

Date: _____

TO: Pepperdine Employee(s)/Applicant(s) – _____

Enclosed you will find the following items which will briefly explain and list the terms, conditions, and requirements of Pepperdine's Contingent Interest Loan Program:

- *Pepperdine Contingent Interest Loan Guidelines
- *Contingent Interest Loan Agreement (sample)
- *Deed of Trust (sample)
- *Promissory Note (sample)

* To be retained by borrower

Please **COMPLETE and RETURN** to me the attached documents as soon as possible.

encl:

- 1.) Residential Loan Application
- 2.) Monthly Budget Worksheet
- 3.) W-9
- 4.) Confidential Statement of Identity
- 5.) Vesting Statement of Declaration

Also remit the following:

- 6.) Dean's letter of offer
- 7.) Purchase Agreement, Preliminary Title Report and Escrow Instructions (*only signed copies are acceptable*)
- 8.) Copy of Appraisal
- 9.) Copy of Borrower(s) Credit Report
- 10.) Real Estate Broker and Mortgage Broker Contact Information

NOTES: _____

Sincerely,
JoAnna Elliott
Director, Real Estate Operations TAC-100
310-506-6348

**PEPPERDINE UNIVERSITY
CONTINGENT INTEREST LOAN GUIDELINES
FOR OFF CAMPUS HOUSING
(01/26/05)**

Purpose: The principal purpose of the Contingent Interest Loan program is to assist in the recruitment of faculty and staff by assisting them in acquiring suitable housing in the vicinity of or on the University's campuses and educational centers.

Guidelines:

1. **Qualification/No Entitlement.** This program is not an entitlement, and is limited to members of faculty and staff being recruited for full-time positions at the University who receive a University authorized offer for a loan to buy his/her Residence, thereby enabling them to move to or near a Pepperdine University campus (hereinafter "Borrower"). Except as may be required by law, the details and existence of the loan transaction shall be maintained strictly confidential between the Borrower and the authorizing University officials.
2. **Required Authorization.** The use of a Contingent Interest Loan shall be considered by the recruiting officials on an as needed basis only. The discussion, offer, and amount of such a loan shall be done only with the written authorization of the Provost and the Dean of the School, or the Senior Vice President for Investments, or Executive Vice Chancellor, as appropriate.
3. **Limitation on Amount/Approval of Residence and Purchase Terms.** The amount of the Loan is entirely in the judgment of the University, shall be related to the expected need of the Borrower, shall not exceed the limitations established by the University Management Committee, and shall be subject to availability and approval of budgeted funds to be used for the Loan. The Loan shall typically be expressed as a dollar amount. Though the Borrower will have considerable latitude in selection of the Residence, the University must approve the Residence proposed to be purchased with the proposed Loan, as well as the proposed terms of the Residence purchase. The Loan shall be paid directly into escrow immediately prior to the close and applied to the purchase price as instructed by the University. The Loan should not be used as the escrow deposit or any closing costs, except in cases of special need when pre-approved in writing by the Senior Vice President for Investments.

4. Affordability/Personal Financial Information. The Borrower must demonstrate, to the reasonable satisfaction of the University, that he or she can not only afford to purchase the home, but also continue to meet all debt financing and pay for proper maintenance of the Residence. Detailed personal financial information and copies of all documentation regarding the Residence purchase must be provided to the University officials administering the Loan program. This information will be kept confidential.

5. Costs Borne by Borrower. All costs of the transaction shall be borne by the Borrower, including a University transaction fee (currently at \$250) and all costs of recording documents, title reports and policies, insurance, escrow fees, tax lien, etc.

6. Loan Documentation. The Contingent Interest Loan shall be documented by the University and may include a Contingent Interest Loan Agreement, Promissory Note, Deed of Trust covering the real property, subordinate only to the lien of any senior deed of trust on the Residence approved by the University, and a UCC Financing Statement covering any personal property in the Residence (collectively, the "Loan Documents").

7. Acceleration of Loan. The maximum term of the Loan is thirty (30) years, however, as set forth more fully in the Loan Documents, the University's Loan shall become immediately due and payable upon sale, lease, disposition, further encumbrance or other transfer of the Residence. Additionally, the University's Loan shall become immediately due and payable within 120 days of: (a) Borrower's cessation of full-time employment with the University for any reason, whether voluntary or involuntary; (b) death or incapacity of the Borrower; (c) cessation of use of the Residence as the primary year round Residence of the Borrower (i.e., the full time employee of the University); (d) default in payment of any loan or other payments related to the Residence; (e) material breach of any agreement between Borrower and the University or between Borrower and a lender who holds a security interest in the Residence; (e) the University's determination of the falsity of any material statement, representation or warranty contained in the Loan Documents associated with the Loan; (f) the attachment, levy, execution or other judicial seizure of any portion of the Residence which is not released, expunged, discharged or dismissed prior to sixty (60) days after such attachment, levy, execution or seizure.

8. Loan Terms. As set forth more fully in the Loan Documents, two interest components shall accrue on the Loan: (a) Fixed Interest on the unpaid principal sum of the Promissory Note; and (b) Contingent Interest on the Net Appreciated Value of the Residence (as defined in the Promissory Note). Borrower may prepay the principal and Fixed Interest without penalty according to the terms of the Promissory Note. Borrower may not prepay Contingent Interest unless Borrower first pays in full all principal and fixed interest, and all other amounts owed under the Note, whether or not then due. The amount of the Loan shall not be reduced as a result of any decrease in the price or value of the Residence.

9. Insurance. The Borrower shall maintain property and casualty insurance for the full replacement value of the property and liability insurance in the minimum amount of \$300,000.00. The University shall be named as a loss payee on the insurance policies for the Residence. Evidence of adequate property and casualty insurance in force must be on file with the University until the Loan is repaid to the University. Each policy shall contain a 30-day notice to the University prior to cancellation or material alteration. Owners shall cause their insurance broker to provide the University with a Certificate of Insurance evidencing these coverages.

10. Expenses, Taxes, Encumbrances, and Indemnity. Borrower will be responsible to pay all taxes, assessments, homeowner's fees, utilities, repairs, maintenance, capital improvements, upkeep, insurance, losses, damages, claims, and any and all other costs and expenses of the Residence. Except with respect to the approved first trust deed lien, Borrower shall not permit any other monetary or other material encumbrances against the Residence during the term of the Loan without the prior written consent of the University, which consent may be withheld in the University's sole discretion.

11. Income Tax Consequences. Borrower agrees that the University has made no warranties or representations regarding the tax consequences of the Loan. Borrower shall rely upon his or her own legal and tax professionals for such advice.

12. No Obligation Without Agreement. The University shall not be obligated to make the Loan unless and until Borrower has signed the University's Contingent Interest Loan Agreement and all other related documents reasonably required by the University.

13. Budgetary Responsibility. The academic or administrative department employing the Borrower shall be responsible for the financial and budgetary resources required for the Loan arrangement with the Borrower. For example, a Loan of \$20,000 would result in a charge of \$20,000 against the departmental budget. In limited, exceptional cases, and upon written approval of the Senior Vice President for Investments, the departmental budget may borrow the funds from the University and be charged annually for the carrying cost of the funds (estimated at 8-9%) and for amortization of the Loan amount until repaid. Loan funds that have been charged against a departmental budget shall become part of a Loan fund allocated for that school, and thus, upon repayment to the University said funds, increased or decreased by the gain or loss on the equity investment, shall belong to the school for reuse in the Contingent Interest Loan program.

14. Exceptions. Material exceptions to this policy may be made only by the agreement of the following officers: (a) Provost, (b) Senior Vice President for Investments, and (c) Vice Chancellor. In the event one of these officers is unavailable, or in the event of disagreement, at least two of said officers shall approve any material exception.

15. Conflicts. In the event that there is any conflict between the terms of the Loan Documents and these Guidelines, the terms of the Loan Documents shall prevail.

For more information, please contact:

For Implementation

**Real Estate Operations – TAC100
Pepperdine University
Malibu, CA 90263-4109
Ms. JoAnna Elliott
Director
(310) 506-6348**

For Policy

**Charles J. Pippin
Senior Vice-President and
Chief Investment Officer – TAC 4
Pepperdine University
Malibu, CA 90263-7500
(310) 506-7500**

Approved by University Management Committee.

CONTINGENT INTEREST LOAN AGREEMENT
«LastName»

Definitions

- Effective Date:** «DocumentDate»
- Employee:** «LastName»:
- Borrower:** «Vesting» (*collectively*) “Borrower”
«StreetAddress»
«CityStateZip»
- Lender:** Pepperdine University (“Pepperdine”)
a California non-profit public benefit corporation
24255 Pacific Coast Highway
Malibu, CA 90263-4109
Attn: Real Estate Operations
- Residence:** Single family home located at «StreetAddress»,
«CityStateZip», APN «APN» as more particularly described on **EXHIBIT A**
attached hereto (the “Property”).

Recitals

- A. On or before «CloseOfEscrow» (the “Closing”), Borrower shall purchase the Property for principal residence purposes at a purchase price of \$«PurchasePrice» with \$«DownPayment» down and a Note (the “Senior Loan”) for the sum of \$«FirstTDAmount» (excluding closing costs), with fixed interest not to exceed «FirstTDInterestRate»% (subject to adjustment pursuant to the loan documents evidencing or securing such Senior Loan, herein collectively called the “Senior Loan Documents”). The Senior Loan shall be secured by the lien of a first trust deed (the “Senior Trust Deed”).
- B. On «DateOfHire», «FullName» (“Primary Obligor”) began employment with Pepperdine as «UniversityTitle» in the «AcademicDivision» of «College» at Pepperdine University.
- C. As an incentive to encourage Primary Obligor to accept the position described above, Pepperdine has agreed to lend to Borrower the sum of «LoanAmtInWords» (\$«LoanAmtNumeric») as a Contingent Interest Loan (the “Loan”), to be secured by lien of a second trust deed (the “Subordinate Trust Deed”) against the Property. The loan funds shall be forwarded directly into escrow by Pepperdine’s Real Estate Operations Department to enable Borrower to close the purchase of the Property. Borrower acknowledges and agrees that Pepperdine shall not incur any other costs or expenses related to this transaction and the ownership of the Property.
- D. This Contingent Loan Agreement (the “Agreement”) sets forth the benefits, duties and obligations among the various parties with regard to the Property.

Agreement

It is therefore agreed, as follows:

1. **Incorporation of Recitals.** The above Definitions and Recitals A through D are hereby fully incorporated into this Agreement.

2. **Loan.** Pepperdine agrees to lend, and Borrower agrees to borrow from Pepperdine, the Loan in accordance with the terms and conditions of this Agreement, the Promissory Note (as defined below) and Subordinate Trust Deed (as defined above and more fully described below) securing the Loan. The full amount of the Loan shall be deposited to escrow and credited toward the purchase price of the Property. The Loan shall be evidenced by a Promissory Note (the “*Note*”) in the form of **EXHIBIT B** hereto, which provides for payment of Fixed Interest and Contingent Interest as more fully described therein. The Note and this Agreement shall be secured by the Subordinate Trust Deed which shall be in the form of the Deed of Trust With Assignment of Rents, Security Agreement and Fixture Filing attached as **EXHIBIT C** hereto, to be recorded at the Closing. All such documents are referred to herein as the “*Loan Documents.*” The Subordinate Trust Deed shall be subordinate only to the lien of the Senior Trust Deed in an amount not to exceed \$«FirstTDAmount».

3. **Security/Title/Closing Costs.** If escrow does not close for any reason, all or any portion of the Loan deposited into escrow shall be immediately returned to Pepperdine without diminution. Borrower shall be responsible for any costs of escrow related to the Loan, including but not limited to Loan escrow and recording fees, a realty tax service contract for benefit of Pepperdine and title premiums for a Pepperdine’s ALTA title insurance policy insuring Pepperdine’s secured interest as holder of the Subordinate Trust Deed against the Property in the amount of the Loan (including such endorsements as Pepperdine may reasonably require), and Borrower shall hold Pepperdine harmless for all costs of the purchase and sale transaction, including without limitation, escrow fees, broker’s commissions, title premiums and any other costs of the transaction.

4. **Maturity Events.** Borrower and Borrower’s heirs, assignees, and personal representatives, shall be required to repay the Loan within the time period set forth below upon the following events (the “*Maturity Events*”):

(a) Except as set forth in Paragraph 4(c) below, within 120 days of retirement, whether voluntary or involuntary, of Primary Obligor from the full-time employment of Pepperdine University.

(b) Except as set forth in Paragraph 4(c) below, within 120 days of cessation of Primary Obligor’s full-time employment at Pepperdine University for any other reason, whether voluntary or involuntary (excluding sabbatical or other leave of absence approved by Pepperdine).

(c) Lender’s termination of Primary Obligor’s employment due to (i) long term disability, (ii) elimination of Primary Obligor’s position or (iii) reduction in work force shall be deemed a Maturity Event, provided that upon the occurrence of such Maturity Event, the Loan shall be payable in amortized Installment Payments and shall be all due and payable as provided in the Note.

(d) Within 120 days of death or incapacity of Primary Obligor.

(e) Within 120 days of cessation of the use of the Property as Primary Obligor's primary residence.

(f) Upon Borrower's failure to pay, when due, any monetary obligation related to the Loan, including without limitation, principal and interest, taxes, assessments, insurance premiums, homeowner's association dues, which is not cured within five (5) days following written notice of such failure by Pepperdine.

(g) Upon Pepperdine's good faith determination of the falsity of any material statement, representation or warranty contained in the Loan Documents or any Senior Loan Documents.

(h) Upon any breach, default or failure of performance of any other non-monetary obligation of Borrower under any of the Loan Documents which breach shall continue for thirty (30) days or more, following written notice of such failure by Pepperdine, provided that if such failure cannot be reasonably cured within such thirty (30) day period, such period shall be extended to a period not to exceed ninety (90) days, provided Borrower commences and diligently pursues to such cure to completion such cure during the initial thirty (30) day period.

(i) Upon any of the following defaults in the Senior Loan Documents: (i) monetary defaults which are not cured within five (5) days after written notice from Pepperdine; (ii) non-monetary defaults which are not cured within thirty (30) days after written notice from Pepperdine, provided that in no event shall the cure periods for clauses (i) or (ii) above exceed the respective cure period set forth in the Senior Loan Documents; and (iii) the commencement of foreclosure proceedings, whether judicial or non-judicial, under the Senior Loan Documents.

(j) Upon any attachment, levy, execution or other judicial seizure of any portion of the Property which is not released, expunged, discharged or dismissed sixty (60) days after such attachment, levy, execution or seizure.

(k) Upon any sale, exchange, conveyance, alienate, transfer, unauthorized lease or sublease, or other disposition or further encumbrance of the Property or any portion thereof or interest therein (whether voluntarily or involuntarily, by operation of law or otherwise), except as more fully described in the Note and the Subordinate Trust Deed.

(l) The passage of Thirty (30) Years after the date of Closing.

5. **Use of Premises.** Borrower shall use the Property as a year-round principal residence; provided, however, if Borrower is on sabbatical or leave of absence approved by Pepperdine for a period not to exceed one year, the Property may be leased by Borrower to a third party on terms approved by Pepperdine, which approval shall not be unreasonably withheld. Subject to the terms of the Loan Documents, Borrower shall comply with all duties and restrictions on possession, occupancy, use, and transfer as set forth in any Covenants, Conditions and Restrictions ("CC&Rs") related to the Property.

6. **Responsibility for Maintenance and Expenses of Property.** Borrower shall be responsible for timely payment of all expenses related to ownership and occupancy of the Property, including but not limited to all real and personal property taxes, special assessments, utilities, debt service on the approved Senior Loan, repairs, landscaping, insurance premiums for such hazard and

liability coverage as may be required by Pepperdine pursuant to Paragraph 8 below (including, but not limited to, public liability and hazard insurance for fire, earthquake and other hazards covering the improvements in, at or on the Property), upgrades, homeowners association dues and assessments, costs or expenses of maintaining all structural and non-structural parts of the Property and the mechanical, electrical, roofs, and plumbing systems in good working order, any other expenses necessary to protect and preserve the value of the Property. Borrower shall keep clean, maintain in good working order and condition, and prevent waste of the Property and other facilities on the Property, reasonable wear and tear excepted. Borrower shall make such repairs and replacements as would be made by a reasonable and prudent fee simple owner using the Property as a principal residence, including any such work as may be deemed a capital improvement. If Borrower does not make such repairs or pay all such costs or expenses in a timely fashion, Pepperdine may, at its election, make such payments and perform such repairs or cause such repairs to be performed, in which case all amounts paid by Pepperdine and interest thereon at the Default Rate set forth in the Note shall be an obligation of Borrower to Pepperdine secured by the Subordinate Trust Deed, and shall be paid within five (5) days of written notice by Pepperdine to Borrower. Borrower's failure to pay such amount within five (5) days of written notice by Pepperdine shall be deemed to constitute a Maturity Event under Paragraph 4(e) above. Borrower shall be fully responsible for all major and minor maintenance to the Property, including the structural elements and major electrical, mechanical, and plumbing systems of the Property (including, but not limited to any damages or defects arising from the negligence, failure to act, or intentional actions of Borrower or Borrower's guests, family members or other invitees). Borrower's failure to perform such obligations within thirty (30) days after written notice from Pepperdine shall be a Maturity Event under Paragraph 4(g) above, provided if such performance cannot be reasonably completed within thirty (30) days, such thirty (30) day period may be extended to a period not to exceed ninety (90) days, provided Borrower commences performance within such initial thirty (30) day period and diligently pursues such performance to completion.

7. **Indemnification.** Borrower shall be responsible for and shall indemnify and hold Pepperdine harmless for all losses, costs, damages, claims or other liability to Pepperdine or to any third parties due to the negligent or intentional action(s) or failure to act of Borrower, or Borrower's guests, vendors, employees, agents, family members or other invitees.

8. **Property and Liability Insurance.** Borrower shall keep the improvements now existing or hereafter erected in, at or on the Property insured against loss by earthquake, fire, flood or other hazard in such form and amount (including deductible levels) and for the periods as Pepperdine shall reasonably require (the "Owner Hazard Policy"). The insurance which Pepperdine requires pursuant to the preceding sentence may be changed during the term of the Loan by written notice from Pepperdine to Borrower. In the event that the homeowners association for the Property purchases any policies of insurance that provide insurance coverage for the Property against loss by fire, hazards included within the term "extended coverage," and/or any other hazards, including, but not limited to, earthquakes and floods (the "Association Insurance Policies") in forms and amounts and for periods acceptable to Pepperdine, Borrower shall be relieved of the obligation to purchase any such fire, earthquake, flood or other hazard coverage for the Property (as required by Pepperdine pursuant to the first sentence of this Paragraph 8) that is duplicative of the coverage for the Property provided by the Association Insurance Policies. Owner shall insure such other real and/or personal property located at, in or on the Property not included within the scope of coverage under the Association Insurance Policies (such as upgrades, wall coverings, etc.) against loss by fire, hazards

included within the term “extended coverage,” or other hazard in such form and amounts as Pepperdine from time to time shall require (the “Owner Policy”). Borrower shall also obtain a policy of public liability insurance with Pepperdine as an additional named insured and containing limits of liability not less than \$300,000 (the “Owner Liability Policy”). The Owner Hazard Policy, Owner Policy, Owner Liability Policy and the Association Insurance Policies (collectively the “Insurance Policies”) shall each include an extended coverage endorsement insuring Pepperdine as additional named insured, and shall also include a standard mortgage clause, naming Pepperdine as mortgagee and/or as additional loss payee, and Borrower agrees, subject to the terms of the Senior Trust Deed to generally assign Borrower’s rights to insurance proceeds to Pepperdine up to the amount of the outstanding Loan balance. Additionally, each such policy shall include an endorsement waiving all of the insurer’s subrogation rights against Pepperdine, to the extent such endorsement is reasonably available. Each such policy shall also contain a 30-day written notice to Pepperdine prior to cancellation. Borrower shall instruct Borrower’s insurance broker to provide Pepperdine with a Certificate(s) of Insurance evidencing these coverages.

If Borrower fails to maintain any of the coverages described above, such failure shall constitute a Maturity Event under Paragraph 4(e) above. Borrower further agrees that Pepperdine may obtain such insurance coverage, at Pepperdine’s option and Borrower’s expense, and that Pepperdine is under no obligation to purchase any particular type or amount of coverage. Any such coverage obtained by Pepperdine shall cover Pepperdine, but might or might not protect Borrower, Borrower’s equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts paid by Pepperdine to purchase insurance pursuant to this Paragraph 8 shall become additional debt of the Borrower secured by the Subordinate Trust Deed executed by Borrower in connection with this Loan Agreement and shall bear interest at the rate of ten percent (10%) per annum and shall be paid within five (5) days of written notice by Pepperdine to Borrower. Borrower’s failure to pay such amount within five (5) days of written notice by Pepperdine shall be deemed to constitute a Maturity Event under Paragraph 4(e) above.

9. **Damage or Destruction.** The provisions of this Paragraph are subject and subordinate to the rights of the holder of the Senior Loan Documents. In the event of damage or destruction to the Property resulting in a loss in excess of \$50,000, Borrower shall give prompt notice to Pepperdine. Pepperdine may make proof of loss if not made promptly by Borrower. Unless Pepperdine and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Pepperdine, shall be applied to restoration or repair of the Residence, if the restoration or repair is economically feasible and Pepperdine’s security is not lessened. During such repair and restoration period, Pepperdine shall have the right to hold such insurance proceeds until Pepperdine has had an opportunity to inspect the Residence to ensure that the work has been completed to Pepperdine’s satisfaction, provided that such inspection shall be undertaken promptly. Pepperdine may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing, or applicable law requires interest to be paid on such insurance proceeds, Pepperdine shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or

Pepperdine's security would be lessened, the entire insurance proceeds paid under any or all of the Owner's Hazard Policy, Owner's Policy and/or Owner's Liability Policy, shall be paid to Pepperdine up to the entire unpaid amount of the Loan and/or the amounts secured by the Subordinate Trust Deed, whether or not then due, together with all interest thereon (including any contingent interest as determined by appraisal or agreement of the parties), with the excess of such insurance proceeds, if any, paid to Borrower. If Borrower abandons the Residence, Pepperdine may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within thirty (30) days to a notice from Pepperdine that the insurance carrier has offered to settle a claim, then Pepperdine may negotiate and settle the claim. The thirty (30)-day period will begin when the notice is given. In either event, Borrower hereby assigns to Pepperdine (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note and/or the Subordinate Trust Deed, whether or not then due, and (b) any other of Borrower's rights under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Pepperdine may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note and/or the Subordinate Trust Deed, whether or not then due.

10. **Income Tax Consequences.** Borrower acknowledges and agrees that Pepperdine has made no representation or warranty relating to any potential or actual income tax consequence related to this transaction. Borrower hereby agrees to hold Pepperdine harmless from any and all claims or liabilities related to any such income tax consequence(s) to Borrower arising from this transaction and/or any actions, claims or liabilities related thereto.

11. **Encumbrances.** Except for the Senior Trust Deed in an amount not to exceed \$«FirstTDAmount» to the maximum extent permitted by law, Borrower shall not permit any other encumbrances (whether junior or senior, monetary or nonmonetary) on the Property without Pepperdine's prior written consent, which consent may be given or withheld in Pepperdine's sole discretion.

12. **Survival of Agreement.** All representations, warranties, rights and obligations contained in this Agreement shall survive the close of escrow and the recording of the Loan.

13. **Attorney's Fees and Legal Costs.** If any action is instituted between Borrower and Pepperdine in connection with this Agreement, including the collection of payments due to Pepperdine or to third parties, the prevailing party shall be entitled to recover from the losing party all of its/his/her costs and expenses, including court and discovery costs, costs of appeal or collection, and reasonable attorney's fees (including any costs and time of Pepperdine's internal corporate counsel).

14. **No Waiver.** Either party may waive, or elect not to assert against the other party, any failure to perform or breach of this Agreement by such party. No such waiver or failure to assert shall constitute a waiver of any other breach of the same or any other provision.

15. **Governing Law.** This Agreement and all documents related thereto have been and will be negotiated and executed in the State of California and shall be governed by and construed under the laws of said State.

16. **Entire Agreement.** This Agreement, inclusive of the Loan Documents, contains the complete and entire agreement between Borrower and Pepperdine respecting the matters contained herein, and any agreement, representation, or warranty, expressed or implied, of any nature whatsoever respecting the Property or the duties of either party in relation thereto not expressly set forth in this Agreement, or other writing executed by both parties expressly referring hereto, is and shall be entirely null and void.

17. **Vesting of Title/Title Insurance.** TITLE TO THE PROPERTY SHALL BE INITIALLY VESTED AS FOLLOWS:

«Vesting»*

* The interest owned by «LastName» may be held in a revocable living trust, as «LastName» may determine from time to time.

18. **No Partnership or Joint Venture.** Nothing herein shall be construed to make the parties partners or joint venturers, and neither party shall have any authority to act for the other party with regard to the Property except as explicitly set forth herein.

19. **Exemption from Maximum Interest Rate Limitations.** The parties recognize and agree that the Loan evidenced by this Agreement and applicable Promissory Note is subject to the provisions of California Financial Code Section 28000(c) and, therefore, is exempt from the maximum interest limitations imposed by other provisions of California law. Notwithstanding the foregoing, however, if from any circumstances whatsoever Lender shall ever receive as interest an amount which a court determines has exceeded the highest lawful rate, then such amount deemed to be excessive interest shall be applied to the reduction of the unpaid principal balance due thereunder, rather than to the payment of interest, as of the date such amount was received or deemed to be received by Lender.

20. **Notices.** All notices, demands and other communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been given on the date of personal delivery, when sent by facsimile to the number shown below (if actual receipt is confirmed by electronic transmission to the recipient during normal business hours or on the next business day if receipt is confirmed after normal business hours), or on actual delivery or attempted delivery (if such attempt is made on a business day) by a reputable commercial delivery service or by the United States express or certified mail, with certification and postal charges prepaid, addressed to the respective party as follows:

IF TO PEPPERDINE: Pepperdine University 24255 Pacific Coast Highway TAC100 Malibu, CA 90263-4109 Tel. No.: (310) 506-4109 Fax No. (310) 506-7421	IF TO «LastName»: «FullName» «StreetAddress» «CityStateZip» Tel. No.: Fax No.
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IN WITNESS WHEREOF, this Agreement is executed on the dates shown below, but to be effective for all purposes as of the date first written above.



Date: _____, 20_____

«LastName»

By _____
«FullName»

By _____
«FullNameSpouse»

Date: _____, 20_____

PEPPERDINE UNIVERSITY

By _____
Rick R. Marrs, Provost

By _____
Charles J. Pippin, Senior Vice President
and Chief Investment Officer

EXHIBIT A
The Property

EXHIBIT B

The Note

EXHIBIT C

The Subordinate Trust Deed

Order No. _____
Escrow No. _____
Loan No. _____

WHEN RECORDED MAIL TO:

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**DEED OF TRUST WITH ASSIGNMENT OF RENTS, SECURITY
AGREEMENT & FIXTURE FILING**

[CONTINGENT INTEREST]

THIS DEED OF TRUST IS SUBJECT AND SUBORDINATE TO THAT CERTAIN DEED OF TRUST DATED _____, ____, IN THE ORIGINAL PRINCIPAL AMOUNT OF \$ _____, EXECUTED BY TRUSTOR IN FAVOR OF _____ [RECORDING CONCURRENTLY HEREWITH] [RECORDED AS INSTRUMENT NO. _____, IN THE OFFICIAL RECORDS OF _____ COUNTY, CALIFORNIA].

This DEED OF TRUST, made _____, 20__, by _____ (the faculty member, herein called the "**Primary Obligor**") and _____ (herein individually or collectively called the "**Trustor**" or "**Borrower**"), whose address is _____, California, to **WAVE ENTERPRISES, INC.**, a California nonprofit corporation (herein called "**Trustee**"), for the benefit of **PEPPERDINE UNIVERSITY**, a California nonprofit corporation (herein called "**Beneficiary**" or "**Lender**"), whose address is 24255 Pacific Coast Highway, Malibu, California 90263-4109, Attention: Real Estate Operations.

WITNESSETH:

That Trustor grants to Trustee in Trust, with Power of Sale, that property in the [City of _____], County of _____, State of California (the "**Property**"), described as follows:

SEE EXHIBIT "A" ATTACHED HERETO

together with the rents, issues and profits thereof, subject, however, to the right, power and authority hereinafter given to and conferred upon Beneficiary to collect and apply such rents, issues and profits in favor of Beneficiary for the purpose of securing (1) payment of the sum of \$ _____, with interest thereon according to the terms of a promissory note or notes of even date herewith made by Trustor, payable to order of Beneficiary, and any extensions, renewals or modifications thereof (the "**Note**"); (2) the performance of each agreement of Trustor incorporated by reference or contained herein or in that certain **Contingent Interest Loan Agreement dated _____, 20__ (the "Loan Agreement")** between Trustor and Beneficiary; and (3) payment of additional sums and interest thereon which may hereafter be loaned to Trustor, or his successors or assigns, when evidenced by a promissory note or notes reciting that they are secured by this Deed of Trust.

A. To protect the security of this Deed of Trust, Trustor hereby expressly agrees:

(1) To keep said Property in good condition and repair, not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefor, to comply with all laws affecting said Property or requiring any alterations or improvements to be made thereon, not to commit or permit waste thereof; not to commit, suffer or permit any act upon said Property in violation of law; to cultivate, irrigate, fertilize, fumigate, prune and do all other acts which from the character or use of said Property may be reasonably necessary, the specific enumerations herein not excluding the general.

(2) To provide, maintain and deliver to Beneficiary Fire all risk, extended coverage and other Insurance satisfactory to and with loss payable to Beneficiary. The amount collected under any fire or other insurance policy may be applied by Beneficiary upon any indebtedness secured hereby and in such order as Beneficiary may determine, or at option of Beneficiary the entire amount so collected or any part thereof may be released to Trustor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

(3) To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary to foreclose this Deed of Trust, whether or not pursued to final judgment, and in any exercise of the power of sale contained herein, whether or not the sale is actually consummated.

(4) To pay or deliver evidence of payment to Beneficiary at least ten days before delinquency all taxes and assessments affecting said Property, including assessments on appurtenant water stock; when due, all encumbrances, charges and liens, with interest, on said Property or any part thereof, which appear to be prior or superior hereto; all costs, fees and expenses of this Trust.

Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may; make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon said Property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, pay necessary expenses, employ counsel and pay his reasonable fees.

(5) To pay immediately and without demand all sums so expended by Beneficiary or Trustee, with interest from date of expenditure at the amount allowed by law in effect at the date hereof, and to pay for any statement provided for by law in effect at the date hereof regarding the obligation secured hereby any amount demanded by the Beneficiary not to exceed the maximum allowed by law at the time when said statement is demanded.

B. It is mutually agreed:

(1) That any award of damages in connection with any condemnation for public use of or injury to said Property or any part thereof is hereby assigned and shall be paid to Beneficiary who may apply or release such moneys received by him in the same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance.

(2) That by accepting payment of any sum secured hereby after its due date, Beneficiary does not waive his right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

(3) That at any time or from time to time, without liability therefor and without notice, upon written request of Beneficiary and presentation of this Deed and said note for endorsement, and without affecting the personal

liability of any person for payment of the indebtedness secured hereby, Trustee may: reconvey any part of said Property; consent to the making of any map or plat thereof; join in granting any easement thereon, or join in any extension agreement or any agreement subordinating the lien or charge hereof.

(4) That upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed of Trust and said Note to Trustee for cancellation and retention or other disposition as Trustee in its sole discretion may choose and upon payment of its fees, Trustee shall reconvey, without warranty, the Property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The Grantee in such reconveyance may be described as “the person or persons legally entitled thereto”.

(5) That as additional security, Trustor hereby gives to and confers upon Beneficiary the right, power and authority, during the continuance of these Trusts, to collect the rents, issues and profits of said Property, reserving unto Trustor the right, prior to any default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such rents, issues and profits as they become due and payable. Upon any such default, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said Property or any part thereof, in his own name sue for or otherwise collect such rents, issues, and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney’s fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The entering upon and taking possession of said Property, the collection of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

(6) That upon default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale and of written notice of default and of election to cause to be sold said Property, which notice Trustee shall cause to be filed for record. Beneficiary also shall deposit with Trustee this Deed of Trust, the Note and all documents evidencing expenditures secured hereby.

After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell said Property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustor expressly waives any right to direct the order in which the Property is sold or to otherwise marshal the sale of all or any portion of the Property. Trustee may postpone sale of all or any portion of said Property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to such purchaser its deed conveying the Property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee, or Beneficiary as hereinafter defined, may purchase at such sale.

After deducting all costs, fees and expenses of Trustee and of this Trust, including cost of evidence of title in connection with sale, and all reasonable costs, fees and expenses of Beneficiary, including but not limited to reasonable attorneys’ fees, expended in connection with this Deed of Trust and the exercise of the power of sale, Trustee shall apply the proceeds of sale, in such order as Beneficiary shall determine, to payment of: all sums expended under the terms hereof, not then repaid, with accrued interest at the Default Rate; all other sums then secured hereby; and the remainder, if any, to the person or persons legally entitled thereto.

(7) Beneficiary, or any successor in ownership of any indebtedness secured hereby, may from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument, executed by the Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where said Property is situated shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its title, estate, rights, powers and duties. Said instrument must contain the name of the original Trustor, Trustee and Beneficiary hereunder, the book and page where this Deed is recorded and the name and address of the new Trustee.

(8) That this Deed applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Beneficiary shall mean the owner and holder, including pledgees, of the note secured hereby, whether or not named as Beneficiary herein. In this Deed, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

(9) That Trustee accepts this Trust when this Deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party unless brought by Trustee.

(10) To the fullest extent permitted by applicable law, including but not limited to California Civil Code Section 2924.5, Beneficiary shall have the right, at its option, to declare all sums secured hereby –including but not limited to all Deferred Interest—immediately due and payable, should Trustor sell, exchange, convey, alienate, transfer, unauthorized lease or sublease, dispose of or further encumber the Property or any portion thereof or interest therein (whether voluntarily or involuntarily, by operation of law or otherwise), but **excluding** from the foregoing the following transfers, so long as Primary Obligor remains a faculty or staff member of Pepperdine University in each case.

(a) A transfer resulting from the death of the spouse of the Primary Obligor where the transfer is to the Primary Obligor as the sole owner of the Property;

(b) A transfer to the Primary Obligor as the sole owner of the Property, or to the spouse of the Primary Obligor as a co-owner of the Property so long as the Primary Obligor remains in title as a co-owner of the Property;

(c) A transfer resulting from the decree of dissolution of the marriage or legal separation, or from a property settlement agreement incidental to such a decree which requires the Primary Obligor to continue to make the loan payments, by which the Primary Obligor becomes the sole owner of the Property;

(d) A transfer by either or both of the obligors into an inter vivos trust in which such party or parties are beneficiaries of such trust; and

(e) The Property or any portion thereof is made subject to a junior encumbrance or lien, so long as the holder of such junior encumbrance or lien signs a reasonable subordination agreement assuring Beneficiary that the lien and all provisions of this Deed of Trust at all times remains superior to the lien and provisions of any such junior encumbrance.

(11) This instrument secures a deferred interest loan made pursuant to the Note and Loan Agreement. The Loan and all deferred interest thereon shall be due and payable upon the occurrence of any of the following Maturity Events set forth in the Note and Loan Agreement:

(a) Within 120 days of retirement, whether voluntary or involuntary, of Primary Obligor from the full-time employment of Pepperdine University.

(b) Within 120 days of cessation of Primary Obligor's full-time employment at Pepperdine University for any other reason, whether voluntary or involuntary (excluding sabbatical or other leave of absence approved by Lender).

(c) Lender's termination of Primary Obligor's employment due to (i) long term disability, (ii) elimination of Primary Obligor's position or (iii) reduction in work force shall be deemed a Maturity Event, provided that upon the occurrence of such Maturity Event, the Loan shall be payable in amortized Installment Payments and shall be all due and payable as provided in the Note.

(d) Within 120 days of death or incapacity of Primary Obligor.

(e) Within 120 days of cessation of the use of the Property as Primary Obligor's primary residence.

(f) Upon Borrower's failure to pay, when due, any monetary obligation related to the Loan, including without limitation, principal and interest, taxes, assessments, insurance premiums, homeowner's association dues, which is not cured within five (5) days following written notice of such failure by Lender.

(g) Upon Lender's good faith determination of the falsity of any material statement, representation or warranty contained in the Loan Documents or any Senior Loan Documents (as defined in the Loan Document).

(h) Upon any breach, default or failure of performance of any other non-monetary obligation of Trustor under any of the Loan Documents which breach shall continue for thirty (30) days or more, following written notice of such failure by Lender, provided that if such failure cannot be reasonably cured within such thirty (30) day period, such period shall be extended to a period not to exceed ninety (90) days, provided Borrower commences and diligently pursues to such cure to completion such cure during the initial thirty (30) day period.

(i) Upon any of the following defaults in the Senior Loan Documents: (i) monetary defaults which are not cured within five (5) days after written notice from Lender; (ii) non-monetary defaults which are not cured within thirty (30) days after written notice from Lender, provided that in no event shall the cure periods for clauses (i) or (ii) above exceed the respective cure period set forth in the Senior Loan Documents; and (iii) the commencement of foreclosure proceedings, whether judicial or non-judicial, under the Senior Loan Documents.

(j) Upon any attachment, levy, execution or other judicial seizure of any portion of the Property which is not released, expunged, discharged or dismissed sixty (60) days after such attachment, levy, execution or seizure.

(k) Upon any sale, exchange, conveyance, alienate, transfer, unauthorized lease or sublease, or other disposition or further encumbrance of the Property or any portion thereof or interest therein (whether voluntarily or involuntarily, by operation of law or otherwise), except as more fully described in the Note and this Deed of Trust.

(l) The passage of 30 years after the date of Closing.

(12) If any payment herein provided for, or any part thereof, is not paid upon a Maturity Event, or if Beneficiary advances any amounts to protect its security interest hereunder or to cure Trustor's default, such defaulted payment or advance shall bear simple interest at the Default Rate set forth in the Note from the due date or date of the advance until paid.

C. SECURITY AGREEMENT AND FIXTURE FILING.

(1) Security Agreement. Trustor further grants to Beneficiary, pursuant to the California Uniform Commercial Code, as amended or recodified from time to time (*the "UCC"*), a security interest in all present and future right, title and interest of Trustor in and to all or any part of the personal property in which a security interest may be created under the UCC and that are or are to become "fixtures" to the Property (collectively, the "*Personal Property*"); and as to all of the foregoing: (a) whether now owned or hereafter at any time acquired by Trustor, (b) all products, additions, accessions, replacements and substitutions; and (c) all proceeds, including but not limited to (i) whatever is now or hereafter receivable or received by Trustor upon the sale, exchange, collection or other disposition of any such item, whether voluntary or involuntary, and whether such proceeds constitute inventory, intangibles, equipment or intellectual property or other assets; (ii) any such items which are now or hereafter acquired by Trustor with any proceeds of collateral hereunder; and (iii) any insurance or payments under any indemnity, warranty or guaranty now or hereafter payable by reason of damage or loss or otherwise with respect to any item of collateral or any proceeds thereof. Upon a default, Beneficiary shall have all rights, remedies and recourse available to a secured party under the UCC with respect to the Personal Property, including the right to proceed under the provisions of the UCC with respect to any Personal Property which may be deemed nonrealty in a foreclosure of the Deed of Trust or to proceed as to such Personal Property in accordance with the procedures and remedies available to a foreclosure of real estate.

(2) **Fixture Filing.** As to all of the Personal Property which is or which hereafter becomes a “fixture” under applicable law, upon due recordation of this Deed of Trust in the real estate records of the county in which the Property is located, this Deed of Trust constitutes a fixture filing under Sections 9102(a)(4) and 9502 of the UCC, as amended or recodified from time to time. To this end, Trustor, as Debtor, acknowledges that (i) this Deed of Trust covers goods which are or are to become fixtures on the Land; (ii) this financing statement is to be recorded; (iii) Trustor is the record owner of such Property; and (iv) products of collateral are also covered. Except as otherwise provided in the Loan Documents, no financing statement in favor of any secured party other than Beneficiary covering the Personal Property described herein or any portion thereof is on file in any public office. Trustor represents, as of the date hereof, that the following information is true and correct:

- (i) The exact Legal Name and address of Debtor is: _____

- (ii) Name and address of Secured Party: Pepperdine University, 24255 Pacific Coast Highway, Malibu, California 90263-4109, Attention: Real Estate Operations.
- (iii) Description of the types (or items) of property covered by this Financing Statement: All of the property described in Paragraph 13(1) of this Rider described or referred to herein and included as part of the Property.
- (iv) Description of real estate to which collateral is attached or upon which it is located: Described in Exhibit A.

D. **INTERPRETATION.** In the event of any conflict between this Deed of Trust and the Loan Agreement, the Loan Agreement shall control.

The undersigned Trustor requests that a copy of any notice of default and of any notice of sale hereunder be mailed to him at his address hereinbefore set forth.

Signature of Trustor

Signature of Trustor

EXHIBIT A

The Property

PROMISSORY NOTE
(CONTINGENT INTEREST)

\$ _____ .00 _____, 20____

NOTE: This instrument evidences a contingent-interest loan. A balloon payment of principal and interest will be required upon the occurrence of any of the “Maturity Events” described in the Contingent Interest Loan Agreement dated _____, 20____

1. Promise To Pay. For value received, _____ and _____ [insert name of spouse] (collectively, “**Borrower**”) promise to pay to **PEPPERDINE UNIVERSITY**, a California non-profit public benefit corporation (“**Lender**” or “**Pepperdine**”), or order, at the address shown below, on or before any “Maturity Event” (described below), the principal sum of _____ Dollars (\$ _____ .00), or so much of that sum as may be advanced under this Note by any holder from the date of each such advance, plus interest thereon consisting of both Fixed Interest and Contingent Interest (as provided below). [For purposes of this Note _____ is a faculty or staff member of Pepperdine University and is herein defined as the “**Primary Obligor.**”]

2. Loan Documents. This Note is given pursuant to a Loan by Lender to Borrower in the foregoing principal amount as provided in a Contingent Interest Loan Agreement dated _____, 20____, between Borrower and Lender (the “**Loan Agreement**”), and is secured by certain real property (the “**Property**”) described in and encumbered by a Deed of Trust with Assignment of Rents, Security Agreement and Fixture Filing (the “**Deed of Trust**”) and certain other related documents, all of even date herewith and executed by Borrower in favor of Lender. Such documents, and all other agreements and documents securing or relating to the Loan, are herein collectively called the “**Loan Documents.**”

3. Definitions of Terms. All terms which are capitalized but not defined in this Note shall have the same meanings given them in the Loan Agreement.

4. Place and Manner of Payment. Subject to all applicable provisions of the Loan Agreement, all payments hereunder shall be made (unless otherwise instructed by Lender) to Lender at: Pepperdine University, Department of Real Estate Operations, 24255 Pacific Coast Highway, Malibu, CA 90263, or at such other place or manner as the holder of this Note may from time to time designate. All payments under this Note shall be made in lawful money of the United States, by wire transferred funds, cashier’s or certified checks or Borrower’s checks, at Borrower’s election until a different means is specified by Lender to Borrower in writing. All checks shall constitute payment only when collected; but for the purpose of avoiding a Default hereunder, amounts so collected shall be considered paid as of the date of tender by Borrower.

5. Interest. Two interest components will accrue on the Loan, as follows:

(a) Fixed Interest (at the Interest rate described below) shall accrue on the unpaid principal sum of this Note from the date of the disbursement of principal evidenced by this Note and shall be payable as of the date the Note is fully paid following the occurrence of any of the Maturity Events described in the Loan Agreement. The Fixed Interest rate shall be 1.00% computed on a 360-day basis and the actual number of days elapsed.

(b) Contingent Interest shall be paid to Lender upon a prepayment in full of all principal and accrued but unpaid Fixed Interest then outstanding or upon occurrence of any of the Maturity Events described in Paragraph 6 hereof in an amount equal to _____ percent (___%) (“**Lender’s Percentage**”) of the “Net Appreciated Value” of the Property. The Lender’s Percentage is the 11th District Cost of Funds Index rate then publically announced and made available by the Federal Home Loan Bank of San Francisco as of the calendar month preceding the date of this Note.

(i) *Definition of “Net Appreciated Value.”* The term “**Net Appreciated Value**” shall be the difference between the Fair Market Value of the Property, as determined below and the Borrower’s original Purchase Price for the Property. For the purposes of this Note, the Fair Market Value shall be deemed to be either (A)(1) the sale price of the Property if sold to a bona fide unrelated third party or (2) in connection with the refinancing of the Property, the fair market value of the Property as determined by an appraisal made on behalf of the lender if the Property is refinanced by a bank, savings and loan association, credit union or other institutional lender approved by Lender on or before a Maturity Event, or (B)(1) if for any reason the Property is not sold or refinanced on or before a Maturity Event, including, without limitation, a Maturity Event described in Paragraphs 6 (e), (f), (g), (i), (j) or (k) hereof, or (2) for any event not described in subclause (b)(i)(A) above, then the amount determined by an appraiser certified as an MAI appraiser selected by Lender with at least five (5) years’ experience appraising residential properties in the Malibu, California submarket area market place.

(c) In no event will Lender be liable to Borrower for any reduction in the value of the Property or any portion thereof, whether determined at the time of any sale or other disposition or at any other time. In addition, Borrower will not be entitled to reduce the amount of Loan payable to Lender by any **decrease** in price or in the fair market value of the Property below Borrower’s original purchase price for the Property.

(d) Subject to the terms of this subparagraph, provided Borrower is not then in default under the Loan Documents, Borrower may make payments of principal or accrued but unpaid Fixed Interest at any time before they are due (“**Prepayment**”), provided that Borrower shall have no right to make Prepayments of Contingent Interest except upon a Maturity Event (as described below) or a Prepayment in full of all principal and accrued but unpaid Fixed Interest then outstanding, together with any other amounts then outstanding and secured by the Deed of Trust. When Borrower makes a Prepayment, Borrower must notify Lender in writing that Borrower is doing so. Borrower may not designate a payment as a Prepayment if Borrower has not made all the other payments due under the Loan Documents. Borrower may make a full Prepayment or partial Prepayments without paying a Prepayment charge, provided that Borrower may not make a full Prepayment unless concurrently therewith Borrower pays all accrued but unpaid Fixed Interest, the Contingent Interest and all other payments due under the Loan Documents. Lender shall use Borrower’s Prepayment to, first, reduce the amount of accrued but unpaid Fixed Interest that Borrower owes under this Note, with the balance, if any, to be applied against principal. If Borrower makes a partial Prepayment, there will be no changes in the due date unless Lender agrees in writing to those changes.

(e) Subject to the terms of this subparagraph, commencing on the first day of the calendar month following the occurrence of the Maturity Event described in Paragraph 6(c) hereof, Borrower shall pay monthly installments of principal and interest in such amount as would fully amortize the then unpaid principal balance of the Loan, together with Fixed Interest at the Fixed Interest Rate described in Paragraph 5(a), over a 30 year period (hereinafter the “Installment

Payment”), provided further that such Installment Payment amount shall be due and payable on the first day of each calendar month thereafter, until the earlier of five years after the occurrence of the Maturity Event described in Paragraph 6(c) or ten years after the Closing, at which time the then unpaid principal balance of the Loan, accrued but unpaid Fixed Interest and Contingent Interest, as determined in Paragraph 5(b) above, shall be all due and payable.

(f) This Contingent Interest Loan may result in substantial income tax or estate planning consequences, depending upon Borrower’s own financial and tax situation. Borrower is urged to consult his or her own accountant, attorney or other financial advisor regarding such matters.

6. Loan Maturity.

The Loan, all Fixed Interest and Contingent Interest thereon shall be due and payable upon the occurrence of any of the following events (a “*Maturity Event*”):

(a) Except as set forth in Paragraph 6(c) below, within 120 days of retirement, whether voluntary or involuntary, of Primary Obligor from the full-time employment of Pepperdine University.

(b) Except as set forth in Paragraph 6(c) below, within 120 days of cessation of Primary Obligor’s full-time employment at Pepperdine University for any other reason, whether voluntary or involuntary (excluding sabbatical or other leave of absence approved by Lender).

(c) Lender’s termination of Primary Obligor’s employment due to (i) long term disability, (ii) elimination of Primary Obligor’s position or (iii) reduction in work force shall be deemed a Maturity Event, provided that upon the occurrence of such Maturity Event, the Loan shall be payable in Installment Payments and shall be all due and payable as provided in Paragraph 5(e) hereof.

(d) Within 120 days of death or incapacity of Primary Obligor.

(e) Within 120 days of cessation of the use of the Property as Primary Obligor’s primary residence.

(f) Upon Borrower’s failure to pay, when due, any monetary obligation related to the Loan, including without limitation, principal and interest, taxes, assessments, insurance premiums, homeowner’s association dues, which is not cured within five (5) days following written notice of such failure by Lender.

(g) Upon Lender’s good faith determination of the falsity of any material statement, representation or warranty contained in the Loan Documents or any Senior Loan Documents (as defined in the Loan Agreement).

(h) Upon any breach, default or failure of performance of any other non-monetary obligation of Borrower under any of the Loan Documents which breach shall continue for thirty (30) days or more, following written notice of such failure by Lender, provided that if such failure cannot be reasonably cured within such thirty (30) day period, such period shall be extended to a period not to exceed ninety (90) days, provided Borrower commences and diligently pursues to such cure to completion such cure during the initial thirty (30) day period.

(i) Upon any of the following defaults in the Senior Loan Documents: (i) monetary defaults which are not cured within five (5) days after written notice from Lender; (ii) non-monetary defaults which are not cured within thirty (30) days after written notice from Lender, provided that in no event shall the cure periods for clauses (i) or (ii) above exceed the respective cure period set forth in the Senior Loan Documents; and (iii) the commencement of foreclosure proceedings, whether judicial or non-judicial, under the Senior Loan Documents.

(j) Upon any attachment, levy, execution or other judicial seizure of any portion of the Property which is not released, expunged, discharged or dismissed sixty (60) days after such attachment, levy, execution or seizure.

(k) Upon any sale, exchange, conveyance, alienate, transfer, unauthorized lease or sublease, or other disposition or further encumbrance of the Property or any portion thereof or interest therein (whether voluntarily or involuntarily, by operation of law or otherwise), except as more fully described in the Note and the Deed of Trust.

(l) The passage of thirty (30) years after the date of Closing.

7. DEFAULT RATE. BORROWER RECOGNIZES THAT DEFAULT BY BORROWER IN MAKING THE PAYMENTS HEREIN AGREED TO BE PAID UPON A MATURITY EVENT WILL RESULT IN LENDER INCURRING ADDITIONAL EXPENSE IN SERVICING THE LOAN, IN LOSS TO LENDER OF THE USE OF THE MONEY DUE, AND IN FRUSTRATION TO LENDER IN MEETING ITS COMMITMENTS. BY PLACING ITS INITIALS BELOW THIS PARAGRAPH, BORROWER AGREES THAT, IF FOR ANY REASON BORROWER FAILS TO PAY THE AMOUNTS DUE UNDER THIS NOTE WHEN DUE, LENDER SHALL BE ENTITLED TO DAMAGES FOR THE DETRIMENT CAUSED THEREBY, BUT THAT IT IS EXTREMELY DIFFICULT AND IMPRACTICAL TO ASCERTAIN THE EXTENT OF SUCH DAMAGES. BORROWER AGREES THAT A DEFAULT RATE OF INTEREST OF TEN PERCENT (10%) PER ANNUM (THE “**DEFAULT RATE**”) WILL RESULT IN A PAYMENT WHICH CONSTITUTES A REASONABLE ESTIMATE OF SUCH ABOVE-DESCRIBED DAMAGES. ACCORDINGLY, BORROWER AGREES THAT IF ANY PAYMENT HEREIN PROVIDED FOR, OR ANY PART THEREOF, IS NOT PAID UPON A MATURITY EVENT, SUCH DEFAULTED PAYMENT SHALL BEAR SIMPLE INTEREST AT THE DEFAULT RATE FROM ITS DUE DATE UNTIL DATE OF PAYMENT.

[Initials]

[Initials]

8. Security for Note; Acceleration of Maturity. This Note is secured by the Deed of Trust encumbering the “Property” (defined therein). Among other things, Section B (10) the Deed of Trust includes the following provisions:

(10) Acceleration Clause. To the fullest extent permitted by applicable law, including but not limited to California Civil Code Section 2924.5, Beneficiary shall have the right, at its option, to declare all sums secured hereby -- including but not limited to all Contingent Interest -- immediately due and payable, should Trustor sell, exchange, convey, alienate, transfer, unauthorized lease or sublease, dispose of or further encumber the Property or any portion thereof or interest therein (whether voluntarily or involuntarily, by operation of law or

otherwise), but **excluding** from the foregoing provisions the following transfers, so long as Primary Obligor remains a faculty or staff member of Pepperdine University in each case.

(a) A transfer resulting from the death of the spouse of the Primary Obligor where the transfer is to the Primary Obligor as the sole owner of the Property;

(b) A transfer to the Primary Obligor as the sole owner of the Property, or to the spouse of the Primary Obligor as a co-owner of the Property so long as the Primary Obligor remains in title as a co-owner of the Property and occupies the Property as his/her principal residence;

(c) A transfer resulting from the decree of dissolution of the marriage or legal separation, or from a property settlement agreement incidental to such a decree which requires the Primary Obligor to continue to make the loan payments, by which the Primary Obligor becomes the sole owner of the Property and occupies the Property as his/her principal residence;

(d) A transfer by either or both of the obligors into an inter vivos trust in which such party or parties are beneficiaries of such trust; and

(e) The Property or any portion thereof is made subject to a junior encumbrance or lien, so long as the holder of such junior encumbrance or lien signs a reasonable subordination agreement assuring Beneficiary that the lien and all provisions of this Deed of Trust at all times remains superior to the lien and provisions of any such junior encumbrance.”

9. **Defaults and Charges.** Upon Default under any provision of this Note or any Loan Documents, Lender at its sole discretion may exercise any of the remedies available to it under any or all of the Loan Documents, including but not limited to the option to declare immediately due and payable the entire unpaid principal balance of this Note, together with all accrued Fixed Interest and other fees or charges due and payable by Borrower to Lender. The failure of Lender or other holder hereof promptly to exercise its right to declare the indebtedness remaining unpaid hereunder to be immediately due and payable or the acceptance of one or more payments from any person thereafter shall not constitute a waiver of such right while any default continues, if applicable, or a waiver of such right in connection with any future default.

10. **Exemption from Maximum Interest Rate Limitations.** The parties recognize and agree that the Loan evidenced by this Note and the Loan Agreement is subject to the provisions of California Financial Code Section 28000(c) and, therefore, is exempt from the maximum interest limitations imposed by other provisions of California law. Notwithstanding the foregoing, however, if from any circumstances whatsoever Lender shall ever receive as interest an amount which a court determines has exceeded the highest lawful rate, then such amount deemed to be excessive interest shall be applied to the reduction of the unpaid principal balance due thereunder, rather than to the payment of interest, as of the date such amount was received or deemed to be received by Lender.

11. Miscellaneous.

11.1. Continuing Obligations. All representations, warranties and covenants of Borrower herein shall also survive the maturity of and the repayment in full of the principal amount owed hereunder.

11.2. Waiver of Notices. Borrower hereby waives presentment, protest, demand, notice of protest, dishonor and nonpayment of this Note, and any and all other notices or matters of a like nature, consent to any and all renewals and extensions of the time of payment hereof, and agree further that at any time and from time to time without notice, the terms of payment hereof may be modified, or the security described in any documents at any time securing this Note may be released in whole or in part, or increased, changed or exchanged by agreement between the holder hereof and any owner of the Property or other collateral affected thereby, without in any way affecting the liability of any party to this Note, any endorser, any guarantor or any person liable or to become liable with respect to any indebtedness evidenced hereby.

11.3. Incorporation. All applicable provisions contained in the Loan Agreement are hereby incorporated in and made a part of this Note by this reference as if here set forth in full.

11.4. Governing Document. If there is any conflict or inconsistency between any terms, conditions or provisions contained in this instrument and the Loan Agreement, then the Loan Agreement shall govern and control over this instrument.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Borrower has executed this Note as of the date first above written.

BORROWER:

Uniform Residential Loan Application

This application is designed to be completed by the applicant(s) with the Lender's assistance. Applicants should complete this form as "Borrower" or "Co-Borrower", as applicable. Co-Borrower information must also be provided (and the appropriate box checked) when the income or assets of a person other than the Borrower (including the Borrower's spouse) will be used as a basis for loan qualification or the income or assets of the Borrower's spouse or other person who has community property rights pursuant to state law will not be used as a basis for loan qualification, but his or her liabilities must be considered because the spouse or other person has community property rights pursuant to applicable law and Borrower resides in a community property state, the security property is located in a community property state, or the Borrower is relying on other property located in a community property state as a basis for repayment of the loan.
 If this is an application for joint credit, Borrower and Co-Borrower each agree that we intend to apply for joint credit (sign below).

Borrower _____ **Co-Borrower** _____

I. TYPE OF MORTGAGE AND TERMS OF LOAN

Mortgage Applied for: <input type="checkbox"/> VA <input type="checkbox"/> Conventional <input type="checkbox"/> Other (explain):	Agency Case Number	Lender Case Number
<input type="checkbox"/> FHA <input type="checkbox"/> USDA/Rural Housing Service		
Amount \$	Interest Rate %	No. of Months
Amortization Type: <input type="checkbox"/> Fixed Rate <input type="checkbox"/> Other (explain): <input type="checkbox"/> GPM <input type="checkbox"/> ARM (type):		

II. PROPERTY INFORMATION AND PURPOSE OF LOAN

Subject Property Address (street, city, state, & ZIP)	No. of Units
Legal Description of Subject Property (attach description if necessary)	Year Built
Purpose of Loan: <input type="checkbox"/> Purchase <input type="checkbox"/> Construction <input type="checkbox"/> Other (explain): <input type="checkbox"/> Refinance <input type="checkbox"/> Construction-Permanent	Property will be: <input type="checkbox"/> Primary Residence <input type="checkbox"/> Secondary Residence <input type="checkbox"/> Investment

Complete this line if construction or construction-permanent loan.

Year Lot Acquired	Original Cost	Amount Existing Liens	(a) Present Value of Lot	(b) Cost of Improvements	Total (a+b)
	\$	\$	\$	\$	\$

Complete this line if this is a refinance loan.

Year Acquired	Original Cost	Amount Existing Liens	Purpose of Refinance	Describe Improvements <input type="checkbox"/> made <input type="checkbox"/> to be made
	\$	\$		Cost \$

Title will be held in what Name(s)	Manner in which Title will be held	Estate will be held in: <input type="checkbox"/> Fee Simple <input type="checkbox"/> Leasehold (show expiration date)
Source of Down Payment, Settlement Charges and/or Subordinate Financing (explain)		

III. BORROWER INFORMATION

Borrower	Co-Borrower
Borrower's Name (include Jr. or Sr. if applicable)	Co-Borrower's Name (include Jr. or Sr. if applicable)
Social Security Number Home Phone (incl. area code) DOB (MM/DD/YYYY) Yrs. School	Social Security Number Home Phone (incl. area code) DOB (MM/DD/YYYY) Yrs. School
<input type="checkbox"/> Married <input type="checkbox"/> Unmarried (include single, divorced, widowed) <input type="checkbox"/> Separated	<input type="checkbox"/> Married <input type="checkbox"/> Unmarried (include single, divorced, widowed) <input type="checkbox"/> Separated
Dependents (not listed by Co-Borrower) no. ages	Dependents (not listed by Borrower) no. ages
Present Address (street, city, state, ZIP) <input type="checkbox"/> Own <input type="checkbox"/> Rent No. Yrs.	Present Address (street, city, state, ZIP) <input type="checkbox"/> Own <input type="checkbox"/> Rent No. Yrs.
Mailing Address, if different from Present Address	Mailing Address, if different from Present Address

If residing at present address for less than two years, complete the following:

Former Address (street, city, state, ZIP) <input type="checkbox"/> Own <input type="checkbox"/> Rent No. Yrs.	Former Address (street, city, state, ZIP) <input type="checkbox"/> Own <input type="checkbox"/> Rent No. Yrs.
---	---

IV. EMPLOYMENT INFORMATION

Borrower	Co-Borrower
Name & Address of Employer <input type="checkbox"/> Self Employed	Name & Address of Employer <input type="checkbox"/> Self Employed
Yrs. on this job	Yrs. on this job
Yrs. employed in this line of work/profession	Yrs. employed in this line of work/profession
Position/Title/Type of Business	Position/Title/Type of Business
Business Phone (incl. area code)	Business Phone (incl. area code)
If employed in current position for less than two years or if currently employed in more than one position, complete the following:	
Name & Address of Employer <input type="checkbox"/> Self Employed	Name & Address of Employer <input type="checkbox"/> Self Employed
Dates (from-to)	Dates (from-to)
Monthly Income	Monthly Income
\$	\$
Position/Title/Type of Business	Position/Title/Type of Business
Business Phone (incl. area code)	Business Phone (incl. area code)
Name & Address of Employer <input type="checkbox"/> Self Employed	Name & Address of Employer <input type="checkbox"/> Self Employed
Dates (from-to)	Dates (from-to)
Monthly Income	Monthly Income
\$	\$
Position/Title/Type of Business	Position/Title/Type of Business
Business Phone (incl. area code)	Business Phone (incl. area code)

V. MONTHLY INCOME AND COMBINED HOUSING EXPENSE INFORMATION

Gross Monthly Income	Borrower	Co-Borrower	Total	Combined Monthly Housing Expense	Present	Proposed
Base Empl. Income*	\$	\$	\$	Rent	\$	
Overtime				First Mortgage (P&I)		\$
Bonuses				Other Financing (P&I)		
Commissions				Hazard Insurance		
Dividends/Interest				Real Estate Taxes		
Net Rental Income				Mortgage Insurance		
Other (before completing, see the notice in "describe other income," below)				Homeowner Assn. Dues		
				Other:		
Total	\$	\$	\$	Total	\$	\$

* Self Employed Borrower(s) may be required to provide additional documentation such as tax returns and financial statements.

Described Other Income Notice: Alimony, child support, or separate maintenance income need not be revealed if the Borrower (B) or Co-Borrower (C) does not choose to have it considered for repaying this loan.

B/C	Monthly Amount
	\$

VI. ASSETS AND LIABILITIES

This Statement and any applicable supporting schedules may be completed jointly by both married and unmarried Co-Borrowers if their assets and liabilities are sufficiently joined so that the Statement can be meaningfully and fairly presented on a combined basis; otherwise separate Statements and Schedules are required. If the Co-Borrower section was completed about a non-applicant spouse or other person, this Statement and supporting schedules must be completed about that spouse or other person also.

Completed Jointly Not Jointly

ASSETS		Cash or Market Value	Liabilities and Pledged Assets. List the creditor's name, address and account number for all outstanding debts, including automobile loans, revolving charge accounts, real estate loans, alimony, child support, stock pledges, etc. Use continuation sheet, if necessary. Indicate by (*) those liabilities which will be satisfied upon sale of real estate owned or upon refinancing of the subject property.		
Description			LIABILITIES	Monthly Payment & Months Left to Pay	Unpaid Balance
Cash deposit toward purchase held by:	\$				
List checking and savings accounts below			Name and address of Company	\$ Payment/Months	\$
Name and address of Bank, S&L, or Credit Union			Acct. no.		
Acct. no.	\$		Name and address of Company	\$ Payment/Months	\$
Name and address of Bank, S&L, or Credit Union			Acct. no.		
Acct. no.	\$		Name and address of Company	\$ Payment/Months	\$
Name and address of Bank, S&L, or Credit Union			Acct. no.		
Acct. no.	\$		Name and address of Company	\$ Payment/Months	\$
Name and address of Bank, S&L, or Credit Union			Acct. no.		
Acct. no.	\$		Name and address of Company	\$ Payment/Months	\$
Stocks & Bonds (Company name/number & description)			Acct. no.		
Life insurance net cash value			Name and address of Company	\$ Payment/Months	\$
Face amount: \$			Acct. no.		
Subtotal Liquid Assets					
Real estate owned (enter market value from schedule of real estate owned)			Name and address of Company	\$ Payment/Months	\$
Vested interest in retirement fund			Acct. no.		
Net worth of business(es) owned (attach financial statement)					
Automobiles owned (make and year)			Acct. no.		
Other Assets (itemize)			Alimony/Child Support/Separate Maintenance Payments Owed to:	\$	
			Job-Related Expense (child care, union dues, etc.)	\$	
			Total Monthly Payments	\$	
Total Assets a.			Net Worth (a minus b)	\$	Total Liabilities b.

Continuation Sheet/Residential Loan Application

Use this continuation sheet if you need more space to complete the Residential Loan Application. Mark **B** for Borrower or **C** for Co-Borrower.

Borrower:	Agency Case Number:
Co-Borrower:	Lender Case Number:

I/We fully understand that it is a Federal crime punishable by fine or imprisonment, or both, to knowingly make any false statements concerning any of the above facts as applicable under the provisions of Title 18, United States Code, Section 1001, et seq.

Borrower's Signature:	Date	Co-Borrower's Signature:	Date
X		X	

Pepperdine University
Monthly Budget Worksheet

Applicant Name(s): _____ **Date:** _____

NET Income:

1st Salary:	[Employer: _____]	\$ _____
2nd Salary:	[Employer: _____]	\$ _____
Bonus Program:	[Source: _____]	\$ _____
Rental Income:	[Source: _____]	\$ _____
Other Income:	[Source: _____]	\$ _____
Other Income:	[Source: _____]	\$ _____

TOTAL MONTHLY NET INCOME \$ _____

Expenses

Residence: 1st T.D. Loan Amt.	\$ _____	@	_____ %	\$ _____
Residence: 2nd T.D. Loan Amt.	\$ _____	@	_____ %	\$ _____
Property Taxes (Purch Price x .0125)	\$ _____	÷	12 mos.	\$ _____
Home Insurance (Purch Price x .0055)	\$ _____	÷	12 mos.	\$ _____
Homeowner Assoc. Dues				\$ _____
Utilities (Electric/Gas/Water)				\$ _____
Telephone				\$ _____
Car Loans				\$ _____
Credit Cards - Total				\$ _____
Rental: 1st T.D. Payment	\$ _____	@	_____ %	\$ _____
Rental: 2nd T.D. Payment	\$ _____	@	_____ %	\$ _____
Rental Expenses - Total				\$ _____
Auto Insurance	\$ _____	÷	12 mos.	\$ _____
Auto Expenses (Gas/Oil)				\$ _____
Groceries				\$ _____
Medical/Dental				\$ _____
Clothing				\$ _____
Child Care				\$ _____
Life Insurance				\$ _____
Travel/Vacation				\$ _____
Entertainment				\$ _____
Contributions				\$ _____
Miscellaneous - _____				\$ _____
Miscellaneous - _____				\$ _____

TOTAL MONTHLY EXPENSES \$ _____

NET MONTHLY SURPLUS/DEFICIT \$ _____

Applicant Initials: _____

Request for Taxpayer Identification Number and Certification

**Give form to the
 requester. Do not
 send to the IRS.**

Print or type See Specific Instructions on page 2.	Name	
	Business name, if different from above	
	Check appropriate box: <input type="checkbox"/> Individual/ Sole proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Other ▶	
	<input type="checkbox"/> Exempt from backup withholding	
	Address (number, street, and apt. or suite no.)	
City, state, and ZIP code		
Requester's name and address (optional)		
List account number(s) here (optional)		

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. For individuals, this is your social security number (SSN). **However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3.** For other entities, it is your employer identification number (EIN). If you do not have a number, see **How to get a TIN** on page 3.

Social security number
+

or

Employer identification number
+

Note: If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), **and**
2. I am not subject to backup withholding because: **(a)** I am exempt from backup withholding, or **(b)** I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or **(c)** the IRS has notified me that I am no longer subject to backup withholding, **and**
3. I am a U.S. person (including a U.S. resident alien).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the instructions on page 4.)

Sign Here	Signature of U.S. person ▶	Date ▶
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Purpose of Form

A person who is required to file an information return with the IRS, must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

U.S. person. Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee.

Note: If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Foreign person. If you are a foreign person, use the appropriate Form W-8 (see **Pub. 515**, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien.

Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the recipient has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a **nonresident alien or a foreign entity** not subject to backup withholding, give the requester the appropriate completed Form W-8.

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 30% of such payments (29% after December 31, 2003; 28% after December 31, 2005). This is called "backup withholding." Payments that may be subject to backup withholding include interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will **not** be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester, or
2. You do not certify your TIN when required (see the Part II instructions on page 4 for details), or
3. The IRS tells the requester that you furnished an incorrect TIN, or
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate **Instructions for the Requester of Form W-9**.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of Federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Name

If you are an individual, you must generally enter the name shown on your social security card. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

Sole proprietor. Enter your **individual** name as shown on your social security card on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name" line.

Limited liability company (LLC). If you are a single-member LLC (including a foreign LLC with a domestic owner) that is disregarded as an entity separate from its owner under Treasury regulations section 301.7701-3, **enter the owner's name on the "Name" line.** Enter the LLC's name on the "Business name" line.

Other entities. Enter your business name as shown on required Federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name" line.

Note: *You are requested to check the appropriate box for your status (individual/sole proprietor, corporation, etc.).*

Exempt From Backup Withholding

If you are exempt, enter your name as described above and check the appropriate box for your status, then check the "Exempt from backup withholding" box in the line following the business name, sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

Note: *If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.*

Exempt payees. Backup withholding is **not required** on any payments made to the following payees:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2);
2. The United States or any of its agencies or instrumentalities;
3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities;
4. A foreign government or any of its political subdivisions, agencies, or instrumentalities; or
5. An international organization or any of its agencies or instrumentalities.

Other payees that **may be exempt** from backup withholding include:

6. A corporation;
7. A foreign central bank of issue;
8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States;

- 9. A futures commission merchant registered with the Commodity Futures Trading Commission;
- 10. A real estate investment trust;
- 11. An entity registered at all times during the tax year under the Investment Company Act of 1940;
- 12. A common trust fund operated by a bank under section 584(a);
- 13. A financial institution;
- 14. A middleman known in the investment community as a nominee or custodian; or
- 15. A trust exempt from tax under section 664 or described in section 4947.

The chart below shows types of payments that may be exempt from backup withholding. The chart applies to the exempt recipients listed above, **1** through **15**.

If the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt recipients except for 9
Broker transactions	Exempt recipients 1 through 13 . Also, a person registered under the Investment Advisers Act of 1940 who regularly acts as a broker
Barter exchange transactions and patronage dividends	Exempt recipients 1 through 5
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt recipients 1 through 7 ²

¹ See **Form 1099-MISC**, Miscellaneous Income, and its instructions.
² However, the following payments made to a corporation (including gross proceeds paid to an attorney under section 6045(f), even if the attorney is a corporation) and reportable on Form 1099-MISC are **not exempt** from backup withholding: medical and health care payments, attorneys' fees; and payments for services paid by a Federal executive agency.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a **resident alien** and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see **How to get a TIN** below.

If you are a **sole proprietor** and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-owner **LLC** that is disregarded as an entity separate from its owner (see **Limited liability company (LLC)** on page 2), enter your SSN (or EIN, if you have one). If the LLC is a corporation, partnership, etc., enter the entity's EIN.

Note: See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get **Form SS-5**, Application for a Social Security Card, from your local Social Security Administration office or get this form on-line at www.ssa.gov/online/ss5.html. You may also get this form by calling 1-800-772-1213. Use **Form W-7**, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or **Form SS-4**, Application for Employer Identification Number, to apply for an EIN. You can get Forms W-7 and SS-4 from the IRS by calling 1-800-TAX-FORM (1-800-829-3676) or from the IRS Web Site at www.irs.gov.

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note: Writing "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 3, and 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). Exempt recipients, see **Exempt from backup withholding** on page 2.

Signature requirements. Complete the certification as indicated in 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA or Archer MSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor ²
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee ¹
b. So-called trust account that is not a legal or valid trust under state law	The actual owner ¹
5. Sole proprietorship or single-owner LLC	The owner ³
For this type of account:	Give name and EIN of:
6. Sole proprietorship or single-owner LLC	The owner ³
7. A valid trust, estate, or pension trust	Legal entity ⁴
8. Corporate or LLC electing corporate status on Form 8832	The corporation
9. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
10. Partnership or multi-member LLC	The partnership
11. A broker or registered nominee	The broker or nominee
12. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ **You must show your individual name**, but you may also enter your business or "DBA" name. You may use either your SSN or EIN (if you have one).

⁴ List first and circle the name of the legal trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.)

Note: *If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.*

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons who must file information returns with the IRS to report interest, dividends, and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA or Archer MSA. The IRS uses the numbers for identification purposes and to help verify the accuracy of your tax return. The IRS may also provide this information to the Department of Justice for civil and criminal litigation, and to cities, states, and the District of Columbia to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, or to Federal and state agencies to enforce Federal nontax criminal laws and to combat terrorism.

You must provide your TIN whether or not you are required to file a tax return. Payers must generally withhold 30% of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to a payer. Certain penalties may also apply.



STATEMENT OF INFORMATION

CONFIDENTIAL INFORMATION STATEMENT TO BE USED IN CONNECTION WITH ORDER NO:
COMPLETION OF THIS FORM WILL EXPEDITE YOUR ORDER AND WILL HELP PROTECT YOU.

THE STREET ADDRESS of the property in this transaction is:

IF NONE LEAVE BLANK

ADDRESS _____ **CITY** _____

IMPROVEMENTS: SINGLE RESIDENCE MULTIPLE RESIDENCE COMMERCIAL
OCCUPIED BY: OWNER LESSEE TENANTS
ANY PORTION OF NEW LOAN FUNDS TO BE USED FOR CONSTRUCTION YES NO
NAME

FIRST _____ **MIDDLE** _____ **LAST** _____

BIRTHPLACE _____ **BIRTH DATE** _____

I HAVE LIVED IN CALIFORNIA SINCE _____ **SOCIAL SECURITY NUMBER** _____ **DRIVER'S LICENSE NO.** _____

SPOUSES NAME

FIRST _____ **MIDDLE** _____ **LAST** _____

BIRTHPLACE _____ **BIRTH DATE** _____

I HAVE LIVED IN CALIFORNIA SINCE _____ **SOCIAL SECURITY NUMBER** _____ **DRIVER'S LICENSE NO.** _____

WIFE'S MAIDEN NAME _____

WE WERE MARRIED ON _____ **AT** _____

RESIDENCE(S) FOR LAST 10 YEARS

NUMBER AND STREET _____ CITY _____ FROM _____ TO _____

NUMBER AND STREET _____ CITY _____ FROM _____ TO _____

NUMBER AND STREET _____ CITY _____ FROM _____ TO _____

NUMBER AND STREET _____ CITY _____ FROM _____ TO _____

OCCUPATION(S) FOR LAST 10 YEARS

Applicant

PRESENT OCCUPATION _____ **FIRM NAME** _____ **ADDRESS** _____ **NO. OF YEARS** _____

PRIOR OCCUPATION _____ **FIRM NAME** _____ **ADDRESS** _____ **NO. OF YEARS** _____

PRIOR OCCUPATION _____ **FIRM NAME** _____ **ADDRESS** _____ **NO. OF YEARS** _____

Co-Applicant

PRESENT OCCUPATION _____ **FIRM NAME** _____ **ADDRESS** _____ **NO. OF YEARS** _____

PRIOR OCCUPATION _____ **FIRM NAME** _____ **ADDRESS** _____ **NO. OF YEARS** _____

PRIOR OCCUPATION _____ **FIRM NAME** _____ **ADDRESS** _____ **NO. OF YEARS** _____

FORMER MARRIAGES: IF NO FORMER MARRIAGES, WRITE "NONE" _____

NAME OF FORMER SPOUSE _____

IF DECEASED: **DATE** _____ **WHERE** _____

CURRENT LOAN ON PROPERTY

PAYMENTS ARE BEING MADE TO:

1. _____ 2. _____

3. _____

HOMEOWNERS ASSOCIATION _____ **NUMBER** () _____

À
À
À

DATE _____ **SIGNATURE** _____

HOME PHONE _____ **BUSINESS PHONE** _____

DATE _____ **SIGNATURE** _____

HOME PHONE _____ **BUSINESS PHONE** _____

VESTING DECLARATION (BUYER)

RETURN TO: Real Estate Operations - JoAnna Waldear-Lucas
24255 Pacific Coast Highway TAC-100 Malibu, CA 90263-4109
Telephone (310) 506-4109 FAX (310) 506-7421

Please complete the following regarding how you would like the title held. **Be Specific as to how your name should be vested (how title will be held is also how you will sign all documents).** (See the attached possibilities)

Property Address: _____
Unit # _____

I (We) would like title in this property to be held as:

Name(s)

Relationship

Type of Ownership (Vesting)

Buyer's Signature

Buyer's Signature

Buyer's Signature

Buyer's Signature

HOW TO TAKE TITLE

Title to real property in California, may be held by individuals, either in SOLE OWNERSHIP or in CO-OWNERSHIP. CO-ownership of real property is where title is held by two or more persons. There are several variations as to how title may be held in each type of ownership. The following brief summaries are six of the more common examples of sole ownership and CO-ownership.

SOLE OWNERSHIP

1. A SINGLE MAN/WOMAN:

A man or woman who is not legally married.

i.e. JOHN DOE, A single man.

2. AN UNMARRIED MAN/WOMAN:

A man or woman who, having been married, is legally divorced.

i.e. JOHN DOE, an unmarried man.

3. A MARRIED MAN/WOMAN, AS HIS/HER SOLE AND SEPARATE PROPERTY:

When a married man or woman wishes to acquire title in his or her name alone, the spouse must consent, by quitclaim deed or otherwise, to transfer thereby relinquishing all right, title and interest in the property.

i.e. JOHN DOE, A married man, as his sole and separate property.

4. A TRUST WITH ONE TRUSTEE:

i.e. JOHN DOE, as Trustee of the John Doe Living Trust, dated xxxxx yy, zzzz.

CO-OWNERSHIP

5. COMMUNITY PROPERTY:

A. The California Civil Code defines community property as property acquired by husband and wife, or either, during marriage, when not acquired as the separate property of either. Real property conveyed to a married man or woman is presumed to be community property, unless otherwise stated. Under community property, both spouses have the right by will, to dispose of one half of the community property, but all of it will go to the surviving spouse without administration if the other spouse dies without a will. If a spouse exercises his/her right to dispose of one-half, that half is subject to administration in the estate.

i.e. JOHN DOE and MARY DOE, Husband and Wife, as community property.

JOHN DOE and MARY DOE, Husband and Wife.

JOHN DOE, a married man.

B. On or after July 01, 2001, a husband and wife can acquire title to any and all real property as follows: "*Mary and Dave, Husband and Wife as community property, with right of survivorship*". Should Dave be the first to die, Mary will acquire Dave's portion of the title automatically at Dave's death. This new automatic transfer of title to community property is similar to the automatic transfer of title where property is held by two or more joint tenants with right of survivorship. In joint tenancy, the surviving joint tenant(s) records the form entitled "*Affidavit of Death of Joint Tenant*" with the county recorder. This Affidavit allows the public record to reflect the automatic transfer of title from the deceased joint tenant to the surviving joint tenant(s).

Similarly, in the community property with right of survivorship setting, when the first spouse dies, the surviving spouse should record the new form entitled "*Affidavit of Community Property with Right of Survivorship*". The Affidavit should be recorded with the county recorder where the real property is located to document that title has transferred to the surviving spouse. This quick title transfer allows the surviving spouse the freedom to complete a sale or loan on the property without "red tape" and expensive probate proceedings. The details of the new law may be found in California Probate Code, Section 682.1 (a).

BEWARE, married persons holding title to real property as community property acquired prior to July 1, 2001 WILL NOT AUTOMATICALLY benefit from this new law. In order to take advantage of the right of survivorship, spouses should transfer title to themselves as community property with right of survivorship. This title transfer will not be effective unless done on or after July 1, 2001.

6. JOINT TENANCY:

A joint tenancy estate is defined in the Civil Code as follows: "A joint interest is one owned by two or more persons in equal shares, by a title created by a single will or transfer, when

expressly declared in the will or transfer to be a joint tenancy." The chief characteristic of joint tenancy property is the right of survivorship. When a joint tenant dies, title to the property immediately vests in the survivor or surviving joint tenants. As a consequence, joint tenancy property is not subject to disposition by will.

i.e. JOHN DOE and MARY DOE, Husband and wife, as joint tenants.

7. TENANCY IN COMMON:

Under tenancy in common, the CO-owners own undivided interest, but unlike joint tenancy, these interests need not be equal in quantity or duration, and may arise from different times. There is no right of survivorship; each tenant owns an interest which on his or her death vests in his or her heirs or devisees.

i.e. JOHN DOE, a single man, as to an undivided 3/4ths interest, and GEORGE SMITH, a single man, as to an undivided 1/4th interest, as tenants in common.

8. A TRUST WITH TWO TRUSTEES:

i.e. JOHN DOE and JANE DOE, as Trustees of the Doe Family Trust, dated xxxxx yy, zzzz.

The preceding summaries, are a few of the more common ways to take title to real property in California. For a more comprehensive understanding of the legal and tax consequences, appropriate consultation is recommended.