installments of rent and other charges payable by Home Owner hereunder which are then due whether or not the Association has specified them as due in any notice to such Condominium Mortgagee given as provided in this Article 5;

(ii) pay to the Association at the time of the execution and delivery of said new sublease and grant deed any and all sums for rent and other charges payable by Home Owner hereunder to and including the date thereof; and

(iii) on or prior to the execution and delivery of said new sublease and grant deed, agree in writing that promptly following the delivery of such new sublease and grant deed, such Condominium Mortgagee will perform or cause to be performed all of the other covenants and agreements herein contained on Home Owner's part to be performed to the extent that Home Owner shall have failed to perform the same to the date of delivery of such new sublease. Nothing herein contained shall be deemed to impose any obligation on the part of the Association to deliver physical possession of the Condominium to such Condominium Mortgagee unless the Association at the time of the execution and delivery of such new sublease shall have obtained physical possession thereof. The reasonable expenses of the Association (including reasonable attorneys' fees) incurred in connection with the execution of such new sublease shall be paid by the Condominium Mortgagee.

Section 5.9 Multiple Condominium Mortgagees.

(a) If more than one Condominium Mortgagee shall make written request upon the Association for a new sublease and grant deed in accordance with the provisions of Section 5.8, above, then such new sublease and grant deed shall be made pursuant to the request of the Condominium Mortgagee whose Condominium Mortgage shall be junior in lien, provided:

(i) all Condominium Mortgagees senior in lien shall have been paid all installments of interest and amortization of principal then due and owing to such Condominium Mortgagees plus all expenses, including reasonable attorneys' fees, incurred by such senior Condominium Mortgagees in connection with the termination of this Sublease and with the execution and delivery of such new sublease and grant deed;

(ii) the new lessee will assume, in writing, all of the covenants, agreements and obligations on the part of the mortgagor under such senior Condominium Mortgages to be kept, observed and performed on the part of such mortgagor, subject nevertheless to the terms and conditions of such senior Condominium Mortgages (which may contain exculpatory provisions which shall move to the benefit of such new lessee);

(iii) such new sublease shall contain all of the same provisions and rights in favor of and for the benefit of Condominium Mortgagees thereof, as are contained in this Sublease including, but not limited to, the right to obtain a new sublease and grant deed in the event of the termination of said Sublease, and the right to receive notices of default, and to cure the same, in the same manner as provided in this Sublease; and

(iv) the senior Condominium Mortgagees (at no expense to such senior Condominium Mortgagees) shall have received from their respective title insurance companies insuring their respective senior Condominium Mortgages assurances satisfactory to such senior Condominium Mortgagees that said senior Condominium Mortgages and any assignment of rents and other security instruments executed in connection therewith will continue, with respect to such new sublease, in the same manner and order of priority of lien as was in existence with respect to this Sublease.

Thereupon, the Unit Interest of the new lessee created by such new sublease and the remainder of the Condominium conveyed pursuant to the grant deed shall be subject to the lien of the senior Condominium Mortgages in the same manner and order of priority of lien as was in existence with respect to this Sublease. In the event not all of the foregoing provisos shall have been satisfied by or with respect to any such junior Condominium Mortgagee, the Condominium Mortgagee immediately senior in lien to such junior Condominium Mortgagee shall have paramount rights to the benefits set forth in Section 5.8, above, subject nevertheless to the provisions hereof respecting the senior Condominium Mortgagees, if any. In the event of any dispute as to the respective senior and junior priorities of any such Condominium Mortgages, the certification of such priorities by a title company doing business in California, satisfactory to the Association, shall be conclusively binding on all parties concerned. Should there be a dispute among Condominium Mortgagees as to compliance with the foregoing provisions the Association may rely on the affidavit of the most senior Condominium Mortgagee as to compliance by any junior Condominium Mortgagee. The Association's obligation to enter into a new sublease with and to give a grant deed to any junior Condominium Mortgagee shall be subject to the receipt by the Association of evidence reasonably satisfactory to it that the conditions of subsections (i), (ii) and (iv), above, have been satisfied with respect to each senior Condominium Mortgagee.

(b) The right of a senior Condominium Mortgagee under Section 5.8, above, to request a new sublease may, notwithstanding any limitation of time set forth above in Sections 5.8 or 5.9, be exercised by the senior Condominium Mortgagee within twenty (20) days following the failure of a junior Condominium Mortgagee to have exercised such right, but not more than sixty (60) days after the giving of notice by the Association of termination of this Sublease as provided in Section 5.8, above.

(c) Except as provided in Section 5.8, above, if a junior Condominium Mortgagee shall fail or refuse to exercise the rights set forth in this Article, said senior Condominium Mortgagees, in the inverse order of the seniority of their respective liens, shall have the right to exercise such rights subject to the provisions of this Sublease.

Section 5.10 **New Sublease Priority; Survival of Covenants Upon Termination.** Any new sublease made pursuant to Section 5.8 and any renewal sublease entered into with a Condominium Mortgagee pursuant to this Sublease shall be prior to any mortgage or other lien, charge or encumbrance on the Unit Interest and the Home Owner under such new sublease shall have the same right, title and interest in and to the Unit Interest as Home Owner had under this Sublease.

The provisions of this Section 5.10 and Sections 5.8 and 5.9 shall survive the termination, rejection or disaffirmance of this Sublease and shall continue in full force and effect thereafter to the same extent as if Sections 5.8, 5.9 and 5.10 were a separate and independent contract made by the Association, Home Owner and such Condominium Mortgagee and, from the effective date of such termination, rejection or disaffirmance of this Sublease to the date of execution and delivery of such new sublease, such Condominium Mortgagee may use and enjoy the Condominium of which this Sublease is a part without hindrance by the Association or any person claiming by, through or under the Association.

Section 5.11 **Liability of New Home Owner.** The sublessee under any such new sublease shall be liable to perform the obligations imposed on the sublessee by such new sublease only during the period such person has ownership of such leasehold estate, subject to the possibility of exculpation noted in Section 5.9, above.

Section 5.12 **No Rights to Encumber Leasehold Estate of the Association.** The foregoing provisions do not give to any person whatsoever the right to mortgage, hypothecate or otherwise to encumber or to cause any liens to be placed against the leasehold estate of the Association pursuant to the Common Areas Lease, nor shall said provisions be construed as resulting in a subordination in whole or in part of the leasehold estate of the Association to any indebtedness of Home Owner.

Section 5.13 **Condominium Mortgagee Need Not Cure Specified Defaults.** Nothing herein contained shall require any Condominium Mortgagee as a condition to its exercise of rights hereunder to cure any default of Home Owner not reasonably susceptible of being cured by such Condominium Mortgagee, in order to comply with the provisions of Sections 5.6 or 5.7, or as a condition of entering into the new sublease provided for by Section 5.8.

Section 5.14 **Notice and Right to Cure Before Foreclosure.** Every Condominium Mortgagee shall provide that, prior to the institution of any proceeding to foreclose any such instrument or negotiations to accept an assignment in lieu of the foreclosure of any such instrument, the holder or beneficiary of said instrument shall notify The Regents to that effect, and The Regents shall have the right (but not the obligation) within sixty (60) days after the giving of such notice to pay the full amount then delinquent under said instrument, including interest accrued and unpaid thereon, the reasonable fees of the attorneys for the holder or beneficiary, statutory costs and allowances in the event any foreclosure proceeding shall have commenced, and any other reasonable costs incurred by the Condominium Mortgagee as a result of the default under such instrument. The notice required by the preceding sentence may be satisfied by mailing (by registered or certified mail) a statutory notice of default to The Regents. No purported transfer of any ownership interest in a Condominium pursuant to a foreclosure or an assignment in lieu of foreclosure shall be effective unless and until the Condominium Mortgagee shall have complied with the provisions of this Section 5.14. Any amount The Regents shall pay to a Lender under this right to cure shall be deemed to be additional rent under Section 2.3, above.

Section 5.15 **Procedure For Sales Following Foreclosure.**

(a) If a holder or beneficiary of a Condominium Mortgage acquires the Condominium of Home Owner pursuant to a foreclosure, an assignment in lieu of foreclosure or other proceedings, it may re-assign or re-transfer the same (or any interest under any new lease obtained pursuant to Section 3.4(a) of this Sublease) only in accordance with the following terms:

(i) The Condominium Mortgagee shall notify The Regents of the Condominium Mortgagee's intent to assign its interest in the Unit Interest and sell the Condominium. For a period of at least twenty (20) days following such notice The Regents shall have the option to accept such assignment and to purchase such Condominium at a price equal to the full amount then owing under the mortgage loan that was foreclosed or with respect to which a deed-in-lieu of foreclosure was accepted, including interest accrued and unpaid thereon through the date of transfer, interest that would have been paid on the mortgage except for the transfer up to the date of sale, real property taxes that have been paid by the Condominium Mortgagee or have accrued on the Condominium, the reasonable fees of the attorneys for the Condominium Mortgagee, statutory costs and allowances permitted in connection with the foreclosure or other proceeding, and any other reasonable holding costs incurred by the Condominium Mortgagee as a result of the foreclosure or the acceptance of a deed-in-lieu of foreclosure. Such option of The Regents shall be fully and freely assignable by The Regents to such persons and upon such terms and conditions as The Regents in its sole and absolute discretion may determine. If The Regents or the assignee notifies the Condominium Mortgagee within the above-described twenty (20) day period that the option will be exercised, the assignment and sale transaction between The Regents or its assignee and the Condominium Mortgagee shall be closed within sixty (60) days thereafter.

(ii) Upon expiration of the twenty (20) day period described in subsection (i), above (or sooner, if The Regents notifies the Condominium Mortgagee that it declines to exercise or assign

the option), without an acceptance of the offer, the Condominium Mortgagee's rights in the Unit Interest and the Condominium may be offered for assignment and sale to the general public.

(iii) The notice referred to in subsection (i), above, may be given by mailing (by registered or certified mail) a copy of a statutory notice of trustee's sale with respect to the Unit Interest to The Regents at the address listed in Section 7.4, below.

The provisions of Section 3.4 of this Sublease regarding extension of the term of this Sublease shall be available to a Successor Home Owner who purchases pursuant to the offering process described in this Section 5.15(a).

(b) Regardless of any other provision of this Sublease, the maximum resale price of the Unit if acquired by a Lender as described in Section 5.15(a), above, shall be the greater of (i) the Maximum Resale Price for the Condominium as established pursuant to Section 3.7 of this Sublease, or (ii) an amount equal to the full amount then owing on the mortgage loan that was foreclosed or with respect to which a deed-in-lieu of foreclosure was accepted, including interest accrued and unpaid thereon through the date of transfer, interest that would have been paid on the mortgage except for the transfer up to the date of sale, real property taxes that have been paid by the Lender or have accrued on the Condominium, the reasonable fees of the attorneys for the Lender, statutory costs and allowances permitted in connection with the foreclosure or other proceeding, and any other reasonable holding costs incurred by the Lender as a result of the foreclosure or the acceptance of a deed-in-lieu of foreclosure.

(c) Notwithstanding any other provision of this Sublease, any sale of the Condominium in any proceedings for the foreclosure of any Condominium Mortgage, or the assignment or transfer of the Condominium in lieu of the foreclosure of any Condominium Mortgage shall be deemed to be a permitted sale, transfer or assignment of the Condominium subject only to the transfer restrictions set forth in the CC&Rs.

Section 5.16 Eminent Domain. Home Owner's share, as provided by Section 6.8 below, of the proceeds arising from a taking shall, subject to the provisions of such Section 6.8, be disposed of as provided for by any Condominium Mortgage.

Section 5.17 Arbitration and Legal Proceedings. The Association shall give each Condominium Mortgagee prompt notice of any arbitration or reference, if any, to any legal proceedings between the Association and Home Owner involving obligations under this Sublease. Each Condominium Mortgagee shall have the right to intervene in any such proceedings and be made a party to such proceedings, and the parties hereto do hereby consent to such intervention.

Section 5.18 Notices. Notices to Condominium Mortgagees shall be mailed to the address furnished to the Association pursuant to Section 5.3 hereof in the manner described in Section 7.4, below.

ARTICLE 6 - DEFAULT, TERMINATION AND CONDEMNATION

Section 6.1 Default by Home Owner. Subject to the provisions of Article 5, above, if Home Owner shall fail to remedy any default in the payment of rent due under this Sublease for thirty (30) days after notice of such default, or fail to remedy any default with respect to any of the other provisions, covenants, or conditions of this Sublease to be kept or performed by Home Owner within sixty (60) days after notice of such default, or such additional time as is reasonably required to cure such default, the Association shall have the right to terminate this Sublease and Home Owner's right to possession of the Unit by giving notice of such termination to Home Owner and any Condominium Mortgagee under a deed of trust described in Section 5.2 of this Sublease.

Section 6.2 Remedies of the Association.

(a) If the Association terminates this Sublease in accordance with the provisions of Section 6.1, the Association may recover from Home Owner:

(i) Unpaid rent earned at the time of termination, which termination shall be treated as if an assignment of the Unit Interest and a sale of the Unit had occurred;

(ii) All other amounts then owed by Home Owner to the Association; and

(iii) Any other amount necessary to compensate the Association for all detriment proximately caused by Home Owner's default under this Sublease.

(b) Efforts by the Association to mitigate any damages caused by Home Owner's breach of this Sublease shall not be treated as a waiver of the Association's right to recover damages under this Section 6.2. Nothing in this Section 6.2 shall affect the right of the Association to be held harmless for any liability arising prior to the termination of this Sublease for death, personal injury, or property damage as provided in this Sublease. No legal action shall be commenced under this Section 6.2 more than four (4) years after notice to the Association of any breach of the Sublease by Home Owner, or more than four (4) years after the termination of Home Owner's right to possession of the Unit, whichever is earlier.

(c) Rent not paid when due shall bear interest at the Sublease Interest Rate from the due date until received by the Association.

Section 6.3 Effects of Waiver by the Association. No waiver by the Association at any time of any provision of this Sublease shall be deemed a waiver at any subsequent time of the same or any other provision of this Sublease, nor of the strict and prompt performance required by this Sublease of Home Owner. No option, right, power, remedy, or privilege of the Association shall be construed as being exhausted or discharged by its exercise in one or more instances. Each of the rights, powers, options, or remedies given the Association by this Sublease are cumulative and no one of them is exclusive of the other or exclusive of any remedies provided by law, and the exercise of one right, power, option, or remedy by the Association shall not impair the right to use any other.

Section 6.4 Attorneys' Fees. In the event that either the Association or Home Owner brings suit against the other to enforce rights under this Sublease, each party shall bear the expense of his or her own attorneys' fees.

Section 6.5 Surrender of Unit Interest. Upon the expiration of the term of this Sublease (including any extension thereof) or upon an earlier termination of this Sublease, Home Owner shall quit and surrender the Unit Interest to the Association without further obligation on the part of either party to this Sublease, free and clear of all liens and encumbrances other than easements created by or with the approval of the Association. At the end of the term of this Sublease or upon its earlier termination, the title to and ownership of the Unit Interest shall automatically vest with the Association without the execution of any further instrument.

Section 6.6 Home Owner's Right to Remove Personal Property. Upon expiration of the term of this Sublease or its earlier termination, Home Owner shall have the right to remove any and all of Home Owner's personal property from the Unit, provided that Home Owner shall be responsible for any resultant damage to the Unit. Any personal property which is not removed within sixty (60) days of the expiration date of this Sublease or its earlier termination, shall become the property of the Association.

Section 6.7 Failure of Home Owner to Perform Required Acts. Subject to Section 2.5(b), above, if at any time during the term of this Sublease, Home Owner fails or refuses to perform any action required of Home Owner, the Association shall have the right but not the obligation to perform the

same, but at the cost of and for the account of Home Owner, provided that the Association shall in no case take such action sooner than thirty (30) days after giving Home Owner written notice of such failure or refusal and allowing Home Owner such period within which to commence a bona fide effort to cure the same. The amount of any money expended by the Association pursuant to this Section 6.7, together with interest at the Sublease Interest Rate, shall be repaid to the Association by Home Owner upon demand. Nothing contained in this Section 6.7 shall diminish the rights of the Association with regard to defaults under Section 6.1 or with regard to remedies under Section 6.2 of this Sublease.

Section 6.8 **Condemnation.**

(a) If, during the term of this Sublease, the entire Condominium shall be taken as a result of the exercise of the right of eminent domain, Home Owner may terminate this Sublease as of the date of such taking, and the rights of the Association, The Regents and Home Owner in and to the award upon any such taking shall be determined in accordance with Section 6.8(c), below.

(b) If the Condominium shall be taken by the exercise of the right of eminent domain for governmental occupancy for a limited period of time, this Sublease shall not terminate, and Home Owner shall continue to perform and observe all obligations hereunder as though such taking had not occurred except to the extent that Home Owner may be prevented from so doing by reason of such taking. Home Owner shall in no event be excused from the payment of rent and all other sums and charges required to be paid under this Sublease.

(c) If the Condominium shall be taken by exercise of the right of eminent domain, the total award in any such proceeding or for any such injury or reduction in value shall be determined as follows:

(i) In the event of any taking that results in the termination of this Sublease in accordance with the provisions of this Section 6.8, then the Association, The Regents and, subject to the rights of any Lender, Home Owner shall be entitled to prosecute claims in such condemnation proceedings for the value of their respective interests in the Condominium.

(ii) In the event of any temporary taking that does not result in the termination of this Sublease in accordance with the provisions of this Section 6.8, then, subject to the rights of any Lender, Home Owner shall be entitled to prosecute claims in such condemnation proceedings for the value of Home Owner's interest affected by such taking.

(d) As used in this Section 6.8, the phrase "taken as a result of the exercise of the right of eminent domain" shall mean a taking or damaging by eminent domain, or by inverse condemnation, or by deed or transfer in lieu thereof, for any public or quasi-public use under any statute or law. The taking shall, at the election of Home Owner, be considered to take place as of the earlier of (i) the date actual physical possession is taken by the condemnor; or (ii) the date on which the right to compensation and damages accrues under the applicable law; or (iii) the date on which title vests in the condemnor.

(e) If any Lender acquires an interest under this Sublease by foreclosure or deed-in-lieu of foreclosure, then such Lender shall be entitled to the same rights and subject to the same requirements and restrictions as are applicable to Home Owner in this Section 6.8.

ARTICLE 7 - MISCELLANEOUS PROVISIONS

Section 7.1 Force Majeure. If either party shall be delayed or prevented from the performance of any act required by this Sublease by reason of acts of God, strikes, lockouts, labor troubles, inability to secure materials, or other cause, without fault and beyond the reasonable control of the party obligated (financial inability excepted), performance of such act shall be excused for the period of the delay, and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay, provided that nothing in this Section 7.1 shall excuse Home Owner from the prompt payment of any rental or other charge required of Home Owner. The party delayed or prevented from the performance of any act shall notify the other of such delay or prevention within ten (10) days of its inception, and shall thereafter keep such party regularly informed of the status of such delay or prevention.

Section 7.2 Time of the Essence. The parties agree that time is of the essence of this Sublease and, accordingly, that the time limits stated in this Sublease shall be strictly observed.

Section 7.3 Binding Effect. The provisions of this Sublease shall bind the heirs, executors, administrators, successors, and assigns of the original parties to this Sublease, provided that this Section 7.3 shall not be deemed to authorize or permit the assignment of any interest in this Sublease other than in strict compliance with its provisions.

Section 7.4 Notices.

(a) All notices required to be given under this Sublease shall be in writing and shall be deemed to have been given when hand delivered to the addressee or deposited in the United States mail properly addressed to the addressee with postage prepaid in certified or registered form, return receipt requested.

(b) All notices to the Association shall be delivered or mailed to:

University Terrace Berkeley Homeowners Association
2139 California Street
Berkeley, CA 94703

with a copy to:

University Terrace Berkeley Homes
Auxiliary Enterprises
University of California, Berkeley
2401 Bowditch Street
Berkeley, California 94720

or to such other address as the Association may from time to time direct.

(c) All notices to Home Owner shall be delivered or mailed to the Unit or to such other address as Home Owner shall designate from time to time to The Regents.

(d) If the Association has been notified of the interest of a Lender pursuant to Section 5.3(b) of this Sublease, then any notice sent to the Association or Home Owner shall be effective and deemed given only if a copy of such notice is simultaneously hand delivered or sent to such Lender by registered or certified mail, return receipt requested, at an address previously provided by Home Owner or such Lender.

Section 7.5 Memorandum of Sublease. Concurrently with the execution of this Sublease, the parties shall execute and acknowledge a memorandum of this Sublease for the purpose of

recording that document in the office of the Alameda County Recorder. Such memorandum shall contain a description of the Unit, the names of the Association and Home Owner, and the term of this Sublease.

Section 7.6 **Nonmerger of Unit Interest.** There shall be no merger of this Sublease, nor of the Unit Interest created by this Sublease, with the Common Areas Lease or the interest in the Premises created by the Common Areas Lease by reason of the fact that this Sublease or the Unit Interest created hereby or any interest in this Sublease may be held, directly or indirectly, by or for the account of any person or persons who shall own the interest created by the Common Areas Lease or any interest in the Unit Interest, and no such merger shall occur unless and until all persons at the time having an interest in the Common Areas Lease and all persons (including Condominium Mortgagees) having an interest in this Sublease or in the estate of the Association and Home Owner, shall join in a written instrument effecting such merger and shall duly record the same.

Section 7.7 **Captions, Gender and Number.**

(a) The captions used in this Sublease are for convenience only and are not a part of this Sublease and do not in any way limit or amplify its terms or provisions.

(b) As used in this Sublease, the use of one gender shall include the other and the use of the singular shall include the plural, and *vice versa*, as the context may require. If Home Owner consists of more than one person, the covenants, obligations, and liabilities of Home Owner shall be the joint and several covenants, obligations, and liabilities of such persons.

Section 7.8 **Governing Law and Construction.** This Sublease shall be construed and interpreted in accordance with and governed by the laws of the State of California. The language in all parts of this Sublease shall be construed according to its fair meaning and not strictly for or against the Association or Home Owner.

Section 7.9 **Unenforceability or Invalidity of Provision.** If and to the extent that any provision of this Sublease should be found invalid, void, or unenforceable by a court of competent jurisdiction, or so rendered by legislative or administrative action, the validity of the remainder of this Sublease shall not be affected and shall remain in full force and effect as if this Sublease had been executed with the portion held to be invalid, void, or unenforceable eliminated. To accomplish the intentions of the parties as expressed in this Sublease, the parties shall, if necessary, conclude a modification to this Sublease, on terms that are reasonable and which will accomplish as nearly as possible the original intention of the parties as reflected in the portion held to be invalid, void, or unenforceable.

Section 7.10 **Entire Agreement; Amendments.** This Sublease contains all of the agreements between the Association and Home Owner relating in any manner to the subject matter of this Sublease. No prior agreement or understanding with respect to the same shall be valid or of any force or effect, and no provision of this Sublease shall be altered or added to, except in writing, signed by the Association and Home Owner and with the written consent of any Lender. No representation, inducement, or understanding of any nature made, stated, or represented on behalf of either party to this Sublease, either orally or in writing, has induced the other party to enter into this Sublease, except as set forth herein.

Section 7.11 **Assignment and Delegation by the Association.** Notwithstanding any other provision of this Sublease, the Association reserves the right to assign its rights and delegate its duties under this Sublease.

IN WITNESS WHEREOF, the parties hereto have executed this Sublease as of the date first above written.

**UNIVERSITY TERRACE BERKELEY
HOMEOWNERS ASSOCIATION, a California
nonprofit mutual benefit corporation**

By _____

Its _____

HOME OWNER:

By _____

By _____