

WALNUT HOUSE COOPERATIVE PROPRIETARY LEASE

THIS LEASE, made and entered into this _____ day of _____, 19____, by and between WALNUT HOUSE COOPERATIVE, INC. (hereinafter referred to as the Cooperative), a corporation having its principal office and place of business at 1740 Walnut Street, Berkeley, California, and _____ (hereinafter referred to as Member):

WHEREAS, the Cooperative has been formed for the purpose of acquiring, owning and operating a cooperative housing project to be located at 1740 Walnut Street, Berkeley, California, with the intent that its members shall have the right to occupy the dwelling units thereof under the terms and conditions hereinafter set forth; and

WHEREAS, the Member is the owner and holder of a certificate of membership (there are no shares of common capital stock) of the Cooperative and has a bona fide intention to reside in the project; and

WHEREAS, the Member has certified to the accuracy of the statements made in his or her application and household income survey and agrees and understands that household income survey, household income, household composition are substantial and material requirements of initial and continuing occupancy;

NOW, THEREFORE, in consideration of One Dollar (\$1.00) each of the parties paid by the other party, the receipt of which is hereby acknowledged, and in further consideration of the mutual promises contained herein, the Cooperative hereby lets to the Member, and the Member hereby hires and takes from the Cooperative, dwelling unit number _____ located at 1740 Walnut Street, Berkeley, California;

TO HAVE AND TO HOLD said dwelling unit unto the Member, his or her executors, administrators and authorized assigns, on the terms and conditions set forth herein and in the Articles of Incorporation and Bylaws now or hereafter adopted pursuant thereto, from the date of this Lease, for a term terminating on _____, 19____, renewable for successive three-year periods under the conditions provided herein.

ARTICLE 1. Monthly Carrying Charges and Assessments

Commencing at the time indicated in ARTICLE 2 hereof, the Member agrees to pay to the Cooperative a monthly sum referred to herein as "Carrying Charges," equal to one-twelfth of the Member's proportionate share of the sum required by the Cooperative, as estimated by its Board of Directors, to meet its annual expenses, including but not limited to the following items:

- A. The cost of all operating expenses of the project and services furnished.
- B. The cost of necessary management and administration.
- C. The amount of all taxes and assessments levied against the Cooperative or which it is required to pay, and ground rent, if any.
- D. The cost of fire and extended coverage insurance on the project and such other insurance as the Cooperative may effect or as may be required by any mortgage on the project.
- E. The cost of furnishing water, electricity, heat, gas, garbage and trash collection and other utilities, if furnished by the Cooperative.
- F. All reserves set up by the Board of Directors, including the general operating reserve and the reserve for replacements.

- G. The estimated cost of repairs, maintenance and replacements of the project property to be made by the Cooperative.
- H. The amount of principal, interest, mortgage insurance premiums, and other required payments on the hereinafter-mentioned insured mortgage.
- I. Any other expenses of the Cooperative approved by the Board of Directors, including operating deficiencies, if any, for prior periods.

The Board of Directors shall determine the amount of the Carrying Charges annually but may do so at more frequent intervals should circumstances so require. No member shall be charged with 20 percent more than his proportionate share thereof as determined by the Board of Directors without the written assent of a majority of membership interests.

ARTICLE 2. When Payment of Carrying Charges or Assessments to Commence

After thirty days' notice by the Cooperative to the effect that the dwelling unit is available for occupancy, or upon acceptance of occupancy, whichever is earlier, the Member shall pay Carrying Charges in advance on the first day of each month.

ARTICLE 3. Patronage Refunds

The Cooperative agrees on its part that it will offset or credit to the Member within ninety (90) days after the end of each fiscal year, his or her proportionate share of such sums as have been collected in anticipation of expenses which are in excess of the amount needed, as determined, in the discretion of the Board of Directors. Any sums credited to reserves shall not be refunded.

ARTICLE 4. Member's Option to Renew

It is covenanted and agreed that the term herein granted shall be continuously and automatically both self-extended and self-renewed from time to time by and against the parties hereto for further periods of three years and from the expiration of the term herein granted, upon the same covenants and agreements as herein contained unless: (1) notice of the Member's election not to renew shall have been given to the Cooperative in writing at least sixty (60) days prior to the expiration of the current term, and (2) the Member shall have on or before the expiration of said term (a) endorsed all his membership certificates for transfer in blank and deposited same with the Cooperative, and (b) met all his or her obligations and paid all amounts due under this agreement up to the time of said expiration, and (c) vacated the premises, leaving same in good state

of repair. Upon compliance with the provisions (1) and (2) of this Article, the Member shall have no further liability under this Lease and shall be entitled to payment from the Cooperative for the membership interest as provided for in the Articles of Incorporation and Bylaws.

ARTICLE 5. Premises to be Used for Residential Purposes

The Member as defined in Article II of the Bylaws, shall occupy the dwelling unit covered by this Lease as a private dwelling unit for himself or herself and/or his or her immediate family and for no other purpose, and may enjoy the use in common with other members of the Cooperative of all community property and facilities of the project so long as he or she continues to own a membership certificate of the Cooperative, occupies his or her dwelling unit, and abides by the terms of this Lease. Any sublessee of the Member, if approved pursuant to ARTICLE 7 hereof, may enjoy the right to which the Member is entitled under this ARTICLE 5 and consistent with the Bylaws.

The Member shall not permit or suffer anything to be done or kept upon said premise which will increase the rate of insurance of the building, or on the contents thereof, or which will obstruct or interfere with the rights of other occupants or annoy them by unreasonable noises or otherwise interfere with other tenants' rights to quiet enjoyment or commit or suffer any illegal act to be committed thereon or cause or suffer any destruction or harm to the premises. The member shall comply with all of the requirements of the Board of Health and of all other governmental authorities with respect to the said premises. If by reason of occupancy or use of said premises by the Member the rate of insurance on the building shall be increased, the Member shall become personally liable for the additional insurance premium.

ARTICLE 6. Member's Right to Peaceable Possession

In return for the Member's continued fulfillment of the terms and conditions of this Lease, the Cooperative covenants that the Member may at all times which this Lease remains in effect, have and enjoy for his or her sole use and benefit the dwelling unit hereinafter described, after obtaining occupancy, and may enjoy in common with all other members of the Cooperative the use of all community property and facilities of the project.

ARTICLE 7. No Subletting Without Consent of Cooperative

The Member hereby agrees not to assign this Lease nor to sublet his or her dwelling unit without the written consent of the Cooperative. Consent is subject to appropriate provisions of the Bylaws. The liability of the Member under this Proprietary Lease shall continue notwithstanding the fact that he or she may have sublet the dwelling unit with the approval of the Cooperative and the Member shall be responsible to the Cooperative for conduct of his or her sublessee. Any unauthorized subleasing shall, at the option of the Cooperative, result in the termination and forfeiture of the Member's rights under this Proprietary Lease.

ARTICLE 8. Transfers

Neither the Lease nor the Member's right of occupancy shall be transferable or assignable except in the same manner as may now or hereafter be provided for the transfer memberships in the Bylaws of the Cooperative.

ARTICLE 9. Management, Taxes and Insurance

The Cooperative shall provide necessary management, operation and administration of the project; pay or provide for the payment of all taxes or assessments levied against the project; procure and pay or provide for the payment of fire insurance and extended coverage, and other insurance as required by any mortgage on property in the project, and such other insurance as the Cooperative may deem advisable on the property in the project. The Cooperative will not, however, provide insurance on the Member's interest in the dwelling unit or on his or her personal property.

ARTICLE 10. Member's Obligation to Fulfill Work Requirement

As specified in Article 2.5 of the Bylaws and the work participation house rules, the Member shall contribute his or her time and labor toward the effective operation of the Cooperative.

ARTICLE 11. Utilities

The Cooperative shall provide water, electricity, heat, and gas in amounts which it deems reasonable. The Member shall pay directly to the supplier for all other utilities.

ARTICLE 12. Repairs

- A. BY MEMBER. The Member agrees to repair and maintain his dwelling unit at his or her own expense as follows:
1. Any repairs or maintenance necessitated by his or her own negligence or misuse;
 2. Any redecoration of his or her own dwelling unit; and
 3. Any repairs, maintenance or replacements required on the following items: None.
- B. BY COOPERATIVE. The Cooperative shall provide and pay for all necessary repairs, maintenance and replacements except as specified in clause A. of this Article. Upon reasonable notice except in any emergency, the officers and employees of the Cooperative shall have the right to enter the dwelling unit in order to effect necessary repairs, maintenance, and replacements, and to authorize entrance for such purposes by employees of any contractor, utility company, municipal agency, or others, at any reasonable hour of the day and in the event of emergency at any time.
- C. RIGHT OF COOPERATIVE TO MAKE REPAIRS AT MEMBER'S EXPENSE. In the case the Member shall fail to effect the repairs, maintenance or replacement specified in clause A. of this Article in a manner satisfactory to the Cooperative, the Cooperative shall add charges thereof to the Member's next month's Carrying Charge payment.

ARTICLE 13. Alterations and Additions

The Member shall not, without the written consent of the Cooperative, make any structural alterations in the premises or in the water, gas or steam pipes, electrical conduits, plumbing or other fixtures connected therewith, or remove any additions, fixtures and improvements.

If the Member for any reason shall cease to be an occupant of the premises, he shall surrender to the Cooperative possession of the premises including any alterations, additions, fixtures and improvements.

ARTICLE 14. Termination of Membership

- A. **CAUSE FOR TERMINATION OF MEMBERSHIP.** Cause for termination of membership shall include failure to fulfill work participation requirement (W.P.R.); nonpayment of assessments; serious or repeated violation of the proprietary lease, house rules, Bylaws and Articles; serious or repeated interference with the rights of other tenants; serious or repeated destruction of the project and other good cause as specified in the notice for proposed termination. Only a judgment of a court or a decision arising out of arbitration of can cause a forfeiture or abridgment of a member's right to full use and enjoyment of his or her apartment unit.
- B. **PROCEDURES.** A notice for proposed termination of membership shall be made in writing by the Board or by the Management Committee to the Board. If the Board proposes the action or accepts the Management Committee's recommendation, the Board shall give the member adversely affected fifteen (15) days notice of the proposed termination with reasons and the opportunity to be heard orally or in writing, by the members not less than five (5) days before the effective date of the Notice of Proposed Termination.

Within (5) days of receipt of the notice of proposed termination, the member adversely affected must request to be heard in writing to the Board. If no request is made, the proposed termination shall be effective on the date specified in the notice. Upon written notification that member wishes to be heard or submission of written objections, the Board will call a membership meeting to be set not less the five (5) days before the effective date of the proposed termination. The membership shall conduct a hearing and a review of the written submissions. A two-thirds vote of the membership interests shall be required to sustain the proposed termination. The member shall be notified in writing that the membership sustained the proposed termination. If the membership fails to sustain the notice of proposed termination, the member shall be informed in writing that the Board has withdrawn its proposed termination.

The adversely affected member shall have the right to vote at the membership meeting unless the member's right to vote has been suspended in accordance with the Bylaws (Grievances).

Any notices required under this section shall be given personally to the President of the Cooperative or to the member or by mail, first class or registered, sent, if to the tenant, to the last address shown on the Cooperative's records, and, if to the Cooperative, to the President of the Board of Directors.

After the effective date of the proposed termination or, if a hearing is requested after the member has been notified in writing that a two-thirds vote of the membership interest has sustained the proposed termination, the member adversely affected shall be served with a Notice of Termination in accordance with Section 1161 of the California Code of Civil Procedure. The notice from the Board sustaining the proposed termination and notice of termination in accordance with Section 1161 of the C.C.P. may be combined. If a court or an arbitrator causes a forfeiture of the member's right to full use and enjoyment of his or her unit or orders the eviction of the member, the member shall be required to deliver to the Cooperative his or her membership certificate and proprietary lease, subject to Section 6.5 (Transfer Value Restrictions) and 6.6 (Transfer Restrictions) of the Bylaws.

- C. The Member expressly agrees that there exists under this Proprietary Lease a landlord-tenant relationship and that in the event of a breach or threatened breach by the Member of any covenant or provision of this Lease, there shall be available to the Cooperative such legal remedy or remedies as are available to a landlord for the breach or threatened breach under the law by a tenant of any provision of lease or rental

agreement. The Member hereby expressly waives any and all right of redemption in case of dispossession by judgment, warrant of any Court or Judge.

D. By placing their initials here: _____
Member

_____,
Cooperative

the Member and the Cooperative hereby agree that this Article may be changed during the term of the Lease to be consistent with the Bylaws upon approval of 66-2/3 percent of the membership interests and at least 30 days notice to the member.

ARTICLE 15. Member to Comply with All Cooperative Regulations

The Member covenants that he or she will preserve and promote the cooperative ownership principles on which the Cooperative has been founded, abide by the Articles, Bylaws, rules and regulations of the Cooperative and any amendments thereto, and by his or her acts of consideration with its other members bring about for himself or herself and his or her co-members a high standard in the home and community conditions. The Cooperative agrees to make its rules and regulations known to the Member by personal delivery of same to him or her or by promulgating them in such other manner as to constitute adequate notice.

ARTICLE 16. Distribution in the Case of Condemnation or Destruction

If all or any part of a unit or the common area is acquired by eminent domain, or is damaged or destroyed and the Cooperative decides not repair or replace such unit, the Member having the exclusive right of occupancy of such unit shall receive a distribution of the condemnation award or the insurance proceeds, respectively, attributable to such unit in an amount not exceeding the transfer value of the Member's membership interest.

If the Cooperative decides to repair or replace such unit, carrying charges or assessments shall abate wholly or partially as determined by the Cooperative until the premises have been restored or replaced. If the Cooperative determines not to repair or replace such unit, the carrying charges or assessments shall cease from the date of such loss or casualty or acquisition as determined by the Cooperative.

ARTICLE 17. Inspection of Dwelling Unit

The Member agrees that upon reasonable notice except in an emergency, the representatives of any mortgagee holding a mortgage on the property of the Cooperative, the officers and employees of the Cooperative, and with the approval of the Cooperative, the employees of any contractor, utility company, municipal agency or other shall have the right to enter the dwelling unit of the Cooperative and make inspections therein at any reasonable hour of the day and at any time in the event of an emergency.

ARTICLE 18. Late Charges and Other Costs in Case of Default

The Member covenants and agrees that, in addition to the other sums that have become or will become due, pursuant to the terms of this Lease, the Member shall pay to the Cooperative, a late charge in an amount to be determined from time to time by the Board of Directors for each payment of Carrying Charges, or part thereof, more than ten days in arrears.

If the Member defaults in making a payment of Carrying Charges or in the performance or observance of any provision of this Lease, and the Cooperative has obtained the services of any attorney with respect to the default involved, the Member covenants and agrees to pay to the Cooperative any costs or fees involved, including reasonable attorney fees notwithstanding the fact that a suit has not yet been instituted. In case a suit is instituted by the Cooperative, the Member shall also pay the costs of the suit, in addition to other aforesaid costs and fees.

ARTICLE 19. Notices

Whenever the provisions of the law or this Lease require notice to be given to either party hereto, any notice of the Cooperative to the Member shall be deemed to have been given, and any demand by the Cooperative to the Member shall be deemed to have been duly made if the same is delivered to the Member at his or her unit

or to the Member's last known address; and any notice or demand by the Member to the Cooperative shall be deemed to have been duly given if delivered to an officer of the Cooperative. Such notice may also be given by depositing same in the United States mail addressed to the Member as shown in the books of the Cooperative, or to the President of the Board of Directors, as the case may be, and the time of mailing shall be deemed to be the time of given of such notice.

ARTICLE 20. Oral Representation Not Binding

No representation other than those contained in this Lease, the Articles and Bylaws of the Cooperative shall be binding upon the Cooperative.

ARTICLE 21. Non Waiver of Remedies

The failure on the part of the Cooperative to avail itself of any of the remedies given under this Lease shall not waive nor destroy the right of the Cooperative to avail itself of such remedies for similar or other breaches on the part of the Member.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be signed and sealed the day and year first above written.

Walnut House Cooperative

By:_____ Title_____

Member:

